

a bond to secure payment of storage or maintenance costs. If NOAA denies or terminates the stay, the claimant, if he or she has not already done so, has 20 days from receipt of the denial or termination order to file a claim and bond in accordance with paragraph (b)(3) of this section. Failure to file the claim and bond within that 20 days will result in summary forfeiture under paragraph (b)(5) of this section.

(5) If a claim and bond are not filed within 20 days of notice in accordance with this section, or if a motion for a stay under paragraph (b)(4) is pending, NOAA will declare the property forfeited. The declaration of forfeiture will be in writing and will be served on each person whose whereabouts and prior interest in the seized property are known or easily ascertainable. The forfeited property will be subject to disposition as authorized by law and regulations of NOAA.

(6) If the appraised value of the property is more than \$100,000, or a timely and satisfactory claim and bond for property appraised at \$100,000 or less are submitted to NOAA, the matter will be referred to the Attorney General to institute *in rem* proceedings in the appropriate United States District Court.

§ 904.505 Summary sale.

(a) In view of the perishable nature of fish, any person authorized to enforce a statute administered by NOAA may, as authorized by law, sell or cause to be sold, and any person may purchase, for not less than its domestic fair market value, fish seized under such statute.

(b) Any person purchasing fish subject to this section must deliver the proceeds of the sale to a person authorized to enforce a statute administered by NOAA immediately upon request of such authorized person. Anyone who does not so deliver the proceeds may be subject to penalties under the applicable statute or statutes.

(c) NOAA will give notice of the sale by registered or certified mail, return receipt requested, to the owner or consignee, if known or easily ascertainable, or to any other party that the facts of record indicate has an interest in the seized fish, unless the owner or consignee or other interested party has

otherwise been personally notified. Notice will be sent either prior to the sale, or as soon thereafter as practicable.

(d) The proceeds of the sale, after deducting any reasonable costs of the sale, will be subject to any administrative or judicial proceedings in the safe manner as the seized fish would have been, including an action *in rem* for the forfeiture of the proceeds. Pending disposition of such proceedings, the proceeds will, as appropriate, either be deposited in a NOAA suspense account or submitted to the appropriate court. The proceeds will not be subject to release under § 904.502 or § 904.506(f).

(e) Seizure and sale of fish is without prejudice to any other remedy or sanction authorized by law.

§ 904.506 Remission and mitigation of forfeiture.

(a) *Application of this section.* (1) This section establishes procedures for filing with NOAA a petition for relief from forfeitures incurred, or alleged to have been incurred, under any statute administered by NOAA that authorizes the remission or mitigation of forfeitures.

(2) Although NOAA may properly consider a petition for relief from forfeiture along with other consequences of a violation, the remission or mitigation of a forfeiture is not dispositive of any criminal charge filed, civil penalty assessed, or permit sanction proposed, unless NOAA expressly so states. Remission or mitigation of a forfeiture is in the nature of executive clemency and is granted in the sole discretion of NOAA only when consistent with the purposes of the particular statute involved and this section.

(3) NOAA will not consider a petition for remission or mitigation while a forfeiture proceeding is pending in federal court. Once such a case is referred to the Attorney General for institution of judicial proceedings, and until the proceedings are completed, any petition received by NOAA will be forwarded to the Attorney General for consideration.

(b) *Petition for relief from forfeiture.* (1) Any person having an interest in property seized and subject to forfeiture