

§ 904.4

(2) By an officer thereof if a corporation,

(3) By an officer or authorized employee if a government instrumentality, or

(4) By an attorney or other person having authority to sign.

§ 904.4 Computation of time periods.

For a NOVA, NOPS or NIDP, the 30 day response period begins to run on the date the notice is received. All other time periods begin to run on the day following the service date of the document, paper, or event that begins the time period. Saturdays, Sundays, and Federal holidays will be included in computing such time, except that when such time expires on a Saturday, Sunday, or Federal holiday, in which event such period will be extended to include the next business day. This method of computing time periods also applies to any act, such as paying a civil penalty, required by this part to take place within a specified period of time. When the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays, and legal holidays will be excluded in the computation.

§ 904.5 Appearances.

(a) A party may appear in person or by or with counsel or other representative.

(b) Whenever an attorney or other representative contacts the Agency on behalf of another person with regard to any matter that has resulted in, or may result in, a written warning, a NOVA, NOPS, NIDP, or a forfeiture proceeding, that attorney or other representative shall file a Notice of Appearance with the Agency. Such notice shall indicate the name of the person on whose behalf the appearance is made.

(c) Each attorney or other representative who represents a party in any hearing shall file a written Notice of Appearance with the Judge. Such notice shall indicate the name of the case, the docket number, and the party on whose behalf the appearance is made.

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Subpart B—Civil Penalties

§ 904.100 General.

This subpart sets forth the procedures governing NOAA administrative proceedings for the assessment of civil penalties under the statutes cited in § 904.1(c).

§ 904.101 Notice of violation and assessment (NOVA).

(a) A NOVA will be issued by NOAA and served upon the respondent(s). The NOVA will contain:

(1) A concise statement of the facts believed to show a violation;

(2) A specific reference to the provisions of the Act, regulation, license, permit, agreement, or order allegedly violated;

(3) The findings and conclusions upon which NOAA bases the assessment;

(4) The amount of the civil penalty assessed; and

(5) Information concerning the respondent's rights upon receipt of the NOVA, and will be accompanied by a copy of the regulations in this part governing the proceedings.

(b) In assessing a civil penalty, NOAA will take into account information available to the Agency concerning any factor to be considered under the applicable statute, and any other information that justice or the purposes of the statute require.

(c) The NOVA may also contain a proposal for compromise or settlement of the case. NOAA may also attach documents that illuminate the facts believed to show a violation.

§ 904.102 Procedures upon receipt of a NOVA.

(a) The respondent has 30 days from receipt of the NOVA in which to respond. During this time the respondent may:

(1) Accept the penalty or compromise penalty, if any, by taking the actions specified in the NOVA;

(2) Seek to have the NOVA amended, modified, or rescinded under paragraph (b) of this section;

(3) Request a hearing under § 904.201(a);

(4) Request an extension of time to respond under paragraph (c) of this section; or