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DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Part 122

CBP Dec. 20-10

Technical Amendment to List of User Fee Airports: Addition of Four Airports

AGENCY: U.S. Customs and Border Protection; DHS.

ACTION: Final rule; technical amendment.

SUMMARY: This document amends U.S. Customs and Border Protection (CBP) regulations by revising the list of user fee airports to reflect the designation of user fee status for four additional airports: New York Stewart International Airport in New Windsor, New York; Lakeland Linder International Airport in Lakeland, Florida; Boca Raton Airport in Boca Raton, Florida; and Ontario International Airport in Ontario, 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 customs services of CBP officers for the processing of aircraft entering the United States, and the passengers and cargo of those aircraft.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Chris Sullivan, Director, Alternative Funding Program, Office of Field Operations, U.S. Customs and Border Protection at Christopher.J.Sullivan@cbp.dhs.gov or 202-344-3907.

SUPPLEMENTARY INFORMATION:

Background

Title 19, part 122 of the Code of Federal Regulations (19 CFR part 122) 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 the Trade and Tariff Act of 1984 (Public Law 98-573, 98 stat. 2948, 2994 (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 Commissioner of CBP¹ 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 determines that the volume or value of business at the airport is insufficient to justify the unreimbursed availability of customs services at the airport and the governor of the state in which the airport is located approves the designation. As the volume or value of business cleared through this type of airport is insufficient to justify the availability of customs services at no cost, customs services provided by CBP at the airport are not funded out of appropriations from the general treasury of the United States. Instead,

¹ Sections 403(1) and 411 of the Homeland Security Act of 2002 (Public Law 107-296, 116 stat. 2135, 2178-79 (2002)), codified as amended at 6 U.S.C. 203(1) and 211, transferred certain functions, including the authority to designate user fee facilities, from the U.S. Customs Service of the Department of the Treasury to the Department of Homeland Security. The Secretary of Homeland Security delegated the authority to designate user fee facilities to the Commissioner of CBP through Department of Homeland Security Delegation, Sec. II.A., No. 7010.3 (May 11, 2006).

customs services provided by CBP are paid for by the user fee airport. The fees charged must be paid by the user fee airport and must be in the amount equal to the expenses incurred by the Commissioner of CBP in providing customs services at such airport, including the salary and expenses of those employed by the Commissioner of CBP to provide the customs services. *See* 19 U.S.C. 58b.

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. User fee airports are designated on a case-by-case basis. 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 user fee airport sponsor.

The list of designated user fee airports is set forth in 19 CFR 122.15(b). Periodically, CBP updates the list to reflect designated airports that have not yet been added to the list and to reflect any changes in the names of the designated user fee airports.

Recent Changes Requiring Updates to the List of User Fee Airports

This document updates the list of user fee airports in 19 CFR 122.15(b) by adding the following four airports: New York Stewart International Airport in New Windsor, New York; Lakeland Linder International Airport in Lakeland, Florida; Boca Raton Airport in Boca Raton, Florida; and Ontario International Airport in Ontario, California. During the last several years, the Commissioner of CBP signed MOAs designating each of these four airports as a user fee airport.²

Inapplicability of Public Notice and Delayed Effective Date Requirements

² The Commissioner of CBP signed an MOA designating Ontario International Airport on March 23, 2018; Boca Raton Airport on August 25, 2017; New York Stewart International Airport on June 21, 2017; and Lakeland Linder International Airport on November 16, 2016.

Under the Administrative Procedure Act (5 U.S.C. 553(b)), an agency is exempted from the prior public notice and comment procedures if it finds, for good cause, that such procedures are impracticable, unnecessary, or contrary to the public interest. This final rule makes conforming changes by updating the list of user fee airports to add four airports that have already been designated by the Commissioner of CBP in accordance with 19 U.S.C. 58b as user fee airports. Because this conforming rule has no substantive impact, is technical in nature, and does not impose additional burdens on or take away any existing rights or privileges from the public, CBP finds for good cause that the prior public notice and comment procedures are impracticable, unnecessary, and contrary to the public interest. 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 Orders 12866 and 13771

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. Additionally, because this amendment is not a significant regulatory action it is not subject to the requirements of Executive Order 13771.

Paperwork Reduction Act

There is no new collection of information required in this document; therefore, the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) are inapplicable.

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). The Acting Commissioner Mark A. Morgan, having reviewed and approved this document, is delegating the authority to

electronically sign this document to Robert F. Altneu, who is the Director of the Regulations and Disclosure Law Division for CBP, for purposes of publication in the *Federal Register*.

List of Subjects in 19 CFR Part 122

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

Amendments to Regulations

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

PART 122 – AIR COMMERCE REGULATIONS

1. The general 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.

* * * * *

2. In § 122.15, amend the table in paragraph (b) by adding entries for “Boca Raton, Florida”, “Lakeland, Florida”, “New Windsor, New York”, and “Ontario, California” in alphabetical order to read as follows.

§ 122.15 User fee airports.

* * * * *

(b) * * *

<u>Location</u>	<u>Name</u>
* * * * *	
Boca Raton, Florida	Boca Raton Airport
* * * * *	
Lakeland, Florida	Lakeland Linder International Airport

New Windsor, New York	New York Stewart International Airport
Ontario, California	Ontario International Airport

Dated: July 14, 2020

Robert F. Altneu
 Director, Regulations & Disclosure Law
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 Regulations & Rulings
 Office of Trade
 U.S. Customs and Border Protection

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