

action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Fokker: Docket 95–NM–05–AD.

Applicability: Model F28 Mark 0100 series airplanes, serial numbers 11244 through 11261 inclusive, 11263, and 11268 through 11283 inclusive, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To ensure proper operation of the normal maximum detent for reverse thrust control, accomplish the following:

(a) For airplanes on which Fokker Service Bulletin SBF100–76–008, dated May 8, 1991, has been accomplished: Within 1,500 flight cycles after the effective date of this AD, perform an inspection to determine the adequacy of clearance between the normal maximum (second) detent for the reverse thrust control and the surrounding moving parts and to detect chafing or damage of the normal maximum detent, in accordance with Part 1 of the Accomplishment Instructions of

Fokker Service Bulletin SBF100–76–010, dated October 31, 1993.

(1) If any chafing or damage is found (regardless of clearance), prior to further flight, replace the normal maximum detent with an improved normal maximum detent, in accordance with Part 2 of the Accomplishment Instructions of the service bulletin

(2) If the clearance is found to be inadequate, but no chafing or damage is found, within 250 flight cycles following the inspection required by paragraph (a) of this AD, replace the normal maximum detent with an improved normal maximum detent, in accordance with Part 2 of the Accomplishment Instructions of the service bulletin.

(3) If the clearance is found to be adequate and no damage or chafing is found, within 3,000 flight cycles following the inspection required by paragraph (a) of this AD, replace the detent with an improved normal maximum detent, in accordance with Part 2 of the Accomplishment Instructions of the service bulletin.

(b) For airplanes on which Fokker Service Bulletin SBF100–76–008, dated May 8, 1991, has not been accomplished: Within the next 500 flight cycles after the effective date of this AD, replace the normal maximum detent for reverse thrust control with an improved normal maximum detent, in accordance with Part 2 of the Accomplishment Instructions of Fokker Service Bulletin SBF100–76–010, October 31, 1993.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on February 27, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–5242 Filed 3–2–95; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 905

[Docket No. 950104002–5002–01; I.D. 061394C]

RIN 0648–AE40

Use in Enforcement Proceedings of Information Collected by Voluntary Fishery Data Collectors

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: The Secretary of Commerce (Secretary), through NOAA, is publishing proposed regulations that would restrict the use of information collected by voluntary fishery data collectors (VFDC). These regulations would limit the extent to which such information could be used in civil and criminal enforcement proceedings conducted pursuant to the Magnuson Fishery Conservation and Management Act (Magnuson Act), the Endangered Species Act (ESA), and the Marine Mammal Protection Act (MMPA). In promulgating these regulations, NOAA seeks to encourage the use of VFDCs by the fishing industry, while protecting the necessary use of observer information by law enforcement personnel.

DATES: Comments must be submitted by May 2, 1995.

ADDRESSES: Comments may be mailed to the National Oceanic and Atmospheric Administration, Office of General Counsel, Enforcement and Litigation Section, 8484 Georgia Avenue, 4th Floor, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Joel La Bissoniere, (301) 427–2202.

SUPPLEMENTARY INFORMATION:

Background

The Magnuson Act, 16 U.S.C. 1801, *et seq.* and the MMPA, 16 U.S.C. 1361 *et seq.* specifically authorize the stationing of observers aboard fishing vessels.

Observers serve two separate and essential purposes. First, observers collect scientific information essential to the effective management and protection by the National Marine Fisheries Service (NMFS) of ocean fisheries and protected species. Second, observers monitor compliance with existing Federal laws. Information collected by an observer that establishes a violation of the Magnuson Act, the MMPA or the ESA, 16 U.S.C. 1531 *et*

seq. may be used to prosecute the owner or operator of that vessel in a subsequent civil or criminal enforcement proceeding.

Most observer programs are mandatory in nature. For example, under the Magnuson Act, domestic vessels participating in the groundfish fishery of the Gulf of Alaska are required to carry an observer if ordered to do so. (See 50 CFR 672.27). Under the MMPA, U.S. commercial vessels in the eastern tropical Pacific yellowfin tuna purse seine fishery must carry an observer. (See 16 U.S.C. 1374(h)(2)(B)(viii)), as must any vessel selected by NMFS while operating pursuant to a special exemption permit in a Category I fishery. (See 16 U.S.C. 1383a(b)(3)(B)). Under the ESA, NMFS occasionally requires observers as a condition of a section 7 incidental take statement. (See 16 U.S.C. 1536(b)).

Pursuant to all three acts, however, voluntary observer programs also have been utilized. For example, under the MMPA's interim exemption program for commercial fisheries, NMFS may, with the consent of a vessel owner, station an observer aboard a vessel that is not fishing in a Category I fishery. (See 16 U.S.C. 1383a(e)(3)). Under this and other programs, fishermen who are under no legal obligation to do so, may voluntarily agree to carry observers selected by NMFS. Although most observer programs implemented by NMFS are mandatory in nature, voluntary programs are widely used to gather scientific information along the northeastern and southeastern coasts of the United States.

Concerns have arisen within the fishing industry and NMFS as to whether information collected by voluntary observers should be used in subsequent enforcement proceedings. Many fear that fishermen will be reluctant to carry voluntary observers if the information collected by the observer can be used to prosecute them. Without the cooperation of the fishing industry, the voluntary observer program might deteriorate, depriving NMFS of information that is essential to living marine resource management and protection. Conversely, others worry that unduly restricting the use of such information will undermine the ability to effectively prosecute violations of each statute.

In response to these concerns, Congress enacted 16 U.S.C. 1853(f) of the Magnuson Act. This amendment, codified at section 303(f) of the Magnuson Act, requires the issuance of regulations that restrict, in civil and criminal enforcement proceedings conducted under the Magnuson Act,

MMPA, and ESA, the use of information collected by VFDCs while aboard a vessel for conservation and management purposes.

These proposed regulations have been prepared to satisfy this statutory directive. They do so in a manner that balances the competing concerns associated with the use of information collected by voluntary observers. Specifically, the regulations would encourage industry participation in voluntary observer programs by limiting the risk of civil or criminal prosecution under the Magnuson Act, MMPA, and ESA, based upon information collected by a VFDC. At the same time, the regulations would protect essential enforcement activities by permitting the use of such information in limited circumstances.

Scope

These proposed regulations would add a new part to title 15 of the Code of Federal Regulations, and would apply to the use of information collected by VFDCs. Section 905.5 would define a VFDC as an observer or sea sampler whose presence aboard a vessel is not required pursuant to any provision of the Magnuson Act, MMPA, ESA or supporting regulations. By definition, these proposed regulations would only apply when an observer is aboard a vessel at the sole discretion of the owner or operator.

These regulations would not categorically prohibit the use of information collected by VFDCs in enforcement proceedings. Rather, the regulations would restrict the use of such information. Restricting the use of information collected by a VFDC is consistent with the plain language of the statute, and strikes a balance between separate and sometimes conflicting goals of the Magnuson Act, MMPA, and ESA: the management and protection of species through the acquisition of scientific information and through the effective prosecution of prohibited conduct.

These regulations would apply to any enforcement proceeding initiated pursuant to the Magnuson Act, MMPA, or ESA. The term "enforcement proceeding" is broadly defined to encompass any judicial or administrative action that is initiated for the purpose of imposing any civil or criminal penalty that is authorized by the Magnuson Act, MMPA, or ESA.

These regulations would apply even if the information collected relates to the violation of a statute subject to this proposed rule that is different from the one giving rise to the VFDC's presence onboard a vessel. For example, assume

that a VFDC is stationed aboard a fishing vessel pursuant to a voluntary program authorized by the Magnuson Act. These regulations would restrict the use of information collected by the VFDC in an enforcement proceeding arising from a violation of the Magnuson Act. The regulations, however, also would restrict the use of information collected by this same VFDC in an enforcement proceeding arising from a violation of the MMPA or ESA.

Information

Part 905 would restrict the use of information collected by a VFDC in enforcement proceedings conducted under the Magnuson Act, MMPA, and ESA. The term "information" would be defined in § 905.2 to include all observations, data, statistics, photographs, film, or recordings collected by a VFDC. Under this broad definition, information may take the form of recorded data or activities seen or heard by the observer. This definition is intended to encompass any type of information, regardless of form.

The restrictions, however, would not apply to independent evidence that is derived from information collected by a VFDC. In practice, evidence initially collected by enforcement personnel frequently leads to the discovery of additional evidence. These regulations would not restrict the use of additional evidence acquired in this manner. Absent this exception, prosecutors might be denied use of relevant evidence, wholly unrelated to the purposes of part 905, simply because it was acquired through information collected by a VFDC.

For example, assume a VFDC observed a fishing vessel land fish in excess of the vessel's authorized limit. Under these proposed regulations, the government could not rely upon the VFDC's observations in any subsequent prosecution. Aware of these observations, however, enforcement personnel could obtain additional evidence, such as landing slips, that independently establish the violation. These proposed regulations would not restrict the use of the landing slips in any subsequent prosecution.

Access to Information

Part 905 would restrict the use of information collected by a VFDC in an enforcement proceeding conducted pursuant to the Magnuson Act, MMPA or ESA. It would not restrict access to this same information by any party to an enforcement proceeding. Instead, access to such information remains subject to existing Federal statutes and rules. For example, access to information collected

by Federal agencies is subject to the Freedom of Information Act and the Privacy Act. Information collected by NMFS pursuant to the Magnuson Act and the MMPA may only be disclosed consistent with the confidentiality provisions of both statutes. Within enforcement proceedings, access to information is governed by discovery provisions set forth in the Federal rules of civil and criminal procedure, and agency regulations that control discovery. (See 15 CFR 904.240).

Use of Information

Under proposed § 905.4(a), information collected by a VFDC may not initially be introduced by the government as evidence against any consenting owner that is a party to an enforcement proceeding. A "consenting owner" is defined as the owner, operator or crewmember of a vessel carrying a VFDC.

This restriction, however, would not apply to other parties. Under proposed § 905.4(b)(1), any other party to an enforcement proceeding may introduce such information. This exception recognizes the fact that, in certain cases, information collected by a VFDC may establish a party's innocence. Denying a party the right to use such information in a criminal proceeding might run counter to a party's right to compulsory process under the Sixth Amendment of the U.S. Constitution. While VFDC-collected information will ordinarily be introduced to establish innocence, such information may be introduced for any reason by any party other than the government, regardless of their status as a plaintiff or defendant.

Once information collected by a VFDC has been introduced, any party, including the government, may introduce any information collected by a VFDC. (See § 905.4(b)(2)). In most instances, parties will offer additional information when necessary to clarify, explain, or contradict information previously introduced. Pursuant to proposed § 905.4(b)(2), however, any other information may be introduced against any party for any purpose, within the sound discretion of the court or tribunal.

Exceptions

While the restrictions proposed in part 905 are intended to apply to the vast majority of enforcement proceedings conducted under the Magnuson Act, MMPA, and ESA, exception is made for a few limited categories of actions. Pursuant to proposed § 905.5, the provisions of part 905 would not apply to enforcement proceedings based upon: (1) The assault,

intimidation, or harassment of any person; or (2) the impairment or interference with the duties of a VFDC. These regulations are intended to promote voluntary observer programs by reducing the risk of prosecution for fishing-related violations, not improper conduct directed against a VFDC. Extending the restrictions of part 905 to conduct of this nature would jeopardize the safety of VFDCs and undermine the quality of any data collected.

Classification

The Assistant General Counsel for Legislation and Regulations of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic effect on a substantial number of small businesses. This proposed rule is procedural in nature, limiting the use of specific information in enforcement proceedings. As a result, a regulatory flexibility analysis has not been prepared.

This action has been determined to be not significant for the purposes of E.O. 12866.

List of Subjects in 15 CFR Part 905

Fisheries, Statistics

Dated: February 21, 1995.

Terry D. Garcia,

General Counsel, National Oceanic and Atmospheric Administration.

For the reasons set out in the preamble, 15 CFR part 905 is proposed to be added to read as follows:

PART 905—USE IN ENFORCEMENT PROCEEDINGS OF INFORMATION COLLECTED BY VOLUNTARY FISHERY DATA COLLECTORS

Sec.

905.1 Scope.

905.2 Definitions.

905.3 Access to information.

905.4 Use of information.

905.5 Exceptions.

Authority: 16 U.S.C. 1853(f).

§ 905.1 Scope.

This part applies to the use, in enforcement proceedings conducted pursuant to the Magnuson Act, the MMPA, and the ESA, of information collected by voluntary fishery data collectors.

§ 905.2 Definitions.

When used in this part:

Consenting owner means the owner, operator, or crewmember of a vessel carrying a voluntary fishery data collector.

Enforcement proceeding means any judicial or administrative trial or hearing, initiated for the purpose of imposing any civil or criminal penalty authorized under the Magnuson Act, MMPA, or ESA, including but not limited to, any proceeding initiated to: impose a monetary penalty; modify, sanction, suspend or revoke a lease, license or permit; secure forfeiture of seized property; or incarcerate an individual.

ESA means the Endangered Species Act, as amended, 16 U.S.C. 1531 *et seq.*, and implementing regulations.

Information means all observations, data, statistics, photographs, film, or recordings collected by a voluntary fishery data collector for conservation and management purposes, as defined by the Magnuson Act, MMPA, or ESA, while onboard the vessel of a consenting owner.

Magnuson Act means the Magnuson Fishery Conservation and Management Act, as amended, 16 U.S.C. 1801 *et seq.*, and implementing regulations.

MMPA means the Marine Mammal Protection Act, as amended, 16 U.S.C. 1361 *et seq.*, and implementing regulations.

Secretary means the Secretary of Commerce, the Secretary of the Interior, their chosen designees, or any other Federal agency authorized to enforce the provisions of the Magnuson Act, MMPA, or ESA.

Vessel means any vessel as defined at 16 U.S.C. 1802(31).

Voluntary fishery data collector means:

(1) Any person, including an observer or a sea sampler;

(2) Placed aboard a vessel by the Secretary;

(3) For the purpose of collecting information; and

(4) Whose presence aboard that vessel is not required by the Secretary pursuant to provisions of the Magnuson Act, MMPA, or ESA, or their implementing regulations.

§ 905.3 Access to information.

Information collected by a voluntary fishery data collector:

(a) Is subject to disclosure to both the Secretary and the public, to the extent required or authorized by law; and

(b) Is subject to discovery by any party to an enforcement proceeding, to the extent required or authorized by law.

§ 905.4 Use of information.

(a) Except as provided in paragraph (b) of this section, information collected by a voluntary fishery data collector may not be introduced by the Secretary as evidence

against any consenting owner that is a party to an enforcement proceeding.

(b) Provided that all applicable evidentiary requirements are satisfied:

(1) Information collected by a voluntary fishery data collector may be introduced in an enforcement proceeding by any party except the Secretary;

(2) If information is introduced pursuant to paragraph (b)(1) of this section, all information collected by a voluntary fishery data collector may be introduced by any other party, including the Secretary.

(c) Independent evidence derived from information collected by a voluntary fishery data collector may be introduced by any party, including the Secretary, in an enforcement proceeding.

§ 905.5 Exceptions.

The provisions of this part shall not apply in any enforcement proceeding against a consenting owner that alleges the actual or attempted:

(a) Assault, intimidation, or harassment (including sexual harassment) of any person; or

(b) Impairment or interference with the duties of a voluntary fishery data collector.

[FR Doc. 95-5221 Filed 3-2-95; 8:45 am]

BILLING CODE 3510-22-F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[IA-57-94]

RIN 1545-AT06

Cash Reporting by Court Clerks; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations relating to the information reporting requirements of court clerks upon receipt of more than \$10,000 in cash as bail for any individual charged with a specified criminal offense.

DATES: The public hearing originally scheduled for Monday, March 13, 1995, beginning at 10 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Carol Savage of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622-8452 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 6050I of the Internal Revenue Code of 1986. A notice of proposed rulemaking and public hearing appearing in the Federal Register for Thursday, December 15, 1994 (59 FR 64635), announced that the public hearing on the proposed regulations would be held on Monday, March 13, 1995, beginning at 10 a.m., in the Internal Revenue Service Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Service Building, 1111 Constitution Avenue, N.W., Washington, D.C.

The public hearing scheduled for Monday, March 13, 1995, is cancelled.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 95-5198 Filed 3-2-95; 8:45 am]

BILLING CODE 4830-01-P

26 CFR Part 1

[INTL-933-86]

RIN 1545-AL98

Computation of Foreign Taxes Deemed Paid Under Section 902 Pursuant to a Pooling Mechanism for Undistributed Earnings and Foreign Taxes; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains corrections to the notice of proposed rulemaking [INTL-933-86] which was published in the Federal Register for Friday, January 6, 1995 (60 FR 2049). The proposed regulations relate to the computation of foreign taxes deemed paid by a domestic corporate shareholder owning at least 10 percent of the voting stock of the foreign corporation.

FOR FURTHER INFORMATION CONTACT: Caren S. Shein (202) 622-3850, or Kristine K. Schlaman (202) 622-3840 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

The proposed regulations that are the subject of these corrections are under section 902 of the Internal Revenue Code.

Need for Correction

As published, the notice of proposed rulemaking [INTL-933-86] contains typographical errors that are in need of correction.

Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking which is the subject of FR Doc. 95-173, is corrected as follows:

On pages 2056 and 2058, § 1.902-1 is corrected by removing the formulas in paragraphs (b)(2)(i), (b)(2)(ii) and (d)(2)(i) and adding correctly revised formulas at the end of paragraphs (b)(1), (b)(2)(i), (b)(2)(ii) and (d)(2)(i) to read as follows:

§ 1.902-1 Credit for domestic corporate shareholder of a foreign corporation for foreign income taxes paid by the foreign corporation.

* * * * *

(b) * * * (1) * * *

$$\frac{\text{Foreign income taxes deemed paid by domestic shareholder (or upper-tier corporation)}}{\text{Post 1986 foreign income taxes of first-tier corporation (or lower-tier corporation)}} \times \frac{\text{Dividend paid to domestic shareholder (or upper-tier corporation) by first-tier corporation (or lower-tier corporation)}}{\text{Post-1986 undistributed earnings of first-tier corporation (or lower-tier corporation)}}$$

(2) * * * (i) * * *

$$\frac{\text{Portion of dividend to a shareholder attributable to post-1986 undistributed earnings}}{\text{Post-1986 undistributed earnings}} \times \frac{\text{Dividend to shareholder}}{\text{Total dividends paid to all shareholders}}$$

(ii) * * *