

§ 12.3

§ 12.3 Definitions.

(a) As used in this part:

(1) *Attorney General* means the Attorney General of the United States or an authorized representative;

(2) *Disposal* includes, but is not limited to, remission, return to the wild, use by the Service or transfer to another government agency for official use, donation or loan, sale, or destruction.

(3) *Domestic value* means the price at which the seized property or similar property is freely offered for sale at the time and place of appraisal, in the same quantity or quantities as seized, and in the ordinary course of trade. If there is no market for the seized property at the place of appraisal, such value in the principal market nearest to the place of appraisal shall be reported.

(4) *Solicitor* means the Solicitor of the Department of the Interior or an authorized representative.

(b) The definitions of paragraph (a) of this section are in addition to, and not in lieu of, those contained in §§ 1.1 through 1.8 and 10.12 of this title.

[45 FR 17864, Mar. 19, 1980, as amended at 47 FR 17525, Apr. 23, 1982]

§ 12.4 Filing of documents.

(a) Whenever any document is required by this part to be filed or served within a certain period of time, such document will be considered filed or served as of the date of receipt by the party with or upon whom filing or service is required. The time periods established by this part shall begin to run on the day following the date of filing or service.

(b) If an oral or written application is made before the expiration of a time period established by this part, an extension of such period for a fixed number of days may be granted where there are reasonable grounds for the failure to file or serve the document within the period required. Any such extension shall be in writing. Except as provided in this paragraph, no other requests for an extension shall be granted.

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§ 12.5 Seizure by other agencies.

Any authorized employee or officer of any other Federal agency who has seized any wildlife or other property under any of the laws listed in § 12.2 will, if so requested, deliver such seizure to the appropriate Special Agent in Charge designated in § 10.22 of this title, or to an authorized designee, who shall either hold such seized wildlife or other property or arrange for its proper handling and care.

§ 12.6 Bonded release.

(a) Subject to the conditions set forth in paragraphs (b) and (c) of this section, and to such additional conditions as may be appropriate, the Service, in its discretion, may accept an appearance bond or other security (including, but not limited to, payment of the value as determined under § 12.12) in place of any property seized under the Endangered Species Act, 16 U.S.C. 1531 *et seq.*; Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*; Lacey Act, 18 U.S.C. 43; Lacey Act Amendments of 1981, 16 U.S.C. 3371 *et seq.*; Airborne Hunting Act, 16 U.S.C. 742j-1; or Eagle Protection Act, 16 U.S.C. 668 *et seq.*

(b) Property may be released under this section only to the owner or consignee.

(c) Property may be released under this section only if possession thereof will not violate or frustrate the purpose or policy of any applicable law or regulation.

[45 FR 17864, Mar. 19, 1980; 45 FR 31725, May 14, 1980, as amended at 47 FR 56860, Dec. 21, 1982]

Subpart B—Preliminary Requirements

§ 12.11 Notification of seizure.

Except where the owner or consignee is personally notified or seizure is made pursuant to a search warrant, the Service shall, as soon as practicable following the seizure or other receipt of seized wildlife or other property, mail a notification of seizure by registered or certified mail, return receipt requested, to the owner or consignee, if known or easily ascertainable. Such notification shall describe the seized wildlife or other property, and shall

state the time, place, and reason for the seizure.

§ 12.12 Appraisalment.

The Service shall determine the value of any cargo, of a vessel or other conveyance employed in unlawful taking, seized under the Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*, and the value of any property seized under the Endangered Species Act, 16 U.S.C. 1531 *et seq.*; Eagle Protection Act, 16 U.S.C. 668 *et seq.*; Airborne Hunting Act, 16 U.S.C. 742j-1, *et seq.*; or the Lacey Act Amendments of 1981, 16 U.S.C. 3371 *et seq.* If the seized property may lawfully be sold in the United States, its domestic value shall be determined in accordance with § 12.3. If the seized property may not lawfully be sold in the United States, its value shall be determined by other reasonable means.

[47 FR 56860, Dec. 21, 1982]

Subpart C—Forfeiture Proceedings

§ 12.21 Criminal prosecutions.

If property is subject to criminal forfeiture, such forfeiture will be obtained in accordance with the *Federal Rules of Criminal Procedure*.

§ 12.22 Civil actions to obtain forfeiture.

The Solicitor may request the Attorney General to file a civil action to obtain forfeiture of any property subject to forfeiture under the Airborne Hunting Act, 16 U.S.C. 742j-1; Lacey Act, 18 U.S.C. 43-44; Lacey Act Amendments of 1981, 16 U.S.C. 3371 *et seq.*; Black Bass Act, 16 U.S.C. 851 *et seq.*; Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*; Migratory Bird Treaty Act, 16 U.S.C. 703 *et seq.*; Migratory Bird Hunting Stamp Act, 16 U.S.C. 718 *et seq.*; Eagle Protection Act, 16 U.S.C. 668 *et seq.*; or Endangered Species Act, 16 U.S.C. 1531 *et seq.* Before any such action is filed against property subject to forfeiture under the Lacey Act, 18 U.S.C. 43, or against property, other than the cargo of a vessel or other conveyance employed in unlawful taking, subject to forfeiture under the Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*, a civil penalty must first be assessed in accordance with the statute

and applicable regulations, and no such action may be filed more than 30 days after the conclusion of civil penalty assessment proceedings.

[47 FR 56860, Dec. 21, 1982]

§ 12.23 Administrative forfeiture proceedings.

(a) *When authorized.* Whenever any property subject to forfeiture under the Eagle Protection Act, 16 U.S.C. 668 *et seq.*, or Airborne Hunting Act, 16 U.S.C. 742j-1, or any wildlife or plant subject to forfeiture under the Endangered Species Act, 16 U.S.C. 1531 *et seq.*, or any fish, wildlife or plant subject to forfeiture under the Lacey Act Amendments of 1981, 16 U.S.C. 3371 *et seq.*, is determined under § 12.12 to have a value not greater than \$100,000, the Solicitor may obtain forfeiture of such property in accordance with this section.

(b) *Procedure*—(1) *Notice of proposed forfeiture.* As soon as practicable following seizure, the Solicitor shall issue a notice of proposed forfeiture.

(A) *Publication.* The notice shall be published once a week for at least three successive weeks in a newspaper of general circulation in the locality where the property was seized. If the value of the seized property as determined under § 12.12 does not exceed \$1000, the notice may be published by posting, instead of newspaper publication, for at least three successive weeks in a conspicuous place accessible to the public at the Service's enforcement office, the U.S. District Court or the U.S. Customhouse nearest the place of seizure. In cases of posting, the date of initial posting shall be indicated on the notice. In addition to newspaper publication or posting, a reasonable effort shall be made to serve the notice personally or by registered or certified mail, return receipt requested, on each person whose whereabouts and interest in the seized property are known or easily ascertainable.

(B) *Contents.* The notice shall be in substantially the same form as a complaint for forfeiture filed in United States District Court. The notice shall describe the property, including, in the case of motor vehicles, the license, registration, motor, and serial numbers. The notice shall state the time and place of seizure, as well as the reason