

FAA Analysis

The FAA has reviewed the PARC report and discussed the issue with various aviation organizations. Based on the data and recommendations received, the FAA concluded that a significant need for clarification and revision of current policy exists. The agency and the industry have made significant investment in data communications. These systems are expected to reduce communication errors and improve safety in the NAS as they enhance NAS efficiency and capacity.

The FAA better understands the cost of installing DLR systems on aircraft that were designed and manufactured before the regulation was promulgated and no provisions for DLC recording were available. Most aircraft produced after the effective date of the rule have the base mechanisms for DLC already installed at manufacture, which significantly decreases the cost and impact of incorporating a recording component. Accordingly, the policy changes announced in this document are applicable to aircraft that were manufactured before December 6, 2010 (or April 6, 2012, if complying with part 91).

The FAA agrees that the complexity of the current guidance has resulted in inconsistent application of the rule. The recording regulation was not intended to discourage the installation of datalink capability, and its applicability should not depend on the subjective interpretation of factors as minor as the day a previously installed system was turned on or the scope of changes to a previously approved DLC system. In order to maximize the safety and efficiency benefits of DLC use in the NAS, the FAA is simplifying its guidance regarding the applicability of the recording requirement for aircraft that were manufactured before the effective date of the rule.

The target aircraft for this policy change represent approximately 30% of the current U.S. fleet operating under parts 121 and 135, as reported by the PARC. These 2,116 aircraft were manufactured prior to 2010 and had a certified DLC system that was available before the recordation rule became effective. This number will gradually decrease as these older aircraft are retired and replaced. Since DLC recordation was not required when these aircraft were manufactured, none of the messages associated with those certified systems were identified, making application of the regulation difficult and inconsistent. The FAA forecasts that by 2020, 34% of the U.S. fleet (approximately 2,200) will consist

of aircraft manufactured after 2010 that have DLC recording capability.

Comments Requested

While this policy update is effective on publication, the FAA seeks comment from interested persons regarding the application of the policy to affected operators. We are particularly interested in comments identifying the make/model/series of aircraft that had a certified DLC design approval prior to the effective date of the rule, and any information regarding the economic impacts of the prior and revised policies, and descriptions of circumstances for which application of the regulation remains unclear following this policy update.

Updated Policy

Datalink recording requirements are found in the operating regulations of Title 14 of the Code of Federal Regulations (14 CFR), specifically in § 91.609, effective April 6, 2012; and in §§ 121.359, 125.227 and 135.151, effective December 6, 2010. These regulations each require that the subject airplanes or rotorcraft that install datalink communication equipment on or after [the effective date of the rule], must record all datalink messages as required by the certification rule applicable to the aircraft.

This policy statement clarifies how the FAA defines the phrase “install datalink communication equipment” for purposes of the recordation requirement. Clarification of this policy and FAA guidance material is intended to assist FAA personnel and aircraft operators in determining when datalink recording is required.

Definition of Datalink Communication Equipment

The term “datalink communication equipment” as used in these regulations, means all of the components installed on the aircraft that are necessary to complete data communications. The equipment may vary for individual aircraft, but could include the Flight Management Computer; Communications Management Unit (CMU), or equipment with an equivalent function that hosts an approved message set (e.g., CPDLC application), the datalink router (e.g., hosted in the CMU) that routes the messages to the radios, any radios (e.g., VHF, HF Datalink, Satcom) that are used to transmit the messages using an approved message set, and any antennas associated with these radios.

Applicability

In applying this regulation, aircraft are divided into two groups: Those manufactured on or after the effective date of the rule, and those manufactured before that date.

Those airplanes or rotorcraft manufactured on or after the effective date, must record all datalink communications when both of the following conditions are met:

- The aircraft is required to have both a cockpit voice recorder and a flight data recorder; and
- The aircraft has datalink equipment installed that uses an approved message set (see FAA Advisory Circular 20–160).

Those airplanes or rotorcraft manufactured before the effective date of the rule must record all datalink communications when both of the following conditions are met:

- The aircraft is required to have both a cockpit voice recorder and a flight data recorder; and
- The MAKE/MODEL/SERIES of the aircraft did not have any certified DLC equipment installation design approval (providing one or more of the messages identified in AC 20–160) prior to the effective date of the rule.

The FAA InFO 10016 dated August 16, 2010 is cancelled. A revised InFO reflecting the policy changes noted here is under development and will be posted on the FAA Web site when completed.

Issued in Washington, DC, on February 23, 2015.

John S. Duncan,

Director, Flight Standards Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 140903747–4747–01]

RIN 0648–BE48

Olympic Coast National Marine Sanctuary Regulations; Correction

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Correcting amendment.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is reinstating missing paragraphs of the

Olympic Coast National Marine Sanctuary (OCNMS) regulations that pertain to the issuance of permits. NOAA inadvertently excluded the paragraphs in the publication of a November 2011 final rule revising OCNMS permitting regulations. The reinstatement of these paragraphs will ensure continued coordination with the treaty Indian tribes whose cultural and treaty resources may be affected by activities of regulated entities. In addition, these provisions provide notice to the regulated community of NOAA's responsibilities to treaty Indian tribes whose cultural and treaty resources may be affected by a permittee's proposed activities.

DATES: Effective March 2, 2015.

FOR FURTHER INFORMATION CONTACT:

Helene Scalliet at (301) 713-3125 x281 or Helene.Scalliet@noaa.gov.

SUPPLEMENTARY INFORMATION: On November 1, 2011, NOAA issued final regulations revising permit criteria for Olympic Coast National Marine Sanctuary (76 FR 67348). NOAA inadvertently excluded existing paragraphs (d) through (h) in section 922.153 from the regulatory text as a result of mistaken directions given to the Government Publishing Office, which is responsible for publishing the Code of Federal Regulations (CFR). Instead of amending only paragraphs (a) through (c) of that section, per the 2011 rulemaking, NOAA instructed GPO to revise section 922.153 in its entirety, thus replacing all existing regulatory text with sections (a) through (c). The missing paragraphs of regulatory text are essential to inform regulated entities of NOAA's responsibilities toward treaty Indian tribes and their cultural and tribal resources. NOAA's responsibility to federally recognized Indian tribes, their cultural and treaty resources may affect both the processing and determinations of applications to conduct activities in the Sanctuary.

The missing paragraphs (d) through (h) can be found in a previous final rule in 60 FR 66875, published on December 27, 1995 and at 15 CFR 922.153 (2011).

Evidence that this deletion of paragraphs (d) through (h) was an inadvertent procedural error can be drawn from NOAA's absence of discussion on these changes in the preambles of both the proposed and final rules, as well as the absence of analysis in the associated environmental assessment prepared according to the National Environmental Policy Act (NEPA). The plain language of the prior rule should have guided the public's knowledge and expectations of regulated entities proposing activities in

the Sanctuary. Without the missing paragraphs, those expectations would be conflicted. Accordingly, NOAA is publishing this technical correction as a correcting amendment without notice and comment. This rule reinstates paragraphs (d) through (h) of section 922.153.

Classification

A. Executive Order 12866: Regulatory Impact

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

B. Administrative Procedure Act/Regulatory Flexibility Act

The Assistant Administrator of the National Ocean Service (NOS) finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive the notice and comment requirements of the Administrative Procedure Act because this rule merely reinstates language from a rule previously submitted to notice and comment review and inadvertently deleted from the Code of Federal Regulations and as such is unnecessary. This rule corrects a procedural error and ensures required and expected implementation of NOAA's statutory responsibilities toward treaty Indian tribes with cultural and treaty resources in or near the Sanctuary; improves communication and collaboration with federally recognized Indian tribes; and fulfills the intent of Executive Order 13175. NOAA has decided to make this document effective upon publication because public comment and delayed effectiveness are unnecessary. The language has already been subject to notice and comment from the public and is merely a restatement of pre-existing regulatory language. For the reasons above, the Assistant Administrator finds good cause to waive the 30-day delay in effectiveness.

C. Regulatory Flexibility Act

Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis is not required and has not been prepared.

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

W. Russell Callender,

Acting Assistant Administrator for Ocean Services and Coastal Zone Management.

Accordingly, for the reasons discussed in the preamble, the National Oceanic and Atmospheric

Administration amends 15 CFR part 922 as follows:

PART 922—NATIONAL MARINE SANCTUARY PROGRAM REGULATIONS

- 1. The authority citation for part 922 continues to read as follows:

Authority: 16 U.S.C. 1431 *et seq.*

- 2. Revise § 922.153 to read as follows:

§ 922.153 Permit procedures and criteria

(a) A person may conduct an activity prohibited by paragraphs (a)(2) through (8) of § 922.152 if conducted in accordance with the scope, purpose, terms and conditions of a permit issued under this section and § 922.48.

(b) Applications for such permits should be addressed to the Director, Office of National Marine Sanctuaries; ATTN: Superintendent, Olympic Coast National Marine Sanctuary, 115 East Railroad Avenue, Suite 301, Port Angeles, WA 98362-2925.

(c) The Director, at his or her discretion, may issue a permit, subject to such terms and conditions as he or she deems appropriate, to conduct an activity prohibited by paragraphs (a)(2) through (8) of § 922.152, if the Director finds that the activity will not substantially injure Sanctuary resources and qualities and will: Further research related to Sanctuary resources and qualities; further the educational, natural or historical resource value of the Sanctuary; further salvage or recovery operations in or near the Sanctuary in connection with a recent air or marine casualty; assist in managing the Sanctuary; further salvage or recovery operations in connections with an abandoned shipwreck in the Sanctuary title to which is held by the State of Washington; or be issued to an American Indian tribe adjacent to the Sanctuary, and/or its designee as certified by the governing body of the tribe, to promote or enhance tribal self-determination, tribal government functions, the exercise of treaty rights, the economic development of the tribe, subsistence, ceremonial and spiritual activities, or the education or training of tribal members. For the purpose of this part, American Indian tribes adjacent to the sanctuary mean the Hoh, Makah, and Quileute Indian Tribes and the Quinault Indian Nation. In deciding whether to issue a permit, the Director may consider such factors as: The professional qualifications and financial ability of the applicant as related to the proposed activity; the duration of the activity and the duration of its effects; the appropriateness of the methods and procedures proposed by the applicant

for the conduct of the activity; the extent to which the conduct of the activity may diminish or enhance Sanctuary resources and qualities; the cumulative effects of the activity; the end value of the activity; and the impacts of the activity on adjacent American Indian tribes. Where the issuance or denial of a permit is requested by the governing body of an American Indian tribe, the Director shall consider and protect the interests of the tribe to the fullest extent practicable in keeping with the purposes of the Sanctuary and his or her fiduciary duties to the tribe. The Director may also deny a permit application pursuant to this section, in whole or in part, if it is determined that the permittee or applicant has acted in violation of the terms or conditions of a permit or of these regulations. In addition, the Director may consider such other factors as he or she deems appropriate.

(d) It shall be a condition of any permit issued that the permit or a copy thereof be displayed on board all vessels or aircraft used in the conduct of the activity.

(e) The Director may, inter alia, make it a condition of any permit issued that any data or information obtained under the permit be made available to the public.

(f) The Director may, inter alia, make it a condition of any permit issued that a NOAA official be allowed to observe any activity conducted under the permit and/or that the permit holder submit one or more reports on the status, progress or results of any activity authorized by the permit.

(g) The Director shall obtain the express written consent of the governing body of an Indian tribe prior to issuing a permit, if the proposed activity involves or affects resources of cultural or historical significance to the tribe.

(h) Removal, or attempted removal of any Indian cultural resource or artifact may only occur with the express written consent of the governing body of the tribe or tribes to which such resource or artifact pertains, and certification by the Director that such activities occur in a manner that minimizes damage to the biological and archeological resources. Prior to permitting entry onto a significant cultural site designated by a tribal governing body, the Director shall require the express written consent of the governing body of the tribe or tribes to which such cultural site pertains.

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CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1112 and 1230

[Docket No. CPSC-2014-0011]

Safety Standard for Frame Child Carriers

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Danny Keysar Child Product Safety Notification Act, section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA), requires the United States Consumer Product Safety Commission (Commission or CPSC) to promulgate consumer product safety standards for durable infant or toddler products. These standards are to be “substantially the same as” applicable voluntary standards or more stringent than the voluntary standards if the Commission determines that more stringent requirements would further reduce the risk of injury associated with the products. The Commission is issuing a safety standard for frame child carriers in response to the direction under section 104(b) of the CPSIA. In addition, the Commission is amending its regulations regarding third party conformity assessment bodies to include the mandatory standard for frame child carriers in the list of Notices of Requirements (NOR) issued by the Commission.

DATES: The rule will become effective on September 2, 2016. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of September 2, 2016.

FOR FURTHER INFORMATION CONTACT: Julio Alvarado, Compliance Officer, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; telephone: 301-504-7418; email: jalvarado@cpsc.gov.

SUPPLEMENTARY INFORMATION:

I. Background and Statutory Authority

The Consumer Product Safety Improvement Act of 2008 (CPSIA, Pub. L. 110-314) was enacted on August 14, 2008. Section 104(b) of the CPSIA, part of the Danny Keysar Child Product Safety Notification Act, requires the Commission to: (1) Examine and assess the effectiveness of voluntary consumer product safety standards for durable infant or toddler products, in consultation with representatives of consumer groups, juvenile product manufacturers, and independent child

product engineers and experts; and (2) promulgate consumer product safety standards for durable infant and toddler products. These standards are to be “substantially the same as” applicable voluntary standards or more stringent than the voluntary standards if the Commission determines that more stringent requirements would further reduce the risk of injury associated with the product. The term “durable infant or toddler product” is defined in section 104(f)(1) of the CPSIA as “a durable product intended for use, or that may be reasonably expected to be used, by children under the age of 5 years.”

On May 16, 2014, the Commission issued a notice of proposed rulemaking (NPR) for frame child carriers. 79 FR 28458. The NPR proposed to incorporate by reference the voluntary standard, ASTM F2549-14, *Standard Consumer Safety Specification for Frame Child Carriers*, with one proposed substitute provision that would provide clear pass/fail criteria for an existing test.

In this document, the Commission is issuing a mandatory safety standard for frame child carriers. As required by section 104(b)(1)(A), the Commission consulted with manufacturers, retailers, trade organizations, laboratories, consumer advocacy groups, consultants, and the public to develop this proposed standard, largely through the ASTM process. The rule incorporates by reference the most recent voluntary standard developed by ASTM International (formerly the American Society for Testing and Materials), ASTM F2549-14a, *Standard Consumer Safety Specification for Frame Child Carriers*. This most recent version of the ASTM voluntary standard includes the clear pass/fail criteria for an existing test that were proposed in the NPR.

In addition, the final rule amends the list of NORs issued by the Commission in 16 CFR part 1112 to include the standard for frame child carriers. Under section 14 of the Consumer Product Safety Act (CPSA), the Commission promulgated 16 CFR part 1112 to establish requirements for accreditation of third party conformity assessment bodies (or testing laboratories) to test for conformance with a children’s product safety rule. Amending part 1112 adds a NOR for the frame child carrier standard to the list of children’s product safety rules.

II. Product Description

The scope of ASTM F2549-14a defines a “frame child carrier” as “a product, normally of sewn fabric construction on a tubular metal or other frame, which is designed to carry a