

## § 162.61

proceeds, the Fines, Penalties, and Forfeitures Officer shall attempt to obtain a written agreement from the parties as to the distribution. If an agreement cannot be reached, the matter shall be referred to Customs Headquarters for determination.

(c) *Official use of seized and forfeited property.* If the seized and forfeited property has been authorized for official use, its retention or delivery shall be regarded as a "sale" for the purposes of section 613, Tariff Act of 1930, as amended (19 U.S.C. 1613). The appropriation available to the receiving agency for the purchase, hire, operation, maintenance, and repair of the type of property involved shall be distributed as provided in paragraphs (a) and (b).

[T.D. 79-160, 44 FR 31958, June 4, 1979, as amended by T.D. 99-27, 64 FR 13676, Mar. 22, 1999]

## Subpart F—Controlled Substances, Narcotics, and Marihuana

### § 162.61 Importing and exporting controlled substances.

It shall be unlawful to import to or export from the United States any controlled substance or narcotic drug listed in schedules I through V of the Controlled Substances Act (Sec. 202, 84 Stat. 1247; 21 U.S.C. 812), unless there has been compliance with the provisions of said Act, the Controlled Substances Import and Export Act and the regulations of the Drug Enforcement Administration.

[T.D. 72-211, 37 FR 16488, Aug. 15, 1972, as amended by T.D. 78-99, 43 FR 13062, Mar. 29, 1978]

### § 162.62 Permissible controlled substances on vessels, aircraft, and individuals.

Upon compliance with the provisions of the Controlled Substances Act (84 Stat. 1242; 21 U.S.C. 801), the Controlled Substances Import and Export Act (84 Stat. 1285; 21 U.S.C. 951), and the regulations of the Drug Enforcement Administration (21 CFR 1301.28, 1311.27), controlled substances listed in schedules I through V of the Controlled Substances Act may be held:

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(a) On vessels engaged in international trade in medicine chests and dispensaries.

(b) In aircraft operated by an air carrier under a certificate or permit issued by the Federal Aviation Administration for stocking in medicine chests and first aid packets.

(c) By an individual where lawfully obtained for personal medical use or for administration to an animal accompanying him to enter or depart the United States.

[T.D. 72-211, 37 FR 16488, Aug. 15, 1972, as amended by T.D. 78-99, 43 FR 13062, Mar. 29, 1978]

### § 162.63 Arrests and seizures.

Arrests and seizures under the Controlled Substances Act (84 Stat. 1242, 21 U.S.C. 801 *et seq.*), and the Controlled Substances Import and Export Act (84 Stat. 1285, 21 U.S.C. 951 *et seq.*), will be handled in the same manner as other Customs arrests and seizures. However, Schedule I and Schedule II controlled substances (as defined in 21 U.S.C. 802(6) and 812) imported contrary to law will be seized and forfeited in the manner provided in the Controlled Substances Act (21 U.S.C. 881(f)). See § 162.45a.

[T.D. 00-37, 65 FR 33255, May 23, 2000]

### § 162.64 Custody of controlled substances.

All controlled substances seized by a Customs officer shall be delivered immediately into the custody of the Fines, Penalties, and Forfeitures Officer having jurisdiction where the seizure is made, together with a full report of the circumstances of the seizure.

[T.D. 72-211, 37 FR 16488, Aug. 15, 1972, as amended by T.D. 99-27, 64 FR 13676, Mar. 22, 1999]

### § 162.65 Penalties for failure to manifest narcotic drugs or marihuana.

(a) *Cargo or baggage containing unmanifested narcotic drugs or marihuana.* When a package of regular cargo or a passenger's baggage otherwise properly manifested is found to contain any narcotic drug or marihuana imported for sale or other commercial purpose and not shown as such

on the manifest, the penalties prescribed in section 584, Tariff Act of 1930, as amended (19 U.S.C. 1584), shall be assessed with respect to such narcotic drug or marihuana.

(b) *Unmanifested narcotic drugs or marihuana.* When an unmanifested narcotic drug or marihuana is found on board of, or after having been unladen from, a vessel, vehicle, or aircraft, the penalties prescribed in section 584, Tariff Act of 1930, as amended (19 U.S.C. 1584), shall be assessed. The penalty shall be applied without exception and without regard to any question of negligence or responsibility.

(c) *Notice and demand for payment of penalty.* A written notice and demand for payment of the penalty for failure to manifest incurred under section 584, Tariff Act of 1930, as amended (19 U.S.C. 1584), shall be sent to the master of the vessel, or commander of the aircraft, or the person in charge of the vehicle, and to the owner of the vessel, aircraft, or vehicle or any person directly or indirectly responsible. In the case of a vessel, if bond has been given, the notice also shall be sent to each surety. When a petition for relief from such penalty has been filed in accordance with part 171 of this chapter, and a decision has been made thereon, the Fines, Penalties, and Forfeitures Officer shall send notice of such decision to the interested persons together with a demand for any payment required under the terms of such decision.

(d) *Referral to the U.S. attorney.* If the penalty incurred under section 584, Tariff Act of 1930, as amended (19 U.S.C. 1584), is not paid, or a petition is not filed as provided in part 171 of this chapter, or if payment is not made in accordance with the decision on a petition or a supplemental petition, the Fines, Penalties, and Forfeitures Officer, after required collection action, shall refer the case to the U.S. attorney.

(e) *Withholding clearance of vessel.* Where a penalty has been incurred under section 584, Tariff Act of 1930, as amended (19 U.S.C. 1584), for failure to manifest narcotic drugs or marihuana, clearance of the vessel involved shall be withheld until the penalty is paid or a bond satisfactory to the Fines, Pen-

alties, and Forfeitures Officer is given for the payment thereof unless

(1) The narcotics or marihuana were discovered in a passenger's baggage and the Fines, Penalties, and Forfeitures Officer is satisfied that neither the master nor any of the officers nor the owner of the vessel knew or had any reason to know or suspect that the narcotics or marihuana had been on board the vessel, or

(2) Prior authority for the clearance without payment of the penalty or the furnishing of the bond is obtained from Customs.

[T.D. 72-211, 37 FR 16488, Aug. 15, 1972, as amended by T.D. 79-160, 44 FR 31958, June 4, 1979; T.D. 86-59, 51 FR 8489, Mar. 12, 1986; T.D. 99-27, 64 FR 13676, Mar. 22, 1999; T.D. 99-64, 64 FR 43267, Aug. 10, 1999]

#### **§ 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