

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.

(c) *Claim for property stolen in Canada and seized by U.S. Customs.* Under the provisions of Executive Order 4306, dated September 19, 1925 (T.D. 41110), any person claiming to be the owner of property stolen in Canada, brought into the United States and seized by Customs authorities for violation of law, may file with the Fines, Penalties, and Forfeitures Officer having custody of the property a petition for its release, addressed to the Secretary of the Treasury. The petition shall be supported by evidence of ownership in the claimant and shall contain a waiver and release of all possible claims against the United States or any officer thereof for compensation or damages incident to the seizure and detention of the property. If the Fines, Penalties, and Forfeitures Officer is satisfied that the claimant is the owner of the property and that it was brought into the United States without collusion on the part of the claimant, the Fines, Penalties, and Forfeitures Officer may release the property for return to Canada upon the payment of all expenses incident to its seizure and detention. In the event of conflicting claims for the property or any doubt as to the claimant's interest in or right to the property, the Fines, Penalties, and Forfeitures Officer shall submit the matter to the Commissioner of Customs for decision.

[T.D. 70-249, 35 FR 18265, Dec. 1, 1970, as amended by T.D. 79-160, 44 FR 31962, June 4, 1979; T.D. 99-27, 64 FR 13676, Mar. 22, 1999]

**§ 171.23 Availability of mitigation guidelines for monetary penalties assessed pursuant to section 592, Tariff Act of 1930, as amended.**

The guidelines used by the Customs Service for the mitigation of claims for monetary penalties assessed pursuant to section 592, Tariff Act of 1930, as amended, are available upon written request to the Commissioner of Customs, Attention: Office of Regulations and Rulings, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

[T.D. 80-160, 45 FR 40975, June 17, 1980, as amended by T.D. 99-27, 64 FR 13676, Mar. 22, 1999]

**§ 171.24 Limitations on consideration of petitions.**

(a) *Case referred for institution of legal proceedings.* No action shall be taken on any petition if the civil liability has been referred to the Department of Justice for institution of legal proceedings. The petition shall be forwarded to the Department of Justice.

(b) *Vessel or vehicle awarded for official use.* When a vessel or vehicle is awarded for official use, a petition shall not be considered unless:

- (1) It is filed before final disposition of the property is made; or
- (2) It is a petition for restoration of proceeds of sale filed in accordance with subpart E of this part.

[T.D. 75-21, 40 FR 2798, Jan. 16, 1975. Redesignated and amended by T.D. 84-18, 49 FR 1680, Jan. 13, 1984]

**Subpart D—Disposition of Petitions**

**§ 171.31 Act or omission did not occur.**

If it is definitely determined that the act or omission forming the basis of a penalty or forfeiture claim did not in fact occur, the claim shall be canceled by the Fines, Penalties, and Forfeitures Officer. When the determination of whether or not the claim was erroneously made depends upon a construction of law, the claim shall not be canceled without the approval of the Commissioner of Customs unless there is in force a ruling by the Commissioner of Customs decisive of the issue.

[T.D. 70-249, 35 FR 18265, Dec. 1, 1970, as amended by T.D. 99-27, 64 FR 13676, Mar. 22, 1999]

**§ 171.31a Written decision.**

If a petition or supplemental petition (see § 171.33) for relief relates to 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 petitioner shall be provided with a written statement setting forth the decision on the matter and the findings of fact and conclusions of law upon which the decision is based. Decisions on initial or supplemental petitions which are considered to be preceptual in nature or otherwise significant will be published in the weekly