



DATE: **August 2, 2000**

ORIGINATING OFFICE: **FO:TP**
SUPERSEDES:

REVIEW DATE: **August 2002**

PROCEDURES FOR PROCESSING MANIFEST PENALTY VIOLATIONS FOR VESSELS

1. PURPOSE.

To provide guidance to field personnel on appropriate procedures for completing manifest penalty violations and the information required when violations are discovered. Mitigation guidelines are provided in the Fines, Penalties, and Forfeiture (FP&F) Handbook (HB 4400-01).

2. POLICY.

2.1 There has been a lack of uniformity in manifest penalty actions taken against carriers and other culpable parties for violations of manifest requirements discovered by the U.S. Customs Service. This lack of uniformity is due to failure to provide proper guidelines concerning information that is required when a manifest penalty is being processed.

2.2 It is essential that field officers who are in a position to enforce these requirements be knowledgeable in the appropriate penalty action, which should be initiated in the automated SEACATS system. The appropriate statute should be cited for similar violations in all ports.

3. AUTHORITY/REFERENCE.

Please reference CD 099-4410-016 issued April 20, 1992, when applying this directive.

4. RESPONSIBILITIES.

4.1 The Directors, Field Operations, Custom Management Centers are to ensure implementation of this directive.

4.2 Port Directors will ensure local procedures accommodate these guidelines.

4.3 Port Directors will distribute this information through routine notification practices.

4.4 It is the responsibility of each Customs officer initiating a liquidated damage or penalty case to obtain the documents necessary to establish a violation, promptly initiate the case in the automated SEACATS system citing the appropriate statute, regulation or both, and supply any necessary bond information.

4.5 FP&F officers are responsible for quality control over cases initiated by field line officers and case mitigation of all penalties. Port directors are ultimately responsible for all enforcement actions within their area. Port directors may make available for public dissemination the material contained in this directive.

5. PROCEDURES.

5.1 The following procedures outline information that must be input on all manifest and cargo delivery penalty violations. Please refer to the attachment for a list of the most frequently referenced discrepancies or irregularities involving manifests.

5.2 The SEACATS system will automatically input a pre-determined statement when the case initiator inputs the violation. This pre-determined statement is known as a canned remark. The Office of Regulations and Rulings created this pre-determined statement and it is included on the CF-5955A form when a manifest penalty has been issued.

5.3 In addition to the canned remark statement, the following identifiable information will be included in the narrative of the CF-5955A. This is to ensure that the carriers can view the CF-5955A and immediately cross-reference their files without having to conduct research or contact the U.S. Customs Service for further information.

This **identifiable information** consists of:

- Vessel name
- Voyage number
- Date of arrival to the United States
- Time of arrival
- Specific bill(s) of lading which the penalty is being assessed against
- Brief description of the issue
- Description of cargo
- In-bond number (if applicable)
- Dollar amount of the penalty in the narrative
- Port of discharge

5.4 Documents should be forwarded to the Fines, Penalties, and Forfeitures office within 3 working days of case initiation.

5.5 The mitigation guidelines as defined in the FP&F Handbook shall be applied to all cases established under this directive.

/signed/
Bonni G. Tischler
Assistant Commissioner
Office of Field Operations

Attachment

Attachment

MANIFEST AND CARGO DELIVERY PENALTIES

I. PRESENTATION OF MANIFESTS

A. Carrier does not have manifest in its possession, the master of a vessel does not produce the manifest to an officer demanding the same or the carrier does not produce it upon demand by post-audit team.

REQUIRED ELEMENTS:

The penalty violation must include the identifiable information listed in Section 5.3.

B. Carrier does not deliver manifest to Customs immediately upon arrival.

REQUIRED ELEMENTS:

The penalty violation must include the identifiable information listed in Section 5.3.

II. INACCURACIES OR DISCREPANCIES IN MANIFESTS

The following violations involve manifests that inadequately describe merchandise , including merchandise that is not found (shortage) or fail to manifest merchandise entirely (overage).

A. Manifest does not contain sufficient description of merchandise included thereon as required by 19 U.S.C. 1431. The manifest should contain sufficient detail to enable Customs to verify the type and number of packages. Carriers are obliged to manifest the quantity of packages in their smallest external packaging units; i.e., the manifest description should be the equivalent of that on any pertinent bills of lading or packing lists. Those carriers that accept unit-loaded cargo may use the provisions of 19 CFR 4.7a and indicate Shipper's Load and Count (SLAC) next to the quantity on the manifest. When discrepancies are discovered for SLAC quantities, the carrier should be warned and permitted to rectify this with the shipper.

REQUIRED ELEMENTS:

The penalty violation must include the dates when Customs counseled the carrier as to the correct manner of description of the merchandise. The penalty information must also contain the applicable identifiable information listed in Section 5.3.

- B. Manifest does not contain shipper/consignee names, or identifies the shipper as “various”.

REQUIRED ELEMENTS:

Must include the dates when Customs informed the carrier of the problem and counseled as to the appropriate designation of shippers or consignee names that should appear on the manifest. The penalty information must also contain the applicable identifiable information listed in Section 5.3.

- C. Manifest quantity is greater than entered or discovered quantity, i.e., manifested but not found (shortage).

REQUIRED ELEMENTS:

The penalty violation must include the identifiable information listed in Section 5.3.

- D. Manifest quantity is less than entered or discovered quantity (overage).

REQUIRED ELEMENTS:

The penalty violation must include the identifiable information listed in Section 5.3.

- E. Merchandise is manifested for delivery at Port B, but is off loaded at Port A, before conveyance arrival at Port B (vessels only). Special Note: If this violation is discovered only because the carrier informs Customs of the off loading, then the penalties may be waived at the discretion of the Port Director.

REQUIRED ELEMENTS:

The penalty violation must include the identifiable information listed in Section 5.3.

- F. Merchandise is manifested for delivery at Port A, but is not off loaded at

Port A, and is overcarried to Port B (vessels only). Special Note: If this violation is discovered only because the carrier informs Customs of the off loading, then the penalties may be waived at the discretion of the Port Director.

REQUIRED ELEMENTS:

The penalty violation must include the identifiable information listed in Section 5.3.

III.CARGO DELIVERY VIOLATIONS

This section describes cargo misdelivery by bonded carriers, or other carriers, and describes the obligations of container freight stations and centralized examination stations.

- A. Failure to deliver merchandise to a Centralized Examination Station or other location designated by Customs.

REQUIRED ELEMENTS:

The penalty violation must include the identifiable information listed in Section 5.3.

- B. Merchandise is delivered with seals intact, but upon examination, either an overage or shortage is discovered, and without a proper manifest discrepancy report being filed or on file.

REQUIRED ELEMENTS:

The penalty violation must include the identifiable information listed in Section 5.3.

- C. Unauthorized delivery of merchandise by carrier.

REQUIRED ELEMENTS:

The penalty violation must include the identifiable information listed in Section 5.3.

- D. Theft of merchandise from Customs custody.

REQUIRED ELEMENTS:

The penalty violation must include the identifiable information listed in Section 5.3.

IV. MANIFEST DISCREPANCY REPORT

A. Carrier fails to file a manifest discrepancy report or to respond to a manifest discrepancy report issued by Customs within the time period provided for by regulation.

REQUIRED ELEMENTS:

The penalty violation must include the identifiable information listed in Section 5.3.

B. Carrier does not maintain adequate records at the time of audit review.

REQUIRED ELEMENTS:

The penalty violation must include the identifiable information listed in Section 5.3.