

to a fine of not more than \$10,000, upon conviction thereof.

§ 908.11 Maintenance of records of related activities.

(a) Persons whose activities relate to weather modification activities, other than persons engaged in weather modification activities, shall maintain records concerning the identities of purchasers or users of weather modification apparatus or materials, the quantities or numbers of items purchased, and the times of such purchases. Such information shall be retained for at least 3 years.

(b) In addition, persons whose activities relate to weather modification shall be required, under the authority of section 4 of Public Law 92-205, to provide the Administrator, on his request, with information he deems necessary to carry out the purposes of this act.

[41 FR 23394, June 10, 1976, as amended at 52 FR 4896, Feb. 18, 1987]

§ 908.12 Public disclosure of information.

(a) Any records or other information obtained by the Administrator under these rules or otherwise under the authority of Public Law 92-205 shall be made publicly available to the fullest practicable extent. Such records or information may be inspected on written request to the Administrator. However, the Administrator will not disclose any information referred to in section 1905 of title 18, United States Code, and that is otherwise unavailable to the public, except that such information shall be disclosed:

(1) To other Federal government departments, agencies, and officials for official use upon request;

(2) In any judicial proceeding under a court order formulated to preserve the confidentiality of such information without impairing the proceeding; and

(3) To the public, if necessary to protect their health and safety.

(b) Certified copies of such reports and information, to the extent publicly disclosable, may be obtained from the Administrator at cost in accordance with the Department of Commerce implementation of the Freedom of Information Act.

(c) Persons reporting on weather modification projects or related activities shall specifically identify all information that they consider not to be subject to public disclosure under the terms of Public Law 92-205 and provide reasons in support thereof. A determination as to whether or not reported information is subject to public dissemination shall be made by the Administrator.

(d) When consideration of a weather modification activity report and related information indicates that a proposed project may significantly depart from the practices or procedures generally employed in similar circumstances to avoid danger to persons, property, or the environment, or indicates that success of Federal research projects may be adversely affected if the proposed project is carried out as described, the Administrator will notify the operator(s) and State officials of such possibility and make recommendations where appropriate. The purpose of such notification shall be to inform those notified of existing practices and procedures or Federal research projects known to NOAA. Notification or recommendation, or failure to notify or recommend, shall not be construed as approval or disapproval of a proposed project or as an indication that, if carried out as proposed or recommended it may, in any way, protect or endanger persons, property, or the environment or affect the success of any Federal research project. Any advisory notification issued by the Administrator shall be available to the public and be included in the pertinent activity report file.

§ 908.13 Address of letters.

Letters and other communications intended for the Administrator, in connection with weather modification reporting or activities, shall be addressed to: The Administrator, National Oceanic and Atmospheric Administration, Environmental Modification Office, Rockville, Md. 20852.

§ 908.14 Business to be transacted in writing.

All business transacted with the National Oceanic and Atmospheric Administration with regard to reports of

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weather modification activities should be transacted in writing. Actions of the National Oceanic and Atmospheric Administration will be based exclusively on the written record.

§ 908.15 Times for taking action; expiration on Saturday, Sunday, or holiday.

Whenever periods of time are specified in these rules in days, calendar days are intended. When the day, or the last day, fixed under these rules for taking any action falls on a Saturday, Sunday, or on a Federal holiday, the action may be taken on the next succeeding day which is not a Saturday, Sunday, or Federal holiday.

§ 908.16 Signature.

All reports filed with the National Oceanic and Atmospheric Administration must be dated and signed by or on behalf of the person conducting or intending to conduct the weather modification activities referred to therein by such person, individually or, in the case of a person other than an individual, by a partner, officer, or other person having corresponding functions and authority. For this purpose "officer" means a president, vice president, treasurer, secretary, or comptroller. Notwithstanding the foregoing, such reports may also be signed by the duly authorized agent or attorney of the person whose activities are being reported. Proof of such authorization shall be furnished to the Administrator when filing a report, unless previously furnished.

§ 908.17 Suspension or waiver of rules.

In an extraordinary situation, any requirement of these rules may be suspended or waived by the Administrator on request of the interested party, to the extent such waiver is consistent with the provisions of Public Law 92-205 and subject to such other requirements as may be imposed.

§ 908.18 Matters not specifically provided for in rules.

All matters not specifically provided for or situations not specifically addressed in these rules will be decided in accordance with the merits of each case by or under the authority of the

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Administrator, and such decision will be communicated in writing to all parties involved in the case.

§ 908.19 Publication of notice of proposed amendments.

Whenever required by law, and in other cases whenever practicable, notice of proposed amendments to these rules will be published in the FEDERAL REGISTER. If not published with the notice, copies of the text of proposed amendments will be furnished to any person requesting the same. All comments, suggestions, and briefs received within the time specified in the notice will be considered before adoption of the proposed amendments, which may be modified in the light thereof. Informal hearings may be held at the discretion of the Administrator.

§ 908.20 Effective date.

These rules are effective on June 10, 1976.

§ 908.21 Report form.

Public Law 92-205 and these rules should be studied carefully prior to reporting. Reports required by these rules shall be submitted on forms obtainable on request from the Administrator, or on an equivalent format.¹ In special situations, such alterations to the forms as the circumstances thereto may render necessary may be made, provided they do not depart from the requirements of these rules or of Public Law 92-205.

PART 909—POLICIES AND PROCEDURES REGARDING DISCLOSURE OF INFORMATION AND NOAA EMPLOYEE TESTIMONY IN LITIGATION NOT INVOLVING THE UNITED STATES

- Sec.
- 909.1 Purpose and policy.
- 909.2 Disclosure and certification of information and records.
- 909.3 Response to subpoena duces tecum.
- 909.4 Testimony by NOAA employees in litigation not involving the United States.
- 909.5 Conditions for authorizing testimony.

AUTHORITY: 15 U.S.C. 315, 1512, 1518; 33 U.S.C. 884; 43 U.S.C. 1458, 1460, 1461.

¹ Filed as part of the original document.