days from the date of sale. Such expenses shall be apportioned pro rata on
the amounts received for different lots sold.

§ 127.36 Claim for surplus proceeds of sale.

(a) Filing of claim. Claims for the surplus proceeds of the sale of unclaimed or abandoned merchandise shall be filed with the port director at whose direction the merchandise was sold. The following shall be used in filing a claim:

(1) Unclaimed merchandise. Claims for surplus proceeds of the sale of unclaimed merchandise which has become abandoned and sold under section 599 of the Tariff Act of 1930, as amended (19 U.S.C. 1599), shall be supported by the original bill of lading. If only part of a shipment is involved, either a photocopy or certified copy of the original bill of lading may be submitted in lieu of the original bill of lading.

(2) Involuntarily abandoned merchandise—(i) Warehouse goods deemed abandoned. Claims for surplus proceeds of sale of warehouse goods deemed involuntarily abandoned sold under section 599 of the Tariff Act of 1930, as amended (19 U.S.C. 1599), shall be established by reference to the warehouse entry, or, if the right to withdraw the merchandise from warehouse has been transferred, by reference to the documents by which the transfer was made.

(ii) Trade fair articles deemed abandoned. Claims for surplus proceeds of sale of trade fair articles deemed involuntarily (mandatorily) abandoned under section 4 of the Trade Fair Act of 1959 (19 U.S.C. 1753(c)), shall be supported by the original bill of lading. If only part of a shipment is involved, either a photostatic copy or certified copy of the original bill of lading may be submitted in lieu of the original bill of lading. (See §147.47 of this chapter.)

(b) Payment of claim. If a claim of the owner or consignee of unclaimed or abandoned merchandise for the surplus proceeds of sale is properly established as provided in this section, such proceeds of sale shall be paid to him pursuant to section 493 of the Tariff Act of 1930, as amended (19 U.S.C. 1493).

(c) Doubtful claims. Any doubtful claims for the proceeds of sale along with all pertinent documents and information available to the port director shall be forwarded to the Commissioner of Customs for instructions or for referral to the General Accounting Office for direct settlement.

§ 127.37 Insufficient proceeds.

(a) Warehouse merchandise deemed involuntarily abandoned. If the proceeds of sale of warehouse merchandise deemed involuntarily abandoned are insufficient to pay the duties after payment of all charges having priority, the deficiency shall be collected under the bond for the importation and entry of merchandise on Customs Form 301, containing the bond conditions set forth in §113.62 of this chapter.

(b) Unclaimed merchandise and trade fair articles involuntarily abandoned. If the proceeds of sale of unclaimed merchandise or trade fair articles involuntarily abandoned are insufficient to pay the charges and duties, the consignee shall be liable for the deficiency unless the merchandise was shipped to him without his consent. If no entry for the merchandise has been filed, and no other attempt to control the merchandise has been made, the merchandise shall be regarded as shipped to the consignee without his consent and no effort shall be made to collect any deficiency of duties or charges from such consignee.


Subpart E—Title to Unclaimed and Abandoned Merchandise Vesting in Government

SOURCE: T.D. 02–65, 67 FR 68034, Nov. 8, 2002, unless otherwise noted.

§ 127.41 Government title to unclaimed and abandoned merchandise.

(a) Vesting of title in Government. At the end of the 6-month period noted in
§ 127.42Disposition ofmerchandise owned by Government.

(a) Disposition. If title to any unclaimed and abandoned merchandise vests in the United States under §127.41, the merchandise may be retained by Customs for its official use, or in Customs discretion, the merchandise may be transferred to any other Federal, State or local agency, destroyed or disposed of otherwise.

(b) Payment of charges and expenses. All transfer and storage charges or expenses accruing on retained or transferred merchandise will be paid by the receiving agency. Such transfer and storage charges or expenses will include those accruing with respect to the merchandise while subject to general order.

§ 127.43 Petition of party for surplus proceeds had merchandise been sold.

(a) Filing of petition. Under section 491(d), Tariff Act of 1930, as amended (19 U.S.C. 1491(d)), any party who can satisfactorily establish title to or a substantial interest in unclaimed and abandoned merchandise, the title to which has vested in the United States, may file a petition for the amount that would have been payable to the party had the merchandise been sold and a proper claim made under section 493, Tariff Act of 1930, as amended (19 U.S.C. 1493).

(b) When and with whom filed. The petition may be filed with the port director at whose direction the title to the merchandise was vested in the United States. If the party received notice under §127.41(b), the petition must be filed within 30 calendar days after the day on which title vested in the United States. If the party can satisfactorily establish that such notice was not received, the party must file the petition within 30 calendar days of learning of the vesting but not later than 90 calendar days from the vesting.

(c) Evidence required. The petition must show the party's title to or interest in the merchandise, and be supported, as appropriate, with the original bill of lading, bill of sale, contract, mortgage, or other satisfactory documentary evidence, or a certified copy of the foregoing. Also, if applicable, the petition must be supported by satisfactory proof that the petitioner did not receive notice that title to the merchandise would vest in the United States and was in such circumstances as prevented the receipt of notice.

(d) Payment of claim. If the claim of the owner, consignee, or other party having title to or a substantial interest