

**§ 127.26**

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 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

**19 CFR Ch. I (4-1-03 Edition)**

found not to comply with such requirements, they shall be immediately destroyed.

(c) *Explosives, dangerous articles, fruit, and perishables.* Unclaimed explosives and other dangerous articles, and fruit and other perishable articles shall be sold after 3-days' public notice. When it is probable that entry will be made at an early date for unclaimed perishable merchandise, the port director may hold the merchandise for a reasonable time in a bonded cold-storage warehouse if one is available.

(d) *Articles liable to depreciation.* Other unclaimed merchandise shall be sold at public auction upon public notice of not less than 6 or more than 10 days, as the port director may determine, if in his opinion such merchandise will depreciate and sell for an amount insufficient to pay the duties, storage, and other charges if allowed to remain in general order for 6 months.

(e) *Tobacco and tobacco products.* Tobacco articles and tobacco materials as defined in 26 U.S.C. 5702(j) and (k), may be sold for domestic consumption only if they will bring an amount sufficient to pay the expenses of sale as well as the internal revenue tax. If these articles cannot be sold for domestic consumption in accordance with the foregoing conditions, they shall be destroyed unless they can be advantageously sold for export from continuous Customs custody or unless the Commissioner of Customs has authorized other disposition to be made under the law. These articles may be sold for domestic consumption even though the proceeds of sale will not cover the duties due.

(f) *Distilled spirits, wines, and malt beverages.* All unclaimed and abandoned distilled spirits, wines, and malt beverages may be sold for domestic consumption if they will bring an amount sufficient to pay the internal revenue tax. If they cannot be sold for domestic consumption in accordance with the foregoing condition, they shall be destroyed unless they can be advantageously sold for export from continuous Customs custody or unless the Commissioner of Customs has authorized other disposition to be made under the law. The sale must be conducted in accordance with the alcoholic beverage