

authorize access to or disclosure of any suspicious activity report (SAR), or any information that would reveal the existence of a SAR, except as necessary to fulfill official duties consistent with Title II of the Bank Secrecy Act. For purposes of this part, “official duties” shall not include the disclosure of a SAR, or any information that would reveal the existence of a SAR, in response to a request for disclosure of nonpublic information or a request for use in a private legal proceeding, including a request pursuant to this section.

(b) *Requests in connection with litigation.* Except as provided in §§ 261.21 and 261.22,

(1) In connection with any proposed use of confidential supervisory information in litigation before a court, board, commission, agency, or arbitration, any person who:

(i) Seeks access to confidential supervisory information from the Board or a Reserve Bank (including the testimony of present or former Board or Reserve Bank employees on matters involving confidential supervisory information, whether by deposition or otherwise);

(ii) Seeks to use confidential supervisory information in its possession or to disclose such information to another party; or

(iii) Seeks to require a person to disclose confidential supervisory information to a party, shall file a written request with the General Counsel.

(2) The request shall include:

(i) The judicial or administrative action, including the case number and court or adjudicative body and a copy of the complaint or other pleading setting forth the assertions in the case;

(ii) A description of any prior judicial or other decisions or pending motions in the case that may bear on the asserted relevance of the requested information;

(iii) A narrow and specific description of the confidential supervisory information the requester seeks to access or to disclose for use in the litigation including, whenever possible, the specific documents the requester seeks to access or disclose;

(iv) The relevance of the confidential supervisory information to the issues or matters raised by the litigation;

(v) The reason why the information sought, or equivalent information adequate to the needs of the case, cannot be obtained from any other source; and

(vi) A commitment to obtain a protective order acceptable to the Board from the judicial or administrative tribunal hearing the action preserving

the confidentiality of any information that is provided.

(3) In the case of requests covered by paragraph (b)(1)(ii) of this section, the Board may require the party to whom disclosure would ultimately be made to substantiate its need for the information prior to acting on any request.

(c) *All other requests.* Any other person seeking to access, use, or disclose confidential supervisory information for any other purpose shall file a written request with the General Counsel. A request under this paragraph (c) shall describe the purpose for which access, use, or disclosure is sought and the requester shall provide other information as requested by the General Counsel.

(d) *Action on request—(1) Determination of approval.* The General Counsel may approve a request made under this section provided that he or she determines that:

(i) The person seeking access, or the person to whom access would be provided, has shown a substantial need to access confidential supervisory information that outweighs the need to maintain confidentiality; and

(ii) Approval is consistent with the supervisory and regulatory responsibilities and policies of the Board.

(2) *Conditions or limitations.* The General Counsel may, in approving a request, impose such conditions or limitations on use of any information disclosed as is deemed necessary to protect the confidentiality of the Board’s information.

(e) *Exhaustion of administrative remedies for discovery purposes in civil, criminal, or administrative action.*

Action on a request under this section by the General Counsel is necessary in order to exhaust administrative remedies for discovery purposes in any civil, criminal, or administrative proceeding. A request made pursuant to § 261.11 of this regulation does not exhaust administrative remedies for discovery purposes. Therefore, it is not necessary to file a request pursuant to § 261.11 to exhaust administrative remedies under this section.

**§ 261.24 Subpoenas, orders compelling production, and other process.**

(a) Any person (including any officer, employee, or agent of the Board or any Reserve Bank) who is served with a subpoena, order, or other judicial or administrative process requiring the production of confidential supervisory information or other nonpublic information of the Board or requiring the person’s testimony regarding such

Board information in any proceeding, shall:

(1) Promptly inform the Board’s General Counsel of the service and all relevant facts, including the documents, information or testimony demanded, and any facts relevant to the Board in determining whether the material requested should be made available;

(2) Inform the entity issuing the process of the substance of these rules and, in particular, of the obligation to follow the request procedures in § 261.23(b); and

(3) At the appropriate time inform the court or tribunal that issued the process of the substance of these rules.

(b) Unless authorized by the Board or as ordered by a federal court in a judicial proceeding in which the Board has had the opportunity to appear and oppose discovery, any person who is required to respond to a subpoena or other legal process concerning Board confidential supervisory information or other non-public Board information shall attend at the time and place required and respectfully decline to disclose or to give any testimony with respect to the information, basing such refusal upon the provisions of this regulation. If the court or other body orders the disclosure of the information or the giving of testimony, the person having the information shall continue to decline to disclose the information and shall promptly report the facts to the Board for such action as the Board may deem appropriate.

(c) A litigant or non-party who is served with a civil request for production of documents calling for production of confidential supervisory information should proceed under § 261.23 rather than this section.

By order of the Board of Governors of the Federal Reserve System, June 10, 2019.

**Ann Misback,**  
*Secretary of the Board.*

[FR Doc. 2019–12524 Filed 6–14–19; 8:45 am]

**BILLING CODE P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. FAA–2019–0441; Product Identifier 2019–NM–036–AD]

RIN 2120–AA64

**Airworthiness Directives; Airbus SAS Airplanes**

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to supersede Airworthiness Directive (AD) 2000–03–20 R1, which applies to all Airbus SAS Model A300 B4–601, B4–603, and B4–620, Model A300 B4–600R series, and Model A300 F4–605R airplanes. AD 2000–03–20 R1 requires repetitive ultrasonic inspections to detect cracks on the forward fittings in the radius of a certain frame, adjacent to the tension bolts in the center section of the wings, and various follow-on actions. Since we issued AD 2000–03–20 R1, we have determined that the existing compliance times must be reduced. This proposed AD would retain the requirements of AD 2000–03–20 R1, add new airplanes to the applicability, and introduce new compliance times for the required inspections as specified in a European Aviation Safety Agency (EASA) AD, which will be incorporated by reference. We are proposing this AD to address the unsafe condition on these products.

**DATES:** We must receive comments on this proposed AD by August 1, 2019.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For the material identified in this proposed AD that will be incorporated by reference (IBR), contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 1000; email [ADS@easa.europa.eu](mailto:ADS@easa.europa.eu); internet [www.easa.europa.eu](http://www.easa.europa.eu). You may find this IBR material on the EASA website at <https://ad.easa.europa.eu>. You may view this IBR material at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at <http://www.regulations.gov>.

### Examining the AD Docket

You may examine the AD docket on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA–2019–0441; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Dan Rodina, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3225.

### SUPPLEMENTARY INFORMATION:

#### Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include “Docket No. FAA–2019–0441; Product Identifier 2019–NM–036–AD” at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM based on those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this NPRM.

#### Discussion

We issued AD 2000–03–20 R1, Amendment 39–12298 (66 FR 34530, June 29, 2001) (“AD 2000–03–20 R1”), for all Airbus SAS Model A300 B4–601, B4–603, and B4–620, Model A300 B4–600R series, and Model A300 F4–605R airplanes. AD 2000–03–20 R1 requires repetitive ultrasonic inspections to detect cracks on the forward fittings in the radius of frame 40, adjacent to the tension bolts in the center section of the wings, and various follow-on actions. AD 2000–03–20 R1 resulted from reports of cracking due to fatigue-related stress in the radius of frame 40 adjacent to the tension bolts at the center/outer wing junction. We issued AD 2000–03–20 R1 to address fatigue cracking on the forward fittings in the radius of frame 40 adjacent to the tension bolts in the center section of the wings, which could

result in reduced structural integrity of the wings.

#### Actions Since AD 2000–03–20 R1 Was Issued

Since we issued AD 2000–03–20 R1, we have determined that the existing compliance times must be reduced.

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0044, dated March 7, 2019 (“EASA AD 2019–0044”) (also referred to as the Mandatory Continuing Airworthiness Information, or “the MCAI”), to correct an unsafe condition for certain Airbus SAS Model A300 B4–600 series, Model A300 B4–600R series, Model A300 F4–605R, and Model A300 C4–605R Variant F airplanes. The MCAI states:

During sampling inspection on A300 fleet, cracks were reported in the radius of frame (FR) 40, adjacent to the tension bolts at the centre wing/outer wing.

This condition, if not detected and corrected, could lead to a reduction of the residual strength of the structure and lead to extensive repairs.

Prompted by these findings and to address this potential unsafe condition on A300–600 fleet, Airbus issued [service bulletin] SB A300–57–6062 to provide inspection instructions. Consequently, [Direction Generale de l’Aviation Civile] DGAC France published AD 95–063–177 [which corresponds to FAA AD 2000–03–20 R1] for A300–600 aeroplanes (except A300F4–622R), followed by AD 98–040–012 for A300–600ST aeroplanes (both ADs later revised) to require initial and repetitive ultrasonic test (UT) and high-frequency eddy current (HFEC) inspections and, depending on findings, accomplishment of applicable corrective action(s). Depending on a crack finding, Airbus SB A300–57–6062 instructs to accomplish a repair per SB A300–57–6084 to restore FR40 strength capability. That SB does not apply to A300–600ST aeroplanes.

Since DGAC France AD 1998–040–012(B) R1 and AD F–1995–063–177 R5 (EASA approval 2003–662) were issued, material data used in the frame of fatigue and damage tolerance analysis have been changed. It was determined that the existing threshold and interval values must be reduced.

Consequently, Airbus revised SB A300–57–6062 to Revision 05 to take into account the new thresholds and intervals. Airbus also issued SB A300–57–9036, specifically for A300–600ST aeroplanes.

For the reasons described above, this [EASA] AD retains the requirements of DGAC France AD 1998–040–012(B) R1 and AD F–1995–063–177 R5, which are superseded, and introduces new thresholds and intervals for the required inspections [and adds Model A300 B4–622 and A300 C4–605 R Variant F airplanes to the applicability].

The initial compliance time for airplanes on which Airbus Service Bulletin A300–57–6048 has not been embodied is before 7,600 total flight

cycles. The initial compliance time for airplanes on which Airbus Service Bulletin A300–57–6048 has been embodied is before 11,100 total flight cycles.

*Explanation of Retained Requirements*

Although this proposed AD does not explicitly restate the requirements of AD 2000–03–20 R1, this proposed AD would retain all of the requirements of AD 2000–03–20 R1. Those requirements are referenced in EASA AD 2019–0044, which, in turn, is referenced in paragraph (g) of this proposed AD.

*Explanation of Change to Credit Service Information*

Note 2 of AD 2000–03–20 R1 provides credit for inspections accomplished using Airbus Service Bulletin A300–57–6062, Revision 1, dated July 23, 1995. However, EASA AD 2019–0044 does not include credit for Airbus Service Bulletin A300–57–6062, Revision 1, dated July 23, 1995. Therefore, this proposed AD would not include that credit.

*Related IBR Material Under 1 CFR Part 51*

EASA AD 2019–0044 describes procedures for initial and repetitive UT and HFEC inspections and applicable corrective actions. Corrective actions

include reworking the fuselage lateral panel at frame 40, blending out around cracks, and repair. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

**FAA’s Determination and Requirements of This Proposed AD**

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

*Proposed Requirements of this NPRM*

This proposed AD would require accomplishing the actions specified in EASA AD 2019–0044 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD. This proposed AD also adds Model A300 B4–622 and A300 C4–605 R Variant F

airplanes to the applicability. This proposed AD also would require sending the inspection results to Airbus.

*Explanation of Required Compliance Information*

In the FAA’s ongoing efforts to improve the efficiency of the AD process, the FAA worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. As a result, EASA AD 2019–0044 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with the provisions specified in EASA AD 2019–0044, except for any differences identified as exceptions in the regulatory text of this proposed AD. Service information specified in EASA AD 2019–0044 that is required for compliance with EASA AD 2019–0044 will be available on the internet <http://www.regulations.gov> by searching for and locating Docket No. FAA–2019–0441 after the FAA final rule is published.

**Costs of Compliance**

We estimate that this proposed AD affects 65 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

**ESTIMATED COSTS FOR REQUIRED ACTIONS \***

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2000–03–20 R1 ....	2 work-hours × \$85 per hour = \$170 .....	\$0	\$170	\$11,050
New proposed actions .....	161 work-hours × \$85 per hour = \$13,685 ....	0	13,685	889,525

\* Table does not include estimated costs for reporting.

We estimate that it would take about 1 work-hour per product to comply with the proposed reporting requirement in this proposed AD. The average labor rate is \$85 per hour. Based on these figures, we estimate the cost of reporting the inspection results on U.S. operators to be \$5,525, or \$85 per product.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this proposed AD.

**Paperwork Reduction Act**

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control

number for the collection of information required by this NPRM is 2120–0056. The paperwork cost associated with this NPRM has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this NPRM is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at 800 Independence Ave. SW, Washington, DC 20591, ATTN: Information Collection Clearance Officer, AES–200.

**Authority for This Rulemaking**

Title 49 of the United States Code specifies the FAA’s authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII:

Aviation Programs, describes in more detail the scope of the Agency’s authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: “General requirements.” Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

This proposed AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance

with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes and associated appliances to the Director of the System Oversight Division.

### Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a “significant regulatory action” under Executive Order 12866;
2. Will not affect intrastate aviation in Alaska; and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

### The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

### PART 39—AIRWORTHINESS DIRECTIVES

- 1. The authority citation for part 39 continues to read as follows:

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

#### § 39.13 [Amended]

- 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2000–03–20 R1, Amendment 39–12298 (66 FR 34530, June 29, 2001), and adding the following new AD:

**Airbus SAS:** Docket No. FAA–2019–0441; Product Identifier 2019–NM–036–AD.

#### (a) Comments Due Date

We must receive comments by August 1, 2019.

#### (b) Affected ADs

This AD replaces AD 2000–03–20 R1, Amendment 39–12298 (66 FR 34530, June 29, 2001) (“AD 2000–03–20 R1”).

### (c) Applicability

This AD applies to Airbus SAS airplanes identified in paragraphs (c)(1), (c)(2), (c)(3), and (c)(4) of this AD, certificated in any category, as identified in European Aviation Safety Agency (EASA) 2019–0044, dated March 7, 2019 (“EASA AD 2019–0044”).

(1) Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes.

(2) Model A300 B4–605R and B4–622R airplanes.

(3) Model A300 F4–605R airplanes.

(4) Model A300 C4–605R Variant F airplanes.

### (d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

### (e) Reason

This AD was prompted by reports of cracking due to fatigue-related stress in the radius of frame 40, adjacent to the tension bolts at the center/outer wing junction. We are issuing this AD to address fatigue cracking on the forward fittings in the radius of frame 40, adjacent to the tension bolts in the center section of the wings, which could result in reduced structural integrity of the wings.

### (f) Compliance

Comply with this AD within the compliance times specified, unless already done.

### (g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2019–0044.

### (h) Exceptions to EASA AD 2019–0044

(1) For purposes of determining compliance with the requirements of this AD: Where EASA AD 2019–0044 refers to its effective date, this AD requires using the effective date of this AD.

(2) The “Remarks” section of EASA AD 2019–0044 does not apply to this AD.

(3) Paragraph (5) of EASA AD 2019–0044 specifies to report all inspection results to Airbus. For this AD, report all inspection results to Airbus Service Bulletin Reporting Online Application on Airbus World (<https://w3.airbus.com/>) at the applicable time specified in paragraph (h)(3)(i) or (h)(3)(ii) of this AD.

(i) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(ii) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

(4) For Model A300 B4–622 and A300 C4–605 R Variant F airplanes: The initial compliance time for the inspections required by EASA AD 2019–0044 is at the applicable time specified in EASA AD 2019–0044, or within 12 months after the effective date of this AD, whichever occurs later.

### (i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (j)(2) of this AD. Information may be emailed to: [9-ANM-116-AMOC-REQUESTS@faa.gov](mailto:9-ANM-116-AMOC-REQUESTS@faa.gov).

(i) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(ii) AMOCs approved previously for AD 2000–03–20 R1 are approved as AMOCs for the corresponding provisions of EASA AD 2019–0044 that are required by paragraph (g) of this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or EASA; or Airbus SAS’s EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* For any service information referenced in EASA AD 2019–0044 that contains RC procedures and tests: Except as required by paragraph (i)(2) of this AD, RC procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator’s maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(4) *Paperwork Reduction Act Burden Statement:* A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 1 hour per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW, Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

**(j) Related Information**

(1) For information about EASA AD 2019-0044, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 6017; email [ADs@easa.europa.eu](mailto:ADs@easa.europa.eu); Internet [www.easa.europa.eu](http://www.easa.europa.eu). You may find this EASA AD on the EASA website at <https://ad.easa.europa.eu>. You may view this EASA AD at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. EASA AD 2019-0044 may be found in the AD docket on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2019-0441.

(2) For more information about this AD, contact Dan Rodina, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206-231-3225.

Issued in Des Moines, Washington, on June 10, 2019.

**Michael Kaszycki,**

*Acting Director, System Oversight Division, Aircraft Certification Service.*

[FR Doc. 2019-12664 Filed 6-14-19; 8:45 am]

**BILLING CODE 4910-13-P**

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG-2018-0956]

RIN 1625-AA09

#### Drawbridge Operation Regulations; Tensaw River, Hurricane, AL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to change the operating schedule that governs the CSX Railroad swing bridge across the Tensaw River mile 15.0, Hurricane, Baldwin County, AL. The bridge owner, CSX Transportation, submitted a request to allow the bridge to require a ten-hours-notice for bridge openings because there are infrequent bridge openings. This proposal would remove the drawbridge tender during daylight hours.

**DATES:** Comments and related material must be received by the Coast Guard on or before July 17, 2019.

**ADDRESSES:** You may submit comments identified by docket number USCG-2018-0956 using Federal eRulemaking Portal at <http://www.regulations.gov>. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section for

further instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, call or email Mr. Doug Blakemore, Eighth Coast Guard District Bridge Administrator; telephone (504) 671-2128, email [Douglas.A.Blakemore@uscg.mil](mailto:Douglas.A.Blakemore@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

CFR	Code of Federal Regulations
CSX	CSX Railroad
DHS	Department of Homeland Security
E.O.	Executive Order
FR	Federal Register
OMB	Office of Management and Budget
Pub. L.	Public Law
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

##### II. Background, Purpose and Legal Basis

CSX has requested to change the operating requirements for the CSX railroad bridge across the Tensaw River mile 15.0, Hurricane, Baldwin County, Alabama. This bridge currently opens according to 33 CFR part 117.113 and opens on signal; except that, from 5 p.m. to 9 a.m. the draw shall open on signal if at least eight-hours-notice is given. CSX has requested that the bridge open on signal if at least ten-hours-notice is given at all times.

This bridge spans the Tensaw River that is currently used by small recreational boats, house boats, and a tour boat. The bridge has a vertical clearance of 11 feet above mean high water in the closed to vessel position and unlimited vertical clearance in the open to vessel traffic position. There are few vessel movements through this bridge. From July 2017 through February 2018 the bridge opened 52 times for vessel passage. This equates to less than 7 times each month. Of these openings 38 were made for recreational vessels, 16 were made for a tour boat, 6 were made for house boats, and 2 were made for local law enforcement vessels.

This change would allow CSX to align bridge tender operations with daylight and night time hours and provide for the reasonable needs of navigation.

The Coast Guard is issuing this NPRM under authority 33 U.S.C. 499.

##### III. Discussion of Comments and Change

The Coast Guard's decision to promulgate a drawbridge regulation depends primarily upon the effect of the proposed rule on navigation to assure that the rule provides for the reasonable needs of navigation after consideration

of the rule on the impact to the public. The Coast Guard must ensure that bridges across navigable waters do not unreasonably obstruct waterway traffic and at the same time provide for the reasonable needs of land traffic. Drawbridge operations must balance the needs of vessel, vehicle, rail, pedestrian and recreational traffic in the overall public interest.

Based on the infrequent times that this bridge has opened for vessel traffic over eight months this proposed rule reasonably accommodates waterway users while reducing CSX's burden in operating the bridges. We have not identified any impacts on marine navigation with this proposed rule.

##### IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on these statutes and Executive orders and we discuss First Amendment rights of protestors.

###### A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This NPRM has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB) and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the fact that vessels can still open the draw and transit if advance notice is provided. Those vessels with a vertical clearance requirement of less than 11 feet above mean high water may transit the bridge at any time, and the bridge will open in case of emergency at any time. We believe this proposed change to the drawbridge operation regulations at 33 CFR 117.113 will meet the reasonable needs of navigation.

###### B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601-612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their