§ 162.45a Summary forfeiture of Schedule I and Schedule II controlled substances.

The Controlled Substances Act (84 Stat. 1242, 21 U.S.C. 801 et seq.) provides that all controlled substances in Schedule I or Schedule II (as defined in 21 U.S.C. 802(6) and 812) that are possessed, transferred, sold or offered for sale in violation of the Act will be deemed contraband, seized and summarily forfeited to the United States (21 U.S.C. 881(f)).

Accordingly, in the case of a seizure of Schedule I or Schedule II controlled substances, the Fines, Penalties, and Forfeitures Officer or his designee will contact the appropriate Drug Enforcement Administration official responsible for issuing permits authorizing the importation of such substances (see 21 CFR part 1312). If upon inquiry the Fines, Penalties, and Forfeitures Officer or his designee is notified that no permit for lawful importation has been issued, he will declare the seized substances contraband and forfeited pursuant to 21 U.S.C. 881(f). Inasmuch as such substances are Schedule I or Schedule II controlled substances, the notice procedures set forth in §162.45 are inapplicable.

§ 162.46 Summary forfeiture: Disposition of goods.

(a) General. If no petition for relief from the forfeiture is filed in accordance with the provisions of part 171 of this chapter, or if a petition was filed and has been denied, and the property is not retained for official use, it shall be disposed of in accordance with section 609, Tariff Act of 1930, as amended (19 U.S.C. 1609) or section 491(b), Tariff Act of 1930, as amended (19 U.S.C. 1491(b)).

(b) Articles required to be inspected by other Government agencies. Before seized drugs, insecticides, seeds, plants, nursery stock, and other articles required to be inspected by other Government agencies are sold, they shall be inspected by a representative of such agency to ascertain whether or not they meet the requirements of the laws and regulations of that agency, and if found not to meet such requirements, they shall be destroyed forthwith.

(c) Sale—(1) General. If the forfeited property is cleared for sale, it shall be sold in accordance with the applicable provisions of part 127 of this chapter. The Fines, Penalties, and Forfeitures Officer may postpone the sale of small seizures until he believes the proceeds of a consolidated sale will pay all expenses.

(2) Transfer to another port for sale. Property shall be moved to and sold at such other Customs port as the Commissioner of Customs may direct pursuant to the provisions of section 611, Tariff Act of 1930 (19 U.S.C. 1611), if:

(i) The laws of a State in which property is seized and forfeited prohibit the sale of such property; or

(ii) The Commissioner is of the opinion that the sale of forfeited property may be made more advantageously at another Customs port.

(d) Destruction. If, after summary forfeiture of property is completed, it appears that the net proceeds of sale will not be sufficient to pay the costs of sale, the Fines, Penalties, and Forfeitures Officer may order destruction of the property. Any vessel or vehicle summarily forfeited for violation of any law respecting the Customs revenue may be destroyed in lieu of the sale thereof when such destruction is