

# Proposed Rules

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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 THE TREASURY

### Customs Service

#### 19 CFR Part 24

RIN 1515-AC64

#### Time Limitation for Requesting Refunds of Harbor Maintenance Fee and for Making Other Claims Against Customs

**AGENCY:** Customs Service, Department of the Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document proposes to amend the Customs Regulations to establish a one year time limit within which a refund request must be filed for overpayments of Harbor Maintenance Fees that were paid quarterly and for making other claims against Customs. This time limit would assure an efficient reasonable final resolution of claims against Customs.

**DATES:** Comments must be received on or before February 13, 2001

**ADDRESSES:** Comments may be submitted to and inspected at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

**FOR FURTHER INFORMATION CONTACT:** Deborah Thompson, Accounts Receivable Branch, Accounting Services Division, (317) 298-1200 ext. 4003.

#### SUPPLEMENTARY INFORMATION:

#### Background

The Harbor Maintenance Fee was created by provisions of the Water Resources Development Act of 1986 (26 U.S.C. 4461 *et seq.*) ("the Act"), as amended, and implemented through interim regulations, published in the *Federal Register* as T.D. 87-44 on March 30, 1987 (52 FR 10198). The Act authorizes the Customs Service to assess a harbor maintenance fee for port use at certain ports by commercial vessels which load or unload merchandise or passengers, unless specifically

exempted. By assessing a charge for port use, the Act causes those who benefit from the maintenance of a Federal port or harbor to share in the cost of that maintenance.

It is necessary for there to be a time limit within which a refund claim can be submitted to Customs to assure an efficient reasonable final resolution of refund claims.

In a case decided by the United States Court of Appeals for the Federal Circuit on February 28, 2000, *Swisher International, Inc. v. United States*, No. 99-1277 (February 28, 2000), the court held that there was "no generic limitation period on requesting [harbor maintenance fee] refunds" because Customs did not set a time limit for requesting refunds in the applicable regulations. The court went on to say that "Customs was free to impose time limits on the filing of [harbor maintenance fee] refund requests \* \* \* and it remains free to alter the regulation to impose a time limit in the future."

Customs is acting on the court's advice and proposing to amend the Customs Regulations by establishing a one year time limit for the filing of a refund request for quarterly harbor maintenance fee payments. The one year limit for a refund request will commence at the payment date to Customs. The payment date for quarterly harbor maintenance fee payments mailed to Customs at a post office box is the date the payment to the post office box is processed to Customs account. Section 24.24(e)(4) of the Customs Regulations (19 CFR 24.24(e)(4)) is proposed to be amended to add this time limitation.

This proposed one year time limitation is only applicable to requests for refunds for harbor maintenance fees that are paid quarterly. The proposed limitation is not applicable to requests for refunds of harbor maintenance fees that were paid in accordance with the normal Customs collection procedures for imported merchandise set forth in §§ 24.1 and 141.1 (19 CFR 24.1 and 141.1). Section 24.24(e)(2)(ii), Customs Regulations describes those harbor maintenance fees that are paid in accordance with normal duty collection procedures for imported merchandise. If a harbor maintenance fee is paid in accordance with normal duty collection procedures for imported merchandise, a

refund may be sought of that fee in accordance with the procedure that is used for seeking a refund of a duty payment. Additionally, requests for refunds of payments made quarterly that are properly filed with Customs prior to this proposed rule becoming final will be processed by Customs regardless of the dates on which payments were made.

#### Other Claims

At this time, for similar reasons of administrative efficiency, Customs is also proposing to set a one year time limitation for the filing of a claim of any nature arising under the Customs laws which is not otherwise provided for in the regulations. This limitation is added to § 24.73 of the Customs Regulations (19 CFR 24.73).

#### Technical Correction

Customs is also amending § 24.24(e)(2)(ii) for a technical error removing the citation to "(e)(3)(iii)" and replacing it with "(e)(2)(iii)".

#### Comments

Before adopting the proposed amendments, consideration will be given to any written comments, including comments on the clarity of the amendments and how they may be made easier to understand, that are timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552); § 1.4, Treasury 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 a.m. and 4:30 p.m. at the Regulations Branch, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

#### Regulatory Flexibility Act

Insofar as the proposed amendments merely establish a filing time limit to existing regulations, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), it is certified that the amendments, if adopted, will not have a significant economic impact on a substantial number of small entities. Accordingly, the proposed amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

**Executive Order 12866**

The proposed amendments do not meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

**Drafting Information**

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

**List of Subjects in 19 CFR Part 24**

Accounting, Canada, Claims, Customs duties and inspection, Fees, Financial and accounting procedures, Harbors, Reporting and recordkeeping requirements, Taxes, User fees.

**Proposed Amendment**

It is proposed to amend part 24, Customs Regulations (19 CFR part 24) as set forth below:

**PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE**

1. The general authority citation for part 24 will continue to read as follows:

**Authority:** 5 U.S.C. 301, 19 U.S.C. 58a–58c, 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1505, 1624; 26 U.S.C. 4461, 4462; 31 U.S.C. 9701.

\* \* \* \* \*

2. It is proposed to amend § 24.24 by removing in paragraph (e)(2)(ii) the reference to (e)(3)(iii)" and adding "(e)(2)(iii)"; and by revising paragraph (e)(4) to read as follows:

**§ 24.24 Harbor Maintenance Fee.**

\* \* \* \* \*

(e) *Collections.*

\* \* \* \* \*

(4) *Supplemental payments and refunds.* If a supplemental payment is made for a harbor maintenance fee that was paid quarterly, it must be mailed to the U.S. Customs Service, P.O. Box 70915, Chicago, Illinois 60673–0915. The envelope containing a supplemental payment must also have enclosed both a Harbor Maintenance Fee Amended Quarterly Summary Report, Customs Form 350, and a copy of the Harbor Maintenance Fee Quarterly Summary Report, Customs Form 349, that was submitted at the time the fee for which the supplemental payment is being made was originally paid. Requests for refunds of a quarterly harbor maintenance fee payment, specifying the grounds of the claim along with the required documentation, must be received by Customs within one year from the date the fee for which the refund is sought was paid to Customs;

or in the case of merchandise admitted into a foreign trade zone and subsequently withdrawn from the zone for any purpose specified in 19 U.S.C. 1309, within one year from the date of withdrawal from the zone. A request for a refund of a quarterly harbor maintenance fee payment must be submitted to Customs with both a Harbor Maintenance Fee Amended Quarterly Summary Report, Customs Form 350, and a copy of the Harbor Maintenance Fee Quarterly Summary Report, Customs Form 349, that was submitted at the time the fee for which a refund is sought was originally paid. The request for a refund of a quarterly harbor maintenance fee payment must be mailed to the U.S. Customs Service, HMF Refunds, 6026 Lakeside Blvd., Indianapolis, IN 46278.

\* \* \* \* \*

3. It is proposed to revise § 24.73 to read as follows:

**§ 24.73 Miscellaneous claims.**

Every claim of whatever nature arising under the Customs laws which is not otherwise provided for shall be forwarded directly to Office of Finance, Headquarters, U.S. Customs Service, specifying the grounds of the claim together with all supporting documents and information available. Any claims within this section must be submitted within one year of the act giving rise to the claim.

**Raymond W. Kelly,**

*Commissioner of Customs.*

Approved: December 11, 2000.

**Helen B. Belt,**

*Acting Deputy Assistant Secretary of the Treasury.*

[FR Doc. 00–31969 Filed 12–14–00; 8:45 am]

**BILLING CODE 4820–02–P**

**DEPARTMENT OF THE INTERIOR****Minerals Management Service****30 CFR Part 203****RIN 1010–AC71****Royalty or Reduction in Royalty Rates—Deep Water Royalty Relief for OCS Oil and Gas Leases Issued After 2000**

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Extension of comment period for proposed rule.

**SUMMARY:** This document extends to January 9, 2001, the deadline for submitting comments on the proposed rule revising regulations on royalty

relief for oil and gas producers on the Outer Continental Shelf (OCS). The proposed rule provides for suspension or reduction of royalty on a case-by-case basis for certain additional categories of OCS leases under 30 CFR part 203. Also, it identifies circumstances when we may consider special royalty relief outside our established end-of-life and deep water royalty relief programs.

**DATES:** We will consider all comments received by January 9, 2001, and we may not fully consider comments received after January 9, 2001.

**ADDRESSES:** Mail or hand-carry written comments (three copies) to the Department of the Interior; Minerals Management Service; 381 Elden Street; Mail Stop 4024; Herndon, Virginia 20170–4817; Attention: Rules Processing Team. You may also e-mail your comments to RPT at:

[rules.comments@MMS.gov](mailto:rules.comments@MMS.gov). Please mark your message for return receipt and identify the rule identification number "RIN 1010–AC71" in the subject line of your message. Include your name and return address in your message text.

**FOR FURTHER INFORMATION CONTACT:** Marshall Rose, Economic Division, at (703) 787–1536.

**SUPPLEMENTARY INFORMATION:** MMS was asked to extend the deadline for submitting comments on the proposed regulations revising 30 CFR part 203, Relief or Reduction in Royalty Rates, published on November 16, 2000 (65 FR 69259, with a subsequent correction on November 22, 2000 (65 FR 70386)). The requests indicate a need to wait for the conclusion of two MMS-sponsored workshops the week of December 11, which are designed, in part, to discuss the content and rationale of the proposed rule.

**Public Comments Procedures**

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by the law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of