

IN THE CIRCUIT COURT OF
THE EIGHTEENTH JUDICIAL
CIRCUIT OF FLORIDA

ADMINISTRATIVE ORDER NO:

03-21

SUPERSEDES 93-9

IN RE: EVIDENCE-MARINE- Saltwater Products - Procedures

WHEREAS, the purposes of this Order are to make maximum use of illegal or illegally landed saltwater products lawfully seized incidental to lawful arrests pursuant to Chapter 370 Florida Statutes, to eliminate the consumption of considerable time required of the prosecutors and judges to process petition (s) and order (s) for each seizure, to make some use of the illegal products by donating them to charitable and/or governmental organizations (e.g., Youth Crisis Center, County Jail, etc.) without compromising any reasonable protection of the State or the Defendant (s);

It is therefore, ORDERED:

1. When an arrest is made pursuant to the provisions of Chapter 370 of the Florida Statutes and any law enforcement officer confiscates perishable saltwater products or saltwater products illegally taken or landed, Section 370.061(5)(a), Florida Statutes provides that a fair value of such confiscated products shall be determined by a judge. However, in arrest cases, in lieu of a hearing to determine fair value, the court directs that the law enforcement officer(s) shall promptly establish the fair value of any marketable product(s) by obtaining three bids,

when feasible, from licensed wholesale dealers and
using the highest price obtainable. The Defendant
shall be

informed of the fair value and given an opportunity to post bond or cash deposit within a reasonable time in the amount of the fair value, payable to the Fish and Wildlife Conservation Commission, to be held in escrow. The Defendant shall then have twenty-four hours from the time of posting bond or cash deposit to transport said product(s) outside the state for sale or other disposition.

Should no bond or cash deposit be posted within a reasonable time in view of all the accompanying circumstances, or the Defendant waives his right to do so in writing, the law enforcement officer shall deliver said products to the highest bidding licensed wholesale dealer and receive a check or draft payable to the Fish and Wildlife Conservation Commission to be submitted to and held in escrow pending trial of the accused pursuant to Chapter 370.061(5), Florida Statutes.

2. However, if the saltwater products confiscated are undersized, taken during closed season(s) and/or cannot lawfully be sold in this state, the law enforcement officer shall so indicate on the complaint and thereafter may deliver said saltwater products to any charitable organization or non-profit governmental organization for its use in feeding the indigent, sheltered and/or imprisoned individuals they serve, under proper receipt. A representative sample evidencing the law violation may be retained for discovery and/or evidentiary purposes until the case is disposed.
3. If there are saltwater products seized that are inedible or otherwise unsuitable for human consumption, a representative sample evidencing the law violation may be retained for discovery and/or evidentiary purposes until the case is disposed. The law enforcement agency may release back to the water or destroy the remainder of any seized products that are not usable by a charitable or non-profit governmental organization, or it may utilize the products for investigative, educational or scientific purposes.

4. In all cases, the law enforcement officer(s) shall prepare all necessary documentation or reports regarding the disposition of the confiscated saltwater products. Said documentation shall be submitted along with the complaint and related information to the Office of the State Attorney and to the court upon request.
5. Upon conviction, the Court shall direct the Fish and Wildlife Conservation Commission to deposit any funds held in escrow into the Marine Resources Conservation Trust Fund or into the commission's Federal Law Enforcement Trust Fund, as applicable, which shall constitute confiscation pursuant to Chapter 370.061(5).

DONE and ORDERED this 22nd day of August, 2003.

JAMES E.C. PERRY
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CHIEF JUDGE

Distribution:

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