

Plant Protection and Quarantine enforcement office nearest the place of seizure. The time and date of posting shall be indicated on the notice.

(2) *Filing a claim and bond.* Upon issuance of the notice of proposed forfeiture, any person claiming ownership of or other interest in the seized property may file with the office specified in the notice a claim to the property and a bond in the amount of \$250, with sureties to be approved by the Deputy Administrator, conditioned that in case of condemnation of the articles so claimed, the obligor shall pay all the costs and expenses of the proceedings to obtain such condemnation. Any claim and bond must be received in such office within 20 days after posting of the notice of proposed forfeiture, and shall state claimant's interest in the property. The Deputy Administrator may extend the 20 day period with an appropriate statement on the posted notice of proposed forfeiture, if necessary, to allow a person deemed to have an interest in the property at least 10 days to file such a claim and bond after receipt of a notice of proposed forfeiture. The bond shall be on a U.S. Customs Form 4615 or on a similar form provided by Plant Protection and Quarantine. There shall be endorsed on the bond a list or schedule in substantially the following form which shall be signed by the claimant in the presence of the witnesses to the bond, and attested by the witnesses:

List or schedule containing a description of seized articles, claim for which is covered by the bond:

\_\_\_\_\_

The foregoing list is correct.

Claimant \_\_\_\_\_

Attest: \_\_\_\_\_

The claim and bond referred to in the paragraph shall not entitle the claimant or any other person to possession of the property.

(3) *Transmittal to U.S. Attorney.* As soon as practicable after timely receipt by the specified office of a proper claim and bond in accordance with paragraph (c)(2) of this section, the Secretary shall transmit such claim, bond (with a

duplicate list and description of the articles seized), and a report as described in §356.3 to the U.S. Attorney for the district in which seizure was made for forfeiture proceedings in the U.S. District Court.

(d) *Summary forfeiture.* If a proper claim and bond are not received by the specified office within the time periods as specified in paragraph (c)(2) of this section, the property shall be forfeited and the Deputy Administrator shall prepare a declaration of forfeiture. The declaration of forfeiture shall be in writing, and the Deputy Administrator shall send such declaration by registered or certified mail, return receipt requested, to each person whose whereabouts and prior interests in the seized property are known or reasonably ascertainable. The declaration shall be in substantially the same form as a default judgment of forfeiture entered in U.S. District Court. The declaration shall describe the property and state the time, date, 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.

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**§ 356.5 Bonded release.**

(a) The Deputy Administrator may accept a bond or other security, in the amount of the value of the property as determined under §356.3, in place of any property specified in §356.1 and release the property to the owner or agent of the property, if such action would not frustrate the purposes of the Act and Convention. As an example, this section does not allow the release of terrestrial plants that are without

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documentation required under 50 CFR chapter I.

(b) Any request for the return of property based on the acceptance of a bond or other security shall be submitted in writing to the Deputy Administrator. The request shall include evidence to establish that the person making the request is the sole owner of the property referred to in the request or is the agent of the sole owner of such property. A response in writing, granting or denying the request, and the reasons therefor, shall be sent to the person making the request.

### § 356.6 Storage of property.

Following the seizure or other receipt of any property specified in § 356.1 and valued at \$10,000 or less, the property shall remain in the custody of the Deputy Administrator pending disposition. Pending such disposition, the property shall be stored in such place, as, in the opinion of the Deputy Administrator, is most convenient and appropriate with due regard to the expense involved, whether or not the place of storage is within the judicial district in which the property was seized.

### § 356.7 Petition for remission or mitigation of forfeiture.

(a) Any person who has an interest in any property specified in § 356.1 and valued at \$10,000 or less, or any person who has incurred or is alleged to have incurred a forfeiture of any such property, may file with the Deputy Administrator a petition for remission or mitigation of forfeiture while the property is in the custody of the Deputy Administrator.

(b) A petition filed with the Deputy Administrator need not be in any particular form, but must contain the following:

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

(c) The petition shall be signed by the petitioner or the petitioner's attorney at law. If the petitioner is a business, the petition must be signed by a partner, officer, or petitioner's attorney at law.

(d) Upon receiving the petition, the Deputy Administrator shall decide whether or not to grant relief. In making a decision, the Deputy Administrator shall consider the information submitted by the petitioner, as well as any other available information relating to the matter, and may require that testimony be taken concerning the petition.

(e) If the Deputy Administrator finds that the forfeiture was incurred without willful negligence or without any intention on the part of the petitioner to violate the law or finds the existence of such mitigating circumstances as to justify remission or mitigation of the forfeiture or alleged forfeiture, the Deputy Administrator may remit or mitigate the same upon terms and conditions as he deems reasonable and just. However, remission or mitigation will not be made if such action would frustrate the purposes of the Act or Convention. As an example, this section does not allow remission or mitigation with respect to terrestrial plants that are without documentation required under 50 CFR chapter I.

(f) The Deputy Administrator shall notify the petitioner in writing concerning whether the petition was granted or denied, and shall state the reasons therefor. If the petition is denied fully or in part, 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 Deputy Administrator's notification concerning the original petition. The Deputy Administrator shall notify the petitioner in writing concerning the action taken in response to the supplemental petition, and shall state the reasons therefor.

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### § 356.8 Return procedure.

If, at the conclusion of proceedings, seized property is to be returned to the