

§ 171.12

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 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.

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§ 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 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.