

DESCRIPTION OF CHANGES IN SECTION H AS PROPOSED.

Set forth below is a reproduction of each provision of Section H as proposed in roman type, and a description changes in *italic type*. In addition to the changes described below, the effective date of all provisions of Section H was changed from “1 FEBRUARY 2011” to “ 14 MARCH 2011.”

SUBRULE 34-1200 ISSUED 1 JANUARY 2011 EFFECTIVE 1 FEBRUARY 2011
CARGO FACILITY CHARGE – DEFINITION OF CARGO SUBJECT TO FEE

This fee shall apply to all cargo containers, vehicles and bulk cargo, break-bulk cargo, general cargo, heavy lift cargo, and other special cargo discharged from or loaded onto vessels at Port Authority leased and public berths.

Changes: No change.

SUBRULE 34-1210 ISSUED 1 JANUARY 2011 EFFECTIVE 1 FEBRUARY 2011
CARGO FACILITY CHARGE – RATES

Container cargo	\$4.95 per TEU*
Vehicles	\$1.11 per unit/vehicle
Bulk cargo, break-bulk cargo, general cargo, heavy-lift cargo and other special cargo	\$ 0.13 per metric ton

*Any containers larger than forty-feet shall be considered to be the equivalent of two TEUs.

Changes: No change.

SUBRULE 34-1220 ISSUED 1 JANUARY 2011 EFFECTIVE 1 FEBRUARY 2011
CARGO FACILITY CHARGE

1. Payment of Cargo Facility Charge

(a) Lessees/Terminal Operators

- i. Each lessee/terminal operator whose leasehold area contains berthing facilities shall collect and be responsible for payment to the Port Authority of the Cargo Facility Charge set forth in the Port Authority’s Tariff with respect to cargo discharged from or loaded onto vessels within the leasehold area.

Changes: This language is eliminated. Subrule 34-1220, Section 2, now states that each user is responsible for payment of the Cargo Facility

Charges to the Port Authority. Subrule 34-1220, Section 3(b) sets forth procedures for collection of Cargo Facility Charges by terminal operators from users and remittance to the Port Authority.

If a terminal operator with a leased berth is unable to collect such Cargo Facility Charges from a particular user of the leased berth(s), within 60 days of services being provided to the user, the terminal operator will have the right to discontinue service to the delinquent user. Should the terminal operator choose to discontinue providing service to the delinquent user within or prior to the end of the 60-day period, the terminal operator will not be responsible to the Port Authority for such uncollected amounts. Should the terminal operator continue to provide service to such delinquent user, the terminal operator will then be responsible for the payment of such uncollected amounts and all future Cargo Facility Charges associated with that customer.

Changes: This language is eliminated. Subrule 34-1220, Section 3(b) sets forth different procedures for collection of Cargo Facility Charges by terminal operators from users and remittance of those sums to the Port Authority.

- ii. Cargo Facility Charge shall be paid at the same time as the submission of the Vessel Activity Report is made to the Port Authority. Such payment shall be submitted no later than the 20th day of the month following the subject activity.

Changes: This language is eliminated. Subrule 34-1220, Section 3 (b) sets forth different procedures for collection of Cargo Facility Charges by terminal operators from users and remittance of those sums to the Port Authority.

- iii. Cargo Facility Charge shall be paid directly to the Port Authority at the following location:

The Port Authority of New York & New Jersey
P.O. Box 95000-1517
Philadelphia, PA 19195-0001

Changes: This language is eliminated. Subrule 34-1220, Section 3 (b) sets forth different procedures for collection of Cargo Facility Charges by terminal operators from users and remittance of those sums to the Port Authority.

- iv. Each lessee/terminal operator shall provide copies of the Vessel Activity Report described in section 2 below to each addressee set forth at (A), and,

to the addressee set forth at (B) for the facility at which the activity occurred.

A) All facilities:

Manager, Revenue Accounting
The Port Authority of NY & NJ
One PATH Plaza – 6th Floor
Jersey City, New Jersey 07036
pcaffrey@panynj.gov

Manager, Leasing and Property Development
The Port Authority of NY & NJ
New Jersey Marine Terminal
260 Kellogg Street
Port Newark, New Jersey 07114
jkirin@panynj.gov

Manager, Strategic Analysis & Industry
Relations
The Port Authority of NY & NJ
225 Park Avenue South, 11th Floor
New York, New York 10003
pzantal@panynj.gov

(B) New Jersey Facilities:

Manager, New Jersey Marine Terminals
The Port Authority of NY & NJ
New Jersey Marine Terminal
260 Kellogg Street
Port Newark, New Jersey 07114
asaporito@panynj.gov

New York Facilities:

Manager, New York Marine Terminals
The Port Authority of NY & NJ
90 Columbia Street
Brooklyn, New York 11201
jtrutneff@panynj.gov

*Changes: This provision now appears as part of Subrule 34-1220, Section 3(a).
Changes in language which do not affect meaning were also made.*

(b) Public Berth Applicants

Each party responsible for payment to the Port Authority of all other charges associated with a vessel's use of a public berth shall pay to the Port Authority the Cargo Facility Charge set forth in the Port Authority's Tariff with respect to cargo discharged from or loaded onto a vessel. Such payments are to be paid

directly to the Port Authority in the same manner as all other amounts paid to the Port Authority for use of a public berth.

Changes: This provision now appears as Subrule 34-1220, Section 4.

2. Reporting of Vessel Activity Data

- (a) Each lessee/terminal operator shall provide to the Port Authority a Vessel Activity Report setting forth data necessary for confirmation of the amount of Cargo Facility Charge incurred and paid to the Port Authority for each month. Such report shall be submitted no later than the 20th day of the month following such activity, and shall comply with sub-paragraph (b).
- (b) Each Vessel Activity Report shall set forth the following for the month in which Cargo Facility Charge were incurred for each vessel call: ocean carrier and vessel name; date of arrival; volume of cargo discharged from and/or loaded onto each vessel (containers by size, number of vehicles, and/or metric tons of bulk cargo, break-bulk cargo, general cargo, heavy-lift cargo and other special cargo); and, the Cargo Facility Charge due and paid for the current month and year to date. For the purposes of completing a Vessel Activity Report, metric tons for lumber shall be calculated by multiplying the number of thousand gross board measurement feet of lumber times one and two tenths (1.2). Such information is to be provided in both paper and electronic formats in accordance with any form or template that may be provided by the Port Authority from time to time. Such form or template is available through the office of the Manager.
- (c) Hard copy transmittals are to be accompanied by a statement certifying the truth and accuracy of the document. Submission of the Vessel Activity Report by electronic means shall constitute a statement that such submission is intended to be the equivalent of the submission of a paper document containing the same information, and that the placement of a name on such submission certifying the truth and accuracy of the document is intended to be equivalent to a handwritten signature.

Changes: Subrule 34-1220, Section 2, now appears as part of Subrule 34-1220, Section 3(a). Changes were made in language which does not affect meaning and changes were made in items of information to be supplied to the Port Authority in the Vessel Activity Report

3. Fee Exemptions

- (a) The following movements are fully or partially exempt from Cargo Facility Charge as set forth in the Port Authority's Tariff:
 - i. Fully exempt from fees: restows and shifts.
 - ii. Partially exempt from fees: transshipped containers; a transshipped container is subject to a Cargo Facility Charge for only one move.

(b) In this section:

- i. “Restows” shall mean discharged containers arriving on a vessel and departing on the same vessel and as part of the same voyage.
- ii. “Shifts” shall mean containers that are moved from one location to another location on the same vessel without touching the ground.
- iii. “Transhipped containers” shall mean containers that are discharged from a vessel, placed on the terminal and loaded onto another vessel for further carriage as part of a single voyage and do not exit the terminal.

Changes: Former Subrule 34-1220, Section 3, now appears as Subrule 34-1220, Section 5.