

Seizure as provided in §904.3 to the owner or consignee, if known or easily ascertainable, or other party that the facts of record indicate has an interest in the seized property. In cases where the property is seized by a state or local law enforcement agency; a Notice of Seizure will be given in the above manner within 90 days from the date of the seizure. The Notice will describe the seized property and state the time, place and reason for the seizure, including the provisions of law alleged to have been violated. The Notice will inform each interested party of his or her right to file a claim to the seized property, and state a date by which a claim must be filed, which may not be less than 35 days after service of the Notice. The Notice may be combined with a Notice of the sale of perishable fish issued under §904.505. If a claim is filed the case will be referred promptly to the U.S. Department of Justice for institution of judicial proceedings.

§ 904.502 Bonded release of seized property.

(a) As authorized by applicable statute, at any time after seizure of any property, NOAA may, in its sole discretion, release any seized property upon deposit with NOAA of the full value of the property or such lesser amount as NOAA deems sufficient to protect the interests served by the applicable statute. In addition, NOAA may, in its sole discretion, accept a bond or other security in place of fish, wildlife, or other property seized. The bond will contain such conditions as NOAA deems appropriate.

(b) 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. Property that will not be released includes, but is not limited to:

- (1) Property in which NOAA is not satisfied that the requester has a substantial interest;
- (2) Property whose entry into the commerce of the United States is prohibited;
- (3) Live animals, except in the interest of the animals' welfare; or
- (4) Property whose release appears to NOAA not to be in the best interest of

the United States or serve the purposes of the applicable statute.

(c) If NOAA grants the request, the amount paid by the requester will be deposited in a NOAA expense account. The amount so deposited will for all purposes be considered to represent the property seized and subject to forfeiture, and payment of the amount by requester constitutes a waiver by requester of any claim rising from the seizure and custody of the property. NOAA will maintain the money so deposited pending further order of NOAA, order of a court, or disposition by applicable administrative proceedings.

(d) A request for release need not be in any particular form, but must set forth the following:

- (1) A description of the property seized;
- (2) The date and place of the seizure;
- (3) The requester's interest in the property, supported as appropriate by bills of sale, contracts, mortgages, or other satisfactory evidence;
- (4) The facts and circumstances relied upon by the requester to justify the remission or mitigation;
- (5) An offer of payment to protect the United States' interest that requester makes in return for release;
- (6) The signature of the requester, his or her attorney, or other authorized agent; and
- (7) A request to defer administrative or judicial forfeiture proceedings until completion of all other related judicial or administrative proceedings (including any associated civil penalty or permit sanction proceedings).

§ 904.503 Appraisalment.

NOAA will appraise seized property to determine its domestic value. Domestic value means the price at which such or similar property is offered for sale at the time and place of appraisalment in the ordinary course of trade. If there is no market for the seized property at the place of appraisalment, the value in the principal market nearest the place of appraisalment will be used. If the seized property may not lawfully be sold in the United States, its domestic value will be determined by other reasonable means.