

subordinated debt. A national bank may not include subordinated debt as tier 2 capital unless the national bank has filed the notice with the OCC and received notification from the OCC that the subordinated debt issued by the national bank qualifies as tier 2 capital.

(2) *Prepayment of subordinated debt*—(i) *Subordinated debt not included in tier 2 capital*—(A) *Eligible bank*. An eligible bank is required to receive prior approval from the OCC to prepay any subordinated debt that is not included in tier 2 capital (including acceleration, repurchase, redemption prior to maturity, and exercising a call option), in accordance with paragraph (g)(1)(ii) of this section, only if:

(1) The national bank will not be an eligible bank after the transaction;

(2) The OCC has previously notified the national bank that prior approval is required;

(3) Prior approval is required by law; or

(4) The amount of the proposed prepayment is equal to or greater than one percent of the national bank's total capital, as defined in 12 CFR 3.2.

(B) *National bank not an eligible bank*. A national bank that is not an eligible bank must receive prior OCC approval to prepay any subordinated debt that is not included in tier 2 capital (including acceleration, repurchase, redemption prior to maturity, and exercising a call option), in accordance with paragraph (g)(1)(ii) of this section.

(ii) *Subordinated debt included in tier 2 capital*—(A) *General*. Notwithstanding paragraph (f)(2)(i)(B) of this section, all national banks must receive prior OCC approval to prepay subordinated debt included in tier 2 capital, in accordance with paragraph (g)(1)(ii)(A) of this section.

(B) *Call option*. Notwithstanding this paragraph (f)(2)(ii)(A) of this section, a national bank must receive prior OCC approval to prepay subordinated debt included in tier 2 capital, in accordance with paragraph (g)(2)(ii)(B) of this section, when the prepayment is a result of exercising a call option.

(g) *Prior approval procedure*—(1) *Application*—(i) *Issuance of subordinated debt*. A national bank required to obtain OCC approval before issuing subordinated debt shall submit an application to the appropriate OCC licensing office. The application must include:

(A) A description of the terms and amount of the proposed issuance;

(B) A statement of whether the national bank is subject to a capital plan or required to file a capital plan with the OCC and, if so, how the proposed change conforms to the capital plan;

(C) A copy of the proposed subordinated note format and note agreement; and

(D) A statement that the subordinated debt issue complies with all applicable laws and regulations.

(ii) *Prepayment of subordinated debt*—(A) *General*. A national bank required to obtain OCC approval before repaying subordinated debt, pursuant to paragraph (f)(2) of this section, shall submit an application to the appropriate OCC licensing office. The application must include:

(1) A description of the terms and amount of the proposed prepayment;

(2) A statement of whether the national bank is subject to a capital plan or required to file a capital plan with the OCC and, if so, how the proposed change conforms to the capital plan; and

(3) A copy of the subordinated debt instrument the national bank is proposing to prepay.

(B) *Call option*. (1) Before repaying subordinated debt if the prepayment is in the form of a call option, a national bank is required to obtain OCC approval, pursuant to paragraph (g)(2)(ii) of this section, by submitting an application to the appropriate OCC licensing office.

(2) In addition to the information required in this paragraph (g)(1)(ii)(A) of this section, the application must include:

(i) A statement explaining why the national bank believes that following the proposed prepayment the national bank would continue to hold an amount of capital commensurate with its risk; or

(ii) A description of the replacement capital instrument that meets the criteria for tier 1 or tier 2 capital under 12 CFR 3.20, including the amount of such instrument, and the time frame for issuance.

(iii) *Additional information*. The OCC reserves the right to request additional relevant information, as appropriate.

(2) *Approval*—(i) *General*. The application is deemed approved by the OCC as of the 30th day after the filing is received by the OCC, unless the OCC notifies the national bank prior to that date that the filing presents a significant supervisory, or compliance concern, or raises a significant legal or policy issue.

(ii) *Call option*. Notwithstanding this paragraph (g)(2)(i) of this section, if the application for prior approval is for prepayment in the form of a call option, the national bank must receive affirmative approval from the OCC to exercise the call option. If the OCC requires the national bank to replace the subordinated debt, the national bank must receive affirmative approval that the replacement capital instrument

meets the criteria for tier 1 or tier 2 capital under 12 CFR 3.20 and must issue the replacement instrument prior to exercising the call option, or immediately thereafter.<sup>2</sup>

(iii) *Tier 2 capital*. Following notification to the OCC pursuant to paragraph (f)(1)(ii) of this section that the national bank has issued the subordinated debt, the OCC will notify the national bank whether the subordinated debt qualifies as tier 2 capital.

(iv) *Expiration of approval*. Approval expires if a national bank does not complete the sale of the subordinated debt within one year of approval.

(h) *Notice procedure for inclusion in tier 2 capital*. (1) All national banks shall notify the appropriate OCC licensing office in writing within ten days after issuing subordinated debt that it intends to include as tier 2 capital. A national bank may not include such subordinated debt in tier 2 capital unless the national bank has received notification from the OCC that the subordinated debt qualifies as tier 2 capital.

(2) The notice must include:

(i) The terms of the issuance;

(ii) The amount and date of receipt of funds;

(iii) A copy of the final subordinated note format and note agreement; and

(iv) A statement that the issuance complies with all applicable laws and regulations.

(i) *Exceptions to rules of general applicability*. Sections 5.8, 5.10, and 5.11 do not apply to transactions governed by this section.

Dated: December 10, 2014.

**Thomas J. Curry,**

*Comptroller of the Currency.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 29

[Docket No. FAA-2011-1026; Special Conditions No. 29-036-SC]

#### Special Conditions: Sikorsky Aircraft Corporation (Sikorsky) Model S-76D Helicopter, Search and Rescue (SAR) Automatic Flight Control System (AFCS) Installation

**AGENCY:** Federal Aviation Administration (FAA), DOT.

<sup>2</sup> A national bank may replace tier 2 capital instruments concurrent with the redemption of existing tier 2 capital instruments.

**ACTION:** Final special conditions; request for comments.

**SUMMARY:** These special conditions are issued for the Sikorsky Model S-76D helicopter. This model of helicopter, as modified by Sikorsky, will have novel or unusual design features associated with installing an optional SAR AFCS. The applicable airworthiness standards do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards the Administrator considers necessary to show a level of safety equivalent to that established by the existing airworthiness standards.

**DATES:** This action is effective on Sikorsky Aircraft Corporation Model S-76D on December 9, 2014.

We must receive your comments by February 17, 2015.

**ADDRESSES:** Send comments identified by docket number FAA-2014-1026 using any of the following methods:

- *Federal eRegulations Portal:* Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.

- *Mail:* Send comments to Docket Operations, M-30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12-140, West Building Ground Floor, Washington, DC, 20590-0001.

- *Hand Delivery of Courier:* Deliver comments to the "Mail" address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* Fax comments to Docket Operations at 202-493-2251.

*Privacy:* The FAA will post all comments it receives, without change, to <http://regulations.gov>, including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477-19478), as well as at <http://DocketsInfo.dot.gov>.

*Docket:* You can read the background documents or comments received at <http://www.regulations.gov>. Follow the online instructions for accessing the docket or go to the Docket Operations in Room @12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m., and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mitchell Soth, FAA, Rotorcraft Directorate, Regulations and Policy Group, ASW-111, Rotorcraft Directorate, Aircraft Certification Service, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222-5104; email [mitch.soth@faa.gov](mailto:mitch.soth@faa.gov).

**SUPPLEMENTARY INFORMATION:**

**Reason for No Prior Notice and Comment Before Adoption**

The substance of these special conditions has been subjected to the notice and comment period previously and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Further, a delay in the effective date of these special conditions would significantly delay issuance of the design approval and thus delivery of the helicopter, which is imminent. Therefore, the FAA has determined that prior public notice and comment are unnecessary, impracticable, and contrary to the public interest, and finds good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment.

**Comments Invited**

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive by the closing date for comments. We will consider comments filed late if it is possible to do so without incurring additional expense or delay. We may change these special conditions based on the comments we receive.

**Background and Discussion**

On January 13, 2014, Sikorsky Aircraft Corporation applied for a change to Type Certificate (TC) No. H1NE to install an optional SAR AFCS in the Model S-76D helicopter. The S-76D is a transport category helicopter certificated to Category A and Category B requirements, and instrument flight certificated under the requirements of Appendix B to 14 CFR part 29, Amendment 29-52.

There is a need to use dedicated AFCS upper modes, in which a fully

coupled autopilot provides operational SAR profiles, for SAR operations conducted over water in offshore areas clear of obstructions. The SAR modes enable the helicopter pilot to fly fully coupled maneuvers, to include predefined search patterns during cruise flight, and to transition from cruise flight to a stabilized hover and departure (transition from hover to cruise flight). The SAR AFCS also includes an auxiliary crew control that allows another crewmember (such as a hoist operator) to have limited authority to control the helicopter's longitudinal and lateral position during hover operations.

Flight operations conducted over water at night may have an extremely limited visual horizon with little visual reference to the surface even when conducted under Visual Meteorological Conditions. Consequently, the certification requirements for SAR modes are considered equivalent to operating under Instrument Meteorological Conditions, and therefore must meet the criteria in Appendix B to 14 CFR part 29. While this Appendix prescribes airworthiness criteria for instrument flight, it does not consider operations below instrument flight minimum speed ( $V_{MINI}$ ), whereas the SAR modes allow for coupled operations at low speed, all-azimuth flight to zero airspeed (hover).

Since SAR operations have traditionally been a public use mission, the use of SAR modes in civil operations requires special airworthiness standards (special conditions) to maintain a level of safety consistent with Category B and Instrument Flight Rule (IFR) certification. In this regard, 14 CFR part 29 lacks adequate airworthiness standards for AFCS SAR mode certification to include flight characteristics, performance, and installed equipment and systems. These special conditions do not require guaranteed departure from a hover following an engine failure. Therefore, designs that apply these special conditions are prohibited from conducting external load operations requiring one engine inoperative hover capability. In addition, these special conditions do not address the 14 CFR 29.865 requirements for the carriage of human external cargo.

**Type Certification Basis**

Under the provisions of 14 CFR 21.101, Sikorsky must show that the S-76D model helicopter, as changed, continues to meet either the applicable provisions of the regulations incorporated by reference in TC No.

H1NE or the applicable regulations in effect on the date of application for the change, depending on the significance of the change as defined by 14 CFR 21.101. The regulations incorporated by reference in the TC are commonly referred to as the “original type certification basis.” The regulations incorporated by reference in H1NE are as follows:

(a) 14 CFR 29.391, 29.561(b)(c), 29.625, 29.671, 29.785, 29.967, 29.973 at amendment 29–0.

(b) 14 CFR 29.927 at 29–3.

(c) 14 CFR 29.307 at amendment 29–4 (all but main rotor and tail blades).

(d) 14 CFR 29.787, 29.865 at amendment 29–12 (does not meet the 29–43 requirements for Human External Cargo).

(e) 14 CFR 29.908 at amendment 29–13.

(f) 14 CFR 29.1309 at amendment 29–14 (all but new avionics, AFCS, and Electrical Power Generation and Distribution System).

(g) 14 CFR 29.571 at amendment 29–20 (all but main and tail rotor blades only).

(h) 14 CFR 29.1 at amendment 29–21.

(i) 14 CFR 29.923(c)–(o), 29.963, 29.975 at amendment 29–26.

(j) 14 CFR 29.561(c) at amendment 29–29 (for engine installation only).

(k) 14 CFR 29.923(a)(b1)(b3) at amendment 29–34.

(l) 14 CFR part 29 through Amendment 29–52 as follows: 29.2, 29.21, 29.25, 29.27, 29.29, 29.31, 29.33, 29.45, 29.49, 29.51, 29.53, 29.55, 29.59, 29.60, 29.61, 29.62, 29.63, 29.64, 29.65, 29.67, 29.71, 29.73, 29.75, 29.77, 29.79, 29.81, 29.83, 29.85, 29.87, 29.141, 29.143, 29.151, 29.161, 29.171, 29.173, 29.175, 29.177, 29.181, 29.231, 29.235, 29.239, 29.241, 29.251, 29.301, 29.303, 29.305, 29.307 (main and tail rotor blades only), 29.309, 29.321, 29.337, 29.339, 29.341, 29.351, 29.361, 29.395, 29.397, 29.399, 29.401, 29.403, 49.411, 29.413, 29.471, 29.473, 29.475, 29.477, 29.479, 29.481, 29.483, 29.485, 29.493, 29.547, 29.549, 29.551, 29.561(a)(d), 29.563, 29.571 (main and tail rotor blades only), 29.601, 29.602, 29.603, 29.605, 29.607, 29.609, 29.610, 29.611, 29.613, 29.619, 29.621, 29.623, 29.629, 29.653, 29.659, 29.661, 29.663, 29.672, 29.673, 29.674, 29.675, 29.681, 29.683, 29.685, 29.687, 29.691, 29.695, 29.723, 29.725, 29.727, 29.729, 29.731, 29.733, 29.735, 29.771, 29.773, 29.775, 29.777, 29.779, 29.783, 29.801, 29.803, 29.805, 29.807, 29.809, 29.811, 29.812(a)(c)(d)(e)(f), 29.813(c)(2), 29.831, 29.851, 29.853, 29.855, 29.861, 29.863, 29.871, 29.873, 29.877, 29.901, 29.903, 29.907, 29.917, 29.921, 29.931, 29.939, 29.951, 29.953, 29.954, 29.955,

29.959, 29.961, 29.965, 29.969, 29.971, 29.977, 29.993, 29.995, 29.997, 29.999, 29.1011, 29.1013, 29.1015, 29.1017, 29.1019, 29.1021, 29.1023, 29.1027, 29.1041, 29.1043, 29.1045, 29.1047, 29.1049, 29.1091, 29.1093, 29.1103, 29.1121, 29.1123, 29.1141, 29.1143, 29.1145, 29.1151, 29.1163, 29.1165, 29.1181, 29.1183, 29.1185, 29.1187, 29.1189, 29.1191, 29.1193, 29.1194, 29.1195, 29.1197, 29.1199, 29.1201, 29.1203, 29.1301, 19.1303, 29.1305, 29.1307, 29.1309 (new avionics, AFCS, and Electrical Power Generation and Distribution System only), 29.1317, 29.1321, 29.1322, 29.1323, 29.1325, 29.1327, 29.1329, 29.1331, 29.1333, 29.1335, 29.1337, 29.1351, 29.1353, 29.1355, 29.1357, 29.1359, 29.1363, 29.1381, 29.1383, 29.1385, 29.1387, 29.1389, 29.1391, 29.1393, 29.1395, 29.1397, 29.1401, 29.1411, 29.1413, 29.1415, 29.1431, 29.1435, 29.1457, 29.1459, 29.1461, 29.1501, 29.1503, 29.1505, 29.1509, 29.1517, 29.1519, 29.1521, 29.1523, 29.1525, 29.1527, 29.1529, 29.1541, 29.1543, 29.1545, 29.1547, 29.1549, 29.1551, 29.1553, 29.1555, 29.1557, 29.1559, 29.1561, 29.1565, 29.1581, 29.1583, 29.1585, 29.1587, 29.1589, A29.1, A29.2, A29.3, A29.4, B29.1, B29.2, B29.3, B29.4, B29.5, B29.6, B29.7, B29.8, B29.9, C29.1, E29.1.

(m) 14 CFR part 29 Not Adopted: 29.427, 29.497, 29.501, 29.505, 59.511, 29.519, 29.521, 29.562, 29.631, 29.679, 29.737, 29.751, 29.753, 29.755, 29.757, 29.812(b), 29.815, 29.833, 29.859, 29.935, 29.952, 29.957, 29.979, 29.991, 29.1001, 29.1025, 29.1101, 29.1105, 29.1107, 29.1109, 29.1125, 29.1142, 29.1147, 29.1157, 29.1159, 29.1399, 29.1419, 29.1433, 29.1439, 29.1522, D29.1.

(n) 14 CFR part 36 through Amendment 36–28 as follows: 36.801, 36.803, 36.805, H36.1–H36.305.

(o) Special Conditions No. 29–004–SC (Docket No. SW004), dated June 17, 1998.

(p) Equivalent Level of Safety Findings:

(1) Number TD1509BO–R–S–1 for 14 CFR 29.1401(d) at amendment 29–11; Anticollision light system installed in accordance with Sikorsky Drawing 33776–92603.

(2) Number AT01847BO–R–P–1 for 14 CFR 29.1305 at amendment 29–40 and 14 CFR 29.1549 at amendment 29–34; Use of a Power Limit Indicator (PLI) as the primary means for indicating/setting power.

(q) Ditching: If emergency floatation gear, P/N 33776–92709, is installed, then compliance has also been shown to Amendment 29–52 of 29.563, 29.801(b), (c), (d) and (e) and 29.807(b) and (d). For

overwater operations, compliance with the operating rules and 29.1411, 29.1415, and 26.1561 must be shown.

### Regulatory Basis for Special Conditions

If the Administrator finds that the applicable airworthiness regulations (*i.e.*, 14 CFR part 29) do not contain adequate or appropriate safety standards for the Sikorsky Model S–76D because of a novel or unusual design feature, special conditions are prescribed under § 21.16.

The FAA issues special conditions, as defined in § 11.19, under § 11.38, and they become part of the type certification basis under § 21.101.

Special conditions are initially applicable to the model for which they are issued. Should the TC for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same TC be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model.

### Novel or Unusual Design Features

The Sikorsky Model S–76D will incorporate the following novel or unusual design features.

The SAR system is composed of a navigation computer with SAR modes, an AFCS that provides coupled SAR functions, hoist operator control, a hover speed reference system, and two radio altimeters. The AFCS coupled SAR functions include:

(a) Hover hold at selected height above the surface.

(b) Ground speed hold.

(c) Transition down and hover to a waypoint under guidance from the navigation computer.

(d) SAR pattern, transition down, and hover near a target over which the helicopter has flown.

(e) Transition up, climb, and capture a cruise height.

(f) Capture and track SAR search patterns generated by the navigation computer.

(g) Monitor the preselected hover height with automatic increase in collective if the aircraft height drops below the safe minimum height.

These SAR modes are intended to be used over large bodies of water in areas clear of obstructions. Further, use of the modes that transition down from cruise to hover will include operation at airspeeds below  $V_{MINI}$ .

The SAR system only entails navigation, flight control, and coupled AFCS operation of the helicopter. The system does not include additional equipment that may be required for over

water flight or external loads to meet other operational requirements.

### Applicability

These special conditions apply to the Sikorsky Model S-76D helicopter. Should Sikorsky apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101(d).

### Conclusion

This action affects only certain novel or unusual design features on one model (*i.e.*, S-76D) of helicopter. It is not a rule of general applicability.

### List of Subjects in 14 CFR Part 29

Aircraft, Aviation safety.

The authority citation for these special conditions is as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701-44702, 44704.

### The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Sikorsky Aircraft Corporation Model S-76D helicopters when the optional Search and Rescue (SAR) Automatic Flight Control System (AFCS) is installed.

In addition to the 14 CFR part 29 certification requirements for helicopter instrument flight (Appendix B), the following additional requirements must be met for certification of the SAR AFCS:

(a) SAR Flight Modes. The coupled SAR flight modes must provide:

(1) Safe and controlled flight in three axes (lateral and longitudinal position/speed and height/vertical speed) at all airspeeds from instrument flight minimum speed (VMINI) to a hover within the maximum demonstrated wind envelope.

(2) Automatic transition to the helicopter instrument flight (Appendix B) envelope as part of the normal SAR mode sequencing.

(3) A pilot-selectable Go-Around mode that safely interrupts any other coupled mode and automatically transitions the helicopter to the instrument flight (Appendix B) envelope.

(4) A means to prevent unintended flight below a safe minimum height. Pilot-commanded descent below the safe minimum height is acceptable provided the alerting requirements in paragraph (b)(7)(i) of these Special

Conditions alert the pilot of this descent below safe minimum height.

(b) SAR Mode System Architecture. To support the integrity of the SAR modes, the following system architecture is required:

(1) A system for limiting the engine power demanded by the AFCS when any of the automatic piloting modes are engaged, so full authority digital engine control power limitations, such as torque and temperature, are not exceeded.

(2) A system providing the aircraft height above the surface and final pilot-selected height at a location on the instrument panel in a position acceptable to the FAA that will make it plainly visible to and usable by any pilot at their station.

(3) A system providing the aircraft heading and the pilot-selected heading at a location on the instrument panel in a position acceptable to the FAA that will make it plainly visible to and usable by any pilot at their station.

(4) A system providing the aircraft longitudinal and lateral ground speeds and the pilot-selected longitudinal and lateral ground speeds when used by the AFCS in the flight envelope where airspeed indications become unreliable. This information must be presented at a location on the instrument panel in a position acceptable to the FAA that is plainly visible to and usable by any pilot at their station.

(5) A system providing wind speed and wind direction when automatic piloting modes are engaged or transitioning from one mode to another.

(6) A system that monitors for flight guidance deviations and failures and contains an alerting function that provides the flight crew with enough information to take appropriate corrective action.

(7) An alerting system that provides visual or aural alerts, or both, to the flight crew under any of the following conditions:

(i) When the stored or pilot-selected safe minimum height is reached.

(ii) When a SAR mode system malfunction occurs.

(iii) When the AFCS changes modes automatically from one SAR mode to another. For normal transitions from one SAR mode to another, a single visual or aural alert may suffice. For a SAR mode malfunction or a mode having a time-critical component, the flight crew alerting system must activate early enough to allow the flight crew to take timely and appropriate action. The alerting system means must be designed to alert the flight crew in order to minimize crew errors that could create an additional hazard.

(8) The SAR system hoist operator control is considered a flight control with limited authority and must comply with the following:

(i) The hoist operator control must be designed and located to provide for convenient operation and to prevent confusion and inadvertent operation.

(ii) The helicopter must be safely controllable by the hoist operator control throughout the range of that control.

(iii) The hoist operator control may not interfere with the safe operation of the helicopter.

(iv) Pilot and copilot flight controls must be able to smoothly override the limited control authority of the hoist operator control, without exceptional piloting skill, alertness, or strength, and without the danger of exceeding any other limitation because of the override.

(9) The reliability of the AFCS must be related to the effects of its failure. The occurrence of any failure condition that would prevent continued safe flight and landing must be extremely improbable. For any failure condition of the AFCS which is not shown to be extremely improbable:

(i) The helicopter must be safely controllable and capable of continued safe flight without exceptional piloting skill, alertness, or strength. Additional unrelated probable failures affecting the control system must be evaluated.

(ii) The AFCS must be designed so that it cannot create a hazardous deviation in the flight path or produce hazardous loads on the helicopter during normal operation or in the event of a malfunction or failure, assuming corrective action begins within an appropriate period of time. Where multiple systems are installed, subsequent malfunction conditions must be evaluated in sequence unless their occurrence is shown to be improbable.

(10) A functional hazard assessment and a system safety assessment must address the failure conditions associated with SAR operations.

(i) For SAR catastrophic failure conditions, changes may be required to the following:

(A) System architecture.

(B) Software and complex electronic hardware design assurance levels.

(C) High Intensity Radiated Field (HIRF) test levels.

(D) Instructions for continued airworthiness.

(ii) The assessments must consider all the systems required for SAR operations, including the AFCS, all associated AFCS sensors (for example, radio altimeter), and primary flight displays. Electrical and electronic

systems with SAR catastrophic failure conditions (for example, AFCS) must comply with the § 29.1317(a)(4) HIRF requirements.

(c) SAR Mode Performance Requirements.

(1) The SAR modes must be demonstrated for the requested flight envelope, including the following minimum sea-state and wind conditions:

(i) Sea State: Wave height of 2.5 meters (8.2 feet), considering both short and long swells. This is in addition to the Sea State demonstrated in reference to the airframe's ditching capability.

(ii) Wind: 25 knots headwind, 17 knots for all other azimuths.

(2) The selected hover height and hover velocity must be captured (including the transition from one captured mode to another captured mode) accurately and smoothly and not exhibit any significant overshoot or oscillation.

(3) The minimum use height (MUH) for the SAR modes must be no more than the maximum loss of height following any single failure or any combination of failures not shown to be extremely improbable, plus an additional margin of 15 feet above the surface. MUH is the minimum height at which any SAR AFCS mode may be engaged.

(4) The SAR mode system must be usable up to the maximum certified gross weight of the aircraft or to the lower of the following weights:

(i) Maximum emergency flotation weight.

(ii) Maximum hover Out-of-Ground Effect (OGE) weight.

(iii) Maximum demonstrated weight.

(d) Flight Characteristics.

(1) The basic aircraft must meet all of the 14 CFR part 29 airworthiness criteria for helicopter instrument flight (Appendix B).

(2) For SAR mode coupled flight below  $V_{MINI}$ , at the maximum demonstrated winds, the helicopter must be able to maintain any required flight condition and make a smooth transition from any flight condition to any other flight condition without requiring exceptional piloting skill, alertness, or strength, and without exceeding the limit load factor. This requirement also includes aircraft control through the hoist operator's control.

(3) For SAR modes at airspeeds below  $V_{MINI}$ , the following requirements of Appendix B to part 29 must be met and will be used as an extension to the IFR certification envelope of the basic aircraft:

(i) Static Longitudinal Stability: the requirements of paragraph IV of Appendix B are not applicable.

(ii) Static Lateral-Directional Stability: The requirements of paragraph V of Appendix B are not applicable.

(iii) Dynamic Stability: The requirements of paragraph VI of Appendix B are replaced with the following two paragraphs:

(A) Any oscillation must be damped and any aperiodic response must not double in amplitude in less than 10 seconds. This requirement must also be met with degraded upper modes of the AFCS. An "upper mode" is a mode that utilizes a fully coupled autopilot to provide an operational SAR profile.

(B) After any upset, the AFCS must return the aircraft to the last commanded position within 10 seconds or less.

(4) With any of the upper modes of the AFCS engaged, the pilot must be able to manually recover the aircraft and transition to the normal (Appendix B) IFR flight profile envelope without exceptional skill, alertness, or strength.

(e) One-Engine Inoperative (OEI) Performance Information.

The following performance information must be provided in the Rotorcraft Flight Manual Supplement (RFMS). OEI performance information and emergency procedures, providing the maximum weight that will provide a safe landing (or ditching) or the ability to fly away following failure of the critical engine in a hover. The maximum weight must be presented as a function of the hover height for the temperature and pressure altitude range requested for certification. The effects of wind must be reflected in the hover performance information. These OEI performance requirements do not replace performance requirements that may be needed to comply with the airworthiness or operational standards (§ 29.865 or 14 CFR part 133) for external loads or human external cargo.

(f) RFMS.

(1) The RFMS must contain, at a minimum:

(i) Limitations necessary for safe operation of the SAR system, including:

(A) Minimum crew requirements. No fewer than 2 pilots, except for approved external load operations that will also require a hoist operator.

(B) Maximum SAR weight as determined by the lower of the SAR Mode performance requirement of paragraph (c)(4) of these Special Conditions or the aircraft performance information provided by paragraph (e) of these Special Conditions.

(C) Maximum demonstrated sea state conditions for ditching compliance.

(D) Engagement criteria for each of the SAR modes to include MUH, as determined in paragraph (c)(3) of these Special Conditions.

(E) The prohibition of external load operations requiring OEI hover capability.

(ii) Normal and emergency procedures for operation of the SAR system (including operation of the hoist operator control), with AFCS failure modes, AFCS degraded modes, and engine failures.

(iii) Performance information:

(A) OEI performance and height-loss.

(B) Hover OGE performance information, utilizing OEI continuous and time-limited power ratings.

(C) The maximum wind envelope demonstrated in flight test.

(D) Information and/or advisory information concerning operations in a heavy salt spray environment, including any airframe or power effects as a result of salt encrustation.

(g) Flight Demonstration.

(1) Before approval of the SAR system, an acceptable flight demonstration of all the coupled SAR modes is required.

(2) The AFCS must provide fail-safe operations during coupled maneuvers. The demonstration of fail-safe operations must include a pilot workload assessment associated with manually flying the aircraft to an altitude greater than 200 feet above the surface and an airspeed of at least the best rate of climb airspeed ( $V_y$ ).

(3) For any failure condition of the SAR system not shown to be extremely improbable, the pilot must be able to make a smooth transition from one flight mode to another without exceptional piloting skill, alertness, or strength.

(4) Failure conditions that are not shown to be extremely improbable must be demonstrated by analysis, ground testing, or flight testing. For failures demonstrated in flight, the following normal pilot recovery times are acceptable:

(i) Transition modes (Cruise-to-Hover/ Hover-to-Cruise) and Hover modes: Normal pilot recognition plus 1 second.

(ii) Cruise modes: Normal pilot recognition plus 3 seconds.

(5) All AFCS malfunctions must include evaluation at the low-speed and high-power flight conditions typical of SAR operations. Additionally, AFCS hard-over, slow-over, and oscillatory malfunctions, particularly in yaw, require evaluation. AFCS malfunction testing must include a single or a combination of failures (such as erroneous data from and loss of the radio altimeter, attitude, heading, and

altitude sensors) that are not shown to be extremely improbable.

(6) The flight demonstration must include the following environmental conditions:

(i) Swell into wind.

(ii) Swell and wind from different directions.

(iii) Cross swell.

(iv) Swell of different lengths (short and long swell).

(7) The flight demonstration must also evaluate OEI procedures from hover while hoisting an external load.

Issued in Fort Worth, Texas, on December 9, 2014.

**Lance T. Gant,**

*Acting Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.*

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## SUSQUEHANNA RIVER BASIN COMMISSION

### 18 CFR Part 806

#### Review and Approval of Projects

**AGENCY:** Susquehanna River Basin Commission.

**ACTION:** Final rule.

**SUMMARY:** This document contains final rules that would amend the regulations of the Susquehanna River Basin Commission (Commission) to clarify the water uses involved in hydrocarbon development that are subject to the consumptive use regulations, as implemented by the Approval by Rule (ABR) program.

**DATES:** Effective January 23, 2015.

**ADDRESSES:** Susquehanna River Basin Commission, 4423 N. Front Street, Harrisburg, PA 17110-1788.

**FOR FURTHER INFORMATION CONTACT:** Jason E. Oyler, Esq., Regulatory Counsel, telephone: 717-238-0423, ext. 1312; fax: 717-238-2436; email: [joyler@srbc.net](mailto:joyler@srbc.net). Also, for further information on the final rulemaking, visit the Commission's Web site at [www.srbc.net](http://www.srbc.net).

#### **SUPPLEMENTARY INFORMATION:**

#### **Comments and Responses to Proposed Rulemaking**

Notice of proposed rulemaking was published in the **Federal Register** on September 26, 2014 (79 FR 57850); the *New York Register* on October 1, 2014; the *Maryland Register* on October 3, 2014; and the *Pennsylvania Bulletin* on November 1, 2014. The Commission convened a public hearing on November 6, 2014, in Harrisburg, Pennsylvania and a written comment period was held open through November 17, 2014.

#### **General Comments**

*Comment:* The Commission received comments supportive of the changes in the terms and definitions noted in the Rulemaking. The changes are reflective of the nature of the industry and are plainly straightforward.

*Response:* The Commission appreciates the comments.

*Comment:* One commenter asked that the rulemaking not be adopted because the proposed changes restrict Commission oversight.

*Response:* The Commission disagrees and notes that the proposed regulations strengthen its program and clarify a greater scope of water uses by the hydrocarbon development industry subject to the Commission's ABR program.

*Comment:* The regulations should provide for an appeal by an impacted stakeholder before a permit is issued.

*Response:* The ABR process provides for a comment period during which stakeholders may raise issues of concern regarding a project before an approval is issued. This public comment period is not changed by the rulemaking. No changes to the Commission's rules related to hearings and administrative appeals were proposed and are beyond the scope of this rulemaking. Further, allowing an appeal of a Commission approval prior to the issuance of such an approval would run contrary to longstanding principles of administrative law.

#### **Comments by Section, Part 806**

##### *Section 806.3—Definitions*

*Comment:* Revise the definition of "construction" to include the pad sites, access roads, rights-of-way for pipelines and intake area clearings as such project activities affect the environment.

*Response:* The Commission's definition of construction is appropriate for regulation of the withdrawal and consumptive use of water and appropriate for the ABR program for the use of water by hydrocarbon development projects. The ABR program does not regulate all environmental impacts of hydrocarbon development, rather the environmental impacts to which the commenter refers are regulated by the appropriate member jurisdictions through various permitting programs, including erosion and sediment control and oil and gas management. The ABR Program supports the regulation of other aspects of hydrocarbon development projects by requiring in § 806.22(f)(7) that the project sponsor obtain all necessary permits or approvals required for the

project from other federal, state or local government agencies.

*Comment:* The term "drilling pad site" should be changed to "well pad site" because many of the activities that are regulated on the pad site go beyond just drilling.

*Response:* The term "drilling pad site" is currently used in the Commission's regulations, but was not defined. The term is used in several sections and subsections not subject to the proposed rulemaking. For this reason, the Commission declines to make this change in this final rule. However, the Commission believes the comment has merit and will consider it in a forthcoming comprehensive rulemaking that is currently under development.

*Comment:* In the definition of "hydrocarbon development project," the term "hydro-seeding" is used. It is recommended to use the term "hydroseeding or other revegetation activities" instead.

*Response:* The Commission agrees with the comment and has made the change in the final rule.

*Comment:* Language should be added clarifying that all water use on-site requires Commission approval.

*Response:* The definition of "hydrocarbon development project" contains language that covers all water-related activities and facilities on the drilling pad site, including activities and facilities associated with the production, maintenance, operation, closure, plugging and restoration of wells or drilling pad sites that would require consumptive water usage. The use of water for these activities will be subject to Commission approval through the ABR program.

*Comment:* The Commission is to be applauded for revising its definitions to include water used not only for well development and drilling, but also for infrastructure.

*Response:* The Commission appreciates the comment. The final rule retains the language extending the ABR approvals to specific water uses off the drilling pad site, which are water used for hydro-seeding or other revegetation activities, dust suppression, and hydro-excavation of access roads and underground lines, as well as tank cleanings, related to a drilling pad site or centralized impoundments.

*Comment:* The Commission should extend its review to beyond the well pad.

*Response:* The definition of "hydrocarbon development project" includes specified facilities and activities off the drilling pad site as noted in the prior response.