

Subpart B—Protests

§ 174.11 Matters subject to protest.

The following decisions of the port director, including the legality of all orders and findings entering into the same, may be protested under the provisions of section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514):

- (a) The appraised value of merchandise;
- (b) The classification and rate and amount of duties chargeable;
- (c) All charges or exactions of whatever character including the accrual of interest within the jurisdiction of the Secretary of the Treasury;
- (d) The exclusion of merchandise from entry or delivery under any provision of the Customs laws;
- (e) The liquidation or reliquidation of an entry, or any modification thereof;
- (f) The refusal to pay a claim for drawback; and
- (g) The refusal to reliquidate an entry under section 520(c), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)).

[T.D. 70-181, 35 FR 13429, Aug. 22, 1970, as amended by T.D. 99-75, 64 FR 56441, Oct. 20, 1999]

§ 174.12 Filing of protests.

(a) *By whom filed.* Protests may be filed by:

- (1) The importer or consignee shown on the entry papers, or their sureties;
- (2) Any person paying or receiving a refund of any charge or exaction;
- (3) Any person seeking entry or delivery;
- (4) Any person filing a claim for drawback;
- (5) With respect to a determination of origin under subpart G of part 181 of this chapter, any exporter or producer of the merchandise subject to that determination, if the exporter or producer completed and signed a Certificate of Origin covering the merchandise as provided for in § 181.11(a) of this chapter; or
- (6) Any authorized agent of any of the persons described in paragraphs (a) (1) through (5) of this section, subject to the provisions of § 174.3.

(b) *Form and number of copies.* Protests against decisions of a port director shall be filed in quadruplicate on Customs Form 19 or a form of the same

size clearly labeled “Protest” and setting forth the same content in its entirety, in the same order, addressed to the port director. All schedules or other attachments to a protest (other than samples or similar exhibits) shall also be filed in quadruplicate.

(c) *Identity of filer.* The identity of the person filing the protest or his agent, or attorney shall be noted on the protest. This may be accomplished through a signature which is handwritten in ink, stamped, typed, facsimile, telefax, or by electronic certification in ACS. If the person filing the protest is not the importer of record or consignee, the filer shall include his address and importer number, if any.

(d) *Place of filing.* Protests shall be filed with the port director whose decision is protested.

(e) *Time of filing.* Protests shall be filed, in accordance with section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514), within 90 days after either:

(1) The date of notice of liquidation or reliquidation in accordance with §§ 159.9 or 159.10 of this chapter;

(2) The date of the decision, involving neither a liquidation nor reliquidation, as to which the protest is made (e.g., the date of an exaction, the date of written notice excluding merchandise from entry or delivery under any provision of the Customs laws, the date of a refusal to reliquidate under section 520(c)(1) of the Tariff Act of 1930, as amended, or the date of written notice of a denial of a claim filed under section 520(d) of the Tariff Act of 1930, as amended); or

(3) The date of mailing of notice of demand for payment against a bond in the case of a surety which has an unsatisfied legal claim under a bond written by the surety.

(f) *Date of filing.* The date on which a protest is received by the Customs officer with whom it is required to be filed shall be deemed the date on which it is filed.

(g) *Return of fifth copy.* If a fifth copy of the protest is presented for the purpose of having recorded thereon the date of its receipt and the protest number assigned thereto, such information shall be recorded thereon and the fifth

copy shall be returned to the person filing the protest.

[T.D. 70-181, 35 FR 13429, Aug. 22, 1970, as amended by T.D. 71-15, 36 FR 778, Jan. 16, 1971; 36 FR 1058, Jan. 22, 1971; T.D. 73-175, 38 FR 17488, July 2, 1973; T.D. 80-271, 45 FR 75642, Nov. 17, 1980; T.D. 94-1, 58 FR 69472, Dec. 30, 1993; T.D. 94-55, 59 FR 34971, July 8, 1994; T.D. 95-68, 60 FR 46363, Sept. 6, 1995; T.D. 99-75, 64 FR 56441, Oct. 20, 1999]

§ 174.13 Contents of protest.

(a) *Contents, in general.* A protest shall contain the following information:

(1) The name and address of the protestant, i.e., the importer of record or consignee, and the name and address of his agent or attorney if signed by one of these;

(2) The importer number of the protestant. If the protestant is represented by an agent having power of attorney, the importer number of the agent shall also be shown;

(3) The number and date of the entry;

(4) The date of liquidation of the entry, or the date of a decision not involving a liquidation or reliquidation;

(5) A specific description of the merchandise affected by the decision as to which protest is made;

(6) The nature of, and justification for the objection set forth distinctly and specifically with respect to each category, payment, claim, decision, or refusal;

(7) The date of receipt and protest number of any protest previously filed that is the subject of a pending application for further review pursuant to subpart C of this part and that is alleged to involve the same merchandise and the same issues, if the protesting party requests disposition in accordance with the action taken on such previously filed protest;

(8) If another party has not filed a timely protest, the surety's protest shall certify that the protest is not being filed collusively to extend another authorized person's time to protest; and

(9) A declaration, to the best of the protestant's knowledge, as to whether the entry is the subject of drawback, 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) *Multiple entries.* A single protest may be filed with respect to more than one entry at any port if all such entries involve the same protesting party, and if the same category of merchandise and a decision or decisions common to all entries are the subject of the protest. In such circumstances, the entry numbers, dates of entry, and dates of liquidation of all such entries should be set forth as an attachment to the protest.

(c) *Optional designation for refunds.* If desired by the importer/consignee the statement "any refunds with respect to the entry under protest shall be mailed to the importer/consignee in care of

(Name and Address of Agent)

may be appended to the protest. This designation supersedes any existing designation previously authorized on Customs Form 4811.

[T.D. 70-181, 35 FR 13429, Aug. 22, 1970, as amended by T.D. 80-271, 45 FR 75642, Nov. 17, 1980; T.D. 98-16, 63 FR 11005, Mar. 5, 1998; T.D. 99-99-64, 64 FR 43267, Aug. 10, 1999]

§ 174.14 Amendment of protests.

(a) *Time for filing.* A protest may be amended at any time prior to the expiration of the 90-day period within which such protest may be filed determined in accordance with § 174.12(e). The amendment may assert additional claims pertaining to the administrative decision which is the subject of the protest, or may challenge an additional administrative decision relating to the same category of merchandise which is the subject of the protest. For the presentation of additional grounds or arguments in support of a valid protest after the 90-day period has expired see § 174.28.

(b) *Form and number of copies of amendment.* An amendment to a protest shall be filed in quadruplicate on Customs Form 19 or on a form of the same size, clearly labeled "Amendment to Protest" at the top of the form. Schedules or other attachments (other than samples or similar exhibits) shall also be filed in quadruplicate.