

§ 162.71

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(3) Was the subject of a Customs investigation begun before October 3, 1978.

(c) The provisions of subparts A through F of this part shall apply to the violations referred to in paragraph (a) of this section unless this subpart specifically provides otherwise.

[T.D. 79-160, 44 FR 31958, June 4, 1979; 44 FR 35208, June 19, 1979, as amended by T.D. 90-34, 55 FR 17597, Apr. 26, 1990]

§ 162.71 Definitions.

When used in this subpart, the following terms shall have the meanings indicated:

(a) *Loss of duties under section 592.* “Loss of duties” means the duties of which the Government is or may be deprived by reason of the violation and includes both actual and potential loss of duties.

(1) *Actual loss of duties.* “Actual loss of duties” means the duties of which the Government has been deprived by reason of the violation in respect of entries on which liquidation had become final.

(2) *Potential loss of duties.* “Potential loss of duties” means the duties of which the Government tentatively was deprived by reason of the violation in respect of entries on which liquidation had not become final.

(b) *Loss of revenue under section 593A.* When used in § 162.73a, the term “loss of revenue” means the amount of drawback (see § 191.2(i) of this chapter) that is claimed and to which the claimant is not entitled and includes both actual and potential loss of revenue.

(1) *Actual loss of revenue.* When used in §§ 162.73a, 162.74, 162.77a and 162.79b, the term “actual loss of revenue” means the amount of drawback (see § 191.2(i) of this chapter) that is claimed and has been paid to the claimant and to which the claimant is not entitled.

(2) *Potential loss of revenue.* When used in § 162.77a, the term “potential loss of revenue” means the amount of drawback (see § 191.2(i) of this chapter) that is claimed and has not been paid to the claimant and to which the claimant is not entitled.

(c) *Repetitive violation.* When used in § 162.73a to describe a violation, “repetitive” has reference to a violation by a person that involves the same

issue as a prior violation by that person.

(d) *Noncommercial importation.* “Noncommercial importation” means merchandise imported by a traveler for an individual’s personal or household use, or as a gift, but not imported for sale or other commercial purposes.

(e) *Clerical error.* “Clerical error” means an error in the preparation, assembly, or submission of a document which results when a person intends to do one thing but does something else. It includes, for example, errors in transcribing numbers, errors in arithmetic, and the failure to assemble all the documents in a record.

(f) *Mistake of fact.* “Mistake of fact” means an action based upon a belief by a person that the material facts are other than they really are; it can be that a fact exists but is unknown to the person, or that he believes something is a fact when in reality it is not. An action is not a mistake of fact if the erroneous belief is caused by the neglect of a legal duty.

[T.D. 79-160, 44 FR 31958, June 4, 1979, as amended by T.D. 84-18, 49 FR 1678, Jan. 13, 1984; 49 FR 3986, Feb. 1, 1984; T.D. 98-49, 63 FR 29131, May 28, 1998; T.D. 00-5, 65 FR 3808, Jan. 25, 2000]

§ 162.72 Penalties and forfeitures under sections 466 and 584(a)(1), Tariff Act of 1930, as amended.

(a) *Foreign repairs and equipment purchases; election to proceed.* If the Fines, Penalties, and Forfeitures Officer has reasonable cause to believe that a violation of section 466, Tariff Act of 1930, as amended (19 U.S.C. 1466), has occurred, he may elect to proceed against the vessel or aircraft, or against the violator for forfeiture of a monetary amount up to the domestic value of the vessel or aircraft.

(b) *Lack of manifest or discrepancy in manifest.* The penalties for violation of section 584(a)(1), Tariff Act of 1930, as amended (19 U.S.C. 1584(a)(1)), are as follows:

(1) A penalty of \$1,000 against the master of a vessel, the commander of an aircraft, or the person in charge of a vehicle bound to the United States who does not produce the manifest on demand.