

# Bureau of Customs and Border Protection

## *CBP Decisions*

**19 CFR PART 122**

**[CBP Dec. 05-15]**

### **TECHNICAL AMENDMENT TO LIST OF USER FEE AIRPORTS**

**AGENCY:** Customs and Border Protection, Homeland Security.

**ACTION:** Technical Amendment.

**SUMMARY:** This document amends the Customs and Border Protection (CBP) Regulations to reflect that the following airports have been designated by the Commissioner of CBP as user fee facilities: Hanscom Field in Bedford, Massachusetts; Eagle County Regional Airport in Eagle, Colorado; and Rogers Municipal Airport in Rogers, Arkansas. This document also amends the CBP Regulations to reflect the withdrawal of user fee airport designations at Rogue Valley International Airport in Medford, Oregon and Hulman Regional Airport in Terre Haute, Indiana. A user fee airport is one which, while not qualifying for designation as an international or landing rights airport, has been approved by the Commissioner of the Bureau of Customs and Border Protection (CBP) to receive, for a fee, the services of a CBP officer for the processing of aircraft entering the United States and their passengers and cargo.

**EFFECTIVE DATE:** May 3, 2005.

**FOR FURTHER INFORMATION CONTACT:** Dennis Dore, Office of Field Operations, 202-344-2776.

**SUPPLEMENTARY INFORMATION:**

#### **BACKGROUND**

Generally, a civil aircraft arriving from a place outside of the United States is required to land at an airport designated as an international airport. Alternatively, the pilot of a civil aircraft may re-

quest permission to land at a specific airport and if landing rights are granted, the civil aircraft may land at that landing rights airport.

Section 236 of Pub. L. 98-573 (the Trade and Tariff Act of 1984), codified at 19 U.S.C. 58b, created an option for civil aircraft desiring to land at an airport other than an international or landing rights airport. A civil aircraft arriving from a place outside of the United States may ask for permission to land at an airport designated by the Secretary of the Treasury as a user fee airport.

Pursuant to 19 U.S.C. 58b, an airport may be designated as a user fee airport if the Secretary of the Treasury determines that the volume of business at the airport is insufficient to justify the availability of customs services at the airport and the governor of the state in which the airport is located approves the designation. Generally, the type of aircraft that would seek designation as a user fee airport would be one at which a company, such as an air courier service, has a specialized interest in regularly landing.

As the volume of business anticipated at this type of airport is insufficient to justify its designation as an international or landing rights airport, the availability of customs services is not paid for out of appropriations from the general treasury of the United States. Instead, customs services are provided on a fully reimbursable basis to be paid for by the user fee airport on behalf of the recipients of the services.

The fees which are to be charged at user fee airports, according to the statute, shall be paid by each person using the customs services at the airport and shall be in the amount equal to the expenses incurred by the Secretary of the Treasury in providing customs services which are rendered to such person at such airport, including the salary and expenses of those employed by the Secretary of the Treasury to provide the customs services. To implement this provision, generally, the airport seeking the designation as a user fee airport or that airport's authority agrees to pay a flat fee for which the users of the airport are to reimburse the airport/airport authority. The airport/airport authority agrees to set and periodically review the charges to ensure that they are in accord with the airport's expenses.

Sections 403(1) and 411 of the Homeland Security Act of 2002 ("the Act," Pub. L. 107-296) transferred the United States Customs Service and certain of its functions from the Department of the Treasury to the Department of Homeland Security; pursuant to section 1502 of the Act, the President renamed the "Customs Service" as the "Bureau of Customs and Border Protection," also referred to as the "CBP."

The Commissioner of CBP, pursuant to § 122.15, CBP Regulations (19 CFR 122.15) designates airports as user fee airports pursuant to

19 U.S.C. 58b. Section 122.15 also sets forth the grounds for withdrawal of a user fee designation and sets forth the list of designated user fee airports.

This document revises the list of user fee airports in § 122.15(b). It adds Hanscom Field in Bedford, Massachusetts; Eagle County Regional Airport in Eagle, Colorado; and Rogers Municipal Airport in Rogers, Arkansas to this listing of designated user fee airports. This document also removes Rogue Valley International Airport in Medford, Oregon and Hulman Regional Airport in Terre Haute, Indiana.

#### **Delegations of Authority: Signature of Customs and Border Protection Regulations**

This document is limited to technical corrections of CB Regulations. Accordingly, it is being signed under the authority of 19 CFR 0.1(b).

#### **REGULATORY FLEXIBILITY ACT AND EXECUTIVE ORDER 12866**

Because no notice of proposed rulemaking is required for this final rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) do not apply. Agency organization matters such as this amendment are exempt from consideration under Executive Order 12866.

#### **INAPPLICABILITY OF PUBLIC NOTICE AND DELAYED EFFECTIVE DATE REQUIREMENTS**

This amendment merely updates and corrects the list of user fee airports already designated by the Commissioner of CBP in accordance with 19 U.S.C. 58b. Accordingly, this document neither imposes any additional burdens on, nor takes away any existing rights or privileges from, the public, pursuant to 5 U.S.C. 553(b)(B). Thus, notice and public procedure are unnecessary, and for the same reasons, pursuant to 5 U.S.C. 553(d)(3) a delayed effective date is not required.

#### **DRAFTING INFORMATION**

The principal author of this document was Christopher W. Pappas, Regulations Branch, Office of Regulations and Rulings, CBP. However, personnel from other offices participated in its development.

#### **LIST OF SUBJECTS IN 19 CFR PART 122**

Air carriers, Aircraft, Airports, Customs Duties and Inspection, Freight.

**AMENDMENTS TO THE REGULATIONS**

Part 122, Customs Regulations (19 CFR Part 122) is amended as set forth below.

**PART 122—AIR COMMERCE REGULATIONS**

1. The general authority citation for Part 122, Customs Regulations, continues to read as follows:

**AUTHORITY:** 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1431, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a, 2071 note.

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2. The listing of user fee airports in § 122.15(b) is amended:
  - a. By adding, in alphabetical order, in the “Location” column, “Bedford, Massachusetts” and by adding on the same line, in the “Name” column, “Hanscom Field.”;
  - b. By adding, in alphabetical order, in the “Location” column, “Eagle, Colorado” and by adding on the same line, in the “Name” column, “Eagle County Regional Airport.”;
  - c. By adding, in alphabetical order, in the “Location” column, “Rogers, Arkansas” and by adding on the same line, in the “Name” column, “Rogers Municipal Airport.”;
  - d. By removing, in the “Location” column, “Medford, Oregon” and by removing on the same line, in the “Name” column, “Rogue Valley International Airport.”; and
  - e. By removing, in the “Location” column, “Terre Haute, Indiana” and by removing on the same line, in the “Name” column, “Hulman Regional Airport.”.

ROBERT C. BONNER,  
*Commissioner,*

*Bureau of Customs and Border Protection.*

Dated: April 27, 2005

[Published in the Federal Register, May 3, 2005 (70 FR 22783)]

**19 CFR PART 122****[CBP Dec. 05-16]****TECHNICAL AMENDMENT TO  
LIST OF USER FEE AIRPORTS****AGENCY:** Customs and Border Protection, Homeland Security.**ACTION:** Technical Amendment.

**SUMMARY:** This document amends the Customs and Border Protection (CBP) Regulations to reflect the withdrawal of the user fee airport designation at Ocala International Airport in Ocala, Florida. A user fee airport is one which, while not qualifying for designation as an international or landing rights airport, has been approved by the Commissioner of Customs and Border Protection (CBP) to receive, for a fee, the services of a CBP officer for the processing of aircraft entering the United States and their passengers and cargo.

**EFFECTIVE DATE:** May 3, 2005.

**FOR FURTHER INFORMATION CONTACT:** Dennis Dore, Office of Field Operations, 202-344-2776.

**SUPPLEMENTARY INFORMATION:****BACKGROUND**

Generally, a civil aircraft arriving from a place outside of the United States is required to land at an airport designated as an international airport. Alternatively, the pilot of a civil aircraft may request permission to land at a specific airport and if landing rights are granted, the civil aircraft may land at that landing rights airport.

Section 236 of Pub. L. 98-573 (the Trade and Tariff Act of 1984), codified at 19 U.S.C. 58b, created an option for civil aircraft desiring to land at an airport other than an international or landing rights airport. A civil aircraft arriving from a place outside of the United States may ask for permission to land at an airport designated by the Secretary of the Treasury as a user fee airport.

Pursuant to 19 U.S.C. 58b, an airport may be designated as a user fee airport if the Secretary of the Treasury determines that the volume of business at the airport is insufficient to justify the availability of customs services at the airport and the governor of the state in which the airport is located approves the designation. Generally, the type of aircraft that would seek designation as a user fee airport

would be one at which a company, such as an air courier service, has a specialized interest in regularly landing.

As the volume of business anticipated at this type of airport is insufficient to justify its designation as an international or landing rights airport, the availability of customs services is not paid for out of appropriations from the general treasury of the United States. Instead, customs services are provided on a fully reimbursable basis to be paid for by the user fee airport on behalf of the recipients of the services.

The fees which are to be charged at user fee airports, according to the statute, shall be paid by each person using the customs services at the airport and shall be in the amount equal to the expenses incurred by the Secretary of the Treasury in providing customs services which are rendered to such person at such airport, including the salary and expenses of those employed by the Secretary of the Treasury to provide the customs services. To implement this provision, generally, the airport seeking the designation as a user fee airport or that airport's authority agrees to pay a flat fee for which the users of the airport are to reimburse the airport/airport authority. The airport/airport authority agrees to set and periodically review the charges to ensure that they are in accord with the airport's expenses.

Sections 403(1) and 411 of the Homeland Security Act of 2002 ("the Act," Pub. L. 107-296) transferred the United States Customs Service and certain of its functions from the Department of the Treasury to the Department of Homeland Security; pursuant to section 1502 of the Act, the President renamed the "Customs Service" as the "Bureau of Customs and Border Protection," also referred to as "CBP."

The Commissioner of CBP, pursuant to § 122.15, CBP Regulations (19 CFR 122.15) designates airports as user fee airports pursuant to 19 U.S.C. 58b. Section 122.15 also sets forth the grounds for withdrawal of a user fee designation and sets forth the list of user fee airports as designated by the Commissioner.

This document revises the list of user fee airports in § 122.15(b) by removing Ocala International Airport. The Commissioner approved the termination of the User Fee Agreement between the airport and CBP on June 22, 2004. The airport had requested that the User Fee Agreement be terminated.

#### **Delegations of Authority: Signature of Customs and Border Protection Regulations**

This document is limited to technical corrections of CB Regulations. Accordingly, it is being signed under the authority of 19 CFR 0.1(b).

## **REGULATORY FLEXIBILITY ACT AND EXECUTIVE ORDER 12866**

Because no notice of proposed rulemaking is required for this final rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) do not apply. Agency organization matters such as this amendment are exempt from consideration under Executive Order 12866.

### **INAPPLICABILITY OF PUBLIC NOTICE AND DELAYED EFFECTIVE DATE REQUIREMENTS**

This amendment merely updates and corrects the list of user fee airports already designated by the Commissioner of CBP in accordance with 19 U.S.C. 58b. Accordingly, this document neither imposes any additional burdens on, nor takes away any existing rights or privileges from, the public, pursuant to 5 U.S.C. 553(b)(B). Thus, notice and public procedure are unnecessary, and for the same reasons, pursuant to 5 U.S.C. 553(d)(3) a delayed effective date is not required.

### **DRAFTING INFORMATION**

The principal author of this document was Steven Bratcher, Regulations Branch, Office of Regulations and Rulings, CBP. However, personnel from other offices participated in its development.

### **LIST OF SUBJECTS IN 19 CFR PART 122**

Air carriers, Aircraft, Airports, Customs Duties and Inspection, Freight.

### **AMENDMENTS TO THE REGULATIONS**

Part 122, CBP Regulations (19 CFR Part 122) is amended as set forth below.

### **PART 122—AIR COMMERCE REGULATIONS**

1. The general authority citation for Part 122, CBP Regulations, continues to read as follows:

**AUTHORITY:** 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1431, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a, 2071 note.

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2. The listing of user fee airports in § 122.15(b) is amended by removing, in the “Location” column, “Ocala, Florida” and by removing on the same line, in the “Name” column, “Ocala International Airport.”

ROBERT C. BONNER,  
*Commissioner,*  
*Bureau of Customs and Border Protection.*

Dated: April 27, 2005

[Published in the Federal Register, May 3, 2005 (70 FR 22782)]