

# Bureau of Customs and Border Protection

## *CBP Decisions*

**19 CFR PARTS 101 AND 122**

**USCBP-2005-0030**

**[CBP Dec. 06-10]**

### **ESTABLISHMENT OF PORT OF ENTRY AT NEW RIVER VALLEY, VIRGINIA, AND TERMINATION OF THE USER-FEE STATUS OF NEW RIVER VALLEY AIRPORT**

**AGENCY:** Customs and Border Protection, DHS.

**ACTION:** Final rule.

**SUMMARY:** This document amends Department of Homeland Security regulations pertaining to the field organization of the Bureau of Customs and Border Protection by conditionally establishing a new port of entry at New River Valley, Virginia, and terminating the user-fee status of New River Valley Airport. The new port of entry consists of all the area surrounded by the continuous outer boundaries of the Montgomery, Pulaski and Roanoke counties in the Commonwealth of Virginia, including New River Valley Airport, which currently is operated as a user-fee airport. These changes will assist the Bureau of Customs and Border Protection in its continuing efforts to provide better service to carriers, importers and the general public.

**EFFECTIVE DATE:** May 19, 2006.

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

**SUPPLEMENTARY INFORMATION:**

#### **BACKGROUND**

In a Notice of Proposed Rulemaking published in the **Federal Register** (70 FR 38637) on July 5, 2005, the Department of Homeland Security (DHS), Bureau of Customs and Border Protection

(CBP), proposed to amend 19 CFR 101.3(b)(1) by conditionally establishing a new port of entry at New River Valley, VA. The new port of entry, as proposed, would include the area surrounded by the continuous outer boundaries of the Montgomery, Pulaski and Roanoke counties in the Commonwealth of Virginia. This area includes New River Valley Airport, located in the town of Dublin, Virginia, which currently operates and is listed as a user-fee airport at 19 CFR 122.15(b). The change of status for New River Valley Airport, from a user-fee airport to inclusion within the boundaries of a port of entry, would subject the airport to the passenger processing fee provided for at 19 U.S.C. 58c(a)(5)(B).

CBP proposed to establish the new port of entry based on its review of the level and pace of development in the New River Valley area. CBP evaluated whether there is a sufficient volume of import business (actual or potential) to justify the expense of maintaining a new office or expanding service in the New River Valley area based on the criteria for port of entry designations set forth in Treasury Decision (T.D.) 82-37 (Revision of Customs Criteria for Establishing Ports of Entry and Stations, 47 FR 10137), as revised by T.D. 86-14 (51 FR4559) and T.D. 87-65 (52 FR 16328). New River Valley was proposed to be a conditional port of entry based on the potential of the area. The actual and potential workload statistics of the area were set forth in the Notice of Proposed Rulemaking. *See* 70 FR at 38637-38.

### **ANALYSIS OF COMMENTS AND CONCLUSION**

Several comments were received in response to the Notice of Proposed Rulemaking. All of the comments were favorable to the proposal. Each comment was favorable in the entirety; no alternate courses of action, limitations or possible problems were presented by the commenters. Because CBP continues to believe that the potential volume of import business in New River Valley supports a new port of entry there, and that the establishment of the new port of entry will assist CBP in its continuing efforts to provide better service to carriers, importers and the general public, CBP is conditionally establishing the new port of entry as proposed. In three years, CBP will review the actual workload generated within the new port of entry. If that review indicates that the actual workload is below the T.D. 82-37 standards (as amended), procedures may be instituted to revoke the port of entry status. In such case, New River Valley airport may reapply to become a user-fee airport under the provisions of 19 U.S.C. 58b.

### **DESCRIPTION OF THE NEW PORT OF ENTRY LIMITS**

The geographical limits of the new New River Valley port of entry are as follows:

The continuous outer boundaries of the Montgomery, Pulaski and Roanoke counties in the Commonwealth of Virginia.

#### **AUTHORITY**

This change is made under the authority of 5 U.S.C. 301 and 19 U.S.C. 2, 66, and 1624, and the Homeland Security Act of 2002, Pub. L. 107-296 (November 25, 2002).

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

With DHS approval, CBP establishes, expands and consolidates CBP ports of entry throughout the United States to accommodate the volume of CBP-related activity in various parts of the country. The Office of Management and Budget has determined that this regulatory action is not significant within the meaning of Executive Order 12866. This action also will not have a significant economic impact on a substantial number of small entities. Accordingly, it is certified that this document is not subject to the additional requirements of the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

#### **SIGNING AUTHORITY**

The signing authority for this document falls under 19 CFR 0.2(a) because the establishment of a new port of entry and the termination of the user-fee status of an airport are not within the bounds of those regulations for which the Secretary of the Treasury has retained sole authority. Accordingly, this final rule may be signed by the Secretary of Homeland Security or his delegate.

#### **LIST OF SUBJECTS**

##### **19 CFR PART 101**

Customs duties and inspection, Customs ports of entry, Exports, Imports, Organization and functions (Government agencies).

##### **19 CFR PART 122**

Customs duties and inspection, Airports, Imports, Organization and functions (Government agencies).

#### **AMENDMENTS TO CBP REGULATIONS**

For the reasons set forth above, part 101, CBP Regulations (19 CFR part 101), and part 122, CBP Regulations (19 CFR part 122), are amended as set forth below.

**PART 101—GENERAL PROVISIONS**

1. The general authority citation for part 101 and the specific authority citation for section 101.3 continue to read as follows:

**AUTHORITY:** 5 U.S.C. 301; 19 U.S.C. 2, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1623, 1624, 1646a.

Sections 101.3 and 101.4 also issued under 19 U.S.C. 1 and 58b;

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2. The list of ports in section 101.3(b)(1) is amended by adding, in alphabetical order under the state of Virginia, “New River Valley” in the “Ports of entry” column and “CBP Dec. 06–10” in the “Limits of Port” column.

**PART 122—AIR COMMERCE REGULATIONS**

1. The general authority for part 122 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 list of user fee airports at 19 CFR 122.15(b) is amended by removing “Dublin, Virginia” from the “Location” column and, on the same line, “New River Valley Airport” from the “Name” column.

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