

**DEPARTMENT OF HOMELAND SECURITY****Bureau of Customs and Border Protection****DEPARTMENT OF THE TREASURY****19 CFR Chapters I and IV**

[CBP Dec. 03–24]

RIN 1515 AD 39

**Delegations of Authority: Signature of Customs and Border Protection Regulations Published in the Federal Register**

**AGENCY:** Bureau of Customs and Border Protection; Department of Homeland Security; Department of the Treasury.

**ACTION:** Final rule.

**SUMMARY:** This document revises the title and structure of title 19 of the Code of Federal Regulations (CFR) to reflect changes caused by the creation of the Department of Homeland Security and the consequent governmental reorganization. The document also specifies the signatures that indicate the exercise of authority for documents that appear in 19 CFR chapter I. In addition, this document adds and reserves for future use a chapter under which the bureau of Immigration and Customs Enforcement (ICE) may issue regulations.

**EFFECTIVE DATE:** August 28, 2003.

**FOR FURTHER INFORMATION CONTACT:** Harold Singer, Chief, Regulations Branch, Customs and Border Protection (202) 572–8767.

**SUPPLEMENTARY INFORMATION:****Background**

Prior to March 1, 2003, the United States Customs Service was a component of the Department of the Treasury (Treasury). In accordance with Treasury Department Order No. 165, Revised (Treasury Decision 53654), issued on November 2, 1954, the Commissioner of Customs prescribed the regulations contained in Title 19 of the Code of Federal Regulations, Chapter I (19 CFR Chapter I) (the Customs Regulations), and with certain limited exceptions, the Customs Regulations required the approval of the Secretary of the Treasury (or his or her delegate). On November 25, 2002, the President signed the Homeland Security Act of 2002, 6 U.S.C. 101 *et seq.*, Pub. L. 107–296, (the Act), establishing the Department of Homeland Security (DHS). Under section 403(1) of the Act (6 U.S.C. 203(1)), the United States Customs Service, including functions of

the Secretary of the Treasury relating thereto, transferred to the Secretary of Homeland Security.

Notwithstanding the transfer of the Customs Service to DHS, section 412 of the Act (6 U.S.C. 212) provides that the legal authority vested in the Secretary of the Treasury over customs revenue functions is to be retained by the Secretary of the Treasury. Section 412 of the Act also authorizes the Secretary of the Treasury to delegate any of the retained legal authority over the customs revenue functions to the Secretary of Homeland Security.

By Treasury Department Order No. 100–16, dated May 15, 2003 and published in the **Federal Register** on May 23, 2003 (68 FR 28322), the Secretary of the Treasury delegated to the Secretary of Homeland Security authority to prescribe regulations pertaining to the customs revenue functions. This Order further provided that the Secretary of the Treasury retained the sole authority to approve any Customs Regulations concerning import quotas or trade bans, user fees, marking, labeling, copyright and trademark enforcement, and the completion of entry or substance of entry summary including duty assessment and collection, classification, valuation, application of the U.S. Harmonized Schedules, eligibility or requirements for preferential trade programs, and the establishment of recordkeeping requirements relating thereto.

The Code of Federal Regulations (CFR) is divided into 50 titles based on subject matter. Within each CFR title, departments and agencies are assigned individual chapters.

Because title 19 chapter I of the Code of Federal Regulations is currently named for the “United States Customs Service, Department of the Treasury,” and that agency is now known as the bureau of “Customs and Border Protection” (CBP) and is a component of DHS, the title of 19 CFR chapter I is revised in this document to reflect the new name of the agency and to add DHS. The Department of the Treasury remains in the title of chapter I because of the retained authority of the Secretary of the Treasury with respect to regulations concerning the customs revenue functions.

This document also amends the Customs Regulations by adding a new part 0 that prescribes the signatures that indicate the exercise of authority to amend, revise, or revoke regulations in 19 CFR chapter 1. The document specifies that signatures of the Secretary of the Treasury and of the Secretary of Homeland Security include the

signatures of his or her Treasury or DHS delegate (respectively). Thus, the signature of the Commissioner of Customs and Border Protection indicates exercise of the Secretary of Homeland Security’s authority as his or her DHS delegate.

Lastly, section 442 of the Homeland Security Act of 2002 (6 U.S.C. 252) established the Bureau of Border Security. Pursuant to section 1502 of the Act, the President transmitted to the House of Representatives the “Reorganization Plan Modification for the Department of Homeland Security” which, effective March 1, 2003, renamed the Bureau of Border Security as the bureau of “Immigration and Customs Enforcement” (ICE). ICE brings together the investigation arms of the former Customs Service, the investigative functions of the former Immigration and Naturalization Service, and the former Federal Protective Service. Under the savings provisions of the Homeland Security Act and general principles of federal law, the “Customs Regulations” in Title 19 CFR chapter I apply as relevant to both components of the legacy “United States Customs Service”—*i.e.* to ICE and CBP. Nonetheless, in the future it is anticipated that ICE may issue regulations unique to ICE. Thus, this document creates a new chapter IV in 19 CFR for any regulations that ICE may promulgate in the future. However, absent such express regulatory action, the creation of this new chapter does not in itself supersede any Customs Regulations that currently apply for ICE in Chapter I.

**Inapplicability of Prior Public Notice and Delayed Effective Date Requirements**

This regulation involves matters relating to agency management. It involves the relationship between cabinet Departments on issues of authority over Customs Regulations. For this reason, pursuant to 5 U.S.C. 553 (a)(2), prior notice and public procedure and a delayed effective date are not required.

**The Regulatory Flexibility Act and Executive Order 12866**

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. Further, this amendment does not meet the criteria for a “significant regulatory action” for purposes of Executive Order 12866.