

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### 14 CFR Part 1204

[Document Number NASA–21–052; Docket Number–NASA–2021–0004]

RIN 2700–AE53

#### Use of NASA Airfield Facilities by Aircraft Not Operated for the Benefit of the Federal Government

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Direct final rule.

**SUMMARY:** This direct final rule makes non-substantive changes to update the list of available airport facilities.

**DATES:** This direct final rule is effective on November 9, 2021. Comments due on or before October 12, 2021. If adverse comments are received, NASA will publish a timely withdrawal of the rule in the **Federal Register**.

**ADDRESSES:** Comments must be identified with RINs 2700–AE53 and may be sent to NASA via the *Federal E-Rulemaking Portal*: <http://www.regulations.gov>. Follow the online instructions for submitting comments. Please note that NASA will post all comments on the internet with changes, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Daniela Cruzado, 202–358–1173.

#### SUPPLEMENTARY INFORMATION:

#### Direct Final Rule and Significant Adverse Comments

NASA has determined this rulemaking meets the criteria for a direct final rule because it makes non-substantive changes to provide updated available NASA airfield facilities. No opposition to the changes and no significant adverse comments are expected. However, if NASA receives significant adverse comments, it will withdraw this direct final rule by publishing a notification in the **Federal Register**. A significant adverse comment is one that explains: (1) Why the direct final rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the direct final rule will be ineffective or unacceptable without a change. In determining whether a comment necessitates withdrawal of this direct final rule, NASA will consider whether it warrants a substantive response in a notice and comment process.

#### Background

Subpart 14 of part 1204, promulgated July 29, 1991 [56 FR 35812], establishes

the responsibilities, conditions, and procedures for the use of NASA airfield facilities by aircrafts not operated for the benefit of the Federal Government. Sections 1204.1401, 1204.1403, 1204.1404, and 1204.1405 will be amended to update the list of available NASA airfield facilities.

#### Statutory Authority

The National Aeronautics and Space Act (the Space Act), 51 U.S.C. 20113 (a), authorizes the Administrator of NASA to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of its operations and the exercise of the powers vested in it by law.

#### Regulatory Analysis

*Executive Order 12866, Regulatory Planning and Review and Executive Order 13563, Improvement Regulation and Regulation Review*

Executive Orders (E.O.) 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated as “not significant” under section 3(f) of E.O. 12866.

#### Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to prepare an initial regulatory flexibility analysis to be published at the time the proposed rule is published. This requirement does not apply if the agency “certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities” (5 U.S.C. 603). This rule removes one section from title 14 of the CFR and, therefore, does not have a significant economic impact on a substantial number of small entities.

#### Review Under the Paperwork Reduction Act

This direct final rule does not contain any information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### Review Under E.O. 13132

E.O. 13132, “Federalism,” 64 FR 43255 (August 4, 1999), requires regulations to be reviewed for

federalism effects on the institutional interest of states and local governments, and, if the effects are sufficiently substantial, preparation of the Federal assessment is required to assist senior policy makers. The amendments will not have any substantial direct effects on state and local governments within the meaning of the E.O.. Therefore, no federalism assessment is required.

#### List of Subjects in 14 CFR Part 1204

Administrative practice and procedure, Airports, Authority delegations (Government agencies), Federal buildings and facilities, Government contracts, Government procurement, Intergovernmental relations, Security measures, Small businesses.

Accordingly, under the authority of the National Aeronautics and Space Act, as amended, 51 U.S.C. 20113, NASA amends 14 CFR part 1204 as follows:

#### PART 1204—ADMINISTRATIVE AUTHORITY AND POLICY

##### Subpart 14—Use of NASA Airfield Facilities by Aircraft Not Operated for the Benefit of the Federal Government

■ 1. This authority citation for part 1204, subpart 14, continues to read as follows:

**Authority:** 42 U.S.C. 2473(c)(1).

■ 2. Amend § 1204.1401 by:

■ a. Removing and reserving paragraphs (a)(1), (3), and (4);

■ b. Redesignating paragraphs (b) through (g) as paragraph (c) through (h); and

■ c. Adding new paragraph (b).

The addition reads as follows:

#### § 1204.1401 Definitions.

\* \* \* \* \*

(b) *NASA owned but non-NASA operated airfield facility.* Those aeronautical facilities owned by NASA but not operated by NASA that consist of the following:

(1) *Shuttle Landing Facility (SLF).* The aeronautical facility which is a part of the John F. Kennedy Space Center (KSC), Kennedy Space Center, Florida, and is located at 80°41′ west longitude and 28°37′ north latitude.

(2) *Moffett Federal Airfield (MFA).* The aeronautical facility which is part of the Ames Research Center, Moffett Field, California, and is located at 122°03′ west longitude and 37°25′ north latitude.

\* \* \* \* \*

■ 3. Amend § 1204.1403 by:

■ a. Removing and reserving paragraphs (a), (c), and (d); and

- b. Revising paragraphs (e) and (f).  
The revisions read as follows:

**§ 1204.1403 Available airport facilities.**

\* \* \* \* \*

(e) *NASA owned but non-NASA operated airfields.* (1) Shuttle Landing Facility (SLF) may be made available on an individual emergency basis to a user with prior permission from the airfield operator.

(2) Moffett Federal Airfield (MFA) may be made available on an individual emergency basis to a user with prior permission from the airfield operator.

(3) No facilities or services other than those described in this section are available except on an individual prior permission or emergency basis to any user.

(f) *Status of facilities.* Changes to the status of the KSC, WFF, and MFA facilities will be published in appropriate current FAA or Department of Defense (DOD) aeronautical publications.

**§ 1204.1404 [Amended]**

■ 4. Amend § 1204.1404 by removing and reserving paragraphs (a)(1) and (3).

■ 5. Amend § 1204.1405 by revising paragraph (c) to read as follows:

**§ 1204.1405 Approving authority.**

\* \* \* \* \*

(c) *Moffett Federal Airfield.* Chief, Airfield Management Office, Ames Research Center, NASA.

**Nanette Smith,**

*Team Lead, NASA Directives and Regulations.*

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**TENNESSEE VALLEY AUTHORITY**

**18 CFR Part 1304**

**RIN 3316-AA24**

**Floating Cabins**

**AGENCY:** Tennessee Valley Authority.

**ACTION:** Final rule.

**SUMMARY:** The Tennessee Valley Authority (TVA) is publishing a final rule to amend its regulations that govern floating cabins located on the Tennessee River System. The unrestrained mooring of floating cabins on the Tennessee River System, if left unaddressed, would pose unacceptable risks to navigation, safety, the environment, and public lands. These amendments provide health, safety, and environmental standards as well as establish permitting standards with regard to rebuilding, modifying, or combining floating cabins.

**DATES:** This final rule is effective October 12, 2021.

**FOR FURTHER INFORMATION CONTACT:**

David B. Harrell, 865-632-1327, Email: [dbharrell@tva.gov](mailto:dbharrell@tva.gov) or [fc@tva.gov](mailto:fc@tva.gov), Mail address: Tennessee Valley Authority, 400 West Summit Hill Drive, WT 11A-K, Knoxville, TN 37902.

**SUPPLEMENTARY INFORMATION:**

**Legal Authority**

This final rule is promulgated under the authority of the TVA Act, as amended, 16 U.S.C. 831-831ee, Title V of the Independent Offices Appropriations Act of 1955, 31 U.S.C. 9701, and OMB Circular No. A-25. Under Section 26a of the TVA Act, no obstructions affecting navigation, flood control, or public lands or reservations shall be constructed, operated, or maintained across, along, or in the Tennessee River System without TVA's approval. Nonnavigable structures, such as floating cabins, are obstructions that require TVA's approval. In addition, Section 9b of the TVA Act provides that TVA may require floating cabins to be maintained by the owner to reasonable health, safety, and environmental standards. Section 9b also authorizes TVA to levy fees on floating cabin owners as necessary and reasonable to ensure compliance.

**Background**

TVA is a multi-purpose federal agency that has been charged by Congress with promoting the wise use and conservation of the resources of the Tennessee Valley region, including the Tennessee River System. In carrying out this mission, TVA operates a system of dams and reservoirs on the Tennessee River and its tributaries for the purposes of navigation, flood control, and power production. Consistent with its mission, TVA also uses the system to improve water quality and water supply and to provide a wide range of public benefits, including recreation and natural resource stewardship.

To promote the unified development and regulation of the Tennessee River System, Congress directed TVA to approve obstructions across, along, or in the river system under Section 26a of the TVA Act. "Obstruction" is a broad term that includes, by way of example, boat docks, piers, boathouses, buoys, floats, boat launching ramps, fills, water intakes, devices for discharging effluents, bridges, aerial cables, culverts, pipelines, fish attractors, shoreline stabilization projects, channel excavations, and floating cabins. TVA also owns, as agent for the United States, much of the shoreland and

inundated land along and under its reservoir system.

Since 1971, pursuant to Section 26a, TVA has prohibited the mooring on the Tennessee River System of new floating cabins (formerly nonnavigable houseboats) that are designed and used primarily for human habitation or occupation and not for transportation on the water. In particular, TVA amended its regulations in 1971 to prohibit the mooring or anchoring of new nonnavigable houseboats except those in existence before November 21, 1971. Criteria were established then to identify when a houseboat was considered "navigable" and the conditions under which existing nonnavigable houseboats would be allowed to remain. These criteria were characteristics that TVA determined were indicative of real watercraft; *i.e.*, boats or vessels that are designed and used primarily to traverse water. In 1978, TVA reiterated the prohibited mooring of nonnavigable houseboats on the Tennessee River System except for those in existence on or before February 15, 1978.

Despite over 40 years of Section 26a regulations related to floating cabins, the number of floating cabins on the Tennessee River System continued to increase. In determining what action to take with respect to floating cabins, TVA prepared an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act. This EIS assessed the environmental and socioeconomic impacts of different policies to address the proliferation of floating cabins on the Tennessee River System. TVA released a draft of this EIS for public comment in June 2015 and held four public meetings and a webinar to provide information about its analyses and to facilitate public involvement. Public reaction to this situation varied widely.

Many members of the general public urged TVA to require the removal of all floating cabins since TVA's reservoirs are public resources and owners of floating cabins are occupying public areas. Owners of floating cabins generally supported additional reasonable regulation of their structures but argued against policies requiring their removal because of the investments they have made in the structures. Other commenters had concerns about discharges of blackwater (sewage) and graywater (showers, sinks, etc.) from floating cabins and shock and electrocution risks associated with the electrical connections to floating cabins. Commenting agencies consistently supported better regulation of floating cabins. The final EIS and associated