19 CFR Part 145

Customs duties and inspection, Imports, Mail, Postal service, Prohibited merchandise, Restricted merchandise, Reporting and recordkeeping requirements, Seizure and forfeiture.

19 CFR Part 161

Customs duties and inspection, Imports, Law enforcement.

Amendments to the Regulations

For the reasons stated above, parts 12, 145, and 161 of the Customs Regulations (19 CFR parts 12, 145, and 161), are amended as set forth below:

PART 12—SPECIAL CLASSES OF MERCHANDISE

1. The general authority citation for Part 12 continues and a specific authority citation for new § 12.150 is added to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

* * * * *

Section 12.150 also issued under 19 U.S.C. 1595a and 1618; 22 U.S.C. 401.

2. Part 12 is amended by adding a centerheading and new § 12.150 to read as follows:

Merchandise Subject to Economic Sanctions

§ 12.150 Merchandise prohibited by economic sanctions; detention; seizure or other disposition; blocked property.

(a) *Generally.* Merchandise from certain countries designated by the President as constituting a threat to the national security, foreign policy, or economy of the United States shall be detained until the question of its release, seizure, or other disposition has been determined under law and regulations issued by the Treasury Department's Office of Foreign Assets Control (OFAC) (31 CFR Chapter V).

(b) *Seizure.* When an unlicensed importation of merchandise subject to OFAC's regulations is determined to be prohibited, no entry for any purpose shall be permitted and, unless the immediate reexportation or other disposition of such merchandise under Customs supervision has previously been authorized by OFAC, the merchandise shall be seized.

(c) *Licenses.* OFAC's regulations may authorize OFAC to issue licenses on a case-by-case basis authorizing the importation of otherwise prohibited merchandise under certain conditions. If such a license is issued subsequent to the attempted entry and seizure of the merchandise, importation shall be conditioned upon the importer:

(1) Agreeing in writing to hold the Government harmless, and

(2) Paying any storage and other Customs fees, costs, or expenses, as well as any mitigated forfeiture amount or monetary penalty imposed or assessed by Customs or OFAC, or both.

(d) *Blocked property.* Merchandise which constitutes property in which the government or any national of certain designated countries has an interest may be blocked (frozen) pursuant to OFAC's regulations and may not be transferred, sold, or otherwise disposed of without an OFAC license.

(e) *Additional information.* For further information concerning importing merchandise prohibited under economic sanctions programs currently in effect, the Office of Foreign Assets Control of the Department of the Treasury should be contacted. The address of that office is 1500 Pennsylvania Ave., N.W., Annex 2nd Floor, Washington, D.C. 20220.

PART 145—MAIL IMPORTATIONS

1. The general authority citation for Part 145 is revised to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1624;

* * * * *

§ 145.56 [Amended]

2. Section 145.56 is amended by removing the words ''North Korea, North Vietnam, Cuba, or Rhodesia'' and adding, in their place, the words ''certain designated countries''; and by adding the parenthetical words ''(See also 19 CFR 12.150)'' at the end of the section before the period.

PART 161—GENERAL ENFORCEMENT PROVISIONS

1. The general authority citation for Part 161 is revised, and a specific authority citation for section 161.2 is added, to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1600, 1619, 1624, 1646a;

Section 161.2 also issued under 12 U.S.C. 95a; 18 U.S.C. 545; 19 U.S.C. 1595(a); 22 U.S.C. 401, 1934, 2349aa8–9;

42 U.S.C. 1804, 1807; 50 U.S.C. 1641 *et seq.*, 1701 *et seq.;*

50 U.S.C. App. 1–44, 2411.

* * * * *

2. Section 161.2 is amended by adding paragraph (a)(3) and removing the parenthetical authority citations at the end of the section. The revision reads as follows:

§ 161.2 Enforcement for other agencies.

(a) * * *

(1) * * *

(2) * * *

(3) Importations, exportations, and transactions involving identified goods, services, and technology with any of those countries designated as subject to economic sanctions under the laws and regulations administered by the Office of Foreign Assets Control of the Department of the Treasury.

* * * * *

Michael H. Lane,

Acting Commissioner of Customs.

Approved: April 8, 1996.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 96–12373 Filed 5–16–96; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF JUSTICE

28 CFR Part 58

United States Trustees; Guidelines Relating to the Bankruptcy Reform Act of 1994

AGENCY: Department of Justice.

ACTION: Final internal procedural guidelines.

SUMMARY: The Department of Justice is establishing internal procedural guidelines for reviewing applications for compensation and reimbursement of expenses filed by case trustees and professionals under section 330 of Title 11, United States Code. These procedural guidelines are not intended to supersede local rules, but are to be read as complementing the procedures set forth in local rules.

To keep all published rules, regulations, and guidelines pertaining to the United States Trustee Program in one section of the Code of Federal Regulations, the title to 28 CFR 58 will be amended to include the Bankruptcy Reform Act of 1994.

EFFECTIVE DATE: January 30, 1996.

FOR FURTHER INFORMATION CONTACT: Martha L. Davis, General Counsel, or Kathleen Dunivin Schmitt, Attorney, (202) 307–1399. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: This action is in response to the Bankruptcy Reform Act of 1994, which amended 28 U.S.C. 586(a)(3)(A) to direct United States Trustees to review applications for compensation and reimbursement of expenses in accordance with procedural guidelines adopted by the Executive Office for United States Trustees. The guidelines are to be applied uniformly by the United States Trustees, except when circumstances warrant different treatment.

Executive Order 12866

These guidelines have been drafted and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulation. The Director, Executive Office for United States Trustees, has determined that these guidelines are not a ''significant regulatory action'' under Executive Order 12866 section 3(f), Regulatory Planning and Review. These guidelines pertain to the internal management of the Department and as such are not subject to central Office of Management and Budget review pursuant to section 6 of Executive Order 12866. Accordingly, these guidelines have not been reviewed by the Office of Management and Budget pursuant to Executive Order 12866.

Regulatory Flexibility Act

The Director, Executive Office for United States Trustees, in accordance with the Regulatory Flexibility Act (5 U.S.C. § 605(b)), has reviewed these guidelines and by approving them certifies that these guidelines will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 58

Bankruptcy, Trusts, and Trustees.

For the reasons set forth in the preamble, the Department of Justice proposes to amend 28 CFR part 58 as follows:

PART 58—REGULATIONS RELATING TO THE BANKRUPTCY REFORM ACTS OF 1978 AND 1994

1. The heading of Part 58 is revised to read as set forth above.

2. The authority citation for Part 58 continues to read as follows:

Authority: 28 U.S.C. 509, 510, 586(e), 588(d).

3. Appendix A is added to Part 58 to read as follows:

Appendix A to Part 58—Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. 330

(a) *General Information.* (1) The Bankruptcy Reform Act of 1994 amended the responsibilities of the United States Trustees under 28 U.S.C. 586(a)(3)(A) to provide that, whenever they deem appropriate, United States Trustees will review applications for compensation and reimbursement of expenses under section 330 of the Bankruptcy Code, 11 U.S.C. 101, et seq. (''Code''), in accordance with procedural guidelines (''Guidelines'') adopted by the Executive Office for United States Trustees (''Executive Office''). The following Guidelines have been adopted by the Executive Office and are to be uniformly applied by the United States Trustees except when circumstances warrant different treatment.

(2) The United States Trustees shall use these Guidelines in all cases commenced on or after October 22, 1994.

(3) The Guidelines are not intended to supersede local rules of court, but should be read as complementing the procedures set forth in local rules.

(4) Nothing in the Guidelines should be construed:

(i) To limit the United States Trustee's discretion to request additional information necessary for the review of a particular application or type of application or to refer any information provided to the United States Trustee to any investigatory or prosecutorial authority of the United States or a state;

(ii) To limit the United States Trustee's discretion to determine whether to file comments or objections to applications; or

(iii) To create any private right of action on the part of any person enforceable in litigation with the United States Trustee or the United States.

(5) Recognizing that the final authority to award compensation and reimbursement under section 330 of the Code is vested in the Court, the Guidelines focus on the disclosure of information relevant to a proper award under the law. In evaluating fees for professional services, it is relevant to consider various factors including the following: the time spent; the rates charged; whether the services were necessary to the administration of, or beneficial towards the completion of, the case at the time they were rendered; whether services were performed within a reasonable time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed; and whether compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in non-bankruptcy cases. The Guidelines thus reflect standards and procedures articulated in section 330 of the Code and Rule 2016 of the Federal Rules of Bankruptcy Procedure for awarding compensation to trustees and to professionals employed under section 327 or 1103. Applications that contain the information requested in these Guidelines will facilitate review by the Court, the parties, and the United States Trustee.

(6) Fee applications submitted by trustees are subject to the same standard of review as are applications of other professionals and will be evaluated according to the principles articulated in these Guidelines. Each United States Trustee should establish whether and to what extent trustees can deviate from the format specified in these Guidelines without substantially affecting the ability of the United States Trustee to review and comment on their fee applications in a manner consistent with the requirements of the law.

(b) *Contents of Applications for Compensation and Reimbursement of Expenses.* All applications should include sufficient detail to demonstrate compliance with the standards set forth in 11 U.S.C. § 330. The fee application should also contain sufficient information about the case and the applicant so that the Court, the creditors, and the United States Trustee can review it without searching for relevant information in other documents. The following will facilitate review of the application.

(1) Information about the Applicant and the Application. The following information should be provided in every fee application:

(i) Date the bankruptcy petition was filed, date of the order approving employment, identity of the party represented, date services commenced, and whether the applicant is seeking compensation under a provision of the Bankruptcy Code other than section 330.

(ii) Terms and conditions of employment and compensation, source of compensation, existence and terms controlling use of a retainer, and any budgetary or other limitations on fees.

(iii) Names and hourly rates of all applicant's professionals and paraprofessionals who billed time, explanation of any changes in hourly rates from those previously charged, and statement of whether the compensation is based on the customary compensation charged by comparably skilled practitioners in cases other than cases under title 11.

(iv) Whether the application is interim or final, and the dates of previous orders on interim compensation or reimbursement of expenses along with the amounts requested and the amounts allowed or disallowed, amounts of all previous payments, and amount of any allowed fees and expenses remaining unpaid.

(v) Whether the person on whose behalf the applicant is employed has been given the opportunity to review the application and whether that person has approved the requested amount.

(vi) When an application is filed less than 120 days after the order for relief or after a prior application to the Court, the date and terms of the order allowing leave to file at shortened intervals.

(vii) Time period of the services or expenses covered by the application.

(2) Case Status. The following information should be provided to the extent that it is known to or can be reasonably ascertained by the applicant:

(i) In a chapter 7 case, a summary of the administration of the case including all moneys received and disbursed in the case, when the case is expected to close, and, if applicant is seeking an interim award, whether it is feasible to make an interim distribution to creditors without prejudicing the rights of any creditor holding a claim of equal or higher priority.

(ii) In a chapter 11 case, whether a plan and disclosure statement have been filed and, if not yet filed, when the plan and disclosure statement are expected to be filed; whether all quarterly fees have been paid to the United States Trustee; and whether all monthly operating reports have been filed.

(iii) In every case, the amount of cash on hand or on deposit, the amount and nature of accrued unpaid administrative expenses, and the amount of unencumbered funds in the estate.

(iv) Any material changes in the status of the case that occur after the filing of the fee

application should be raised, orally or in writing, at the hearing on the application or, if a hearing is not required, prior to the expiration of the time period for objection.

(3) Summary Sheet. All applications should contain a summary or cover sheet that provides a synopsis of the following information:

(i) Total compensation and expenses requested and any amount(s) previously requested;

(ii) Total compensation and expenses previously awarded by the court;

(iii) Name and applicable billing rate for each person who billed time during the period, and date of bar admission for each attorney;

(iv) Total hours billed and total amount of billing for each person who billed time during billing period; and

(v) Computation of blended hourly rate for persons who billed time during period, excluding paralegal or other paraprofessional time.

(4) Project Billing Format. (i) To facilitate effective review of the application, all time and service entries should be arranged by project categories. The project categories set forth in Exhibit A should be used to the extent applicable. A separate project category should be used for administrative matters and, if payment is requested, for fee application preparation.

(ii) The United States Trustee has discretion to determine that the project billing format is not necessary in a particular case or in a particular class of cases. Applicants should be encouraged to consult with the United States Trustee if there is a question as to the need for project billing in any particular case.

(iii) Each project category should contain a narrative summary of the following information:

(A) a description of the project, its necessity and benefit to the estate, and the status of the project including all pending litigation for which compensation and reimbursement are requested;

(B) identification of each person providing services on the project; and

(C) a statement of the number of hours spent and the amount of compensation requested for each professional and paraprofessional on the project.

(iv) Time and service entries are to be reported in chronological order under the appropriate project category.

(v) Time entries should be kept contemporaneously with the services rendered in time periods of tenths of an hour. Services should be noted in detail and not combined or ''lumped'' together, with each service showing a separate time entry; however, tasks performed in a project which total a de minimis amount of time can be combined or lumped together if they do not exceed .5 hours on a daily aggregate. Time entries for telephone calls, letters, and other communications should give sufficient detail to identify the parties to and the nature of the communication. Time entries for court hearings and conferences should identify the subject of the hearing or conference. If more than one professional from the applicant firm attends a hearing or conference, the applicant should explain the need for multiple attendees.

(5) Reimbursement for Actual, Necessary Expenses. Any expense for which reimbursement is sought must be actual and necessary and supported by documentation as appropriate. Factors relevant to a determination that the expense is proper include the following:

(i) Whether the expense is reasonable and economical. For example, first class and other luxurious travel mode or accommodations will normally be objectionable.

(ii) Whether the requested expenses are customarily charged to non-bankruptcy clients of the applicant.

(iii) Whether applicant has provided a detailed itemization of all expenses including the date incurred, description of expense (e.g., type of travel, type of fare, rate, destination), method of computation, and, where relevant, name of the person incurring the expense and purpose of the expense. Itemized expenses should be identified by their nature (e.g., long distance telephone, copy costs, messengers, computer research, airline travel, etc,) and by the month incurred. Unusual items require more detailed explanations and should be allocated, where practicable, to specific projects.

(iv) Whether applicant has prorated expenses where appropriate between the estate and other cases (e.g., travel expenses applicable to more than one case) and has adequately explained the basis for any such proration.

(v) Whether expenses incurred by the applicant to third parties are limited to the actual amounts billed to, or paid by, the applicant on behalf of the estate.

(vi) Whether applicant can demonstrate that the amount requested for expenses incurred in-house reflect the actual cost of such expenses to the applicant. The United States Trustee may establish an objection ceiling for any in-house expenses that are routinely incurred and for which the actual cost cannot easily be determined by most professionals (e.g., photocopies, facsimile charges, and mileage).

(vii) Whether the expenses appear to be in the nature nonreimbursable overhead. Overhead consists of all continuous administrative or general costs incident to the operation of the applicant's office and not particularly attributable to an individual client or case. Overhead includes, but is not limited to, word processing, proofreading, secretarial and other clerical services, rent, utilities, office equipment and furnishings, insurance, taxes, local telephones and monthly car phone charges, lighting, heating and cooling, and library and publication charges.

(viii) Whether applicant has adhered to allowable rates for expenses as fixed by local rule or order of the Court.

Exhibit A—Project Categories

Here is a list of suggested project categories for use in most bankruptcy cases. Only one category should be used for a given activity. Professionals should make their best effort to be consistent in their use of categories, whether within a particular firm or by different firms working on the same case. It would be appropriate for all professionals to discuss the categories in advance and agree generally on how activities will be categorized. This list is not exclusive. The application may contain additional categories as the case requires. They are generally more applicable to attorneys in chapter 7 and chapter 11, but may be used by all professionals as appropriate.

Asset Analysis and Recovery: Identification and review of potential assets including causes of action and non-litigation recoveries.

Asset Disposition: Sales, leases (§ 365 matters), abandonment and related transaction work.

Business Operations: Issues related to debtor-in-possession operating in chapter 11 such as employee, vendor, tenant issues and other similar problems.

Case Administration: Coordination and compliance activities, including preparation of statement of financial affairs; schedules; list of contracts; United States Trustee interim statements and operating reports; contacts with the United States Trustee; general creditor inquiries.

Claims Administration and Objections: Specific claim inquiries; bar date motions; analyses, objections and allowances of claims.

Employee Benefits/Pensions: Review issues such as severance, retention, 401K coverage and continuance of pension plan.

Fee/Employment Applicants: Preparation of employment and fee applications for self or others; motions to establish interim procedures.

Fee/Employment Objections: Review of and objections to the employment and fee applications of others.

Financing: Matters under §§ 361, 363 and 364 including cash collateral and secured claims; loan document analysis.

Litigation: There should be a separate category established for each matter (e.g., XYZ Litigation).

Meetings of Creditors: Preparing for and attending the conference of creditors, the § 341(a) meeting and other creditors' committee meetings.

Plan and Disclosure Statement: Formulation, presentation and confirmation; compliance with the plan confirmation order, related orders and rules; disbursement and case closing activities, except those related to the allowance and objections to allowance of claims.

Relief From Stay Proceedings: Matters relating to termination or continuation of automatic stay under § 362.

The following categories are generally more applicable to accountants and financial advisors, but may be used by all professionals as appropriate.

Accounting/Auditing: Activities related to maintaining and auditing books of account, preparation of financial statements and account analysis.

Business Analysis: Preparation and review of company business plan; development and review of strategies; preparation and review of cash flow forecasts and feasibility studies.

Corporate Finance: Review financial aspects of potential mergers, acquisitions and disposition of company or subsidiaries.

Data Analysis: Management information systems review, installation and analysis, construction, maintenance and reporting of significant case financial data, lease rejection, claims, etc.

Litigation Consulting: Providing consulting and expert witness services relating to various bankruptcy matters such as insolvency, feasibility, avoiding actions, forensic accounting, etc.

Reconstruction Accounting: Reconstructing books and records from past transactions and bringing accounting current.

Tax Issues: Analysis of tax issues and preparation of state and federal tax returns.

Valuation: Appraise or review appraisals of assets.

Dated: April 25, 1996.

Joseph Patchan,

Director.

[FR Doc. 96–11799 Filed 5–16–96; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Los Angeles-Long Beach, CA 96–008]

RIN 2115–AA97

Safety Zone; Long Beach Harbor, CA

AGENCY: Coast Guard, DOT.

ACTION: Final rule with request for comments.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the navigable waters of the United States in the vicinity of the South East side of Pier ''J'' in the Long Beach Outer Harbor, California. The event requiring the establishment of this safety zone is the Pier ''J'' breakwater construction project. Duration of this project is estimated to be 11 months. A safety zone is necessary to safeguard recreational and commercial craft from the dangers of the construction project and to prevent interference with the vessels engaged in these operations. The safety zone includes all waters within the boundaries defined by the line connecting the following coordinates:

Latitude	*Longitude*
33° 44.5′N.	118° 11.2′W.
33° 44.5′N.	118° 10.9′W.
33° 44.3′N.	118° 10.8′W.
33° 44.0′N.	118° 10.8′W.
33° 44.0′N.	118° 11.1′W.

Entry into, transit through, or anchoring within the safety zone by vessels or persons other than those engaged in the construction project, or vessels servicing the Maersk terminal is prohibited unless authorized by the Captain of the Port.

DATES: Effective Date: This rule is effective at 12:01 a.m. PDT on April, 24, 1996 and will remain in effect until 12:01 a.m. PST on March 31, 1997, unless cancelled earlier by the Captain of the Port Los Angeles-Long Beach, Ca.

Comments: Comments on this regulation must be received by June 17, 1996.

ADDRESSES: Comments should be mailed to Commanding Officer, Coast Guard Marine Safety Office, 165 N. Pico Avenue, Long Beach, Ca 90802. Comments received will be available for inspection and copying within the Port Safety Division at MSO Los Angeles-Long Beach. Normal office hours are between 8 a.m. and 4 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Petty Officer Daniel J. Walsh, Port Safety and Security Division, Marine Safety Office Los Angeles-Long Beach, (310) 980–4454.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Following normal rulemaking procedures could not be done in a timely fashion in that the Coast Guard was not approached concerning the necessity for implementation of a safety zone until late in the planning process. The actual stipulations of the safety zone were not finalized until a date fewer than 30 days prior to the start of the project.

Although this regulation is published as a final rule without prior notice, an opportunity for public comment is nevertheless desirable to ensure the regulation is both reasonable and workable. Accordingly, persons wishing to comment may do so by submitting written comments to the office listed under **ADDRESSES** in this preamble. Those providing comments should identify the docket number (COTP Los Angeles-Long Beach, CA; 96–008) for the regulation and also include their name, address, and reason(s) for each comment presented. Persons wanting acknowledge of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

Based upon the comments received, the scope of the regulation may be changed.

Discussion of Regulation

The project to construct a breakwater around the Pier ''J'' Maersk terminal entrance has already been initiated. A safety zone is necessary to safeguard recreational and commercial craft from the dangers of the construction project and to prevent interference with vessels engaged in these operations. This safety zone will be enforced by U.S. Coast Guard personnel. The Coast Guard Auxiliary and the Long Beach Lifeguards will assist in the enforcement of the safety zone. Persons and vessels are prohibited from entering into, transiting through, or anchoring within the safety zone unless authorized by the Captain of the Port of his designated representative.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of the Department of Transportation is unnecessary. The safety zone does not extend into the vessel traffic lanes. It will have little or no impact on commercial vessels transiting through the harbor.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this regulation will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under Section 3 of the Small Business Act (15 U.S.C. 632). As discussed in the ''Regulatory Evaluation'' section, because it expects the impact of this regulation to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This regulation contains no collection of information requirements under the