

§ 1655.4 Number of loans.

* * * One of the two outstanding loans may be a residential loan and the other one may be a general purpose loan. * * *

11–12. Revise paragraph (b) of § 1655.11 to read as follows:

§ 1655.11 Loan acceptance.

* * * * *

(b) The participant has the maximum number of loans outstanding under § 1655.4;

* * * * *

13. Add a new § 1655.21 to read as follows:

§ 1655.21 Loan fee.

A participant will be charged a \$50.00 loan fee when a TSP loan is disbursed, which will be deducted from the proceeds of the loan.

PART 1690—THRIFT SAVINGS PLAN

14. The authority citation for Part 1690 continues to read as follows:

Authority: 5 U.S.C. 8474.

15. Revise § 1690.12 to read as follows:

§ 1690.12 Power of attorney.

A TSP participant or beneficiary can authorize an individual to conduct business with the TSP on his or her behalf by appointing an agent (*i.e.*, an attorney-in-fact). Before the TSP will allow an agent to conduct business for the participant, the TSP must approve the power of attorney (POA) granting such authority. The TSP will accept a general POA that authorizes the agent to act on behalf of the participant with respect to the participant's personal property, Federal Government retirement benefits, or business transactions. A general POA will give the agent unlimited authority with the TSP, including the authority to sign any TSP-related document. The TSP will also accept a specific POA authorizing the agent to effect TSP transactions. If the participant or beneficiary desires to limit the agent's authority to specified TSP transactions, the POA must expressly state the limitation on the agency's authority. To be accepted by the TSP, a POA must be authenticated, attested, acknowledged, or certified by the principal before a notary public or other official authorized by law to administer oaths or affirmations. The TSP will advise the person submitting the POA whether it is valid to effect TSP transactions.

16. Revise § 1690.13 to read as follows:

§ 1690.13 Guardianship and conservatorship orders.

A court can authorize an agent to conduct business with the TSP on behalf of an incapacitated TSP participant or beneficiary by appointing a guardian or conservator. Before the TSP will allow a guardian or conservator to conduct business with the TSP, the TSP must approve the guardianship or conservatorship order issued by a court of competent jurisdiction as defined in § 1690.1. The TSP will accept a general appointment of guardianship or conservatorship that authorizes the agent to act on behalf of the participant with respect to the participant's personal property, Federal Government retirement benefits, or business transactions. A general appointment will give the agent unlimited authority with the TSP, including the authority to sign any TSP-related document. The TSP will also accept a specific appointment of guardianship or conservatorship authorizing the agent to effect TSP transactions. If the court desires to limit the agent's authority to specific TSP transactions, the court order must expressly state the limitation on the agent's authority. In addition, before the TSP will accept a guardianship or conservatorship order, the agent must establish to the satisfaction of the TSP that any bonding requirement or other preconditions specified in the court order have been satisfied. The TSP will advise the guardian or conservator whether the order is valid to effect transactions in the TSP.

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DEPARTMENT OF HOMELAND SECURITY**8 CFR Part 103****19 CFR Part 24**

RIN 1651–AA51

Overtime Compensation and Premium Pay for Customs Officers

AGENCY: Department of Homeland Security.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the definition of “customs officer” for the purpose of eligibility for overtime compensation and premium pay. In addition, a conforming change is made to the definition of “immigration officer”. These revisions are necessary to reflect recent changes in the functions and organizational structure of U.S.

Customs and Border Protection consistent with the Homeland Security Act of 2002.

DATES: Comments must be received by May 7, 2004.

ADDRESSES: Written comments (preferably in triplicate) may be addressed to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Washington, DC 20229, and may be inspected at 799 9th Street, NW., 5th Floor, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Richard Balaban, Financial Analyst, Office of Field Operations, (202) 927–0031.

SUPPLEMENTARY INFORMATION:**Background**

Section 24.16 of the Customs Regulations (19 CFR 24.16) sets forth the procedure that U.S. Customs and Border Protection (CBP) must follow to furnish overtime and premium pay to customs officers, as required by the Customs Officer Pay Reform Act (“COPRA”; 19 U.S.C. 267). The statutory language at 19 U.S.C. 267(e)(1) provides that overtime compensation and premium pay may be paid to an individual performing those functions specified by regulation by the Secretary of the Treasury for a customs inspector or canine enforcement officer. Since the enactment of the Homeland Security Act of 2002 (Pub. L. 107–296, 116 Stat. 2135, 6 U.S.C. 101 *et seq.*), these regulations are promulgated by the Secretary of Homeland Security.

The enabling regulation, specifically § 24.16(b)(7), Customs Regulations, defines those eligible for COPRA coverage by specifying only four position descriptions: “Customs Inspector,” “Supervisory Customs Inspector,” “Canine Enforcement Officer,” and “Supervisory Canine Enforcement Officer.” This definition does not encompass the expanded border security and inspection functions brought into CBP by the government reorganization consistent with the Homeland Security Act of 2002. (See Homeland Security Act and the President's Reorganization Plan of November 25, 2002, as amended by the President's January 30, 2003 modification.)

When CBP was established on March 1, 2003, it brought together some 18,000 inspection personnel from different agencies and disciplines at the nation's ports of entry, with the priority mission of preventing terrorists and terrorist weapons from entering the United States. At present, three different overtime and premium pay systems are

required to administer overtime compensation and premium pay for inspection personnel.

Proposed Regulation

This proposed regulation would amend the definition of “customs officer” for the purpose of eligibility for overtime compensation and premium pay. As a result of this regulatory change to the definition of “customs officer” in 19 CFR and a conforming change to the definition of “immigration officer” in 8 CFR, the Department of Homeland Security (DHS) will implement a single overtime and premium pay system, COPRA, replacing the three different systems that are now in place. This will eliminate the inequities and disparities in pay and scheduling under the three different systems.

A new position, Customs and Border Protection Officer (known as CBP Officer), is being established to merge the expanded border and inspection functions formerly performed within three separate agencies: the Immigration and Naturalization Service (Department of Justice), the United States Customs Service (Department of the Treasury), and the Animal and Plant Health Inspection Service (Department of Agriculture). The CBP Officer will be the principal front line officer carrying out the priority mission and the traditional customs, immigration and some agriculture inspection functions, which are now the responsibility of CBP. The establishment of the new position will enable the agency to perform its mission more efficiently and to provide better protection and service to the public at the ports of entry. In addition, CBP is establishing the CBP Agriculture Specialist position with responsibilities for agriculture inspection of passengers and cargo as well as analysis of agriculture imports. In order to assure that these officers meet their responsibilities to the public, they are required to be available for overtime as a condition of employment.

To enable CBP to furnish overtime compensation and premium pay for these new positions, it is necessary to include “Customs and Border Protection Officer” and related positions within the definition of “customs officer” in 19 CFR 24.16(b)(7). It is noted that the continued usage of the term “customs officer” does not reflect any reorganization within DHS. Rather, it occurs because it reflects the pertinent statutory authority, 19 U.S.C. 267, regarding overtime compensation and premium pay. Including the “Customs and Border Protection Officer” within the definition of “customs officer” in 19

CFR 24.16(b)(7) does not affect the authority of a “Customs and Border Protection Officer” to engage in customs, immigration, and agriculture inspection functions. Instead, it is a key step to implementing the “one face at the border” initiative by harmonizing the pay systems for the personnel who perform those functions.

Furthermore, it is necessary to include a technical change in 8 CFR 103.1 to authorize a customs officer, as defined in 19 CFR 24.16(b)(7), to perform immigration inspection functions, without a separate designation. Currently, customs officers perform such immigration functions pursuant to a designation as an immigration officer.

Finally, it is important to note that this proposed rule is tangentially related but separate and distinct from the proposed rule published on February 20, 2004 in the **Federal Register** by DHS and the Office of Personnel Management regarding the establishment of a new human capital system for DHS. The two proposals address different human resources issues. This proposed rule expands the eligibility of certain employees to receive overtime compensation and premium pay under 19 U.S.C. 267. This rule has no impact on setting any employee’s basic rate of pay. The human capital rule, on the other hand, proposes to create a new system for setting basic pay within DHS.

Comments

Before adopting this proposed regulation as a final rule, consideration will be given to any written comments timely submitted to CBP, including comments on the clarity of this proposed rule and how it may be made easier to understand. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552) and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on normal business days between the hours of 9 A.M. and 4:30 P.M. at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572-8768.

Executive Order 12866

This rule is considered by DHS to be a “significant regulatory action” under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, this rule has been submitted to the Office of Management

and Budget (OMB) for review. DHS has assessed the impacts of this rulemaking and its alternatives, as presented below.

Impact on User Fees

At present, three user fees, supplemented by appropriations, fund the three different overtime pay systems that, in turn, govern the three traditional inspection disciplines. CBP will assure that there will be no impact on fees or service levels. CBP will track and account by activity how the fees are spent to ensure the proper transfer of immigration and agriculture funds to reimburse the Customs User Fee Account to cover costs incurred for immigration and agriculture overtime services. CBP plans to use the Cost Management Information System (CMIS) to track expenses by activity. CMIS is an activity-based cost accounting system that has been audited and endorsed by the General Accounting Office. Employees use established activity codes to track their time through the Customs Time and Attendance System. Fee payers that are currently providing the traditional user fee funding for customs, immigration and agriculture inspection services will continue to pay and benefit as they have in the past.

Impact on Employees

As noted, when CBP was established on March 1, 2003, it brought together inspection personnel from three different agencies (Agriculture, Immigration and Naturalization Service, and Customs). Inspectors in each of these workforces earn overtime and premium pay based on three different statutes. In order to establish “one face at the border,” CBP is creating a new frontline officer corps to unify and integrate the inspectional work of these three legacy agencies. The unified occupations require a single compensation system. Today, while the officers are still classified in the three legacy occupations, they are paid under three sets of overtime rules, which has resulted in disparate earnings for virtually the same work. In addition, the three separate occupations and overtime rules have created significant administrative inefficiencies, as well as work assignment and payroll problems. The impact of this proposal on the inspectional workforce is that officers who perform the same functions at the ports of entry will be paid overtime and premium pay under the same computational rules.

This proposed rule does not address the number of overtime hours the officers will be required to work, which varies by individual, by port, and by

other factors such as workload fluctuations, staffing levels at a particular location, and changes to the national threat alert level. Instead, this proposed rule adds currently classified immigration and agriculture officers (approximately 8,000 inspectors) to the COPRA system, and thus affects their rates of overtime and premium pay for actual hours worked. (Over 10,000 inspectors, all former Customs Service, are already covered by COPRA.)

The impact of this rule will be that for some work schedules, certain employees will earn more, while for other work schedules, they will earn less. For example, current agriculture inspectors who work overtime on a weekday will earn "double time" under COPRA instead of "time-and-a-half" under their current system. On the other hand, these same inspectors may earn less under COPRA than under their current system for work on a Sunday. The chart below provides additional examples of how the three overtime systems differ when comparing hours worked. On the whole, the impact of this proposed rule on the overall earnings for the same or similar number of hours worked is expected to be minimal. While some features of COPRA are less generous than those of

other systems, there are compensating features that are more generous. Thus, the differences between COPRA and the other systems balance out in terms of earnings for hours worked. However, it is noted that this proposed rule affects only one aspect of overtime and premium pay earnings of employees. Other factors, such as the total number of hours worked and when the overtime is worked, impact the aggregate earnings of officers on an annual basis. The explanation provided herein, both in text and in the accompanying Table, represent a good faith effort to explain the potential impact of this proposed rule on the employees. However, due to the complexities of the different systems and the differing work schedules of individual inspectors, the exact impact of the proposed rule on a specific employee is speculative and incapable of exact computation. The difficulty of comparing these systems is highlighted in the November 2001 GAO Report titled *Customs and INS—Comparison of Officer's Pay* (GAO-02-21). The GAO Report compared two of these systems and concluded that "straightforward and generalizable comparisons in relation to these pay provisions are infeasible."

CBP does not anticipate that the proposed amendment will have an

impact on private entities, as the proposed changes pertain to the agency's internal operating procedures and, because overtime compensation will be funded with existing user fees the expenditure of which will be subject to normal accounting within the government. However, DHS has determined this action is a "significant" regulatory action within the meaning of Executive Order 12866 because it may be perceived to relate to the revisions of the Federal employment system DHS is presently considering under the Homeland Security Act. This proposal is separate from those revisions, which do not address overtime compensation.

Similarities and Differences Between COPRA and Other Overtime Systems

There are a number of similarities and differences between COPRA and the overtime systems under which legacy immigration and agriculture inspectors have been covered.

The following chart compares the major provisions of the three systems. The chart contains a high-level overview of the systems and is not intended to contain all the details relevant to determining the rate of pay in specific situations.

TABLE.—GENERAL COMPARISON OF OVERTIME SYSTEMS

| Pay provision/term | Customs inspectors | Immigration inspectors | Agriculture inspectors |
|-------------------------|---|--|--|
| Basic pay | General Schedule pay with locality pay adjustment based on geographic area. | Same as Customs | Same as Customs. |
| Basic hourly rate | General Schedule hourly rate with locality pay included. | Same as Customs | Same as Customs. |
| Basic workweek | 7-day | 6-day (Monday–Saturday) | 6-day (Monday–Saturday). |
| Basic overtime | Compensation in addition to basic pay for work in excess of the 40-hour regularly scheduled work week or work in excess of 8 hours in a day. Overtime pay is 2 times the basic hourly rate—a 100-percent premium (COPRA). | Compensation in addition to basic pay for work in excess of the 40-hour regularly scheduled workweek. Applies to inspection overtime hours worked between 5 p.m. and 8 a.m., Monday–Saturday and anytime on Sunday or a holiday. Overtime pay is 4 hours pay for each additional 2 hours or fraction thereof (1931 Act). | Compensation in addition to basic pay for work in excess of the 40-hour regularly scheduled work week or work in excess of 8 hours in a day. Overtime pay is 1.5 times the basic hourly rate not to exceed a GS-10.1 pay for overtime Monday through Saturday (Title 5). |
| Other overtime | Not applicable | Compensation in addition to basic pay for (1) overtime inspection work between 8 a.m. and 5 p.m. Monday–Saturday and (2) non-inspection overtime outside these hours. Overtime is paid at 1.5 times the basic hourly rate (50-percent premium.) Maximum rate is based on salary for GS-10, step 1—the 1945 Act, FEPA). | Not applicable. |
| Premium pay | Overall term referring to extra compensation or "premium" paid for work performed on Sunday, holiday, or at night. (The term does not cover overtime pay.) | In addition to Sunday, holiday, and night pay, INS includes overtime in its definition of premium pay. | Overall term referring to extra compensation or "premium" paid for work performed on holiday or at night. (The term does not cover overtime pay.) |

TABLE.—GENERAL COMPARISON OF OVERTIME SYSTEMS—Continued

| Pay provision/term | Customs inspectors | Immigration inspectors | Agriculture inspectors |
|--|--|--|--|
| Sunday pay | Premium paid in addition to basic hourly rate for Sunday work. Sunday pay is 1.5 times the basic hourly rate (50-percent premium). Sunday can be a regularly scheduled workday. Officers are paid for actual hours worked. | Compensation for Sunday work. Sunday pay is 2-days' pay for 8 or fewer hours worked. Sunday is not a regularly scheduled workday. Sunday work is scheduled in addition to the regular workweek and is always staffed with overtime. Immigration inspectors are paid based on minimum periods of time worked. | Compensation for Sunday work. Sunday pay is 2 times the hourly rate for actual hours worked. Sunday is not a regularly scheduled workday. Sunday work is scheduled in addition to the regular workweek and is always staffed with overtime (Public Law 107-171). |
| Holiday pay | Premium paid in addition to basic hourly rate for work on a holiday. Holiday pay is 2 times the basic hourly rate (100-percent premium). | Premium paid in addition to basic hourly rate for work on a holiday. Two days' pay for 8 or fewer hours worked (Mon.–Sat.), in addition to basic pay. | Premium paid in addition to basic hourly rate for work on a holiday. Holiday pay is 2 times the basic hourly rate (100-percent premium). |
| Night pay (night differential) | Premium paid in addition to basic hourly rate for night work. Night differential pay rates differ based on the time or shift hours worked. Officers paid 1.15 or 1.2 times the basic hourly rate (15- or 20-percent differential). "Majority of hours" provision applies depending on actual hours worked. | Premium paid in addition to basic hourly rate for night work. Officers are paid 10-percent premium or "differential" for hours worked between 6 p.m. and 6 a.m. | Same as Immigration. |
| Night pay on leave | Customs inspectors are paid night differential for work assigned on night shifts when they are on annual, sick, or other leave. | Immigration inspectors are paid limited night differential (if less than 8 hours per pay period) for work assigned to night shifts when they are on leave. INS does not pay night differential to officers on vacation (extended annual leave). | Same as Immigration. |
| Commute compensation | Compensation for returning to work (commute) to perform an overtime work assignment. Commute compensation is 3 times the basic hourly rate. | Not authorized | Compensation for returning to work (commute) to perform an overtime work assignment. Commute compensation is based on local rates. It is generally between 1 to 3 times the basic hourly rate. |
| Callback | Additional overtime paid for reporting early or returning to work for unscheduled inspections. Callback is 2 times the basic hourly rate. | See rollback | Additional overtime paid for returning to work for unscheduled inspections. Callback is 2 times the basic hourly rate for Sundays but capped at GS-10.1 pay for overtime work between Monday and Saturday. |
| Rollback | See callback | Additional overtime paid for reporting early or returning to work for unscheduled inspections. Rollback is 2-hours' additional pay at basic overtime rate. | See callback. |
| Foreign language proficiency Award. | Premium paid for proficiency and use of foreign language while performing inspection duties. Foreign language award is between 3 and 5 percent of basic pay. | Not authorized | Not authorized. |
| Retirement annuity (overtime earnings included). | Customs includes overtime earnings (up to ½ the Statutory Cap) in calculating retirement pay. | Not authorized | Not authorized. |
| Alternate work schedule | Regularly scheduled work during a pay period based on a 9- or 10-hour workday totaling 80 hours per day period (every 2 weeks). | Same as Customs | Same as Customs. |

Increased Efficiency

The adoption of a single overtime system in lieu of three overtime systems now in place provides greater efficiencies in scheduling, monitoring and tracking overtime. Thus, CBP anticipates no net costs from this proposed regulation, either to the public at large or to user fee payers interested in maintaining levels of services and facilitation. In fact, CBP anticipates savings both to the government and to the public as the systems for paying officers for overtime and clearing goods and passengers are made more effective and efficient.

DHS invites comment on the impacts of this proposed rule.

Alternatives Considered

A key objective in establishing DHS was to unify border security functions at the nation's ports of entry. In DHS, the three separate agencies whose employees previously worked side by side at these ports of entry are now united. They are unified not only in the same organization, with the same management chain of command—they are also united around a common priority mission. In addition, these employees, with appropriate cross-training, will merge to perform the traditional missions that came together at the ports of entry from the legacy agencies of U.S. Customs, the Immigration and Naturalization Service, and the Animal and Plant Health Inspection Service. Thus, a well-trained and well-integrated workforce serves as a "force multiplier" in carrying out both the priority mission and the traditional missions of CBP. However, in order to integrate the workforce, a common overtime and premium pay system is required.

In order to implement the new frontline positions of CBP Officer and CBP Agriculture Specialist, it is necessary and appropriate to have the incumbents of these positions work under the same overtime system. That is, it is not feasible to pay incumbents of the same position under different overtime systems. Notwithstanding the feasibility, it is also not fair to employees to pay them differently when they are working side by side, performing the same type of work. Thus, the alternative of maintaining three overtime systems was considered not viable under the Secretary's "one face at the border" initiative.

A review of available options for the overtime system was undertaken. COPRA was selected as the best available compensation system for the new positions because of the advantages

it offers management, employees, and the traveling public. It is the most modern of the three systems, implemented only 10 years ago; in contrast, the statutes governing the other legacy systems were each enacted over 50 years ago, before the exponential growth of international trade and travel. COPRA more closely aligns pay to actual work performed, enabling the agency to more efficiently manage overtime. It establishes a 7-day workweek under which Sunday is not considered an overtime day, thereby providing greater flexibility in managing work assignments since officers can be regularly scheduled for any day of the week based on operational needs. Further, it is not statutorily permissible to use the overtime systems governing the immigration (1931 Act) and agriculture (Public Law 107-171) inspectors to cover all inspectional activities performed by these new unified officer positions.

CBP considered, but rejected, the option of converting all inspectors to a totally new overtime and premium pay system. In order to do so, CBP would have needed to seek authorizing legislation. As a result, it is not certain whether, or when, appropriate legislation would have been enacted. This would have involved unacceptable delays in the implementation of the "one face at the border" initiative.

For the employee, COPRA offers better premium pay rates than the other systems for employees who work night shifts (as outlined in the comparison chart above). Another significant advantage over the other systems is that COPRA provides a retirement benefit. Under the statute, up to 50% of the statutory cap (Pub. L. 103-66) on overtime earnings is credited as base pay for retirement purposes, yielding a higher annuity that is more aligned with the officer's annual earnings. COPRA also authorizes payment of a foreign language proficiency award (up to 5% of base pay) to officers who maintain and use their language skills as part of their job duties.

Regulatory Flexibility Act

DHS has determined that as this proposed rule would apply only internally to CBP employees, it will not have a significant economic impact on a substantial number of small entities, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Unfunded Mandates

These proposed regulations would not result in the expenditure by State, local, or tribal governments of more than \$100

million annually. Thus, no written assessment of unfunded mandates is required.

E.O. 13132, Federalism

DHS has determined these proposed regulations would not have Federalism implications because they would apply only to Federal agencies and employees. The proposed regulations would not have financial or other effects on States, the relationship between the Federal Government and the States, or the distribution of power and responsibilities among the various levels of government.

E.O. 12988, Civil Justice Reform

The proposed regulation is consistent with the requirements of E.O. 12988. Among other things, the regulation would not preempt, repeal or modify any federal statute; provides clear standards; has no retroactive effects; defines key terms; and is drafted clearly.

Paperwork Reduction Act

The proposed regulations do not involve any information collection from any member of the public.

List of Subjects

8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Immigration, Reporting and recordkeeping requirements.

19 CFR Part 24

Accounting, Customs duties and inspection, Financial and accounting procedures, User fees, Wages.

Proposed Amendments to the Regulations

For the reasons stated above, it is proposed to amend chapter I of Title 8 and chapter I of Title 19 of the Code of Federal Regulations as set forth below.

Title 8, Chapter I

PART 103—POWERS AND DUTIES; AVAILABILITY OF RECORDS

1. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552A; 8 U.S.C. 1101, 1103, 1304, 1356; 31 U.S.C. 9701; Public Law 107-296, 116 Stat. 2135 (6 U.S.C. 1 *et seq.*); E.O. 12356, 47 FR 14874, 15557, 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

* * * * *

2. In § 103.1, paragraph (a) is republished and paragraph (b) is amended by adding a sentence at the end to read as follows:

§ 103.1 Delegations of authority; designation of immigration officers.

(a) *Delegations of authority.* Delegations of authority to perform functions and exercise authorities under the immigration laws may be made by the Secretary of Homeland Security as provided by § 2.1 of this chapter.

(b) *Immigration Officer.* * * * Any customs officer, as defined in 19 CFR 24.16, is hereby authorized to exercise the powers and duties of an immigration officer as specified by the Act and this chapter.

Title 19, Chapter I**PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE**

3. The general authority citation for part 24 is revised and the specific authority citation for § 24.16 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58a–58c, 66, 1202 (General Note 23, Harmonized Tariff Schedule of the United States) 1505, 1520, 1624; 26 U.S.C. 4461, 4462; 31 U.S.C. 9701; Public Law 107–296, 116 Stat. 2135 (6 U.S.C. 1 *et seq.*).

* * * * *

Section 24.16 also issued under 19 U.S.C. 261, 267, 1450, 1451, 1452, 1623; 46 U.S.C. 2111, 2112;

* * * * *

4. In § 24.16, paragraph (b)(7) is revised to read as follows:

§ 24.16 Overtime services; overtime compensation and premium pay for Customs Officers; rate of compensation.

* * * * *

(b) * * *

(7) Customs Officer means only those individuals assigned to position descriptions entitled “Customs Inspector,” “Supervisory Customs Inspector,” “Canine Enforcement Officer,” “Supervisory Canine Enforcement Officer,” “Customs and Border Protection Officer,” “Supervisory Customs and Border Protection Officer,” “Customs and Border Protection Agriculture Specialist,” or “Supervisory Customs and Border Protection Agriculture Specialist.”

Dated: April 1, 2004.

Robert C. Bonner,
Commissioner, Customs and Border Protection.

Tom Ridge,
Secretary, Department of Homeland Security.
[FR Doc. 04–7857 Filed 4–6–04; 8:45 am]

BILLING CODE 4820–02–P

FEDERAL ELECTION COMMISSION**11 CFR Part 110**

[Notice 2004–7]

Inaugural Committee Reporting and Prohibition on Accepting Foreign National Donations

AGENCY: Federal Election Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Election Commission seeks comments on proposed rules setting forth reporting requirements for Presidential inaugural committees and prohibiting Presidential inaugural committees from accepting donations from foreign nationals. These regulations would implement requirements of the Bipartisan Campaign Reform Act of 2002. The Commission has made no final decision on the issues presented in the rulemaking. Further information is provided in the supplementary information that follows.

DATES: Comments must be received on or before May 7, 2004. If the Commission receives sufficient requests to testify, it may hold a hearing on these proposed rules. Commenters wishing to testify at the hearing must so indicate in their written or electronic comments.

ADDRESSES: All comments should be addressed to John C. Vergelli, Acting Assistant General Counsel, and must be submitted in either electronic or written form. Commenters are strongly encouraged to submit comments electronically to ensure timely receipt and consideration. Electronic mail comments should be sent to Inaugural04@fec.gov and must include the full name, electronic mail address, and postal service address of the commenter. Electronic mail comments that do not contain the full name, electronic mail address, and postal service address of the commenter will not be considered. If the electronic mail comments include an attachment, the attachment must be in the Adobe Acrobat (.pdf) or Microsoft Word (.doc) format. Faxed comments should be sent to (202) 219–3923, with printed copy follow-up to ensure legibility. Written comments and printed copies of faxed comments should be sent to the Federal Election Commission, 999 E Street, NW., Washington, DC 20463. The Commission will post public comments on its web site. If the Commission decides that a public hearing is necessary, the hearing will be held in its ninth floor meeting room, 999 E. St., NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: John C. Vergelli, Acting Assistant General Counsel, or Esa L. Sferra, Attorney, 999 E Street, NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: Section 308 of the Bipartisan Campaign Reform Act of 2002 (“BCRA”), Public Law 107–155, 116 Stat. 81 (March 27, 2002), amended 36 U.S.C. 510 and the Federal Election Campaign Act of 1971, as amended (“FECA” or “the Act”), 2 U.S.C. 431 *et seq.*, by establishing new requirements for inaugural committees. These committees are appointed by the President-elect to be in charge of the Presidential inaugural ceremony and activities connected with the ceremony. Chapter 5 of title 36 of the United States Code provides the inaugural committee with special privileges in the District of Columbia for the five days before and the four days after the inauguration ceremony. Under 36 U.S.C. 511, Congress may make appropriations for the District of Columbia to pay for the swearing-in ceremony, however, all other activities, including parades, galas, and balls, are paid for by the inaugural committee.

Prior to BCRA’s enactment, inaugural committees had no disclosure responsibilities and could accept donations from foreign nationals. Under section 308 of BCRA, in order for a committee to be considered the inaugural committee, it must agree to disclose all donations it receives aggregating \$200 or more, and it must not accept a donation from any foreign national.

The Commission proposes to add new 11 CFR 104.21 to the reporting rules in 11 CFR part 104 to set forth inaugural committee reporting requirements. These proposed requirements are minimal compared to the Act’s reporting requirements for political committees. The Commission’s rules on foreign national contributions and expenditures are found at 11 CFR 110.20. A new paragraph would be added to this section to ban the acceptance of foreign national donations by inaugural committees.

I. Proposed 11 CFR 104.21. Reporting by Inaugural Committees

Paragraph (a)(1) of proposed 11 CFR 104.21, *Definitions*, would define “inaugural committee.” The definition proposed is identical to that in 36 U.S.C. 501(1) and in the municipal regulations of the District of Columbia (*see* D.C. Mun. Regs., tit. 24, section 899).¹ The

¹ The District of Columbia has statutory authority to regulate many aspects of the activities of the

Continued