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FEDERAL TRADE COMMISSION

16 CFR Part 305

[3084–AB15]

Energy Labeling Rule

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission (''FTC'' or ''Commission'') issues amendments to update the comparability ranges and sample labels for central air conditioners in the Energy Labeling Rule (''Rule'').

DATES: The amendments are effective on January 1, 2023.

ADDRESSES: Copies of this document are available on the Commission's website, *www.ftc.gov*.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome (202–326–2889), Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Room CC–9528, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Energy Labeling Rule

The Commission issued the Energy Labeling Rule (''Rule'') in 1979,[1] pursuant to the Energy Policy and Conservation Act of 1975 (''EPCA'').[2] The Rule requires energy labeling for major home appliances and other consumer products to help consumers compare the energy usage and costs of competing models. It also contains labeling requirements for refrigerators, refrigerator-freezers, freezers, dishwashers, water heaters, clothes washers, room and portable air conditioners, furnaces, central air conditioners, heat pumps, plumbing products, lighting products, ceiling fans, and televisions.

The Rule requires manufacturers to attach yellow EnergyGuide labels to many of the covered products and prohibits retailers from removing these labels or rendering them illegible. In addition, it directs sellers, including retailers, to post label information on websites and in paper catalogs from which consumers can order products. EnergyGuide labels for most covered products contain three main disclosures: Estimated annual energy cost, a product's energy consumption or energy efficiency rating as determined by Department of Energy (''DOE'') test procedures, and a comparability range displaying the highest and lowest energy costs or efficiency ratings for all similar models. Under the Rule, the Commission periodically updates comparability range and annual energy cost information based on manufacturer data submitted pursuant to the Rule's reporting requirements.[3]

II. Updated Ranges for Central Air Conditioners

On February 12, 2021 (86 FR 9273), the Commission published conforming rule amendments reflecting new DOE efficiency descriptors on central air conditioner labels to ensure the Rule's consistency with DOE requirements, which become effective on January 1, 2023.[4] In the February document, the Commission stated it would update ranges in appendices H and I, and the sample labels in appendix L, once new efficiency numbers became available.

On June 2, 2021 (86 FR 29533), the Commission proposed to update the comparability ranges for central air conditioners to ensure manufacturers have information available for the upcoming transition to new efficiency descriptors required by DOE.[5] In the June 2021 document, the Commission proposed to update the range table data (appendices H and I) and sample labels in the Rule (appendix L) using new information from the Air-Conditioning, Heating, & Refrigeration Institute (''AHRI'') and DOE staff input.[6] In response to the June document, the Commission received 31 comments. Commenters were generally supportive of the proposed updates, and none opposed the proposed ranges.[7] Commenters also made various suggestions for EnergyGuide labeling improvements and Rule changes (*e.g.,* the use of QR codes) not directly relevant to the range updates set out in the June document.[8] The Commission may consider these suggestions, which would require further consideration and additional public comment, in connection with future regulatory reviews.

Based on this record, the Commission is finalizing the range amendments in this document.[9] Consistent with the February 2021 amendments to the new energy descriptors, the effective date for these ranges is January 1, 2023. As the Commission stated in the February 2021 document, manufacturers may begin using the new range information prior to that date, in a manner consistent with DOE guidance now that the FTC has issued the final updates to appendices H and I once the FTC issues the final updates to appendices H and I.

III. Paperwork Reduction Act

The current Rule contains recordkeeping, disclosure, testing, and reporting requirements that constitute information collection requirements as defined by 5 CFR 1320.3(c), the definitional provision within the Office of Management and Budget (''OMB'') regulations that implement the Paperwork Reduction Act (''PRA''). OMB has approved the Rule's existing

[1] 44 FR 66466 (Nov. 19, 1979).

[2] 42 U.S.C. 6294. EPCA also requires the Department of Energy (''DOE'') to develop test procedures that measure how much energy appliances use, and to determine the representative average cost a consumer pays for different types of energy.

[3] 16 CFR 305.10.

[4] In 2017, DOE announced changes to the rating methods and associated efficiency descriptors for central air conditioners (*e.g.,* from ''Seasonal Energy Efficiency Ratio (SEER)'' to ''Seasonal Energy Efficiency Ratio 2 (SEER2)''). 82 FR 1786 (Jan. 6, 2017); and 82 FR 24211 (May 26, 2017).

[5] Commissioner Christine S. Wilson issued a dissent stating that the Commission should also seek further comment on broader issues including the ''more prescriptive aspects of this Rule'' and other changes to ''maximize the positive impact of this Rule for consumers.''

[6] AHRI is a trade association representing central air conditioner manufacturers.

[7] The comments are posted at *regulations.gov*.

[8] Two industry commenters (AHRI (#0030–0031) and Goodman (#0030–0032)) urged the Commission to issue the range updates ''expeditiously'' so that manufacturers ''have certainty on the revised EnergyGuide labels and adequate time to implement the labels.'' These two commenters also urged the Commission to postpone considering other potential Rule changes discussed in Commissioner Wilson's dissenting statement.

[9] The final amendments contain a few minor corrections to the sample labels in the June document (the top range number on Prototype Label 3; inclusion of asterisks and updated geographic information on Sample Label 3, and the removal of optional capacity numbers on labels).

information collection requirements through December 31, 2022 (OMB Control No. 3084–0069). The amendments do not change the substance or frequency of the Rule's recordkeeping, disclosure, or reporting requirements and, therefore, do not require further OMB clearance.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601–612, requires that the Commission conduct an analysis of the anticipated economic impact of the proposed amendment on small entities. The RFA requires that the Commission provide an Initial Regulatory Flexibility Analysis (''IRFA'') with a rule unless the Commission certifies that the rule will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605. The amendments merely update the Rule's appendices to include revised comparability ranges and sample labels for central air conditioners based on more recent data. The proposed amendments do not significantly change the substance or frequency of the recordkeeping, disclosure, or reporting requirements. Thus, the amendments will not have a ''significant economic impact on a substantial number of small entities.'' 5 U.S.C. 605. The Commission has concluded, therefore, that a regulatory flexibility analysis is not necessary, and certifies, under Section 605 of the RFA (5 U.S.C. 605(b)), that the amendments will not have a significant economic impact on a substantial number of small entities.

V. Other Matters

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a ''major rule,'' as defined by 5 U.S.C. 804(2).

List of Subjects in 16 CFR Part 305

Advertising, Consumer protection, Energy conservation, Household appliances, Incorporation by reference, Labeling, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Commission amends part 305 of title 16 of the Code of Federal Regulations as follows:

PART 305—ENERGY AND WATER USE LABELING FOR CONSUMER PRODUCTS UNDER THE ENERGY POLICY AND CONSERVATION ACT (''ENERGY LABELING RULE'')

■ 1. The authority citation for part 305 continues to read as follows:

Authority: 42 U.S.C. 6294.

■ 2. Revise appendix H to part 305 to read as follows:

Appendix H to Part 305—Cooling Performance for Central Air Conditioners

Manufacturer's rated cooling capacity (btu's/hr)	Range of SEER2's	
	Low	High
Single Package Units		
Central Air Conditioners (Cooling Only): All capacities	13.4	19
Heat Pumps (Cooling Function): All capacities	13.4	19
Split System Units		
Central Air Conditioner models allowed only in northern states (listed in § 305.20(g)(13)) (Cooling Only): All capacities	13.4	27
Central Air Conditioner models allowed in all states (Cooling Only):		
All capacities	13.8	27
Heat Pumps (Cooling Function): All capacities	14.3	42
Small-duct, high-velocity Systems	12	15
Space-Constrained Products		
Central Air Conditioners (Cooling Only): All capacities	11.7	13.7
Heat Pumps (Cooling Function): All capacities	11.9	13.8

■ 3. Revise appendix I to part 305 to read as follows:

Appendix I to Part 305—Heating Performance and Cost for Central Air Conditioners

Manufacturer's rated heating capacity (btu's/hr)	Range of HSPF2's	
	Low	High
Single Package Units		
Heat Pumps (Heating Function): All capacities	6.7	8.4
Split System Units		
Heat Pumps (Heating Function): All capacities	7.5	14.6
Small-duct, high-velocity Systems	6.1	7.5
Space-Constrained Products		
Heat Pumps (Heating Function): All capacities	6.3	6.5

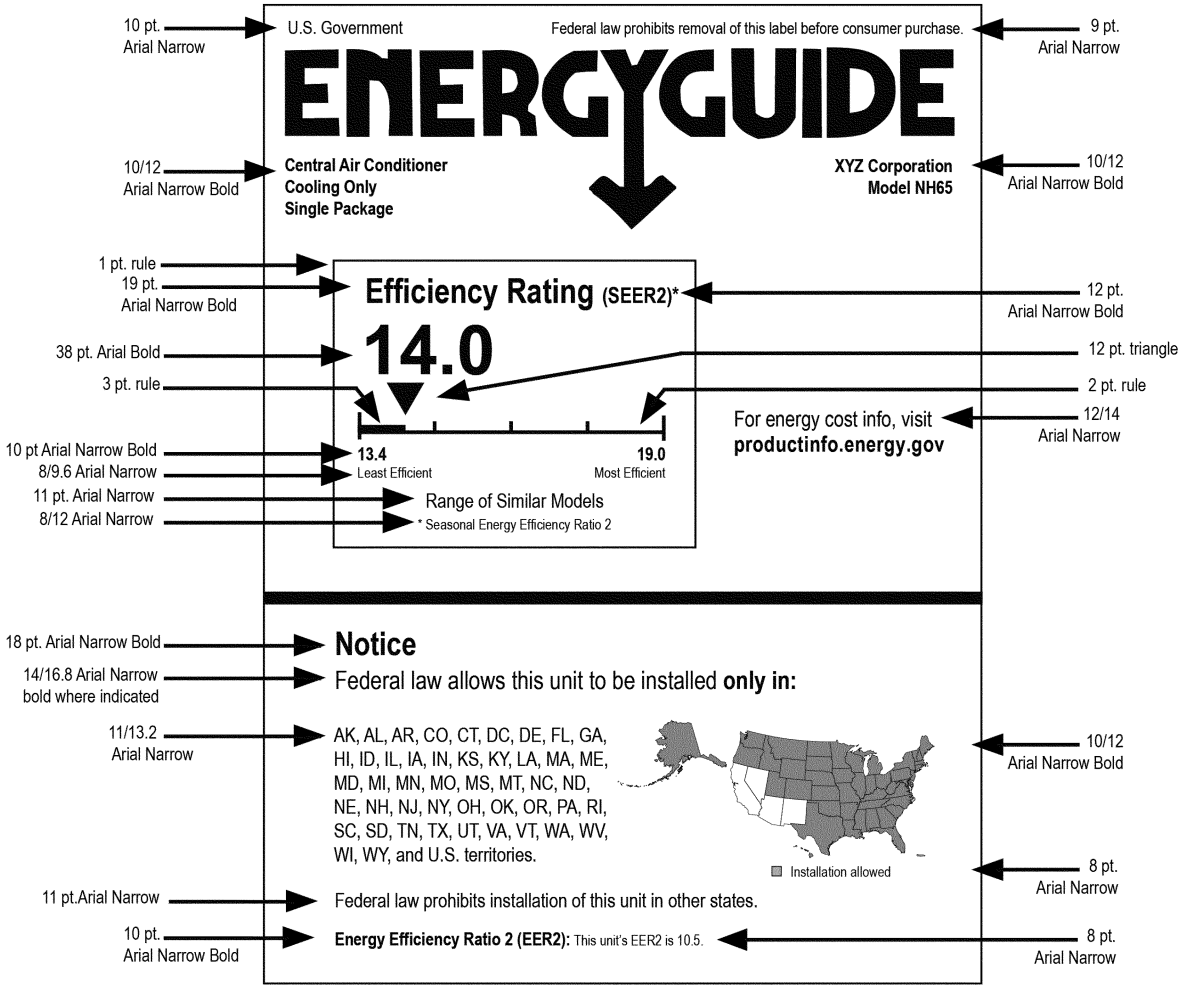
■ 4. Amend appendix L to part 305 by revising Prototype Label 3, Prototype Label 4, Sample Label 7, and Sample Label 8 to read as follows:

Appendix L to Part 305—Sample Labels

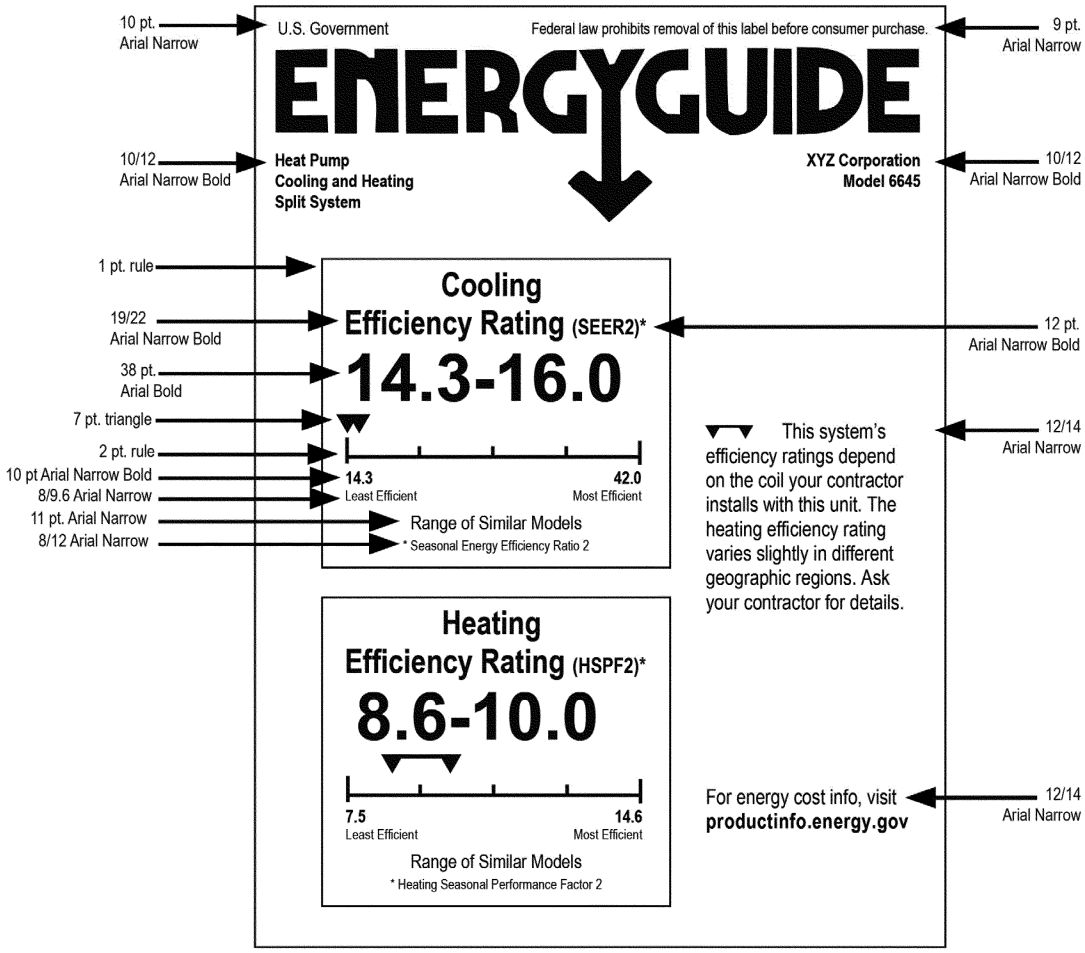
* * * * *

BILLING CODE 6750–01–P

Prototype Label 3 – Single-Package Central Air Conditioner



Prototype Label 4 – Split-system Heat Pump



* * * * *

Sample Label 7 – Split-system Central Air Conditioner

U.S. Government

Federal law prohibits removal of this label before consumer purchase.

ENERGYGUIDE

Central Air Conditioner
Cooling Only
Split System

XYZ Corporation
Model NH65

Efficiency Rating (SEER2)**

14.1

13.4
Least Efficient

27.0
Most Efficient

Range of Similar Models

** Seasonal Energy Efficiency Ratio 2

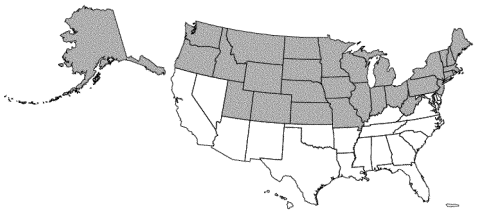
For energy cost info, visit
productinfo.energy.gov

* Your air conditioner's efficiency rating may be better depending on the coil your contractor installs.

Notice

Federal law allows this unit to be installed **only in:**

AK, CO, CT, ID, IL, IA, IN, KS, MA,
ME, MI, MN, MO, MT, ND, NE, NH
NJ, NY, OH, OR, PA, RI, SD, UT, VT
WA, WV, WI, and WY.

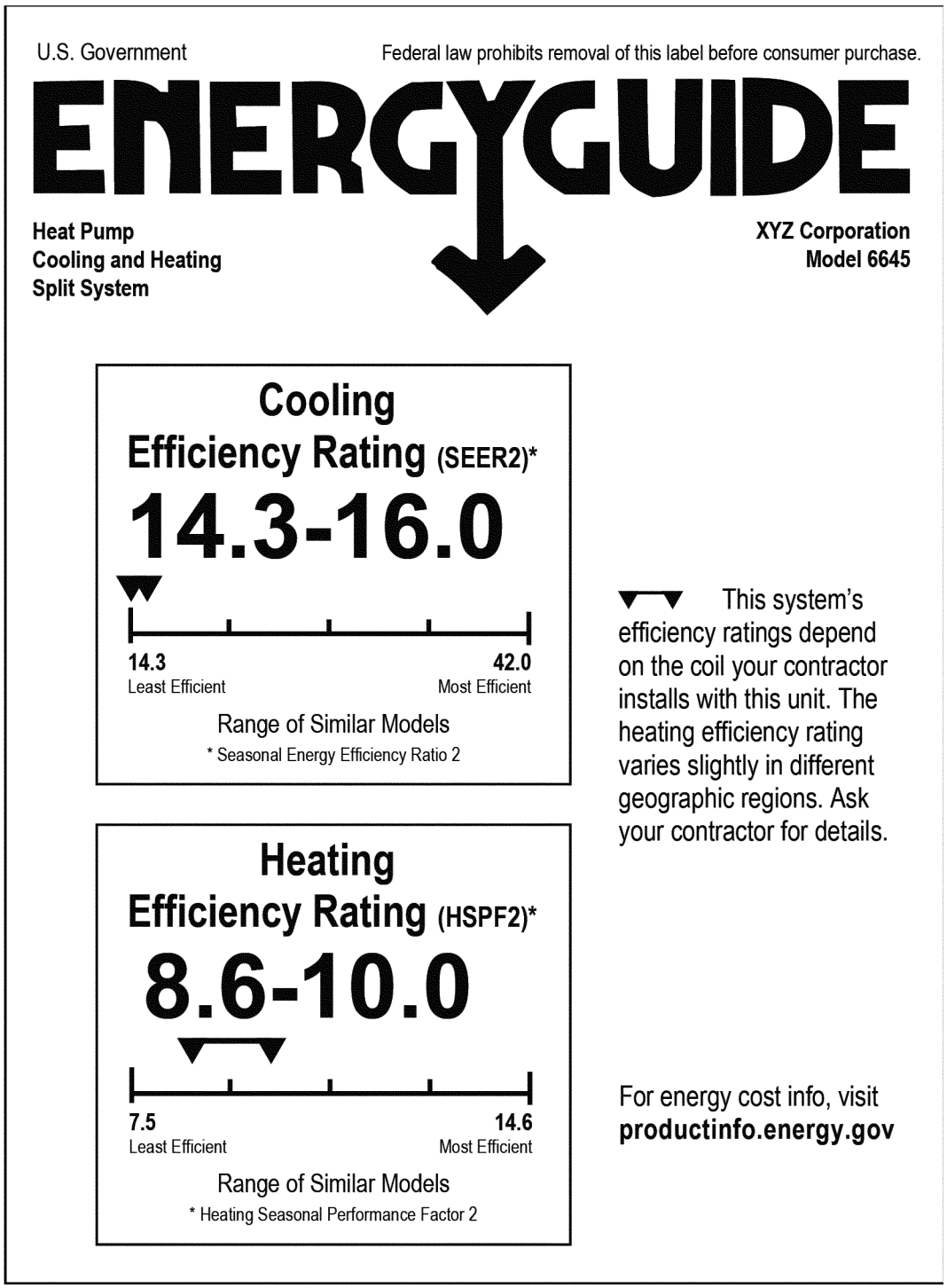


Installation allowed

Federal law prohibits installation of this unit in other states.

Energy Efficiency Ratio 2 (EER2): This unit's EER2 is 11.6.

Sample Label 8 – Split-system Heat Pump



* * * * *

By direction of the Commission, Commissioner Wilson dissenting.

April J. Tabor,

Secretary.

Note: The following will not appear in the Code of Federal Regulations.

Dissenting Statement of Commissioner Christine S. Wilson

Today the Commission announces required changes to the Energy Labeling Rule but makes no other changes to the Rule. Since 2015, the Commission has sought comment on provisions of this Rule multiple times and has made numerous amendments clarifying the Rule's requirements and making necessary changes. I have repeatedly urged the Commission to seek comment on the more prescriptive aspects of this Rule. I have explained my concerns about the highly prescriptive nature of this Rule in detail in my prior dissents. Regrettably, again today, the Commission chooses to make minor

changes to the Rule necessary for conformity but fails to conduct a full review of the Rule to consider removing all dated and prescriptive provisions. For these reasons, I dissent.

[FR Doc. 2021–22869 Filed 10–19–21; 8:45 am]

BILLING CODE 6750–01–C

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Part 122

[CBP Dec. 21–15]

Technical Amendment to List of User Fee Airports: Removal of One Airport

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security (DHS).

ACTION: Final rule; technical amendment.

SUMMARY: This document amends U.S. Customs and Border Protection (CBP) regulations by removing one airport from the list of user fee airports. User fee airports are airports that have been approved by the Commissioner of CBP to receive, for a fee, the customs services of CBP officers for processing aircraft, passengers, and cargo entering the United States, but do not qualify for designation as international or landing rights airports. Specifically, this technical amendment reflects the removal of the designation of user fee airport status for the Charlotte-Monroe Executive Airport in Monroe, North Carolina.

DATES: *Effective date:* October 20, 2021.

FOR FURTHER INFORMATION CONTACT: Ryan Flanagan, Director, Alternative Funding Program, Office of Field Operations, U.S. Customs and Border Protection at *Ryan.H.Flanagan@cbp.dhs.gov* or 202–550–9566.

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 engaged in international commerce and the transportation of persons and cargo by aircraft in international commerce.[1] Generally, a civil aircraft arriving from outside the United States must land at an airport designated as an international airport. Alternatively, 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.[2]

Section 236 of the Trade and Tariff Act of 1984 (Pub. L. 98–573, 98 stat. 2948, 2994 (1984)), codified at 19 U.S.C. 58b, created an alternative option for civil aircraft seeking to land at an airport that is neither an international airport nor a landing rights airport. This alternative option allows the Commissioner of U.S. Customs and Border Protection (CBP) to designate an airport, upon request by the airport authority or other sponsoring entity, as a user fee airport.[3] Pursuant to 19 U.S.C. 58b, a requesting airport may be designated as a user fee airport only if 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 by appropriations from the general treasury of the United States. Instead, the user fee airport pays for the customs services provided by CBP. The user fee airport must pay the fees charged, which must be in an amount equal to the expenses incurred by CBP in providing customs and related services at the user fee airport, including the salary and expenses of CBP employees to provide such services. *See* 19 U.S.C. 58b; *also* 19 CFR 24.17(a)–(b).

CBP designates airports as user fee airports in accordance with 19 U.S.C. 58b and 19 CFR 122.15 and on a case-by-case basis. If CBP 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 sponsor of the user fee airport. Pursuant to 19 CFR 122.15(c), the designation of an airport as a user fee airport must be withdrawn if either CBP or the airport authority gives 120 days written notice of termination to the other party, or if any amounts due to CBP are not paid on a timely basis.

The list of designated user fee airports is set forth in 19 CFR 122.15(b). Periodically, CBP updates the list to include newly designated airports that were not previously on the list, to reflect any changes in the names of the designated user fee airports, and to remove airports that are no longer designated as user fee airports.

Recent Change Requiring Update to the List of User Fee Airports

This document updates the list of user fee airports in 19 CFR 122.15(b) by removing the Charlotte-Monroe Executive Airport in Monroe, North Carolina. On February 3, 2021, the Monroe City Manager requested termination of the user fee status for the Charlotte-Monroe Executive Airport, and the Monroe City Manager and CBP mutually agreed to terminate the user fee status of Charlotte-Monroe Executive Airport effective on June 30, 2021.

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 such procedures are impracticable, unnecessary, or contrary to the public interest. This final rule makes a conforming change by updating the list of user fee airports by removing one airport in light of the CBP Commissioner's withdrawal of its designation as a user fee airport, in accordance with 19 U.S.C. 58b. 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 Order 12866

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

[1] For purposes of this technical rule, an ''aircraft'' is defined as any device used or designed for navigation or flight in air and does not include hovercraft. 19 CFR 122.1(a).

[2] A landing rights airport is ''any airport, other than an international airport or user fee airport, at which flights from a foreign area are given permission by Customs to land.'' 19 CFR 122.1(f).

[3] Sections 403(1) and 411 of the Homeland Security Act of 2002 (Pub. L. 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 newly established U.S. 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). The Commissioner subsequently delegated this authority to the Executive Assistant Commissioner of the Office of Field Operations on January 28, 2020.