

United States Customs Service, Treasury

§ 171.12

(d) *False statement in petition.* A false statement contained in a petition may subject the petitioner to prosecution under the provisions of 18 U.S.C. 1001.

§ 171.2 Filing a petition.

(a) *Where filed.* A petition for relief must be filed with the Fines, Penalties, and Forfeitures office whose address is given in the notice.

(b) *When filed.*—(1) *Seizures.* Petitions for relief from seizures must be filed within 30 days from the date of mailing of the notice of seizure.

(2) *Penalties.* Petitions for relief from penalties must be filed within 60 days of the mailing of the notice of penalty incurred.

(c) *Extensions.* The Fines, Penalties, and Forfeitures Officer is empowered to grant extensions of time to file petitions when the circumstances so warrant.

(d) *Number of copies.* The petition must be filed in duplicate unless filed electronically.

(e) *Exception for certain cases.* If a penalty is assessed or a seizure is made and less than 180 days remain before the statute of limitations may be asserted as a defense, the Fines, Penalties, and Forfeitures Officer may specify in the seizure or penalty notice a reasonable period of time, but not less than 7 working days, for the filing of a petition for relief. If a petition is not filed within the time specified, the matter will be transmitted promptly to the appropriate Office of the Chief Counsel for referral to the Department of Justice.

§ 171.3 Oral presentations seeking relief.

(a) *For violation of section 592 or section 593A.* If the penalty incurred is for a violation of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), or section 593A, Tariff Act of 1930, as added (19 U.S.C. 1593a), the person named in the notice, in addition to filing a petition, may make an oral presentation seeking relief in accordance with this paragraph.

(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.

Subpart B—Action on Petitions

SOURCE: T.D. 00-57, 65 FR 53576, Sept. 5, 2000, unless otherwise noted.

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

(a) *Remission or mitigation authority.* Upon receipt of a petition for relief submitted pursuant to the provisions of section 618 of the Tariff Act of 1930, as amended (19 U.S.C. 1618), or section 5321(c) of title 31, United States Code (31 U.S.C. 5321(c)), or section 320 of title 46, United States Code App. (46 U.S.C. App. 320), the Fines, Penalties, and Forfeitures Officer is empowered to remit or mitigate on such terms and conditions as, under law and in view of the circumstances, he or she deems appropriate in accordance with appropriate delegations of authority.

(b) *When violation did not occur.* Notwithstanding any other delegation of authority, the Fines, Penalties, and Forfeitures Officer is always empowered to cancel any claim when he or she definitely determines that the act or omission forming the basis of any claim of penalty or forfeiture did not occur.

(c) *When violation is result of vessel in distress.* The Fines, Penalties, and Forfeitures Officer may remit without payment any penalty which arises for violation of the coastwise laws if he or she is satisfied that the violation occurred as a direct result of an arrival of the transporting vessel in distress.

§ 171.12 Petitions acted on at Customs Headquarters.

Upon receipt of a petition for relief filed pursuant to the provisions of section 618 of the Tariff Act of 1930, as amended (19 U.S.C. 1618), section 5321(c) of title 31, United States Code (31 U.S.C. 5321(c)), or section 320 of title 46, United States Code App. (46 U.S.C. App. 320), involving fines, penalties, and forfeitures which are outside of his or her delegated authority, the Fines, Penalties, and Forfeitures Officer will refer that petition to the Chief, Penalties Branch, Office of Regulations and Rulings, Customs Headquarters, who is

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empowered to remit or mitigate on such terms and conditions as, under law and in view of the circumstances, he or she deems appropriate, unless there has been no delegation to act by the Secretary of the Treasury or his designee. In those cases where there has been no delegation to act by the Secretary, the Chief, Penalties Branch, will forward the matter to the Department with a recommendation.

§ 171.13 Limitations on consideration of petitions.

(a) *Cases referred for institution of legal proceedings.* No action will be taken on any petition after the case has been referred to the Department of Justice for institution of legal proceedings. The petition will be forwarded to the Department of Justice.

(b) *Conveyance awarded for official use.* No petition for remission of forfeiture of a seized conveyance which has been forfeited and retained for official use will be considered unless it is filed before final disposition of the property is made. This does not affect petitions for restoration of proceeds of sale filed pursuant to the provisions of section 613 of the Tariff Act of 1930, as amended (19 U.S.C. 1613).

§ 171.14 Headquarters advice.

The advice of the Director, International Trade Compliance Division, Office of Regulations and Rulings, Customs Headquarters, may be sought in any case (except as provided in this section), without regard to delegated authority to act on a petition or offer, when a novel or complex issue concerning a ruling, policy, or procedure is presented concerning a Customs action(s) or potential Customs action(s) relating to seizures and forfeitures, penalties, or mitigating or remitting any claim. This section does not apply to actual duty loss tenders determined by Customs pursuant to §162.74(c) of this Chapter relating to prior disclosure and to actual duty loss demands made under §162.79b of this Chapter. The request for advice may be initiated by the alleged violator or any Customs officer, but must be submitted to the Fines, Penalties, and Forfeitures Officer. The Fines, Penalties, and Forfeitures Officer retains the authority to

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refuse to forward any request that fails to raise a qualifying issue and to seek legal advice from the appropriate Associate or Assistant Chief Counsel in any case.

Subpart C—Disposition of Petitions

SOURCE: T.D. 00-57, 65 FR 53577, Sept. 5, 2000, unless otherwise noted.

§ 171.21 Written decisions.

If a petition for relief relates to a violation of sections 592, 593A or 641, Tariff Act of 1930, as amended (19 U.S.C. 1592, 19 U.S.C. 1593a, or 19 U.S.C. 1641), the petitioner will 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.

§ 171.22 Decisions effective for limited time.

A decision to mitigate a penalty or to remit a forfeiture upon condition that a stated amount is paid will 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. If payment of the stated amount or arrangements for such payment are not made, or a supplemental petition is not filed in accordance with regulation, the full penalty or claim for forfeiture will be deemed applicable and will be enforced by promptly referring the matter, after required collection action, if appropriate, to the appropriate Office of the Chief Counsel for preparation for referral to the Department of Justice unless other action has been directed by the Commissioner of Customs.

§ 171.23 Decisions not protestable.

(a) *Mitigation decision not subject to protest.* Any decision to remit a forfeiture or mitigate a penalty is not a protestable decision as defined under the provisions of 19 U.S.C. 1514. Any payment made in compliance with any decision to remit a forfeiture or mitigate a penalty is not a charge or exaction and therefore is not a protestable action as defined under the provisions of 19 U.S.C. 1514.

(b) *Payment of mitigated amount as accord and satisfaction.* Payment of a