

unless other action has been directed by the Commissioner of Customs.

§ 171.23 Decisions not protestable.

(a) *Mitigation decision not subject to protest.* Any decision to remit a forfeiture or mitigate a penalty is not a protestable decision as defined under the provisions of 19 U.S.C. 1514. Any payment made in compliance with any decision to remit a forfeiture or mitigate a penalty is not a charge or exaction and therefore is not a protestable action as defined under the provisions of 19 U.S.C. 1514.

(b) *Payment of mitigated amount as accord and satisfaction.* Payment of a mitigated amount in compliance with an administrative decision on a petition or supplemental petition for relief will be considered an election of administrative proceedings and full disposition of the case. Payment of a mitigated amount will act as an accord and satisfaction of the Government claim. Payment of a mitigated amount will never serve as a bar to filing a supplemental petition for relief.

§ 171.24 Remission of forfeitures and payment of fees, costs or interest.

Any seizure subject to forfeiture may be remitted or mitigated pursuant to the provisions of 19 U.S.C. 1618 or 31 U.S.C. 5321, as applicable. Any person who accepts a remission or mitigation decision will not be considered to have substantially prevailed in a civil forfeiture proceeding for purposes of collection of any fees, costs or interest from the Government.

[T.D. 00-88, 65 FR 78093, Dec. 14, 2000]

Subpart D—Offers in Compromise

SOURCE: T.D. 00-57, 65 FR 53577, Sept. 5, 2000, unless otherwise noted.

§ 171.31 Form of offers.

Offers in compromise submitted pursuant to the provisions of section 617 of the Tariff Act of 1930, as amended (19 U.S.C. 1617) must expressly state that they are being submitted in accordance with the provisions of that section. The amount of the offer must be deposited with Customs in accordance with the provisions of § 161.5 of this chapter.

§ 171.32 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—Restoration of Proceeds of Sale

SOURCE: T.D. 00-57, 65 FR 53577, Sept. 5, 2000, unless otherwise noted.

§ 171.41 Application of provisions for petitions for relief.

The general provisions of subpart A of this part on filing and content of petitions for relief apply to petitions for restoration of proceeds of sale except insofar as modified by this subpart.

§ 171.42 Time limit for filing petition for restoration.

A petition for the restoration of proceeds of sale under section 613, Tariff Act of 1930, as amended (19 U.S.C. 1613) must be filed within 3 months after the date of the sale.

§ 171.43 Evidence required.

In addition to such other evidence as may be required under the provisions of subpart A of this part, the petition for restoration of proceeds of sale under section 613, Tariff Act of 1930, as amended (19 U.S.C. 1613), must show the interest of the petitioner in the property. The petition must be supported by satisfactory proof that the petitioner did not know of the seizure prior to the declaration or decree of forfeiture and was in such circumstances as prevented him from knowing of it.

§ 171.44 Forfeited property authorized for official use.

If forfeited property which is the subject of a claim under section 613, Tariff Act of 1930, as amended (19 U.S.C. 1613) has been authorized for official use, retention or delivery will be regarded as

the sale thereof for the purposes of section 613. The appropriation available to the receiving agency for the purchase, hire, operation, maintenance and repair of property of the kind so received is available for the granting of relief to the claimant and for the satisfaction of liens for freight, charges and contributions in general average that may have been filed.

Subpart F—Expedited Petitioning Procedures

§ 171.51 Application and definitions.

(a) *Application.* The following definitions, regulations, and criteria are designed to establish and implement procedures required by section 6079 of the Anti-Drug Abuse Act of 1988, Pub. L. 100-690, title VI (102 Stat. 4181). They are intended to supplement existing law and procedures relative to the forfeiture of property under the identified statutory authority. The provisions of these regulations do not affect the existing legal and equitable rights and remedies of those with an interest in property seized for forfeiture, nor do these provisions relieve interested parties from their existing obligations and responsibilities in pursuing their interests through such courses of action. These regulations are intended to reflect the intent of Congress to minimize the adverse impact occasioned by the prolonged detention of property subject to forfeiture due to violations of law involving possession of personal use quantities of controlled substances. The definition of personal use quantities of controlled substance as contained herein is intended to distinguish between those quantities small in amount which are generally considered to be possessed for personal consumption and not for distribution, and those larger quantities generally considered to be subject to distribution.

(b) *Definitions.* As used in this subpart, the following terms shall have the meanings specified:

(1) *Appraised value.* “Appraised value” has the meaning given in § 162.43(a) of this chapter.

(2) *Commercial fishing industry vessel.* “Commercial fishing industry vessel” means a vessel that:

(i) Commercially engages in the catching, taking, or harvesting of fish or an activity that can reasonably be expected to result in the catching, taking, or harvesting of fish;

(ii) Commercially prepares fish or fish products other than by gutting, decapitating, gilling, skinning, shucking, icing, freezing, or brine chilling; or

(iii) Commercially supplies, stores, refrigerates, or transports fish, fish products, or materials directly related to fishing or the preparation of fish to or from a fishing, fish processing, or fish tender vessel or fish processing facility.

(3) *Controlled substance.* “Controlled substance” has the meaning given in 21 U.S.C. 802.

(4) *Normal and customary manner.* “Normal and customary manner” means that inquiry suggested by particular facts and circumstances which would customarily be undertaken by a reasonably prudent individual in a like or similar situation. Actual knowledge of such facts and circumstances is unnecessary, and implied, imputed, or constructive knowledge is sufficient. An established norm, standard, or custom is persuasive but not conclusive or controlling in determining whether a petitioner acted in a normal and customary manner to ascertain how property would be used by another legally in possession of the property.

(5) *Owner or interested party.* “Owner or interested party” means one having a legal and possessory interest in the property seized for forfeiture or one who was in legal possession of the property at the time of seizure and is entitled to legal possession at the time of granting the petition for expedited procedure. This includes a lienholder, to the extent of his interest in the property, whose claim is in writing (except for a maritime lien which need not be in writing), unless the collateral is in the possession of the secured party. The agreement securing such a lien must create or provide for a security interest in the collateral, describe the collateral and be signed by the debtor.

(6) *Personal use quantities.* “Personal use quantities” means possession of controlled substances in circumstances where there is no evidence of intent to