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**DEPARTMENT OF HOMELAND SECURITY**

**U.S. Customs and Border Protection**

**DEPARTMENT OF THE TREASURY**

**19 CFR Parts 24 and 111**

**[USCBP-2017-0025]**

**RIN 1515-AE25**

**Procedures to Adjust Customs COBRA User Fees to Reflect Inflation**

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document proposes to amend the U.S. Customs and Border Protection (CBP) regulations to reflect that customs user fees and limitations established by the Consolidated Omnibus Budget Reconciliation Act (COBRA) will be adjusted for inflation in accordance with the Fixing America's Surface Transportation Act (FAST Act).

**DATES:** Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**].

**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 number USCBP-2017-0025.

- Mail: Trade and Commercial Regulations Branch, Regulations and Rulings, Office of Trade, U.S. Customs and Border Protection, 90 K Street, NE, 10<sup>th</sup> Floor, Washington, D.C. 20229-1177.

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 Trade, U.S. Customs and Border Protection, 90 K Street, NE, 10th Floor, Washington, D.C. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325-0118.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Caine, Executive Director - Budget, 202-325-4054, [jeffrey.caine@cbp.dhs.gov](mailto:jeffrey.caine@cbp.dhs.gov); or Bruce Ingalls, Director - Revenue Division, 317-298-1107, [bruce.ingalls@cbp.dhs.gov](mailto:bruce.ingalls@cbp.dhs.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

On December 4, 2015, the Fixing America's Surface Transportation Act (FAST Act, Pub. L. 114-94) was signed into law. Section 32201 of the FAST Act amends section 13031 of the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985 (19 U.S.C. 58c) by

requiring certain customs COBRA user fees and corresponding limitations to be adjusted by the Secretary of the Treasury (“Secretary”) to reflect certain increases in inflation. The specific fees and corresponding limitations to be adjusted for inflation are set forth in Tables 1 and 2 below and include the commercial vessel arrival fees, commercial truck arrival fees, railroad car arrival fees, private vessel arrival fees, private aircraft arrival fees, commercial aircraft passenger arrival fees, dutiable mail fees, customs broker permit user fees, barges and other bulk carriers arrival fees, and merchandise processing fees as well as the corresponding limitations. (19 U.S.C. 58c(a) and (b)). Further, the FAST Act includes a particular measure of inflation for these purposes and special rules when considering adjustments.

According to the FAST Act, the customs COBRA user fees and limitations were to be adjusted on April 1, 2016, and by the end of each fiscal year to reflect the percent increase (if any) in the Consumer Price Index (CPI) for the preceding 12-month period compared to the CPI for fiscal year 2014. The statute permits the Secretary to ignore any CPI increase of less than one (1) percent from the time of the previous adjustment. As a result, if the increase in the CPI since the previous adjustment is less than one (1) percent, the Secretary has discretion to determine whether the fees should be adjusted.

On June 15, 2016, CBP published a notice in the Customs Bulletin announcing the April 2016 determination that no adjustment to the customs COBRA user fees and limitations was necessary based on the FAST Act provision as the increase of the CPI was less than one (1) percent. (Customs Bulletin, Vol. 50, No. 24, p. 13). CBP published a second notice in the

Customs Bulletin on December 7, 2016, announcing that based on a less than one (1) percent increase in inflation no adjustment was necessary for fiscal year 2017. (Customs Bulletin Vol. 50, No. 49, p. 4).

The FAST Act specifies that the customs COBRA user fees and corresponding limitations should be adjusted to reflect the percentage of the increase (if any) in the average of the CPI for the preceding 12-month period compared to the CPI for fiscal year 2014. CBP has determined that the 12-month period for comparison will be June through May. This timeframe will allow for sufficient notice to the public of any adjustments prior to any changes becoming effective for each fiscal year. The statute further requires the Secretary to round the amount of any increase in the CPI to the nearest dollar. The rounding requirement applies to the difference in the CPI from the comparison year to the current year when determining whether an adjustment is necessary. The rounding requirement does not apply to the fee amount resulting from any adjustment. As noted above, if the difference in the CPI since the last adjustment is less than one (1) percent, the Secretary may elect not to adjust the fees and limitations. CBP proposes to use the Consumer Price Index – All Urban Consumers, U.S. All items, 1982-84 (CPI-U) which can be found on the U.S. Department of Labor, Bureau of Labor Statistics website: [www.bls.gov/cpi/](http://www.bls.gov/cpi/). CBP's Office of Finance will determine annually whether an adjustment to the fees and limitations is necessary and a notice specifying the amount of the fees and limitations will be published in the **Federal Register** for each fiscal year at least 30 days prior to the effective date of the new fees and limitations.

## Explanation of Amendments

### Part 24

Part 24 of Title 19 of the Code of Federal Regulations (CFR) sets forth the regulations regarding customs financial and accounting procedures. (19 CFR part 24). Section 24.22 describes the customs COBRA user fees and corresponding limitations for certain services (set forth in Table 1 below), which include the commercial vessel arrival fees, commercial truck arrival fees, railroad car arrival fees, private vessel arrival fees, private aircraft arrival fees, commercial aircraft passenger arrival fees, dutiable mail fees, customs broker permit user fees, barges and other bulk carriers arrival fees. (19 CFR 24.22). Section 24.23 describes the customs COBRA user fees and corresponding limitations for processing merchandise (set forth in Table 2 below). (19 CFR 24.23). CBP proposes to amend sections 24.22 and 24.23 to reflect the new requirements set forth in the FAST Act.

Specifically, CBP proposes to add a new specific authority citation for section 24.22 and to amend the specific authority citation for section 24.23 to include the American Jobs Creation Act of 2004 (Pub. L. 108-357) and the FAST Act. In addition, CBP proposes to add an introductory paragraph to both sections explaining that the COBRA user fees and corresponding limitations are subject to adjustment annually to reflect the increase, if any, in the CPI-U pursuant to the FAST Act. The new introduction will also explain where to find the methodology that CBP will use to determine whether an adjustment to the fees and limitations is necessary as well as the means of notice and publication of any fee adjustments. CBP will announce the adjusted fee and limitation amounts by publishing a notice in the **Federal Register** annually for each fiscal year at least 30 days prior to the effective date of the new fees and

limitations. The current amount for all customs COBRA user fees and corresponding limitations will be maintained on the CBP website at [www.cbp.gov](http://www.cbp.gov).

Proposed Amendments to § 24.22

CBP proposes to amend paragraphs (b)(1)(i), (b)(1)(ii), (b)(2)(i), (b)(2)(ii), (c)(1), (c)(2), (c)(3), (d)(1), (d)(2), (d)(3), (e)(1), (e)(2), (f), (g)(1)(i), (g)(1)(ii), (g)(2), (g)(5)(v), (i)(7), (i)(8) and (h) of section 24.22 to explain that the specific fee amounts and annual fee limitations (set forth in Table 1 below) are subject to adjustment in accordance with the terms in a new paragraph (k). (19 CFR 24.22). The new paragraph (k) will set forth the methodology for determining whether and by what amount the customs COBRA user fees should be adjusted pursuant to the FAST Act.

Table 1 below lists both the user fees and corresponding limitations currently set forth in section 24.22. (19 CFR 24.22). CBP proposes to add this table to the regulations as Appendix A to part 24.

**TABLE 1.— CUSTOMS COBRA USER FEES AND LIMITATIONS IN 19 CFR 24.22**

<b>19 U.S.C. 58c</b>	<b>19 CFR 24.22</b>	<b>Customs COBRA User Fee/Limitation</b>	<b>FY14 Base Fee/Limitation (subject to adjustment in accordance with the FAST Act)</b>
(a)(1)	(b)(1)(i)	Fee: Commercial Vessel Arrival Fee	\$437
(b)(5)(A)	(b)(1)(ii)	Limitation: Calendar Year Maximum for Commercial Vessel Arrival Fees	\$5,955
(a)(8)	(b)(2)(i)	Fee: Barges and Other Bulk Carriers Arrival Fee	\$110
(b)(6)	(b)(2)(ii)	Limitation: Calendar Year Maximum for Barges and Other Bulk Carriers Arrival Fees	\$1,500
(a)(2)	(c)(1)	Fee: Commercial Truck Arrival Fee	\$5.50
(b)(2)	(c)(2) and (3)	Limitation: Commercial Truck Calendar	\$100

		Year Prepayment Fee	
(a)(3)	(d)(1)	Fee: Railroad Car Arrival Fee	\$8.25
(b)(3)	(d)(2) and (3)	Limitation: Railroad Car Calendar Year Prepayment Fee	\$100
(a)(4)	(e)(1) and (2)	Fee and Limitation: Private Vessel or Private Aircraft First Arrival/Calendar Year Prepayment Fee	\$27.50
(a)(6)	(f)	Fee: Dutiable Mail Fee	\$5.50
(a)(5)(A)	(g)(1)(i)	Fee: Commercial Vessel or Commercial Aircraft Passenger Arrival Fee	\$5.50
(a)(5)(B)	(g)(1)(ii)	Fee: Commercial Vessel Passenger Arrival Fee (from Canada, Mexico, one of the territories and possessions of the United States, or one of the adjacent islands)	\$1.93
(a)(7)	(h)	Fee: Customs Broker Permit User Fee	\$138

CBP also proposes to amend paragraph (c) to clarify that there are two distinct fees that the current regulations describe as one fee. First, the CBP commercial truck arrival fee (currently \$5.50) and second the Animal and Plant Health Inspection Service/Agricultural Quarantine Inspection (APHIS/AQI) fee (currently \$7.55) that CBP collects on behalf of APHIS. (19 CFR 24.22(c)). Specifically, CBP proposes to revise the header and the text in paragraph (c)(1) to state that there are two fees and to state in paragraph (c)(2) that the annual limitation on the CBP portion of the commercial truck arrival fee is \$100 once a prepayment in that amount is made. (19 CFR 24.22(c)).

In addition, CBP proposes to make technical updates to paragraph (g) to reflect the elimination of the user fee exemption for passengers arriving from Canada, Mexico or one of the adjacent islands pursuant to the United States – Colombia Trade Promotion Agreement Implementation Act. (Colombia TPA, Pub. L. 112-42, October 21, 2011). Section 601 of the Colombia TPA amended 19 U.S.C. 58c(b)(1)(A)(i) to limit the fee exemption to passengers whose journey originated in a territory or possession of the United States, or originated in the United States and was limited to the territories and possessions of the United States. (19 U.S.C.

58c(b)(1)(A)(i)). CBP has been collecting the non-exempt user fees since the law became effective on November 5, 2011. CBP proposes corresponding updates to remove this exemption from the regulations found in paragraphs (g)(1)(i), (g)(1)(i)(A), (g)(1)(i)(B), (g)(1)(ii), (g)(1)(iii), the chart in paragraph (g)(2)(iv), and the collection procedures in paragraphs (g)(4)(ii)(A), (g)(4)(ii)(B), (g)(4)(ii)(C), (g)(4)(iii)(A), (g)(4)(iii)(B), and (g)(4)(iii)(C). (19 CFR 24.22(g)). CBP also proposes to remove the definition of “adjacent islands” from paragraph (g)(1)(iii) as references to adjacent islands have been removed from paragraph (g). (19 CFR 24.22(g)). Additionally, CBP proposes an amendment to paragraph (g)(2)(iii) to clarify that journeys between ports in the United States are not subject to the fee. (19 CFR 24.22(g)(2)(iii)).

CBP also proposes to amend paragraph (h) of section 24.22 by changing the name of the fee from broker permit fee to broker permit user fee and specifying the fee amount of \$138. (19 CFR 24.22(h)). Finally, CBP proposes to amend paragraph (h) by removing the cross-reference to section 111.96(c) and replacing it with a reference to new paragraph (k). (19 CFR 24.22(h) and 111.96(c)).

A new paragraph (k) is added setting forth the methodology to determine whether adjustments of fee and limitation amounts are necessary, and if so, how to calculate the adjustments. CBP will determine annually whether an adjustment to the fees and limitations is necessary and a notice specifying the amount of the fees and limitations will be published in the **Federal Register** annually for each fiscal year at least 30 days prior to the effective date of the new fees and limitations.

#### Steps for Adjusting Fees and Limitations

CBP proposes to use the following methodology in determining whether adjustment of the fees and corresponding limitations is necessary and, if so, by how much the amounts would be adjusted.

Step 1: Calculate the arithmetic average of the Consumer Price Index – All Urban Consumers, U.S. All items, 1982-84 = 100 (CPI-U) for the current year based on the most recent June-May period. This figure is referred to as (A).

Step 2: Use the figure 236.009 which is the arithmetic average of the CPI-U for FY 2014. This figure is referred to as (B).

Step 3: State the arithmetic average of CPI-U for the comparison year, which will be either (B) if the fees have never been adjusted in accordance with this paragraph (k), or the arithmetic average of the CPI-U for the last year in which fees were adjusted in accordance with this paragraph (k) (as set forth in the **Federal Register** notice that last adjusted the fee). This figure is referred to as (C).

Step 4: Calculate the difference between the arithmetic averages of the CPI-U of the comparison year (C) and the current year (A). This difference is referred to as (D).  $(D) = (A) - (C)$ .

Step 5: Round the difference (D) to the nearest whole number. This figure is referred to as (E).

Step 6: Calculate the percentage change in the arithmetic averages of the CPI-U of the comparison year (C) and the current year (A), which is referred to as (F).  $(F) = ((E) \div (C)) \times 100\%$ .

Step 7: If (F) is one (1) percent or more, proceed to the next step (8). If (F) is less than one (1) percent, no adjustment will be made.

Step 8: Calculate the difference in the arithmetic average of the CPI-U between the current year (the most recent June through May period) and the base year (FY 2014). This difference is referred to as (G).  $(G) = (A) - (B)$ .

Step 9: Calculate the percentage change in the CPI-U from the base year to the current year. This figure is referred to as (J).  $(H) = ((G) \div (B)) \times 100\%$ .

Step 10: Increase the fees and limitations that are subject to the rules of this paragraph by (H), calculating fees to the second decimal.

#### Proposed Amendments to § 24.23

In section 24.23, CBP proposes to amend paragraphs (b)(1)(i)(A), (b)(1)(i)(B), (b)(1)(ii), (b)(2)(i), (b)(2)(ii), (b)(2)(iii) and (b)(4) to add a reference to explain that the specific fee amounts and annual fee limitations (set forth in Table 2 below) are subject to adjustment in accordance with the terms in new paragraph (k) of section 24.22. (19 CFR 24.23(b)). Table 2

below indicates the customs COBRA user fees and corresponding limitations currently set forth in section 24.23. (19 CFR 24.23). CBP proposes to add this table to the regulations as Appendix B to part 24.

**TABLE 2.— CUSTOMS COBRA USER FEES AND LIMITATIONS IN 19 CFR 24.23**

<b>19 U.S.C. 58c</b>	<b>19 CFR 24.23</b>	<b>Customs COBRA User Fee/Limitation</b>	<b>FY14 Base Fee/Limitation (subject to adjustment in accordance with the FAST Act)</b>
(b)(9)(A)(ii)	(b)(1)(i)(A)	Fee: Express Consignment Carrier/Centralized Hub Facility Fee, Per Individual Waybill/Bill of Lading Fee	\$1
(b)(9)(B)(i)	(b)(1)(i)(B)(2)	Limitation: Minimum Express Consignment Carrier/Centralized Hub Facility Fee	\$0.35
(b)(9)(B)(i)	(b)(1)(i)(B)(2)	Limitation: Maximum Express Consignment Carrier/Centralized Hub Facility Fee	\$1
(a)(9)(B)(i); (b)(8)(A)(i)	(b)(1)(i)(B)(1)	Limitation: Minimum Merchandise Processing Fee	\$25
(a)(9)(B)(i); (b)(8)(A)(i)	(b)(1)(i)(B)(1)	Limitation: Maximum Merchandise Processing Fee	\$485
(b)(8)(A)(ii)	(b)(1)(ii)	Fee: Surcharge for Manual Entry or Release	\$3
(a)(10)(C)(i)	(b)(2)(i)	Fee: Informal Entry or Release; Automated and Not Prepared by CBP Personnel	\$2
(a)(10)(C)(ii)	(b)(2)(ii)	Fee: Informal Entry or Release; Manual and Not Prepared by CBP Personnel	\$6
(a)(10)(C)(iii)	(b)(2)(iii)	Fee: Informal Entry or Release; Automated or Manual; Prepared by CBP Personnel	\$9
(b)(9)(A)(ii)	(b)(4)	Fee: Express Consignment Carrier/Centralized Hub Facility Fee, Per Individual Waybill/Bill of Lading Fee	\$1

The Merchandise Processing Fee (MPF) is comprised of an ad valorem rate, a minimum fee amount, and a maximum fee amount. Adjusting the minimum and maximum fee amounts for the MPF pursuant to the FAST Act will reflect any increase in inflation. The value of the merchandise – to which the rate applies – will necessarily increase on its own along with inflation, obviating the need separately to adjust the rate specified in 19 CFR 24.23(b)(1)(i)(A).

In addition, CBP proposes to amend paragraph (b)(4) to include the statutory minimum and maximum limitations on the fees for express consignment carrier facilities or centralized hubs. (19 CFR 24.23(b)). The statute provides for adjustment of this fee from an amount not less than \$0.35 to an amount not more than \$1 per individual airway bill or bill of lading. (19 U.S.C.58c(b)(9)(B)(i)). These fee limitations are also subject to adjustment pursuant to the FAST Act and therefore, must also be annually adjusted for inflation, if necessary. To include this second set of maximum and minimum fees, CBP proposes to split paragraph (b)(4) into three new paragraphs: (i) for general provisions, (ii) to describe the maximum and minimum fees, and (iii) for quarterly payment requirements. (19 CFR 24.23(b)). New paragraph (b)(4)(iii) will also reflect that two electronic payment methods, Fedwire and *pay.gov*, are available for submitting quarterly payments.

The figure of \$2,000 found at 19 U.S.C. 58c(b)(9)(A) is neither a fee nor a limitation on a fee, but a reference to the allowable value for informal entries authorized pursuant to 19 U.S.C. 1498, that are subject to the fee established by 19 U.S.C. 58c(b)(9). It is not subject to the adjustment for inflation under the FAST Act. (19 U.S.C. 1498 was amended in 1993, and the merchandise value limitation on informal entries authorized by 19 U.S.C. 1498 was raised from \$2,000 to \$2,500.)

## Part 111

CBP proposes conforming amendments to Part 111. (19 CFR part 111). Specifically, CBP proposes to remove the specific amount of the annual customs broker permit user fee (\$138), found in paragraph (c) of section 111.19 and paragraph (c) of section 111.96, and add a reference to section 24.23(h) in section 111.96(c). (19 CFR 24.23(h), 111.19(c) and 111.96(c)).

### **Executive Orders 12866, 13563 and 13771**

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This proposed rule has not been designated a “significant regulatory action,” under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget (OMB) has not reviewed this rule. Furthermore, because this rule is not significant, the rule is not subject to the requirements of Executive Order 13771, meaning it is not necessary for CBP to identify two existing regulations to repeal.

### **Regulatory Flexibility Act**

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996, requires agencies to assess the impact of regulations 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).

This rule will affect a combination of individuals and businesses. While most of the businesses that pay the customs COBRA user fees are large corporations, the rule affects all businesses that pay these fees, so this rule will affect a substantial number of small entities. However, the impact will be small and in line with inflation; for example, with 2% inflation the commercial truck fee will increase by 11 cents. Therefore, CBP certifies that this rule will not have a significant economic impact on a substantial number of small entities.

## **Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. 3507) an agency may not conduct, 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. This rule does not involve any collection of information.

### **Signing Authority**

This regulation is being issued in accordance with 19 CFR 0.1(a)(1) pertaining to the Secretary of the Treasury's authority (or that of his delegate) to approve regulations related to certain customs revenue functions.

### **List of Subjects**

#### 19 CFR Part 24

Accounting, Claims, Customs duties and inspection, Harbors, Reporting and recordkeeping requirements, Taxes.

#### 19 CFR Part 111

Administrative practice and procedure, Brokers, Customs duties and inspection, Penalties, Reporting and recordkeeping requirements

### **Proposed Amendments to the CBP Regulations**

For the reasons set forth in the preamble, parts 24 and 111 of title 19 of the Code of Federal Regulations (19 CFR parts 24 and 111) are proposed to be amended as set forth below.

## **PART 24 – CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE**

1. The general authority citation for part 24 continues to read as follows, the specific authority citation for § 24.22 is added, and the specific authority citation for § 24.23 is revised 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; Pub. L. 107-296, 116 Stat. 2135 (6 U.S.C. 1 et seq.).

\* \* \* \* \*

Section 24.22 also issued under Sec. 892, Pub. L. 108-357, 118 Stat. 1418 (19 U.S.C. 58c); Sec. 32201, Pub. L. 114-94, 129 Stat. 1312 (19 U.S.C. 58c).

Section 24.23 also issued under 19 U.S.C. 3332; Sec. 892, Pub. L. 108-357, 118 Stat. 1418 (19 U.S.C. 58c); Sec. 32201, Pub. L. 114-94, 129 Stat. 1312 (19 U.S.C. 58c).

\* \* \* \* \*

2. In § 24.22:

a. Add a new introductory text before paragraph (a);

b. In paragraph (b):

i. Paragraph (b)(1)(i) is amended by adding the words “, as adjusted in accordance with the terms of paragraph (k) of this section,” after the words “amount of \$437”;

ii. Paragraph (b)(1)(ii) is amended by adding the words “, as adjusted in accordance with the terms of paragraph (k) of this section,” after the words “total of \$,5,955 in fees”;

iii. Paragraph (b)(2)(i) is amended by adding the words “, as adjusted in accordance with the terms of paragraph (k) of this section,” after the words “fee of \$110”; and

iv. Paragraph (b)(2)(ii) is amended by adding the words “, as adjusted in accordance with the terms of paragraph (k) of this section,” after the words “\$1,500 in fees”;

c. In paragraph (c):

i. Paragraphs (c)(1) and (c)(2) are revised; and

ii. Paragraph (c)(3) is amended by adding the words “of the \$100 CBP fee, as adjusted in accordance with the terms of paragraph (k) of this section, and the APHIS/AQI fee set forth in 7 CFR 354.3” between the words “Prepayment” and “must be made” in the second sentence;

d. In paragraph (d):

i. Paragraph (d)(1) is amended by adding the words “, as adjusted in accordance with the terms of paragraph (k) of this section,” after the words “fee of \$8.25”;

ii. Paragraph (d)(2) is amended by adding the words “, as adjusted in accordance with the terms of paragraph (k) of this section,” after the words “prepayment of \$100”; and

iii. Paragraph (d)(3) is amended by adding the words “, as adjusted in accordance with the terms of paragraph (k) of this section,” after the words “fee of \$100”;

e. In paragraph (e):

i. Paragraph (e)(1) is amended by adding the words, as adjusted in accordance with the terms of paragraph (k) of this section,” after the words “sum of \$27.50; and

ii. Paragraph (e)(2) is amended by adding the words “, as adjusted in accordance with the terms of paragraph (k) of this section” to the end of the first sentence after the word “section”;

f. Paragraph (f) is amended by adding the words “, as adjusted in accordance with the terms of paragraph (k) of this section” after the words “amount of \$5.50”;

g. In paragraph (g):

i. Paragraphs (g)(1)(i) – (iii) are revised;

ii. Paragraph (g)(2)(i) is amended by:

A. Removing the text “Canada, Mexico, any” between the words “means” and “territories”; and

B. Removing the text “, and any adjacent islands” after the words “United States”;

iii. Paragraph (g)(2)(iii) is amended by adding the words “and/or the United States” after the words “Specified Location”;

iv. The chart in paragraph (g)(2)(iv) is revised;

v. Paragraph (g)(4)(ii)(A) is amended by:

A. Removing the words “in and arrives” between the words “originates” and “from”;

B. Removing the words “Canada, Mexico,” between the words “other than” and “one of the territories; and

C. Removing the words “, or an adjacent island” from the end of the sentence;

vi. Paragraphs (g)(4)(ii)(B) and (C) are revised;

vii. Paragraph (g)(4)(iii)(A) is amended by:

A. Removing the words “from Canada, Mexico,” between the words “United States” and “one of the territories” and adding in their place the words “that originated in”; and

B. Removing the comma and the words “or an adjacent island” from the end of the paragraph;

viii. Paragraph (g)(4)(iii)(B) is amended by:

A. Removing the words “and the return arrival to the United States is from Canada, Mexico, one of” between the words “United States” and “the territories” and adding in their place the words “and was limited to”; and

B. Removing the comma and the words “or an adjacent island” following the words “United States” at the end of the sentence;

ix. Paragraph (g)(4)(iii)(C) is revised; and

x. Paragraph (g)(5)(v) is amended by adding the words “, as adjusted in accordance with the terms of paragraph (k) of this section,” after the words “vessel passenger fee” in each place that they appear;

h. Paragraph (h) is revised;

i. In paragraph (i),

i. Paragraph (7) is amended by adding the words “, as adjusted in accordance with the terms of paragraph (k) of this section” after the words “commercial aircraft passengers”; and

ii. Paragraph (8) is amended by adding the words “, as adjusted in accordance with the terms of paragraph (k) of this section” after the words “commercial vessel passengers”; and

j. A new paragraph (k) is added.

The revisions to § 24.22 read as follows:

**§ 24.22 Fees for certain services.**

This section sets forth the terms and conditions for when the fees and corresponding limitations for certain services are required. The specific customs user fee amounts and corresponding limitations that appear in this section are not the actual fees or limitations but represent the base year amounts that are subject to adjustment each fiscal year in accordance with the Fixing America’s Surface Transportation Act (FAST Act) using Fiscal Year 2014 as the base year for comparison. (See Appendix A to part 24 for a table setting forth the fees and limitations subject to adjustment along with the corresponding statutory authority, the regulatory citation, the name of the fee or limitation, and the Fiscal Year 2014 base amount which reflects the statutory amounts that were adjusted by the American Jobs Creation Act of 2004 (Pub. L. 108-357).) The methodology for adjusting the fees and limitations to reflect the percentage, if any, of the increase in the average of the Consumer Price Index – All Urban Consumers, U.S. All items, 1982-84 (CPI-U) for the preceding 12-month period (June through May) compared to the Consumer Price Index for fiscal year 2014 is set forth in paragraph (k) of this section. CBP will determine annually whether an adjustment to the fees and limitations is necessary and a notice specifying the amount of the fees and limitations will be published in the **Federal Register** annually for each fiscal year at least 30 days prior to the effective date of the new fees and

limitations. The fees and the limitations will also be maintained for the public's convenience on the CBP website at [www.cbp.gov](http://www.cbp.gov). If a customs user has pre-paid or met the calendar year limit prior to the effective date of the new fees and limitations, no additional fees will be required for that calendar year. If the customs user has not pre-paid or met the calendar year limit prior to the effective date of the new fees and limitations, the customs user will be subject to the adjusted limitation or prepayment amount.

\* \* \* \* \*

(c) Fees for arrival of a commercial truck –

(1) Fees. The fees for the arrival of a commercial truck consist of two separate fees. A CBP fee of \$5.50, as adjusted by the terms of paragraph (k) of this section, and an Animal and Plant Health Inspection Service/Agricultural Quarantine Inspection (APHIS/AQI) fee set forth in 7 CFR 354.3 for the services provided that CBP collects on behalf of APHIS. Upon arrival at a CBP port of entry, the driver or other person in charge of a commercial truck must tender the fees to CBP unless they have been prepaid as provided for in paragraph (c)(3) of this section. The fees will not apply to any commercial truck which, at the time of arrival, is being transported by any vessel other than a ferry. For purposes of this paragraph, the term “commercial truck” means any self-propelled vehicle, including an empty vehicle or a truck cab without a trailer, which is designed and used for the transportation of commercial merchandise or for the transportation or non-commercial merchandise on a for-hire basis.

(2) CBP fee limitation. No CBP fee will be collected under paragraph (c)(1) of this section for the arrival of a commercial truck during any calendar year once a prepayment of \$100, as adjusted by the terms of paragraph (k) of this section, has been made and a transponder has been affixed to the vehicle windshield as provided in paragraph (c)(3) of this section.

\* \* \* \* \*

(g) \* \* \*

(1) \* \* \*

(i) Subject to paragraphs (g)(1)(ii) and (g)(3) of this section, a fee of \$5.50, as adjusted by the terms of paragraph (k) of this section, must be collected and remitted to CBP for services provided in connection with the arrival of each passenger aboard a commercial vessel or commercial aircraft from a place outside the United States except:

(A) When the journey of the arriving passenger originates in a territory or possession of the United States; or

(B) When the journey of the arriving passenger originates in the United States and was not limited to the territories and possessions of the United States.

(ii) Subject to paragraph (g)(3) of this section, a fee of \$1.93, as adjusted by the terms of paragraph (k) of this section, must be collected and remitted to CBP for services provided in connection with the arrival of each passenger aboard a commercial vessel whose journey originated in a territory or possession of the United States or whose journey originated in the United States and was limited to the territories and possessions of the United States.

(iii) For the purposes of this paragraph (g), the term “territories and possessions of the United States” includes American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.

\* \* \*

(2) \* \* \*

(iv) \* \* \*

Place where journey originates (see (g)(1)(iv))	Fee status for arrival from SL		Fee status for arrival from other than SL	
	Vessel	Aircraft	Vessel	Aircraft
SL	\$1.93, as adjusted by the terms of paragraph (k) of this section	No fee	No fee	No fee
Other than SL or U.S.	\$5.50, as adjusted by the terms of paragraph (k) of this section	\$5.50, as adjusted by the terms of paragraph (k) of this section	\$5.50, as adjusted by the terms of paragraph (k) of this section	\$5.50, as adjusted by the terms of paragraph (k) of this section
U.S.*	\$1.93, as adjusted by the terms of paragraph (k) of this section	No fee	N/A	N/A
U.S.**	\$5.50, as adjusted by the terms of paragraph (k) of this section	\$5.50, as adjusted by the terms of paragraph (k) of this section	\$5.50, as adjusted by the terms of paragraph (k) of this section	\$5.50, as adjusted by the terms of paragraph (k) of this section

\* \* \* \* \*

(4) \* \* \*

(ii) \* \* \*

(B) When a return ticket or travel document is issued (or a receipt or other document that indicates an infant traveling without a return ticket or travel document is issued) in connection with a journey which originates in the United States, includes a stop in a

place other than the United States or one of the territories and possessions of the United States and the return arrival to the United States is from a place outside the United States; and

(C) When a passenger on a journey through the United States to a foreign destination arrives in the customs territory of the United States from a place outside the United States, unless that passenger's journey originated in the territories and possessions of the United States.

(iii) \* \* \*

(C) When a passenger on a journey through the United States to a foreign destination arrives in the customs territory of the United States from a place outside the United States and that passenger's journey originated in one of the territories and possessions of the United States and is processed by CBP.

\* \* \* \* \*

(h) Annual customs broker permit user fee. Customs brokers are subject to an annual user fee of \$138, as adjusted by the terms of paragraph (k) of this section, for each district permit and for a national permit held by an individual, partnership, association, or corporation. The annual user fee for each district permit must be submitted to the port through which the broker was granted the permit. The annual user fee for a national permit must be submitted to the port through which the broker's license is delivered.

\* \* \* \* \*

(k) Adjustment for inflation of Customs Consolidated Omnibus Budget Reconciliation Act (COBRA) user fees—(1) Fee amounts. CBP will determine annually whether an adjustment to the fees and limitations is necessary and a notice specifying the amount of the fees and limitations, as adjusted, will be published in the **Federal Register** annually for each fiscal year at least 30 days prior to the effective date of the new fees and limitations. The fee and limitation amounts will also be maintained for the public's convenience on the CBP website at [www.cbp.gov](http://www.cbp.gov).

(2) Methodology for annual adjustments of fees and limitation amounts for inflation. CBP will determine the adjustments, if any, by making the following calculations:

(i) Calculate the arithmetic average of the Consumer Price Index – All Urban Consumers, U.S. All items, 1982-84 = 100 (CPI-U) for the current year based on the most recent June-May period. This figure is referred to as (A).

(ii) Use the figure 236.009 which is the arithmetic average of the CPI-U for FY 2014. This figure is referred to as (B).

(iii) State the arithmetic average of CPI-U for the comparison year which will be either (B) if the fees have never been adjusted in accordance with this paragraph (k), or the arithmetic average of the CPI-U for the last year in which fees were adjusted in accordance with this paragraph (k) as set forth in the **Federal Register** notice that last adjusted the fee. This figure is referred to as (C).

(iv) Calculate the difference between the arithmetic averages of the CPI-U of the comparison year (C) and the current year (A). This difference is referred to as (D).  $(D) = (A) - (C)$ .

(v) Round the difference (D) to the nearest whole number. This figure is referred to as (E).

(vi) Calculate the percentage change in the arithmetic averages of the CPI-U of the comparison year (C) and the current year (A) which is referred to as (F).  $(F) = ((E) \div (C)) \times 100\%$ .

(vii) If (F) is one percent or more, proceed to the next step (viii). If (F) is less than one percent, no adjustment will be made.

(viii) Calculate the difference in the arithmetic average of the CPI-U between the current year (the most recent June through May period) and the base year (FY 2014). This difference is referred to as (G).  $(G) = (A) - (B)$ .

(ix) Calculate the percentage change in the CPI-U from the base year to the current year. This figure is referred to as (H).  $(H) = ((G) \div (B)) \times 100\%$ .

(x) Increase the fees and limitations that are subject to the rules of this paragraph by (H), calculating fees and limitations to the second decimal.

### 3. In § 24.23:

a. Add a new introductory text before paragraph (a).

b. In paragraph (b):

i. Paragraph (b)(1)(i)(A) is amended by adding the words, as adjusted in accordance with the terms of § 24.22(k) of this part,” after the words “\$1.00 per individual air waybill or bill of lading fee”;

ii. Paragraph (b)(1)(i)(B) is amended by adding the words “, as adjusted in accordance with the terms of § 24.22(k) of this part,” after the amounts “\$485” and “\$25”;

iii. Paragraph (b)(1)(ii) is amended by adding the words “, as adjusted in accordance with the terms of § 24.22(k) of this part,” after the words “surcharge of \$3”;

iv. Paragraph (b)(2)(i) is amended by adding the words “, as adjusted in accordance with the terms of § 24.22(k) of this part,” after the amount “\$2”;

v. Paragraph (b)(2)(ii) is amended by adding the words “, as adjusted in accordance with the terms of § 24.22(k) of this part,” after the amount “\$6”;

vi. Paragraph (b)(2)(iii) is amended by adding the words “, as adjusted in accordance with the terms of § 24.22(k) of this part,” after the amount “\$9”; and

vii. Paragraph (b)(4) is revised.

The revisions to § 24.23 read as follows:

**§ 24.23 Fees for processing merchandise.**

This section sets forth the terms and conditions for when the fees for processing merchandise are required. The specific merchandise processing fee amounts and corresponding limitations that appear in this section are not the actual fees or limitations, but represent the base year amounts that are subject to adjustment each fiscal year in accordance with the Fixing America’s Surface Transportation Act (FAST Act) using Fiscal Year 2014 as the base year for comparison. (See Appendix B to part 24 for a table setting forth the fees and limitations subject to adjustment along with the corresponding statutory authority, the regulatory citation, the name of the fee or limitation, and the Fiscal Year 2014 base amount which reflects the statutory amounts that were adjusted by the American Jobs Creation Act of 2004 (Pub. L. 108-357).) The methodology for adjusting the fees and limitations to reflect the percentage, if any, of the increase in the average of the Consumer Price Index – All Urban Consumers, U.S. All items, 1982-84 (CPI-U) for the preceding 12-month period (June through May) compared to the Consumer Price Index for fiscal year 2014 is set forth in § 24.22(k) of this part. CBP will

determine annually whether an adjustment to the fees and limitations is necessary and a notice specifying the amount of the fees and limitations will be published in the **Federal Register** annually for each fiscal year at least 30 days prior to the effective date of the new fees and limitations. The fees and the limitations will also be maintained for the public's convenience on the CBP website at [www.cbp.gov](http://www.cbp.gov).

\* \* \* \* \*

(b) \* \* \*

(4) Express consignment carrier and centralized hub facilities.

(i) General. Each carrier or operator using an express consignment carrier facility or a centralized hub facility must pay to CBP a fee in the amount of \$1.00, as adjusted in accordance with the terms of paragraph (k) of § 24.22 of this chapter, per individual air waybill or individual bill of lading for the processing of airway bills for shipments arriving in the United States. In addition, if merchandise is formally entered and valued at \$2,500 or less, the importer of record must pay to CBP the ad valorem fee specified in paragraph (b)(1) of this section, if applicable. An individual air waybill or individual bill of lading is the individual document issued by the carrier or operator for transporting and/or tracking an individual item, letter, package, envelope, record, document, or shipment. An individual air waybill is not a consolidation of several air waybills, and is not a master bill or other consolidated document. An individual air waybill or bill of lading is a bill representing an individual shipment that has its own unique bill number and tracking number, where the shipment is assigned to a single ultimate consignee, and no lower bill unit exists. Payment must be made to CBP on a quarterly basis and must cover the individual fees for all subject transactions that occurred during a calendar quarter.

(ii) Maximum and minimum fees. Subject to the provisions of paragraph (b)(1)(i)(A) and (b)(4) of this section relating to the express consignment carrier facility or centralized hub facility fee, the fee per individual air waybill or bill of lading charged under paragraph (b)(1)(i)(A) of this section must not exceed \$1, as adjusted in accordance with the terms of paragraph (k) of § 24.22 of this chapter, and must not be less than \$0.35, as adjusted by paragraph (k) of § 24.22 of this chapter.

(iii) Quarterly payments. The following additional requirements and conditions apply to each quarterly payment made under this section:

(A) The quarterly payment must conform to the requirements of § 24.1, must be submitted electronically via Fedwire or [pay.gov](http://pay.gov), or mailed to Customs and Border Protection, Revenue Division/Attention: Reimbursables, 6650 Telecom Drive, Suite 100, Indianapolis, Indiana 46278, and must be received by CBP no later than the last day of the month that follows the close of the calendar quarter to which the payment relates.

(B) The following information must be included with the quarterly payment:

(1) The identity of the calendar quarter to which the payment relates;

(2) The identity of the facility for which the payment is made and the port code that applies to that location and, if the payment covers multiple facilities, the identity of each facility and its port code and the portion of the payment that pertains to each port code; and

(3) The total number of individual air waybills and individual bills of lading covered by the payment, and a breakdown of that total for each facility

covered by the payment according to the number covered by formal entry procedures, the number covered by informal entry procedures specified in §§ 128.24(e) and 143.23(j) of this chapter, and the number covered by other informal entry procedures.

(C) Overpayments or underpayments may be accounted for by an explanation in, and adjustment of, the next due quarterly payment to CBP. In the case of an overpayment or underpayment that is not accounted for by an adjustment of the next due quarterly payment to CBP, the following procedures apply:

(1) In the case of an overpayment, the carrier or operator may request a refund by writing to Customs and Border Protection, Revenue Division/Attention: Reimbursables, 6650 Telecom Drive, Suite 100, Indianapolis, Indiana 46278. The refund request must specify the grounds for the refund and must be received by CBP within one year of the date the fee for which the refund is sought was paid to CBP; and

(2) In the case of an underpayment, interest will accrue on the amount not paid from the date payment was initially due to the date that payment to CBP is made.

(D) The underpayment or failure of a carrier or operator using an express consignment carrier facility or a centralized hub facility to pay all applicable fees owed to CBP pursuant to paragraph (b)(4) of this section may result in the assessment of penalties under 19 U.S.C. 1592, liquidated damages, and any other action authorized by law.

\* \* \* \* \*

4. Add Appendix A and Appendix B to part 24 to read as follows:

**Appendix A to Part 24 — CUSTOMS COBRA USER FEES AND LIMITATIONS IN 19 CFR 24.22**

<b>19 U.S.C. 58c</b>	<b>19 CFR 24.22</b>	<b>Customs COBRA User Fee/Limitation</b>	<b>FY14 Base Fee/Limitation (subject to adjustment in accordance with the FAST Act)</b>
(a)(1)	(b)(1)(i)	Fee: Commercial Vessel Arrival Fee	\$437
(b)(5)(A)	(b)(1)(ii)	Limitation: Calendar Year Maximum for Commercial Vessel Arrival Fees	\$5,955
(a)(8)	(b)(2)(i)	Fee: Barges and Other Bulk Carriers Arrival Fee	\$110
(b)(6)	(b)(2)(ii)	Limitation: Calendar Year Maximum for Barges and Other Bulk Carriers Arrival Fees	\$1,500
(a)(2)	(c)(1)	Fee: Commercial Truck Arrival Fee	\$5.50
(b)(2)	(c)(2) and (3)	Limitation: Commercial Truck Calendar Year Prepayment Fee	\$100
(a)(3)	(d)(1)	Fee: Railroad Car Arrival Fee	\$8.25
(b)(3)	(d)(2) and (3)	Limitation: Railroad Car Calendar Year Prepayment Fee	\$100
(a)(4)	(e)(1) and (2)	Fee and Limitation: Private Vessel or Private Aircraft First Arrival/Calendar Year Prepayment Fee	\$27.50
(a)(6)	(f)	Fee: Dutiable Mail Fee	\$5.50
(a)(5)(A)	(g)(1)(i)	Fee: Commercial Vessel or Commercial Aircraft Passenger Arrival Fee	\$5.50
(a)(5)(B)	(g)(1)(ii)	Fee: Commercial Vessel Passenger Arrival Fee (from Canada, Mexico, one of the territories and possessions of the United States, or one of the adjacent islands)	\$1.93
(a)(7)	(h)	Fee: Customs Broker Permit User Fee	\$138

**Appendix B to Part 24 — CUSTOMS COBRA USER FEES AND LIMITATIONS IN 19**

**CFR 24.23**

<b>19 U.S.C. 58c</b>	<b>19 CFR 24.23</b>	<b>Customs COBRA User Fee/Limitation</b>	<b>FY14 Base Fee/Limitation (subject to adjustment in accordance with the FAST Act)</b>
(b)(9)(A)(ii)	(b)(1)(i)(A)	Fee: Express Consignment Carrier/Centralized Hub Facility Fee, Per Individual Waybill/Bill of Lading Fee	\$1
(b)(9)(B)(i)	(b)(1)(i)(B)(2)	Limitation: Minimum Express Consignment Carrier/Centralized Hub Facility Fee	\$0.35
(b)(9)(B)(i)	(b)(1)(i)(B)(2)	Limitation: Maximum Express Consignment Carrier/Centralized Hub Facility Fee	\$1
(a)(9)(B)(i); (b)(8)(A)(i)	(b)(1)(i)(B)(1)	Limitation: Minimum Merchandise Processing Fee	\$25
(a)(9)(B)(i); (b)(8)(A)(i)	(b)(1)(i)(B)(1)	Limitation: Maximum Merchandise Processing Fee	\$485
(b)(8)(A)(ii)	(b)(1)(ii)	Fee: Surcharge for Manual Entry or Release	\$3
(a)(10)(C)(i)	(b)(2)(i)	Fee: Informal Entry or Release; Automated and Not Prepared by CBP Personnel	\$2
(a)(10)(C)(ii)	(b)(2)(ii)	Fee: Informal Entry or Release; Manual and Not Prepared by CBP Personnel	\$6
(a)(10)(C)(iii)	(b)(2)(iii)	Fee: Informal Entry or Release; Automated or Manual; Prepared by CBP Personnel	\$9
(b)(9)(A)(ii)	(b)(4)	Fee: Express Consignment Carrier/Centralized Hub Facility Fee, Per Individual Waybill/Bill of Lading Fee	\$1

## PART 111 – CUSTOMS BROKERS

5. The general authority citation for part 111 and the specific authority citation for § 111.96 continue to read as follows:

**Authority:** 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1624, 1641.

\* \* \* \* \*

Section 111.96 also issued under 19 U.S.C. 58c, 31 U.S.C. 9701.

\* \* \* \* \*

### § 111.19 [Amended]

6. In § 111.19(c):

- a. Remove the phrase “\$100 and \$138” in the first sentence; and
- b. Remove the amounts “\$100” and “\$138” in each place that they appear.

**§ 111.96 [Amended]**

7. In § 111.96(c):

a. In the first sentence, remove the words “of \$138” and add in their place the words “specified in § 24.22(h) of this chapter”; and

b. Remove the figure “\$138” in each place that it appears.

Kevin K. McAleenan,

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

Approved: July 10, 2017.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

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