

# Proposed Rules

Federal Register

Vol. 77, No. 185

Monday, September 24, 2012

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

#### 8 CFR Part 100

#### 19 CFR Part 101

[Docket No. USCBP-2012-0037]

#### Closing of the Jamieson Line, NY Border Crossing

**AGENCY:** U.S. Customs and Border Protection; DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** U.S. Customs and Border Protection (CBP) is proposing to close the Jamieson Line, New York border crossing. The proposed 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.

**DATES:** Comments must be received on or before November 23, 2012.

**ADDRESSES:** You may submit comments, identified by docket number USCBP-2012-0037, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail:* Border Security Regulations Branch, Regulations and Rulings, Office of International Trade, Customs and Border Protection, 799 9th Street NW., 5th Floor, Washington, DC 20229-1179.

*Instructions:* All submissions received must include the agency name and docket title for this rulemaking, and must reference docket number USCBP-2012-0037. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Participation" heading of the **SUPPLEMENTARY INFORMATION** section of the document.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Submitted comments may also be inspected during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Office of International Trade, Customs and Border Protection, 799 9th Street NW., 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325-0118.

**FOR FURTHER INFORMATION CONTACT:** Mr. Roger Kaplan, Director, Office of Field Operations, Programs and Policy, (202) 325-4543 (not a toll-free number) or by email at [Roger.Kaplan@dhs.gov](mailto:Roger.Kaplan@dhs.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the proposed rule. U.S. Customs and Border Protection (CBP) also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposed rule. Comments that will provide the most assistance will reference a specific portion of the proposed rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change.

##### II. Background

CBP ports of entry are locations where CBP officers and employees are assigned to accept entries of merchandise, clear passengers, collect duties, and enforce the various provisions of customs, immigration, agriculture and related U.S. laws at the border. The term "port of entry" is used in the Code of Federal Regulations (CFR) in title 8 for immigration purposes and in title 19 for customs purposes.<sup>1</sup> A "Customs station" is any place, other than a port of entry, at which CBP officers or employees are stationed to enter and clear vessels, accept entries of merchandise, collect duties, and enforce the various provisions of the customs and navigation laws of the United States. Jamieson Line, New York

(referred to in § 101.4(c) of title 19 (19 CFR 101.4(c)) as "Jamieson's Line") is designated as a Customs station with Trout River, New York as its supervisory port of entry.

For immigration purposes, CBP regulations list ports of entry for aliens arriving by vessel and land transportation in § 100.4(a) of title 8 (8 CFR 100.4(a)). These ports are listed according to location by districts and are designated as Class A, B, or C. Jamieson Line, New York (referred to in 8 CFR 100.4(a) as "Jamieson's Line") is included in this list, in District No. 7, as a Class B port of entry. For ease of reference, in this document, we will refer to the crossing at Jamieson Line, New York as a border crossing.

On August 23, 2010, the Canada Border Services Agency (CBSA) notified CBP of its intent to close the Jamieson's Line port of entry in Quebec, Canada. The corresponding U.S. border crossing is the Jamieson Line crossing in New York located approximately 150 feet to the south. CBSA closed the Jamieson's Line port in Quebec, Canada on April 1, 2011. This decision created a situation where travelers from Canada may continue to enter the United States at the Jamieson Line border crossing in New York but travelers leaving the United States for Canada must do so at a port other than at Jamieson's Line port in Quebec.

The Jamieson Line border crossing in New York is one of CBP's least trafficked border crossings. The crossing has processed an average of less than six privately owned vehicles per day and had the eighth lowest traffic volume of all CBP land border crossings in 2010. The volume of traffic at the border crossing has dropped by 20.8% from 2008 to 2011. The facility currently has five full time staff, with only two CBP officers assigned per shift. Redirecting the nominal traffic volume to alternative crossings will have minimal impact on the town closest to the crossing, the town of Burke, with a population of 1,359.

The facility was built in 1945 and has not undergone renovation since 1962. The facility has one primary lane, no secondary lane, and commercial vehicle inspections must occur in the roadway. We have determined that the facility does not have the infrastructure to meet modern operational, safety, and technological demands for border

<sup>1</sup>For customs purposes, CBP regulations list designated CBP ports of entry in § 101.3(b)(1) of title 19 (19 CFR 101.3(b)(1)).

crossings and that major renovations would be required if the Jamieson Line border crossing were to continue operations. The costs of such renovations are discussed in Section IV of this document.

The two ports of entry closest to Jamieson Line are the ports of Trout River, New York and Chateaugay, New York. Trout River is located about 9 road miles west of Jamieson Line and Chateaugay, about 6 road miles east of Jamieson Line. If the border crossing at Jamieson Line is closed, the traffic normally seen at that crossing will be processed at these two ports.

In view of the closure of the adjacent Canadian port of Jamieson's Line, the limited usage of the border crossing of Jamieson Line, New York, the location of the alternative ports, and the analysis of the net benefit of the border crossing closure discussed in Section IV of this document (including the cost of necessary renovations were the crossing to remain open), CBP is proposing to close the Jamieson Line, New York border crossing. This action would further CBP's ongoing goal of more efficiently utilizing its personnel, facilities, and resources.

**III. Congressional Notification**

On May 31, 2011, the Commissioner of CBP notified Congress of CBP's intention to close the border crossing at Jamieson Line, fulfilling the congressional notification requirements of 19 U.S.C. 2075(g)(2) and section 417 of the Homeland Security Act (6 U.S.C. 217).

**IV. Regulatory Requirements**

*A. Signing Authority*

The signing authority for this document falls under 19 CFR 0.2(a). Accordingly, this notice of proposed rulemaking is signed by the Secretary of Homeland Security.

*B. Executive Order 12866: Regulatory Planning and Review*

Executive Orders 13563 and 12866 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of

quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule is not a "significant regulatory action," under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget has not reviewed this regulation.

1. Baseline Conditions

The Jamieson Line crossing averaged 2,202 cars and 63 trucks a year from 2008 through 2011. CBP assigns five full time staff to the crossing, costing about \$559,000 per year, including benefits. In addition, CBP spends about \$28,000 a year on operating expenses such as utilities and maintenance. The total annual cost of operating the crossing is about \$587,000. DHS has determined that the Jamieson Line crossing requires significant renovation and expansion, requiring an estimated \$6.5 million to build facilities that meet all current safety and security standards. Since this construction is the only alternative to closing the crossing, CBP would need to spend \$7,087,000 the first year (construction plus operating costs) and \$587,000 each subsequent year if the crossing were to remain open.

Option 1: Keep crossing open	First year	Subsequent years
Staffing Expenses .....	\$559,000	\$559,000
Operating Expenses .....	28,000	28,000
Crossing Facility Renovation Costs .....	6,500,000	.....
<b>Total Cost to Keep Crossing Open .....</b>	<b>7,087,000</b>	<b>587,000</b>

2. Costs of Closing the Crossing

The costs of the proposed closure fall into three categories—the cost to CBP to physically close the crossing, the cost to U.S. travelers to drive to the next nearest crossing, and the cost to the economy of lost revenue resulting from potential decreased Canadian travel. CBP estimates that it will cost approximately \$205,000 to physically close the crossing, which involves building road barricades, stabilizing the building, and fencing.

In addition to the cost to the government of closing the crossing, we must examine the impact of this proposed closure on U.S. travelers (per guidance provided in OMB Circular A-4, this analysis is focused on costs and benefits to U.S. entities). Approximately 2,250 vehicles and 3,200 passengers cross from Canada into the United States each year at Jamieson Line. If the crossing is closed, these travelers would need to travel to an alternate port,

which could cost them both time and money.

As noted, the two ports closest to Jamieson Line are Chateaugay, which is about 6 miles east, and Trout River, which is about 9 miles west. The alternate port travelers choose to use will depend on their point of origin and their destination. In general, the closer the point of origin or destination is to Jamieson Line, the more the traveler will be affected by the closure. Because CBP does not collect data on either of these points, for the purposes of this analysis we will assume the worst case scenario—that all crossers begin their trip on the Canadian side of the border at a point just across from Jamieson Line and have to travel through an alternate port of entry to arrive at their ultimate destination at a point adjacent to Jamieson Line on the U.S. side of the border. We estimate that such a detour would add 40 minutes and 20 miles to the crossers' trips each way. Since it is unlikely that all crossings at Jamieson

Line originate and end immediately at the border, this methodology likely overstates the cost to travelers.

In 2007, Industrial Economics, Inc. (IEC) conducted a study for CBP to develop "an approach for estimating the monetary value of changes in time use for application in [CBP's] analyses of the benefits and costs of major regulations".<sup>2</sup> We follow the three-step approach detailed in IEC's 2007 analysis to monetize the increase in travel time resulting from the closure of Jamieson Line: (1) Determine the local wage rate, (2) determine the purpose of the trip, and (3) determine the value of the travel delay as a result of this rule. We start

<sup>2</sup> Robinson, Lisa A. 2007. "Value of Time." Submitted to US Customs and Border Protection on February 15, 2007. The paper is contained in its entirety as Appendix D in the Regulatory Assessment for the April 2008 final rule for the Western Hemisphere Travel Initiative requirements in the land environment (73 FR 18384; April 3, 2008). See [www.regulations.gov](http://www.regulations.gov) document numbers USCBP-2007-0061-0615 and USCBP-2007-0061-0616.

by using the median hourly wage rate for Northern New York of \$14.88 per hour, as the effects of the rule are local.<sup>3</sup> We next determine the purpose of the trip. For the purposes of this analysis, we assume this travel will be personal travel and will be local travel. We identify the value of time multiplier recommended by the U.S. Department of Transportation (DOT) for personal, local travel, as 0.5.<sup>4</sup> Finally, we account for the value of the travel delay. Since the added time spent traveling is considered more inconvenient than the baseline travel, we account for this using a factor that weighs time inconvenienced more heavily than baseline travel time. This factor, 1.47, is multiplied by the average wage rate and the DOT value of time multiplier for personal, local travel for a travel time value of \$10.94 per traveler ( $\$14.88 \times 0.5 \times 1.47$ ).<sup>5</sup>

We next multiply the estimated number of travelers entering the U.S. through Jamieson Line in a year (3,200) by the average delay (40 minutes) to arrive at the number of additional hours travelers would be delayed as a result of this rule—2,133 hours. We multiply this by the value of wait time (\$10.94) to arrive at the value of the additional

driving time for travelers arriving in the United States once Jamieson Line is closed. Finally, we double this to account for round trip costs to reach a total time cost of \$46,670.

Besides the cost of additional travel time, we must consider the vehicle costs of a longer trip. We must first estimate the number of miles the closure of Jamieson Line would add to travelers' trips. The annual traffic arriving at Jamieson Line is 2,250 vehicles. Since we assume that the closure will add 20 miles to each crossing, the closure will add a total of 45,000 miles to travelers' trips each year. We next monetize the delay by applying the IRS's standard mileage rate for business travel of \$0.555<sup>6</sup> to these vehicles, which includes fuel costs, wear-and-tear, and depreciation of the vehicle. Because this is an estimate for business travel, it may slightly overstate costs for leisure travelers using their vehicles on leisure activities. Finally, we double the costs to account for the return trip. We estimate that a closure of Jamieson Line will cost U.S. citizens of \$50,000 in additional vehicular costs.

The final cost we must consider is the cost to the economy of lost revenue resulting from potential decreased Canadian travel. Because of the lack of

data on the nature of travel through Jamieson Line and its effect on the local economy, we are unable to monetize or quantify these costs. We therefore discuss this qualitatively.

Since both U.S. and foreign travelers will be inconvenienced by the closure of the crossing of Jamieson Line, it is possible that fewer foreign travelers will choose to cross the border into the United States. To the extent that these visitors were spending money in the United States, local businesses would lose revenue. Since fewer than seven vehicles a day entered the United States at Jamieson Line, this effect is likely to be very small. Also, it could be mitigated by those U.S. citizens who would now choose to remain in the United States. We believe that the total impacts on the economy due to decreased travel to the United States are negligible.

In summary, the closure of the crossing of Jamieson would cost CBP \$205,000 in direct closure costs in the first year, and U.S. travelers \$46,670 in time costs and \$50,000 in vehicle costs annually. Total quantifiable costs to close the crossing are thus approximately \$302,000 in the first year and \$97,000 each following year.

Option 2: Close crossing	First year	Subsequent years
U.S. Traveler Time Costs .....	\$46,670	\$46,670
U.S. Traveler Vehicle Costs .....	50,000	50,000
Crossing Facility Closure Cost .....	205,000	.....
<b>Total Cost to Close Crossing .....</b>	<b>301,670</b>	<b>96,670</b>

3. Net Effect of Closure

The costs to CBP of leaving the crossing of Jamieson Line open are \$7,087,000 the first year and \$587,000 each following year. The cost of closing the crossing are \$301,670 the first year and \$96,670 each following year. Thus, the net benefit of the crossing closure is \$6,785,330 the first year and \$490,330 each year after that.

C. Regulatory Flexibility Act

This section examines the impact of the rule on small entities as required by the Regulatory Flexibility Act (5 U.S.C. 603), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996. 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). Individuals are not defined as small entities under the Regulatory Flexibility Act.

Because CBP does not collect data on the number of small businesses that use the crossing of Jamieson Line, we cannot estimate how many would be affected by this rule. However, an average of fewer than seven vehicles cross into the United States at Jamieson Line each day, and the total cost of the rule to U.S. travelers is only about \$97,000 a year, even assuming the

longest possible detour for all traffic. DHS does not believe that this cost rises to the level of a significant economic impact. DHS thus believes that this rule will not have a significant economic impact on a substantial number of small entities. DHS welcomes any comments regarding this assessment. If it does not receive any comments contradicting this finding, DHS will certify that this rule will not have a significant economic impact on a substantial number of small entities at the final rule stage.

D. Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the

<sup>3</sup> Bureau of Labor Statistics, May 2010. Occupational Employment Statistics Query System. Capital/Northern New York nonmetropolitan area. <http://data.bls.gov/oes/datatype.do>.

<sup>4</sup> U.S. Department of Transportation (DOT), *The Value of Time Savings: Departmental Guidance for*

*Conducting Economic Evaluations Revision 2*, (Memorandum from Polly Trothenberg), September 28, 2011, Tables 1. [http://ostpxweb.dot.gov/policy/reports/vot\\_guidance\\_092811c.pdf](http://ostpxweb.dot.gov/policy/reports/vot_guidance_092811c.pdf).

<sup>5</sup> Wardman, M., "A Review of British Evidence on Time and Service Quality Valuations,"

*Transportation Research Part E*, Vol. 37, 2001, pp. 107–128.

<sup>6</sup> Internal Revenue Service, July 1, 2011. IRS Standard Mileage Rates. <http://www.irs.gov/taxpros/article/0,,id=156624,00.html>.

private sector, of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

#### *E. Executive Order 13132*

The rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

#### **V. Authority**

This change is proposed under the authority of 5 U.S.C. 301, 6 U.S.C. 112, 203 and 211, 8 U.S.C. 1103 and 19 U.S.C. 2, 66 and 1624.

#### **VI. Proposed Amendment to Regulations**

If the proposed closure of the border crossing of Jamieson Line, New York is adopted, CBP will amend the lists of CBP Customs stations at 19 CFR 101.4(c) and the CBP ports of entry at 8 CFR 100.4(a) to reflect this change.

Dated: September 19, 2012.

**Janet Napolitano,**  
*Secretary.*

[FR Doc. 2012-23498 Filed 9-21-12; 8:45 am]

**BILLING CODE 9111-14-P**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 39**

[Docket No. FAA-2012-1000; Directorate Identifier 2012-NM-065-AD]

**RIN 2120-AA64**

#### **Airworthiness Directives; Airbus Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for all Airbus Model A300 B4-601, B4-603, B4-620, B4-605R, and B4-622R airplanes. This proposed AD was prompted by a report that the door frame shells of passenger doors 2 and 4 may not have sufficient structural

strength to enable the airplane to operate safely. This proposed AD would require reinforcing of the door frame shells of passenger doors 2 and 4 on both sides of the fuselage. We are proposing this AD to prevent structural failure of the door frame shells, which could result in in-flight decompression of the airplane and consequent injury to passengers.

**DATES:** We must receive comments on this proposed AD by November 8, 2012.

**ADDRESSES:** You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Fax:* (202) 493-2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Airbus SAS—EAW (Airworthiness Office), 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email [account.airworth-eas@airbus.com](mailto:account.airworth-eas@airbus.com); Internet <http://www.airbus.com>. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221.

#### **Examining the AD Docket**

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Dan Rodina, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057-3356; telephone 425-227-2125; fax 425-227-1149.

**SUPPLEMENTARY INFORMATION:**

#### **Comments Invited**

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include “Docket No. FAA-2012-1000; Directorate Identifier 2012-NM-065-AD” at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

#### **Discussion**

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2012-0044, dated March 23, 2012 (referred to after this as “the MCAI”), to correct an unsafe condition for the specified products. The MCAI states:

As a result of the Extended Service Goal 2 exercise (ESG2) it was shown that the door frame shells of passenger doors 2 and 4 (both sides of the aeroplane) may not have sufficient structural strength to enable the aeroplane to operate safely beyond ESG1 (Extended Service Goal 1 equal to 42,500 Flight Cycles—FC or 89,000 Flight Hours—FH) and up to ESG2 (Extended Service Goal 2 equal to 51,000 FC or 89,000 FH) limits.

This condition, if not corrected, could lead to structural failure of the affected door shells, possibly resulting in in-flight decompression of the aeroplane and consequent injury to occupants.

For the reasons stated above, this [EASA] AD requires the reinforcement at door frame shells of passenger doors 2 and 4.

You may obtain further information by examining the MCAI in the AD docket.

#### **Relevant Service Information**

Airbus has issued Service Bulletin A300-53-6170, dated May 16, 2011. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

#### **FAA’s Determination and Requirements of This Proposed AD**

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified