



FedEx Regulatory Alerts & Updates

Regulatory Alert: U.S. Customs Merchandise Processing Fee Increase

November 10, 2017

Background information

The FAST (Fixing America's Surface Transportation) Act was signed into law by the U.S. Congress in December 2016. The Act is funded by increases in all U.S. Customs and Border Protection (CBP) fees, including the Merchandise Processing Fee (MPF).

CBP issued a Notice of Proposed Rulemaking (NPRM) in mid-July which proposed to amend CBP regulations to implement the requirement in the FAST Act that customs user fees and limitations be adjusted for inflation. A detailed calculation process involving Consumer Price Index (CPI) data is used to ascertain the amount of any increase in a given fiscal year.

CBP issued both a Final Rule (FR) and a General Notice on November 1, 2017:

1. A Final Rule (FR) that detailed the procedures for the inflation-based adjustments to the MPF as well as other various Customs fees. The FR also stipulated that CBP will provide at least a 60-day notice for any fee increases.
2. A General Notice announcing the FY18 user fee adjustments based on the Final Rule

What has Changed

CBP amended the Code of Federal Regulations (19 CFR 24.22 and 24.23) to implement the requirements of the FAST Act.

CBP calculated the fee increase using the formula detailed in the FR below and determined an adjustment of 2.677% is required for Fiscal Year (FY) 2018. This will also apply to limitations on charges such as Merchandise Processing Fees.

The Merchandise Processing Fees effective January 1, 2018 are increased 2.677% with the new minimum and maximum fees as follows:

- Minimum Merchandise Processing Fee - \$25.67 (current fee through December 31, 2017 is \$25.00)
- Maximum Merchandise Processing Fee - \$497.99 (current fee through December 31, 2017 is \$485.00)

Q&A

How often will CBP review the various fees for FAST Act inflation increases?

As per 19 CFR 24.22(k), CBP will determine annually whether an adjustment to the fees and limitations is necessary and a notice specifying the amount of the fees and limitations, as adjusted, will be published in the Federal Register annually for each fiscal year at least 60 days prior to the effective date of the new fees and limitations.

Is any minimal CPI increase applied regardless or are there guidelines that can be considered?

The Fast Act provisions allow the Secretary of the Treasury to ignore any increase of less than one (1) percent from the time of the previous adjustment. The Secretary has discretion to determine whether the fee should be adjusted if the calculated fee increase is less than one percent.

What is MPF and how are the customers notified of the actual MPF charges on a given U.S. import shipment?

MPF is intended to recover the cost of Customs administration of import shipments. 19 CFR 24.23 (below) covers the MPF in detail.

MPF is assessed on formal entries at the time of entry. MPF is paid to CBP on the import clearance entry along with any applicable duties and taxes, and then billed to the customer. The payor of the duty and taxes will receive a copy of the entry summary showing the MPF rate and amount paid, along with the duty/tax invoice.

Timeline for Implementation: January 1, 2018

References:

Final Rule - CBP Procedures to Adjust Customs COBRA User Fees to Reflect Inflation:

<https://www.gpo.gov/fdsys/pkg/FR-2017-11-01/pdf/2017-23878.pdf>

General Notice - CPB Cobra Fees to be Adjusted for Inflation in Fiscal Year 2018:

<https://www.gpo.gov/fdsys/pkg/FR-2017-11-01/pdf/2017-23876.pdf>

19 CFR Part 24.22 (Fees for Certain Services)

https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=ae507f9302f6983ea26b8a5ef8d0c14b&mc=true&r=SECTION&n=se19.1.24_122

19 CFR part 24.23 (Fees for Processing Merchandise):

https://www.ecfr.gov/cgi-bin/text-idx?SID=d6817226790f43c83bc043237d4c4920&mc=true&node=se19.1.24_123&rgn=div8