

U.S. Customs and Border Protection



UPDATED LIST OF THE PORTS-OF-ENTRY DESIGNATED FOR DEPARTURE OF NONIMMIGRANT ALIENS WHO ARE SUBJECT TO SPECIAL REGISTRATION

[Docket No. CBP Dec. 09-43]

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

ACTION: Notice.

SUMMARY: This notice announces that U.S. Customs and Border Protection is adding two new ports of entry to the list of ports through which nonimmigrant aliens subject to special registration requirements may depart from the United States. The new ports-of-entry include Oakland International Airport, California and Saipan, the Commonwealth of the Northern Mariana Islands. Special registration is required of nonimmigrant aliens whose presence in the United States requires closer monitoring.

DATES: Nonimmigrant aliens subject to special registration requirements may depart from the Oakland International Airport, California, effective November 25, 2009, and Saipan, the Commonwealth of the Northern Mariana Islands, effective November 28, 2009.

FOR FURTHER INFORMATION CONTACT: Kenneth Sava, U.S. Customs and Border Protection, Office of Field Operations, at (202) 344-2589.

SUPPLEMENTARY INFORMATION:

Nonimmigrant Aliens Subject to Special Registration Requirements

Certain nonimmigrant aliens, who apply for admission to the United States, are subject to special registration requirements. Upon arrival in the United States, they shall provide information required by the Department of Homeland Security (DHS), such as information relating to their visa status, and they shall be fingerprinted and photographed. Other special registration requirements include ap-

pearing at in-person verification or re-registration interviews at the discretion of DHS; providing notice to DHS of any change of address, residence, employment, or educational institution; and reporting departure from the United States to close their registration.

Pursuant to 8 CFR 264.1(f)(2)(i), the Secretary of Homeland Security, in consultation with the Secretary of State, may designate, by publishing a notice in the **Federal Register**, nonimmigrant aliens from certain foreign countries as subject to the special registration requirements. Nonimmigrant aliens, who meet certain pre-existing criteria indicating that such aliens' presence in the United States warrants monitoring due to the national security interests or law enforcement interests of the United States, are also subject to the special registration requirements. *See* 8 CFR 264.1(f)(2)(iii). By regulation, the special registration requirements also apply to any nonimmigrant aliens whom a consular or inspecting officer has reason to believe are nationals or citizens of one of the designated countries. *See* 8 CFR 264.1(f)(2)(ii).

Upon departure from the United States, nonimmigrant aliens subject to the special registration requirements must report to an inspecting officer at and depart from an approved port-of-entry (POE) as set forth by publication in the **Federal Register**.¹ *See* 8 CFR 264.1(f)(8). To date, there have been four Federal Register publications designating approved POEs for departure. On September 30, 2002, the former INS published a notice in the **Federal Register** at 67 FR 61352 which sets forth an affirmative list of 68 POEs that could be used for departure by specially registered nonimmigrant aliens. On February 19, 2003, the former INS published a notice in the **Federal Register** at 68 FR 8047, corrected at 68 FR 8967 (Feb. 26, 2003), adding 31 POEs, expanding the listing of POEs approved for departure to 99. Finally, on August 8, 2006, CBP published a notice in the **Federal Register** at 71 FR 45061 updating the listing of POEs by removing one POE from the listing and adding 17 further POEs for a total of 115 POEs that could be used for departure by specially registered nonimmigrant aliens.

This notice expands the August 8, 2006 listing by adding two POEs.

Additional Ports-of-Entry Designated for Final Registration and Departure by Nonimmigrant Aliens Subject to Special Registration

¹ An alien who has been specially registered and has not yet departed the United States may seek relief from the departure control requirement for that admission by applying to the U.S. Customs and Border Protection (CBP) field office director for the port from which the alien intends to depart. The alien must establish that exigent or unusual circumstances exist and that the alien warrants a favorable exercise of discretion. *See* 8 CFR 264.1(f)(7)(i).

Effective November 25, 2009, Oakland International Airport, California, is designated as a POE authorized to provide final registration and departure by nonimmigrant aliens subject to special registration.

Effective November 28, 2009, Saipan, the Commonwealth of the Northern Mariana Islands, is designated as a POE authorized to provide final registration and departure by nonimmigrant aliens subject to special registration.

Ports-of-Entry Which Are Not Authorized for the Departure of Nonimmigrant Aliens Subject to Special Registration

Due to the limited availability of resources, specifically departure staff and facilities, CBP must limit the POEs authorized for departure registration to effectively capture departure data. Nonimmigrant aliens who are subject to special registration may not depart the United States from any POE, or from any other location, other than those listed below.

Ports-of-Entry Designated for Final Registration and Departure by Nonimmigrant Aliens Subject to Special Registration: Updated List

The below updated list of POEs includes all POEs designated for final registration and departure by nonimmigrant aliens subject to special registration, including the two POEs added by this notice. Nonimmigrant aliens subject to special registration may be examined by CBP and may depart from the following POEs:

- Amistad Dam POE, Texas;
- Alcan POE, Alaska;
- Anchorage International Airport, Alaska;
- Atlanta Hartsfield International Airport, Georgia;
- Baltimore Washington International Airport, Maryland;
- Boeing Field, Seattle, Washington;
- Bridge of the Americas POE, Texas;
- Brownsville/Matamoros POE, Texas;
- Buffalo Peace Bridge POE, New York;
- Cape Vincent POE, New York;
- Calexico POE, California;
- Calais POE, Maine;
- Cape Canaveral Seaport, Florida;

Chicago Midway Airport, Illinois;
Chicago O'Hare International Airport, Illinois;
Champlain POE, New York;
Charlotte International Airport, North Carolina;
Chateaugay POE, New York;
Cincinnati/Northern Kentucky International Airport, Ohio;
Cleveland International Airport, Ohio;
Columbus POE, New Mexico;
Cyril E. King Airport, United States Virgin Islands;
Dallas/Fort Worth International Airport, Texas;
Del Rio International Bridge POE, Texas;
Denver International Airport, Colorado;
Derby Line POE, Vermont;
Detroit International (Ambassador) Bridge POE, Michigan;
Detroit Canada Tunnel, Michigan;
Detroit Metro Airport, Michigan;
Douglas POE, Arizona;
Dunseith POE, North Dakota;
Eagle Pass POE, Texas;
Eastport POE, Idaho;
Fort Covington POE, New York;
Fort Duncan Bridge POE, Texas;
Frontier POE, Washington;
Galveston POE, Texas;
Grand Portage POE, Minnesota;
Guam International Airport;
Heart Island POE, New York;
Hidalgo POE, Texas;
Highgate Springs POE, Vermont;

Honolulu International Airport, Hawaii;
Honolulu Seaport, Hawaii;
Houlton POE, Maine;
Houston George Bush Intercontinental Airport, Texas;
Houston Seaport, Texas;
International Falls POE, Minnesota;
Jacksonville Seaport, Florida;
John F. Kennedy International Airport, New York;
Ketchikan Seaport, Alaska;
Kona International Airport and Seaport, Hawaii;
Gateway to the Americas Bridge POE, Laredo, Texas;
Las Vegas (McCarran) International Airport, Nevada;
Lewiston Bridge POE, New York;
Logan International Airport, Massachusetts;
Long Beach Seaport, California;
Los Angeles International Airport, California;
Lukeville, Arizona;
Madawaska POE, Maine;
Mayaguez Seaport, Puerto Rico;
Melbourne International Airport, Florida;
Memphis International Airport;
Miami International Airport, Florida;
Miami Marine Unit, Florida;
Minneapolis/St. Paul International Airport, Minnesota;
Mooers POE, New York;
New Orleans International Airport and Seaport;
Niagara Falls, Rainbow Bridge, New York;
Newark International Airport, New Jersey;
Nogales POE, Arizona;

Oakland International Airport, California;
Ogdensburg POE, New York;
Orlando, Florida;
Oroville POE, Washington;
Otay Mesa POE, California;
Pacific Highway POE, Washington;
Pembina POE, North Dakota;
Philadelphia International Airport, Pennsylvania;
Phoenix (Sky Harbor) International Airport, Arizona;
Piegan POE, Montana;
Pittsburgh International Airport, Pennsylvania;
Point Roberts POE, Washington;
Ponce Seaport, Puerto Rico;
Port Everglades Seaport, Florida;
Port Arthur POE, Texas;
Port Huron POE, Michigan;
Portal POE, North Dakota;
Portland International Airport, Oregon;
Progreso Bridge POE, Texas;
Raymond POE, Montana;
Rochester International Airport, Minnesota;
Rochester-Ferry Terminal, New York;
Roosville POE, Montana;
Rouses Point POE, New York;
Saipan, the Commonwealth of the Northern Mariana Islands
(on or after November 28, 2009);
San Antonio International Airport, Texas;
San Diego (Lindbergh Field) International Airport, California;
San Diego Seaport, California;

San Francisco International Airport, California;
San Juan International Airport and Seaport, Puerto Rico;
Sanford International Airport, Florida;
Sault Ste. Marie POE, Michigan;
Savannah International Airport, Georgia;
Seaway International Bridge/Massena POE, New York;
Seattle Tacoma International Airport, Washington;
Southwest Florida International Airport, Florida;
St. Petersburg/Clearwater International Airport, Florida;
St. Louis International Airport (Lambert Field), Missouri;
St. Thomas Seaport, U.S. Virgin Islands;
Sumas POE, Washington;
Sweetgrass POE, Montana;
Tampa International Airport and Seaport, Florida;
Thousand Islands POE, New York;
Trout River POE, New York;
Washington Dulles International Airport, Virginia; and
Ysleta POE, Texas.

Notice of Where to Report for Final Registration and Departure

The regulations governing the manner in which aliens are registered in the United States are contained in 8 CFR 264.1. Upon registration, whether registered at a POE upon admission to the United States or subsequent to admission, each nonimmigrant alien subject to special registration will be issued an information packet that will list each POE authorized for departure and other instructions on how to comply with 8 CFR 264.1. This packet will also contain specific information regarding hours of operation, directions and contact numbers.

This updated list will also be available on the following website: http://www.cbp.gov/linkhandler/cgov/travel/id_visa/nseers/nseers_ports.ctt/nseers_ports.doc. CBP will announce any changes to the list of POEs by notice in the **Federal Register** and will make the list available on the above website.

Dated: November 23, 2009

JAYSON P. AHERN
Acting Commissioner
U.S. Customs and Border Protection

[Published in the Customs Bulletin, November 25, 2009 (74 FR 61697)]

DEPARTMENT OF THE TREASURY
19 CFR Part 24

CBP Dec. 09-44

[Docket No. USCBP 2007-0111]

RIN 1505-AB97

**Electronic Payment and Refund of
Quarterly Harbor Maintenance Fees**

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

ACTION: Final rule

SUMMARY: This document amends title 19 of the Code of Federal Regulations by prescribing an alternative procedure by which payers of the quarterly harbor maintenance fee (HMF) may submit payments or refund requests to Customs and Border Protection (CBP) electronically via an Internet account established by the payer and located at *www.pay.gov*. CBP will continue to accept quarterly HMF payments or refund requests via mail. These changes are intended to provide the trade with expanded electronic payment/refund options and to modernize and enhance CBP's port use fee collection efforts. This document also clarifies the regulations to reflect that both HMF supplemental payments and refund requests must be accompanied by the requisite CBP Form 350 (HMF Amended Quarterly Summary Report) and CBP Form 349 (HMF Quarterly Summary Report). This clarification is necessary to remove any ambiguity as to what forms are required in conjunction with such payments.

EFFECTIVE DATE: December 24, 2009

FOR FURTHER INFORMATION CONTACT: Kim Cochenour, Office of Finance, Revenue Division, Collections, Refunds and Analysis Branch, (317) 614-4598 or at *hmf@dhs.gov*.

SUPPLEMENTARY INFORMATION:

Background

The harbor maintenance fee (HMF) was created by the Water Resources Development Act of 1986 (Public Law 99–622, 26 U.S.C. 4461 *et. seq.*). The purpose of the fee is to require those who benefit from the maintenance of U.S. ports and harbors to share in the associated costs of such maintenance. The HMF is assessed based on 0.125 percent of the value of commercial cargo loaded or unloaded at certain identified ports or, in the case of passengers, on the value of the actual charge paid for the transportation.

The HMF implementing regulations are set forth in § 24.24 of title 19 of the Code of Federal Regulations (19 CFR 24.24).

On August 5, 2008, CBP published in the **Federal Register** (73 FR 45364) a proposal to amend title 19 of the Code of Federal Regulations (19 CFR) by prescribing an alternative procedure by which payers of the quarterly harbor maintenance fee (HMF) may submit their payments or refund requests to Customs and Border Protection (CBP) electronically via an Internet account established by the payer and located at *www.pay.gov*. CBP would also continue to accept quarterly HMF payments or refund requests via mail. The proposal also required that each HMF quarterly payment, whether paper or electronic, be accompanied by a CBP Form 349 (HMF Quarterly Summary Report). The proposed amendments were intended to provide the trade with an expanded electronic payment/refund option for quarterly HMFs and to modernize and enhance CBP's port use fee collection efforts.

CBP solicited public comment on the proposed amendments in the August 5, 2008, **Federal Register** document. CBP received no comments.

Conclusion

After further review of the matter, and in light of the fact that no comments were submitted in response to CBP's solicitation of public comment, CBP has determined to adopt as final, with minor technical changes and clarifications, the proposed rule published in the **Federal Register** (73 FR 45364) on August 5, 2008. Specifically, CBP is making technical changes to §§ 24.24(e)(2)(ii) and (h)(3) that replace references to "Customs" with the term "CBP" and, in the "For Further Information Contact" section of this document, is identifying a new CBP contact to whom questions regarding HMF may be directed. In addition, this document restructures the regulatory text in §§ 24.24(c)(8)(i), (e)(1)(ii), (e)(2)(iii), (e)(3)(ii), (e)(4)(iii), (e)(4)(iv)(A), and (g) to clarify CBP's preference that certain payments and refund requests be made electronically and, in the alternative, via mail to a

CBP address located on Forms.CBP.gov. By removing references to a specific CBP address and referring to a web site which is updated regularly, CBP will avoid having to amend these regulations in the event the mailing address is changed. Sections 24.24 (e)(1)(ii), (e)(2)(iii), (e)(3)(ii), and (e)(4)(iii) are also clarified to state that each CBP Form 349 or 350 that is mailed to CBP must be accompanied by a single payment. Lastly, CBP is of the view that a clarification of the proposed amendments to §§ 24.24(c)(8)(i) and (e)(4)(iii) in 73 FR 45364 is necessary to reflect that both CBP Form 350 and CBP Form 349 are required to be submitted to CBP with supplemental payments and refund requests. This clarification is necessary to remove any ambiguity as to what forms are required in conjunction with such payments and to reconcile the proposed new language with the existing text in paragraph (e)(4)(iii) which requires that both forms be submitted in such instances.

THE REGULATORY FLEXIBILITY ACT AND EXECUTIVE ORDER 12866

Because these amendments implement an alternative procedure that provides an expanded electronic payment/refund option for quarterly HMF payments and do not require small entities to change their business practices, pursuant to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, it is certified that, if adopted, the amendments will not have a significant economic impact on a substantial number of small entities. Further, these amendments do not meet the criteria for a “significant regulatory action” as specified in E.O. 12866.

PAPERWORK REDUCTION ACT

The collections of information in the current regulations have already been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and assigned OMB control number 1651–0055 (harbor maintenance fee). This rule does not involve any material change to the existing approved information collection. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB.

SIGNING AUTHORITY

This document is being issued in accordance with 19 CFR 0.1(a)(1).

List of Subjects in 19 CFR Part 24

Accounting, Claims, Customs duties and inspection, Exports, Imports, Interest, Reporting and recordkeeping requirements, Taxes, User fees, Wages.

AMENDMENTS TO THE REGULATIONS

For the reasons set forth in the preamble, part 24 of title 19 of the CFR (19 CFR Part 24) is amended as follows:

PART 24 — CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

1. The authority citation for part 24 continues to read in part as follows:

AUTHORITY: 5 U.S.C. 301; 19 U.S.C. 58a–58c, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1505, 1520, 1624; 26 U.S.C. 4461, 4462; 31 U.S.C. 9701; Public Law 107–296, 116 Stat. 2135 (6 U.S.C. 1 *et. seq.*).

* * * * *

2. In § 24.24:

- (a) The introductory text to paragraph (c)(8) is amended by removing the words “the U.S. Customs Service” and adding in their place the term “CBP”;
- (b) Paragraph (c)(8)(i) is revised;
- (c) Paragraph (c)(8)(ii) is amended by: removing the word “shall” each place it appears and adding in its place the word “must”; and removing the word “Customs” and adding in its place the term “CBP”;
- (d) The introductory text to paragraph (d)(3) is amended by removing the word “shall” and adding in its place the word “will”;
- (e) Paragraph (e)(1)(ii) is revised;
- (f) Paragraph (e)(2)(i) is amended: in the second sentence, by removing the words “U.S. Customs” and adding in their place the term “CBP”; and in the third sentence, by removing the word “shall” and adding in its place the word “will”;
- (g) Paragraph (e)(2)(ii) is amended: in the first sentence, by removing the word “shall” and adding in its place the word “must” and by removing the word “Customs” and adding in its place the term “CBP”; in the second sentence, by removing the language “U.S. Customs Entry Summary Form (Customs)” and adding in its place “CBP Entry Summary Form (CBP)”; in the third sentence, by removing the word “shall” and adding in its place the word “must”; and in the fourth sentence, by removing the word “shall” and adding in its place the word “must” and by removing the word “Customs” and adding in its place the term “CBP”.

- (h) Paragraph (e)(2)(iii) is revised;
- (i) Paragraph (e)(3)(ii) is revised;
- (j) Paragraph (e)(4)(i) is amended by removing the fourth and fifth sentences;
- (k) Paragraph (e)(4)(ii) is amended by removing the word “Customs” each place it appears and adding in its place the term “CBP”;
- (l) Paragraph (e)(4)(iii) is amended by: removing the word “Customs” each place it appears and adding in its place the term “CBP”; and adding three new sentences after the last sentence;
- (m) The introductory text to paragraph (e)(4)(iv) is amended by removing the word “Customs” and adding in its place the term “CBP”;
- (n) Paragraph (e)(4)(iv)(A) is amended by adding two new sentences after the last sentence;
- (o) Paragraphs (e)(4)(iv)(B)(1), (2), and (3) are amended by removing the word “Customs” each place it appears and adding in its place the term “CBP”;
- (p) Paragraph (e)(4)(iv)(B)(4) is amended by: removing the word “Customs” and adding in its place the term “CBP”; and removing the number “90” each place it appears and adding in its place the number “180”;
- (q) Paragraph (e)(4)(iv)(B)(5) is amended: in the second sentence, by removing the words “by Customs” and adding in their place the words “by CBP”, and by removing the words “and Customs” and adding in their place the words “and CBP’s”; and in the fourth and fifth sentences, by removing the word “Customs” each place it appears and adding in its place the term “CBP”;
- (r) Paragraph (e)(4)(iv)(C) is amended by removing the word “Customs” each place it appears and adding in its place the term “CBP”;
- (s) Paragraph (g) is amended: in the first, second, and fifth sentences, by removing the word “shall” each place it appears and adding in its place the word “must”, and by removing the word “Customs” each place it appears and adding in its place the term “CBP”; and by revising the third and fourth sentences;
- (t) Paragraph (h)(1) is amended by removing the word “shall” each place it appears and adding in its place the word “will”;
- (u) Paragraph (h)(2) is amended by removing the word “shall” each place it appears and adding in its place the word “must”; and

- (v) Paragraph (h)(3) is amended by: removing the word “shall” each place it appears and adding in its place the word “will”; and removing the word “Customs” and adding in its place the term “CBP”.

The revisions and additions read as follows:

§ 24.24 Harbor maintenance fee.

* * * * *

(c) * * *

(8) * * *

(i) The donated cargo is required to be certified as intended for use in humanitarian or development assistance overseas by CBP. Subsequent to payment of the fee, a refund request may be made by electronically submitting to CBP the Harbor Maintenance Fee Amended Quarterly Summary Report (CBP Form 350), as well as the Harbor Maintenance Fee Quarterly Summary Report (CBP Form 349) for the quarter covering the payment to which the refund request relates, using the Automated Clearinghouse (ACH) via an Internet account established by the payer and located at *www.pay.gov*. In the alternative, the requisite forms may be mailed to the Office of Finance, Revenue Division, Customs and Border Protection, using the current address posted at *Forms.CBP.gov*. Upon request by CBP, the party requesting the refund must also submit to CBP, via mail, any supporting documentation deemed necessary by CBP to certify that the entity donating the cargo is a nonprofit organization or cooperative and that the cargo was intended for humanitarian or development assistance overseas (including contiguous countries). A description of the cargo listed in the shipping documents and a brief summary of the intended use of the goods, if such use is not reflected in the documents, are acceptable evidence for certification purposes. Approved HMF refund payments will be made via ACH to those payers who are enrolled in the ACH refund program; all others will receive HMF refund payments via mail. * * *

* * * * *

(e) * * *

(1) * * *

(ii) *Fee payment.* The shipper whose name appears on the Vessel Operation Report must pay all accumulated fees for which he is

liable on a quarterly basis in accordance with paragraph (f) of this section by submitting to CBP a Harbor Maintenance Fee Quarterly Summary Report, CBP Form 349. The CBP Form 349 must either be submitted electronically to CBP using the Automated Clearinghouse (ACH) via an Internet account established by the payer and located at *www.pay.gov* or, alternatively, mailed with a single check or money order payable to U.S. Customs and Border Protection to the Office of Finance, Revenue Division, Customs and Border Protection, using the current address posted at *Forms.CBP.gov*.

(2) * * *

(iii) *Foreign Trade Zones*. In cases where imported cargo is unloaded from a commercial vessel at a port within the definition of this section and admitted into a foreign trade zone, the applicant for admission (the person or corporation responsible for bringing merchandise into the zone) who becomes liable for the fee at the time of unloading pursuant to paragraph (e)(3)(i) of this section, must pay all fees for which he is liable on a quarterly basis in accordance with paragraph (f) of this section by submitting to CBP a Harbor Maintenance Fee Quarterly Summary Report, CBP Form 349. The CBP Form 349 must either be submitted electronically to CBP using the Automated Clearinghouse (ACH) via an Internet account established by the payer and located at *www.pay.gov* or, alternatively, mailed with a single check or money order payable to U.S. Customs and Border Protection to the Office of Finance, Revenue Division, Customs and Border Protection, using the current address posted at *Forms.CBP.gov*. Fees must be paid for all shipments unloaded and admitted to the zone, or in the case of direct deliveries under §§ 146.39 and 146.40 of this chapter, unloaded and received in the zone under the bond of the foreign trade zone operator.

(3) * * *

(ii) *Fee payment*. The operator of the passenger-carrying vessel must pay the accumulated fees for which he is liable on a quarterly basis in accordance with paragraph (f) of this section by submitting to CBP a Harbor Maintenance Fee Quarterly Summary Report, CBP Form 349. The CBP Form 349 must either be submitted electronically to CBP using the Automated Clearinghouse (ACH) via an Internet account established by the

payer and located at *www.pay.gov* or, alternatively, mailed with a single check or money order payable to U.S. Customs and Border Protection to the Office of Finance, Revenue Division, Customs and Border Protection, using the current address posted at *Forms.CBP.gov*.

(4) * * *

(iii) * * * Supplemental payments and HMF refund requests, accompanied by the requisite CBP Forms 350 and 349 and, if applicable, supporting documentation, must be submitted electronically to CBP using the Automated Clearinghouse (ACH) via an Internet account established by the payer and located at *www.pay.gov* or, alternatively, mailed to the Office of Finance, Revenue Division, Customs and Border Protection, using the current address posted at *Forms.CBP.gov*. If a supplemental payment is mailed, a single check or money order payable to U.S. Customs and Border Protection must be attached to each CBP Form 350. Approved HMF refund payments will be made via ACH to those payers who are enrolled in the ACH refund program; all others will receive HMF refund payments via mail.

(iv) * * *

(A) * * * Refund requests must either be submitted electronically to CBP using the Automated Clearinghouse (ACH) via an Internet account established by the payer and located at *www.pay.gov* or, alternatively, mailed to the Office of Finance, Revenue Division, Customs and Border Protection, using the current address posted at *Forms.CBP.gov*. Approved HMF refund payments will be made using the ACH to those payers who are enrolled in the ACH refund program; all others will receive HMF refund payments via mail.

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(g) * * * The affected parties must advise the Director, Revenue Division, U.S. Customs and Border Protection, at the current address posted at *Forms.CBP.gov*, of the name, address, email and telephone number of a responsible officer who is able to verify any records required to be maintained under this paragraph. The Director, Revenue Division, must be promptly notified of any changes in the identifying information submitted. * *

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JAYSON P. AHERN
Acting Commissioner
U.S. Customs and Border Protection

Approved: November 19, 2009

Timothy E. Skud

Deputy Assistant Secretary of the Treasury

[Published in the Federal Register, November 24, 2009 (74 FR 62267)]



**RECEIPT OF APPLICATION FOR “LEVER-RULE”
PROTECTION**

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

ACTION: Notice of receipt of application for “Lever-rule” protection.

SUMMARY: Pursuant to 19 CFR 133.2(f), this notice advises interested parties that Customs & Border Protection (CBP) has received an application from the Red Bull GmbH seeking “Lever-rule” protection for a federally registered and recorded trademark.

FOR FURTHER INFORMATION CONTACT: Suzanne Kane, Intellectual Property Rights & Restricted Merchandise Branch, Regulations & Rulings, Office of International Trade (202) 325–0119.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 CFR § 133.2(f), this notice advises interested parties that CBP has received an application from Red Bull GmbH seeking “Lever-rule” protection. Protection is sought against the importation of energy drinks not authorized for sale in the United States that bear the Red Bull trademark (U.S. Trademark Registration No. 3,092,197; CBP Recordation No. TMK 09–00328). In the event that CBP determines the energy drink products under consideration are physically and materially different from the Red Bull energy drink products authorized for sale in the United States, CBP will publish a notice in the *Customs Bulletin*, pursuant to 19 CFR 133.2(f), indicating that the above-referenced trademark is entitled to Lever-rule protection with respect to those physically and materially different Red Bull drink products.

Dated: November 24, 2009

RICHARD CHOVANEC

For

CHARLES R. STEUART,

Chief

*Intellectual Property Rights & Restricted
Merchandise Branch Regulations & Rulings
Office of International Trade*



19 CFR PART 101

[Docket No. USCBP-2009-0035]

RIN 1651-AA79

Further Consolidation of CDP Drawback Centers

AGENCY: Customs and Border Protection, DHS.

ACTION: Notice of proposed rulemaking; solicitation of comments.

SUMMARY: This document proposes to amend the U.S. Customs and Border Protection (CBP) regulations to reflect a planned closing of the CBP drawback center at the Port of Los Angeles-Long Beach (“Los Angeles”), California. CBP believes that the further consolidation in the number of drawback processing centers from five to four is necessary because of decreases in claim filings and drawback claim values at the Los Angeles center. This proposed closure of this drawback center is intended to conserve resources, increase efficiency, exercise fiscal responsibility, and promote greater uniformity in the processing of drawback claims.

DATES: Written comments must be received on or before December 31, 2009.

ADDRESSES: You may submit comments, identified by *docket number*, by *one* of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments via Docket No. USCBP 2009-0035.
- Mail: Trade and Commercial Regulations Branch, Regulations and Rulings, U.S. Customs and Border Protection, 799 9th Street, N.W. (Mint Annex), Washington, D.C. 20229-1179.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Participation” heading of the SUPPLEMENTARY INFORMATION section of this document.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Submitted comments may also be inspected during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 799 9th Street, N.W., 5th Floor, Washington, D.C. Arrangements to inspect submitted comments should be made in advance by calling Joseph Clark at (202) 325-0118.

FOR FURTHER INFORMATION CONTACT: Christine Kegley, Import Operations Branch, Office of Field Operations, Customs and Border Protection, (202) 344-2319.

SUPPLEMENTARY INFORMATION:

Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of this proposed rule. U.S. Customs and Border Protection (CBP) also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposed rule. Comments that will provide the most assistance to CBP in developing these procedures will reference a specific portion of the proposed rule, explain the reason for any recommended change, and include data, information, or authority that supports such recommended change. See ADDRESSES above for information on how to submit comments.

Background

To conserve resources, increase efficiency, exercise fiscal responsibility, and promote greater uniformity in the processing of drawback claims, U.S. Customs Service (now CBP) published on January 24, 2003, Treasury Decision (T.D.) 03-05 in the **Federal Register** (68 FR 3381), which consolidated the drawback centers from eight to the current five by closing the centers located in Miami, Florida; New Orleans, Louisiana; and Boston, Massachusetts and redirecting that all claims be filed in the remaining five centers located in Chicago,

Illinois; Houston, Texas; New York, New York; Los Angeles-Long Beach (“Los Angeles”), California; and San Francisco, California. Additionally, T.D. 03–05 noted that the agency would re-evaluate further consolidations as needed. In 2008, CBP further evaluated the number of drawback claims processed at its remaining drawback centers. Based on this evaluation, CBP proposes to further consolidate the drawback centers by closing the Los Angeles, California Drawback Center to achieve its goal of four drawback centers to cover its key geographical areas of North, South, East, and West.

On May 27, 2008 and April 29, 2009, in accordance with 19 U.S.C. 2075(g)(2)(C), the Homeland Security Act of 2002 (6 U.S.C. 217(b)(2)), and the SAFE Port Act of 2006 (6 U.S.C. 115(D)), CBP notified the House Committee on Ways & Means, the Senate Committee on Finance, and House Committee on Homeland Security of its intent to close the Los Angeles Drawback Center. The Congressional notification period expired July 27, 2009, and CBP did not receive from Congress any objections to the proposed closing of the Los Angeles Drawback Center. Out of the remaining five drawback centers, Los Angeles receives and processes the fewest claims. Drawback statistics from fiscal years 2006, 2007, and 2008 reveal that only 8.4, 9.01, and 7.49 percent of all claims were filed in Los Angeles. Moreover, the claims paid out by the Los Angeles center during those years represented only 2.6, 2.42, and 3.15 percent of all drawback claims paid nationally. Because of the decrease in the number of drawback claims filed and processed at the Los Angeles Drawback Center since 2003 and the small number of claims filed overall in the Los Angeles center, CBP is proposing to close this drawback center, thus leaving four centers located in its key geographical areas of Chicago, Houston, New York, and San Francisco. CBP believes that closing the Los Angeles Drawback Center is required in order to attain CBP’s original goals of conserving resources, increasing efficiency, exercising fiscal responsibility, and promoting greater uniformity in the processing of drawback claims.

If this proposal is adopted, then future claims will be required to be sent to one of the four remaining drawback centers located in Chicago, Houston, New York, or San Francisco. All remaining claims that were filed at the Los Angeles Drawback Center prior to closure that have not been liquidated and still require CBP review will be forwarded to the San Francisco Drawback Center for final processing.

In order to file a drawback claim at one of the four remaining centers, persons must ensure that all license/permit and bond requirements are met in accordance with the regulations. *See* 19 CFR Parts 111 and 113 of the CBP regulations.

Explanation of Amendment

Section 101.3(b)(1) of the CBP regulations lists all the CBP ports of entry. Five ports are denoted with a “plus” sign that designates their status as a “Drawback unit/office.” This document proposes to amend § 101.3(b)(1) to remove the “plus” sign in § 101.3(b)(1) next to the port listing for Los Angeles-Long Beach.

INAPPLICABILITY OF THE REGULATORY FLEXIBILITY ACT

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires federal agencies to examine the impact a rule would have on small entities. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people).

Although this document is being issued with notice for public comment, it is noted that this proposal, which relates to agency management and organization, does not directly regulate small entities and is not subject to the notice and public procedure requirements of 5 U.S.C. 553. The proposed change is part of CBP’s continuing program to conserve resources, increase efficiency, and exercise fiscal responsibility, and to provide better service to importers and the general public.

Because this proposal does not directly regulate small entities and because CBP estimates that virtually all transactions are accomplished through either electronic or mailed submissions, and any follow-up is handled by telephone, fax and/or email, the physical location of a drawback center is largely irrelevant to the process. Accordingly, CBP does not believe that this rule will have a significant economic impact on a substantial number of small entities. However, CBP welcomes comments on this assumption. If we do not receive any comments to the contrary, we may certify in the final rule that this rule will not have a significant economic impact on a substantial number of small entities.

EXECUTIVE ORDER 12866

This proposed rule does not meet the criteria to be considered an economically “significant regulatory action” under Executive Order 12866 because it will not result in the expenditure of over \$100 million in any one year. The Office of Management and Budget (OMB) has not reviewed this proposed rule under that Order.

As stated previously, CBP estimates that virtually all of follow-up transactions are through fax, email, or telephone; it is a very rare occasion for any member of the public to visit a drawback center. Thus, CBP anticipates that this rule will have *de minimus* costs to the public as a result of the further consolidation of drawback centers.

SIGNING AUTHORITY

This document is being issued in accordance with 19 CFR 0.2(a), which provides that the authority of the Secretary of the Treasury with respect to CBP regulations that are not related to customs revenue functions was transferred to the Secretary of Homeland Security pursuant to § 403(l) of the Homeland Security Act of 2002. Accordingly, this notice of proposed rulemaking to amend such regulations may be signed by the Secretary of Homeland Security (or her delegate).

LIST OF SUBJECTS IN 19 CFR PART 101

Customs duties and inspection, Customs ports of entry.

PROPOSED AMENDMENT TO THE REGULATIONS

For the reasons set forth above, CBP proposes to amend part 101 of the CBP regulations (19 CFR Part 101) as follows:

PART 101 — GENERAL PROVISIONS

1. The general authority citation for part 101 continues 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.

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

* * * * *

§ 101.3 — [Amended].

2. In § 101.3, the table in paragraph (b)(1) is amended by removing the plus sign in the “Ports of entry” column before the column listing for “Los Angeles-Long Beach” under the state of California.

Dated: November 25, 2009

JAYSON P. AHERN
Acting Commissioner
U.S. Customs and Border Protection

**DEPARTMENT OF THE TREASURY
19 CFR Parts 113 and 191**

[Docket No. USCBP-2009-0021]

RIN 1505-AC18

Drawback of Internal Revenue Excise Tax

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

ACTION: Notice of proposed rulemaking; second extension of comment period.

SUMMARY: This document provides a second 30-day extension period for interested parties to submit comments on the proposal to amend title 19 of the Code of Federal Regulations to preclude the filing of substitution drawback claims for internal revenue excise tax paid on imported merchandise in situations where no excise tax was paid upon the substituted merchandise or where the substituted merchandise is the subject of a different claim for refund or drawback of excise tax under any provision of the Internal Revenue Code. The proposed rule was published in the **Federal Register** on October 15, 2009, with comments due on or before November 16, 2009. A related proposed rulemaking prepared by the Alcohol and Tobacco Tax and Trade Bureau (TTB) within the Department of the Treasury was published in the same edition of the **Federal Register**, with comments due on or before December 14, 2009. A subsequent notice extending the time within which the public may submit comments on CBP's proposed rulemaking to coincide with the December 14, 2009 TTB comment deadline was published in the **Federal Register** (74 FR 57125) on November 4, 2009. In response to a request from the public to provide additional time to prepare comments on the proposed rule, CBP is extending the comment period for an additional 30 days to January 12, 2010.

DATES: Comments on the proposed rule must be received on or before January 12, 2010.

ADDRESSES: You may submit comments, identified by *USCBP docket number*, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments via docket number USCBP-2009-0021.

- Mail: Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 799 9th Street, N.W. (Mint Annex), Washington, D.C. 20229–1179.

Instructions: All submissions received must include the agency name and USCBP docket number for this proposed rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Participation” heading of the SUPPLEMENTARY INFORMATION section of this document.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Submitted comments may also be inspected during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 799 9th Street, N.W., 5th Floor, Washington, D.C. Arrangements to inspect submitted comments should be made in advance by calling Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT: William Rosoff, Entry Process and Duty Refunds, Regulations and Rulings, Office of International Trade, (202) 325–0047.

SUPPLEMENTARY INFORMATION:

Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the proposed rule. Customs and Border Protection (CBP) also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposed rule. If appropriate to a specific comment, the commenter should reference the specific portion of the proposed rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change.

Background

Customs and Border Protection (CBP) published a document in the **Federal Register** (74 FR 52928) on October 15, 2009 proposing to amend title 19 of the Code of Federal Regulations to preclude the filing of substitution drawback claims for internal revenue excise tax

paid on imported merchandise in situations where no excise tax was paid upon the substituted merchandise or where the substituted merchandise is the subject of a different claim for refund or drawback of excise tax under any provision of the Internal Revenue Code. The document solicited public comment on the proposed amendments, and requested that submitted comments be received by CBP on or before November 16, 2009.

A related proposed rulemaking prepared by the Alcohol and Tobacco Tax and Trade Bureau (TTB) within the Department of the Treasury was published in the same edition of the **Federal Register** (74 FR 52937, October 15, 2009). Comments on TTB's proposed rule are due on or before December 14, 2009.

A subsequent notice extending the time within which the public may submit comments on CBP's proposed rulemaking to coincide with the December 14, 2009 TTB comment deadline was published in the **Federal Register** (74 FR 57125) on November 4, 2009.

Second extension of comment period

CBP received a written submission from the trade, dated November 2, 2009, requesting that the comment period be extended for an additional 30 days to provide adequate time to prepare comments on the proposed rule. Upon review, a decision has been made to grant the request. Accordingly, the comment period is extended to January 12, 2010 and comments must be received by CBP on or before that date.

SANDRA L. BELL
Executive Director,
Regulations and Rulings,
Office of International Trade
U.S. Customs and Border Protection

Approved: November 20, 2009

Timothy E. Skud

Deputy Assistant Secretary of the Treasury

[Published in the Federal Register, November 25, 2009, (74 FR 61585)]

**AGENCY INFORMATION COLLECTION ACTIVITIES:
 Application to Establish a Centralized Examination Station**

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

ACTION: 30-Day notice and request for comments; Extension of an existing information collection: 1651-0061.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Application to Establish a Centralized Examination Station (CES). This is a proposed extension and revision of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (74 FR 48280) on September 22, 2009, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before December 28, 2009.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to oir_submission@omb.eop.gov or faxed to (202) 395-5806.

SUPPLEMENTARY INFORMATION: U.S. Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act (Pub. L.104-13). Your comments should address one of the following four points:

- (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agencies/components estimate of the burden of The proposed collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and

- (4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological techniques or other forms of information.

Title: Application to Establish Centralized Examination Station

OMB Number: 1651-0061

Form Number: None

Abstract: If a port director decides his or her port needs a Centralized Examination Station (CES), the port director announces this need to the public and solicits applications to operate a CES. The information contained in the application will be used to determine the suitability of the applicant's facility, the fairness of his fee structure, his knowledge of cargo handling operations and his knowledge of CBP procedures.

Current Actions: There are no changes to the information collection. This submission is being made to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Businesses

Estimated Number of Respondents: 50

Estimated Number of Annual Responses per Respondent: 1

Estimated Time Per Respondent: 2 hours

Estimated Total Annual Burden Hours: 100

If additional information is required contact: Tracey Denning, U.S. Customs and Border Protection, Office of Regulations and Rulings, 799 9th Street, NW, 7th Floor, Washington, DC. 20229-1177, at 202-325-0265.

Dated: November 19, 2009

TRACEY DENNING
Agency Clearance Officer
U.S. Customs and Border Protection

[Published in the Federal Register, November 25, 2009 (74 FR 61695)]