

§ 274.6

§ 274.6 Proof of property interest.

The burden of proof is on a claimant to establish that the asserted property interest in a seized conveyance existed on the date of seizure of that conveyance by submission of sufficient satisfactory original documentation or certified copies of the original documentation. If the claimant fails to present documentation showing compliance with required state formalities it will be presumed that a property interest in a seized conveyance did not exist on the date of seizure of that conveyance.

§ 274.7 Appraisal.

The regional commissioner shall determine the appraised value of a seized conveyance by consulting accepted reference guides to conveyance values or experts in conveyance values. If there is no market for a conveyance at the place of seizure, the value of the conveyance in the principal market nearest the place of seizure shall be considered.

§ 274.8 Notice to owner and lienholder of seizure.

Whenever a conveyance is seized, a notice must be given to the owner and any known lienholder notifying them of the seizure of the conveyance and its consideration for forfeiture. The notice must be accompanied by copies of this 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;

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(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.