

factors which would automatically terminate the stay, and any requirement for a bond (including amount) to secure the payment of storage and other maintenance costs. If a motion for stay is denied, or if a stay is terminated for any reason, the claimant must file, if he or she has not already done so, a claim and bond in accordance with paragraph (b)(2) of this section not later than 30 days after receipt of the Solicitor's Office denial or termination order. Failure to file the claim and bond within 30 days will result in summary forfeiture under paragraph (c) of this section.

(c) *Summary forfeiture.* If a proper claim and bond are not received by the proper office within 30 days as specified in paragraph (b)(2) of this section, the Solicitor shall declare the property forfeited. The declaration of forfeiture shall be in writing, and shall be sent by registered or certified mail, return receipt requested, to the Service and to each person whose whereabouts and prior interest in the seized property are known or easily ascertainable. The declaration shall be in substantially the same form as a default judgment of forfeiture entered in United States District Court. The declaration shall describe the property and state the time, place, and reason for its seizure. The declaration shall identify the notice of proposed forfeiture, describing the dates and manner of publication of the notice and any efforts made to serve the notice personally or by mail. The declaration shall state that in response to the notice a proper claim and bond were not timely received by the proper office from any claimant, and that therefore all potential claimants are deemed to admit the truth of the allegations of the notice. The declaration shall conclude with an order of condemnation and forfeiture of the property to the United States for disposition according to law.

[45 FR 17864, Mar. 19, 1980, as amended at 46 FR 44759, Sept. 8, 1981; 47 FR 56860, Dec. 21, 1982; 50 FR 6350, Feb. 15, 1985]

§ 12.24 Petition for remission of forfeiture.

(a) Any person who has an interest in cargo, of a vessel or other conveyance employed in unlawful taking, subject

to forfeiture under the Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*, or any person who has an interest in any property subject to forfeiture under the Endangered Species Act, 16 U.S.C. 1531 *et seq.*; Eagle Protection Act, 16 U.S.C. 668 *et seq.*; Airborne Hunting Act, 16 U.S.C. 742j-1; or the Lacey Act Amendments of 1981, 16 U.S.C. 3371 *et seq.*, or any person who has incurred or is alleged to have incurred a forfeiture of any such property, may file with the Solicitor or, when forfeiture proceedings have been brought in U.S. District Court, the Attorney General, a petition for remission of forfeiture.

(b) A petition filed with the Solicitor need not be in any particular form, but it must be received before disposition of the property and must contain the following:

- (1) A description of the property;
- (2) The time and place of seizure;
- (3) Evidence of the petitioner's interest in the property, including contracts, bills of sale, invoices, security interests, certificates of title, and other satisfactory evidence; and
- (4) A statement of all facts and circumstances relied upon by the petitioner to justify remission of the forfeiture.

(c) The petition shall be signed by the petitioner or the petitioner's attorney at law. If the petitioner is a corporation, the petition must be signed by an authorized officer, supervisory employee, or attorney at law, and the corporate seal shall be properly affixed to the signature.

(d) A false statement in the petition may subject the petitioner to prosecution under title 18, U.S. Code, section 1001.

(e) Upon receiving the petition, the Solicitor shall decide whether or not to grant relief. In making a decision, the Solicitor shall consider the information submitted by the petitioner, as well as any other available information relating to the matter.

(f) If the Solicitor finds the existence of such mitigating circumstances as to justify remission or mitigation of the forfeiture or alleged forfeiture, the Solicitor may remit or mitigate the same upon such terms and conditions as may be reasonable and just or may order

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discontinuance of any proceeding under § 12.23

(g) If the Solicitor decides that relief should not be granted, the Solicitor shall so notify the petitioner in writing, stating in the notification the reasons for denying relief. The petitioner may then file a supplemental petition, but no supplemental petition shall be considered unless it is received within 60 days from the date of the Solicitor's notification denying the original petition.

[45 FR 17864, Mar. 19, 1980, as amended at 47 FR 56861, Dec. 21, 1982]

§ 12.25 Transfers in settlement of civil penalty claims.

In the discretion of the Solicitor, an owner of wildlife or plants who may be liable for civil penalty under the Endangered Species Act, 16 U.S.C. 1531 *et seq.*; Lacey Act, 18 U.S.C. 43; Lacey Act Amendments of 1981, 16 U.S.C. 3371 *et seq.*; Eagle Protection Act, 16 U.S.C. 668 *et seq.*; or Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*, may be given an opportunity to completely or partially settle the civil penalty claim by transferring to the United States all right, title, and interest in any wildlife or plants that are subject to forfeiture. Such transfer may be accomplished by the owner's execution and return of a U.S. Customs Form 4607 or a similar compromise transfer of property instrument provided by the Department.

[47 FR 56861, Dec. 21, 1982]

Subpart D—Disposal of Forfeited or Abandoned Property

SOURCE: 47 FR 17525, Apr. 23, 1982, unless otherwise noted.

§ 12.30 Purpose.

Upon forfeiture or abandonment of any property to the United States under this part the Director shall dispose of such property under the provisions of this subpart D.

§ 12.31 Accountability.

All property forfeited or abandoned under this part must be accounted for in official records. These records must include the following information:

(a) A description of the item.

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(b) The date and place of the item's seizure (if any) and forfeiture or abandonment.

(c) The investigative case file number with which the item was associated.

(d) The name of any person known to have or to have had an interest in the item.

(e) The date, place, and manner of the item's initial disposal.

(f) Name of the official responsible for the initial disposal.

(g) Domestic value of the property.

§ 12.32 Effect of prior illegality.

The effect of any prior illegality on a subsequent holder of any wildlife or plant disposed of or subject to disposal is terminated upon forfeiture or abandonment, but the prohibitions, restrictions, conditions, or requirements which apply to a particular species of wildlife or plant under the laws or regulations of the United States or any State, including any applicable conservation, health, quarantine, agricultural, or Customs laws or regulations remain in effect as to the conduct of such holder.

§ 12.33 Disposal.

(a) The Director shall dispose of any wildlife or plant forfeited or abandoned under the authority of this part, subject to the restrictions provided in this subpart, by one of the following means, unless the item is the subject of a petition for remission of forfeiture under § 12.24 of this part, or disposed of by court order:

(1) Return to the wild;

(2) Use by the Service or transfer to another government agency for official use;

(3) Donation or loan;

(4) Sale; or

(5) Destruction.

In the exercise of the disposal authority, the Director ordinarily must dispose of any wildlife or plant in the order in which the disposal methods appear in this paragraph (a) of this section.

(b) The Director shall dispose of any other property forfeited or abandoned under the authority of this part (including vehicles, vessels, aircraft, cargo, guns, nets, traps, and other equipment), except wildlife or plants,