

Department of Homeland Security

§ 274.1

(c) In determining the amount of the fine reduction, refund, or waiver, the Service shall consider:

(1) The effectiveness of the carrier's screening procedures;

(2) The carrier's history of fines violations, including fines, liquidated damages, and user fee payment records; and,

(3) The existence of any extenuating circumstances.

§ 273.6 Memorandum of Understanding.

(a) Carriers may apply to enter into a Memorandum of Understanding (MOU) with the Service for an automatic reduction, refund, or waiver of fines imposed under section 273 of the Act.

(b) Carriers signatory to an MOU will not be required to apply for reduction, refund, or waiver of fines in accordance with the procedures outlined in 8 CFR 280.12 and 8 CFR 280.51, but will follow procedures as set forth in the MOU.

(c) Carriers signatory to an MOU will have fines reduced, refunded, or waived according to performance standards enumerated in the MOU or as determined by the Service.

(d) Carriers signatory to an MOU are not precluded from seeking additional reduction, refund, or waiver of fines in accordance with the procedures outlined in 8 CFR 280.12 and 8 CFR 280.51.

PART 274—SEIZURE AND FORFEITURE OF CONVEYANCES

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AUTHORITY: 8 U.S.C. 1103, 1324(b).

SOURCE: 53 FR 43187, Oct. 26, 1988, unless otherwise noted.

§ 274.1 Definitions.

The following definitions apply to the following terms in this part:

(a) The term *appraised value* means the estimated price at the time and place of seizure, if such or similar property were freely offered for sale.

(b) The term *beneficial owner* means a person who has dominion and control over a conveyance, as well as a property interest therein.

(c) The term *claimant* means any person who asserts a property interest in a seized or forfeited conveyance through a personal interview or by filing a claim and a bond or a petition for relief from forfeiture.

(d) The term *common carrier* means an express carrier, a freight forwarder, a motor common carrier, a rail carrier, a sleeping car carrier, and a water common carrier, as each of those terms is defined in 49 U.S.C. 10102; and an air carrier and a foreign air carrier, as each of those terms is defined in 49 U.S.C. 1301.

(e) The term *consenting party or privy to the illegal act* means that the person knew of the illegal activity. A person shall be presumed to have knowledge of an illegal activity if the facts and circumstances are such that a person would reasonably be expected to know of the illegal activity.

(f) The term *conveyance* means a vessel, vehicle, or aircraft as used in section 274(b) of the Act. A trailer shall be considered a vehicle if it is being towed or readily capable of being towed. An immobilized house trailer which has been placed on permanent foundations, which is not readily mobile, is not a vehicle.

(g) The term *custodian* means the regional commissioner or the U.S. Marshals Service.