

§ 8.66

employee of the Bureau authorized to administer an oath pursuant to 27 CFR 70.35. The written notice will state the names of the witnesses and the time and place where the depositions are to be taken. The requirement of 10 days' notice may be waived by the parties in writing, and depositions may then be taken from the persons and at the times and places mutually agreed to by the parties. When a deposition is taken upon written questioning, any cross-examination will be upon written questioning. Copies of the written questioning will be served upon the other party with the notice, and copies of any written cross-interrogation will be mailed or delivered to the opposing party at least 5 days before the date of taking the depositions, unless the parties mutually agree otherwise. A party on whose behalf a deposition is taken must file it with the Administrative Law Judge and serve one copy upon the opposing party. Expenses in the reproduction of depositions will be borne by the party at whose instance the deposition is taken.

§ 8.66 Transcript.

In cases in which the hearing is stenographically reported by a Government contract reporter, copies of the transcript may be obtained from the reporter at rates not to exceed the maximum rates fixed by contract between the Government and the reporter. If the hearing is stenographically reported by a regular employee of the Bureau, a copy of the hearing will be supplied to the respondent either without charge or upon the payment of a reasonable fee. Copies of exhibits introduced at the hearing or at the taking of depositions will be supplied to the parties upon the payment of a reasonable fee.

(Sec. 501, Pub. L. 82-137, 65 Stat. 290 (31 U.S.C. 483a))

§ 8.67 Proposed findings and conclusions.

Except in cases when the respondent has failed to answer the complaint or when a party has failed to appear at the hearing, the Administrative Law Judge, prior to making his or her decision, shall afford the parties a reasonable opportunity to submit proposed

31 CFR Subtitle A (7-1-05 Edition)

findings and conclusions and their supporting reasons.

§ 8.68 Decision of Administrative Law Judge.

As soon as practicable after the conclusion of a hearing and the receipt of any proposed findings and conclusions timely submitted by the parties, the Administrative Law Judge shall make the initial decision in the case. The decision will include (a) a statement of findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record, and (b) an order of disbarment, suspension, or reprimand or an order of dismissal of the complaint. The Administrative Law Judge shall file the decision with the Director of Practice and shall transmit a copy to the respondent or the respondent's attorney of record. In the absence of an appeal to the Secretary, or review of the decision upon motion of the Secretary, the decision of the Administrative Law Judge will, without further proceedings, become the decision of the Secretary of the Treasury 30 days from the date of the Administrative Law Judge's decision.

§ 8.69 Appeal to the Secretary.

Within 30 days from the date of the Administrative Law Judge's decision, either party may appeal to the Secretary. The appeal will be filed with the Director of Practice in duplicate and will include exceptions to the decision of the Administrative Law Judge and supporting reasons for those exceptions. If the Director of Practice files the appeal, he or she shall transmit a copy of it to the respondent. Within 30 days after receipt of an appeal or copy thereof, the other party may file a reply brief in duplicate with the Director of Practice. If the Director of Practice files the reply brief, he or she shall transmit a copy of it to the respondent. Upon the filing of an appeal and a reply brief, if any, the Director of Practice shall transmit the entire record to the Secretary.

§ 8.70 Decision of the Secretary.

On appeal from or review of the initial decision of the Administrative Law Judge, the Secretary shall make the

agency decision. In making this decision, the Secretary shall review the record or those portions of the records as may be cited by the parties in order to limit the issues. The Director of Practice shall transmit a copy of the Secretary's decision to the respondent.

§ 8.71 Effect of disbarment or suspension.

(a) *Disbarment.* If the final order against the respondent is for disbarment, the respondent will not thereafter be permitted to practice before the Bureau unless authorized to do so by the Director of Practice pursuant to § 8.72.

(b) *Suspension.* If the final order against the respondent is for suspension, the respondent will not thereafter be permitted to practice before the Bureau during the period of suspension.

(c) *Surrender of enrollment card.* If an enrolled practitioner is disbarred or suspended, he or she shall surrender the enrollment card to the Director of Practice for cancellation, in the case of disbarment, or for retention during the period of suspension.

(d) *Notice of disbarment or suspension.* Upon the issuance of a final order for suspension or disbarment, the Director of Practice shall give notice of the order to appropriate officers and employees of the Bureau of Alcohol, Tobacco and Firearms and to interested departments and agencies of the Federal Government. The Director of Practice may also give notice as he or she may determine to the proper authorities of the State in which the disbarred or suspended person was licensed to practice as an attorney or certified public accountant.

§ 8.72 Petition for reinstatement.

The Director of Practice may entertain a petition for reinstatement from any person disbarred from practice before the Bureau after the expiration of 5 years following disbarment. The director of Practice may not grant reinstatement unless he or she is satisfied that the petitioner is not likely to conduct himself or herself contrary to the regulations in this part, and that granting reinstatement would not be contrary to the public interest.

PART 9—EFFECTS OF IMPORTED ARTICLES ON THE NATIONAL SECURITY

Sec.

9.2 Definitions.

9.3 General.

9.4 Criteria for determining effects of imports on national security.

9.5 Applications for investigation.

9.6 Confidential information.

9.7 Conduct of investigation.

9.8 Emergency action.

9.9 Report.

AUTHORITY: Sec. 232, as amended, 76 Stat. 877, 80 Stat. 369 (19 U.S.C. 1862); 5 U.S.C. 301; Reorg. Plan No. 1 of 1973; and E.O. 11725, June 27, 1973 (38 FR 17175).

§ 9.2 Definitions.

As used herein, *Secretary* means the Secretary of the Treasury and *Assistant Secretary* means the Assistant Secretary of the Treasury (Enforcement, Operations, and Tariff Affairs).

[40 FR 50717, Oct. 31, 1975]

§ 9.3 General.

(a) Upon request of the head of any Government department or agency, upon application of an interested party, or upon his own motion, the Assistant Secretary shall set in motion an immediate investigation to determine the effects on the national security of imports of any article.

(b) The Secretary shall report the findings of his investigation under paragraph (a) of this section with respect to the effect of the importation of such article in such quantities or under such circumstances upon the national security and, based on such findings, his recommendation for action or inaction to the President within one year after receiving an application from an interested party or otherwise beginning an investigation under this section.

[39 FR 10898, Mar. 22, 1974, as amended at 40 FR 50717, Oct. 31, 1975]

§ 9.4 Criteria for determining effects of imports on national security.

(a) In determining the effect on the national security of imports of the article which is the subject of the investigation, the Secretary is required to take into consideration the following: