

U.S. Customs and Border Protection

CBP Decisions

ADDITION OF SAN ANTONIO INTERNATIONAL AIRPORT TO LIST OF DESIGNATED LANDING LOCATIONS FOR CERTAIN AIRCRAFT

19 CFR PART 122

USCBP-2007-0017

[CBP Dec. 08-01]

AGENCY: Customs and Border Protection; Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This document amends the Customs and Border Protection (CBP) Regulations by adding the San Antonio International Airport (SAT), located in San Antonio, Texas, to the list of designated airports at which certain aircraft arriving in the continental United States from certain areas south of the United States must land for CBP processing. This amendment is made to improve the effectiveness of CBP enforcement efforts to combat the smuggling of contraband by air into the United States from the south.

DATES: [INSERT DATE 30 DAYS FROM THE DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Fred Ramos, Program Manager, Admissibility and Passenger Programs, Office of Field Operations, Customs and Border Protection at (202) 344-3726.

SUPPLEMENTARY INFORMATION:

BACKGROUND

In a Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** on September 11, 2007, CBP proposed to amend its regulations by adding the San Antonio International Airport (SAT), located in San Antonio, Texas, to the list of designated air-

ports at which certain aircraft arriving in the continental United States from certain areas south of the United States must land for CBP processing. See 72 FR 51730.

As part of CBP's efforts to combat drug-smuggling activities, CBP air commerce regulations were amended in 1975 by Treasury Decision (T.D.) 75-201, to impose special reporting requirements and control procedures on certain aircraft arriving in the continental United States via the U.S./Mexican border, the Pacific Coast, the Gulf of Mexico, or the Atlantic Coast from certain locations in the southern portion of the Western Hemisphere. These special reporting requirements apply to all aircraft except the following: public aircraft; those aircraft operated on a regularly published schedule, pursuant to a certificate of public convenience and necessity or foreign aircraft permit issued by the Department of Transportation authorizing interstate, overseas air transportation; and those aircraft with a seating capacity of more than 30 passengers or a maximum payload capacity of more than 7,500 pounds which are engaged in air transportation for compensation or hire on demand. See 19 CFR 122.23(a). Thus, since 1975, commanders of such aircraft have been required to furnish CBP with notice one hour prior to crossing the coastline or border, and to land at the nearest airport to the point of crossing designated by CBP for processing.

Specifically, the regulations provide that subject aircraft arriving in the continental United States from certain areas south of the United States must furnish a notice of intended arrival to the designated airport located nearest the point of crossing. 19 CFR 122.23. Section 122.24(b) provides that, unless exempt, such aircraft must land at designated airports for CBP processing and delineates the airports designated for reporting and processing purposes for these aircraft. 19 CFR 122.24(b).

During the previous six years, aircraft subject to the special reporting requirements entering the United States from the specified foreign areas at a point of crossing near San Antonio, were required to land at San Antonio International Airport (SAT) for processing by CBP. These international flights have been arriving at SAT since November 2000, when SAT was temporarily designated as an airport where aircraft arriving from certain southern areas could land pursuant to section 1453 of the Tariff Suspension and Trade Act of 2000 (Pub. L. 106-476, Nov. 9, 2000). The Miscellaneous Trade and Technical Corrections Act of 2004 (Pub. L. 108-429, Dec. 3, 2004) effectively extended the airport's designation through November 9, 2006.

This statutory designation has now expired. Community officials from San Antonio, Texas and the surrounding region have written CBP requesting that SAT be designated by regulation as an airport where aircraft arriving from certain southern areas must land.

During the six years that SAT has been statutorily designated as an airport at which these aircraft arriving from the south may land

for customs processing, CBP has reported no incidents or problems arising from this designation. Such a designation will impose no additional burdens on CBP as CBP already has a significant presence at SAT, processing international passengers arriving on scheduled commercial airliners as a landing rights airport. These same CBP personnel have been processing passengers arriving from the south since SAT was temporarily designated as an airport where aircraft arriving from the south could land pursuant to the Tariff Suspension and Trade Act of 2000. SAT provides facilities and security and law enforcement support services, at no charge to CBP, to assist in the processing of aircraft. Consequently, CBP proposed in the NPRM to permanently designate SAT as an airport where certain aircraft, arriving in the United States from south of the United States, are authorized to land for CBP processing.

ANALYSIS OF COMMENTS AND CONCLUSION

CBP received 34 comments in response to the NPRM. These comments were all in favor of the proposal. Each comment was favorable in its entirety; no alternate courses of action, limitations or possible problems were presented by the commenters. As CBP continues to believe that this amendment will improve the effectiveness of CBP enforcement efforts to combat the smuggling of contraband by air into the United States from the south, CBP is, as proposed, adding SAT to the list of designated airports at which certain aircraft arriving in the continental United States from certain areas south of the United States must land for CBP processing.

AUTHORITY

This change is made under the authority of 5 U.S.C. 301, 19 U.S.C. 1433, 1644a, 1624, and 6 U.S.C. 203.

THE REGULATORY FLEXIBILITY ACT AND EXECUTIVE ORDER 12866

This amendment expands the list of designated airports at which certain aircraft may land for customs processing. As described in this document, certain international flights have been arriving at SAT, pursuant to statute, from November 2000, through November 9, 2006. The expansion of the list of designated airports to include SAT will not result in any new impact on affected parties but will result in a continuation of the previous situation. Therefore, CBP certifies that this rule will not have significant economic impact on a substantial number of small entities. Accordingly, the document is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604 of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The Office of Management and Budget has determined that this rule

is not a significant regulatory action as defined under Executive Order 12866.

SIGNING AUTHORITY

This amendment to the regulations is being issued in accordance with 19 CFR 0.2(a) pertaining to the authority of the Secretary of Homeland Security (or his or her delegate) to prescribe regulations not related to customs revenue functions.

LIST OF SUBJECTS IN 19 CFR PART 122

Air carriers, Aircraft, Airports, Customs duties and inspection, Freight.

AMENDMENTS TO REGULATIONS

Part 122, Code of Federal Regulations (19 CFR part 122) is amended as set forth below:

PART 122—AIR COMMERCE REGULATIONS

1. The authority citation for Part 122, 19 CFR, 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. In section 122.24(b) the chart is amended by adding to the list of airports, in alphabetical order in the “Location” column, “San Antonio Tex” and on the same line, in the “Name” column, “San Antonio International Airport.”

Date: March 3, 2008

MICHAEL CHERTOFF,
Secretary.

[Published in the Federal Register, March 7, 2008 (73 FR ???)]

19 CFR Part 4**CBP Dec. 08-02****ADDITION OF LITHUANIA TO THE LIST OF NATIONS
ENTITLED TO SPECIAL TONNAGE TAX EXEMPTION**

AGENCY: Customs and Border Protection, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: Pursuant to information provided by the Department of State, Customs and Border Protection has found that no discriminating or countervailing duties are imposed by the government of Lithuania on vessels owned by citizens of the United States. Accordingly, vessels of Lithuania are exempt from special tonnage taxes and light money in ports of the United States. This document amends title 19 of the Code of Federal Regulations by adding Lithuania to the list of nations whose vessels are exempt from payment of any higher tonnage duties than are applicable to vessels of the United States and from the payment of light money.

DATES: This amendment is effective March 10, 2008. The exemption from special tonnage taxes and light money for vessels registered in Lithuania became applicable on February 13, 2002.

FOR FURTHER INFORMATION CONTACT: Glen Vereb, Regulations and Rulings, Office of International Trade, (202) 572-8724.

SUPPLEMENTARY INFORMATION:**Background**

Generally, the United States imposes regular and special tonnage taxes, and a duty of a specified amount per ton, called "light money," on all foreign vessels which enter U.S. ports (46 U.S.C. 60301-60303). However, vessels of a foreign country may be exempted from the payment of special tonnage taxes and light money upon presentation of satisfactory proof that the government of that foreign country does not impose discriminatory or countervailing duties to the disadvantage of the United States (46 U.S.C. 60304).

Section 4.22, Customs and Border Protection (CBP) regulations (19 CFR 4.22), lists those countries whose vessels have been found to be exempt from the payment of any higher tonnage duties than are applicable to vessels of the United States and from the payment of light money. The authority to amend this section of the CBP regulations has been delegated to the Chief, Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade.

By letter dated April 13, 2007, the Department of State informed CBP that the government of Lithuania does not impose discriminating or countervailing duties on vessels owned by citizens of the United States. Accordingly, the Department of State recommended that Lithuania be added to the list of countries whose vessels are exempt from special tonnage taxes and light money in ports of the United States, effective February 13, 2002.

Finding

On the basis of the above-mentioned information from the Department of State regarding the absence of discriminating or countervailing duties imposed by the government of Lithuania on vessels owned by citizens of the United States, CBP has determined that vessels of Lithuania are exempt from the payment of special tonnage tax and light money, effective February 13, 2002. The CBP regulations are amended accordingly.

Inapplicability of Notice and Delayed Effective Date

Because this amendment merely implements a statutory requirement and confers a benefit upon the public, CBP has determined that notice and public procedure are unnecessary pursuant to § 553(b)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(B)). Further, for the same reasons, good cause exists for dispensing with a delayed effective date under § 553(d)(3) of the APA (5 U.S.C. 553(d)(3)).

Regulatory Flexibility Act and Executive Order 12866

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) do not apply. This amendment does not meet the criteria for a “significant regulatory action” as specified in Executive Order 12866.

Signing Authority

This document is being issued by CBP in accordance with § 0.1(b)(1) of the CBP regulations (19 CFR 0.1(b)(1)).

List of Subjects in 19 CFR Part 4

Cargo vessels, Customs duties and inspection, Maritime carriers, Vessels.

AMENDMENT TO THE CBP REGULATIONS

For the reasons set forth above, part 4 of title of the Code of Federal Regulations (19 CFR part 4) is amended as set forth below.

PART 4 — VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The general authority citation for part 4 and the specific authority for § 4.22 are revised to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1431, 1433, 1434, 1624, 2071 note; 46 U.S.C. 501, 60105.

* * * * *

Section 4.22 also issued under 46 U.S.C. 60301, 60302, 60303, 60304, 60305, 60306, 60312, 60503;

* * * * *

§ 4.22 [Amended]

2. Section 4.22 is amended by adding “Lithuania” in appropriate alphabetical order.

Dated: March 5, 2008

CRAIG A. WALKER,
Acting Chief,
Trade and Commercial Regulations Branch,
Regulations and Rulings,
Office of International Trade.

[Published in the Federal Register, March 10, 2008 (73 FR 12634)]

General Notice

Tuna — Tariff-Rate Quota

**The tariff-rate quota for Calendar Year 2008 tuna
classifiable under subheading 1604.14.22, Harmonized Tariff
Schedule of the United States (HTSUS).**

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security

ACTION: Announcement of the quota quantity of tuna in airtight containers for Calendar Year 2008

SUMMARY: Each year the tariff-rate quota for tuna described in subheading 1604.14.22, HTSUS, is based on the apparent United States consumption of tuna in airtight containers during the preceding Calendar Year. This document sets forth the tariff-rate quota for Calendar Year 2008

EFFECTIVE DATES: The 2008 tariff-rate quota is applicable to tuna entered or withdrawn from warehouse for consumption during the period January 1, through December 31, 2008.

FOR FURTHER INFORMATION CONTACT:

Headquarters Quota Branch, Textile/Apparel Policy and Programs Division, Trade Policy and Programs, Office of International Trade, U.S. Customs and Border Protection, Washington, DC 20229, (202) 863-6560.

BACKGROUND:

It has been determined that 17,667,724 kilograms of tuna in airtight containers may be entered and withdrawn from warehouse for consumption during the Calendar Year 2008, at the rate of 6 percent ad valorem under subheading 1604.14.22, HTSUS. Any such tuna which is entered or withdrawn from warehouse for consumption during the current calendar year in excess of this quota will be dutiable at the rate of 12.5 percent ad valorem under subheading 1604.14.30 HTSUS.

Dated: March 6, 2008

DANIEL BALDWIN,
*Assistant Commissioner,
Office of International Trade.*

[Published in the Federal Register, March 11, 2008 (73 FR 13009)]