

service information referenced above, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

#### Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Diamond Aircraft Ltd. Model HK 36 TTS and HK 36 TTC sailplanes of the same type design registered in the United States, the proposed AD would require inspecting the banjo bolt for a valve seat. If the banjo bolt does not have a valve seat, the proposed AD would require replacing the banjo bolt, and repairing or replacing the turbocharger. Accomplishment of the proposed installation would be in accordance with Bombardier ROTAX Technical Bulletin No. 914-04, dated August, 1997.

#### Cost Impact

The FAA estimates that 4 sailplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 1 workhour per sailplane to accomplish the proposed inspection, and that the average labor rate is approximately \$60 an hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be \$240 or \$60 per sailplane.

#### Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed 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 USC 106(g), 40113, 44701.

##### § 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

**Diamond Aircraft Industries:** Docket No. 97-CE-132-AD.

**Applicability:** Model HK 36 TTS and HK 36 TTC sailplanes (all serial numbers), certificated in any category, equipped with Bombardier ROTAX engines (serial numbers 4,420.011 through 4,420.058).

**Note 1:** This AD applies to each sailplane 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 sailplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

**Compliance:** Required within the next 10 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent possible loss of engine power, which, if not corrected, could result in possible loss of control of the sailplane, accomplish the following:

(a) Inspect the Bombardier ROTAX engine's turbocharger oil-pressure line for a banjo bolt with a valve seat, part number (P/N) 941 782 (or an FAA-approved equivalent part number), in accordance with the Instructions section of Bombardier ROTAX Technical Bulletin No. 914-04, dated August, 1997.

**Note 2:** An incorrect banjo bolt would have a built-in orifice, instead of a valve seat.

(b) If an incorrect banjo bolt is installed, prior to further flight, replace the banjo bolt with one that has P/N 941 782 (or an FAA-approved equivalent part number), and repair or replace the turbocharger in accordance with the Instructions section of Bombardier

ROTAX Technical Bulletin No. 914-04, dated August, 1997.

(c) 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 sailplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

**Note 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(e) Questions or technical information related to ROTAX Technical Bulletin No. 914-04, dated August 1997, should be directed to Diamond Aircraft Industries, G.m.b.H., N.A. Otto-Strabe 5, A-2700, Wiener Neustadt, Austria. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

**Note 4:** The subject of this AD is addressed in Austrian AD No. 90, undated.

Issued in Kansas City, Missouri, on February 4, 1998.

**John R. Colomy,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 98-3413 Filed 2-10-98; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 15 CFR Part 922

[Docket No. 971014245-8014-02]

[RIN 0645-AK45]

#### Anchoring on Tortugas Bank Within the Florida Keys National Marine Sanctuary

**AGENCY:** Sanctuaries and Reserves Division (SRD), Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

**ACTION:** Proposed rule; environmental assessment.

**SUMMARY:** The National Oceanic and Atmospheric Administration is proposing to amend the regulations for the Florida Keys National Marine

Sanctuary (FKNMS or Sanctuary) to make permanent the temporary prohibition on anchoring by vessels 50 meters or greater in registered length on Tortugas Bank. The preamble to this rule contains an environmental assessment for this proposed action. The intent of this proposed rule is to protect the coral reef at Tortugas Bank.

**DATES:** Comments must be received by March 13, 1998.

**ADDRESSES:** Comments should be sent to Billy Causey, Superintendent, Florida Keys National Marine Sanctuary, Post Office Box 500368, Marathon, Florida, 33050. Comments will be available for public inspection at the same address.

**FOR FURTHER INFORMATION CONTACT:** Bill Causey at (305) 743-2437.

**SUPPLEMENTARY INFORMATION:**

### I. Background

The Sanctuary was designated by an act of Congress entitled the Florida Keys National Marine Sanctuary and Protection Act (FKNMSPA, Pub. L. 101-605) which was signed into law on November 16, 1990. The FKNMSPA directed the Secretary of Commerce to develop a comprehensive management plan and regulations for the Sanctuary pursuant to sections 303 and 304 of the National Marine Sanctuaries Act (NMSA) (also known as Title III of the Marine Protection Research and Sanctuaries Act of 1972), as amended, 16 USC 1431 *et seq.* The NMSA authorizes the development of management plans and regulations for national marine sanctuaries to protect their conservation, recreational, ecological historical, research, educational, or aesthetic qualities.

The authority of the Secretary to designate national marine sanctuaries and implement designated sanctuaries is delegated to the Under Secretary of Commerce for Ocean and Atmosphere by the Department of Commerce, Organization Order 10-15, § 3.01(x) (Jan. 26, 1996). The authority to administer the other provisions of the NMSA is delegated to the Assistant Administrator for Ocean Services and Coastal Zone Management of NOAA by NOAA Circular 83-38, Directive 05-50 (September 21, 1983, as amended). The final Sanctuary regulations implementing the designation was published in the **Federal Register** on June 12, 1997, (62 FR 32154) and were effective July 1, 1997, and codified at 15 CFR part 922, Subpart P.

In September 1997, NOAA became aware that significant injury to, and destruction of, living coral on the Tortugas Bank, west of the Dry Tortugas

National Park, was being caused by the anchoring of vessels 50 meters or greater in registered length.

Section 922.165 of the Sanctuary regulations provides that, where necessary to prevent or minimize the destruction of, loss of, or injury to a Sanctuary resources, any and all activities are subject to immediate temporary regulation, including prohibition, for up to 120 days. Emergency regulations cannot take effect until approved by the Governor of the State of Florida. In accordance with 15 CFR 922.165, and the Co-Trustees Agreement for Cooperative Management between NOAA and the State of Florida, in October 1997, NOAA consulted with and received approval by the Governor of the State of Florida to issue a temporary rule prohibiting the anchoring by vessels 50 meters or greater in length on Tortugas Bank west of the Tortugas National Park within the Sanctuary. The temporary rule (62 FR 54381; October 20, 1997), took effect at 12:01 a.m. October 17, 1997 and will remain in effect until February 12, 1998.

### II. Summary of the Proposed Regulatory Amendment

The proposed rule would make permanent the temporary prohibition on anchoring by vessels 50 meters or greater in registered length on the Tortugas Bank west of the Dry Tortugas National Park within the Sanctuary. Current 15 CFR 922.163(a)(5)(ii) of the final Sanctuary regulations prohibits vessels from anchoring in the Sanctuary on living coral other than hardbottom in water depths less than 40 feet when visibility is such that the seabed can be seen. However, this regulation does not protect the coral located in the area covered by this proposed rule because the water there is deeper than 40 feet.

Anchoring of vessels 50 meters or greater in registered length on Tortugas Bank has been documented as having caused significant injury to living coral reef resources. Vessels of such size have anchor gear (ground tackle) of massive weight and size with heavy chains hundreds of feet in length weighing as much as 8 to 10 tons. Proper anchoring requires that a length of chain five to seven times the depth of the water be lowered, this act of product seamanship allows for safe anchoring under any sea conditions. In most circumstances, much of this chain will drop to and remain on the bottom. The weight of the chain holds the vessel in place. In this area, the heavy chain crushes the coral and sponges. In addition, as the tide changes or the wind shifts, vessels often change position and drag their anchor

chain over the seabed, further damaging the reef.

For example, a 180 foot Coast Guard Cutter uses a 2000 pound anchor and chain sized appropriately to deploy it; whereas a Coast Guard 110 foot Patrol Boat uses an 80 pound anchor and rather than chain, nylon line is used as ground tackle (anchor gear).

Coast Guard patrol boats regularly in the area around Tortugas Bank report that they encounter either very large vessels (50 meters or greater in length), or fishing vessels or pleasure craft generally less than 35 meters in length.

Vessels smaller than 50 meters in registered length have not been documented as having caused injury or loss of living coral on Tortugas Bank. Their anchoring gear is less massive in size, length and weight. Therefore, this rule would not prohibit anchoring by vessels less than 50 meters in registered length on the Tortugas Bank. The location by coordinates of the prohibited anchoring area is set forth in the text of the proposed rule. Vessels greater than 50 meters in registered length are already prohibited by the FKNMSPA for operating in certain other areas of the Sanctuary, referred to in that statute and Sanctuary regulations as Areas to be Avoided (15 CFR 922.164(a)).

Transit, fishing and all other activities currently allowed in the area would not be affected by this rule. Alternative anchor sites for vessels 50 meters or greater in length are located within approximately two nautical miles of the prohibited area. The close proximity of these alternative anchoring sites should mitigate any potential economic impact on such vessels since cost of the time and fuel to maneuver to this area and the additional time and labor in letting out and pulling in the additional anchor chain should be minimal.

The recommended alternative anchoring location in the vicinity of the area closed to anchoring by vessels 50 meters or greater in registered length is the area outside the sanctuary boundary located approximately 2 nautical miles west of the living coral reefs that form the Tortugas Bank, where the water depth contour is 20 fathoms or greater as indicated on NOAA Nautical Chart Numbers 11434 and 11420. The bottom type in this area is sand/mud or sand/shell. Mariners should note the existence of a submerged shipwreck located at 24°38'N 83°08.00'W. This shipwreck is a landing ship transport which was lost in 1948.

### III. Miscellaneous Rulemaking Requirements

#### *National Environmental Policy Act*

NOAA has prepared an environmental assessment (EA), pursuant to the National Marine Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq., for the Florida Keys National Sanctuary on this proposed rule. The text of the EA follows.

#### **Environmental Assessment**

##### *I. Description of the Affected Environment*

The Dry Tortugas Banks are located at the westernmost extent of the Florida Keys. These banks are separated from the remainder of the Keys by a 24 meter deep channel. The Banks have a rim of Holocene coral reef development surrounding an inner basin containing several sandy islands including Loggerhead Key, Garden Key, Bush Key, and Hospital Key. A little-known deep-water coral reef, informally named Sherwood Forest, is found at Tortugas Bank. The seabed includes corals, sponges, and other delicate coral reef organisms.

Human uses of the affected environment includes snorkeling and diving, shrimping, day tours on charter boats, and pleasure boating on private boats. All of these vessels are less than 50 meters in registered length and none have been documented as causing damage to the reef by anchoring.

##### *II. Need for the Proposed Rule*

The region within the Sanctuary known as Tortugas Bank has traditionally been an anchoring area for large, foreign flag vessels holding up and waiting order to enter a port within the region.

However, personnel from the adjacent Dry Tortugas National Park have noticed that in the past six months, vessels have begun to anchor on the Bank itself.

On August 30, Florida Keys National Marine Sanctuary staff received a video from a recreational diver charter captain documenting anchoring damage caused by a large, foreign-flagged vessel anchored within state waters on the Tortugas Bank, within the Sanctuary.

Shortly thereafter, Sanctuary biologists visited the reported anchoring site to conduct a biological assessment of the injury to the living coral reef. When they arrived on Tortugas Bank, there were four foreign ships ranging from over 400 to 800 feet in length anchored on the 60' deep coral reef bank. Although staff was unable to locate the original site which was reported in the video, they were able to

assess and photo-document the reef damage caused by the four vessels.

Staff noted significant damage to corals, sponges, and other delicate coral reef organisms. Wide swaths of barren seabed and overturned coral heads were evidence of the ongoing disruption to the coral reef community caused by the ships' anchors and anchor chains.

The proposed rule would make permanent the temporary prohibition on anchoring by vessels 50 meters or greater in registered length in an area approximately 39.53 square nautical miles. Transit, fishing and all other activities currently allowed in the area would not be affected by this rule.

NOAA has identified and recommended alternative anchor sites within approximately two nautical miles of the prohibited area. Vessels greater than 50 meters in registered length are already prohibited by the FKNMSPA from operating in certain other areas of the Sanctuary, referred to in that statute and Sanctuary regulations as Areas to be Avoided (15 CFR 922.164(a)).

##### *III. Alternatives, Including the Proposed Action and Their Environmental Impacts*

###### **No Action**

One alternative is to take no action, thus maintaining the status quo. This alternative is not acceptable because the coral reef located at Tortugas Bank would continue to be injured or destroyed by the anchoring of vessels 50 meters or greater in length.

###### **Prohibit Anchoring by Vessels 50 Meters or Greater in Registered Length on Tortugas Bank Within the Florida Keys National Marine Sanctuary**

The preferred alternative is to make permanent the temporary prohibition on anchoring by vessels 50 meters or greater in registered length on Tortugas Bank within the Florida Keys National Marine Sanctuary. This alternative would protect the coral reef at Tortugas Bank while not unduly restricting the passage and anchoring of vessels which have not been documented as having caused harm in the area.

###### **Prohibit Anchoring by All Vessels on Tortugas Bank Within the Florida Keys National Marine Sanctuary**

This alternative, to prohibit anchoring by all vessels on Tortugas Bank within the Florida Keys National Marine Sanctuary would unduly restrict the vessels which have not been documented as having caused harm in the area. Vessels smaller than 50 meters in registered length have not been

documented as having caused injury or loss of living coral on Tortugas Bank. Their anchoring gear is less massive in size, length and weight than that of vessels of 50 meters or greater in registered length.

Current uses of the Tortugas Bank, west of the Dry Tortugas National Park, include snorkeling and diving, shrimping, day tours on charter boats, and pleasure boating on private boats. All of these vessels are less than 50 meters in registered length and none have been documented as causing damage to the reef by anchoring. To prohibit anchoring by these vessels on the Tortugas Bank, west of the Dry Tortugas National Park, would likely be an unreasonable economic burden on small businesses and an unnecessary impact on the public relative to the apparently minimal environmental benefit of such a restriction.

###### **Extend the Area to be Avoided to Include Tortugas Bank West of the Dry Tortugas National Park**

Extending the existing statutory Area To Be Avoided to include Tortugas Bank west of the Dry Tortugas National Park is an alternative that was considered and rejected. This alternative would eliminate the safe passage and transit through the area by all vessels greater than 50 meters registered length. The passage of vessels through this area has not been determined to be detrimental to the environment. Vessels 50 meters or greater in registered length frequently pass through this area enroute to major Gulf Coast ports, including Galveston and Houston, Texas; Mobile, Alabama; New Orleans, Louisiana; Tampa, Florida and the ships transit this area enroute to the Panama Canal. The overly broad restriction that would be caused if this alternative was accepted would cause a great economic burden to the shipping industry, and therefore was not selected as the preferred alternative.

##### *IV. List of Agencies and Persons Consulted*

In an effort to inform all affected parties of the temporary rule, NOAA sent electronic mail messages to major international shipping companies, and notified the U.S. Coast Guard which resulted in a Notice to Mariners. NOAA issued a press release which was reported by the media throughout the area. Sanctuary staff notified all international underwriters for the relevant shipping companies to apprise them of the temporary rule and soliciting their help in notifying their shipping clients. Additionally, Sanctuary staff contacted all the Pilots'

Associations around the Gulf Coast and solicited their help in spreading the word to the shipping companies about the rule. In addition, NOAA consulted with, and received approval from, the State of Florida. NOAA will continue to consult, as appropriate, with all relevant parties during the pendency of this rule.

#### End of Environmental Assessment

##### *Executive Order 12866*

The Office of Management and Budget (OMB) has concurred that this rule is not significant within the meaning of Section 3(f) of Executive Order 12866.

##### *Executive Order 12612: Federalism Assessment*

NOAA has concluded that this regulatory action does not have sufficient federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

##### *Regulatory Flexibility Act*

This regulatory action if adopted as proposed is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, and the Assistant General Counsel for Legislation and Regulation of the Department of Commerce has so certified to the Chief Counsel for Advocacy of the Small Business Administration.

This proposed rule would make permanent the temporary prohibition on anchoring by vessels 50 meters or greater in registered length in a relatively small, sensitive area. Alternative anchoring sites for vessels subject to this regulation are within close proximity, which should mitigate any potential economic impact on such vessels since the cost of the time and fuel to maneuver to this area and the additional time and labor in letting out and pulling in the anchor chain should be minimal. Vessels smaller than 50 meters in registered length have not been documented as having caused injury or loss of living coral on Tortugas Bank and, therefore, would not be subject to this rule's prohibition. Accordingly, an initial Regulatory Flexibility Analysis was not prepared.

##### *Paperwork Reduction Act*

This proposed rule would not impose an information collection requirement subject to review and approval by OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3500 et seq.

#### List of Subjects in 15 CFR Part 922

Administrative practice and procedure, Coastal zone, Education, Environmental protection, Marine resources, Natural resources, Penalties, Recreation and recreation areas, Reporting and recordkeeping requirements, Research.

(Federal Domestic Assistance Catalog Number 11.429, Marine Sanctuary Program)

Dated: February 5, 1998.

#### Captain Evelyn J. Fields,

*Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.*

Accordingly, for the reasons set forth above, 15 CFR Part 922, Subpart P is proposed to be amended as follows:

#### PART 922—[AMENDED]

1. The authority citation for Part 922 continues to read as follows:

**Authority:** 16 U.S.C. 1431 *et seq.*

#### Subpart P—Florida Keys National Marine Sanctuary

1. Section 922.164 is amended by adding the following paragraph (g) as follows:

##### **§ 922.164 Additional activity regulations by Sanctuary area.**

\* \* \* \* \*

(g) *Anchoring on Tortugas Bank.* Vessels 50 meters or greater in registered length are prohibited from anchoring on the Tortugas Bank. The coordinates of the area on the Tortugas Bank, west of the Dry Tortugas National Part, closed to anchoring by vessels 50 meters or greater in registered length are:

- (1) 24°45.75'N 82°54.40'W
- (2) 24°45.60'N 82°54.40'W
- (3) 24°39.70'N 83°00.05'W
- (4) 24°32.00'N 83°00.05'W
- (5) 24°37.00'N 83°06.00'W
- (6) 24°40.00'N 83°06.00'W

[FR Doc. 98-3405 Filed 2-10-98; 8:45 am]

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#### DEPARTMENT OF LABOR

#### Mine Safety and Health Administration

#### 30 CFR Part 75

#### Self-Rescue Devices; Use and Location Requirements

**AGENCY:** Mine Safety and Health Administration, (MSHA) Labor.

**ACTION:** Extension of comment period.

**SUMMARY:** Due to issues involving the use of Self-Contained Self-Rescuer's

(SCSR), MSHA is extending the comment period on its draft policy letter (PPL) relating to the approval guidelines for storage plans for Self-Contained Self-Rescue (SCSR) Devices in underground coal mines.

**DATES:** Submit all comments on or before April 13, 1998.

**ADDRESSES:** Comments may be transmitted by electronic mail, fax or mail. Comments by electronic mail must be clearly identified as such and sent to this e-mail address:

comments@msha.gov. Comments by fax must be clearly identified as such and sent to: Mine Safety and Health Administration, Office of Standards, Regulations and Variances, 703-235-5551. Send mail comments to: Mine Safety and Health Administration, Office of Standards, Regulations and Variances, Room 631, 4015 Wilson Boulevard, Arlington, Virginia 22203-1984. Interested persons are encouraged to supplement written comments with computer files or disks; please contact the Agency with any questions about format.

**FOR FURTHER INFORMATION CONTACT:** Milton D. Conley, Division of Health, Coal Mine Safety and Health, (703) 235-1358.

**SUPPLEMENTARY INFORMATION:** On September 26, 1997, (62 FR 50541), MSHA published a notice in the **Federal Register** requesting comments on a draft policy letter (PPL) relating to the approval guidelines for storage plans for Self-Contained Self-Rescue (SCSR) Devices in underground coal mines. MSHA published the notice to voluntarily afford an opportunity for interested persons to comment on the PPL before its anticipated issuance and effective date.

The comment period was scheduled to close on February 23, 1998; however, in response to commenters' requests for additional time to prepare their comments, MSHA is extending the comment period until April 13, 1998. The Agency believes that this extension will provide sufficient time for all interested parties to review and comment on the draft policy. All interested parties are encouraged to submit their comments on or prior to April 13, 1998.

Dated: February 5, 1998.

**J. Davitt McAteer,**

*Assistant Secretary for Mine Safety and Health.*

[FR Doc. 98-3417 Filed 2-10-98; 8:45 am]

BILLING CODE 4510-43-P