

DEPARTMENT OF HOMELAND SECURITY**U.S. Customs and Border Protection****19 CFR Parts 4, 24, 101, 102, 127, 159, 161 and 177**

[CBP Dec. 12–21]

Technical Corrections to U.S. Customs and Border Protection Regulations

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

ACTION: Final rule.

SUMMARY: U.S. Customs and Border Protection (CBP) periodically reviews its regulations to ensure that they are current, correct, and consistent. Through this review process, CBP has discovered a number of discrepancies. This document amends various sections of title 19 of the Code of Federal Regulations (19 CFR) to correct those discrepancies.

DATES: The final rule is effective December 10, 2012.

FOR FURTHER INFORMATION CONTACT: Maria Lloyd, Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, (202) 325–0369.

SUPPLEMENTARY INFORMATION:**Background**

It is the policy of U.S. Customs and Border Protection (CBP) to periodically review title 19 of the Code of Federal Regulations (19 CFR) to ensure that it is accurate and up-to-date so that the importing and general public are aware of CBP requirements and procedures regarding import-related activities. As part of this review policy, CBP has determined that certain corrections are necessary affecting parts 4, 24, 101, 102, 127, 159, 161 and 177 of the CBP regulations (19 CFR parts 4, 24, 101, 102, 127, 159, 161 and 177).

Discussion of Changes*Part 4*

Section 4.7 of the CBP regulations (19 CFR 4.7) sets forth requirements regarding vessel manifests. Section 4.21 of the CBP regulations (19 CFR 4.21) concerns exemptions from tonnage taxes. Section 4.83 of the CBP regulations (19 CFR 4.83) governs trade between United States ports on the Great Lakes and other ports of the United States. Sections 4.7, 4.21 and 4.83 each contain references to a Great Lakes license endorsement. The statutory provision providing for a Great Lakes endorsement, formerly found in

46 U.S.C. 12107, was repealed by § 1115(a) of the Coast Guard Authorization Act of 1996, Public Law 104–324 (October 19, 1996). Accordingly, this document makes conforming amendments to 19 CFR Part 4 by removing references to the Great Lakes endorsement in § 4.7; by removing paragraphs (b)(11) and (b)(12) of § 4.21, which pertain to vessels with Great Lakes endorsements, and by removing paragraph (b) of § 4.83, which also pertains to vessels with Great Lakes endorsements. In addition, paragraph (a) of § 4.7 contains a typographical error. As such, paragraph (a) in § 4.7 is amended by replacing the word “Statment” with the word “Statement”. Section 4.85 of the CBP regulations (19 CFR 4.85) concerns vessels with residue cargo for domestic ports. Section 4.85 contains a reference to a Great Lakes license endorsement, which was formally repealed, as discussed above. Accordingly, this document makes conforming amendments to paragraph (a) in § 4.85.

Sections 4.80 and 4.80a of the CBP regulations (19 CFR 4.80 and 4.80a) concern coastwise transportation of passengers or merchandise. Each section contains certain outdated statutory references. Public Law 109–304, titled “To complete the codification of title 46, United States Code, “Shipping”, as positive law” enacted on October 6, 2006, recodified, reorganized and amended title 46, United States Code, including its Appendix. The Jones Act, formerly 46 U.S.C. App. 883, is recodified as 46 U.S.C. 55102. The Passenger Vessel Services Act, formerly 46 U.S.C. App. 289, is now recodified as 46 U.S.C. 55103. Former 46 U.S.C. App. 289c is recodified and now found at 46 U.S.C. 55104. Former 46 U.S.C. 12106(d) is recodified and now found at 46 U.S.C. 12117. Accordingly, this document makes the necessary technical amendments to paragraphs (b), (f) and (h) of § 4.80 and paragraphs (b), (c) and (d) of § 4.80a to conform to the above-referenced statutory changes.

Part 24

Section 24.5 of the CBP regulations (19 CFR 24.5) contains the legacy agency name and an outdated office name and address for CBP’s National Finance Center. Accordingly, § 24.5(f) is amended to remove the outdated information and replace it with the current agency name, office name, and address of the National Finance Center.

Section 24.24 of the CBP regulations (19 CFR 24.24) sets forth CBP’s financial and accounting procedures. This section makes reference to the “Office of Finance.” On November 23, 2009, CBP

reorganized the “Office of Finance” as the “Office of Administration” and changed its name to better communicate, internally and externally, the scope of the office’s responsibilities. The Office of Administration oversees all aspects of financial management and accountability for CBP including: accounting and budget; financial systems; procurement and acquisition; facilities and engineering; asset management and investment management, and oversight of all financial operations within CBP. As appropriate, the term “Office of Finance” is removed wherever it appears and is replaced with the term “Office of Administration”.

Accordingly, this document makes non-substantive amendments to §§ 24.24(c)(8)(i), 24.24(e)(1)(ii), 24.24(e)(2)(iii), 24.24(e)(3)(ii), 24.24(e)(4)(iii) and 24.24(e)(4)(iv)(A) to reflect the correct nomenclature and to § 24.24(e)(4)(iv)(B)(5), to reflect the nomenclature change of “Customs” to “CBP.”

Section 24.26 of the CBP regulations (19 CFR 24.26) contains in various paragraphs an outdated office name, that is, the Financial Management Service Center, and an outdated address for CBP’s National Finance Center to where certain applications to participate in a program are to be mailed. Accordingly, paragraphs (b), (c), (d) and (g) of § 24.26 are amended to replace the outdated office name and address with the current office name, Revenue Division, and address of the National Finance Center. Section 24.26 is further amended by replacing the word “Customs” with the term “CBP” in paragraphs (a), (c), (d), (e)(1), and (f).

Part 101

Section 101.9 of the CBP regulations (19 CFR 101.9) sets forth the test programs or procedures for evaluating the effectiveness of new technologies or operational procedures. Section 101.9 contains a typographical error in the citation of section 411(a)(2) of the Tariff Act of 1930. Section 101.9 is amended by correcting the citation to read “(19 U.S.C. 1411(a)(2)),” in paragraph (b). Section 101.9 is further amended by replacing the words “Commissioner of Customs” with the words “Commissioner of CBP”; by replacing the reference to “Customs Regulations” with a reference to “CBP regulations”; and by replacing the word “shall” with the word “will”.

Part 102

Section 102.20 of the CBP regulations (19 CFR 102.20) sets forth the specific rules of origin by tariff classification. In

paragraph (f) of § 102.20, titled “Section VI: Chapters 28 through 38”, the entry for 2933.11—2934.99 contains duplicative tariff numbers that should appear only in the column headed, “HTSUS.” As such, section 102.20(f) is amended by removing the tariff numbers “2933.11—2934.99.” that are set forth before the sentence that begins with the words, “A change to” in the column headed, “tariff shift and/or other requirements”.

Paragraph (q) of § 102.20, titled “Section XVIII: Chapters 90 through 92” contains a typographical error in the entry for subheading 9001.10, HTSUS, that provides for the tariff shift rule which encompasses optical fibers and optical fiber bundles and cables. As such, section 102.20(q) is amended by removing the typographical error of the word “performs” and replacing it with the word “preforms” in the entry for subheading 9001.90, HTSUS.

Parts 127

Section 127.43 of the CBP regulations (19 CFR 127.43) sets forth regulations regarding establishing title to unclaimed and abandoned merchandise which has vested in the government. This section makes a reference to the outdated “Office of Finance.” Accordingly, this document amends § 127.43(e) to reflect the correct nomenclature.

Part 159

Sections 159.41 and 159.47 of the CBP regulations (19 CFR 159.41 and 159.47) concern the special duties of antidumping and countervailing, respectively. These sections contain an outdated reference to the Department of Commerce’s International Trade Administration (ITA) regulations. ITA promulgated a single new part 351 and removed parts 353 and 355 from 19 CFR chapter III by a final rule published in the **Federal Register** (62 FR 27296, May 19, 1997). Accordingly, §§ 159.41 and 159.47 are amended to conform the CBP regulations with the ITA regulations by removing the outdated reference to part 353 and replacing it with part 351.

Section 159.63 of the CBP regulations (19 CFR 159.63) pertains to CBP receiving a certification from certain domestic producers to make a distribution of an offset under the antidumping and countervailing laws. This section makes references to the outdated “Office of Finance.” Accordingly, this document amends § 159.63(a) to reflect the correct nomenclature.

Part 161

Section 161.16 of the CBP regulations (19 CFR 161.16) pertains to filing a

claim for informant compensation. This section contains an outdated reference to a Customs form that was abolished and replaced by a DHS form and an outdated reference to an investigative position. Accordingly, § 161.16(b) is amended by replacing the reference to “Customs Form 4623” with the reference to “DHS Form 4623”; by replacing the outdated position in the former Customs Service of “Special Agent in Charge” with the current position of “Special Agent in Charge, U.S. Immigration and Customs Enforcement, Homeland Security Investigations”; and by replacing “Customs Headquarters” with the reference to “CBP Headquarters”. Also, the word “shall” is replaced with either “must” or “will”, as appropriate, in paragraphs (a) and (b) of § 161.16 to conform with the plain English mandate.

Part 177

Section 177.13 of the CBP regulations (19 CFR 177.13) pertains to inconsistent customs decisions. This section contains an incorrect statutory citation. Accordingly, the first sentence in paragraph (a)(2)(i) of § 177.13 is amended by removing the incorrect reference to “(19 U.S.C. 1514(c) (1))” and replacing it with the reference to “(19 U.S.C. 1514(c)(2))”. Also, section 177.13 is amended by making non-substantive editorial and nomenclature amendments. As appropriate, the word “Customs” is replaced with the term “CBP” in the context of either a CBP official(s), CBP offices or CBP Headquarters in the title of the section, paragraph (a), the first sentence of paragraph (b)(2), and paragraph (d) of § 177.13. The words “Customs Service” are replaced with the term “CBP” in paragraphs (b)(2), (d), and (f) of § 177.13. Additionally, the word “shall” is replaced with the word “will” in paragraphs (a)(2), (c), and (f) of § 177.13. Finally, paragraph (b)(1) of § 177.13 is amended, by replacing the word “shall” with the word “must”.

Inapplicability of Notice and Delayed Effective Date

Because the technical corrections set forth in this document merely conform to existing law and regulation, CBP finds that good cause exists for dispensing with notice and public procedure as unnecessary under 5 U.S.C. 553(b)(B). For this same reason, pursuant to 5 U.S.C. 553(d)(3), CBP finds that good cause exists for dispensing with the requirement for a delayed effective date.

Regulatory Flexibility Act

Because this document is not subject to the notice and public procedure requirements of 5 U.S.C. 553, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Executive Order 12866

These amendments do not meet the criteria for a “significant regulatory action” as specified in Executive Order 12866, as supplemented by Executive Order 13563.

Signing Authority

This document is limited to technical corrections of the CBP regulations. Accordingly, it is being signed under the authority of 19 CFR 0.1(b)(1).

List of Subjects

19 CFR Part 4

Customs duties and inspection, Exports, Freight, Harbors, Maritime carriers, Reporting and recordkeeping requirements, Vessels.

19 CFR Part 24

Accounting, Customs duties and inspection, Fees, Financial and accounting procedures, Imports, Interest, Reporting and recordkeeping requirements, User fees.

19 CFR Part 101

Administrative practice and procedure, Customs duties and inspection, Organizations and functions (government agencies), Tests.

19 CFR Part 102

Customs duties and inspection, Imports, Reporting and recordkeeping requirements, Rules of origin, Trade Agreements.

19 CFR Part 127

Customs duties and inspection, Exports, Freight, Reporting and recordkeeping requirements.

19 CFR Part 159

Antidumping (liquidation of duties), Countervailing duties (liquidation of duties), Customs duties and inspection, Liquidations of entries for merchandise.

19 CFR Part 161

Customs duties and inspection, Imports, Law Enforcement.

19 CFR Part 177

Administrative practice and procedure, Customs duties and inspection, Reporting and recordkeeping requirements, Rulings.

Amendments to the CBP Regulations

For the reasons set forth above, parts 4, 24, 101, 102, 127, 159, 161 and 177 of the CBP regulations (19 CFR parts 4, 24, 101, 102, 127, 159, 161 and 177) are amended as set forth below.

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

■ 1. The general authority citation for part 4 continues, and the specific authority citations for §§ 4.7, 4.21, 4.80 and 4.83 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 4.7 also issued under 19 U.S.C. 1581(a);

* * * * *

Section 4.21 also issued under 19 U.S.C. 1441; 46 U.S.C. 60301–60310, 60312;

* * * * *

Sections 4.80, 4.80a, and 4.80b also issued under 19 U.S.C. 1706a; 28 U.S.C. 2461 note; 46 U.S.C. 12112, 12117, 12118, 50501–55106, 55107, 55108, 55110, 55114, 55115, 55116, 55117, 55119, 56101, 55121, 56101, 57109; Pub. L. 108–7, Division B, Title II, § 211;

* * * * *

Section 4.83 also issued under 46 U.S.C. 60105, 60308;

* * * * *

§ 4.7 [Amended]

■ 2. In § 4.7:

■ a. Paragraph (a) is amended by removing the word “Statment” and adding in its place the word “Statement”.

■ b. Paragraph (d)(1)(i) is amended by removing the words “, or Great Lakes license endorsement”; and by removing the phrase “, to be employed in the foreign, coastwise, or Great Lakes trade, or” and adding in its place the phrase “to be employed in the foreign or coastwise trade, or”.

§ 4.21 [Amended]

■ 3. In § 4.21:

■ a. Paragraphs (b)(11) and (b)(12) are removed; and

■ b. Existing paragraphs (b)(13) through (b)(17) are redesignated as paragraphs (b)(11) through (b)(15).

§ 4.80 [Amended]

■ 4. In § 4.80:

■ a. Paragraph (b)(1) is amended by removing the citation “(46 U.S.C. 883)” and adding in its place the citation “(46 U.S.C. 55102)”;

■ b. Paragraph (b)(2) is amended by removing the parenthetical phrase “(46 U.S.C. App. 289, as adjusted by the Federal Civil Penalties Inflation

Adjustment Act of 1990)” and adding in its place the parenthetical phrase “(46 U.S.C. 55103, as adjusted by the Federal Civil Penalties Inflation Act of 1990)”;

■ c. Paragraph (f) is amended, in the third sentence, by removing the parenthetical phrase “(section 9 of the Act of Sept. 7, 1916, as amended, 46 U.S.C. 808).” and adding in its place the parenthetical phrase “(section 9 of the Act of Sept. 7, 1916, as amended, 46 U.S.C. 56101 and 57109).”;

■ d. Paragraph (h) is amended:

■ (i) at the end of the first sentence, by removing the parenthetical phrase “(46 U.S.C. 12106(d)).” and adding in its place the parenthetical phrase “(46 U.S.C. 12117).”;

■ (ii) at the beginning of the second sentence, by removing the words “Notwithstanding 46 U.S.C. App. 883,” and adding in its place the words “Notwithstanding 46 U.S.C. 55102,”; and

■ (iii) by revising the last sentence of paragraph (h).

The revision reads as follows:

§ 4.80 Vessels entitled to engage in coastwise trade.

* * * * *

(h) * * * Such vessel may also engage in any other employment for which a registry or fishing endorsement is not required, and may qualify to operate for other purposes by meeting the applicable requirements of 46 CFR part 67.

* * * * *

§ 4.80a [Amended]

■ 5. In § 4.80a:

■ a. Paragraph (b) is amended, in the first sentence, by removing the citation “(46 U.S.C. 289)” and adding in its place the citation “(46 U.S.C. 55103)”;

■ b. Paragraph (c) is amended by removing the language “a finding under 46 U.S.C. 289c” and adding in its place “a finding under 46 U.S.C. 55104”;

■ c. Paragraph (d) is amended by removing the language “in violation of 46 U.S.C. 289” and adding in its place “in violation of 46 U.S.C. 55103”.

§ 4.83 [Amended]

■ 6. In § 4.83:

■ a. Paragraph (a) is amended by removing the designation (a); and

■ b. Paragraph (b) is removed.

§ 4.85 [Amended]

■ 7. Paragraph (a) in § 4.85 is amended by removing the phrase “or, where appropriate, a Great Lakes license endorsement,” and adding in its place the word “endorsement.”.

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

■ 8. The general authority citation for part 24 continues to read 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. 3717, 9701; Public Law 107–296, 116 Stat. 2135 (6 U.S.C. 1 *et. seq.*).

* * * * *

§ 24.5 [Amended]

■ 9. Paragraph (f) in § 24.5 is amended, in the last sentence, by removing the words “U.S. Customs Service, Accounting Services—Accounts Receivable, 6026 Lakeside Boulevard, Indianapolis, Indiana 46278,” and adding in their place the words “the National Finance Center, U.S. Customs and Border Protection, Office of Administration, Revenue Division, 6650 Telecom Drive, Suite 100, Indianapolis, IN 46278.”.

§ 24.24 [Amended]

■ 10. In § 24.24:

■ a. Paragraph (c)(8)(i) is amended by removing the words “Office of Finance” and adding in their place the words “Office of Administration”;

■ b. Paragraph (e)(1)(ii) is amended by removing the words “Office of Finance” and adding in their place the words “Office of Administration”;

■ c. Paragraph (e)(2)(iii) is amended by removing the words “Office of Finance” and adding in their place the words “Office of Administration”;

■ d. Paragraph (e)(3)(ii) is amended by removing the words “Office of Finance” and adding in their place the words “Office of Administration”;

■ e. Paragraph (e)(4)(iii) is amended by removing the words “Office of Finance” and adding in their place the words “Office of Administration”;

■ f. Paragraph (e)(4)(iv)(A) is amended by removing the words “Office of Finance” and adding in their place the words “Office of Administration”;

■ g. Paragraph (e)(4)(iv)(B)(5) is amended by removing the words “notify Customs” and adding in their place the words “notify CBP”.

§ 24.26 [Amended]

■ 11. In § 24.26:

■ a. Paragraph (b) is amended:

■ (i) by removing the words “the Financial Management Services Center, U.S. Customs Service, 6026 Lakeside Boulevard, Indianapolis, Indiana 46278;” and adding in their place the words “the National Finance Center, U.S. Customs and Border Protection, Office of Administration, Revenue

Division, 6650 Telecom Drive, Suite 100, Indianapolis, IN 46278”; and

- (ii) by removing the words “Customs assigned number”) and adding in their place the words “CBP assigned number”);

- b. Paragraphs (c), (d), and (g) are amended by removing the words “the Financial Management Services Center” each place these words appear and adding in their place the words “the National Finance Center”; and

- c. Paragraphs (a), (c), (d), (e)(1), and (f) are amended by removing the word “Customs” each place it appears and adding in its place the term “CBP”.

PART 101—GENERAL PROVISIONS

- 12. The general and specific authority citations for part 101 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.

* * * * *

Section 101.9 also issued under 19 U.S.C. 1411–1414.

§ 101.9 [Amended]

- 13. In § 101.9:

- a. Paragraph (a) is amended:

- (i) In the first sentence, by removing the words “Commissioner of Customs” and adding in its place the words “Commissioner of CBP” and by removing the words “Customs Regulations” and adding in its place the words “CBP regulations”; and

- (ii) in the second sentence, by removing the word “shall” and adding in its place the word “will”;

- b. Paragraph (a)(2) is amended by removing the word “shall” wherever it appears and adding in each place the word “will”;

- c. Paragraph (b) is amended:

- (i) In the first sentence, by removing the phrase “as described in section 411(a)(2) of the Tariff Act of 1930 (19 U.S.C. 411),” and adding in its place the phrase “as described in section 411(a)(2) of the Tariff Act of 1930, as amended (19 U.S.C. 1411),”; by removing the words “the Commissioner of Customs” and adding in their place the words “the Commissioner of CBP”; and by removing the words “Customs Regulations” and adding in their place the words “CBP regulations”; and

- (ii) in the second sentence, by removing the word “shall” and adding in its place the word “will”;

- d. Paragraph (b)(1) is amended by removing the word “shall” wherever it appears and adding in each place the word “will”; and

- e. Paragraph (b)(2) is amended by removing the word “shall” and adding in its place the word “will”.

PART 102—RULES OF ORIGIN

- 14. The general authority citation for part 102 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1624, 3314, 3592.

§ 102.20 [Amended]

- 15. In the table in § 102.20,

- a. In paragraph (f), titled “Section VI: Chapters 28 through 38”, the entry for 2933.11–2934.99 is amended by removing the tariff numbers “2933.11–2934.99:” that are set forth before the sentence that begins with the words, “A change to” in the column headed, “Tariff shift and/or other requirements”; and

- b. In paragraph (q), titled “Section XVIII: Chapters 90 through 92,” the entry for 9001.10 is amended by removing the phrase “or glass performs of heading 7002” in the column headed, “Tariff shift and/or other requirements” and adding in its place the phrase “or glass preforms of heading 7002”.

PART 127—GENERAL ORDER, UNCLAIMED, AND ABANDONED MERCHANDISE

- 16. The general authority citation for part 127 continues to read as follows:

Authority: 19 U.S.C. 66, 1311, 1312, 1484, 1485, 1490, 1491, 1492, 1493, 1506, 1559, 1563, 1623, 1624, 1646a; 26 U.S.C. 5753.

* * * * *

§ 127.43 [Amended]

- 17. Section 127.43(e) is amended by removing the words “Office of Finance” wherever they appear and adding in each place the words “Office of Administration”.

PART 159—LIQUIDATION OF DUTIES

- 18. The general authority citations for part 159 and subpart F are revised, and a specific authority citation for subpart D is added, to read as follows:

Authority: 19 U.S.C. 66, 1500, 1504, 1624.

* * * * *

Subpart D also issued under 19 U.S.C. 1671 *et seq.*

Subpart F also issued under 19 U.S.C. 1675c.

* * * * *

§ 159.41 [Amended]

- 19. Section 159.41 is amended:

- (i) by removing the number “353” and adding in its place the number “351”; and

- (ii) by removing the word “shall” and adding in its place the word “will”.

§ 159.47 [Amended]

- 20. Section 159.47 is amended:

- (i) by removing the number “353” and adding in its place the number “351”; and

- (ii) by removing the word “shall” and adding in its place the word “will”.

§ 159.63 [Amended]

- 21. Section 159.63(a) is amended by removing the words “Office of Finance” and adding in their place the words “Office of Administration”.

PART 161—GENERAL ENFORCEMENT PROVISIONS

- 22. The general authority citation for part 161 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1600, 1619, 1624.

* * * * *

§ 161.16 [Amended]

- 23. In § 161.16:

- a. Paragraph (a) is amended by removing the word “shall” and adding in its place the word “must”;

- b. Paragraph (b) is amended, by removing the words “Customs Form 4623” and adding in its place the words “DHS Form 4623”; by removing the words “Special Agent in Charge” wherever they appear and adding in their place the words “Special Agent in Charge, U.S. Immigration and Customs Enforcement, Homeland Security Investigations”; and by removing the words “Customs Headquarters” wherever they appear and adding in their place the words “CBP Headquarters”; and

- c. Paragraph (b) is further amended:

- (i) in the first sentence, by removing the first occurrence of the word “shall” and adding in its place the word “must”; and by removing the second occurrence of the word “shall” and adding, in its place, the word “will”; and

- (ii) in the second sentence, by removing the word “shall” wherever it appears and adding in each place the word “will”.

PART 177—ADMINISTRATIVE RULINGS

- 24. The general authority citation for part 177 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1502, 1624, 1625.

§ 177.13 [Amended]

- 25. In § 177.13:

- a. The section heading is revised to read as set forth below;
- b. Paragraph (a) introductory text is amended by removing the word “Customs” each place it appears and adding in its place the term “CBP”;
- c. Paragraph (a)(2) introductory text is amended by removing the word “shall” and adding in its place the word “will”;
- d. Paragraph (a)(2)(i) is amended, in the first sentence, by removing the reference “(19 U.S.C. 1514(c)(1))” and adding in its place the reference “(19 U.S.C. 1514(c)(2))”;
- e. Paragraph (b)(1) is amended by removing the word “shall” and adding in its place the word “must”;
- f. Paragraph (b)(2) is amended, in the first sentence, by removing the term “Customs” and adding in its place the word “CBP”; and by removing the words, “Customs Service” wherever it appears and adding in its place the term “CBP”;
- g. Paragraphs (c) and (f) are amended by removing the word “shall” and adding in its place the word “will”;
- h. Paragraph (d) is amended:
- (i) in the first and second sentences, by removing the term “the Customs Service” and adding in its place the term “CBP”; and
- (ii) in the third sentence by removing the words, “Customs offices” and adding in their place the words “CBP offices”; and
- i. Paragraph (f) is amended, by removing the word “shall” and adding in its place the word “will” and by removing the term “Customs Service” and adding in its place the term “CBP”.

The revision reads as follows:

§ 177.13 Inconsistent CBP decisions.

* * * * *

Dated: November 26, 2012.

David V. Aguilar,

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

[FR Doc. 2012–29632 Filed 12–7–12; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Part 122

[CBP Dec. 12–20]

Technical Amendment to List of User Fee Airports: Addition of Bozeman Yellowstone International Airport, Belgrade, MT

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

ACTION: Final rule; technical amendment.

SUMMARY: This document amends the U.S. Customs and Border Protection (CBP) regulations by revising the list of user fee airports to reflect the recent user fee airport designation for Bozeman Yellowstone International Airport in Belgrade, Montana. 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:* December 10, 2012.

FOR FURTHER INFORMATION CONTACT: Roger Kaplan, Office of Field Operations, *Roger.Kaplan@dhs.gov* or 202–325–4543.

SUPPLEMENTARY INFORMATION:

I. 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 Security 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 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.

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, 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 pursuant to 19 U.S.C. 58b. 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. The regulation pertaining to user fee airports is 19 CFR 122.15. It addresses the procedures for obtaining permission to land at a user fee airport, the grounds for withdrawal of a user fee designation and includes the list of user fee airports designated by the Commissioner of CBP in accordance with 19 U.S.C. 58b.

Periodically, CBP updates the list of user fee airports at 19 CFR 122.15(b) to reflect those that have been recently designated by the Commissioner. A MOA approving the designation of user fee status for Bozeman Yellowstone International Airport was signed on March 16, 2012. This document updates the list of user fee airports by adding Bozeman Yellowstone International Airport, in Belgrade, Montana to the list.