

(b) *Notice.* NOAA will serve a Notice of the Return of property as provided by §904.3, to the owner, consignee, or other party the facts of record indicate has an interest in the seized property. The Notice will describe the seized property, state the time, place, and reason for the seizure and return, and will identify the owner or consignee, and if appropriate, the bailee of the seized property. The Notice of the return also will state that the party to whom the property is being returned is responsible for any distribution of the property to any party who holds a valid claim, right, title or interest in receiving the property, in whole or in part. The Notice also will provide that on presentation of the Notice and proper identification, and the signing of a receipt provided by NOAA, the seized property is authorized to be released.

ited 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.

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).

SOURCE: 60 FR 39251, Aug. 2, 1995, unless otherwise noted.

§ 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 lim-

§ 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

§ 905.4 Use of information.

(a) Except as provided for 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.

PART 908—MAINTAINING RECORDS AND SUBMITTING REPORTS ON WEATHER MODIFICATION ACTIVITIES

Sec.

- 908.1 Definitions.
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- 908.4 Initial report.
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- 908.7 Supplemental reports.
- 908.8 Maintenance of records.
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- 908.12 Public disclosure of information.
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- 908.14 Business to be transacted in writing.
- 908.15 Times for taking action; expiration on Saturday, Sunday, or holiday.
- 908.16 Signature.
- 908.17 Suspension or waiver of rules.
- 908.18 Matters not specifically provided for in rules.
- 908.19 Publication of notice of proposed amendments.
- 908.20 Effective date.
- 908.21 Report form.

AUTHORITY: Pub. L. 92-305, 85 Stat. 735, December 18, 1971.

SOURCE: 41 FR 23394, June 10, 1976, unless otherwise noted.

§ 908.1 Definitions.

As used in this part, terms shall have the meaning ascribed in this section.

(a) *Administrator*. The Administrator of the National Oceanic and Atmospheric Administration.

(b) *Person*. Any individual, corporation, company, association, firm, partnership, society, joint stock company, any State or local government or any agency thereof, or any other organization, whether commercial or nonprofit, except where acting solely as an employee, agent, or independent contractor of the Federal government.

(c) *Weather modification activity*. Any activity performed with the intention of producing artificial changes in the composition, behavior, or dynamics of the atmosphere.

(d) *United States*. The several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or insular possession of the United States.

(e) *Persons whose activities relate to weather modification*. Persons engaged in weather modification activities or engaged in the distribution or sale of weather modification apparatus or materials known by them to be destined for use in weather modification activities.

(f) *Project*. A related series of weather modification activities having a common objective.

(g) *Target area*. The ground area within which the effects of the weather modification activity are expected to be found.

(h) *Control area*. A preselected, untreated ground area used for comparison with a target area.