

Department of Justice

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lieu of a physical seizure. The vessel shall report to the port designated in the summons. The seizing agency shall be authorized to effect administrative forfeiture as if the vessel had been physically seized. Upon answering the summons to appear on or prior to the last reporting date specified in the summons, the owner of the vessel may file a petition for expedited release pursuant to § 8.19(a), and the provisions of § 8.19(a) and other provisions in this section pertaining to a petition for expedited release shall apply as if the vessel had been physically seized.

(c) The owner filing the petition for expedited release shall establish the following:

(1) The owner has a valid, good faith interest in the seized property as owner or otherwise;

(2) The owner reasonably attempted to ascertain the use of the property in a normal and customary manner; and

(3) The owner did not know of or consent to the illegal use of the property, or in the event that the owner knew or should have known of the illegal use, the owner did what reasonably could be expected to prevent the violation.

(d) In addition to those factors listed in § 8.19(c), if an owner can demonstrate that the owner has other statutory rights or defenses that would cause the owner to prevail on the issue of forfeiture, such factors shall also be considered in ruling on the petition for expedited release.

(e) A petition for expedited release must be received by the appropriate seizing agency within 20 days from the date of the first publication of the notice of seizure in order to be considered by the seizing agency. The petition must be executed and sworn to by the owner and both the envelope and the request must be clearly marked "PETITION FOR EXPEDITED RELEASE." Such petition shall be filed with the appropriate office or official identified in the personal written notice and the publication notice.

(f) The petition shall include the following:

(1) A complete description of the property, including identification numbers, if any, and the date and place of seizure;

(2) The petitioner's interest in the property, which shall be supported by title documentation, bills of sale, contracts, mortgages, or other satisfactory documentary evidence; and

(3) A statement of the facts and circumstances, to be established by satisfactory proof, relied upon by the petitioner to justify expedited release of the seized property.

§ 8.20 Ruling on petition for expedited release in an administrative forfeiture proceeding.

(a) If a final administrative determination of the case, without regard to the provisions of this section, is made within 21 days of the seizure, the seizing agency need take no further action under this section on a petition for expedited release received pursuant to § 8.19(a).

(b) If no such final administrative determination is made within 21 days of the seizure, the following procedure shall apply. The seizing agency shall, within 20 days after the receipt of the petition for expedited release, determine whether the petition filed by the owner has established the factors listed in § 8.19(c) and:

(1) If the seizing agency determines that those factors have been established, it shall terminate the administrative proceedings and return the property to the owner (or in the case of a commercial fishing industry vessel for which a summons has been issued shall dismiss the summons), except where it is evidence of a violation of law; or

(2) If the seizing agency determines that those factors have not been established, the agency shall proceed with the administrative forfeiture.

§ 8.21 Posting of substitute monetary amount in an administrative forfeiture proceeding.

(a) Where property is seized for administrative forfeiture involving controlled substances in personal use quantities, the owner may obtain release of the property by posting a substitute monetary amount with the seizing agency to be held subject to forfeiture proceedings in place of the seized property to be released. The property will be released to the owner

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upon the payment of an amount equal to the government appraised value of the property if the property is not evidence of a violation of law and has no design or other characteristics that particularly suit it for use in illegal activities. This payment must be in the form of a traveler's check, a money order, a cashier's check, or an irrevocable letter of credit made payable to the seizing agency. A bond in the form of a cashier's check will be considered as paid once the check has been accepted for payment by the financial institution which issued the check.

(b) If a substitute amount is posted and the property is administratively forfeited, the seizing agency will forfeit the substitute amount in lieu of the property.

§ 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

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

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

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9.1 Purpose, authority, and scope.

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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