

§ 162.66 Penalties for unloading narcotic drugs or marihuana without a permit.

In every case where a narcotic drug or marihuana is unladen without a permit, the penalties prescribed in section 453, Tariff Act of 1930, as amended (19 U.S.C. 1453), shall be assessed. Penalties shall be assessed under this section when a package of regular cargo or a passenger's baggage otherwise covered by a permit to unlade is found to contain any narcotic drug or marihuana imported for sale or other commercial purpose and not specifically covered by a permit to unlade.

Subpart G—Special Procedures for Certain Violations

SOURCE: T.D. 79-160, 44 FR 31958, June 4, 1979, unless otherwise noted.

§ 162.70 Applicability.

(a) The provisions of this subpart apply only to fines, penalties, or forfeitures incurred for the following violations of the customs laws:

(1) Violations of sections 466 and 584(a)(1), Tariff Act of 1930, as amended (19 U.S.C. 1466, 1584(a)(1)), that occur after October 3, 1978, and

(2) Except as provided in paragraph (b) of this section, violations of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), with respect to which proceedings have commenced after December 31, 1978. For purposes of this subparagraph, 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.

(b) The provisions of this subpart do not apply to alleged intentional violations of 19 U.S.C. 1592 if the alleged violation:

(1) Involves television receivers that are the products of Japan and were or are the subject to antidumping proceedings,

(2) Occurred before October 3, 1978, and

(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.* "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) *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.

(c) *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.

(d) *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]