553(b) (1982), this rule is issued without prior notice and comment because it is a rule of agency organization, procedure, or practice that will not alter the substantive rights or interests of any interested persons. Specifically, this rule only changes the delegation for appointing presiding officers and waiving fees for review of DOE adjustment denials. In order to expedite review of DOE adjustment proceedings as soon as possible, the Commission finds good cause under 5 U.S.C. 553(d) (1982) to make this rule effective upon issuance.

List of Subjects in 18 CFR Part 375

Authority delegations (Government Agencies), Seals and insignia, Sunshine Act.

PART 375—[AMENDED]

In consideration of the foregoing, the Commission amends Part 375 of Chapter I, Title 18, Code of Federal Regulations, as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 375—[AMENDED]

1. The authority citation for Part 375 continues to read as follows for Part 375:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); Executive Order 12,009, 3 CFR Part 142 (1978); Administrative Procedure Act, 5 U.S.C. 553 (1982).

2. In § 375.304, paragraphs (b) and (c) are revised to read follows:

§ 375.304 Delegation to the Administrative Law Judges.

* * * * *

(b) The Chief Administrative Law Judge is further authorized to designate presiding officers for proceedings under Subparts I and J of Part 385 of this chapter, who shall have all the authorities and duties vested in presiding officers by those rules and other applicable rules in conducting proceedings pursuant to sections 503(c) and 504(b)(1) of the Department of Energy Organization Act, 42 U.S.C. 7193(c) and 7194(b)(1) (1982).

(c) The Chief Administrative Law Judge is further authorized to deny or grant, in whole or in part, petitions for waivers of fees prescribed in §§ 381.303 and 381.304 of this chapter in accordance with § 381.106 of this chapter.

§ 375.309 [Amended]

3. In § 375.309, paragraph (e) is removed and paragraph (f) is redesignated as (e).

4. In § 375.309, new paragraph (e) is amended by removing the words "§ 381.304, and ".

[FR Doc. 85-12558 Filed 5-23-85; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

[T.D. 85-91]

Customs Regulations Amendments Relating to the Entry and Clearance of Vessels

AGENCY: U.S. Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to clarify the requirements for entry and clearance for vessels engaged in the lightering of import and export cargo between the U.S. and vessels located beyond the territorial waters of the U.S., as well as for vessels engaged in certain other transactions.

Specifically, the document makes two basic changes. First, a vessel will be required to make entry at a customhouse within 48 hours after arrival in the U.S. if the vessel is returning from another vessel on the high seas after either (1) transporting export merchandise out of the U.S. and transshipping the merchandise to that vessel; or (2) transporting import merchandise to the U.S. after receiving the merchandise from that vessel. Second, an exception is made to the provision that no vessel shall be cleared for the high seas. It will now become necessary for a vessel to obtain clearance if it is bound for another vessel on the high seas to either (1) transship export merchandise which it has transported from the U.S. to that vessel; or (2) receive import merchandise from that vessel and transport the merchandise to the U.S.

EFFECTIVE DATE: August 22, 1985.

FOR FURTHER INFORMATION CONTACT: Paul G. Hegland, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202)-566-5706).

SUPPLEMENTARY INFORMATION:

Background

On October 3, 1984, a notice was published in the **Federal Register** (49 FR 39072), proposing to amend §§ 4.3, 4.9(a), 4.20(a), and 4.60(e), Customs Regulations (19 CFR 4.3, 4.9(a), 4.20(a), 4.60(e)), in order to clarify the entry and clearance requirements for lightering vessels, i.e., vessels which transport cargo between the shore and vessels anchored outside U.S. territorial waters. An advance notice of proposed rulemaking (ANPRM) regarding this subject was published in the **Federal Register** on October 14, 1983 (48 FR 46808). That document contains a complete discussion of the initial proposal and relevant court decisions.

Formal entry of a vessel is now required by section 434 (if an American vessel) or section 435 (if a foreign vessel), Tariff Act of 1930, as amended (19 U.S.C. 1434, 1435). These entry requirements of the navigation laws are derived from provisions of the Act of March 2, 1799 (e.g., section 2774, Revised Statutes of the United States). Regulations implementing these entry requirements are set forth in §§ 4.3 and 4.9, Customs Regulations (19 CFR 4.3, 4.9). Clearance of a vessel is required by section 4197, Revised Statutes, as amended (46 U.S.C. 91). This requirement is derived from § 93 of the Act of March 2, 1799. Regulations implementing the clearance requirement are set forth in §§ 4.60–4.75, Customs Regulations (19 CFR 4.60–4.75).

These vessel entry clearance requirements of the navigation laws are basic to the proper discharge of primary missions of Customs (i.e., (1) assessment and collection of import duties and taxes, and (2) control of carriers, persons, and articles entering or departing the U.S. and the enforcement of statutory restrictions and prohibitions). Clarification of the applicability of the entry and clearance requirements is considered necessary because of technological advances in water transportation and in the transportation of cargo since the Act of March 2, 1799. This is especially true in recent years with the increased use of vessels to transport import and export cargo between the U.S. and foreign countries via locations on the high seas beyond the territorial waters of the U.S. At those locations the import and export cargo is transshipped to and from lighters and other vessels arriving from and departing for the U.S. with the cargo.

Section 434, Tariff Act of 1930, as amended (19 U.S.C. 1434), uses the language "arriving in the United States from a foreign port or place" and section 4197, Revised Statutes, as amended (46 U.S.C. 91), uses the term "bound to a foreign port." Clarification of these phrases is essential to a proper application of the law. This is particularly true with regard to lighters and other vessels arriving in the U.S. with import cargo transshipped from a vessel on the high seas or bound out of the U.S. with export cargo for transshipment to a vessel on the high seas.

If the entry and clearance requirements of the navigation laws are not applicable to lighters and other vessels transporting import and export cargo in and out of the U.S. from and to vessels located on the high seas, it would be, at least theoretically, possible for the bulk of the import and export cargo of the U.S. to be transported in vessels not subject to statutory entry and clearance requirements upon arrival at or departure from the U.S. This would clearly be contrary to the legislative purpose sought to be accomplished by the entry and clearance requirements of the navigation laws and would create severe problems for Customs in carrying out the missions of the agency.

Analysis of Comments

Only two comments were received in response to the October 3, 1984, **Federal Register** notice, one from a state professional association, and the other from the Bureau of the Census, U.S. Department of Commerce. The state professional association merely commented that it supported the proposal because it will help to distinguish between those vessels which are subject to the pilotage laws of that state and those vessels which are exempt from state compliance. Customs only response on this point is that such a result was not then, nor is now our purpose in amending the regulations.

The Bureau of the Census supports the amendment. They want to be able to capture information for statistical purposes concerning the transport of bunker fuel by lightering vessels.

Customs considered this issue and concluded that because a vessel arriving in the U.S. to lade bunkers is exempt from entry by statute (19 U.S.C. 1441(4)) and from clearance by regulation (19 CFR 4.60(b)(3)), if it meets the requirements in 19 U.S.C. 1441(4), such vessel business transacted *outside* U.S. territorial waters also should be exempt from entry and clearance.

We believe that the information on movements of bunker fuel when it is lightered to vessels on the high seas can be captured without applying the entry and clearance requirements to the vessels which do such lightering. We have suggested to Census that it amend its regulations to provide for the documentation of the lightering of bunker fuel on the high seas as well as the taking on of bunker fuel in a U.S. port in a situation in which the vessel is not required to clear.

Discussion of Amendments

Part 4, Customs Regulations, relates to vessels in foreign and domestic trade. Customs is amending § 4.3, which relates to vessels required to make entry, by adding a new paragraph (c). This change is necessary because a vessel will be required to make entry at a customhouse within 48 hours after arrival in the U.S. if the vessel is returning from another vessel on the high seas after either (1) transporting export merchandise out of the U.S. and transshipping the merchandise to that vessel; or (2) transporting import merchandise to the U.S. after receiving the merchandise from that vessel.

Section 4.9(a), which relates to formal entry of vessels, is also being amended by the addition of the parenthetical phrase "(see § 4.3(c))" after the words "foreign port or place". This change is necessary to alert interested persons to a new vessel entry requirement.

This document also amends § 4.20(a), which relates to tonnage taxes, by adding the words "or the high seas adjacent to the United States or the above listed foreign locations" after the listing of various foreign ports and places. This change is necessary because the definition of a "foreign port or place", from which vessels should be entered in a port of the U.S., now includes the *high seas* adjacent to the U.S. as well as the *high seas* adjacent to other parts of North America, Central America, the West Indies, the Bahama Islands, the Bermuda Islands, Newfoundland, and the coast of South America bordering on the Caribbean Sea (considered to include the mouth of the Orinoco River). Thus, vessels transacting business with other vessels on the high seas in these geographic areas and then making entry at ports in the U.S. are required to pay tonnage tax at the rate for those geographic areas.

Finally, Customs is amending § 4.60(e), which presently relates to vessels which are bound for foreign ports and are therefore required to clear. The amendment requires a vessel to be cleared for the high seas if it is bound for another vessel on the high seas to either (1) transship export merchandise which it has transported from the U.S. to that vessel; or (2) receive import merchandise from that vessel and transport the merchandise to the U.S.

E.O. 12291 and Regulatory Flexibility Act

It has been determined that the amendment is not a "major rule" within the criteria provided in section 1(b) of E.O. 12291, and therefore no regulatory impact analysis is required.

Pursuant to the provisions of section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*), it is hereby certified that the regulation will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis, or other requirements of 5 U.S.C. 603 and 604.

Authority

This document is issued under the authority of R.S. 251, as amended, 2793, as amended, 4197, as amended, 4219, as amended, 4225, as amended, sec. 3, 23 Stat. 119, as amended, secs. 434, 435, 441, 624, 46 Stat. 711, as amended, 712, as amended, 759, 58 Stat. 705, 76 Stat. 72; 5 U.S.C. 301, 19 U.S.C. 66, 288, 1434, 1435, 1441, 1624, 42 U.S.C. 269, 46 U.S.C. 3, 91, 111, 121, 123, 128, 2103, 8103, Gen. Hndte. 11, Tariff Schedules of the United States (19 U.S.C. 1202).

Drafting Information

The principal author of this document was Larry L. Burton, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 4

Cargo vessels, Exports, Freight, Harbors, Tonnage taxes, Reporting requirements, Customs duties and inspection, Imports, Vessels.

Amendments to the Regulations

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. Section 4.3 is amended by adding a new paragraph (c) to read as follows:

§ 4.3 Vessels required to enter.

* * * * *

(c) For purposes of the vessel entry requirement in this section and §4.9, a "foreign port or place" shall include a vessel on the high seas when the vessel arriving in the U.S. is returning from the vessel on the high seas after having—

(1) Transported export merchandise out of the U.S. to the vessel on the high seas and there transshipped the merchandise to that vessel; or

(2) Transported import merchandise to the U.S. from the vessel on the high seas after having there received the merchandise from that vessel.

§ 4.9 [Amended]

2. The second sentence of § 4.9(a) is amended by adding the parenthetical phrase "(see § 4.3(c))" after the words "foreign port or place."

§ 4.20 [Amended]

3. The first sentence of § 4.20(a) is amended by removing the word "or" after the word "Newfoundland," and adding the words "or the high seas adjacent to the U.S. or the above listed foreign locations" after the words "Orinoco River).".

4. Section 4.60(e) is amended to read as follows:

§ 4.60 Vessels required to clear.

* * * * *

(e) No vessel shall be cleared for the high seas *except*, a vessel bound to another vessel on the high seas to—

(1) Transship export merchandise which it has transported from the U.S. to the vessel on the high seas; or

(2) Receive import merchandise from the vessel on the high seas and transport the merchandise to the U.S.[93]

William von Raab,
Commissioner of Customs.

Approved: May 3, 1985.

Edward T. Stevenson,
Acting Assistant Secretary of the Treasury.

[FR Doc. 85-12611 Filed 5-23-85; 8:45 am]

BILLING CODE 4820-02-M

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19 CFR Parts 4, 19, 103, 111, 112, 152, 159, 162, 174, 175, 176, and 177

[T.D. 85-90]

Customs Regulations Amendments Relating to Judicial Proceedings

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends various parts of the Customs Regulations, to conform them to the provisions of the Customs Courts Act of 1980 and the Federal Courts Improvement Act of 1982. The Acts clarify and revise the jurisdiction, powers, and procedures of the U.S. Court of International Trade (formerly the U.S. Customs Court) and the U.S. Court of Appeals for the Federal Circuit (formerly the U.S. Court of Customs and Patent Appeals). No substantive changes have been made in these amendments.

EFFECTIVE DATE: June 24, 1985.

FOR FURTHER INFORMATION CONTACT: Ron Gerdes, Office of the Chief Counsel, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-2482).

SUPPLEMENTARY INFORMATION:

Background

In accord with its program to keep its regulations current, the Customs Service has determined that the Customs Courts Act of 1980 (Pub. L. 96-417) and the Federal Courts Improvement Act of 1982 (Pub. L. 97-164), require conforming amendments to the Customs Regulations contained in Title 19, Code of Federal Regulations, Chapter I (19 CFR Chapter I). A list of the affected sections of the regulations and the necessary changes follow.

Discussion of Changes

The Customs Courts Act of 1980 changed the name of the United States Customs Court to the United States Court of International Trade. The Federal Courts Inprovement Act of 1982 changed the name of the United States Court of Customs and Patent Appeals to the United States Court of Appeals for the Federal Circuit. These changes necessitate amendments to several sections of the regulations which contain references to the Customs Court and the Court of Customs and Patent Appeals. Therefore, §§ 103.17(b), 152.16, 159.57, 174.31, 175.31, 176.0 and the heading to Part 176, §§ 176.1, 176.2, 176.11, 176.21, 176.31, 177.2(b)(5), and 177.7(b), Customs Regulations (19 CFR 103.17(b), 152.16, 159.57, 174.31, 175.31, 176.0, 176.1, 176.2, 176.11, 176.21, 176.31, 177.2(b)(5), 177.7(b)), are being amended to (1) remove the words "Customs Court," and insert, in their place, the words "Court of International Trade"; and (2) remove the words "Courts of Customs and Patent Appeals," and insert, in their place, the words "Court of Appeals for the Federal Circuit."

Sections 609 and 610 of the Customs Courts Act of 1980 ("the 1980 Act") made changes to sections 592(e) and 604, Tariff Act of 1930, as amended (19 U.S.C. 1592(e), 1604), relating to the prosecution of cases for violation of 19 U.S.C. 1592. Prior to the 1980 Act, these cases were referred to the U.S. Attorney for the commencement of judicial proceedings in the U.S. district courts. These cases are now referred to the Department of Justice for the commencement of judicial proceedings in the Court of International Trade. This has necessitated other amendments to the Customs Regulations. It is necessary to amend §§ 162.31(a), 162.32 (a) and (b), 162.49(a), and 162.75(d)(3), Customs Regulations (19 CFR 162.31(a), 162.32 (a) and (b), 162.49(a), 162.75(d)(3)), by removing references to the U.S. Attorney and adding references to the Department of Justice, where appropriate.

The 1980 Act amended 28 U.S.C. 1581 to provide the Court of International Trade with exclusive jurisdiction over civil actions commenced to review, prior to the importation of the goods involved, a ruling issued by the Secretary of the Treasury, or a refusal to issue or change such a ruling, relating to classification, valuation, rate of duty, marking, restricted merchandise, entry requirements, drawbacks, vessel repairs, or similar matters. The party commencing the civil action, however, must first demonstrate to the court that he would be irreparably harmed unless given an opportunity to obtain judicial review prior to importation of the goods.

Part 177, Customs Regulations (19 CFR Part 177), relating to the Customs ruling process, does not cite this review authority of the Court of International Trade. Section 177.11(b)(5), Customs Regulations (19 CFR 177.11(b)(5)), provides for Customs Headquarters refusal to consider a request for internal advice whenever Headquarters determines that the time spent in considering the internal advice request would result in the withholding of action with respect to the transactions and the questions presented in the internal advice request subsequently can be raised by the importer or other interested party in the form of a protest in accord with Part 174, Customs Regulations (19 CFR Part 174). No mention is made in this section, however, of the importer or interested party's right to seek judicial review of Customs refusal to consider the internal advice request.

We believe the public should be informed of its right to judicial review by way of the same regulations that set forth the administrative review process. This is consistent with § 174.31, Customs Regulations (19 CFR 174.31), dealing with the administrative review of protests, which sets out the provision for judicial review after the administrative review results in denial of the protest. We are therefore amending § 177.11, Customs Regulations (19 CFR 177.11), to include a new paragraph incorporating the substance of 28 U.S.C. 1581, to inform the public of its right to judicial review of refusals to consider internal advice requests.

In addition to the exclusive jurisdiction conferred upon the Court of International Trade by 28 U.S.C. 1581(h), the Court also has exclusive jurisdiction of any civil action commenced against the U.S., its agencies, or its officers, that arises out of any law of the U.S. providing for, among other things, revenue from imports or tonnage (28 U.S.C. 1581(i)(1)).

Section 4.20(g), Customs Regulations (19 CFR 4.20(g)), which concerns tonnage, states that the decision of the Commissioner of Customs is final on any question of interpretation relating to the collection of tonnage tax or to the refund of such tax when collected erroneously or illegally, and that any question of doubt shall be referred to him for instructions. This reference to finality, however, relates only to finality of the administrative process within the Treasury Department. It does not preclude further review of the matter by the courts of jurisdiction, in this case the Court of International Trade.

To prevent any misunderstanding concerning the administrative finality of decisions on tonnage, we are amending § 4.20(g), Customs Regulations, to clarify that the decision of the Commissioner of Customs is final only in the administrative sense. Furthermore, to inform the public of its right to judicial review of these decisions, we are adding a new § 4.20(h), Customs Regulations, which will refer to the right to judicial review of these decisions in the Court of International Trade.

The 1980 Act also amended 28 U.S.C. 1581(g), to provide that the Court of International Trade shall have exclusive jurisdiction of any civil action commenced to review any decision of the Secretary of the Treasury to deny or revoke a customhouse broker's license under § 641(a), Tariff Act of 1930, as amended (19 U.S.C. 1641(a)); and any order of the Secretary of the Treasury to revoke or suspend a customhouse broker's license under section 641(b), Tariff Act of 1930, as amended (19 U.S.C. 1641(b)).

The Customs Regulations relating to denial and revocation or suspension of a customhouse broker's license are contained in §§ 111.16–111.17 and 111.51–111.75, respectively (19 CFR 111.16–111.17, 111.51–111.75). Although the regulations relating to the revocation or suspension of a broker's license under 19 U.S.C. 1641(b) set forth the right to appeal a decision of the Secretary of the Treasury, there is no such provision in the regulations relating to the denial of a broker's license.

As with the regulations relating to tonnage tax collection or refund, and the refusal to consider an internal advice request or the refusal to issue a ruling, we believe the regulations concerning the denial or revocation of a broker's license, as well as similar regulations concerning the revocation of a cartman or lighterman's license or the right to operate a bonded warehouse, should be amended to inform brokers, bonded warehouse proprietors, and cartmen and lightermen of their right to judicial review, in the Court of International Trade, of an adverse ruling of the Secretary of the Treasury, the Commissioner of Customs, or the Regional Commissioner of Customs. We are therefore amending §§ 111.17, 112.30, and 19.3, Customs Regulations (19 CFR 111.17, 112.30, 19.3), relating to the review of the denial or revocation of a broker's, lighterman's or cartman's license, or the right to operate a bonded warehouse.

Inapplicability of Public Notice and Delayed Effective Date Provisions

Inasmuch as these amendments merely conform the regulations to existing law or practice, pursuant to 5 U.S.C 553(b)(B), notice and public procedure thereon are unnecessary, and pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required.

Executive Order 12291

Because this document will not result in a "major rule" as defined by section 1(b) of E.O. 12291, the regulatory analysis and review prescribed by section 3 of the E.O. is not required.

Inapplicability of Regulatory Flexibility Act

This document is not subject to provisions of sections 603 and 604 of Title 5, United States Code, as added by section 3 of Pub. L. 96–354, the "Regulatory Flexibility Act." That Act does not apply to any regulation, such as this, for which a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551, *et seq.*) or any other statute.

Drafting Information

The principal author of this document was Susan Terranova, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects

19 CFR Part 4

Vessels, Cargo vessels.

19 CFR Part 19

Customs warehouses.

19 CFR Part 111

Administrative practice and procedure, Brokers.

19 CFR Part 112

Common carriers, Exports, Freight forwarders.

19 CFR Part 162

Administrative practice and procedure, Penalties Seizures and forfeitures.

19 CFR Part 177

Administrative practice and procedures.

Amendments to the Regulations

Parts 4, 19, 103, 111, 112, 152, 159, 162, 174, 175, 176, and 177, Customs Regulations (19 CFR Parts 4, 19, 103, 111, 112, 152, 159, 162, 174, 175, 176, 177), are amended as set forth below.

19 CFR PARTS 103, 152, 159, 174, 175, 176, AND 177—[AMENDED]

1. Sections 103.17(b) and its heading, §§ 152.16, 159.57, 174.31, 175.31, 176.0 and the heading to part 176, §§ 176.1, 176.2, 176.11 and its heading, §§ 176.21, 176.31(a) and its heading, §§ 176.31 (b) and (c), 177.2(b)(5), and 177.7(b) and its heading are amended by removing the words "Customs Court", and by inserting, in their place, the words "Court of International Trade."

2. Sections 152.16, 175.31, 176.2, 176.31(a), 176.31(b) and its heading, 176.31(c), 177.2(b)(5), and 177.7(b) are further amended by removing the words "Court of Customs and Patent Appeals", and by inserting, in their place, the words "Court of Appeals for the Federal Circuit."

(R.S. 251, as amended, sec. 624, 46 Stat. 759, 5 U.S.C. 301; 19 U.S.C. 66, 1624 (28 U.S.C. 293(b), 96 Stat. 25))

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

Section 4.20 is amended by revising paragraph (g) and by adding a new paragraph (h), to read as follows:

§ 4.20 Tonnage taxes.

* * * * *

(g) The decision of the Commissioner of Customs is the final administrative decision on any question of interpretation relating to the collection of tonnage tax or to the refund of such tax when collected erroneously or illegally, and any question of doubt shall be referred to him for instructions.

(h) Any person adversely affected by a decision of the Commissioner of Customs relating to the collection of tonnage tax, or to the refund of such tax when collected erroneously or illegally, may appeal the decision in the Court of International Trade provided that the appeal action is commenced in accordance with the rules of the Court within 2 years after the cause of action first accrues.

(R.S. 251, as amended, sec. 624, 46 Stat. 759, 5 U.S.C. 301; 19 U.S.C. 66, 1624 (28 U.S.C. 1581(i), 2636(i)))

PART 19—CUSTOMS WAREHOUSES, CONTAINER STATIONS AND CONTROL OF MERCHANDISE THEREIN

Section 19.3 is amended by adding a new paragraph (g) to read as follows:

§ 19.3 Bonded warehouses; alternations; relocation; suspensions; discontinuance.

* * * * *

(g) *Review by the Court of International Trade.* Any proprietor adversely affected by a decision of the Regional Commissioner may appeal the decision in the Court of International Trade.

(R.S. 251, sec. 624, 46 Stat. 759, sec. 101, 76 Stat. 72; 5 U.S.C. 301, 19 U.S.C. 66, 1624, Gen. Hdnte. 11, Tariff Schedules of the United States; 28 U.S.C. 1581i (1) and (4))

PART 111—CUSTOMHOUSE BROKERS

Section 111.17 is amended by adding a new paragraph (c) to read as follows:

§ 111.17 Review of the denial of a license.

* * * * *

(c) *By the Court of International Trade.* Upon a decision of the Secretary of the Treasury affirming the denial of an application for a license, the applicant may appeal the decision to the Court of International Trade provided the appeal action is commenced within 60 days after the date of entry of the Secretary's decision.

R.S. 251, §§ 624, 641, 46 Stat. 759, as amended, 77A Stat. 14; 5 U.S.C. 301, 19 U.S.C. 66, 1202 (Gen. Hdnte. 11), 1624, 1641 (28 U.S.C. 1581(g) 2636(h))

PART 112—CARRIERS, CARTMEN, AND LIGHTERMEN

Section 112.30 is amended by adding a new paragraph (f) to read as follows:

§ 112.30 Suspension or revocation of license.

* * * * *

(f) *Review by the Court of International Trade.* Any licensee adversely affected by a decision of the Commissioner of Customs may appeal the decision in the Court of International Trade.

(R.S. 251, as amended, secs. 551, 565, 624, 46 Stat. 742, as amended, 747, as amended 759, 19 U.S.C. 66, 1551, 1565, 1624; 28 U.S.C. 1581i (1) and (4))

PART 162—RECORDKEEPING, INSPECTION, SEARCH, AND SEIZURE

1. Part 162 is amended by adding the phrase "or the Department of Justice if the penalty was assessed under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592)," in the following places:

§ 162.31 [Amended]

a. The third sentence of § 162.3i(a), after the words "U.S. attorney";

§ 162.32 [Amended]

b. The first sentence of § 162.32(a), after the words "U.S. attorney";

c. In § 162.32(b), after the words "U.S. attorney for the judicial district in which the seizure was made";

§ 162.49 [Amended]

d. In § 162.49(a), after the reference to the "U.S. attorney."

§ 162.75 [Amended]

2. Part 162 is further amended by removing the words "U.S. attorney for the judicial district in which the seizure was made" and inserting, in their place, the words "Department of Justice" in the first sentence of § 162.75(d)(3)(1).

(80 Stat. 379, R.S. 251, as amended, section 624, 46 Stat. 759, 5 U.S.C. 301, 19 U.S.C. 66, 1624)

PART 177—ADMINISTRATIVE RULINGS

Section 177.11 is amended by adding a new paragraph (b)(8) to read as follows:

§ 177.11 Requests for advice by field offices.

* * * * *

(b) * * *

(8) *Judicial review of importers' requests.* A refusal by the Headquarters Office to consider the questions raised by an importer in the form of a request for internal advice may be appealed to the Court of International Trade if the importer demonstrates to the Court that he would be irreparably harmed unless given an opportunity to obtain judicial review prior to the importation of the merchandise.

(R.S. 251, as amended, § 624, 46 Stat. 759, 77A Stat. 14; 5 U.S.C. 301, 19 U.S.C. 66, 1202 (Gen. Hdnte. 11), 1624, 28 U.S.C. 1581(h))

Alfred R. De Angelus,

Acting Commissioner of Customs.

Approved: May 3, 1985.

Edward T. Stevenson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 85-12608 Filed 5-23-85; 8:45 am]

BILLING CODE 4820-02-M

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19 CFR Part 24

[T.D. 85-92]

Customs Regulations Amendment Relating to Payment of Duties, Taxes and Other Charges

AGENCY: U.S. Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: The Customs Regulation provide that an uncertified check drawn by an interested party on a national or state bank or trust company shall be accepted as payment for Customs duties, taxes and other charges owing, provided a bond securing payment of these obligations is on file with Customs, or if no bond has been filed, provided prior approval has been obtained. This document amends the regulations to provide that importers or interested parties who are delinquent in the discharge of any obligation to Customs as a result of checks being returned to Customs unpaid, will be required to pay duties, taxes or other charges by certified check, money order or cash with each subsequent entry or entry summary, before the merchandise being entered is released from Customs custody or reimbursable services are performed. The names of these importers or interested parties will be placed on one or more of the Customs regions' sanction lists, and the importer or interested party will be required to submit payment by certified check, money order or cash for all subsequent payments until such time as the district director is satisfied that the importer or interested party has demonstrated his ability to consistently present uncertified checks which are honored by the payor bank. This amendment is necessary to ensure that the check is covered by sufficient funds in the banking institution on which it is drawn, thereby relieving Customs of the time and resource-consuming burden of attempting to collect against checks returned for insufficient funds.

EFFECTIVE DATE: June 24, 1985.

FOR FURTHER INFORMATION CONTACT: Robert Hamilton, Jr., Accounting Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-2596).

SUPPLEMENTARY INFORMATION:

Background

Section 24.1(a)(3), Customs Regulations (19 CFR 24.1(a)(3)), provides that an uncertified check drawn by an interested party on a national or state bank or trust company of the U.S. shall be accepted by Customs for payment of duties, taxes or other charges if there is on file with the district director of Customs an entry bond or other bond to secure the payment of the duties, taxes or other charges. If a bond has not been filed, the organization or individual drawing and tendering the uncertified check must have been approved by the district director to make payment in this manner. It also is provided that in