

under any of the statutes administered by NOAA; or

(4) The failure to comply with any term of a settlement agreement.

(b) A permit sanction may be imposed, or a permit denied, under this subpart with respect to the particular permit pertaining to the violation or nonpayment, and may also be applied to any NOAA permit held or sought by the permit holder or successor in interest to the permit, including permits for other activities or for other vessels. Examples of the application of this policy are the following:

(1) NOAA suspends Vessel A's fishing permit for nonpayment of a civil penalty pertaining to Vessel A. The owner of Vessel A buys Vessel B and applies for a permit for Vessel B to participate in the same or a different fishery. NOAA may withhold that permit until the sanction against Vessel A is lifted.

(2) NOAA revokes a Marine Mammal Protection Act permit for violation of its conditions. The permit holder subsequently applies for a permit under the Endangered Species Act. NOAA may deny the ESA application.

(3) Captain X, an officer in Country Y's fishing fleet, is found guilty of assaulting an enforcement officer. NOAA may impose a condition on the permits of Country Y's vessels that they may not fish in the Exclusive Economic Zone with Captain X aboard. (See § 904.320(c)).

(c) A permit sanction may not be extinguished by sale or transfer. A vessel's permit sanction is not extinguished by sale or transfer of the vessel, nor by dissolution or reincorporation of a vessel owner corporation, and shall remain with the vessel until lifted by NOAA.

§ 904.302 Notice of permit sanction (NOPS).

(a) A NOPS will be served on the permit holder as provided in § 904.3. When a foreign fishing vessel is involved, service will be made on the agent authorized to receive and respond to any legal process for vessels of that country.

(b) The NOPS will set forth the permit sanction to be imposed, the bases for the permit sanction, and any opportunity for a hearing. It will state the

effective date of the permit sanction, which will ordinarily not be earlier than 30 days after the date of receipt of the NOPS (see § 904.322).

(c) Upon demand by an authorized enforcement officer, a permit holder must surrender a permit against which a permit sanction has taken effect. The effectiveness of the permit sanction, however, does not depend on surrender of the permit.

§ 904.303 Notice of intent to deny permit (NIDP).

(a) NOAA may issue a NIDP if the permit applicant has been charged with a violation of a statute, regulation, or permit administered by NOAA, for failure to pay a civil penalty or criminal fine, or for failure to comply with any term of a settlement agreement.

(b) The NIDP will set forth the basis for its issuance and any opportunity for a hearing, and will be served in accordance with § 904.3.

(c) NOAA will not refund any fee(s) submitted with a permit application if a NIDP is issued.

(d) A NIDP may be issued in conjunction with or independent of a NOPS. Nothing in this section should be interpreted to preclude NOAA from initiating a permit sanction action following issuance of the permit, or from withholding a permit under § 904.310(c) or § 904.320.

§ 904.304 Opportunity for hearing.

(a) Except as provided in paragraph (b) of this section, the recipient of a NOPS or NIDP will be provided an opportunity for a hearing, as governed by § 904.201.

(b) There will be no opportunity for a hearing if, with respect to the violation that forms the basis for the NOPS or NIDP, the permit holder had a previous opportunity to participate as a party in an administrative or judicial proceeding, whether or not the permit holder did participate, and whether or not such a hearing was held.

§ 904.305 Final administrative decision.

(a) If no request for hearing is timely filed as provided in § 904.201(a), the NOPS or NIDP becomes effective as the final administrative decision and order