

(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

CUSTOMS BULLETIN with appropriate deletion of information exempt from disclosure under part 103 of this chapter. For purposes of this section, 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.

[T.D. 79-160, 44 FR 31962, June 4, 1979]

§ 171.32 Limitation on time decision effective.

A decision to mitigate a penalty or to remit a forfeiture upon condition that a stated amount is paid shall be effective for not more than 60 days from the date of notice to the petitioner of such decision, unless the decision itself prescribes a different effective period or the decision is later amended to change the effective period. If payment of the stated amount is not made, or arrangements made for delayed payment or installment payments, or a supplemental petition filed, within the effective period, the full penalty or claim of forfeiture shall be deemed applicable and shall be enforced by promptly referring the matter, after required collection action, if appropriate, to the U.S. attorney unless other action has been directed by the Commissioner of Customs.

[T.D. 70-249, 35 FR 18265, Dec. 1, 1970, as amended by T.D. 79-160, 44 FR 31962, June 4, 1979]

§ 171.33 Supplemental petitions for relief.

(a) *Time and place of filing.* If the petitioner is 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. 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 is requested as the effective period of the decision.

(b) *Consideration*—(1) *Decisions of the Fines, Penalties, and Forfeitures Officer.*

Except in cases when liability is incurred under the provisions of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592) in an amount that exceeds \$25,000, where a supplemental petition requests further relief from a decision of the Fines, Penalties, and Forfeitures Officer, the Fines, Penalties, and Forfeitures Officer 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 §§ 171.21 and 171.22. If the Fines, Penalties, and Forfeitures Officer believes no additional relief is warranted, or if the petitioner is not satisfied with the additional relief granted by the Fines, Penalties, and Forfeitures Officer, or if there has been a specific request by the petitioner for review by a higher level official, the supplemental petition, together with all pertinent documents, shall be forwarded to the designated higher level official or if the liability was incurred under 19 U.S.C. 1592, for an amount that exceeded \$25,000, to the Commissioner of Customs.

(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 transmittal 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 penalties and withheld duties 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. For the purpose of this section, the term "second supplemental petition" shall include an offer