



**U.S. Customs and
Border Protection**

AUG 8 - 2012

MEMORANDUM FOR: Directors, Field Operations

FROM : Executive Director
Cargo and Conveyance Section
Office of Field Operations

(b) (6), (b) (7)(C)

SUBJECT: Carrier Fines and the Exercise of Discretion

The purpose of this memorandum is to advise you that a decision from the U.S. Court of Appeals for the Second Circuit (04-6018-cv) affects the ability of CBP to initiate carrier fines under Section 273(a)(1) of the Immigration and Nationality Act [8 USC 1323(a)(1)].

Until further notice, when CBP exercises discretion and approves a waiver of the documentary requirements for an arriving alien on Form I-193, "Application for Waiver of Passport and/or Visa," CBP cannot go forward with fine proceedings. All referrals from the field, whereby a port made a recommendation to initiate a carrier fine when a Form I-193 was approved, must be canceled by the Fines, Penalties and Forfeitures Division.

Should CBP exercise discretion and parole the traveler, or in those cases where CBP does not admit the traveler, the authority to initiate a carrier fine was not changed by the court decision. Therefore, CBP must initiate carrier fines in those cases.

If you have any questions, please contact (b) (6), (b) (7)(C) Director, Fines, Penalties and Forfeitures Division, at (b) (6), (b) (7)(C) or (b) (6), (b) (7)(C) Program Manager, at (b) (6), (b) (7)(C)