

SOURCE: 43 FR 36240, Aug. 16, 1978, unless otherwise noted.

§ 909.1 Purpose and policy.

(a) The regulations in this part describe NOAA policies and procedures for the disclosure of information, records, and data to parties and testimony by NOAA employees in litigation not involving the United States.

(b) It is the policy of NOAA to provide information, data, and records to non-Federal litigants to the same extent that they are available to the general public. The availability of NOAA employees to testify in non-Federal litigation is governed by the NOAA policy of maintaining strict impartiality among non-Federal litigants. To this end NOAA witnesses generally may provide only factual testimony except as provided for in § 909.5(c) and shall not appear as expert witnesses in litigation not involving the United States.

§ 909.2 Disclosure and certification of information and records.

(a) Requests for identifiable information, records, and data in NOAA's possession will be complied with consistent with the NOAA freedom of information regulation (15 CFR part 903), the Department of Commerce privacy regulations (15 CFR part 4b), and 15 U.S.C. 1525. Requests for records, information, and data should be addressed as specified in 15 CFR part 903.

(b) Certified copies of NOAA records will be provided upon request. Requests for certified copies of these types of information should be referred to the following offices: Weather and Climatological Records; Director, National Climatic Data Center, National Environmental Satellite, Data, and Information Service, NOAA, Federal Building, Asheville, NC 28801. Weather Forecasts and Warnings; Aviation Services Branch (W/OM13), National Weather Service, NOAA, Silver Spring, MD 20910. Aeronautical Charts; Aeronautical Charting Division (N/CG3), National Ocean Service, NOAA, Rockville, MD 20852. Nautical Charts; Chart Information Section (N/GC222), National Ocean Service, NOAA, Rockville, MD 20852. Other; Office of the General Counsel, National Oceanic and

Atmospheric Administration, Washington, DC 20230.

(c) Requests for the appearance of NOAA employees to give testimony in litigation not involving the United States should be addressed to the Office of General Counsel at the address shown in paragraph (b) of this section.

[43 FR 36240, Aug. 16, 1978, as amended at 48 FR 17064, Apr. 21, 1983]

§ 909.3 Response to subpoena duces tecum.

(a) Any officer or employee served with a subpoena duces tecum or the equivalent for the production of any NOAA record shall promptly notify the Office of General Counsel. The subpoena duces tecum shall be treated as a request for records, information, or data under 15 CFR part 903.

(b) The officer or employee served shall decline to produce the record that is the subject of a subpoena duces tecum until its release has been authorized pursuant to 15 CFR part 903. If, as a result of having complied with the preceding sentence of this subsection, the officer or employee is ordered to show cause why he or she should not be held in contempt of the court issuing the subpoena, the General Counsel shall request the Department of Justice to represent the officer or employee.

§ 909.4 Testimony by NOAA employees in litigation not involving the United States.

(a) No NOAA officer or employee shall give testimony in any tribunal concerning any function of NOAA, or any data, information, or record created or acquired by NOAA as a result of the discharge of its official duties, without the prior authorization of the general counsel or the general counsel's designee.

(b) Upon receiving a subpoena which orders the giving of testimony, a NOAA officer or employee shall immediately notify the Office of General Counsel. The officer or employee shall decline to testify unless otherwise authorized by the general counsel or designee. If, as a result of having complied with the provisions of this section, the officer or employee is ordered to show cause why he or she should not be held in contempt of the court issuing the subpoena,

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the general counsel shall request the Department of Justice to represent the officer or employee.

§ 909.5 Conditions for authorizing testimony.

(a) Any non-Federal party desiring testimony from a NOAA officer or employee shall make a written request therefor addressed to the Office of General Counsel. The request shall include a general statement of the testimony to be elicited, the requester's interest in that testimony, a brief description of the intended use of the testimony and a statement as to why the testimony is not available elsewhere.

(b) The general counsel or designee shall authorize a NOAA officer or employee to provide factual testimony when the requesting party has sufficiently shown: (1) That the evidence to be adduced is not reasonably available from any other source; (2) that no NOAA record or data could be introduced in evidence in substitution for the testimony; and (3) that the other requirements of this part have been met.

(c) Where less than all of the conditions of paragraph (b) of this section are met, the general counsel or designee may authorize NOAA employees and officers to provide factual or expert testimony on any matters where NOAA has a significant interest in the litigation and the outcome may affect the implementation present or future policies, or where circumstances or conditions make it necessary to provide the information in the public interest.

(d) If the general counsel or designee authorizes the testimony of a NOAA officer or employee, then the Office of General Counsel may arrange for the taking of the testimony by methods that are less disruptive of the official activities of the officer or employee than providing testimony in court. Testimony may, for example, be provided by affidavits, answers to interrogatories, written depositions, or depositions transcribed, recorded, or preserved by any other method allowable by law. Costs of providing testimony, including transcripts, will be borne by the party requesting the testimony.

15 CFR Ch. IX (1-1-01 Edition)

PART 911—POLICIES AND PROCEDURES CONCERNING USE OF THE NOAA SPACE-BASED DATA COLLECTION SYSTEMS

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APPENDIX A TO PART 911—ARGOS DCS USE POLICY DIAGRAM

APPENDIX B TO PART 911—GOES DCS USE POLICY DIAGRAM

AUTHORITY: 15 U.S.C. 313, 49 U.S.C. 44720; 15 U.S.C. 1525; 7 U.S.C. 450b; 5 U.S.C. 552.

SOURCE: 63 FR 24922, May 6, 1998, unless otherwise noted.

§ 911.1 Purpose.

These regulations set forth the procedural, informational and technical requirements for use of the NOAA Data Collection Systems (DCS). In addition, they establish the criteria NOAA will employ when making determinations as to whether to authorize the use of its space-based DCS. The regulations are intended to facilitate the collection of environmental data as well as other such data which the Government is interested in collecting. In those instances where space-based commercial systems do not meet users' requirements, the intent is to not disadvantage the development of the commercial space-based services in this sector. Obtaining a system use agreement to operate data collection platforms pursuant to these regulations does not affect related licensing requirements of other Federal agencies such as the Federal Communications Commission.

§ 911.2 Scope.

(a) These regulations apply to any person subject to the jurisdiction or control of the United States who operates or proposes to operate data collection platforms to be used with the NOAA DCS either directly or through an affiliate or subsidiary. For the purposes of these regulations a person is