§ 1515. Review of protests

(a) Administrative review and modification of decisions

Unless a request for an accelerated disposition of a protest is filed in accordance with subsection (b) of this section the appropriate customs officer, within two years from the date a protest was filed in accordance with section 1514 of this title, shall review the protest and shall allow or deny such protest in whole or in part. Thereafter, any duties, charge, or exaction found to have been assessed or collected in excess shall be remitted or refunded and any drawback found due shall be paid. Upon the request of the protesting party, filed within the time allowed for the filing of a protest under section 1514 of this title, a protest may be subject to further review by another appropriate customs officer, under the circumstances and in the form and manner that may be prescribed by the Secretary in regulations, but subject to the two-year limitation prescribed in the first sentence of this subsection. Within 30 days from the date an application for further review is filed, the appropriate customs officer shall allow or deny the application and, if allowed, the protest shall be forwarded to the customs officer who will be conducting the further review. Notice of the denial of any protest shall be mailed in the form and manner prescribed by the Secretary. Such notice shall include a statement of the reasons for the denial, as well as a statement informing the protesting party of his right to file a civil action contesting the denial of a protest under section 1514 of this title.

(b) Request for accelerated disposition of protest

A request for accelerated disposition of a protest filed in accordance with section 1514 of this title may be mailed by certified or registered mail to the appropriate customs officer any time concurrent with or following the filing of such protest. For purposes of section 1581 of title 28, a protest which has not been allowed or denied in whole or in part within thirty days following the date of mailing by certified or registered mail of a request for accelerated disposition shall be deemed denied on the thirtieth day following mailing of such request.

(c) Request for set aside of denial of further review

If a protesting party believes that an application for further review was erroneously or improperly denied or was denied without authority for such action, it may file with the Commissioner of Customs a written request that the denial of the application for further review be set aside. Such request must be filed within 60 days after the date of the notice of the denial. The Commissioner of Customs may review such request and, based solely on the information before the Customs Service at the time the application for further review was denied, may set aside the denial of the application for further review and void the denial of protest, if appropriate. If the Commissioner of Customs fails to act within 60 days after the date of the request, the request shall be considered denied. All denials of protests are effective from the date of original denial for purposes of section 2636 of title 28. If an action is commenced in the Court of International Trade that arises out of a protest or an application for further review, all administrative action pertaining to such protest or application shall terminate and any administrative action taken subsequent to the commencement of the action is null and void.

(d) Voiding denial of protest

If a protest is timely and properly filed, but is denied contrary to proper instructions, the Customs Service may on its own initiative, or pursuant to a written request by the protesting party filed with the appropriate port director within 90 days after the date of the protest denial, void the denial of the protest.

Prior Provisions

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 515, 42 Stat. 970. That section was superseded by section 515 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provisions for transmission of the invoice, papers, and exhibits to the board of general appraisers in case of protest, and provisions concerning the conclusiveness of its determination, were contained in act Oct. 3, 1913, ch. 16, § III, N, 38 Stat. 187, the provisions of which were substituted for provisions of a similar nature in Customs Administrative Act of June 10, 1890, ch. 407, § 14, 26 Stat. 137, as amended by Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, § 28, 36 Stat. 100.

Amendments


1999—Subsec. (a). Pub. L. 106–36 inserted after third sentence “Within 30 days from the date an application for further review is filed, the appropriate customs officer shall allow or deny the application and, if allowed, the protest shall be forwarded to the customs officer who will be conducting the further review.”


1993—Subsecs. (c) and (d). Pub. L. 103–182 added subsecs. (c) and (d).


1979—Subsec. (a). Pub. L. 96–39 required that notice of denial include a statement of reasons for denial, as well as a statement informing protesting party of his right to file a civil action contesting denial of a protest under section 1514 of this title.

1970—Pub. L. 91–271 designating existing provisions as subsec. (a), substituted provisions authorizing review by appropriate customs officer for provisions authorizing review by collector and revised such review procedures, and added subsec. (b).

Effective Date of 2004 Amendment

Amendment by Pub. L. 108–429 applicable to merchandise entered, or withdrawn from warehouse for consumption, on or after the 15th day after Dec. 3, 2004, see section 2108 of Pub. L. 108–429, set out as a note under section 1401 of this title.

Effective Date of 1996 Amendment

Amendment by Pub. L. 104–295 applicable as of Dec. 8, 1993, see section 3(b) of Pub. L. 104–295, set out as a note under section 1321 of this title.

Effective Date of 1980 Amendment

Amendment by Pub. L. 96–417 effective Nov. 1, 1980, and applicable with respect to civil actions pending on or commenced on or after such date, see section 701(a) of Pub. L. 96–417, set out as a note under section 251 of Title 28, Judiciary and Judicial Procedure.

Effective Date of 1979 Amendment

Amendment by Pub. L. 96–39 effective Jan. 1, 1980, see sections 1002 and 107 of Pub. L. 96–39, set out as Effective Date notes under sections 1516a and 1671 of this title, respectively.

Effective Date of 1970 Amendment

For effective date of amendment by Pub. L. 91–271, see section 203 of Pub. L. 91–271, set out as a note under section 1500 of this title.
Transfer of Functions

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203 (1), 551 (d), 552 (d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Functions of Secretary of the Treasury under this section insofar as they relate to any protest, petition, or notice of desire to contest described in section 1002(b)(1) of the Trade Agreements Act of 1979, set out as a note under section 1516a of this title, transferred to Secretary of Commerce pursuant to Reorg. Plan No. 3 of 1979, § 5(a)(1)(D), 44 F.R. 69275, 93 Stat. 1381, eff. Jan. 2, 1980, as provided by section 1–107(a) of Ex. Ord. No. 12188, Jan. 2, 1980, 45 F.R. 993, set out as notes under section 2171 of this title.

Review of Protests in Import Surcharge Cases

Pub. L. 93–618, title VI, § 611, Jan. 3, 1975, 88 Stat. 2075, provided that: “Notwithstanding the provisions of section 515(a) of the Tariff Act of 1930 (19 U.S.C. 1515 (a)), in the case of any protest under section 514 of such Act [section 1514 of this title] involving the imposition of an import surcharge in the form of a supplemental duty pursuant to Presidential Proclamation 4074, dated August 17, 1971 [set out as a note preceding section 1202 of this title], the time for review and allowing or denying the protest shall not expire until five years from the date the protest was filed in accordance with such section 514 [section 1514 of this title].”