

criteria, but with respect to whom remission would be inimical to the interests of justice.

[T.D. 84-92, 49 FR 17756, Apr. 25, 1984]

**§ 171.14 Oral presentations seeking relief.**

(a) *For certain violations*—(1) *Right to make oral presentation.* If the penalty incurred is for a violation of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), for which proceedings commenced after December 31, 1978, the person named in the notice also may make an oral presentation seeking relief in accordance with this paragraph. For purposes of this paragraph, a proceeding commences with the issuance of a prepenalty notice or, if no prepenalty notice is issued, with the issuance of a notice of a claim for a monetary penalty.

(2) *Prerequisites.* The person shall be given a reasonable opportunity to make an oral presentation provided that a petition has been filed under § 171.12, and that the petition contains a request to present orally the reasons for remission or mitigation of the penalty.

(b) *Other oral presentations.* Oral presentations other than those provided in paragraph (a) of this section may be allowed in the discretion of any official of the Customs Service or Department of the Treasury authorized to act on a petition or supplemental petition.

[T.D. 79-160, 44 FR 31962, June 4, 1979; T.D. 79-305, 44 FR 70459, Dec. 7, 1979]

**§ 171.15 Extensions of time for filing petition.**

(a) *Extension of time for filing petition or supplemental petition for relief.* If there is at least 1 year before the statute of limitations may be asserted as a defense, a Fines, Penalties, and Forfeitures Officer may extend the time for filing a petition (or establish a 60-day or 90-day response period pursuant to paragraph (a)(4) of this section) or supplemental petition, upon the request of a person who is or may be liable for a fine or penalty, or who has an interest in property subject to forfeiture, in the following situations:

(1) The person is incapacitated and unable to prepare or to assist in the preparation of a petition.

(2) The person is absent from the U.S. for 20 days or more during the specified period for filing the petition for relief.

(3) Evidence necessary to file an effective petition is not immediately available. Evidence is not immediately available if, for example, it:

(i) Is in the possession of a foreign source and must be procured from same.

(ii) Requires that a request of any Government agency be complied with, provided that any such request is not frivolous and is made in accordance with law.

(4) The case involves a complex legal or factual problem. Examples of the type of problem are the need to examine voluminous records (e.g., Customs entries, purchase orders, invoices and the like) to learn the facts on which to base a petition, or the need to determine legal responsibilities in a case involving numerous parties or numerous violations. In such cases, the Fines, Penalties and Forfeitures Officer, on his own initiative, may specify in any seizure notice that a 60-day response period from the date of mailing of the notice is warranted, or may specify in any fine or penalty notice that a 90-day response period from the date of mailing of the notice is warranted. If, in such cases, the Fines, Penalties and Forfeitures Officer concludes that only a 30 or 60 day response period is warranted and so indicates in the seizure or penalty notice, the person charged with responding shall have 7 days from the date of the mailing of the notice to appeal the decision of the Fines, Penalties and Forfeitures Officer to the Director, International Trade Compliance Division, Customs Headquarters. If an appeal is taken, a copy of the appeal must be furnished to the Fines, Penalties and Forfeitures Officer who issued the notice, and the original forwarded to the Director, International Trade Compliance Division, U.S. Customs Service, 1300 Pennsylvania Ave., NW., Washington, DC 20229. Such appeals should clearly set forth why the particular case warrants an extension beyond the 30- or 60-day period. If the

appeal is granted, the Director, International Trade Compliance Division, will notify both the Fines, Penalties and Forfeitures Officer and the person charged with responding of the time period allotted for response. In no case will the filing of an appeal under this paragraph toll the 30- or 60-day period of time specified by the Fines, Penalties and Forfeitures Officer in the seizure or penalty notice.

(5) There is an occurrence of some act of God which makes compliance with petitioning time limits impossible.

(6) In any seizure case involved or related to controlled substances, no extensions of time to respond shall be granted absent a demonstration of extraordinary circumstances justifying additional time beyond the 30-day period.

(7) Any other situation in which the Fines, Penalties and Forfeitures Officer determines that an extension of time for filing a petition is justified.

(b) *Retention of new counsel insufficient reason to grant extension.* As a general rule, the mere fact that counsel has just been retained, or new counsel appointed or selected, without another enumerated reason, will be insufficient reason to grant an extension of petitioning time.

[T.D. 85–195, 50 FR 50290, Dec. 10, 1985, as amended by T.D. 91–77, 56 FR 46115, Sept. 10, 1991; T.D. 92–84, 57 FR 40607, Sept. 4, 1992; T.D. 99–27, 64 FR 13676, Mar. 22, 1999]

### Subpart C—Action on Petitions

#### § 171.21 Petitions acted on by Fines, Penalties, and Forfeitures Officer.

The Fines, Penalties, and Forfeitures Officer may mitigate or remit fines, penalties, and forfeitures incurred under any law administered by Customs with the exception of penalties or forfeitures incurred under the provisions of sections 592 and 641(b)(6) or (d)(1) of the Tariff Act of 1930, as amended (19 U.S.C. 1592 and 1641(b)(6) or (d)(1)), on such terms and conditions as, under the law and in view of the circumstances, he shall deem appropriate when the total amount of the fines and penalties incurred with respect to any one offense, together with the total value of any merchandise or other article subject to forfeiture or to a claim

for forfeiture value, does not exceed \$100,000. The Fines, Penalties, and Forfeitures Officer may mitigate or remit fines, penalties, or forfeitures incurred under 19 U.S.C. 1592 when the total amount of those fines, penalties or forfeitures does not exceed \$50,000. The Fines, Penalties, and Forfeitures Officer may mitigate penalties incurred under 19 U.S.C. 1641(b)(6), 1641(d)(1), and assessed under section 1641(d)(2)(A) when the total amount of the penalties does not exceed \$10,000.

[T.D. 91–71, 56 FR 40779, Aug. 16, 1991; 56 FR 48823, Sept. 26, 1991, as amended by T.D. 99–27, 64 FR 13676, Mar. 22, 1999]

#### § 171.22 Special cases acted upon by Fines, Penalties, and Forfeitures Officer.

(a) *Merchandise illegally transported coastwise.* A forfeiture of merchandise or a claim for forfeiture of a monetary amount under title 46, United States Code, section 883, for illegally transporting merchandise coastwise, may be remitted by the Fines, Penalties, and Forfeitures Officer, regardless of the value of the merchandise or the amount of the penalty, if the petition for relief establishes to the satisfaction of the Fines, Penalties, and Forfeitures Officer that the violation occurred as a direct result of an arrival of the transporting vessel in distress.

(b) *Forfeiture of imported liquor or compound.* When any package of or package containing any spirituous, vinous, malted, or other fermented liquor, or any compound containing any spirituous, vinous, malted, or other fermented liquor fit for use for beverage purposes, or any vessel or vehicle in which the same has been transported has become subject to forfeiture under the provisions of 18 U.S.C. 3615, for non-compliance with 18 U.S.C. 1263, and the U.S. attorney has advised the Fines, Penalties, and Forfeitures Officer that there is not sufficient evidence of intent to violate the law to warrant criminal prosecution thereunder, the forfeiture incurred shall be remitted pursuant to the authority of section 7327, Internal Revenue Code of 1954 (26 U.S.C. 7327), and section 618, Tariff Act of 1930 (19 U.S.C. 1618), upon the condition that the expenses of seizure, if any, shall be paid.