

amount of the offer must be deposited with Customs in accordance with the provisions of § 161.5 of this chapter.

§ 172.32 Authority to accept offers.

The authority to accept offers in compromise, subject to the recommendation of the General Counsel of the Treasury or his delegee, resides with the official having authority to decide a petition for relief, except that authority to accept offers in compromise submitted with regard to penalties secured by a bond or claims for liquidated damages which are the subject of a letter to show cause issued to a surety in anticipation of possible action involving nonacceptance of bonds authorized under the provisions of part 113 of this chapter will reside with the designated Headquarters official who issued the show cause letter.

§ 172.33 Acceptance of offers in compromise.

An offer in compromise will be considered accepted only when the offeror is so notified in writing. As a condition to accepting an offer in compromise, the offeror may be required to enter into any collateral agreement or to post any security which is deemed necessary for the protection of the interest of the United States.

Subpart E—Supplemental Petitions for Relief

§ 172.41 Time and place of filing.

If the petitioner is not satisfied with a decision of the deciding official on an original petition for relief, a supplemental petition may be filed with the Fines, Penalties, and Forfeitures Officer having jurisdiction in the port where the violation occurred. The petitioner must file such a supplemental petition within 60 days from the date of notice to the petitioner of the decision from which further relief is requested or within 60 days following an administrative or judicial decision with respect to issues serving as the basis for the claim for liquidated damages (whichever is later) unless another time to file such a supplemental petition is prescribed in the decision. A supplemental petition may be filed whether or not the mitigated amount

designated in the decision on the original petition is paid.

§ 172.42 Supplemental petition decision authority.

(a) *Decisions of Fines, Penalties, and Forfeitures Officers.* Supplemental petitions filed on cases where the original decision was made by the Fines, Penalties, and Forfeitures Officer, will be initially reviewed by that official. The Fines, Penalties, and Forfeitures Officer may choose to grant more relief and issue a decision indicating additional relief to the petitioner. If the petitioner is dissatisfied with the further relief granted or if the Fines, Penalties, and Forfeitures Officer decides to grant no further relief, the supplemental petition will be forwarded to a designated Headquarters official assigned to a field location for review and decision.

(b) *Decisions of CBP Headquarters.* Supplemental petitions filed on cases where the original decision was made by the Chief, Penalties Branch, Regulations and Rulings, Office of International Trade, CBP Headquarters, will be forwarded to the Director, Border Security and Trade Compliance Division, Regulations and Rulings, for review and decision.

(c) *Authority of Executive Director.* Any authority given to any Headquarters official by this part may also be exercised by the Executive Director, Regulations and Rulings, Office of International Trade, or his designee.

§ 172.43 Waiver of statute of limitations.

The deciding Customs official always reserves the right to require a waiver of the statute of limitations executed by the charged party or parties as a condition precedent before accepting a supplemental petition in any case in which less than one year remains before the statute will be available as a defense to all or part of that case.

PART 173—ADMINISTRATIVE REVIEW IN GENERAL

Sec.

173.0 Scope.

173.1 Authority to review for error.

§ 173.0

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173.2 Transactions which may be reviewed and corrected.

173.3 Voluntary reliquidation.

173.4 Correction of clerical error, mistake of fact, or inadvertence.

173.4a Refund of excess duties, fees, charges, or exaction paid prior to liquidation.

173.5 Review of entry covering household for personal effects.

AUTHORITY: 19 U.S.C. 66, 1501, 1520, 1624.

SOURCE: T.D. 70–181, 35 FR 13429, Aug. 22, 1970, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 173 appear by CBP Dec. No. 16–26, 81 FR 93024, Dec. 20, 2016.

§ 173.0 Scope.

This part deals with the general authority of review, the authority to reliquidate voluntarily, the authority to correct for clerical error, mistake of fact, or other inadvertence under section 520(c)(1), Tariff Act of 1930, as amended, for entries made before December 18, 2004, and the authority to review an entry of household or personal effects.

[T.D. 70–181, 35 FR 13429, Aug. 22, 1970, as amended by CBP Dec. 11–02, 76 FR 2577, Jan. 14, 2011]

§ 173.1 Authority to review for error.

Center directors have broad responsibility and authority to review transactions to ensure that the rate and amount of duty assessed on imported merchandise is correct and that the transaction is otherwise in accordance with the law. This authority extends to errors in the construction of a law and to errors adverse to the Government as well as the importer.

[T.D. 70–181, 35 FR 13429, Aug. 22, 1970, as amended by T.D. 79–221, 44 FR 46830, Aug. 9, 1979]

§ 173.2 Transactions which may be reviewed and corrected.

The Center director may review transactions for correctness, and take appropriate action under his general authority to correct errors, including those in appraisal where appropriate, at the time of:

- (a) Liquidation of an entry;
- (b) Voluntary reliquidation completed within 90 days after liquidation;

(c) Voluntary correction of an exaction within 90 days after the exaction was made;

(d) Reliquidation made pursuant to a valid protest covering the particular merchandise as to which a change is in order; or

(e) Modification, pursuant to a valid protest, of a transaction or decision which is neither a liquidation or reliquidation.

§ 173.3 Voluntary reliquidation.

(a) *Authority to reliquidate.* Within 90 days from the date notice of deemed liquidation or notice of the original liquidation is given to the importer, consignee, or agent, the Center director may reliquidate on his own initiative a liquidation or a reliquidation to correct errors in appraisal, classification, or any other element entering into the liquidation or reliquidation, including errors based on misconstruction of applicable law. A voluntary reliquidation may be made even though a protest has been filed, and whether the error is discovered by the Center director or is brought to his attention by an interested party.

(b) *Notice of reliquidation.* Notice of a voluntary reliquidation will be given in accordance with the requirements for giving notice of the original liquidation.

[T.D. 70–181, 35 FR 13429, Aug. 22, 1970, as amended by CBP Dec. 07–62, 72 FR 40737, July 25, 2007; CBP Dec. 11–02, 76 FR 2577, Jan. 14, 2011]

§ 173.4 Correction of clerical error, mistake of fact, or inadvertence.

(a) *Authority to review and correct entries of merchandise made, or withdrawn from warehouse for consumption, before December 18, 2004.* Even though a valid protest was not filed, the Center director, upon timely application and for entries of merchandise made, or withdrawn from warehouse for consumption, before December 18, 2004, may correct pursuant to section 520(c)(1), Tariff Act of 1930, as amended, a clerical error, mistake of fact, or other inadvertence meeting the requirements of paragraph (a)(1) of this section, by reliquidation or other appropriate action.

(1) *Transactions that may be corrected.* Correction may be made to any entry,

liquidation, or other customs transaction made before December 18, 2004, if the clerical error, mistake of fact, or other inadvertence:

(i) Does not amount to an error in the construction of a law;

(ii) Is adverse to the importer; and

(iii) Is manifest from the record or established by documentary evidence.

(2) *Limitation on time for application.* A clerical error, mistake of fact, or other inadvertence meeting the requirements of paragraph (a)(1) of this section must be brought to the attention of the Center director or other appropriate CBP officer within 1 year after the date of liquidation or exaction. The party requesting reliquidation under this section must state, to the best of his or her knowledge, whether the entry for which correction is requested is the subject of a drawback claim, or whether the entry has been referenced on a certificate of delivery or certificate of manufacture and delivery so as to enable a party to make such entry the subject of drawback (*see* §§181.50(b) and 191.81(b) of this chapter).

(b) *Entries of merchandise made, or withdrawn from warehouse for consumption, on or after December 18, 2004.* For merchandise entered, or withdrawn from warehouse for consumption, on or after December 18, 2004, CBP does not have the authority, in situations where a valid protest has not been filed, to reliquidate an entry to correct a clerical error, mistake of fact, or other inadvertence. For merchandise entered or withdrawn from warehouse for consumption on or after December 18, 2004, and except as provided for in sections 501 (relating to voluntary reliquidations), 516 (relating to petitions by domestic interested parties), and 520 (related to refunds) of the Tariff Act of 1930, as amended, a CBP decision involving any clerical error, mistake of fact, or other inadvertence, whether or not resulting from or contained in an electronic submission, that is adverse to the importer in any entry, liquidation or reliquidation, may be corrected by protest only. *See* 19 CFR 174.11.

(c) *“Liquidation” includes reliquidation.* “Liquidation,” as used in this section, includes reliquidation of an entry.

[CBP Dec. 11–02, 76 FR 2577, Jan. 14, 2011]

§ 173.4a Refund of excess duties, fees, charges, or exaction paid prior to liquidation.

Pursuant to section 520(a)(4), Tariff Act of 1930, as amended (19 U.S.C. 1520(a)(4)), whenever an importer of record declares or it is ascertained that excess duties, fees, charges, or exactions have been deposited or paid, the Center director may, prior to liquidation of an entry or reconciliation, take appropriate action to refund the deposit or payment of excess duties, fees, charges, or exactions.

[CBP Dec. No. 16–25, 81 FR 89381, Dec. 12, 2016]

§ 173.5 Review of entry covering household or personal effects.

An error in the liquidation of an entry covering household or personal effects may be corrected by the port director even though a timely protest was not filed if entry was made before December 18, 2004 and an application for refund is filed with the port director within 1 year after the date of the entry and no waiver of compliance with applicable regulations is involved other than a waiver which the port director has authority to grant. Where the port director has no authority to grant the waiver, the application will be referred to the Commissioner of CBP.

[T.D. 70–181, 35 FR 13429, Aug. 22, 1970, as amended by CBP Dec. 11–02, 76 FR 2577, Jan. 14, 2011]

PART 174—PROTESTS

Sec.

174.0 Scope.

Subpart A—General Provisions

174.1 Definitions.

174.2 Applicability of provisions.

174.3 Power of attorney to file protest.

Subpart B—Protests

174.11 Matters subject to protest.

174.12 Filing of protests.

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174.15 Consolidation of protests filed by different parties.

174.16 Limitation on protests after reliquidation.