

the proceeds of the sale to the extent that proceeds are available.

[T.D. 74-114, 39 FR 12092, Apr. 3, 1974, as amended by T.D. 02-65, 67 FR 68034, Nov. 8, 2002]

§ 127.14 Disposition of merchandise in Customs custody beyond time fixed by law.

(a) *Merchandise subject to sale or other disposition*—(1) *General*. If storage or other charges due the United States have not been paid on merchandise remaining in Customs custody after the expiration of the bond period in the case of merchandise entered for warehouse, or after the expiration of the general order period, as defined in § 127.4, in any other case, even though any duties due have been paid, such merchandise will be sold as provided in subpart C of this part, retained for official use as provided in subpart E of this part, destroyed, or otherwise disposed of as authorized by the Commissioner of Customs under the law, unless the merchandise is entered or withdrawn for consumption in accordance with paragraph (b) of this section.

(2) *Destruction of merchandise*—(i) *Proprietor responsibility*. If the port director concludes that merchandise in general order has no commercial value or is otherwise unsalable and cannot be disposed of at public auction (see § 127.29), and that its destruction is warranted, the warehouse proprietor must assume responsibility under bond, including the expense, for destroying the merchandise (see § 113.63(c)(3) of this chapter). The port director will authorize such destruction on Customs Form (CF) 3499, or on a similar Customs document as designated by the port director or an electronic equivalent as authorized by Customs.

(ii) *Notice of destruction*. Before destroying the merchandise, the warehouse proprietor must first make a reasonable effort under bond (see § 113.63(b) and (c) of this chapter), to identify and inform the importer (owner) or consignee regarding the intended destruction of the merchandise. When the appropriate party is identified, notice of destruction will be provided to the party on Customs Form (CF) 5251, appropriately modified, or other similar

Customs document as designated by the port director or an electronic equivalent as authorized by Customs, at least 30 calendar days prior to the date of intended destruction.

(b) *Entry of merchandise subject to sale*. Merchandise subject to sale (except merchandise abandoned under section 506(1) or 563(b), Tariff Act of 1930, as amended (19 U.S.C. 1506(1), 1563(b))), may be entered or withdrawn for consumption at any time prior to the sale upon payment of the duties, any internal revenue tax, and all charges and expenses that may have accrued thereon. Such merchandise may not be exported without payment of duty nor entered for warehouse.

(c) *Release of merchandise to warehouse proprietor*. The following merchandise for which a permit to release has been issued shall be held to be no longer in the custody of Customs officers and shall be released to the warehouse proprietor:

(1) Merchandise upon which all duties and charges have been paid.

(2) Free and duty-paid merchandise upon which all charges have been paid, not entered for warehouse which remains in bonded warehouse for more than the general order period.

[T.D. 74-114, 39 FR 12092, Apr. 3, 1974, as amended by T.D. 75-161, 40 FR 28790, July 9, 1975; T.D. 79-221, 44 FR 46814, Aug. 9, 1979; T.D. 82-204, 47 FR 49375, Nov. 1, 1982; T.D. 02-65, 67 FR 68034, Nov. 8, 2002]

Subpart C—Sale of Unclaimed and Abandoned Merchandise

§ 127.21 Time of sale.

All unclaimed and abandoned merchandise will be sold at the first regular sale held after the merchandise becomes subject to sale, unless a deferment of its sale is authorized by the port director. Regular sales shall be made once every year or more often at the discretion of the port director.

[T.D. 74-114, 39 FR 12092, Apr. 3, 1974, as amended by T.D. 02-65, 67 FR 68034, Nov. 8, 2002]

§ 127.22 Place of sale.

The port director, in his discretion, may authorize the sale of merchandise subject to sale (including explosives,

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perishable articles and articles liable to depreciation) at any port. The consignee of any merchandise which is to be transferred from the port where it was imported to another port for sale, shall be notified of the transfer so that he may have the option of making entry of the merchandise before the transfer and sale.

[T.D. 95-77, 60 FR 50020, Sept. 27, 1995]

§ 127.23 Appraisal of merchandise.

Before unclaimed and abandoned merchandise is offered for sale, it shall be appraised in accordance with sections 402 and 402a, Tariff Act of 1930, as amended (19 U.S.C. 1401a, 1402). Such merchandise shall also be appraised at its actual domestic value in its condition at the time and place of examination, whether or not it has depreciated or appreciated in value since the date of exportation. The quantity of merchandise in each lot shall be reported.

§ 127.24 Notice of sale.

Notice of sale shall be sent on Customs Form 5251, 30 days prior to the date of sale, or 30 days prior to the transfer of merchandise to the place of sale, to the following:

- (a) Importer, if known; or
- (b) Consignee, if name and address can be ascertained; or
- (c) Shipper, his representative or agent, if merchandise is consigned to order or consignee cannot be ascertained; or
- (d) Warehouse transferee; or
- (e) Lienholder.

§ 127.25 Advertisement of sale.

(a) *Regular advertising.* Except as prescribed in § 127.28 (c), (d), and (h), and in paragraph (b) of this section, a brief notice of the time and place of sale shall be given for three successive weeks, immediately preceding the sale, in one newspaper of extensive circulation published at the port where the sale is to be held. The newspaper is to be selected by the port director and publication of the notice shall be authorized on the standard form provided for that purpose. The notice shall designate the place where catalogs may be obtained and a reasonable opportunity

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to inspect the merchandise shall be afforded prospective purchasers.

(b) *Where proceeds are insufficient to pay expenses and duties.* If the port director is satisfied that the proceeds of the sale will not be sufficient to pay the expenses and duties, a written or printed notice of the sale in lieu of the advertisement shall be conspicuously posted in the customhouse, and, if deemed necessary, at some other proper place for the time specified in paragraph (a) of this section.

§ 127.26 Catalogs.

Catalogs, if used shall specify the description of packages, the description and quantities of their contents, the appraised value thereof, and also the domestic value at the time and place of the examination of the merchandise. They shall be distributed at the sale and announcement made that the Government does not guarantee quality or value and that no allowance will be made for any deficiency found after sale.

§ 127.27 Conduct of sale.

Sales may be conducted by the port director, any employee designated by him or by a public auctioneer.

§ 127.28 Special merchandise.

(a) *Drugs, seeds, plants, nursery stock, and other articles required to be inspected by the Department of Agriculture.* Drugs, seeds, plants, nursery stock, and other articles required to be inspected by the Department of Agriculture must be inspected by a representative of the Department of Agriculture to ascertain whether they comply with the requirements of the law and regulations of that Department. If found not to comply with such requirements, they shall be immediately destroyed.

(b) *Pesticides and devices.* Pesticides and devices intended for trapping, destroying, repelling or mitigating any pest or any other form of plant or animal life (other than man or other than bacteria, virus, or other microorganism on or in living man or other living animals) shall be inspected by a representative of the Environmental Protection Agency to ascertain whether they comply with the requirements of the law and regulations of that agency. If