

passengers under § 24.22(g): Edward Matthews at (202) 927-0552. Concerning the various fee payment and information submission procedures under § 24.22: Robert T. Reiley at (202) 927-1504.

SUPPLEMENTARY INFORMATION:

Background

On March 18, 2002, Customs and Border Protection (CBP; the bureau within the new Department of Homeland Security that includes the former U.S. Customs Service) published a notice of proposed rulemaking (NPRM) in the **Federal Register** (67 FR 11954) proposing to amend part 24 of the Customs Regulations pertaining to user fees (19 CFR part 24) and certain related sections of part 111 pertaining to customs brokers (19 CFR part 111). The NPRM set forth the bases for the proposed changes to part 24 as follows: (1) Some proposed changes derived from provisions of the Miscellaneous Trade and Technical Corrections Act of 1999 (Pub. L. 106-36, 113 Stat. 127), signed into law on June 25, 1999; (2) one proposed change was based on a provision of the Tariff Suspension and Trade Act of 2000 (Pub. L. 106-476, 114 Stat. 2101), signed into law on November 9, 2000; (3) some proposed changes were based on other statutory provisions that were not reflected in the regulations; (4) some proposed changes were designed to bring the regulations up to date with current administrative practices; and (5) one proposed change was a technical correction. The NPRM provided that the proposed changes to part 111 were designed to clarify administration of the annual user fee and the permit fees for customs brokers. The changes that were proposed are further discussed below.

Changes Based on the Miscellaneous Trade and Technical Corrections Act of 1999

The Fee Structure

Section 2418 of the Miscellaneous Trade and Technical Corrections Act of 1999 (the Act) amended section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985, codified at 19 U.S.C. 58c (section 58c), which established user fees for certain services performed by CBP. Paragraph (b)(1) of section 2418 of the Act amended the fee structure set forth under section 58c(a)(5) applicable to passengers arriving in the United States on board commercial vessels or aircraft. Prior to the Act, only one fee applied to these covered passengers under section 58c(a)(5), as follows: \$6.50 beginning on January 1, 1994, and applying to

passengers arriving from a place outside the customs territory of the United States and \$5 beginning on October 1, 1997, and applying to passengers arriving from a place outside the United States other than Canada, Mexico, a United States territory or possession, or an adjacent island. The amendment continued the \$5 fee applicable to each passenger arriving in the United States aboard a commercial vessel or aircraft from a place outside the United States other than Canada, Mexico, a United States territory or possession, or an adjacent island. This fee, formerly provided for under section 58c(a)(5)(B), is now provided for under section 58c(a)(5)(A). The amendment also imposed, under section 58c(a)(5)(B), a fee of \$1.75 per passenger arriving aboard a commercial vessel (not a commercial aircraft) from Canada, Mexico, a United States territory or possession, or an adjacent island. Under the amended statute, no fee applies in the case of passengers arriving aboard commercial aircraft from Canada, Mexico, a United States territory or possession, or an adjacent island.

In the NPRM, CBP proposed to amend § 24.22(g), Customs Regulations (19 CFR 24.22), to conform the regulations to the new fee structure of amended sections 58c(a)(5)(A) and (B).

Procedures for Payment of the New Fees

The NPRM also proposed changes to the Customs Regulations relative to the fee payment procedure. Under the current regulations, it is the responsibility of the carriers, travel agents, tour wholesalers, or other parties issuing tickets or travel documents to collect the fee from all passengers who are subject to the fee (§ 24.22(g)(3) in the current regulations). These parties must make payment of the collected fees to CBP no later than 31 days after the close of the calendar quarter in which the fees were required to be collected from the passengers (§ 24.22(g)(4) in the current regulations). Current § 24.22(g)(4) also provides that the quarterly fee payment must be accompanied by a statement that includes the name, address, and taxpayer identification number of the party remitting the payment and the calendar quarter covered by the payment.

The NPRM proposed to amend § 24.22(g)(3) to make clear that the party responsible for collecting the fee must collect a fee when an infant travels without a ticket or travel document. This follows CBP's consistent practice of treating infants as passengers for purposes of the passenger fees. Thus, CBP proposed to add to § 24.22(g)(1) a definition of the term "passenger"

making it clear that it includes infants even if the carrier does not charge for their transportation and even if the infant is carried by another passenger (rather than occupying a seat).

Because CBP, since enactment of the Act, has had to administer two fees rather than one, the NPRM also proposed to amend § 24.22(g)(4) to require the following additional information in the statement required under that section: The total number of tickets for which fees were required to be collected, as well as the total number of infants traveling without a ticket or travel document for which fees were required to be collected; the total amount of fees collected and remitted; with respect to vessel fees, the total number of tickets and non-ticketed infants for which fees were required to be collected and the total amount of fees collected; and a breakdown of vessel fees collected and remitted under section 58c(a)(5)(A) (the \$5 per passenger fee) and section 58c(a)(5)(B) (the \$1.75 per passenger fee). This additional information is necessary to enable CBP to properly account for the fees now provided for under section 58c(a)(5).

Changes Based on the Tariff Suspension and Trade Act of 2000

The NPRM proposed amendments to §§ 24.22(b)(4)(iv) and 24.22(g)(1) of the Customs Regulations to conform the regulations to a statutory amendment regarding ferries. Section 1457 of the Tariff Suspension and Trade Act of 2000 amended section 58c(b)(1)(A)(iii) to provide an exception to the fee limitation relative to ferries. Prior to this amendment, ferries were excepted from application of the fees under section 58c(a). While this amendment was self-effectuating, effective on November 24, 2000, making ferries commencing operations on or after August 1, 1999, and operating south of 27 degrees latitude and east of 89 degrees longitude subject to the commercial vessel fee of section 58c(a)(1) (and § 24.22(b)(1)) (provided the ferry is of 100 net tons or more) and the \$1.75 commercial vessel passenger fee of section 58c(a)(5)(B), the NPRM proposed to set forth the statutory requirement in the Customs Regulations.

Changes Based on Other Statutory Provisions

The NPRM also proposed to amend § 24.22(g) to cover the fee exemption provision set forth in section 58c(b)(1)(A)(iv) and the "one-time only fee" set forth in section 58c(b)(4)(B). These two statutory provisions are not reflected in the current regulation.