

DEPARTMENT OF HOMELAND SECURITY**Bureau of Customs and Border Protection****19 CFR Parts 101 and 122****[USCBP–2005–0091; CBP Dec. 09–19]****Extension of Port Limits of Dayton, OH, and Termination of the User-Fee Status of Airborne Airpark in Wilmington, OH****AGENCY:** Customs and Border Protection, DHS.**ACTION:** Final rule.

SUMMARY: This document amends the Department of Homeland Security (DHS) regulations pertaining to Customs and Border Protection's field organization by extending the geographic limits of the port of Dayton, Ohio, to include the Airborne Airpark in Wilmington, Ohio. The extension of the port limits of Dayton, Ohio, is due to the closing of express consignment operations at Dayton International Airport, and the expansion of express consignment operations at Airborne Airpark located in Wilmington, Ohio. The user-fee status of Airborne Airpark is terminated. This change is part of a continuing program to more efficiently utilize Customs and Border Protection's personnel, facilities, and resources, and to provide better service to carriers, importers, and the general public.

DATES: *Effective Date:* July 17, 2009.**FOR FURTHER INFORMATION CONTACT:** Wendy M. Cooper, Office of Field Operations, 202–344–2057.**SUPPLEMENTARY INFORMATION:****I. Background**

In a Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** (71 FR 67313) on November 21, 2006, the Department of Homeland Security (DHS), Customs and Border Protection (CBP), proposed to amend the list of CBP ports of entry at 19 CFR 101.3(b)(1) to extend the limits of the port of Dayton, Ohio, to include the Airborne Airpark in Wilmington, Ohio. CBP also proposed to delete "Wilmington, Airport" from the list of user-fee airports at 19 CFR 122.15(b). (As explained in the NPRM, Airborne Park is currently listed, incorrectly, as "Wilmington Airport" in the list of user-fee airports).

The current port limits of the Dayton, Ohio, port of entry are described in Treasury Decision (T.D.) 76–77, effective March 3, 1976. In the proposed rule of November 21, 2006, CBP

explained that these limits include the territory within the city limits of Dayton, Ohio, as well as the territory within the township limits of the adjacent townships of Butler, Harrison, Wayne, and Mad River, Ohio. CBP further explained that there had been two express consignment operations in the Dayton area: Menlo Worldwide Forwarding/Emery at Dayton International Airport and Airborne Express at Airborne Airpark in Wilmington, Ohio. The Menlo Worldwide Forwarding/Emery operation was within the Port of Dayton at the north edge of the current port boundaries, and Airborne Airpark was southeast of the current boundaries in Wilmington, Ohio. UPS purchased Menlo Worldwide Forwarding, shut down the Emery operation at Dayton International Airport, and has moved the work to their hub located in Louisville, Kentucky. DHL Express (USA) has purchased Airborne Express and has shut down the DHL operations in Cincinnati-Northern Kentucky Airport (CVG) in Covington, Kentucky. DHL Express (USA) opened a new, much larger combined operation at Airborne Airpark in June 2006. In the NPRM, CBP explained that these changes in operations would result in an increase in the demand for CBP services at the Airborne Airpark.

The NPRM proposed to relocate the CBP Dayton port office from its current location at the Dayton International Airport to a new location near the new DHL operation at Airborne Airpark. In the NPRM, CBP stated that it would establish an adequately sized secure storage facility in efficient proximity to Airborne Airpark. CBP explained that these changes would allow for continued efficient operation and supervision of CBP services at the DHL facility.

II. Analysis of Comments

Four comments were received in response to the Notice of Proposed Rulemaking. All four of the commenters expressed either agreement or no objection concerning the proposed extension of the Port of Dayton boundaries and the termination of the user fee airport status of Airborne Airpark in Wilmington, Ohio.

Three of the four commenters, however, raised objections to CBP plans to relocate the Dayton port office. The reasons for these objections included that they believed the Dayton port office should be in Dayton proper and that shifting the office would have a negative impact on brokers using the services of the port office at the current location.

Although the NPRM stated that if the proposed port limits were adopted as a final rule, the location of the port office in Dayton would be moved, the location of a port office within a port is a management decision by an agency that does not require public notice and comment. The current port office for Dayton is located in Vandalia, Ohio where Dayton International Airport is located—not Dayton. CBP routinely relocates port offices to more efficiently utilize CBP's available personnel, facilities, and resources, and CBP believes that the movement of the office to the new proposed location will maximize efficiency. Also, even though the port office will be moved from its current location, CBP plans to maintain staff at the current location at Dayton International Airport so that brokers may continue to transact business there if they so choose.

III. Conclusion

After consideration of the comments received, CBP is extending the geographical limits of the port of Dayton, Ohio, and terminating the user-fee status of Airborne Airpark in Wilmington, Ohio as proposed in the notice. With the closing of express consignment operations at Dayton International Airport and the expansion of such operations at Airborne Park, CBP believes that extending the geographic limits of the port of Dayton, Ohio to include Airborne Park will enable CBP to more efficiently utilize its personnel, facilities, and resources, and to provide better service to carriers, importers, and the general public. The port of entry description of Dayton, Ohio, and the list of user-fee airports will be revised as proposed in the notice.

IV. Port Description of Dayton, Ohio

The port limits of Dayton, Ohio, expanded to include the Airborne Park, are as follows: Beginning at the point where Federal Interstate Highway 75 crosses the Montgomery County—Miami County line; then west along the Montgomery County line to the point where Frederick Pike intersects the Montgomery County line; then south and east on Frederick Pike to the intersection with Dixie Drive; then south to Keowee Street, then south to Federal Interstate Highway 75 to the point where I–75 intersects the Montgomery County—Warren County line; then east along the county line (which becomes the Greene County—Warren County line) to the Clinton County line; then south along the Clinton County line to the intersection with Ohio State Route 350; then east on

Route 350 to the intersection with Ohio State Route 73; then north and west on Route 73 to the intersection with U.S. Route 22; then west along Route 22 to U.S. Highway 68; then north and west on U.S. 68 to the intersection with U.S. Highway 35; then west and north on U.S. 35 to Interstate Highway 675; then north and east on I-675 to the intersection with Federal Interstate Highway 70; then west on I-70 to the intersection with the Montgomery County line; and then north and west along the Montgomery County line to the point of beginning.

V. Authority

This change is made under the authority of 5 U.S.C. 301; 19 U.S.C. 2, 66, and 1624; and 6 U.S.C. 203.

VI. Statutory and Regulatory Reviews

A. Executive Order 12866: Regulatory Planning and Review

This rule is not considered to be an economically significant regulatory action under Executive Order 12866 because it will not result in the expenditure of over \$100 million in any one year. The change is intended to expand the geographical boundaries of the Port of Dayton, Ohio, and make it more easily identifiable to the public and to terminate the user fee airport status of Airborne Airpark in Wilmington, Ohio. There are no new costs to the public associated with this rule. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires federal agencies to examine the impact a rule would have on small entities. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people).

This rule does not directly regulate small entities. The change is part of CBP's continuing program to more efficiently utilize its personnel, facilities, and resources, and to provide better service to carriers, importers, and the general public. To the extent that all entities are able to more efficiently or conveniently access the facilities and resources within the expanded geographical area of the new port limits, this rule should confer benefits to CBP,

carriers, importers, and the general public.

Because this rule does not directly regulate small entities, CBP certifies that this rule does not have a significant economic impact on a substantial number of small entities.

VII. Signing Authority

The signing authority for this document falls under 19 CFR 0.2(a) because the port extension is not within the bounds of those regulations for which the Secretary of the Treasury has retained sole authority. Accordingly, this final rule may be signed by the Secretary of Homeland Security (or his or her delegate).

List of Subjects

19 CFR Part 101

Customs duties and inspection, Customs ports of entry, Exports, Imports, Organization and functions (Government agencies).

19 CFR Part 122

Customs duties and inspection, Airports, Imports, Organization and functions (Government agencies).

Amendments to CBP Regulations

■ For the reasons set forth above, part 101, CBP Regulations (19 CFR part 101) and part 122, CBP Regulations (19 CFR part 122), are amended as set forth below.

PART 101—GENERAL PROVISIONS

■ 1. The general authority citation for part 101 and the specific authority citation for section 101.3 continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 2, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1623, 1624, 1646a.

Sections 101.3 and 101.4 also issued under 19 U.S.C. 1 and 58b;

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§ 101.3 [Amended]

■ 2. The list of ports in § 101.3(b)(1) is amended by removing from the "Limits of Port" column for Dayton, Ohio, the present limits description "Including territory described in T.D. 76-77" and adding "CBP Dec. 09-19" in its place.

PART 122—AIR COMMERCE REGULATIONS

■ 3. The general authority 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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§ 122.15 [Amended]

■ 4. The list of user fee airports at 19 CFR 122.15(b) is amended by removing "Wilmington, Ohio" from the "Location" column and, on the same line, "Wilmington Airport" from the "Name" column.

Dated: June 10, 2009.

Janet Napolitano,
Secretary.

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DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners: Prisoners Serving Sentences Under the United States and District of Columbia Codes

AGENCY: United States Parole Commission, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: The U.S. Parole Commission is promulgating interim rules to implement the District of Columbia Equitable Street Time Credit Amendment Act of 2008. This Act modifies parole laws for District of Columbia offenders by allowing the Parole Commission to terminate the supervision and legal custody of a parolee before the expiration of the parolee's sentence. The Act also modifies the requirement that the parolee lose credit for all time spent on parole when the Commission revokes a parolee's release for violating parole conditions. With these modifications, parole laws for DC offenders are more consistent with similar parole laws governing U.S. Code parole eligible offenders. The Commission is also making a number of conforming amendments to regulations that refer to the functions that are the subject of the new DC law, and editing regulations on the same subjects for U.S. Code parolees to make the regulations simpler and more understandable.

DATES: Comments must be received by August 31, 2009.

ADDRESSES: Submit your comments, identified by docket identification number USPC-2009-01 by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.