Katranji (located in Syria and Lebanon); Neda Industrial Group (located in Iran); Nedayeh Micron Electronics (located in Iran); Speedy Electronics Ltd. (located in Hong Kong); United Sources Industrial Enterprises (located in Hong Kong); Vast Solution Sdn Bhd. (located in Malaysia); and Y-Sing Components Limited (located in Hong Kong).

(b) *License Exceptions.* No License Exceptions are available for exports or reexports involving the persons described in paragraph (a) of this General Order.

(c) *Licensing Policy.* License applications involving the persons described in paragraph (a) of the General Order will be subject to a general policy of denial.

Dated: June 5, 2007.

**Christopher A. Padilla,**

*Assistant Secretary for Export Administration.*

[FR Doc. E7–11126 Filed 6–7–07; 8:45 am]

**BILLING CODE 3510–33–P**

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## DEPARTMENT OF HOMELAND SECURITY

## Customs and Border Protection

## DEPARTMENT OF THE TREASURY

## 19 CFR Parts 24, 113, and 128

**[CBP Dec. 07–29; USCBP–2006–0015]**

**RIN 1505–AB39**

## Fees for Customs Processing at Express Consignment Carrier Facilities

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

**ACTION:** Final rule.

**SUMMARY:** This document amends title 19 of the Code of Federal Regulations (19 CFR) to reflect changes to the customs user fee statute made by section 337 of the Trade Act of 2002 and section 2004(f) of the Miscellaneous Trade and Technical Corrections Act of 2004. The statutory amendments made by section 337 concern the fees payable for customs services provided in connection with the informal entry or release of shipments at express consignment carrier facilities and centralized hub facilities, and primarily serve to replace the annual lump sum payment procedure with a quarterly payment procedure based on a specific fee for each individual air waybill or bill of lading. Section 2004(f) amended the user fee statute by authorizing the assessment of both the merchandise processing fee and a reimbursable fee assessed on each air waybill or bill of lading for merchandise that is formally entered at these sites and valued at $2,000 or less. In addition, pursuant to the authority established in 19 U.S.C. 58c(b)(9)(B)(i), this document raises the existing $0.66 fee assessed on individual air waybills or bills of lading to $1.00 to more equitably align it with the actual costs incurred by CBP in processing these items.

**EFFECTIVE DATE:** July 9, 2007.

**FOR FURTHER INFORMATION CONTACT:** Michael L. Jackson, Office of Field Operations, Cargo Control, Tel.: (202) 344–1196.

**SUPPLEMENTARY INFORMATION:**

### Background

On July 28, 2006, CBP published in the **Federal Register** (71 FR 42778) a proposal to reflect the changes to the customs user fee statute made by section 337 of the Trade Act of 2002 and section 2004(f) of the Miscellaneous Trade and Technical Corrections Act of 2004, as well as to raise the existing $0.66 fee assessed on individual air waybills or bills of lading to $1.00.

*Statutory Changes Made by Section 337(a) of the Trade Act of 2002*

On August 6, 2002, the President signed into law the Trade Act of 2002, Public Law 107–210, 116 Stat. 933. Section 337(a) of the Trade Act of 2002 amended section 13031(b)(9) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)) by adding new requirements for the payment of user fees for customs services provided by CBP to express consignment carrier facilities and centralized hub facilities in connection with imported letters, documents, shipments or other merchandise to which informal entry procedures apply. The statutory amendments made by section 337 replaced the annual lump sum payment procedure with a quarterly payment procedure based on a specific fee for each individual air waybill or bill of lading. In addition, section 337(a) amended 19 U.S.C. 58c(b)(9)(B)(i) to authorize the Secretary of the Treasury to adjust the $0.66 fee prescribed in 19 U.S.C. 58c(b)(9)(A)(ii) to an amount that is not less than $0.35 and not more than $1.00 per individual air waybill or bill of lading.

*Statutory Changes Made by Section 2004(f) of the Miscellaneous Trade and Technical Corrections Act of 2004*

The Miscellaneous Trade and Technical Corrections Act of 2004 (''Trade Act of 2004'') was signed into law by the President on December 3, 2004 (Pub. L. 108–429, 18 Stat. 2593). Section 2004(f) of the Trade Act of 2004 made further amendments to section 13031(b)(9) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)) and authorized the assessment of merchandise processing fees provided for in 19 U.S.C. 58c(a)(9), as well as the fees that are currently assessed on individual air waybills or bills of lading, for merchandise that is formally entered at express consignment carrier facilities and centralized hub facilities and valued at $2,000 or less.

*Notice of Proposed Rulemaking*

In the Notice of Proposed Rulemaking published in the **Federal Register** (71 FR 42778) on July 28, 2006, CBP proposed amendments to its regulations to conform to the statutory changes described above. In addition, pursuant to the authority established in 19 U.S.C. 58c(b)(9)(B)(i), that document set forth a proposed adjustment by the Secretary of the Treasury to increase the $0.66 reimbursable fee prescribed by 19 U.S.C. 58c(b)(9)(A)(ii) and payable to CBP by express consignment carrier facilities and centralized carrier facilities to $1.00. The fee increase is necessary to adequately reimburse CBP for the actual costs incurred by the agency in processing individual air waybills and bills of lading at these sites. The only mechanism for reimbursing CBP for these relocation expenses is through the established fee, which does not sufficiently cover CBP's regular expenses at these sites.

CBP solicited comments on these proposals.

Discussion of Comments

Five commenters responded to the solicitation of public comment in the proposed rule. A description of the comments received, together with CBP's analyses, is set forth below.

*Comment:* Four commenters expressed the view that proposed § 24.23(b)(1)(i)(A), which states, in part, that ''merchandise that is formally entered is subject to a $1.00 per individual air waybill or bill of lading fee * * *'' does not accurately reflect section 2004(f) of the Miscellaneous Trade and Technical Corrections Act of 2004. The commenters uniformly interpret section 2004(f) as authorizing the assessment of both the merchandise processing fee (MPF) and a reimbursable fee for each air waybill or bill of lading *only* for formal entries valued at $2,000 or less.

*CBP's Response:* CBP agrees. The final rule will clarify that only those formal entries valued at $2,000 or less are subject to both the merchandise processing fee and the reimbursable fee assessed per individual air waybill or bill of lading.

*Comment:* Four commenters stated that the explanation of actual costs incurred by CBP in connection with the processing of an individual air waybill or bill of lading is legally insufficient, unsubstantiated, and fails to justify an increase in the individual airway bill or bill of lading fee.

*CBP's Response:* CBP has met the statutory requirement set forth in 19 U.S.C. 58c(b)(9)(B)(i) which requires that, ''[T]he Secretary shall provide notice in the **Federal Register** of a proposed adjustment [of the fee assessed per individual air waybill or bill of lading] * * * and the reasons therefore and shall allow for public comment on the proposed adjustment.'' CBP published notice in the **Federal Register** of the proposed adjustment and presented both collections received and aggregate costs incurred (*see* 71 FR 42778). The shortfall in collections versus actual costs justifies the increase in the fee rate assessed for each individual air waybill or bill of lading. CBP is entitled to recover both direct and indirect costs (salaries and benefits, support, overhead, etc.) incurred in connection with the processing of an individual air waybill or bill of lading.

Regarding the commenters' claims that the cost/collection data presented in 71 FR 42778 as the basis for the proposed fee increase are unsubstantiated or otherwise insufficient, it is noted that the data were generated by the Cost Management Information System (CMIS), an agency-wide cost accounting system implemented by CBP in 1998. CMIS uses an Activity Based Costing (ABC) methodology, whereby data are collected from various CBP sources and compiled in CMIS for a cost-of-operations perspective of the organization. Under CMIS, user fee costs are segregated from all other costs and collections are deposited in distinct accounts and can only be used to cover costs authorized by their respective legislation. CMIS uses distinct codes to identify the hours and activities performed by a CBP Officer at an express facility. CBP views the production of CMIS-generated data set forth in the proposed rule as a valid and accurate method of substantiating the agency's claim that actual costs incurred by CBP in processing individual air waybills and bills of lading at express consignment and carrier hub facilities exceed collections.

The table, set forth below, is updated in this final rule to set forth the finance data associated with CBP's processing of individual air waybills and bills of lading at express consignment facilities and centralized hub facilities for FY's 2004, 2005 and 2006. This table updates and clarifies the table published in 71 FR 42778 to reflect that: (1) The data set forth below for FY 2006 are based on actual data, not estimated projections; (2) the heading text describing ''Estimated Package Volume'' has been replaced with the more accurate heading, ''Individual Air Waybills or Bills of Lading''; and (3) certain CBP cost/deficit amounts for FY 2005 have been corrected to rectify a typographical error in the proposed rule in which CBP Costs were identified as $21,393,520.

| Fiscal year | Individual Air waybills or bills of lading | *Total collections (based on $.66 cents per bill) | CBP's retained portion of collected amount (based on $.33 cents per bill) | **CBP costs | CBP cost per bill | CBP deficit |
|---|---|---|---|---|---|---|
| 2004 | 47,243,205 | $31,180,516 | $15,590,258 | $19,945,704 | 0.42 | ($4,355,446) |
| 2005 | 45,364,139 | 29,940,332 | 14,970,166 | ***21,939,520 | ***0.48 | ***(6,969,354) |
| 2006 | 48,038,188 | 31,705,204 | 15,852,602 | 26,659,626 | 0.55 | (10,807,024) |

* Collection information from the Automated Commercial System Monthly Report of Collections (ACSR–CL 134).
** All cost information from the Cost Management Information System.
*** These numbers correct typographical errors in 71 FR 42778 for FY 2005.

*Comment:* One commenter questioned CBP's requirement, as described in 71 FR 42778, that the fee be paid on the ''lowest level'' air waybill or bill of lading contained in a consolidated shipment rather than on the master bill that represents the actual shipping document. It was also suggested that the ''lowest level'' concept was a means to elevate the bill count to increase fees.

*CBP's Response:* CBP disagrees. The implementation of the fee was to replace the direct reimbursement mechanism by which CBP was reimbursed for services provided in the processing of letters, documents, records, shipments, merchandise, or any other item. Section 58c(b)(9)(A)(II)(ii) states that the fee is assessed ''per individual air waybill or bill of lading.'' CBP believes the use of the word ''individual'' indicates that applying the fee to a bill at the lowest level is appropriate, as opposed to applying the fee to a master bill that covers numerous and separate individual bills.

*Comment:* Four commenters view the assessment of 19 U.S.C. 1592 penalties for the underpayment or failure to pay reimbursement fees, as prescribed in § 24.23(b)(4)(iv) of title 19 of the CFR, as inappropriate because 1592 penalties apply to fraud, gross negligence and negligence.

*CBP's Response:* Penalties assessed pursuant to 19 U.S.C. 1592 may be applied when a false and material statement or omission occurs by reason of negligence, gross negligence or fraud in connection with the entry or introduction of merchandise into the commerce of the United States. Consequently, CBP believes it may be appropriate to apply these penalties in cases where a false and material statement or omission is made by negligence, gross negligence or fraud regarding the number of air waybills subject to the fee. CBP acknowledges that clerical errors or mistakes of fact are not violations unless they are part of negligent conduct.

*Comment:* Two commenters viewed as excessive the provision in § 113.64(a) of title 19 of the CFR that provides that a late payment is subject to liquidated damages equal to two times the fee not paid.

*CBP's Response:* The failure to pay the required fee within the prescribed time frame is a breach of the international carrier bond conditions resulting in liquidated damages. The standard for liquidated damages set forth in § 113.64(a) is two times the processing fees not timely paid. The proposed rule did not change that standard; it merely expands it to include the fees for processing letters, documents, records, shipments, merchandise, or other items.

*Comment:* Two commenters expressed the opinion that assessment of 19 U.S.C. 1592 penalties and liquidated damages constitutes double penalization.

*CBP's Response:* CBP disagrees. As indicated above, 19 U.S.C. 1592

penalties apply to false and material statements or omissions made by fraud, gross negligence and negligence, while liquidated damages result under 19 CFR 113.64(a) for the breach of bond conditions, *i.e.*, for breach of contract. Thus, liquidated damages are the result of a breach of a contract and are not penalties and there is no ''double penalization''.

*Comment:* Three commenters stated that CBP needs to establish a means to protest and appeal decisions regarding the underpayment or overpayment of reimbursable fees.

*CBP's Response:* CBP believes there are adequate administrative review processes available to challenge decisions regarding the underpayment or overpayment of the fee. Initially, the Express Consignment operator calculates the number of individual air waybills or bill of ladings processed for the required calendar quarter and remits a payment equal to that number multiplied by the set fee. Section 24.23(b)(4)(iii)(A) of title19 of the CFR contains a mechanism for challenging an overpayment by providing up to one year to request a refund for overpayment. In addition, if CBP assesses a charge or exaction, the assessment is subject to an administrative challenge through the filing of a protest under 19 U.S.C. 1514.

*Comment:* One commenter stated that CBP should address whether there were periods when CBP's collections exceeded costs and whether any such surplus had occurred.

The commenter also stated that surplus funds should be carried over from one period to another.

*CBP's Response:* Since the enactment of the Trade Act of 2002 and the implementation of the provisions of 19 U.S.C. 58c, CBP has not had a surplus of funds (see collection/cost table in CBP's response to second comment, set forth above). However, in the event a surplus should occur, CBP will maintain the surplus funds in the user fee account for providing services to express consignment operations. The funds will remain until expended.

*Comment:* One commenter stated that CBP's analysis of costs failed to include the collection of fees under the provisions of 19 U.S.C. 58c(a)(9), *i.e.*, merchandise processing fees (MPF), from many of the same shipments subject to the fees of 19 U.S.C. 58c(b)(9).

*CBP's Response:* CBP disagrees. The commenter is correct in that shipments formally entered and valued at $2,000 or less are subject to both the air waybill or bill of lading fee as well as the MPF. However, CBP did not include the MPF funds as part of its financial analysis as those funds are not available for express consignment operations. MPF is collected under 19 U.S.C. 58c(a)(9). Fees collected under that paragraph are deposited, by virtue of 19 U.S.C. 58c(f)(1), into the Customs User Fee Account. Express consignment fees are excluded from collection under 19 U.S.C. 58c(a) by section 58c(a)(10) and 58c(b)(9)(B). Instead, express consignment fees are collected under 19 U.S.C. 58c(b)(9).

*Comment:* One commenter suggested that if proposed § 128.11(b)(7)(iv) of title 19 of the CFR requires Express Consignment Carrier Facilities operators to report users of the facility on a quarterly basis, then the application procedures should include similar language.

*CBP's Response:* CBP agrees. Section 128.11(b) is amended in this final rule to include the requirement to identify prospective users.

*Comment:* Two commenters question whether proposed § 24.23(b)(1)(i)(A) is accurate in requiring that the 0.21 percent *ad valorem* fee be paid by the carrier as the MPF is the responsibility of the importer.

*CBP's Response:* CBP concurs. The last sentence in § 24.23(b)(1)(i)(A) will be modified by deleting the phrase, ''by the carrier'' so as to clarify that the importer of record is the party responsible for paying the 0.21 *ad valorem* fee. Corresponding changes will be made elsewhere to the final regulatory text as necessary.

*Comment:* One commenter suggested that the proposed fee increase of 50% is out of line with federal pay increases for the same period.

*CBP's Response:* In August, 2002 the pay grade for journeyman CBP officers was elevated to the General Schedule (GS) – 11 level. The difference between the Fiscal Year (FY) 2002 GS–9 Step 1 and FY 2006 GS–11 Step 1 was $14,544 or a 38.9% increase. (GS–9/1=$37,428, GS–11/1=$51,972). Based on these figures, CBP does not view the increase as unduly disproportionate.

*Comment:* One commenter stated that CBP should detail the cost of hiring the 27 new CBP officers mentioned in the notice of proposed rulemaking.

*CBP's Response:* The hiring costs cited in the proposed rule were projected costs for anticipated positions based on resource requests. Additional resources are contingent on funding availability. As such, these costs have been removed from the footnotes in the collection/cost table set forth above.

*Comment:* One commenter stated that CBP has, without justification, concluded that express consignment operators will simply pass the increased per item air waybill and bill of lading fee costs along to their customers.

*CBP's Response:* CBP noted in the proposed rule that small business entities will ''likely pass the costs of the increased fee on to their customers to the extent that they are able.'' CBP remains of the view that this is the likely option for many of the impacted parties.

*Comment:* Two commenters mentioned the CBP employee relocation costs associated with a Midwest hub relocation as a contributing factor for the fee increase, and further noted that these events are infrequent and do not impose regularly recurring costs on CBP.

*CBP's Response:* CBP's costs include relocation expenses as authorized by law. As such expenses are episodic in nature and vary from year to year, CBP does not incur relocation expenses at the same rate annually. To the extent that CBP incurs relocation expenses in a given fiscal year, such costs will be accounted for in the agency's subsequent fiscal year cost analysis.

*Comment:* One commenter stated that CBP's ''estimated average annual burden per respondent/recordkeeper'' for complying with fee reporting requirements is low and requests that CBP explain what data it relied upon for these estimates.

*CBP's Response:* In the proposed rule, CBP reported the following estimated average annual burden per respondent associated with the proposed fee reporting requirements:
§ 24.23(b)(4)(ii)—8 hours;
§ 24.23(b)(4)(iii)—1 hour; and
§ 128.11(b)—2 hours. Proposed § 24.23(b)(4)(ii) requires a respondent to report to CBP the identity of the calendar quarter to which the payment relates, the identity of the facility to which the payment is made and the applicable port code (and, if multiple facilities are used, the identity of each facility, its port code and the portion of the payment that pertains to each code). Proposed § 24.23(b)(4)(iii) requires the respondent to provide CBP with an explanation of any overpayment or underpayment accrued in a previous quarter. Proposed § 128.11(b), in pertinent part, requires the respondent to provide CBP with a list of all carriers or operators that intend to use the facility, are currently using the facility, or have ceased to use the facility. CBP is of the view that the normal business records already maintained by affected business entities provide the basis to calculate and transmit the required information and these regulations do not require the creation of any new data elements. For this reason, CBP believes

the information collection burden reported in the proposed rule represents a realistic estimate of the recordkeeping burden associated with these regulations.

*Comment:* Two commenters stated that CBP did not show fiscal year 2002 and 2003 volumes in its analysis.

*CBP's Response:* In the proposed rule, CBP presented the costs and collections for Fiscal Years (FY) 2004 and 2005, and set forth projected costs for FY 2006. The FY 2003 data are not readily available. The figures covering FY 2002 are irrelevant as there was a different reimbursement structure in place at the time.

*Comment:* One commenter stated that CBP needs to confirm whether the cost of data transmission lines are included in the reimbursable cost calculation as opposed to separate billings.

*CBP's Response:* The data transmission lines are not included in nor covered by the reimbursable fee and these costs are not included in CBP's costs calculation. CBP currently bills for data transmission lines pursuant to authority granted by 19 U.S.C. 58c(b)(9)(B)(ii).

*Comment:* One commenter noted that proposed § 24.23(b)(4) should be clarified to state that only *import* shipments are subject to the reimbursable fee, *i.e.*, those shipments from a foreign shipper to a U.S. consignee.

*CBP's Response:* The reimbursable fee applies to the processing of airway bills for shipments arriving in the U.S., and not for shipments leaving the U.S. The regulatory text set forth in § 24.23(b)(4) will be clarified accordingly.

*Comment:* One commenter stated that CBP needs to confirm that none of the costs are associated with the new class of CBP officers referred to as CBP Agriculture Specialists.

*CBP's Response:* None of the costs shown in the proposed rule are associated with the CBP Agriculture Specialists. There are distinct codes within CMIS for the CBP officer and the CBP Agriculture Specialist.

*Comment:* One commenter noted that the collection/cost table set forth in the proposed rule (71 FR 42778) included a column entitled ''Estimated Package Volume'' with numbers for FY 2004 and FY 2005, and estimated numbers for FY 2006. As the statutory provisions for the reimbursable fee are based on individual air waybills or bills of lading rather than individual shipping pieces, the commenter suggests that CBP should revise the table to accurately reflect estimated shipment volume, and CBP should also adjust the numbers to reflect the actual number of shipments with individual air waybills or bills of lading subject to the fee. In addition, it is suggested that CBP verify that the subsequent numbers in the ''Total Collections'' column are accurate, as they are derived from the numbers in the previously published column entitled ''Estimated Package Volume''.

*CBP's Response:* CBP agrees that clarification of the table is necessary. In this regard, it is noted that the number under the erroneous header entitled ''Estimated Package Volume'' was, in fact, describing air waybills and bills of lading—not packages. The header is correctly named in the table set forth in this document.

*Comment:* One commenter notes that, based on the figures provided in the collection/cost table set forth in the proposed rule, CBP claims its costs have increased by 7.3% and 5.4% while its workload has dropped 4% in each of the past two fiscal years. Additionally, a footnote to the cost table set forth in the proposed rule states that CBP anticipated adding 27 new CBP Officer positions in FY 2006. The commenter requests that CBP detail the facilities to which the 27 new CBP officer positions are assigned.

*CBP's Response:* The collection/cost table set forth in the proposed rule indicates workload decreases for each of years FY 2004 and 2006. The FY 2006 figures were based on projected estimates. When CBP received the actual numbers, the only workload decrease occurred in FY 2005. The reference to the 27 new employees was based on a hiring projection that did not occur.

An increase in volume will cause an increase in revenue. A decrease in volume may not actually result in a decrease in costs. CBP hub employees continue to work 8 hours a day regardless of volume; however, a decrease in volume could reduce the demand for overtime resulting in reduced costs at hub facilities. In either event, pursuant to 19 U.S.C. 58c(b)(9)(B)(i), the Secretary of the Treasury may once per fiscal year adjust the fee to an amount not less than $0.35 and not more than $1.00 per individual air waybill or bill of lading. In the event that collections begin to exceed costs CBP may, pursuant to the authority cited above, analyze and adjust the fee downward.

*Comment:* Two commenters stated that CBP should clarify the language used to describe the unit of measure relevant to this reimbursable process and that actual data, rather than estimates, should be provided.

*CBP's Response:* As noted above, the titles used in the collection/cost table have been modified to more accurately reflect the nature of the program (*i.e.*, individual air waybills or bills of lading). Actual data volumes are reflected in the table set forth in this document.

**Conclusion**

After analysis of the comments and further review of the matter, CBP has determined to adopt as a final rule, with the changes mentioned in the comment discussion and with additional non-substantive editorial changes, the proposed rule published in the **Federal Register** (71 FR 42778) on July 28, 2006.

**The Regulatory Flexibility Act**

CBP examined the impacts of the proposed rule on small entities as required by the Regulatory Flexibility Act (Pub. L. No. 96–354, 94 Stat. 1164, codified at 5 U.S.C. chapter 6) and prepared an Initial Regulatory Flexibility Act Analysis (IRFA) in the NPRM published in the **Federal Register** (71 FR 42778) on July 28, 2006. Based on annual data collected by CBP and set forth in that document, there are 22 businesses that will be affected by this rule. Of these, 10 are large businesses, 11 are small businesses, and 1 is a small, foreign-owned business. The 12 small business entities affected by this rule are either courier services (NAICS code 492110) or arrange freight transportation (NAICS code 488510). Sixteen of these companies (both large and small) are members of an association that owns and operates a consignment facility. That association acts as a single respondent for its members.

For this Final Regulatory Flexibility Act analysis, CBP analyzed annual revenue data for the 12 small businesses affected. To determine the impact of the proposed rule on annual revenues, CBP calculated the projected difference in costs between the old and proposed fee and compared that (as a percentage) to average annual revenues. Based on these calculations, CBP estimates that the rule will have a 5-percent impact or less on annual revenues for 5 of the small businesses. The rule will have a 5- to 10-percent impact on one of the companies and a greater than 10-percent impact on four companies. CBP could not find data for one small business, and one was foreign-owned. In the course of CBP's examination of the impacts on annual revenues for these small businesses, CBP determined that these entities may pass the cost of the increased fee on to their customers to the extent that they are able.

CBP concluded that the proposed rule set forth in 71 FR 42778 could have a

significant impact on a substantial number of small entities. CBP solicited comments on any of the regulatory requirements that could minimize the cost to small businesses.

One comment was received that pertains specifically to the IRFA set forth in the proposed rule. That comment, addressed above in the ''comments'' section of this document, noted that CBP concluded, without justification, that express consignment operators will pass the increased cost of the fee along to their customers to the extent possible. As set forth above, CBP remains of the view that the impacted business entities are likely to pass along the increased fee to their customers to the extent that they are able. The agency acknowledges, however, that the mechanism by which an individual express consignment operator adjusts to the proposed fee increase is an internal business decision and, therefore, no definitive conclusion regarding the passing along of costs can be made.

*Reporting and Recordkeeping*

This rule will change current paperwork requirements. No new professional skills will be necessary for the preparations of the reports and records. For more detail, see PAPERWORK REDUCTION ACT below.

*Other Federal Rules*

This rule does not duplicate, overlap, or conflict with other federal regulations.

*Regulatory Alternatives*

CBP did not consider any alternatives to the rule.

*Conclusions*

Based on the above analysis, CBP concludes that the final rule may have a significant economic impact on a substantial number of small entities.

**Paperwork Reduction Act**

The collections of information in this document are contained in §§ 24.23 and 128.11 (19 CFR 24.23 and 128.11). This information is used by CBP to determine whether user fees required by statute have been properly paid. The likely respondents are business organizations including importers and air carriers.

The collections of information for paying fees for customs services provided in connection with the informal entry or release of shipments at express consignment carrier facilities and centralized hub facilities was previously approved by the Office of Management and Budget under control number 1651–0052. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), CBP has submitted to OMB for review the following adjustments to the information provided to OMB for the previously approved OMB control number to account for the changes in this rule. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

The following is a breakdown of the estimated annual burden per respondent associated with the collection of information in this final rule:

- An express consignment operator (courier) will incur an estimated annual burden of 8 hours to prepare the quarterly payment report as per § 24.23(b)(4)(ii).
- An express consignment courier facility operator, as per § 128.11(b), will incur an estimated annual burden of 2 hours to prepare a quarterly list of all carriers or operators currently using an express consignment courier facility.
- An express consignment operator (courier) will incur an estimated annual burden of 1 hour to prepare a request for a refund of an overpayment as per § 24.23(b)(4)(iii).

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to U. S. Customs and Border Protection, Information Services Group, Office of Finance, 1300 Pennsylvania Avenue, NW., Washington, DC 20229, and to OMB, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503. A copy should also be sent to the Trade and Commercial Regulations Branch, Office of International Trade, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW. (Mint Annex), Washington, DC 20229.

**Executive Order 12866**

This amendment does not meet the criteria for a ''significant regulatory action'' as specified in Executive Order 12866.

**Signing Authority**

This document is being issued in accordance with § 0.1(a)(1) of the CBP regulations (19 CFR 0.1(a)(1)) pertaining to the authority of the Secretary of the Treasury (or his/her delegate) to approve regulations related to certain customs revenue functions.

**List of Subjects**

*19 CFR Part 24*

Accounting, Claims, Customs duties and inspection, Exports, Imports, Interest, Reporting and recordkeeping requirements, Taxes, User fees, Wages.

*19 CFR Part 113*

Air carriers, Bonds, Customs duties and inspection, Exports, Freight, Imports, Reporting and recordkeeping requirements, Surety bonds.

*19 CFR Part 128*

Administrative practice and procedure, Carriers, Couriers, Customs duties and inspection, Entry, Express consignments, Freight, Imports, Informal entry procedures, Reporting and recordkeeping requirements.

**Amendments to the Regulations**

■ For the reasons set forth in the preamble, parts 24, 113, and 128 of title 19 of the CFR (19 CFR Parts 24, 113, and 128), are amended as set forth below.

## PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

■ 1. The authority citation for part 24 continues to read in part 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. 9701; Pub. L. 107–296, 116 Stat. 2135 (6 U.S.C. 1 *et. seq.*).

* * * * *

Section 24.17 also issued under 19 U.S.C. 261, 267, 1450, 1451, 1452, 1456, 1524, 1557, 1562; 46 U.S.C. 2110, 2111, 2112;

Section 24.23 also issued under 19 U.S.C. 3332;

* * * * *

**§ 24.17 [Amended]**

■ 2. In § 24.17:

■ a. The section heading is revised to read as follows: ''Reimbursable services of CBP employees.'';

■ b. Paragraphs (a) through (d) are amended by removing the words ''Customs employee'' where they appear and adding in each place the term ''CBP employee''; and

■ c. Paragraphs (a)(12) and (a)(13) are removed and paragraph (a)(14) is redesignated as paragraph (a)(12).

■ 3. In § 24.23:

■ a. Paragraph (a) is amended by removing the word ''Customs'' each place that it appears and adding the term ''CBP'';

■ b. Paragraphs (b)(1)(i)(A) and paragraph (b)(2) are revised;

■ c. New paragraphs (b)(3) and (b)(4) are added;

■ d. The introductory text of paragraph (c)(1) is amended by removing the reference ''(b)(2)(i)'' and adding, in its place, the reference ''(b)(2)'';

■ e. Paragraph (c)(2)(i) is amended by removing the reference ''(b)(2)(i)'' and adding, in its place, the reference ''(b)(2)'';

■ f. The first sentence of paragraph (c)(3) is amended by removing the reference ''(b)(2)(i)'' and adding, in its place, the reference ''(b)(2)''; and

■ g. Paragraph (c)(5) is amended by removing the reference ''(b)(2)(i)'' and adding, in its place, the reference ''(b)(2)''.

The revisions and additions read as follows:

**§ 24.23 Fees for processing merchandise.**

* * * * *

(b) *Fees*—(1) *Formal entry or release*—(i) *Ad valorem fee*—(A) *General.* Except as provided in paragraph (c) of this section, merchandise that is formally entered or released is subject to the payment to CBP of an *ad valorem* fee of 0.21 percent. The 0.21 *ad valorem* fee is due and payable to CBP by the importer of record of the merchandise at the time of presentation of the entry summary and is based on the value of the merchandise as determined under 19 U.S.C. 1401a. In the case of an express consignment carrier facility or centralized hub facility, each shipment covered by an individual air waybill or bill of lading that is formally entered and valued at $2,000 or less is subject to a $1.00 per individual air waybill or bill of lading fee and, if applicable, to the 0.21 percent *ad valorem* fee in accordance with paragraph (b)(4) of this section. * * *

* * * * *

(2) *Informal entry or release.* Except in the case of merchandise covered by paragraph (b)(3) or paragraph (b)(4) of this section, and except as otherwise provided in paragraph (c) of this section, merchandise that is informally entered or released is subject to the payment to CBP of a fee of:

(i) $2 if the entry or release is automated and not prepared by CBP personnel;

(ii) $6 if the entry or release is manual and not prepared by CBP personnel; or

(iii) $9 if the entry or release, whether automated or manual, is prepared by CBP personnel.

(3) *Small airport or other facility.* With respect to the processing of letters, documents, records, shipments, merchandise, or any other item that is valued at $2,000 or less, or any higher amount prescribed for purposes of informal entry in § 143.21 of this chapter, a small airport or other facility must pay to CBP an amount equal to the reimbursement (including overtime) which the facility is required to make during the fiscal year under § 24.17.

(4) *Express consignment carrier and centralized hub facilities.* 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 per individual air waybill or individual bill of lading for the processing of airway bills for shipments arriving in the U.S. In addition, if merchandise is formally entered and valued at $2,000 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 the bill at the lowest level, 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. The following additional requirements and conditions apply to each quarterly payment made under this section:

(i) The quarterly payment must conform to the requirements of § 24.1, must be 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.

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

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

(B) 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

(C) 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.

(iii) 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:

(A) 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

(B) 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.

(iv) 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.

* * * * *

## PART 113—CUSTOMS BONDS

■ 4. The authority citation for part 113 continues to read in part as follows:

**Authority:** 19 U.S.C. 66, 1623, 1624.

* * * * *

■ 5. In § 113.64, paragraph (a) is amended by adding a new sentence at the end to read as follows:

**§ 113.64 International carrier bond conditions.**

* * * * *

(a) * * * If the principal (carrier or operator) fails to pay the fees for processing letters, documents, records, shipments, merchandise, or other items on or before the last day of the month that follows the close of the calendar quarter to which the processing fees relate pursuant to § 24.23(b)(4) of this chapter, the obligors (principal and surety, jointly and severally) agree to pay liquidated damages equal to two times the processing fees not timely paid to CBP as prescribed by regulation.

* * * * *

## PART 128—EXPRESS CONSIGNMENTS

■ 6. The authority citation for part 128 is revised to read as follows:

**Authority:** 19 U.S.C. 58c, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1321, 1484, 1498, 1551, 1555, 1556, 1565, 1624.

■ 7. In § 128.11:

■ a. Paragraphs (b)(2) and (b)(7)(ii)–(v) are revised; and

■ b. Paragraph (c) is amended, in the first sentence, by removing the word ''shall'' and adding in its place the word ''must'' and, in the second sentence, by removing the word ''Customs'' and adding in its place the term ''CBP''.

The revisions read as follows:

**§ 128.11 Express consignment carrier application process.**

* * * * *

(b) * * *

(2) A statement of the general character of the express consignment operations that includes, in the case of an express consignment carrier facility, a list of all carriers or operators that intend to use the facility.

* * * * *

(7) * * *

(ii) Sign and implement a narcotics enforcement agreement with U.S. Immigration and Customs Enforcement (ICE).

(iii) Provide, without cost to the Government, adequate office space, equipment, furnishings, supplies and security as per CBP's specifications.

(iv) If the entity is an express consignment carrier facility, provide to Customs and Border Protection, Revenue Division/Attention: Reimbursables, 6650 Telecom Drive, Suite 100, Indianapolis, Indiana 46278, at the beginning of each calendar quarter, a list of all carriers or operators currently using the facility and notify that office whenever a new carrier or operator begins to use the facility or whenever a carrier or operator ceases to use the facility.

(v) If the entity is a hub facility or an express consignment carrier, timely pay all applicable processing fees prescribed in § 24.23 of this chapter.

* * * * *

**Deborah J. Spero,**

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

Approved: June 4, 2007.

**Timothy E. Skud,**

*Deputy Assistant Secretary of the Treasury.*

[FR Doc. E7–11071 Filed 6–7–07; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 117

**[CGD01–07–056]**

## Drawbridge Operation Regulations; Raritan River, Arthur Kill, and Their Tributaries, NJ

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice canceling temporary deviation from regulations; notice of temporary deviation from regulations; request for comments.

**SUMMARY:** The Coast Guard is canceling the temporary deviation concerning the test operating schedule governing the AK Railroad Bridge across Arthur Kill at mile 11.6 between Staten Island, New York and Elizabeth, New Jersey. This deviation is canceled because the test schedule proved ineffective. In addition, the Commander, First Coast Guard District, has issued a new temporary deviation from the regulation governing the operation of the AK Railroad Bridge. This new temporary deviation requires the AK Railroad Bridge to remain in the open position at all times, except that, the draw would close for the passage of trains for two daily thirty minute closure periods within a designated one hour time frame on a fixed schedule with a one hour adjustment whenever high water occurs during or up to one hour after the applicable closure period. In addition, a number of unscheduled requests for thirty minute closure periods may be granted by the Coast Guard within one to three hours of receipt of the request. The purpose of this deviation is to test a new temporary change to the drawbridge operation schedule to help determine the most equitable and safe solution to facilitate the present and anticipated needs of navigation and rail traffic.

**DATES:** The temporary deviation published on March 20, 2007 in 72 FR 12981 is cancelled as of midnight on June 8, 2007. The revised deviation is effective 12:01 a.m. on June 8, 2007 until November 23, 2007. Comments must be received by October 15, 2007.

**ADDRESSES:** You may mail comments and related material to Commander (dpb), First Coast Guard District Bridge Branch, One South Street, Battery Park Building, New York, New York, 10004, or deliver them to the same address between 7 a.m. and 3 p.m., Monday through Friday, except, Federal holidays. The telephone number is (212) 668–7165. The First Coast Guard District, Bridge Branch, maintains the public docket for this deviation. Comments and material received from the public, as well as documents indicated in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at the First Coast Guard District, Bridge Branch, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Joe Arca, Project Officer, First Coast Guard District, Bridge Branch, at (212) 668–7165.

**SUPPLEMENTARY INFORMATION:**

### Request For Comments

We encourage you to participate in evaluating this test schedule by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this deviation (CGD01–07–056), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. Comments must be received by October 15, 2007, prior to the end of the deviation period so that adjustments to the tested operating schedule may be made, if necessary.

### Background and Purpose

On March 20, 2007, we published a temporary deviation entitled ''Drawbridge Operation Regulations; Raritan River, Arthur Kill, and Their Tributaries, NJ'' in the **Federal Register** (72 FR 12981). The temporary deviation concerned a test operating schedule for the bridge needed to help determine a bridge operating schedule that will accommodate present and anticipated rail operations while continuing to provide for the present and anticipated needs of navigation. Background about the AK Railroad Bridge and the bridge owner's rehabilitation efforts may be found at 72 FR 12981. This deviation from the operating regulations was authorized under 33 CFR 117.35.

Beginning on April 9, 2007, the bridge operated in accordance with the test schedule approved by the Coast Guard in the above referenced notice. Actual rail operations, however, have been such that shifting the scheduled bridge closure times to occur between 9 a.m.