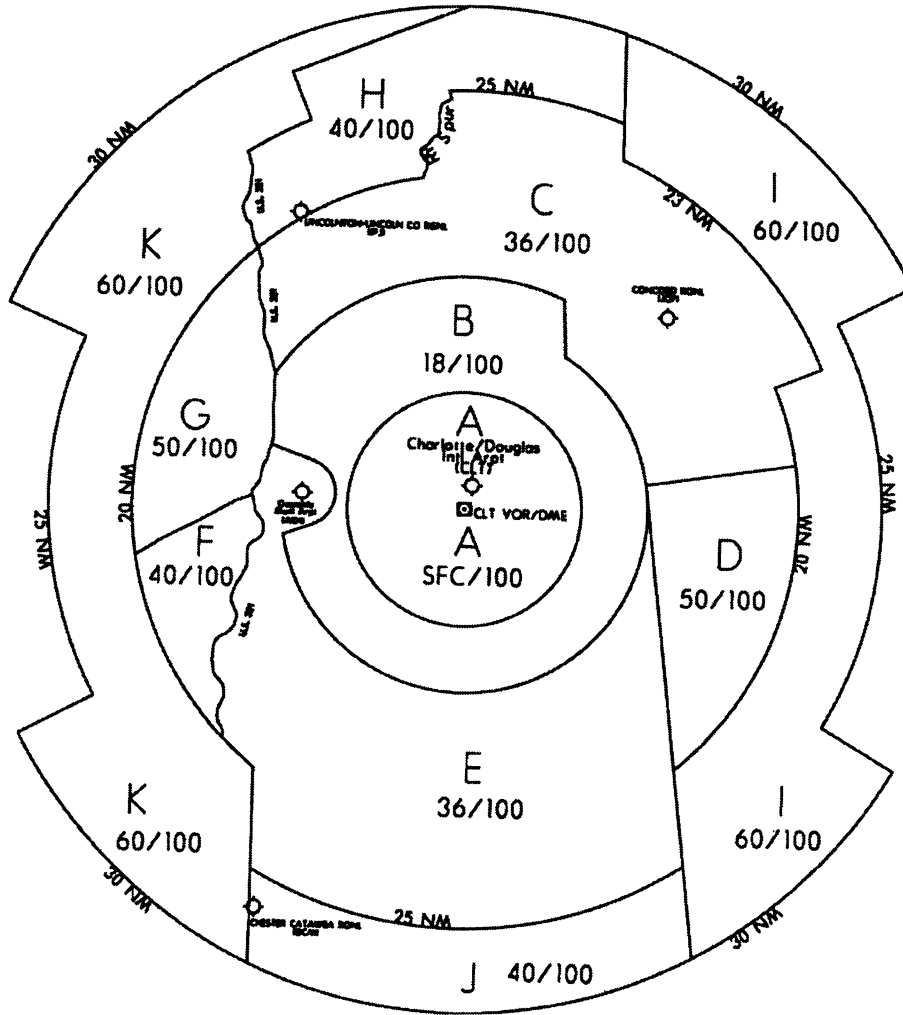


**PROPOSED MODIFICATION  
CHARLOTTE, NC. CLASS B AIRSPACE**



(Docket No. 08-AWA-1)

NOT FOR NAVIGATION

Issued in Washington, DC, on March 9, 2010.

Edith V. Parish,

Manager, Airspace and Rules Group.

[FR Doc. 2010-5879 Filed 3-17-10; 8:45 am]

BILLING CODE 4910-13-P

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**15 CFR Part 904**

[Docket No. 100216090-0123-01]

RIN 0648-AY66

**Regulations to Amend the Civil Procedures**

**AGENCY:** Office of General Counsel (OGC), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule.

**SUMMARY:** This rule amends the procedures governing NOAA's administrative proceedings for the

assessment of civil penalties; suspension, revocation, modification, or denial of permits; issuance and use of written warnings; and release or forfeiture of seized property. The principal change removes the requirement that an Administrative Law Judge state good reason(s) for departing from the civil penalty or permit sanction assessed by NOAA in its charging document. This revision eliminates any presumption in favor of the civil penalty or permit sanction assessed by NOAA. The other change corrects a clerical error in a citation to rules pertaining to protective orders issued by Administrative Law Judges.

**DATES:** Written comments on this proposed rule must be submitted by April 16, 2010.

**ADDRESSES:** You may submit comments, identified by RIN 0648–AY66, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>

- Fax: 301–427–2211, Attn: Frank M. Sptrel, Attorney-Advisor

- Mail: Office of General Counsel for Enforcement and Litigation (GCEL), 8484 Georgia Avenue, Suite 400, Silver Spring, MD 20910

Instructions: No comments will be posted for public viewing until after the comment period has closed. All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. NOAA will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Frank M. Sptrel, GCEL, (301) 427–2202.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

NOAA is proposing to amend the civil procedure rules that apply to its administrative proceedings as described below. NOAA is proposing the changes described here: (1) to improve the efficiency and fairness of administrative proceedings; and (2) to correct a citation error.

**II. Proposed Revisions**

*Subpart C—Hearing and Appeal Procedures*

**Duties and Powers of Judge**

Section 904.204: This revision removes the requirement in 15 CFR 904.204(m) that an Administrative Law Judge state good reason(s) for departing from the civil penalty or permit sanction, condition, revocation, or denial of permit application (collectively, “civil penalty or permit sanction”) assessed by NOAA in its charging document. This revision eliminates any presumption in favor of the civil penalty or permit sanction assessed by NOAA in its charging document (see *In the Matter of: AGA Fishing Corp.*, 2001 WL 34683852 (NOAA Mar. 17, 2001)). It requires

instead that NOAA justify at a hearing provided for under this Part that its proposed penalty or permit sanction is appropriate, taking into account all the factors required by applicable law. Additionally, by explicitly removing this presumption, this change provides Respondents with a full and fair opportunity to challenge the proposed Agency action.

This revision also corrects a citation in the regulation pertaining to protective orders issued by an Administrative Law Judge that is codified at 15 CFR 904.204(f). The current regulation incorrectly cites § 904.240(d). The regulation is revised to correctly cite § 904.251(h).

**Classification**

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

There are no reporting, recordkeeping or other compliance requirements in the proposed rule. Nor does this rule contain an information-collection request that would implicate the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*

The Chief Counsel for Regulation 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 impact on a substantial number of small entities.

The small businesses, as defined in the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, that this rule may affect include, but are not limited to, vessel owners, vessel operators, fish dealers, individual fishermen, small corporations, and others engaged in commercial and recreational activities regulated by NOAA. However, this rule does not have any compliance costs or associated fees for businesses, large or small. This rule is purely procedural, and merely amends and refines NOAA’s existing rules of civil procedure.

Because this regulation will impose no significant costs on any small entities, but rather will only modify existing procedural rules, the overall economic impact on small entities, if any, is expected to be nominal. Accordingly, this rule will not substantially impact a significant number of small businesses.

As a result of this certification, an initial regulatory flexibility analysis is not required and none has been prepared.

**List of Subjects in 15 CFR Part 904**

Administrative practice and procedure, fisheries, fishing, fishing

vessels, penalties, seizures and forfeitures.

Dated: March 12, 2010.

**Lois J. Schiffer,**

*General Counsel, National Oceanic and Atmospheric Administration.*

For reasons set forth in the preamble, 15 CFR part 904 is proposed to be amended as follows:

**PART 904—CIVIL PROCEDURES**

1. The authority citation for part 904 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 1531–1544, 16 U.S.C. 1361 *et seq.*, 16 U.S.C. 3371–3378, 16 U.S.C. 1431–1445c–1, 16 U.S.C. 773–773k, 16 U.S.C. 951–962, 16 U.S.C. 5001–5012, 16 U.S.C. 3631–3645, 42 U.S.C. 9101 *et seq.*, 30 U.S.C. 1401 *et seq.*, 16 U.S.C. 971–971k, 16 U.S.C. 781–785, 16 U.S.C. 2401–2413, 16 U.S.C. 2431–2444, 16 U.S.C. 972–972h, 16 U.S.C. 916–916l, 16 U.S.C. 1151–1175 *et seq.*, 16 U.S.C. 3601–3608, 16 U.S.C. 3631–3645, 16 U.S.C. 1851 note; 15 U.S.C. 5601 *et seq.*, Pub. L. 105–277, 16 U.S.C. 1822 note, Section 801(f), 16 U.S.C. 2465(a), 16 U.S.C. 5103(b), 16 U.S.C. 1385 *et seq.*, 16 U.S.C. 1822 note (Section 4006), 16 U.S.C. 4001–4017, 22 U.S.C. 1980(g), 16 U.S.C. 5506(a), 16 U.S.C. 5601–5612, 16 U.S.C. 1822, 16 U.S.C. 973–973R, 15 U.S.C. 330–330(e).

2. Section 904.204 to subpart C is amended by revising paragraphs (f) and (m) to read as follows:

**Subpart C—Hearing and Appeal Procedures**

**§ 904.204 Duties and powers of Judge.**

\* \* \* \* \*

(f) Rule on contested discovery requests, establish discovery schedules, and, whenever the ends of justice would thereby be served, take or cause depositions or interrogatories to be taken and issue protective orders under § 904.251(h);

\* \* \* \* \*

(m) Assess a civil penalty or impose a permit sanction, condition, revocation, or denial of permit application, taking into account all of the factors required by applicable law;

\* \* \* \* \*

[FR Doc. 2010–5988 Filed 3–17–10; 8:45 am]

**BILLING CODE 3510–12–S**

**DEPARTMENT OF VETERANS AFFAIRS**

**38 CFR Part 3**

**RIN 2900–AN24**

**Presumptions of Service Connection for Persian Gulf Service**

**AGENCY:** Department of Veterans Affairs.