

(i) Replace the mechanical gust lock system with an electromechanical gust lock system, and replace the control stand with a reworked control stand, by doing all the actions (including a detailed inspection to ensure that certain parts have been removed previously per EMBRAER Service Bulletin 145-27-0076) in and per section 3.A. (Part I) or 3.B. (Part II) of the Accomplishment Instructions of the service bulletin, as applicable. If the inspection reveals that certain subject parts have not been removed previously, before further flight, remove the subject parts per the service bulletin. Where Parts I and II of the Accomplishment Instructions of the service bulletin specify to remove and "send the control stand to be reworked in a workshop," replace the control stand with a control stand reworked as specified in the service bulletin.

(ii) Replace the return spring and spring terminal of the gust lock control lever with improved parts by doing all the actions in and per section 3.C. (Part III) of the Accomplishment Instructions of the service bulletin.

(2) For airplanes listed in EMBRAER Service Bulletin 145-27-0086, Change 02, dated December 23, 2003: Do paragraphs (c)(2)(i), (c)(2)(ii), (c)(2)(iii), and (c)(2)(iv) of this AD, as applicable.

(i) Rework the tail carbon box and the horizontal stabilizer by doing all the actions (including the inspection for delamination) in and per section 3.A. (Part I) or 3.F. (Part VI) of the Accomplishment Instructions of the service bulletin, as applicable. If any delamination is found that is outside the limits specified in the service bulletin, before further flight, repair per a method approved by either the FAA or the Departamento de Aviação Civil (or its delegated agent).

(ii) Install wiring and electrical components by doing all the actions in and per section 3.B. (Part II) or 3.G. (Part VII) of the Accomplishment Instructions of the service bulletin, as applicable.

(iii) Install and activate the electromechanical gust lock system by doing all actions in section 3.D. (Part IV) or 3.I. (Part IX) of the Accomplishment Instructions of the service bulletin, as applicable. Where Part IV or IX of the Accomplishment Instructions of the service bulletin specifies to remove and "send the control stand to be reworked in a workshop," replace the control stand with a control stand reworked as specified in Part III or Part VIII of the service bulletin, as applicable.

(iv) Install a new spring cartridge and implement new logic for the electromechanical gust lock system by doing all actions in section 3.E. (Part V) of the Accomplishment Instructions of the service bulletin, as applicable.

**Note 2:** Part III and Part VIII of the Accomplishment Instructions of EMBRAER Service Bulletin 145-27-0086, Change 02, refer to EMBRAER Service Bulletin 145-22-0007 as an additional source of instructions for accomplishing the rework of the control stand.

**Note 3:** Part V of the Accomplishment Instructions of EMBRAER Service Bulletin 145-27-0086, Change 02, refers to EMBRAER Service Bulletins 145-27-0101 and 145-27-

0102, both dated December 23, 2003, as additional sources of instructions for accomplishing the installation of a new spring cartridge and implementation of the new logic for the electromechanical gust lock system.

#### Alternative Methods of Compliance

(d) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA, is authorized to approve alternative methods of compliance for this AD.

**Note 4:** The subject of this AD is addressed in Brazilian airworthiness directive 2002-01-01R3, dated November 8, 2002.

Issued in Renton, Washington, on September 15, 2004.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 04-21273 Filed 9-21-04; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### 19 CFR Part 351

[Docket No. 040722214-4214-01]

RIN 0625-AA66

#### Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings

**AGENCY:** International Trade Administration, Commerce.

**ACTION:** Notice of proposed rulemaking and request for comments.

**SUMMARY:** The Department of Commerce ("the Department") is proposing to amend a regulation, which governs the certification of factual information submitted to the Department by a person or their representative during antidumping and countervailing duty proceedings. The proposed amendments are intended to strengthen the current certification requirements, so that it is clear what has been certified, by whom and when, and so that parties and their counsel are aware of the potential consequences of false certifications.

**DATES:** Written comments must be received by November 22, 2004.

**ADDRESSES:** Address written comments to James J. Jochum, Assistant Secretary for Import Administration, U.S. Department of Commerce, Central Records Unit, Room 1870, 14th and Constitution Ave., NW., Washington, DC 20230.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth C. Seastrum, Senior Counsel,

or Philip J. Curtin, Attorney-Advisor, Office of the General Counsel, Office of Chief Counsel for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, 202-482-0834 or 202-482-4224.

#### SUPPLEMENTARY INFORMATION:

**Background:** The Tariff Act of 1930, as amended, requires that any person who provides factual information to the Department during an antidumping or countervailing duty proceeding must certify to the accuracy and completeness of such information. See 19 U.S.C. 1677m(b). Department regulations set forth the specific content requirements for such certifications. See 19 CFR 351.303(g). The current language of the certification requirements does not address certain important issues. For example, the current language does not require the certifying official to specify the document or the proceeding for which the certification is submitted, or even the date on which the certification is submitted.

Therefore, on January 26, 2004, the Department published a Notice of Inquiry in the **Federal Register**, and asked whether the current certification requirements are sufficient to protect the integrity of Import Administration's ("IA") administrative processes and, if not, whether the current certification statements should be amended or strengthened and, if so, how. *Certification and Submission of False Statements to Import Administration During Antidumping and Countervailing Duty Proceedings—Notice of Inquiry* ("NOI"), 69 FR 3562. (The Department also solicited views on the broader question of submission of false statements to IA. The views received with regard to this question are not addressed here.) The Department received comments in response to the NOI through March 26, 2004. The comments which concerned the question of certifications provided general recommendations for amending the certification requirements, as well as comments suggesting specific adjustments to the certifications filed by company officials and their representatives.

*General recommendations for amending the certification requirements:* These suggestions include several comments proposing that the Department add language to the certification emphasizing the possible penalties for certification and submission of false statements. Suggested additions would include the fact that factual submissions may be verified, the possible use of adverse

facts available, the applicability of provisions of the criminal code concerning false claims made to the U.S. government (18 U.S.C. 1001; 31 U.S.C. 3729), and any sanctions which IA may develop under new enforcement regulations. Another commenter suggests that the Department remind parties and counsel prior to all *ex parte* meetings, verifications and hearings that their obligation to provide truthful factual information extends to those proceedings.

*Department Position:* The Department has adopted the first suggestion, to the extent that the proposed amendment states that criminal sanctions may be imposed for making false statements to the government. The Department has not included the second suggestion in the proposed amendment, but the Department agrees that parties and counsel have an obligation to provide truthful factual information in all proceedings before the Department, per 18 U.S.C. 1001.

*Suggestions for specific adjustments to the certifications:* Comments regarding the certifications filed by company officials include one comment proposing that the Department require that: the certification be executed on the basis of personal knowledge or reasonable inquiry regarding the underlying facts; the certifying official keep records demonstrating the extent of inquiry; and, the certifying official inform the Department if he or she later becomes aware that certified information is materially false or incorrect. Several other commenters suggest that the Department require the identification of the actual submission being certified by date and title. Another commenter states that each certification should correlate with each response, so that a generic photocopy may not be used, as is now often the case. One other commenter suggests that the certifications clarify that they apply to all parties that submit information in the proceeding. Of particular concern to this commenter is information submitted by third-parties—for example, in non-market economy (NME) cases, producers of subject merchandise submitting information related to factors of production. Another commenter suggests that the Department require certifications from supervisory personnel, as well as from the individuals who prepare specific portions of a submission. A comment regarding specific adjustments to the certifications filed by legal or other representatives proposes that the above-suggested changes made in the certification by company officials be incorporated into the certification by

counsel. Another commenter suggests that certification for counsel should bind not just the individual lawyer but that lawyer's entire firm.

*Department Position:* The Department has attempted to incorporate each of these suggestions, to a certain extent, in this proposed amendment. First, certifying company officials would be required to have "a reasonable basis to formulate an informed judgment as to the accuracy and completeness of the information contained in this submission," consistent with the statute. Their legal or other representatives would be required to make "an inquiry reasonable under the circumstances" prior to certifying to the best of their knowledge that the submission is accurate and complete. Second, the company would be required to maintain the original certification and have it available for inspection upon verification of the questionnaire responses. Finally, the company officials and their legal or other representatives would certify that "this certification is deemed to be continuing in effect," thus requiring the certifying person to inform the Department if he or she possesses knowledge or has reason to know of a material misrepresentation or omission of fact in the submission or in any previously certified information upon which the submission relies.

In addition, the proposed amendment would establish that submissions of factual information be certified by date and title. Also, the proposed amendment has been set up so that each specific submission to the Department be certified separately. Next, the proposed amendment would require the name of the individuals with significant responsibility for preparing specific portions of each submission to the Department, in addition to the name and title of supervisory personnel. These changes have been incorporated into the certification by counsel. Finally, the Department has not adopted the suggestion that certification for counsel bind counsel's entire firm because that is an issue beyond the scope of this exercise.

*Comments in favor of the status quo:* Several commenters argue that the current certifications are adequate and effective, particularly since the existing rules of professional conduct for attorneys prevent the knowing submission of false evidence. Furthermore, one commenter argues that attorneys cannot be asked to certify either the completeness or accuracy of the factual submission, as to do so would be to impose on attorneys a

standard of care that, as a practical matter, cannot be met.

*Department Position:* The Department has not adopted these suggestions. In its experience, the Department has not found the current certification requirements do not address certain important issues, notwithstanding the existing rules of professional conduct. Furthermore, while the Department understands that attorneys are in a difficult position when it comes to certifying the completeness and accuracy of a factual submission prepared by their client, the Department believes that the standard that would be established by the proposed amendment does not impose an unreasonable burden on attorneys. Specifically, the Department would require "an inquiry reasonable under the circumstances." The Department would expect that attorneys perform due diligence on factual submissions in AD/CVD proceedings in the same manner that they would perform due diligence on any other factual submission to which they are certifying as to its completeness and accuracy.

*Proposed Amendment to Regulation:* After analyzing the information collected from comments regarding the Notice of Inquiry, the Department proposes to amend the certification language in the regulation. New requirements in the proposed certifications would include the specific date on which the submitted information is certified. Further, the certifications would identify the specific material to which the person is certifying. The certification for the person's legal counsel or other representative would be amended to require certification that the information is accurate and complete to the best of legal counsel's or other representative's knowledge, after an inquiry reasonable under the circumstances.

The certifications would also list the individuals with significant responsibility for preparing the specific material (in the case of companies), and the individuals with significant responsibility for advising, preparing or reviewing the specific material (in the case of legal or other representatives). In addition, the certifications would emphasize that they continue to be in effect throughout the proceeding, and if the certifying person possesses knowledge or has reason to know of a material misrepresentation or omission of fact in the submission or in any previously certified information upon which the submission relies, that person must report such to the Department.

In addition, the certifications would remind certifying persons of the

possible sanctions that might be levied against them for making false statements to the government. The Department wishes to emphasize that the possible sanctions may eventually include those levied by the Department, including debarment from Department proceedings, if or when the Department implements procedures for investigating allegations, determining the degree of culpability, and leveling sanctions for making false statements to the Department.

The certifications would also require that company officials maintain the original certification in their records for Departmental inspection at verification. Their legal or other representatives must maintain a copy of their certification in their records during the pendency of the proceeding; they should file the original with the Department.

### Classification

#### *Regulatory Flexibility Act*

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the Chief Counsel for Regulation at the Department of Commerce has certified to the Chief Counsel for Advocacy, Small Business Administration, that the proposed rule, if promulgated as final, will not have a significant economic impact on a substantial number of small entities. The amendment would have little or no economic impact on the companies or their legal or other representatives since it only alters existing requirements. The amendment would have few, if any, new paperwork burdens since it only requires a small amount of additional supplemental information. IA possesses limited information regarding the number of entities that might be affected by this proposed rulemaking. In 2003, IA conducted 112 antidumping and countervailing duty investigations and reviews (excluding sunset reviews and suspension agreements), including initiation of 41 antidumping and countervailing duty investigations and completion of 71 antidumping and countervailing duty reviews. However, IA is unable to estimate the number of entities that participated in each of these investigations and reviews, and is therefore unable to estimate the number of entities affected by the proposed rulemaking. Furthermore, IA is unable to estimate the number of entities affected that may be considered small entities.

#### *Paperwork Reduction Act*

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a

collection of information subject to the requirements of the Paperwork Reduction Act of 1995 unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This proposed rulemaking involves collection-of-information requirements subject to review and approval by the OMB under the Paperwork Reduction Act. Collection activities are currently approved by the OMB under control numbers 0625-0105, 0625-0148 and 0625-0200.

#### *Executive Order 12866*

It has been determined that the proposed rulemaking is not significant for purposes of Executive Order 12866.

#### *Executive Order 12612*

It has been determined that the proposed rulemaking does not contain federalism implications warranting the preparation of a federalism assessment.

### List of Subjects in 19 CFR Part 351

Administrative practice and procedure, Antidumping duties, Business and industry, Confidential business information, Countervailing duties, Investigations, Reporting and recordkeeping requirements.

#### **James J. Jochum,**

*Assistant Secretary for Import Administration, Department of Commerce.*

For the reasons stated in the preamble, the Department of Commerce proposes to amend 19 CFR part 351 as follows:

### **PART 351—ANTIDUMPING AND COUNTERVAILING DUTIES**

1. The authority citation for 19 CFR part 351 continues to read as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 1202 note; 19 U.S.C. 1303 note; 19 U.S.C. 1671 *et seq.*; and 19 U.S.C. 3538.

2. Section 351.303 is proposed to be amended by revising paragraph (g) to read as follows:

#### **§ 351.303 Filing, format, translation, service, and certification of documents.**

\* \* \* \* \*

(g) Certifications. A person must file with each submission containing factual information the certification in paragraph (g)(1) of this section and, in addition, if the person has legal counsel or another representative, the certification in paragraph (g)(2) of this section:

(1) For the person(s) officially responsible for presentation of the factual information:

### COMPANY CERTIFICATION

On this \_\_\_ day of (MONTH), (YEAR), I, (PRINTED NAME AND TITLE), currently employed by (COMPANY NAME), certify that I prepared or otherwise supervised the preparation of the attached submission of (IDENTIFY THE SPECIFIC SUBMISSION BY TITLE AND DATE) pursuant to the (INSERT ONE OF THE FOLLOWING: THE (ANTIDUMPING OR COUNTERVAILING DUTY) INVESTIGATION OF (PRODUCT) FROM (COUNTRY) or THE (DATES OF POR) (ADMINISTRATIVE or NEW SHIPPER) REVIEW UNDER THE (ANTIDUMPING OR COUNTERVAILING) DUTY ORDER ON (PRODUCT) FROM (COUNTRY)). I certify that I had sole or substantial responsibility for preparation (or supervision of the preparation) of this submission and have a reasonable basis to formulate an informed judgment as to the accuracy and completeness of the information contained in this submission. If I supervised the preparation of this submission, I list below those other individuals with significant responsibility for preparation of part or all of the submission. I certify that the information contained in this submission is, to the best of my knowledge, accurate and complete. I am aware that this certification is deemed to be continuing in effect, such that I must notify Import Administration, in writing, if at any point in this segment of the proceeding I possess knowledge or have reason to know of any material misrepresentation or omission of fact in this submission or in any previously certified information upon which this submission relies. I am aware that the information contained in this submission is subject to verification by the Department. I am also aware that U.S. law imposes criminal sanctions (including, but not limited to, 18 U.S.C. 1001) on individuals who knowingly make misstatements to the U.S. government. I also certify that the original of this signed certification will be maintained as part of my company's official records and will be available for inspection by Department of Commerce officials during any verification.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

I supervised the preparation of this submission. The following is a list of those other individuals with significant responsibility for preparation of part or all of the submission:

Printed Name : \_\_\_\_\_

Title: \_\_\_\_\_

Section: \_\_\_\_\_

Printed Name : \_\_\_\_\_

Title: \_\_\_\_\_

Section: \_\_\_\_\_

(2) For the person's legal counsel or other representative:

### REPRESENTATIVE CERTIFICATION

On this \_\_\_ day of (MONTH), (YEAR), I, (PRINTED NAME), with (LAW FIRM or OTHER FIRM), counsel or representative to (COMPANY OR PERSON), certify that I have read the attached submission of (IDENTIFY THE SPECIFIC SUBMISSION BY TITLE AND DATE) pursuant to the (INSERT ONE OF THE FOLLOWING: THE (ANTIDUMPING OR

*COUNTERVAILING DUTY) INVESTIGATION OF (PRODUCT) FROM (COUNTRY) or THE (DATES OF POR) (ADMINISTRATIVE or NEW SHIPPER) REVIEW UNDER THE (ANTIDUMPING OR COUNTERVAILING) DUTY ORDER ON (PRODUCT) FROM (COUNTRY).* Based on the information made available to me and knowledge acquired by me in my role as adviser, preparer or reviewer of the submission, and after an inquiry reasonable under the circumstances, I certify that to the best of my knowledge the submission is accurate and complete. If I supervised the advising, preparing or review of this submission, I list below those other individuals with significant responsibility for advising, preparing or reviewing part or all of the submission. I am aware that this certification is deemed to be continuing in effect, such that I must notify Import Administration, in writing, if at any point in this segment of the proceeding I possess knowledge or have reason to know of a material misrepresentation or omission of fact in this submission or in any previously certified information upon which this submission relies. I am aware that U.S. law imposes criminal sanctions (including, but not limited to, 18 U.S.C. 1001) on individuals who knowingly make misstatements to the U.S. government. I certify that I am filing the original of this signed certification with this submission to the Department of Commerce and that I will retain a copy during the pendency of this proceeding.

Signed: \_\_\_\_\_  
Date: \_\_\_\_\_

I supervised the advising, preparing or review of this submission. The following is a list of those other individuals with significant responsibility for advising, preparing or reviewing part or all of the submission:

Printed Name : \_\_\_\_\_  
Title: \_\_\_\_\_  
Section: \_\_\_\_\_  
Printed Name : \_\_\_\_\_  
Title: \_\_\_\_\_  
Section: \_\_\_\_\_

[FR Doc. 04-21209 Filed 9-21-04; 8:45 am]  
BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[I.D. 072704A]

#### Atlantic Highly Migratory Species; Atlantic Commercial Shark Management Measures; Rescheduling of Public Hearings

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Rescheduling of public hearings.

**SUMMARY:** NMFS is concerned about a lack of participation by commercial shark fishermen in three public hearings for a proposed rule that was published in the **Federal Register** on September 17, 2004, because of an overlap between the dates of the hearings and the commercial shark fishing season. These hearings are being held to receive comments from fishery participants and other members of the public regarding proposed shark regulations.

**DATES:** The hearings scheduled for September 28, 2004, in Manteo, NC, September 29 in Cocoa Beach, FL, and September 30 in Madeira Beach, FL, are canceled. The public hearings are rescheduled for October 5, 2004, from 7-9 p.m. in Madeira Beach, FL; October 6, 2004, from 6:30-8:30 p.m. in Cocoa Beach, FL; and October 7, 2004, from 7-9 p.m. in Manteo, NC.

Written comments on the September 17, 2004, proposed rule (69 FR 56024) must be received no later than 5 p.m. on October 18, 2004.

**ADDRESSES:** The public hearings will be held at the following locations:

1. City of Madeira Beach, 300 Municipal Dr., Madeira Beach, FL 33708,
2. Cocoa Beach Public Library, 550 North Brevard Avenue, Cocoa Beach, FL 32931, and
3. North Carolina Aquarium, Roanoke Island, Airport Road, Manteo, NC 27954.

Written comments on the proposed rule or the Draft Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (Draft EA/RIR/IRFA) may be submitted to Christopher Rogers, Chief, Highly Migratory Species Management Division:

- E-mail: [072704A@noaa.gov](mailto:072704A@noaa.gov).
- Mail: 1315 East-West Highway, Silver Spring, MD 20910. Please mark the outside of the envelope "Comments on Proposed Rule for LCS and SCS Quota Adjustments."
- Fax: 301-713-1917.
- Federal e-Rulemaking portal: <http://www.regulations.gov>. Include in the subject line the following identifier: I.D. 072704A.

Copies of the Draft EA/RIR/IRFA or Amendment 1 to the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks or its implementing regulations, may be obtained by using the above mailing address, and are also available on the internet at <http://www.nmfs.noaa.gov/sfa/hms>.

**FOR FURTHER INFORMATION CONTACT:** Karyl Brewster-Geisz, Chris Rilling, or Mike Clark by phone: 301-713-2347 or by fax: 301-713-1917.

**SUPPLEMENTARY INFORMATION:** The Atlantic shark fishery is managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act. The Fisheries Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP) and Amendment 1 to the HMS FMP are implemented by regulations at 50 CFR part 635. On September 17, 2004, NMFS published a proposed rule (69 FR 56024) that would adjust the regional and trimester quotas for Large Coastal Sharks (LCS) and Small Coastal Sharks (SCS) based on updated landings information, among other things. Complete descriptions of the measures, as well as the purpose and need for the proposed actions, are contained in the proposed rule and are not repeated here.

The September 17, 2004, proposed rule (69 FR 56024) specified, among other things, the dates, times, and locations of three public hearings. NMFS is concerned about a lack of participation by commercial shark fishermen because of an overlap between the dates of the hearings and the commercial shark fishing season that ends in the South Atlantic on September 30, 2004. Accordingly, NMFS is canceling and rescheduling the public hearings. The hearing previously scheduled for September 28, 2004, in Manteo, NC, has been canceled and rescheduled for October 7, 2004, in Manteo, NC. The hearing previously scheduled for September 29, 2004, in Cocoa Beach, FL, has been canceled and rescheduled for October 6, 2004, in Cocoa Beach, FL. The hearing previously scheduled for September 30, 2004, in Madeira Beach, FL, has been canceled and rescheduled for October 5, 2004, in Madeira Beach, FL (see **DATES** and **ADDRESSES**).

#### Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Chris Rilling, (301) 713-2347, at least 7 days prior to the hearing in question.

Dated: September 16, 2004.

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
[FR Doc. 04-21289 Filed 9-17-04; 2:38 pm]

BILLING CODE 3510-22-S