

as of the date of the seizure, if the conveyance is later declared forfeited. Any provision of any state law which recognizes a continuing property interest or right to reinstatement of a property interest in a conveyance has no effect after the date of the seizure of the conveyance, if the conveyance is later declared forfeited.

(c) The custodian is authorized to execute a document of title to convey ownership of a conveyance declared forfeited pursuant to section 274(b) of the Act and this part.

**§ 274.5 Return to owner of seized conveyance not subject to forfeiture; opportunity for personal interview.**

(a) The Service shall attempt with due diligence to ascertain the ownership of any conveyance seized pursuant to section 274(b) of the Act and this part, in order to determine whether the conveyance is subject to forfeiture.

(b) The following conveyances are not subject to forfeiture:

(1) A conveyance used by any person as a common carrier, unless it appears that the owner or other person in charge was a consenting party or privy to the illegal use of the conveyance; and

(2) A conveyance established by the owner to have been unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States or of any state of the United States as defined in section 101(a)(38) of the Act.

(c) The owner of a seized conveyance shall be informed of the right to request a personal interview with an immigration officer and to present evidence to establish:

(1) That the conveyance was not subject to seizure; or

(2) That the conveyance is not subject to forfeiture; or

(3) That the conveyance was used in an act to which the owner was not privy, or did not consent, and the owner took all reasonable steps to prevent the illegal use of the conveyance.

If it is determined that the owner has established that paragraphs (c)(1) or (c)(2) of this section apply to the seized conveyance, that seized conveyance shall be returned to the owner as provided in paragraph (e) of this section;

and if it is determined that the owner has established that paragraph (c)(3) of this section applies to the seized conveyance, that seized conveyance may be returned to the owner as provided in paragraph (d) of this section.

(d) At any time after seizure the regional commissioner may determine that it is in the best interests of justice not to pursue forfeiture of a seized conveyance which is otherwise subject to forfeiture. If such a determination is made, that seized conveyance shall be returned to the owner as provided in paragraph (e) of this section.

(e) The owner of a seized conveyance to be returned pursuant to paragraphs (c) or (d) of this section will be notified of the conditions of obtaining possession and that possession of the seized conveyance must be taken within 20 days of receipt of notice of the availability of the seized conveyance for return. If the owner has not complied with the conditions of obtaining possession and taken possession of the seized conveyance within that 20 day period, that seized conveyance shall be considered voluntarily abandoned to the United States, and the custodian shall dispose of that seized conveyance as provided in §274.3 of this part. The conditions of obtaining possession of a seized conveyance available for return pursuant to paragraphs (c) and (d) of this section are as follows:

(1) If paragraph (c)(1) of this section applies to the seized conveyance, there shall be no conditions for obtaining possession;

(2) If paragraphs (c)(2), (c)(3), or (d) of this section apply to the seized conveyance, the owner shall pay all costs and expenses of seizure and shall execute an instrument holding the United States, its agents and employees, harmless from all claims which may result from the seizure and return of the seized conveyance.

(f) If a seized conveyance being returned to the owner pursuant to this section is the subject of judicial forfeiture proceedings, the regional commissioner shall notify the United States Attorney that a determination has been made that the seized conveyance is to be returned to the owner and request that the judicial forfeiture proceedings be terminated.