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DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

19 CFR Part 122

[CBP Dec. 09–42]

Technical Amendment to List of User Fee Airports: Termination of User Fee Status of Santa Maria Public Airport, Santa Maria, CA

AGENCY: Customs and Border Protection, DHS.

ACTION: Final rule; technical amendment.

SUMMARY: This document amends the Customs and Border Protection (CBP) Regulations by revising the list of user fee airports to reflect the withdrawal of the user fee airport designation for Santa Maria Public Airport, Santa Maria, California. User fee airports are those airports which, while not qualifying for designation as international or landing rights airports, have been approved by the Commissioner of CBP to receive, for a fee, the services of CBP officers for the processing of aircraft entering the United States, and the passengers and cargo of those aircraft.

DATES: *Effective Date:* October 21, 2009.

FOR FURTHER INFORMATION CONTACT: Simon Stella, Office of Field Operations, 202–344–2771.

SUPPLEMENTARY INFORMATION:

Background

Title 19, Code of Federal Regulations (CFR), sets forth at Part 122 regulations relating to the entry and clearance of aircraft in international commerce and the transportation of persons and cargo by aircraft in international commerce.

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 Public Law 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 airport or a 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 Homeland Security¹ as a user fee airport.

Pursuant to 19 U.S.C. 58b, an airport may be designated as a user fee airport if the Commissioner of CBP, as delegated by the Secretary of Homeland Security, 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 airport 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.

Pursuant to 19 U.S.C. 58b, the fees which are to be charged at user fee airports 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 Commissioner of CBP in providing customs services

¹ Sections 403(1) and 411 of the Homeland Security Act of 2002 (“the Act,” Pub. L. 107–296, 6 U.S.C. 203(1), 211) transferred the United States Customs Service and its functions from the Department of the Treasury to the Department of Homeland Security. Pursuant to section 1502 of the Act (6 U.S.C. 542 and note), the President renamed the “Customs Service” as the “Bureau of Customs and Border Protection.” Effective March 31, 2007, DHS changed the name of “Bureau of Customs and Border Protection” to “U.S. Customs and Border Protection,” also referred to as “CBP” (72 FR 20131, April 23, 2007).

which are rendered to such person at such airport, including the salary and expenses of those employed by the Commissioner of CBP 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.

The Commissioner of CBP designates airports as user fee airports in accordance with 19 U.S.C. 58b and pursuant to 19 CFR 122.15. If the Commissioner decides that the conditions for designation as a user fee airport are satisfied, a Memorandum of Agreement (MOA) is executed between the Commissioner of CBP and the local responsible official signing on behalf of the State, city or municipality in which the airport is located. In this manner, user fee airports are designated on a case-by-case basis. Section 122.15 of CBP Regulations (19 CFR 122.15) also sets forth the grounds for withdrawal of a user fee designation and sets forth the list of designated user fee airports.

Periodically, CBP updates the list of user fee airports at 19 CFR 122.15(b) to reflect those that have been currently designated by the Commissioner. This document updates that list of user fee airports by removing Santa Maria Public Airport, Santa Maria, California from the list. On July 8, 2009, the Acting Commissioner approved the withdrawal of user fee status for Santa Maria Public Airport. The airport had requested that the User Fee Airport status be terminated.

Inapplicability of Public Notice and Delayed Effective Date Requirements

Because 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 and neither imposes additional burdens on, nor takes away any existing rights or privileges from, the public, pursuant to 5 U.S.C. 553(b)(B), 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.

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 limited to a technical correction of CBP regulations. Accordingly, it is being signed under the authority of 19 CFR 0.1(b).

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 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.

§ 122.15 [Amended]

■ 2. The listing of user fee airports in § 122.15(b) is amended by removing from the "Location" column, "Santa Maria, California," and by removing on the same line, from the "Name" column, "Santa Maria Public Airport."

Dated: October 15, 2009.

Jayson P. Ahern,

Acting Commissioner, U.S. Customs and Border Protection.

[FR Doc. E9-25321 Filed 10-20-09; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY**Bureau of Customs and Border Protection****19 CFR Part 122**

[CBP Dec. 09-41]

Technical Amendments to List of User Fee Airports: Removal of User Fee Status for Roswell Industrial Air Center, Roswell, NM and March Inland Port Airport, Riverside, CA and Name Change for Capital City Airport, Lansing, MI

AGENCY: Customs and Border Protection, DHS.

ACTION: Final rule; technical amendments.

SUMMARY: This document amends the Customs and Border Protection (CBP) Regulations by revising the list of user fee airports to reflect the removal of the user fee designations for the Roswell Industrial Air Center in Roswell, New Mexico and the March Inland Port Airport in Riverside, California, as well as indicating that the Capital City Airport in Lansing, Michigan has changed its name to the Capital Region International Airport. User fee airports are those airports which, while not qualifying for designation as international or landing rights airports, have been approved by the Commissioner of CBP to receive, for a fee, the services of CBP officers for the processing of aircraft entering the United States, and the passengers and cargo of those aircraft.

DATES: *Effective Date:* October 21, 2009.

FOR FURTHER INFORMATION CONTACT: Wendy M. Cooper, Office of Field Operations, 202-344-2057.

SUPPLEMENTARY INFORMATION:**Background**

Title 19, Part 122, Code of Federal Regulations (CFR), sets forth regulations relating to the entry and clearance of aircraft in international commerce and the transportation of persons and cargo by aircraft in international commerce.

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 Public Law 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 airport or a 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 Homeland Security¹ as a user fee airport.

¹ 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 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." Effective on March 31, 2007, DHS changed the name of "Bureau of Customs and Border Protection" to "U.S. Customs and Border Protection (CBP)" (*See* 72 FR 20131, April 23, 2007).

Pursuant to 19 U.S.C. 58b, an airport may be designated as a user fee airport if the Commissioner of CBP as delegated by the Secretary of Homeland Security determines that the volume of business at the airport is insufficient to justify customs services at the airport and the governor of the state in which the airport is located approves the designation. Generally, the type of airport 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.

Pursuant to 19 U.S.C. 58b, the fees which are to be charged at user fee airports 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 Commissioner of CBP in providing customs services which are rendered to such person at such airport, including the salary and expenses of those employed by the Commissioner of CBP to provide the customs services. To implement this provision, the airport seeking the designation as a user fee airport or that airport's authority generally 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.

The Commissioner of CBP designates airports as user fee airports pursuant to 19 U.S.C. 58b. *See* 19 CFR 122.15. If the Commissioner decides that the conditions for designation as a user fee airport are satisfied, a Memorandum of Agreement (MOA) is executed between the Commissioner of CBP and the local responsible official signing on behalf of the state, city or municipality in which the airport is located. In this manner, user fee airports are designated on a case-by-case basis. Periodically, CBP updates the list of user fee airports at 19 CFR 122.15(b) to reflect changes in the status of user fee airports.

Recent Changes Requiring Updates to the List of User Fee Airports

Section 19 CFR 122.15(c)(1) provides that the designation as a user fee airport