

§8.11

28 CFR Ch. I (7–1–16 Edition)

person may obtain a claim form by requesting one in writing from the appropriate official.

(d) *Cost bond not required.* Any person may file a claim under §8.10(a) without posting bond, except in forfeitures under statutes listed in 18 U.S.C. 983(i).

(e) *Referral of claim.* Upon receipt of a claim that meets the requirements of §§8.10(a) and (b), the seizing agency shall return the property or shall suspend the administrative forfeiture proceeding and promptly transmit the claim, together with a description of the property and a complete statement of the facts and circumstances surrounding the seizure, to the appropriate U.S. Attorney for commencement of judicial forfeiture proceedings. Upon making the determination that the seized property will be released, the agency shall promptly notify the person with a right to immediate possession of the property, informing that person to contact the property custodian within a specified period for release of the property, and further informing that person that failure to contact the property custodian within the specified period for release of the property will result in abandonment of the property pursuant to applicable regulations. The seizing agency shall notify the property custodian of the identity of the person to whom the property should be released. The property custodian shall have the right to require presentation of proper identification or to take other steps to verify the identity of the person who seeks the release of property, or both.

(f) *Premature filing.* If a claim is filed with the appropriate official after the seizure of property, but before the commencement of the administrative forfeiture proceeding as defined in §8.8, the claim shall be deemed filed on the 30th day after the commencement of the administrative forfeiture proceeding. If such claim meets the requirements of §8.10(b), the seizing agency shall suspend the administrative forfeiture proceedings and promptly transmit the claim, together with a description of the property and a complete statement of the facts and circumstances surrounding the seizure to the appropriate U.S. Attorney for com-

mencement of judicial forfeiture proceedings.

(g) *Defective claims.* If the seizing agency determines that an otherwise timely claim does not meet the requirements of §8.10(b), the seizing agency may notify the claimant of this determination and allow the claimant a reasonable time to cure the defect(s) in the claim. If, within the time allowed by the seizing agency, the requirements of §8.10(b) are not met, the claim shall be void and the forfeiture proceedings shall proceed as if no claim had been submitted. If the claimant timely cures the deficiency, then the claim shall be deemed filed on the date when the appropriate official receives the cured claim.

§8.11 Interplay of administrative and criminal judicial forfeiture proceedings.

An administrative forfeiture proceeding pending against seized or restrained property does not bar the Government from alleging that the same property is forfeitable in a criminal case. Notwithstanding the fact that an allegation of forfeiture has been included in a criminal indictment or information, the property may be administratively forfeited in a parallel proceeding.

§8.12 Declaration of administrative forfeiture.

If the seizing agency commences a timely proceeding against property subject to administrative forfeiture, and no valid and timely claim is filed, the appropriate official of the seizing agency shall declare the property forfeited. The declaration of forfeiture shall have the same force and effect as a final decree and order of forfeiture in a federal judicial forfeiture proceeding.

§8.13 Return of property pursuant to 18 U.S.C. 983(a)(3)(B).

(a) If, under 18 U.S.C. 983(a)(3), the United States is required to return seized property, the U.S. Attorney in charge of the matter shall immediately notify the appropriate seizing agency that the 90-day deadline was not met. Under this subsection, the United States is not required to return property for which it has an independent