

(1) The time, place, and nature of such casualty;

(2) That the merchandise was on board the vessel or vehicle, in the warehouse, or otherwise in his charge, as the case may be, at the time of the casualty; and

(3) That it was totally destroyed and there is no probability of recovering or saving any part thereof, or that it was injured as the result of the casualty.

(b) The bill of lading, the entry summary (where appropriate) and the invoice covering the merchandise, or certified copies of the foregoing, unless such documents are already in the possession of the director of the port where the claim is filed.

(c) A copy of the insurance appraiser's report, if any.

[T.D. 72-258, 37 FR 20171, Sept. 27, 1972, as amended by T.D. 79-221, 44 FR 46829, Aug. 9, 1979]

§ 158.28 Waiver of evidence.

The port director may waive the production of any of the evidence required by this subpart if the validity of the claim is otherwise established to his satisfaction.

§ 158.29 Decision by port director.

When the application and evidence have been received and examined by the port director, he shall determine whether the desired abatement or refund of duty shall be made and notify the importer of his decision.

§ 158.30 Review of port director's decision.

(a) *Filing of petition.* The importer may file with the port director a petition addressed to the Commissioner of Customs for a review of the port director's decision. Such petition shall be filed in duplicate within 30 days from the date of the notice of the port director's decision, shall completely identify the case, and shall set forth in detail the objections to the port director's decision.

(b) *Decision by Commissioner.* When the petition has been filed, the port director shall promptly transmit both copies thereof and the entire file to the Commissioner, together with a full statement of his views. When the Commissioner's decision is received, the

port director shall proceed in conformity therewith.

Subpart D—Destroyed, Abandoned, or Exported Merchandise

§ 158.41 Destruction of prohibited merchandise.

Merchandise regularly entered or withdrawn for consumption in good faith and denied admission into the United States by any Government agency after its release from Customs custody, pursuant to a law or regulation in force on the date of entry or withdrawal for consumption, may be destroyed under Government supervision. In such case, the destroyed merchandise is exempt from duty and any duties collected thereon shall be refunded. In lieu of destruction, the merchandise may be exported under Customs supervision in accordance with § 158.45(c).

(Sec. 558(a), 46 Stat. 744, as amended; 19 U.S.C. 1558(a))

§ 158.42 Abandonment by importer within 30 days after entry.

Allowance in duties for merchandise abandoned to the Government in accordance with section 506(1), Tariff Act of 1930, as amended (19 U.S.C. 1506(1)), shall be subject to the following conditions:

(a) *Minimum quantity to be abandoned.* The merchandise being abandoned shall represent 5 percent or more of the total value of all the merchandise of the same class or kind entered in the invoice in which the merchandise being abandoned appears.

(b) *Application within 30 days.* The importer shall file written notice of abandonment with the director of the port where the entry was filed within 30 days after the date of entry, or, in the case of examination packages, within 30 days after release, whether or not delivery is taken by the importer immediately after entry or release as the case may be.

(c) *Delivery of merchandise.* Within the 30-day period set forth in paragraph (b) of this section, the importer shall deliver the abandoned merchandise to