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## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

#### 19 CFR Part 122

[CBP Dec. 18-01]

#### **Technical Amendment to List of User Fee Airports: Name Changes of Several Airports and the Addition of Five 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 name changes of several airports and the designation of user fee status for five additional airports: South Texas International Airport at Edinburg in Edinburg, Texas; Florida Keys Marathon Airport in Marathon, Florida; Appleton International Airport in Appleton, Wisconsin; South Bend International Airport in South Bend, Indiana; and Conroe-North Houston Regional Airport in Conroe, Texas. 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. 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. In this manner, user fee airports are designated on a case-by-case basis.

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 five airports: South Texas International Airport at Edinburg in Edinburg, Texas; Florida Keys Marathon Airport in Marathon, Florida; Appleton International Airport in Appleton, Wisconsin; South Bend International Airport in South Bend, Indiana; and Conroe-North Houston Regional Airport in Conroe, Texas. During the last several years, the

Commissioner of CBP signed MOAs designating each of these five airports as a user fee airport.<sup>2</sup>

Additionally, this document updates the list of user fee airports to reflect name changes of airports that were previously designated as user fee airports. The name changes are shown in the following chart. The left column contains the former name of each airport as it is currently listed in 19 CFR 122.15(b). The right column contains the updated name of each airport.

<i>Name Change From:</i>	<i>To:</i>
Melbourne Airport	Orlando Melbourne International Airport
Jefferson County Airport	Rocky Mountain Metropolitan Airport
Leesburg Regional Airport	Leesburg International Airport
Manchester Airport	Manchester-Boston Regional Airport
Collin County Regional Airport	McKinney National Airport
Midland International Airport	Midland International Air and Space Port
Rogers Municipal Airport	Rogers Executive Airport – Carter Field
St. Augustine Airport	Northeast Florida Regional Airport
Waukegan Regional Airport	Waukegan National Airport
Binghamton Regional Airport	Greater Binghamton Airport

**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 conforming changes by updating the list of user fee airports to add five 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 update the name of several user fee airports. Because this conforming rule has no substantive impact, is technical in nature, and does not impose

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<sup>2</sup> The Commissioner of CBP signed an MOA designating Conroe-North Houston Regional Airport on June 14, 2016, an MOA designating South Bend International Airport on July 5, 2016, an MOA designating South Texas International Airport at Edinburg on September 18, 2014, an MOA designating Florida Keys Marathon Airport on April 3, 2015, and an MOA designating Appleton International Airport on October 23, 2015.

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 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. In § 122.15, amend the table in paragraph (b) by:

- a. Adding an entry for “Appleton, Wisconsin” in alphabetical order;
- b. Revising the entry for “Broomfield, Colorado”;
- c. Adding entries for “Conroe, Texas” and “Edinburg, Texas” in alphabetical order;
- d. Revising the entries for “Johnson City, New York”, “Leesburg, Florida”, and “Manchester, New Hampshire”;
- e. Adding an entry for “Marathon, Florida” in alphabetical order;
- f. Revising the entries for “McKinney, Texas”, “Melbourne, Florida”, “Midland, Texas”, and “Rogers, Arkansas”;
- g. Adding an entry for “South Bend, Indiana” in alphabetical order; and
- h. Revising the entries for “St. Augustine, Florida” and “Waukegan, Illinois”.

The additions and revisions read as follows:

**§ 122.15 User fee airports.**

\* \* \* \* \*

(b) \* \* \*

<u>Location</u>	<u>Name</u>
* * * * *	
Appleton, Wisconsin	Appleton International Airport.
* * * * *	
Broomfield, Colorado	Rocky Mountain Metropolitan Airport.
* * * * *	
Conroe, Texas	Conroe-North Houston Regional Airport.
* * * * *	
Edinburg, Texas	South Texas International Airport at Edinburg.
* * * * *	
Johnson City, New York	Greater Binghamton Airport.
* * * * *	
Leesburg, Florida	Leesburg International Airport.
* * * * *	
Manchester, New Hampshire	Manchester-Boston Regional Airport.
Marathon, Florida	Florida Keys Marathon Airport.
* * * * *	
McKinney, Texas	McKinney National Airport.
Melbourne, Florida	Orlando Melbourne International Airport.
* * * * *	

Midland, Texas	Midland International Air and Space Port.
* * * * *	
Rogers, Arkansas	Rogers Executive Airport – Carter Field.
* * * * *	
South Bend, Indiana	South Bend International Airport.
St. Augustine, Florida	Northeast Florida Regional Airport.
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Waukegan, Illinois	Waukegan National Airport.
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Dated: February 15, 2018

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

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