

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(2) Seek to have the NOVA amended, modified, or rescinded under paragraph (b) of this section;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

(5) Take no action, in which case the NOVA becomes a final administrative decision in accordance with § 904.104.

(b) The respondent may seek amendment or modification of the NOVA to conform to the facts or law as that person sees them by notifying Agency counsel at the telephone number or address specified in the NOVA. If amendment or modification is sought, Agency counsel will either amend the NOVA or decline to amend it, and so notify the respondent.

(c) The respondent may, within the 30 day period specified in paragraph (a) of this section, request an extension of time to respond. Agency counsel may grant an extension of up to 30 days unless he or she determines that the requester could, exercising reasonable diligence, respond within the 30 day period. If Agency counsel does not re-

spond to the request within 48 hours of its receipt, the request is granted automatically for the extension requested, up to a maximum of 30 days. A telephonic response to the request within the 48 hour period is considered an effective response, and will be followed by written confirmation.

(d) Agency counsel may, for good cause, grant an additional extension beyond the 30 day period specified in paragraph (c) of this section.

**§ 904.103 Hearing.**

(a) Any hearing request under § 904.102(a)(3) is governed by the hearing and review procedures set forth in subpart C of this part.

(b) [Reserved]

**§ 904.104 Final administrative decision.**

(a) If no request for hearing is timely filed as provided in § 904.201(a), the NOVA becomes effective as the final administrative decision and order of NOAA 30 days after service of the NOVA or on the last day of any delay period granted.

(b) If a request for hearing is timely filed in accordance with § 904.201(a), the date of the final administrative decision is as provided in subpart C of this part.

**§ 904.105 Payment of final civil penalty.**

(a) Respondent must make full payment of the civil penalty within 30 days of the date upon which the NOVA becomes effective as the final administrative decision and order of NOAA under § 904.104 or the date of the final administrative decision as provided in subpart C of this part. Payment must be made by mailing or delivering to NOAA at the address specified in the NOVA a check or money order made payable in U.S. currency in the amount of the assessment to the "Department of Commerce/NOAA," by credit card, or as otherwise directed.

(b) Upon any failure to pay the civil penalty assessed, NOAA may request the U.S. Department of Justice to recover the amount assessed in any appropriate district court of the United States, may act under § 904.106, or may commence any other lawful action.