

Department of Homeland Security

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part, section 274 of the Act, and the proposed advertisement, if an advertisement is required pursuant to §274.9 of this part. The owner shall be specifically informed of the provisions of §§ 274.5, 274.10, 274.13, 274.14, 274.15, 274.16, and 274.17 of this part.

§ 274.9 Advertisement.

(a) If the appraised value of a seized conveyance does not exceed the monetary amount set forth in title 19 U.S.C. 1607 the regional commissioner shall cause an advertisement of the seizure to be published once a week for at least three successive weeks in a newspaper of general circulation in the federal judicial district in which the seizure occurred.

(b) The advertisement must:

(1) Describe the conveyance seized and indicate the identification number, if any;

(2) State the time and place of seizure;

(3) State that the seized conveyance is subject to forfeiture except as provided in §274.5(b) of this part;

(4) State that the Service is considering forfeiture of the seized conveyance and sale or other disposal, if declared forfeited; and

(5) State that any prospective petitioners for relief from forfeiture should submit their petitions pursuant to §§ 274.13, 274.14, 274.15, 274.16, and 274.17 of this part within 30 days of publication of the advertisement.

[53 FR 43187, Oct. 26, 1988, as amended at 56 FR 8686, Mar. 1, 1991]

§ 274.10 Judicial forfeiture proceedings upon claim and bond.

(a) Any person claiming ownership of a seized conveyance with an appraised value that does not exceed the monetary amount set forth in title 19 U.S.C. 1607, may obtain judicial forfeiture proceedings in United States District Court by filing a claim and a bond as follows:

(1) The claim must set forth the basis of the claimed ownership and allege why the conveyance was not subject to seizure;

(2) The claim must be filed in the office specified in the notice and the advertisement as provided in §274.8 and §274.9 of this part within 20 days of the

date of first publication of the advertisement;

(3) The claim must be accompanied by a bond in the amount of the lesser of \$5,000 or ten percent of the appraised value of the seized conveyance, but in no event less than \$250, in the form of cash or certified check; and

(4) If the bond is in the form of a check, it must be drawn payable to the Department of Justice. The costs and expenses of the judicial forfeiture proceedings will be paid from the bond, following completion of the proceedings. Any balance remaining shall be returned to the claimant.

(b) The regional commissioner may waive the bond requirement in the manner provided in §103.7(c)(1) of this chapter.

(c) The filing of a claim and a bond does not entitle the claimant to possession of the conveyance.

[53 FR 43187, Oct. 26, 1988, as amended at 56 FR 8686, Mar. 1, 1991]

§ 274.11 Administrative forfeiture.

If the appraised value of a seized conveyance does not exceed the monetary amount set forth in title 19 U.S.C. 1607, and a claim and a bond are not filed within 20 days of the date of first publication of the advertisement as provided in §274.9 of this part, the regional commissioner may declare the seized conveyance forfeited. The regional commissioner shall execute the declaration of forfeiture. The custodian shall dispose of the forfeited conveyance as provided in §274.3 of this part.

[53 FR 43187, Oct. 26, 1988, as amended at 56 FR 8686, Mar. 1, 1991]

§ 274.12 Judicial forfeiture.

If the appraised value of a seized conveyance exceeds the monetary amount set forth in title 19 U.S.C. 1607, or a claim and a bond have been filed for a seized conveyance with an appraised value that does not exceed the monetary amount set forth in title 19 U.S.C. 1607, as provided in §274.10(a) of this part, the regional commissioner shall transmit the claim and bond, as well as a copy of the advertisement as provided in §274.9 of this part and a complete statement of the facts and circumstances surrounding the seizure to

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the United States Attorney for the federal judicial district in which the conveyance was seized for commencement of judicial forfeiture proceedings pursuant to section 274(b) of the Act and this part.

[53 FR 43187, Oct. 26, 1988, as amended at 56 FR 8686, Mar. 1, 1991]

§ 274.13 Petitions for relief from forfeiture; filing.

(a) Any person having a property interest in any seized conveyance may file a petition for relief from forfeiture. A petition must comply with the provisions of this section and §§ 274.14, 274.15, 274.16, and 274.17 of this part and be filed with the regional commissioner if the seized conveyance has not been referred to a United States Attorney pursuant to § 274.12 of this part for the commencement of judicial forfeiture proceedings. If such a referral has occurred, a petition must comply with the provisions of 28 CFR 9.3 and be filed with the United States Attorney.

(b) A petition must be executed and sworn to by the petitioner or by duly authorized counsel for the petitioner upon information and belief.

(c) A petition must include the following:

(1) A complete description of the conveyance, including identification number, if any, and the date and place of seizure;

(2) A complete statement of the property interest in the seized conveyance asserted by the petitioner, which property interest must be established as provided in § 274.6 of this part; and

(3) The facts and circumstances, with satisfactory proof thereof, relied upon by the petitioner to justify relief from forfeiture.

(d) Filing of a petition does not extend the time for filing a claim and a bond.

(e) If a petition is received by or a petition without a determination issued thereon is in the possession of the regional commissioner which asserts a property interest in a seized conveyance which is the subject of a referral to a United States Attorney for commencement of judicial forfeiture proceedings, the regional commissioner shall transmit the petition and a recommendation thereon to the United

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States Attorney. The regional commissioner shall notify the petitioner of the transmittal. Upon receipt of such a petition, the United States Attorney shall forward a copy of the petition, the recommendation of the regional commissioner, and the recommendation of the United States Attorney to the Director, Asset Forfeiture Office, Criminal Division, Department of Justice.

§ 274.14 Time for filing petitions.

(a) Petitions for the reliefs of remission or mitigation of forfeiture should be filed within 30 days of the date of first publication of the advertisement as provided in § 274.9 of this part. After a seized conveyance has been declared forfeited and placed in official use, sold, or otherwise disposed of according to law, petitions for the reliefs of remission or mitigation of forfeiture shall not be accepted.

(b) Petitions for the relief of restoration of proceeds of sale or the appraised value of a seized and forfeited conveyance placed in official use or otherwise disposed of according to law must be filed within 90 days of the sale of the seized and forfeited conveyance or within 90 days that the seized and forfeited conveyance is placed in official use or otherwise disposed of according to law.

§ 274.15 Remission.

(a) The regional commissioner shall not grant remission of forfeiture unless the petitioner establishes:

(1) A property interest in the conveyance;

(2) That at no time did the petitioner have any knowledge or reason to believe that the conveyance was being or would be used in violation of the law, including satisfying any applicable provisions of § 274.18 of this part;

(3) That the petitioner had no knowledge of the particular violation which subjected the conveyance to seizure and forfeiture;

(4) That the petitioner had no knowledge that the owner nor anyone else using or able to use the conveyance had any record or reputation; had

(5) That the petitioner had taken all reasonable steps to prevent the illegal use of the conveyance.