§ 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.

2. A penalty of $1,000 against the master of a vessel, the commander of an aircraft, the person in charge of a vehicle, or any person directly or indirectly responsible for the discrepancy, if any merchandise described in the manifest is not found on board (a "shortage").

3. (i) A penalty equal to the lesser of $10,000 or the domestic value of merchandise found on board of or after having been unladen from a vessel or vehicle.

(ii) A penalty of $1,000 (see § 122.161 of this chapter) if merchandise (other than narcotics or marihuana—see § 162.65 of this chapter) is found on board of or after having been unladen from an aircraft— if the merchandise is not included or described in the manifest or does not agree with the manifest (an "overage").

§ 162.73 Penalties under section 592, Tariff Act of 1930, as amended.

(a) Maximum penalty without prior disclosure. If the person concerned has not made a prior disclosure as provided in § 162.74, the monetary penalty under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), shall not exceed:

1. For fraudulent violations, the domestic value of the merchandise;

2. For grossly negligent violations,

   (i) The lesser of the domestic value of the merchandise or four times the loss of duties, taxes and fees or

   (ii) If there is no loss of duties, taxes and fees 40 percent of the dutiable value of the merchandise;

3. For negligent violations,

   (i) The lesser of the domestic value of the merchandise or two times the loss of duties, taxes and fees or

   (ii) If there is no loss of duties, taxes and fees 20 percent of the dutiable value of the merchandise.

(b) Maximum penalty with prior disclosure. If the person concerned has made a prior disclosure, the monetary penalty shall not exceed:

1. For fraudulent violations,

2. For grossly negligent violations,

3. For negligent violations,

   (i) The lesser of the domestic value of the merchandise or two times the loss of duties, taxes and fees or

   (ii) If there is no loss of duties, taxes and fees 20 percent of the dutiable value of the merchandise.

   (b) Maximum penalty with prior disclosure. If the person concerned has made a prior disclosure, the monetary penalty shall not exceed:

1. For fraudulent violations,

2. For grossly negligent violations,

3. For negligent violations,

   (i) The lesser of the domestic value of the merchandise or two times the loss of duties, taxes and fees or

   (ii) If there is no loss of duties, taxes and fees 20 percent of the dutiable value of the merchandise.
§ 162.73a Penalties under section 593A, Tariff Act of 1930, as amended.

(a) Maximum penalty without prior disclosure for a drawback compliance program nonparticipant. If the person concerned has not made a prior disclosure as provided in §162.74 and has not been certified as a participant in the drawback compliance program under part 191 of this chapter, the monetary penalty under section 593A, Tariff Act of 1930, as amended (19 U.S.C. 1593a), cannot exceed:

(i) For fraudulent violations, three times the loss of revenue; and
(ii) For negligent violations, 10 percent of the dutiable value of the merchandise; and

(2) For grossly negligent and negligent violations, the interest on any loss of duties, taxes and fees (26 U.S.C. 6621).

(c) Exception; clerical error or mistake of fact. There is no violation and, consequently, no penalty incurred, if the falsity or omission is due solely to clerical error or mistake of fact, unless the error or mistake is part of the pattern of negligent conduct.


§ 162.73a Penalties under section 593A, Tariff Act of 1930, as amended.

(a) Maximum penalty without prior disclosure for a drawback compliance program nonparticipant. If the person concerned has not made a prior disclosure as provided in §162.74 and has not been certified as a participant in the drawback compliance program under part 191 of this chapter, the monetary penalty under section 593A, Tariff Act of 1930, as amended (19 U.S.C. 1593a), cannot exceed:

(i) For fraudulent violations, three times the loss of revenue; and
(ii) For negligent violations, 10 percent of the dutiable value of the merchandise; and

(2) For grossly negligent and negligent violations, the interest on any loss of duties, taxes and fees (26 U.S.C. 6621).

(c) Exception; clerical error or mistake of fact. There is no violation and, consequently, no penalty incurred, if the falsity or omission is due solely to clerical error or mistake of fact, unless the error or mistake is part of the pattern of negligent conduct.