§ 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) Tranship 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

---

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

---

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 determining whether an uncertified check shall be accepted in the absence of a bond, the district director shall use available credit data obtainable without cost to the Government, such as that furnished by banks, local business firms, better business bureaus, or local credit exchanges, sufficient to satisfy him of the credit standing or reliability of the drawer of the check.

For the most part, these procedures facilitate the prompt payment of duties, taxes and other charges to Customs. In a significant number of cases, however, uncertified checks submitted in payment of duties and other obligations are returned unpaid by the banking institution because the importer or interested party's account does not have sufficient funds to cover the check. If the obligation remains unsatisfied, the debtor is designated by Customs as a delinquent payor and his name is placed on a sanction list published by the Customs Financial Management Division of the region in which the debt is incurred. This listing is furnished to import specialists, inspectors and other Customs officials with instructions not to release the delinquent payor's merchandise unless a duty-paid entry is filed and not to provide reimbursable services unless cash payment is first tendered.

Although a duty-paid entry is required from a delinquent importer or interested party, this has not proved to be an adequate method of ensuring payment of duty inasmuch as the importer or interested party may continue to submit uncertified checks that are dishonored because of insufficient funds. Moreover, it is very likely that imported merchandise will have been released before the check is returned to Customs unpaid by the banking institution.

Customs past attempts to collect the duty or other obligations from delinquent importers or interested parties who habitually submit checks that are dishonored because of insufficient funds or, if these attempts are unsuccessful, from the surety on the importer's bond, have resulted in unnecessary administrative expense and loss of revenue.

Accordingly, by notice published in the **Federal Register** on June 28, 1984 (49 FR 26604), it was proposed to amend § 24.1(a), Customs Regulations (19 CFR 24.1(a)), to provide that where the importer or interested party is delinquent in the payment of duties or any other obligation to Customs, the district director shall require a certified check, money order or cash from the importer, party in interest or agent for each subsequent payment until the delinquent debt is satisfied. Interested parties were given until August 27, 1984, to submit comments with respect to the proposed change. Thirteen comments were received in response to the notice. A discussion of the comments and our responses follow.

Discussion of Comments

Comment:

Several commenters stated that the proposed amendment is too broad in that it requires payment by certified check, money order or cash from importers or interested parties who are merely delinquent in the payment of any obligation to Customs, regardless of whether they had presented, as payment of the obligation, checks that were returned for insufficient funds.

Response:

We agree. Our intent in amending § 24.1(a) is to require all importers or interested parties who in the past have presented checks which were dishonored by the payor banks for reason of insufficient funds, to make subsequent payments for all debts to Customs by the certified check, money order or cash method. Therefore, the amendment to § 24.1(a) is being revised to clarify that payment by check, money order or cash will be required of debtor importers or interested parties who have, at any time within the preceding 12 months, paid duties or any other obligation to Customs by check and more than one check was returned for insufficient funds. This method of payment will be required for each subsequent entry or payment until such time as the district director is satisfied that the debtor has the ability to consistently present uncertified checks that will be honored by the debtor's financial institution.

The delinquent debtor whose delinquency results from his presentation of more than one dishonored check within the preceding 12-month period will have his name put on Customs sanction list. However, this list is not limited to this type of delinquent debtor; it also may contain the names of delinquent debtors whose delinquency is the result of other action by the debtor.

Comment:

One commenter recommends that the proposal be expanded to include estimated duties, claiming that the word "duties" alone is not sufficiently descriptive. It was further recommended that the term "customhouse broker" be included in the amendment along with the terms "importer, party in interest, or agent," to identify those persons who may be delinquent in the payment of duties or any other obligation to Customs, since brokers often submit duties on behalf of importers of record. The commenter fears that a broker may circumvent the intent of this amendment by making an entry in his name for the account of a delinquent importer.

Response:

The word "duties" covers all duties, estimated or liquidated, and all taxes, collected or assessed. Therefore, it is not necessary to include the word "estimated" before "duties".

It also is not necessary to include brokers in the amendment. If a broker makes an entry in his own name, obligating his bond, then he is the importer of record and thus is covered by the term "importer of record" in the amendment. The broker may actually be acting on behalf of a delinquent importer. However, if within the preceding 12 months the broker has no record of presenting Customs with more than one check that has been dishonored, Customs may not require the broker to present a certified check, as it would have required of the delinquent importer, provided that the broker is using his check or the check of a non-delinquent interested party. This does not circumvent the intent of the amendment, which is to ensure that the check will be honored.

Comment:

Several commenters are concerned that a delinquency by a branch or subsidiary office of the importer of record at one location would cause a sanctioning of all company locations.

Response:

The importer of record is responsible for timely duty payments by all its branch offices. A delinquency incurred by one branch office for presenting a check that is dishonored may indeed result in all branch offices of the importer of record being required to submit subsequent payments of duty or other obligations by certified check, cash or money order. It is the importer of record's responsibility to supervise its branch offices. The importer can correct this situation and have its name removed from the sanction list by convincing the district director that it is capable of having all its field offices render uncertified checks which are honored by the financial institution on which they are drawn.

Comment:

One commenter states that the proposal ignores the intent of E.O. 12291.

in that it is based upon assumptions that it would relieve Customs of the time and resource-consuming burden of attempting to collect duty and other charges from delinquent importers, and that the continuation of the present system is very likely to lead to the assessment of higher bond charges by surety companies.

Response:

It is expected that administrative savings will result from the amendment since it will reduce the number of checks presented to Customs which are subsequently dishonored, thus reducing the time and money spent in attempting to collect against dishonored checks.

Upon consideration of all the comments received, and upon further review of the matter, it has been determined advisable to adopt the proposal, with the modifications noted in this document.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that the amendment 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.

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 in 19 CFR Part 24

Customs duties and inspection, Imports, Accounting.

Amendment to the Regulations

Part 24, Customs Regulations (19 CFR Part 24), is amended as set forth below.

William von Rabb,
Commissioner of Customs.

Approved: May 3, 1985.

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

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

Section 24.1(a), Customs Regulations (19 CFR 24.1(a)) is amended by redesignating paragraph (a)(3) as (a)(3)(i) and adding new paragraph (a)(3)(ii) to read as follows:

§ 24.1 Collection of Customs duties, taxes, and other charges.

(a) * * *

(3) * * *

(ii) If, during the preceding 12-month period, an importer or interested party has paid duties or any other obligation by check and more than one check is returned dishonored by the debtor's financial institution, the district director shall require a certified check, money order or cash from the importer or interested party for each subsequent payment until such time that the district director is satisfied that the debtor has the ability to consistently present uncertified checks that will be honored by the debtor's financial institution.

(R.S. 251, as amended (19 U.S.C. 66), section 1, 19 Stat. 247, 249 (19 U.S.C. 197); section 1, 36 Stat. 965 (19 U.S.C. 198); section 624, 46 Stat. 759 (19 U.S.C. 1624), section 641, 46 Stat. 759, as amended (19 U.S.C. 1641), section 648, 46 Stat. 762 (19 U.S.C. 1648))

[FR Doc. 85-12610 Filed 5-23-85; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

[Reg. Nos. 4 and 16]

Federal Old-Age, Survivors and Disability Insurance, Supplemental Security Income for the Aged, Blind, and Disabled; Changes of Time or Place of Hearings Before Administrative Law Judges, Notice of Hearing, and Dismissal of Requests for Hearing When Claimants Fail To Appear

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: These final regulations establish standards for determining whether there is good cause for changing the time or place of an administrative law judge (ALJ) hearing at a claimant's request. The final regulations also extend from 10 days to 20 days the minimum time period for notifying the claimant and his or her representative of the time and place of the hearing. Lastly, the final regulations clarify that an ALJ may dismiss a request for hearing without further contact with the claimant or his or her representative when the claimant and the representative fail to appear at a scheduled hearing and the ALJ has not found good cause for changing the time and place of the hearing. These regulations pertain only to claimant hearings before ALJs under titles II and XVI of the Social Security Act, and will not affect other proceedings conducted by the Social Security Administration (SSA).

EFFECTIVE DATE: May 24, 1985.

FOR FURTHER INFORMATION CONTACT: Eugene Larkin, Division of Hearings Procedures, Office of Policy and Procedures—Office of Hearings and Appeals, Room 101 Webb Building, P.O. Box 3200, Arlington, Virginia 22203, telephone (703) 235-8545.

SUPPLEMENTARY INFORMATION:

General Summary

A notice of proposed rulemaking (NPRM) was published on March 23, 1984 (49 FR 10939) with a 60-day public comment period.

We received 17 written comments on the notice of proposed rulemaking, including several letters received after the close of the 60-day comment period. All of these comments have received consideration. The majority of these comments were from legal services agencies and attorneys who represent claimants before SSA. In addition, we received comments from a group of six ALJs.

Although many of the commenters recommended various changes in the proposed regulations, they generally supported (1) the inclusion of additional information on the notice of hearing; (2) extending from 10 to 20 days the minimum time period for notifying the claimant and his or her representative of the time and place of the hearing; and (3) publication of good cause criteria for changing the time or place of hearing. Some of the commenters supported the regulation clarifying that a notice of failure to appear at a scheduled hearing is not required in all instances if a claimant fails to attend a hearing. Others expressed the opinion that the existing regulations should not be revised in this regard.

As discussed below, we have made changes and clarifications in the final regulations in response to the public comments. Also, to the extent possible, we have amended the final regulations to accommodate the special needs of some beneficiaries and we have clarified points which caused some commenters to interpret the proposed regulations as more restrictive than we intended.