§ 12.35 Use by the Service or transfer to another government agency for official use.

(a) Wildlife and plants may be used by the Service or transferred to another government agency (including foreign agencies) for official use including, but not limited to, one or more of the following purposes:

(1) Training government officials to perform their official duties;

(2) Identifying protected wildlife or plants, including forensic identification or research;

(3) Educating the public concerning the conservation of wildlife or plants;

(4) Conducting law enforcement operations in performance of official duties;

(5) Enhancing the propagation or survival of a species or other scientific purposes;

(6) Presenting as evidence in a legal proceeding involving the wildlife or plant;

(7) Returning to the wild in accordance with §12.34 of this part.

(b) Each transfer and the terms of the transfer must be documented.

(c) The agency receiving the wildlife or plants may be required to bear all costs of care, storage, transportation, and return to the Service (if applicable);

(d) The donee/borrower may be required to account periodically for the donation or loan;

(e) The donee/borrower is not relieved from the prohibitions, restrictions, conditions, or requirements which may apply to a particular species of wildlife or plant imposed by the laws or regulations of the United States or any State, including any applicable health, quarantine, agricultural, or Customs laws or regulations.

(f) Any attempt by a donee to retransfer the donation during the time period specified in the transfer document within which the donee may not retransfer the donation without the prior authorization of the Director entitles the Director to immediate repossession of the wildlife or plants;

(g) Any donation or loan is for an indefinite period of time unless a date on which the loan must be returned to the Service is stated on the transfer document; and

(h) Any loan remains the property of the United States, and the Director may demand its return at any time.

§ 12.36 Donation or loan.

(a) Except as otherwise provided in this section, wildlife and plants may be donated or loaned for scientific, educational, or public display purposes to any person who demonstrates the ability to provide adequate care and security for the item.

(b) Any donation or loan may be made only after execution of a transfer document between the Director and the donee/borrower, which is subject to the following conditions:

(1) The purpose for which the wildlife or plants are to be used must be stated on the transfer document;

(2) Any attempt by the donee/borrower to use the donation or loan for any other purpose except that stated on the transfer document entitles the Director to immediate repossession of the wildlife or plants;

(3) The donee/borrower must pay all costs associated with the transfer, including the costs of care, storage, transportation, and return to the Service (if applicable);

(4) The donee/borrower may be required to account periodically for the donation or loan;

(5) The donee/borrower is not relieved from the prohibitions, restrictions, conditions, or requirements which may apply to a particular species of wildlife or plant imposed by the laws or regulations of the United States or any State, including any applicable health, quarantine, agricultural, or Customs laws or regulations.

(6) Any attempt by a donee to retransfer the donation during the time period specified in the transfer document within which the donee may not retransfer the donation without the prior authorization of the Director entitles the Director to immediate repossession of the wildlife or plants;

(7) Any attempt by a borrower to retransfer the loan without the prior authorization of the Director entitles the Director to immediate repossession of the wildlife or plants;

(8) Subject to applicable limitations of law, duly authorized Service officers at all reasonable times shall, upon notice, be afforded access to the place where the donation or loan is kept and an opportunity to inspect it;

(9) Any donation is subject to conditions specified in the transfer document, the violation of which causes the property to revert to the United States;

(10) Any loan is for an indefinite period of time unless a date on which the loan must be returned to the Service is stated on the transfer document; and

(11) Any loan remains the property of the United States, and the Director may demand its return at any time.
§ 12.37 Sale.

(a) Wildlife and plants may be sold or offered for sale, except any species which at the time it is to be sold or offered for sale falls into one of the following categories:

(1) Listed in §10.13 of this title as a migratory bird protected by the Migratory Bird Treaty Act (16 U.S.C. 703–712); (2) Protected under the Eagle Protection Act (16 U.S.C. 668–668d); (3) Listed in §23.33 of this title as “Appendix I” under the Convention on International Trade in Endangered Species of Wild Fauna and Flora; (4) Listed in §17.11 of this title as “endangered” or “threatened” under the Endangered Species Act of 1973 (16 U.S.C. 1533), unless the item or species may be lawfully traded in interstate commerce; and (5) Protected under the Marine Mammal Protection Act (16 U.S.C. 1361–1407), unless the item or species may be lawfully traded in interstate commerce.

(b) Wildlife and plants must be sold in accordance with current Federal Property Management Regulations (41 CFR chapter 101) and Interior Property Management Regulations (41 CFR chapter 114) or U.S. Customs laws and regulations, except that the Director may sell any wildlife or plant immediately for its fair market value if the Director determines that it is liable to perish, deteriorate, decay, waste, or greatly decrease in value by keeping, or that the expense of keeping it is disproportionate to its value.

(c) Wildlife or plants which may not be possessed lawfully by purchasers under the laws of the State in which held may be moved to a State where possession is lawful and may be sold.

(d) Wildlife or plants purchased at sale are subject to the prohibitions, restrictions, conditions, or requirements which apply to a particular species of wildlife or plant imposed by the laws or regulations of the United States or any State, including any applicable conservation, health, quarantine, agricultural, or Customs laws or regulations, except as provided by §12.32 of this part.

(e) The Director may use the proceeds of sale to reimburse the Service for any costs which by law the Service is authorized to recover or to pay any rewards which by law may be paid from sums the Service receives.

§ 12.38 Destruction.

(a) Wildlife and plants not otherwise disposed of must be destroyed.

(b) When destroyed, the fact, manner, and date of destruction and the type and quantity destroyed must be certified by the official actually destroying the items.

§ 12.39 Information on property available for disposal.

Persons interested in obtaining information on property which is available for disposal should contact the appropriate Special Agent in Charge listed in §10.22 of this title.

Subpart E—Restoration of Proceeds and Recovery of Storage Costs

§ 12.41 Petition for restoration of proceeds.

(a) Any person claiming any property or interest therein which has been forfeited 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. 742–1; or the Lacey Act Amendments of 1981, 16 U.S.C. 3371 et seq., and sold according to law, or any person claiming cargo or an interest therein, of a vessel or other conveyance employed in unlawful taking which has been forfeited under the Marine Mammal Protection Act, 16 U.S.C. 1361–1407, may file a petition for the return of the property or interest therein.

(b) The petition must be filed within 60 days of the date of entry of the final order for sale of the property or interest, and must state the facts on which the claim is based and the relief requested.

(c) The petition must be served upon the Director and the United States Attorney for the judicial district in which the property is located.

(d) The Director may, in his discretion, accept the petition and notify the United States Attorney, or may file a motion to dismiss the petition.

(e) The United States Attorney may file a motion to dismiss the petition, or may file a motion for summary judgment.

(f) The Director shall make and serve an answer to the petition.

(g) The court shall hear all evidence and make a final determination based on a full and fair hearing.

(h) The Director may intervene in any litigation involving such property or property that is similar to such property unless the court finds that the property is unique and cannot be replaced.

(i) The Director may approve the return of the property or interest therein to the person entitled thereto, or may order the property or interest therein sold, subject to such conditions as the court deems appropriate.

(j) The Director may, in his discretion, sell the property or interest therein subject to the condition that the proceeds thereof be deposited in the Treasury of the United States and used to pay cheques and warrants issued by the United States, or to pay any costs of litigation.

(k) The Director may, in his discretion, sell the property or interest therein subject to the condition that the proceeds thereof be deposited in a trust fund for the benefit of the person entitled thereto.

(l) The Director may, in his discretion, sell the property or interest therein subject to the condition that the proceeds thereof be deposited in a trust fund for the benefit of the person entitled thereto, and such person shall have the right to claim such proceeds at any time after the date of sale, subject to such conditions as the court deems appropriate.

(m) The Director may, in his discretion, sell the property or interest therein subject to the condition that the proceeds thereof be deposited in a trust fund for the benefit of the person entitled thereto, and such person shall have the right to claim such proceeds at any time after the date of sale, subject to such conditions as the court deems appropriate.

(n) The Director may, in his discretion, sell the property or interest therein subject to the condition that the proceeds thereof be deposited in a trust fund for the benefit of the person entitled thereto, and such person shall have the right to claim such proceeds at any time after the date of sale, subject to such conditions as the court deems appropriate.

(o) The Director may, in his discretion, sell the property or interest therein subject to the condition that the proceeds thereof be deposited in a trust fund for the benefit of the person entitled thereto, and such person shall have the right to claim such proceeds at any time after the date of sale, subject to such conditions as the court deems appropriate.