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## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

#### 19 CFR Part 122

[CBP Dec. 17-18]

#### Technical Amendment to List of User Fee Airports:

**Removal of Meadows Field Airport, Bakersfield, CA and the Addition of Griffiss International Airport, Rome, NY; Van Nuys Airport, Van Nuys, CA; Cobb County Airport-McCollum Field, Kennesaw, GA; and Charlotte-Monroe Executive Airport, Monroe, NC**

**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 removal of user fee status for Meadows Field Airport in Bakersfield, California and the designation of user fee status for four additional airports: Griffiss International Airport in Rome, New York; Van Nuys Airport in Van Nuys, California; Cobb County Airport-McCollum Field in Kennesaw, Georgia; and Charlotte-Monroe Executive Airport in Monroe, North Carolina. 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:* [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 Secretary of Homeland Security<sup>1</sup> 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 or value 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

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<sup>1</sup> Sections 403(1) and 411 of the Homeland Security Act of 2002 (Public Law 107-296, 116 stat. 2135, 2178-79 (2002)), codified 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.

approves the designation.<sup>2</sup> As the volume or value 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. 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. 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 user fee status designation may be withdrawn if either CBP or the airport authority provides 120 days written notice of termination to the other party. *See* 19 CFR 122.15(c)(1). In this manner, user fee airports are designated and withdrawn on a case-by-case basis.

Section 122.15 of CBP's regulations also 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 are currently designated by the Commissioner of CBP.

### **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 Griffiss International Airport in Rome, New York; Van Nuys Airport in Van Nuys, California; Cobb County Airport-McCollum Field in Kennesaw, Georgia; and Charlotte-

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<sup>2</sup> In addition to airports, 19 U.S.C. 58b also authorizes the designation of seaports or other facilities as user fee facilities.

Monroe Executive Airport in Monroe, North Carolina. The Commissioner of CBP has signed an MOA designating each of these four airports as a user fee airport.<sup>3</sup>

Additionally, this document updates the list of user fee airports by removing Meadows Field Airport in Bakersfield, California. After an initial request by the airport authority of Meadows Field Airport to withdraw its user fee status, the airport authority and CBP agreed to terminate their MOA and the user fee status of Meadows Field Airport. On November 23, 2016, the Commissioner of CBP provided written notice to the airport authority of Meadows Field Airport that the user fee status of Meadows Field Airport was terminated.

### **Inapplicability of Public Notice and Delayed Effective Date Requirements**

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 they are impracticable, unnecessary, or contrary to the public interest. This final rule makes a conforming change 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 and to remove one airport from the list, the designation of which has already been withdrawn by the Commissioner of CBP. 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 comments procedures are impracticable, unnecessary, and contrary to

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<sup>3</sup> The Commissioner of CBP signed an MOA designating Griffiss International Airport on March 3, 2015, an MOA designating Van Nuys Airport on April, 17, 2015, an MOA designating Cobb County Airport-McCollum Field on June 8, 2015, and an MOA designating Charlotte-Monroe Executive Airport on July 28, 2014.

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).

### **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.

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2. Section 122.15(b) is amended by removing the entry for “Bakersfield, California” and adding entries in alphabetical order for “Kennesaw, Georgia,” “Monroe, North Carolina,” “Rome, New York,” and “Van Nuys, California” to read as follows:

**§122.15 User fee airports.**

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(b) \* \* \*

Location	Name
* * * * *	
Kennesaw, Georgia	Cobb County Airport-McCollum Field.
* * * * *	
Monroe, North Carolina	Charlotte-Monroe Executive Airport.
* * * * *	
Rome, New York	Griffiss International Airport.
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Van Nuys, California	Van Nuys Airport.
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Dated: November 20, 2017.

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Kevin K. McAleenan,  
Acting Commissioner,  
U.S. Customs and Border Protection.

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