

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

* * * *Effective December 28, 2000*

Greeley, CO, Greeley-Weld County, ILS RWY 34, Orig
Holyoke, CO, Holyoke, NDB RWY 14, Orig
Holyoke, CO, Holyoke, NDB RWY 32, Orig
Wadena, MN, Wadena Muni, RNAV RWY 34, Orig

* * * *Effective January 25, 2001*

Barrow, AK, Wiley Post—Will Rogers memorial, ILS/DME RWY 6, Amdt 2B, CANCELLED
Barrow, AK, Wiley Post—Will Rogers memorial, ILS RWY 6, Orig
Arkadelphia, AR, Dexter B. Florence Memorial Field, GPS RWY 4, Orig-A
Blytheville, AR, Blytheville Muni, GPS RWY 36, Orig-A
De Queen, AR, J. Lynn Helms Sevier County, GPS RWY 8, Orig-A
Harrison, AR, Boone County, NDB RWY 18, Amdt 5D
Harrison, AR, Boone County, GPS RWY 18, Orig-A
Helena/West Helena, AR, Thompson-Robbins, GPS RWY 17, Orig-A
Hot Springs, AR, Memorial Field, Zapple VOR RWY 5, Amdt 4A
Hot Springs, AR, Memorial Field, NDB RWY 5, Amdt 7B
Newport, AR, Newport Muni, GPS RWY 18, Orig-B
Newport, AR, Newport Muni, GPS RWY 36, Orig-B
Fairfield, IA, Fairfield Muni, RNAV (GPS) RWY 18, Orig
Fairfield, IA, Fairfield Muni, VOR/DME RNAV RWY 18, Amdt 1C, CANCELLED
Oelwein, IA, Oelwein Muni, RNAV (GPS) RWY 13, Orig
Oelwein, IA, Oelwein Muni, VOR/DME RNAV OR GPS RWY 13, Amdt 2A, CANCELLED
Alexandria, LA, Esler Regional, VOR OR GPS RWY 32, Amdt 13, CANCELLED
De Quincy, LA, De Quincy Industrial Airpark, GPS RWY 15, Orig-A
De Quincy, LA, De Quincy Industrial Airpark, GPS RWY 33, Orig-A
Hammond, LA, Hammond Muni, GPS RWY 31, Orig-B
Houma, LA, Houma-Terreboone, VOR/DME OR GPS RWY 30, Amdt 11C
Houma, LA, Houma-Terreboone, GPS RWY 18, Orig-A
New Iberia, LA, Acadiana Regional, NDB OR GPS RWY 34, Amdt 8B
Grants, NM, Grants-Milan Muni, GPS RWY 31, Orig-C
Las Vegas, NM, Las Vegas, Muni, GPS RWY 32, Orig-A
Santa Fe, NM, Santa Fe Muni, NDB RWY 2, Amdt 4A

Garrison, ND, Garrison Muni, RNAV (GPS) RWY 13, Orig
Garrison, ND, Garrison Muni, RNAV (GPS) RWY 31, Orig
Guymon, OK, Guymon Muni, GPS RWY 18, Orig, CANCELLED
Guymon, OK, Guymon Muni, RNAV (GPS) RWY 18, Orig
Williamsport, PA, Williamsport Regional, VOR/DME RNAV-A, Orig, CANCELLED
Pulaski, TN, Abernathy Field, NDB OR GPS RWY 15, Amdt 4, CANCELLED
Pulaski, TN, Abernathy Field, RNAV (GPS) RWY 15, Orig
Pulaski, TN, Abernathy Field, RNAV (GPS) RWY 33, Orig
Big Spring, TX, Big Spring McMahon-Wrinkle, VOR/DME OR GPS RWY 17, Amdt 7B
Bonham, TX, Jones Field, NDB RWY 17, Amdt 4
Borger, TX, Hutchinson County, VOR OR GPS RWY 17, Amdt 8A
Dallas, TX, Redbird, VOR/DME OR GPS RWY 17, Orig-A
Dumas, TX, Moore County, VOR/DME RNAV RWY 19, Amdt 3D
Dumas, TX, Moore County, GPS RWY 19, Orig-A
Fort Worth, TX, Fort Worth Meacham Intl, NDB OR GPS RWY 16L, Amdt 5A
Fort Worth, TX, Fort Worth Spinks, VOR/DME RNAV RWY 35L, Orig-A
Hamilton, TX, Hamilton Muni, NDB RWY 36, Orig-A
Hamilton, TX, Hamilton Muni, GPS RWY 36, Orig-A
Marfa, TX, Marfa Muni, VOR RWY 30, Amdt 5A
Marfa, TX, Marfa Muni, GPS RWY 30, Orig-A
Mesquite, TX, Mesquite Metro, NDB OR GPS RWY 17, Amdt 5A
Midland, TX, Midland Airpark, VOR/DME OR GPS RWY 25, Amdt 3A
New Braunfels, TX, New Braunfels Muni, GPS RWY 13, Orig-B
Palacios, TX, Palacios Muni, GPS RWY 13, Orig-A
Seminole, TX, Gaines County, NDB RWY 35, Amdt 1
Sinton, TX, San Patricio County, VOR/DME RWY 14, Amdt 1A
Sinton, TX, San Patricio County, VOR/DME RWY 32, Amdt 8A
Morgantown, WV, Morgantown Muni—Walter L. Bill Hart Field, RNAV (GPS) RWY 18, Amdt 1
Madison, WI, Dane County Regional—Truax Field, RADAR-1, Amdt 16

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DEPARTMENT OF THE TREASURY**Customs Service****19 CFR Parts 162, 171 AND 178**

[T.D. 00-88]

RIN 1515-AC69

Civil Asset Forfeiture

AGENCY: Customs Service, Department of the Treasury.

ACTION: Interim rule; solicitation of comments.

SUMMARY: This document amends the Customs Regulations, on an interim basis, in order to implement the provisions of the Civil Asset Forfeiture Reform Act of 2000 (CAFRA), insofar as these provisions are applicable to laws enforced by Customs. The CAFRA creates general rules governing civil forfeiture proceedings. However, CAFRA specifically exempts from certain of its requirements forfeitures that are made under a number of statutes, among these being: The Tariff Act of 1930 or any other provision of law codified in title 19, United States Code; the Internal Revenue Code of 1986; the Federal Food, Drug, and Cosmetic Act; and the Trading with the Enemy Act. In addition, the interim rule makes minor conforming changes to the Customs Regulations in order to reflect a recodification of existing statutory law.

DATES: Interim rule is effective August 23, 2000, and applies to any forfeiture proceeding commenced on or after August 23, 2000. Comments must be received on or before February 12, 2001.

ADDRESSES: Written comments may be addressed to and inspected at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Jeremy Baskin, Penalties Branch (202-927-2344).

SUPPLEMENTARY INFORMATION:**Background**

Section 2 of the Civil Asset Forfeiture Reform Act of 2000 ("CAFRA"), Pub. L. 106-185, 114 Stat. 202, enacted on April 25, 2000, and codified at title 18, United States Code, section 983 (18 U.S.C. 983), creates general rules for civil forfeiture proceedings. This section of the CAFRA, however, specifically exempts from certain of its requirements forfeitures undertaken pursuant to the following statutes: The Tariff Act of 1930 or any other provision of law codified in title

19, United States Code; the Internal Revenue Code of 1986; the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 *et seq.*); the Trading with the Enemy Act (50 U.S.C. App. 1 *et seq.*); and section 1 of title VI of the Act of June 15, 1917 (40 Stat. 233; 22 U.S.C. 401).

Under section 2 of the CAFRA, specified duties and obligations are placed upon Government officials to be designated by seizing agencies. To clarify and implement the law in this regard, the interim rule identifies the particular Customs official who will grant extensions of time for sending notices of seizure, as authorized by 18 U.S.C. 983(a)(1)(B), and it identifies those Customs officials who will rule on requests for immediate release of seized property, as authorized by 18 U.S.C. 983(f)(2). The interim regulations also provide clear guidance to Customs officials in the processing of property seized for forfeiture under the CAFRA.

To address these matters, the interim rule adds a new subpart H to part 162 of the Customs Regulations (19 CFR part 162, subpart H).

Furthermore, the interim regulations make clear that acceptance of an administrative forfeiture remission does not make the government liable for fees, costs or interest pursuant to 28 U.S.C. 2465. In this respect, a new § 171.24 is added to the Customs Regulations (19 CFR 171.24) to provide that, in the case of any seizure for forfeiture that is remitted or mitigated under 19 U.S.C. 1618 or 31 U.S.C. 5321, the person who accepts such a remission or mitigation decision will not be considered to have substantially prevailed in a civil forfeiture proceeding for purposes of being able to collect any fees, costs or interest from the Government.

With the exception of the amendment providing for a new § 171.24, seizures exempt from the requirements of section 2 of the CAFRA will be processed in accordance with existing regulations.

Lastly, Pub. L. 103-272, 108 Stat. 745, dated July 5, 1994, reenacted and recodified the provisions of title 49, United States Code. To this end, the interim rule removes the reference to "49 U.S.C. App." appearing in part 171, subpart F, of the Customs Regulations (19 CFR part 171, subpart F), and adds in its place a reference to "49 U.S.C. 80303", in accordance with the recodification of the statutory provision specifically made by section 1(e) of Public Law 103-272.

Comments

Before adopting these interim regulations as a final rule, consideration will be given to any written comments that are timely submitted to Customs.

Customs specifically requests comments on the clarity of this interim rule and how it may be made easier to understand. Comments submitted will be available for inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4) and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, D.C.

Inapplicability of Notice and Delayed Effective Date Requirements, the Regulatory Flexibility Act and Executive Order 12866

The interim regulations do not impose any additional requirements upon the public. Rather, these regulations are intended both to confer certain additional rights on property owners or interested parties, and to provide clear guidance to Customs officials in the processing of property seized for forfeiture under the CAFRA.

Accordingly, it has been determined that notice and public comment procedures are inapplicable and unnecessary in this case pursuant to 5 U.S.C. 553(b)(B), and pursuant to 5 U.S.C. 553(d)(1) and (d)(3), a delayed effective date is not required. Because this document is not subject to the requirements of 5 U.S.C. 553, as noted, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Nor do the interim amendments result in a "significant regulatory action" as specified in E.O. 12866.

Paperwork Reduction Act

The collection of information contained in this interim rule has already been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and assigned OMB Control Number 1515-0052 (Petition for remission or mitigation of forfeitures and penalties incurred). This collection encompasses a claim for seized property in a non-judicial civil forfeiture proceeding. This rule does not present any material change to the existing approved information collection. An agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB.

Part 178, Customs Regulations (19 CFR part 178), containing the list of approved information collections, is

appropriately revised to make reference to OMB Control Number 1515-0052.

List of Subjects

19 CFR Part 162

Administrative practice and procedure, Customs duties and inspection, Drug traffic control, Imports, Inspection, Law enforcement, Penalties, Prohibited merchandise, Reporting and recordkeeping requirements, Seizures and forfeitures.

19 CFR Part 171

Administrative practice and procedure, Customs duties and inspection, Law enforcement, Penalties, Seizures and forfeitures.

19 CFR Part 178

Administrative practice and procedure, Collections of information, Imports, Paperwork requirements, Reporting and recordkeeping requirements.

Amendments to the Regulations

Parts 162, 171 and 178, Customs Regulations (19 CFR parts 162, 171 and 178), are amended as set forth below.

PART 162—INSPECTION, SEARCH, AND SEIZURE

1. The general authority citation for part 162 continues to read as follows, and a specific authority citation for §§ 162.91-162.96 is added to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1592, 1593a, 1624.

* * * * *

Sections 162.91 through 162.96 also issued under 18 U.S.C. 983.

2. Part 162 is amended by adding a new subpart H to read as follows:

Subpart H—Civil Asset Forfeiture Reform Act

Sec.

162.91	Exemptions.
162.92	Notice of seizure.
162.93	Failure to issue notice of seizure.
162.94	Filing of a claim for seized property.
162.95	Release of seized property.
162.96	Remission of forfeitures and payment of fees, costs or interest.

Subpart H—Civil Asset Forfeiture Reform Act

§ 162.91 Exemptions.

The provisions of this subpart will apply to all seizures of property for civil forfeiture made by Customs officers except for those seizures of property to be forfeited under the following statutes: The Tariff Act of 1930 or any other provision of law codified in title 19,

United States Code; the Internal Revenue Code of 1986; the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 *et seq.*); the Trading with the Enemy Act (50 U.S.C. App. 1 *et seq.*); and section 1 of title VI of the Act of June 15, 1917 (40 Stat. 233; 22 U.S.C. 401).

§ 162.92 Notice of seizure.

(a) *Generally.* Customs will send written notice of seizure as provided in this section to all known interested parties as soon as practicable. Except as provided in paragraphs (b), (c) and (d) of this section, in no case may notice be sent more than 60 calendar days after the date of seizure. Any notice issued under this section will include all information that is required by § 162.31(a) and (b) of this part.

(b) *Seizure by state or local authorities.* In a case in which property is seized by a state or local law enforcement agency and turned over to Customs for the purpose of forfeiture under Federal law, notice will be sent not more than 90 calendar days after the date of seizure by the State or local law enforcement agency.

(c) *Identity or interest of party not determined.* If the identity or interest of a party is not determined until after the seizure or turnover, but it is determined before a declaration of forfeiture, notice will be sent to such interested party not later than 60 calendar days after the determination by Customs of the identity of the party or the party's interest.

(d) *Extensions by Customs.* (1) The Assistant Commissioner, Investigations, or his designee, may extend the period for sending notice under this section for a period not to exceed 30 calendar days, if it is determined that issuance of the notice within 60 calendar days of seizure may have an adverse result, including:

- (i) Endangering the life or physical safety of an individual;
- (ii) Flight from prosecution;
- (iii) Destruction of or tampering with evidence;
- (iv) Intimidation of potential witnesses; or
- (v) Otherwise seriously jeopardizing an investigation or unduly delaying a trial.

(2) The period for sending notice of seizure as provided in paragraph (d)(1) of this section may not be further extended except by order of a court of competent jurisdiction as prescribed in paragraph (e) of this section.

(e) *Extensions by a court.* Upon motion by the Government, a court of competent jurisdiction may extend the period for sending notice for a period not to exceed 60 calendar days. This

period may be further extended by the court for additional 60 calendar-day periods, as necessary, if the court determines, based on a written certification of the Assistant Commissioner, Investigations, or designee, that the conditions set forth in paragraph (d) of this section are present.

§ 162.93 Failure to issue notice of seizure.

If Customs does not send notice of a seizure of property in accordance with § 162.92 to the person from whom the property was seized, and no extension of time is granted, Customs will return the property to that person without prejudice to the right of the Government to commence a forfeiture proceeding at a later time. Customs is not, however, required to return contraband or other property that the person may not legally possess.

§ 162.94 Filing of a claim for seized property.

(a) *Generally.* In lieu of filing a petition for relief in accordance with part 171 of this chapter, any person claiming property seized by Customs in a non-judicial civil forfeiture proceeding may file a claim with the appropriate Fines, Penalties, and Forfeitures Officer.

(b) *When filed.* Unless the Fines, Penalties, and Forfeitures Officer provides additional time to the person filing a claim for seized property pursuant to paragraph (a) of this section, the claim must be filed within 35 calendar days after the date the notice of seizure is mailed. If the notice of seizure is not received, a claim may be filed not later than 30 calendar days after the date of final publication of notice of seizure and intent to forfeit the property.

(c) *Form of claim.* The claim must be in writing but need not be made in any particular form.

(d) *Content of claim.* The claim must:

- (1) Identify the specific property being claimed;

- (2) State the claimant's interest in the property (and provide customary documentary evidence of such interest, if available) and state that the claim is not frivolous; and

- (3) Be made under oath, subject to penalty of perjury.

(e) *Effect of claim.* Not later than 90 calendar days after a claim has been filed, the Government will file an appropriate complaint for forfeiture, except that a court in the district in which the complaint will be filed may extend the period for filing a complaint for good cause shown or upon agreement of the parties.

§ 162.95 Release of seized property.

(a) *Generally.* Except as provided in paragraph (b) of this section, a claimant to seized property under 18 U.S.C. 983(a) is entitled to immediate release of the property if:

- (1) The claimant has a possessory interest in the property;

- (2) The claimant has sufficient ties to the community to provide assurance that the property will be available at the time of trial;

- (3) The continued possession of the property by Customs pending the final disposition of forfeiture proceedings will cause substantial hardship to the claimant, such as preventing an individual from working, or leaving an individual homeless; and

- (4) The claimant's likely hardship from the continued possession by Customs of the seized property outweighs the risk that the property will be destroyed, damaged, lost, concealed, or transferred if it is returned to the claimant during the pendency of the proceedings.

(b) *Exceptions.* Immediate release of seized property under paragraph (a) of this section will not apply if the seized property:

- (1) Is contraband, currency or other monetary instrument, or electronic funds, unless, in the case of currency, other monetary instrument or electronic funds, such property comprises the assets of a legitimate business;

- (2) Is to be used as evidence of a violation of the law;

- (3) By reason of design or other characteristic, is particularly suited for use in illegal activities; or

- (4) Is likely to be used to commit additional criminal acts if returned to the claimant.

(c) *Request for release.* A claimant seeking release of property under this section must request possession of the property from the Fines, Penalties, and Forfeitures Officer who issued the notice of seizure. The request need not be made in any particular form, but must be in writing and set forth the basis on which the requirements of paragraph (a) of this section have been met. The request may be filed at any time during which the property remains under seizure.

(d) *Granting request for release.* The Fines, Penalties, and Forfeitures Officer may release the property if it is determined to be appropriate under paragraphs (a) through (c) of this section.

(e) *Denial of or failure to act on request for release.* If the Fines, Penalties, and Forfeitures Officer denies the request for release or fails to make a decision on the request by the 15th

calendar day after the date the request is received by Customs, the claimant may file a petition in the district court in which the complaint has been filed, or, if no complaint has been filed, in the U.S. district court in which the seizure warrant was issued or in the U.S. district court for the district in which the property was seized.

§ 162.96 Remission of forfeitures and payment of fees, costs or interest.

When a person elects to petition for relief before, or in lieu of, filing a claim under § 162.94, any seizure subject to forfeiture under this subpart may be remitted or mitigated pursuant to the provisions of 19 U.S.C. 1618 or 31 U.S.C. 5321(c), as applicable. Any person who accepts a remission or mitigation decision will not be considered to have substantially prevailed in a civil forfeiture proceeding for purposes of collection of any fees, costs or interest from the Government.

PART 171—FINES, PENALTIES AND FORFEITURES

1. The authority citation for part 171 is revised to read as follows:

Authority: 18 U.S.C. 983; 19 U.S.C. 66, 1592, 1593a, 1618, 1624; 22 U.S.C. 401; 31 U.S.C. 5321; 46 U.S.C. App. 320.

Subpart F also issued under 19 U.S.C. 1595a, 1605, 1614; 21 U.S.C. 881 note.

2. Part 171 is amended by adding a new § 171.24 to read as follows:

§ 171.24 Remission of forfeitures and payment of fees, costs or interest.

Any seizure subject to forfeiture may be remitted or mitigated pursuant to the provisions of 19 U.S.C. 1618 or 31 U.S.C. 5321, as applicable. Any person who accepts a remission or mitigation decision will not be considered to have substantially prevailed in a civil forfeiture proceeding for purposes of

collection of any fees, costs or interest from the Government.

§ 171.52 [Amended]

3. In § 171.51(b)(7) and 171.52(a), the reference to “49 U.S.C. App. 782” is removed and, in its place, a reference to “49 U.S.C. 80303” is added.

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for part 178 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1624; 44 U.S.C. 3501 *et seq.*

2. Section 178.2 is amended by adding the following in appropriate numerical sequence according to the section number under the columns indicated:

§ 178.2 Listing of OMB control numbers.

19 CFR Section	Description	OMB Control No.
* * * * *	* * * * *	* * * * *
§§ 162.94, 162.95(c)	Petition for remission or mitigation of forfeitures and penalties incurred	1515–0052
* * * * *	* * * * *	* * * * *
§ 171.11	Petition for remission or mitigation of forfeitures and penalties incurred	1515–0052
* * * * *	* * * * *	* * * * *

Approved: August 24, 2000.

Raymond W. Kelly,

Commissioner of Customs.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 00–31882 Filed 12–13–00; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF STATE

22 CFR Part 22

[Public Notice 3503]

Schedule of Fees for Consular Services

AGENCY: Department of State.

ACTION: Interim rule; stay of regulation.

SUMMARY: The Department of State is staying the amendment of the schedule of fees for the affidavit of support processing fee published in the **Federal Register** of September 7, 2000 (65 FR 54148–54150).

DATES: Effective December 14, 2000, Item 61 of 22 CFR 22.1 is stayed until January 1, 2001.

FOR FURTHER INFORMATION CONTACT:

Susan Abeyta, Office of the Executive Director, Bureau of Consular Affairs, Department of State, SA–1, 10th Floor, 2401 E Street, NW., Washington DC 20522–0111; telex (202) 663–2499; e-mail address abeytask@state.gov.

SUPPLEMENTARY INFORMATION: On September 7, 2000, (65 FR 54148–54150) the Department published a rule adding a new item, Item 61, to the Schedule of Fees for consular services. Item 61 calls for a fee of \$50.00 for review of a newly-required Affidavit of Support, Form I–864, when submitted in support of an application for immigration to the United States. The rule established October 1, 2000, as the effective date for collection of this new fee. For technical reasons, the Department was unable to begin this program on that date. This rule applies to posts designated for this purpose by the Deputy Assistant Secretary for Visa Services.

List of Subjects in 22 CFR Part 22

Schedule of Fees for Consular Services.

22 CFR Part 22 is amended as follows:

PART 22—SCHEDULE OF FEES FOR CONSULAR SERVICES—DEPARTMENT OF STATE AND FOREIGN SERVICE

1. The authority citation for Part 22 continues to read:

Authority: 8 U.S.C. 1153 note, 1151, 1151 note; 10 U.S.C. 2602(c); 22 U.S.C. 214, 2504(a), 4201, 4206, 4215, 4219; 31 Y./s./c, 9701; E.O. 10718; 22 FR 4632, 3 CFR 1954–1958 Comp., p. 382; E.O. 11295, 31 FR 10603, 3 CFR 1966–1970 Comp., p. 570.

§ 22.1 [Amended]

2. Stay § 22.1, Item 61 until January 1, 2001.

Dated: November 27, 2000.

Bonnie R. Cohen,

Under Secretary for Management.

[FR Doc. 00–31740 Filed 12–13–00; 8:45 am]

BILLING CODE 4710–06–P