

be promptly referred to the U.S. attorney unless other action has been directed by the Commissioner of Customs.

[T.D. 70-249, 35 FR 18267, Dec. 1, 1970, as amended by T.D. 79-160, 44 FR 31962, June 4, 1979]

§ 172.33 Supplemental petitions for relief.

(a) *Time and place of filing.* If the interested parties are not satisfied with a decision of the Fines, Penalties, and Forfeitures Officer or the Commissioner of Customs, a supplemental petition may be filed with the Fines, Penalties, and Forfeitures Officer by the interested parties. Such a petition shall be filed either:

(1) Within 30 days from the date of notice to the petitioner of the decision from which further relief is requested if no effective period is prescribed in the decision; or

(2) Within the time prescribed in the decision from which further relief as requested as the effective period of the decision.

(b) *Consideration—(1) Decisions of the Fines, Penalties, and Forfeitures Officer.* Where a supplemental petition requests further relief from a decision of the Fines, Penalties, and Forfeitures Officer, he may grant additional relief, if he believes it is warranted, in cases in which he has the authority to grant relief in accordance with the provisions of § 172.21. Supplemental petitions for further relief in cases initially decided by the Fines, Penalties, and Forfeitures Officer in accordance with the provisions of § 172.21, together with all pertinent documents, shall be forwarded to the designated Headquarters official if:

(i) There has been a specific request by the petitioner for review by the designated Headquarters official; or

(ii) The Fines, Penalties, and Forfeitures Officer believes no additional relief is warranted.

(2) *Decisions of the Commissioner of Customs.* A supplemental petition appealing a decision of the Commissioner of Customs shall be filed, together with all pertinent documents, with the Fines, Penalties, and Forfeitures Officer who initiated the case for trans-

mittal to the Commissioner of Customs for reconsideration.

(c) *Second supplemental petition.* (1) Only one further supplemental petition may be filed appealing a decision made with respect to an initial supplemental petition. The second supplemental petition will not be accepted unless accompanied or preceded by full payment of all liquidated damages determined to be due in the decision rendered on the first supplemental petition. Such payment must be made within 60 days from the date of notice to the petitioner of the decision on the first supplemental petition if no effective period is prescribed in the decision, or within such time prescribed, if any. The second supplemental petition should be filed with the Fines, Penalties, and Forfeitures Officer who initiated the case.

(2) A second supplemental petition will not be considered except in one of the following circumstances:

(i) If it is filed within 2 years from the date of notice to the petitioner of the decision on the first supplemental petition;

(ii) If it is filed within 30 days following an administrative or judicial decision which reduces the loss of duties upon which the mitigated penalty amount was based; or

(iii) If the deciding official in his discretion determines that the acceptance of a second supplemental petition is warranted.

[T.D. 70-249, 35 FR 18267, Dec. 1, 1970, as amended by T.D. 75-36; 40 FR 5146, Feb. 4, 1975; T.D. 84-18, 49 FR 1680, Jan. 13, 1984; T.D. 86-118, 51 FR 22516, June 20, 1986; T.D. 87-51, 52 FR 12152, Apr. 15, 1987; T.D. 91-71, 56 FR 40780, Aug. 16, 1991; T.D. 99-27, 64 FR 13677, Mar. 22, 1999]

PART 173—ADMINISTRATIVE REVIEW IN GENERAL

Sec.

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