

§ 8.22

§ 8.22 Special notice provision.

At the time of seizure of property defined in § 8.18 for violations involving the possession of personal use quantities of a controlled substance, the seizing agency must provide written notice to the possessor of the property specifying the procedures for the filing of a petition for expedited release and for the posting of a substitute monetary bond as set forth in section 6079 of the Anti-Drug Abuse Act of 1988 and implementing regulations.

Subpart C—Other Applicable Provisions

§ 8.23 Redefinition of authority.

(a) *Redelegation of authority permitted.*

(1) The powers and responsibilities delegated to the DEA Forfeiture Counsel by the regulations in this part may be redelegated to attorneys working under the direct supervision of the DEA Forfeiture Counsel.

(2) The powers and responsibilities delegated to the FBI Unit Chief, Legal Forfeiture Unit, by the regulations in this part may be redelegated to the attorneys working under the direct supervision of the FBI Unit Chief, Legal Forfeiture Unit.

(3) The powers and responsibilities delegated to the Associate Chief Counsel, Office of Chief Counsel, ATF may be redelegated to the attorneys working under the direct supervision of the Associate Chief Counsel, Office of Chief Counsel, ATF.

(b) *Redelegation of authority not permitted.*

(1) The powers and responsibilities delegated to the DEA Forfeiture Counsel, the FBI Unit Chief, Legal Forfeiture Unit, and the ATF Associate Chief Counsel, Office of Chief Counsel to make decisions regarding the disposition of property before forfeiture pursuant to § 8.14 may not be redelegated.

(2) The powers and responsibilities delegated to the DEA Forfeiture Counsel, the FBI Unit Chief, Legal Forfeiture Unit, and the ATF Associate Chief Counsel, Office of Chief Counsel to make decisions regarding the delay of notice of forfeiture pursuant to §§ 8.9(c)(7) and (8) and 18 U.S.C.

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983(a)(1)(B) and (C) may not be redelegated.

PART 9—REGULATIONS GOVERNING THE REMISSION OR MITIGATION OF ADMINISTRATIVE, CIVIL, AND CRIMINAL FORFEITURES

Sec.

9.1 Purpose, authority, and scope.

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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.

SOURCE: 77 FR 56108, Sept. 12, 2012, unless otherwise noted.

§ 9.1 Purpose, authority, and scope.

(a) *Purpose.* This part sets forth the procedures for agency officials to follow when considering remission or mitigation of administrative forfeitures under the jurisdiction of the agency, and civil judicial and criminal judicial forfeitures under the jurisdiction of the Department of Justice's Criminal Division. The purpose of this part is to provide a basis for the partial or total remission of forfeiture for individuals who have an interest in the forfeited property but who did not participate in, or have knowledge of, the conduct that resulted in the property being subject to forfeiture and, where required, took all reasonable steps under the circumstances to ensure that such property would not be used, acquired, or disposed of contrary to law. Additionally, the regulations provide for partial or total mitigation of the forfeiture and imposition of alternative conditions in appropriate circumstances.

(b) *Authority to grant remission and mitigation.*

(1) Remission and mitigation functions in administrative forfeitures are

performed by the agency seizing the property. Within the Federal Bureau of Investigation (FBI), authority to grant remission and mitigation is delegated to the Forfeiture Counsel, who is the Unit Chief, Legal Forfeiture Unit, Office of the General Counsel; within the Drug Enforcement Administration (DEA), authority to grant remission and mitigation is delegated to the Forfeiture Counsel, Office of Chief Counsel; and within the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), authority to grant remission and mitigation is delegated to the Associate Chief Counsel, Office of Chief Counsel.

(2) Remission and mitigation functions in judicial cases are performed by the Criminal Division of the Department of Justice. Within the Criminal Division, authority to grant remission and mitigation is delegated to the Chief, Asset Forfeiture and Money Laundering Section.

(3) The powers and responsibilities delegated by this part may be redelegated to attorneys or managers working under the supervision of the designated officials.

(c) *Scope.* This part governs any petition for remission filed with the Attorney General and supersedes any Department of Justice regulation governing petitions for remission, to the extent such regulation is inconsistent with this part.

(d) The time periods and internal requirements established in this part are designed to guide the orderly administration of the remission and mitigation process and are not intended to create rights or entitlements in favor of individuals seeking remission or mitigation. This part applies to all forfeiture actions commenced on or after October 12, 2012.

§9.2 Definitions.

As used in this part:

Administrative forfeiture means the process by which property may be forfeited by a seizing agency rather than through judicial proceedings. *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 between a willing seller and a willing buyer.

Assets Forfeiture Fund means the Department of Justice Assets Forfeiture Fund or Department of the Treasury Forfeiture Fund, depending upon the identity of the seizing agency.

Attorney General means the Attorney General of the United States or his or her designee.

Beneficial owner means a person with actual use of, as well as an interest in, the property subject to forfeiture.

Chief, Asset Forfeiture and Money Laundering Section, and *Chief,* refer to the Chief of the Asset Forfeiture and Money Laundering Section, Criminal Division, United States Department of Justice.

General creditor means one whose claim or debt is not secured by a specific right to obtain satisfaction against the particular property subject to forfeiture.

Judgment creditor means one who has obtained a judgment against the debtor but has not yet received full satisfaction of the judgment.

Judicial forfeiture means either a civil or a criminal proceeding in a United States District Court that may result in a final judgment and order of forfeiture.

Lienholder means a creditor whose claim or debt is secured by a specific right to obtain satisfaction against the particular property subject to forfeiture. A lien creditor qualifies as a lienholder if the lien:

(1) Was established by operation of law or contract;

(2) Was created as a result of an exchange of money, goods, or services; and

(3) Is perfected against the specific property forfeited for which remission or mitigation is sought (e.g., a real estate mortgage; a mechanic's lien).

Net equity means the amount of a lienholder's monetary interest in property subject to forfeiture. Net equity shall be computed by determining the amount of unpaid principal and unpaid interest at the time of seizure and by adding to that sum unpaid interest calculated from the date of seizure through the last full month prior to