

PART 8—FORFEITURE AUTHORITY FOR CERTAIN STATUTES

Subpart A—Seizure and Forfeiture of Property

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- AUTHORITY: 5 U.S.C. 301; 8 U.S.C. 1103, 1324(b); 18 U.S.C. 981, 983, 3051; 19 U.S.C. 1606, 1607, 1608, 1610, 1612(b), 1613, 1618; 21 U.S.C. 822, 871, 872, 880, 881, 883, 958, 965; 28 U.S.C. 509, 510; Pub. L. 100-690, sec. 6079, 102 Stat. 4181.

SOURCE: 77 FR 56101, Sept. 12, 2012, unless otherwise noted.

Subpart A—Seizure and Forfeiture of Property

§ 8.1 Scope of regulations.

(a) This part applies to all forfeitures administered by the Department of

Justice with the exception of seizures and forfeitures under the statutes listed in 18 U.S.C. 983(i)(2). The authority of seizing agencies to conduct administrative forfeitures derives from the procedural provisions of the Customs laws (19 U.S.C. 1602-1618) where those provisions are incorporated by reference in the substantive forfeiture statutes enforced by the agencies.

(b) The regulations in this part will apply to all forfeiture actions commenced on or after October 12, 2012.

§ 8.2 Definitions.

As used in this part, the following terms shall have the meanings specified:

Administrative forfeiture means the process by which property may be forfeited by a seizing agency rather than through a judicial proceeding. Administrative forfeiture has the same meaning as nonjudicial forfeiture, as that term is used in 18 U.S.C. 983.

Appraised value means the estimated market value of property at the time and place of seizure if such or similar property were freely offered for sale by a willing seller to a willing buyer.

Appropriate official means, in the case of the Drug Enforcement Administration (DEA), the Forfeiture Counsel, DEA. In the case of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), it means the Associate Chief Counsel, Office of Chief Counsel, ATF. In the case of the Federal Bureau of Investigation (FBI), it means the Unit Chief, Legal Forfeiture Unit, Office of the General Counsel, FBI, except as used in §§ 8.9(a)(2), 8.9(b)(2), 8.10, and 8.15, where the term appropriate official means the office or official identified in the published notice or personal written notice in accordance with § 8.9.

Civil forfeiture proceeding means a civil judicial forfeiture action as that term is used in 18 U.S.C. 983.

Contraband means—

(1) Any controlled substance, hazardous raw material, equipment or container, plants, or other property subject to summary forfeiture pursuant to sections 511(f) or (g) of the Controlled Substances Act (21 U.S.C. 881(f) or (g)); or

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(2) Any controlled substance imported into the United States, or exported out of the United States, in violation of law.

Domestic value means the same as the term *appraised value* as defined in this section.

Expense means all costs incurred to detain, inventory, safeguard, maintain, advertise, sell, or dispose of property seized, detained, or forfeited pursuant to any law.

File or *filed* has the following meanings:

(1) A claim or any other document submitted in an administrative forfeiture proceeding is not deemed filed until actually received by the appropriate official identified in the personal written notice and the published notice specified in § 8.9. It is not considered filed if it is received by any other office or official, such as a court, U.S. Attorney, seizing agent, local ATF or DEA office, or FBI Headquarters. In addition, a claim in an administrative forfeiture proceeding is not considered filed if received only by an electronic or facsimile transmission.

(2) For purposes of computing the start of the 90-day period set forth in 18 U.S.C. 983(a)(3), an administrative forfeiture claim is filed on the date when the claim is received by the designated appropriate official, even if the claim is received from an incarcerated *pro se* prisoner.

Interested party means any person who reasonably appears to have an interest in the property based on the facts known to the seizing agency before a declaration of forfeiture is entered.

Mail includes regular or certified U.S. mail and mail and package transportation and delivery services provided by other private or commercial interstate carriers.

Nonjudicial forfeiture has the same meaning as administrative forfeiture as defined in this section.

Person means an individual, partnership, corporation, joint business enterprise, estate, or other legal entity capable of owning property.

Property subject to administrative forfeiture means any personal property of the kinds described in 19 U.S.C. 1607(a).

Property subject to forfeiture refers to all property that federal law authorizes to be forfeited to the United States of America in any administrative forfeiture proceeding, in any civil judicial forfeiture proceeding, or in any criminal forfeiture proceeding.

Seizing agency refers to ATF, DEA, or FBI.

§ 8.3 Seizing property subject to forfeiture.

(a) *Authority of seizing agents.* All special agents of any seizing agency may seize assets under any federal statute over which the agency has investigative or forfeiture jurisdiction.

(b) *Turnover of assets seized by state and local agencies.*

(1) Property that is seized by a state or local law enforcement agency and transferred to a seizing agency for administrative or civil forfeiture may be adopted for administrative forfeiture without the issuance of any federal seizure warrant or other federal judicial process.

(2) Where a state or local law enforcement agency maintains custody of property pursuant to process issued by a state or local judicial authority, and notifies a seizing agency of the impending release of such property, the seizing agency may seek and obtain a federal seizure warrant in anticipation of a state or local judicial authority releasing the asset from state process for purposes of federal seizure, and may execute such seizure warrant when the state or local law enforcement agency releases the property as allowed or directed by its judicial authority.

§ 8.4 Inventory.

The seizing agent shall prepare an inventory of any seized property.

§ 8.5 Custody.

(a) All property seized for forfeiture by ATF, DEA, or FBI shall be delivered to the custody of the U.S. Marshals Service (USMS), or a custodian approved by the USMS, as soon as practicable after seizure, unless it is retained as evidence by the seizing agency.

(b) Seized U.S. currency (and, to the extent practicable, seized foreign currency and negotiable instruments)