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enforce any law, rule, regulations, standard, or other provision having the force and effect of law relating to rates, routes, or services of any air carrier having authority under Title IV of the Act to provide interstate air transportation.

(b) Except with respect to air transportation (other than charter air transportation) provided pursuant to a certificate issued by the Board under section 401 of the Act, the provisions of paragraph (a) shall not apply to any transportation by air of persons, property, or mail conducted wholly within the State of Alaska.

(c) Except for air transportation conducted wholly within the State of Alaska, any air carrier holding an effective certificate of public convenience and necessity issued pursuant to section 401 or 418 of the Act, an exemption from those sections pursuant to part 298 of this chapter, or any other authority under Title IV of the Act to provide interstate air transportation qualifies as a federally authorized carrier for purposes of the preemption of State regulation under this subpart.

(d) Examples of regulatory actions preempted under this section include, but are not limited to, tariff filing, certification, regulations governing flight frequency, mode of operation, in-flight amenities, liability, insurance, bonding, and capitalization.

(e) [Reserved]

(f) This subpart shall not limit the authority of any State or political subdivision thereof or any interstate agency or other political agency of two or more States, as the owner or operator of any airport served by any air carrier certificated by the Board, to exercise its proprietary powers and rights, when such exercise is reasonable, nondiscriminatory, nonburdensome to interstate commerce, and de-

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signed to accomplish a legitimate State objective in a manner that does not conflict with the provisions and policies of the Act.

[PS-83, 44 FR 9951, Feb. 15, 1979, as amended by Docket No. 47939, 57 FR 40106, Sept. 2, 1992]

§ 399.111 All operations of federally authorized carriers to be regulated by the Board.

(a) All operations of Federally authorized carriers are subject to the requirements of Title IV of the Act, including certification and tariff-filing requirements, unless otherwise exempted from one or more of those requirements by Board order or regulation.

(b) When any intrastate air carrier that in August 1, 1977, was operating primarily in intrastate air transportation regulated by a State receives the authority to provide interstate air transportation, any authority received from such State shall be considered to be part of its authority to provide air transportation received from the Board under Title IV of the Act, until suspended, amended, or terminated as provided under such title.

Subpart K—Policies Relating to Certificate Duration

§ 399.120 Duration of certificates in limited-entry markets.

All certificate authority that the Department grants to U.S. air carriers in carrier selection proceedings will be awarded in the form of experimental certificates of five years' duration pursuant to section 401(d)(8) of the Federal Aviation Act. This provision does not alter or amend permanent certificates issued prior to January 1, 1985.

[Doc. No. 43403, 51 FR 43188, Dec. 1, 1986]

CHAPTER III—COMMERCIAL SPACE
TRANSPORTATION, FEDERAL AVIATION
ADMINISTRATION, DEPARTMENT OF
TRANSPORTATION

(Parts 400 to 499)

SUBCHAPTER A—GENERAL

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SUBCHAPTER A—GENERAL

PART 400—BASIS AND SCOPE

Sec.

400.1 Basis.

400.2 Scope.

AUTHORITY: Secs. 3, 6, 13, & 21, Pub. L. 98-575 (49 U.S.C. App. 2601 note).

SOURCE: 53 FR 11013, Apr. 4, 1988, unless otherwise noted.

§ 400.1 Basis.

The basis for the regulations in this chapter is the Commercial Space Launch Act of 1984, and applicable treaties and international agreements to which the United States is party.

§ 400.2 Scope.

These regulations set forth the procedures and requirements applicable to the authorization and supervision of all space launch activities conducted from United States territory or by United States citizens. The regulations in this chapter do not apply to amateur rocket activities or to space activities carried out by the United States Government on behalf of the United States Government.

PART 401—ORGANIZATION AND DEFINITIONS

Sec.

401.1 The Office of Commercial Space Transportation.

401.3 The Director of Commercial Space Transportation.

401.5 Definitions.

AUTHORITY: 49 U.S.C. 70102.

SOURCE: 53 FR 11013, Apr. 4, 1988, unless otherwise noted.

§ 401.1 The Office of Commercial Space Transportation.

The Office of Commercial Space Transportation, referred to in these regulations as the "Office," is a unit within the Office of the Secretary of Transportation and is located in the Department of Transportation Headquarters, 400 Seventh Street, SW., Washington, DC 20590.

§ 401.3 The Director of Commercial Space Transportation.

The Office is headed by a Director appointed by the Secretary of Transportation to exercise the Secretary's authority to license and otherwise regulate commercial space launch activities and to discharge the Secretary's responsibility to encourage, facilitate and promote commercial space launches by the United States private sector.

§ 401.5 Definitions.

As used in this chapter—

Act means 49 U.S.C. Subtitle IX, Commercial Space Transportation, ch. 701—Commercial Space Launch Activities, 49 U.S.C. 70101-70121.

Amateur rocket activities means launch activities conducted at private sites involving rockets powered by a motor or motors having a total impulse of 200,000 pound-seconds or less and a total burning or operating time of less than 15 seconds, and a rocket having a ballistic coefficient—i.e., gross weight in pounds divided by frontal area of rocket vehicle—less than 12 pounds per square inch.

Associate Administrator means the Associate Administrator for Commercial Space Transportation, Federal Aviation Administration, or any person designated by the Associate Administrator to exercise the authority or discharge the responsibilities of the Associate Administrator.

Federal launch range means a launch site, from which launches routinely take place, that is owned and operated by the government of the United States.

Hazardous materials means hazardous materials as defined in 49 CFR 172.101.

Launch means to place or try to place a launch vehicle or reentry vehicle and any payload from Earth in a suborbital trajectory, in Earth orbit in outer space, or otherwise in outer space, and includes activities involved in the preparation of a launch vehicle for flight, when those activities take place at a launch site in the United States. The term launch includes the

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flight of a launch vehicle and pre-flight ground operations beginning with the arrival of a launch vehicle or payload at a U.S. launch site. Flight ends after the licensee's last exercise of control over its launch vehicle.

Launch accident means an unplanned event occurring during the flight of a launch vehicle resulting in the known impact of a launch vehicle, its payload or any component thereof outside designated impact limit lines; or a fatality or serious injury (as defined in 49 CFR 830.2) to any person who is not associated with the flight; or any damage estimated to exceed \$25,000 to property not associated with the flight that is not located at the launch site or designated recovery area.

Launch incident means an unplanned event occurring during the flight of a launch vehicle, other than a launch accident, involving a malfunction of a flight safety system or failure of the licensee's safety organization, design or operations.

Launch operator means a person who conducts or who will conduct the launch of a launch vehicle and any payload.

Launch site means the location on Earth from which a launch takes place (as defined in a license the Secretary issues or transfers under this chapter) and necessary facilities at that location.

Launch vehicle means a vehicle built to operate in, or place a payload in, outer space or a suborbital rocket.

Mishap means a launch accident, a launch incident, failure to complete a launch as planned, or an unplanned event or series of events resulting in a fatality or serious injury (as defined in 49 CFR 830.2) or resulting in greater than \$25,000 worth of damage to a payload, a launch vehicle, a launch support facility or government property located on the launch site.

Operation of a launch site means the conduct of approved safety operations at a permanent site to support the launching of vehicles and payloads.

Payload means an object that a person undertakes to place in outer space by means of a launch vehicle, including components of the vehicle specifically designed or adapted for that object.

Person means an individual or an entity organized or existing under the laws of a state or country.

State and United States when used in a geographical sense, mean the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, The United States Virgin Islands, Guam, and any other commonwealth, territory, or possession of the United States; and

United States citizen means:

(1) Any individual who is a citizen of the United States;

(2) Any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of the United States or any State; and

(3) Any corporation, partnership, joint venture, association, or other entity which is organized or exists under the laws of a foreign nation, if the controlling interest in such entity is held by an individual or entity described in paragraph (1) or (2) of this definition.

Controlling interest means ownership of an amount of equity in such entity sufficient to direct management of the entity or to void transactions entered into by management. Ownership of at least fifty-one percent of the equity in an entity by persons described in paragraph (1) or (2) of this definition creates a rebuttable presumption that such interest is controlling.

[Amdt. 401-01, 64 FR 19613, Apr. 21, 1999]

SUBCHAPTER B—PROCEDURE

PART 404—REGULATIONS AND LICENSING REQUIREMENTS

Subpart A—General

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- 404.1 Scope.
- 404.3 Filing of petitions to the director.
- 404.5 Action on petitions.

Subpart B—Rulemaking

- 404.11 General.
- 404.13 Petitions for extension of time to comment.
- 404.15 Consideration of comments received.
- 404.17 Additional rulemaking proceedings.
- 404.19 Hearings.

AUTHORITY: Secs. 8 and 13, Pub. L. 98-575 (49 U.S.C. App. 2601 note).

SOURCE: 53 FR 11013, Apr. 4, 1988, unless otherwise noted.

Subpart A—General

§ 404.1 Scope.

Pursuant to sections 8 and 13 of the Act, this part sets forth the procedures for issuing regulations to implement the Act and for eliminating or waiving requirements of Federal law otherwise applicable to the licensing of commercial space launch activities.

§ 404.3 Filing of petitions to the director.

(a) Any interested person may petition the Director to issue, amend or repeal a regulation, to eliminate as a requirement for a license any requirement of Federal law applicable to commercial launch activities, or to waive any such requirement in the context of a specific application for a license.

(b) Each petition filed under this section shall:

(1) Be submitted in duplicate to the Documentary Services Division, Attention Docket Section, Room 4107, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590;

(2) Set forth the text or substance of the regulation or amendment proposed, the regulation to be repealed, or the li-

censing requirement to be eliminated or waived;

(3) In the case of a petition for a waiver, explain the nature and extent of the relief sought;

(4) Contain any facts, views, and data available to the petitioner to support the action requested; and

(5) In the case of a petition for a waiver, be submitted at least 60 days before the proposed effective date of the waiver unless good cause for later submission is shown in the petition.

(c) A petition for rulemaking filed under this section shall contain a summary, which the Director may cause to be published in the FEDERAL REGISTER, which includes:

(1) A brief description of the general nature of the action requested; and

(2) A brief description of the pertinent reasons presented in the petition for instituting the rulemaking.

§ 404.5 Action on petitions.

(a) *General.* No public hearing, argument or other proceeding is held on a petition before its disposition under this section.

(b) *Grants.* In the case of a petition for a waiver, the Director may grant the waiver if the Director determines that the waiver is in the public interest and will not jeopardize public health and safety, the safety or property, or any national security or foreign policy interest of the United States. In all other cases, if the Director determines that the petition contains adequate justification, the Director initiates a rulemaking action under Subpart B of this part.

(c) *Denials.* If the Director determines that the petition does not justify initiating rulemaking action or granting the waiver, the petition is denied.

(d) *Notification.* Whenever the Director determines that a petition should be granted or denied, the petitioner is notified of the Director's action and the reasons supporting it.

Subpart B—Rulemaking

§ 404.11 General.

(a) Unless the Director finds, for good cause, that notice is impractical, unnecessary, or contrary to the public interest, a notice of proposed rulemaking is issued and interested persons are invited to participate in proceedings related to each substantive rule proposed.

(b) Unless the Director determines that notice and comment is necessary or desirable, interpretive rules, general statements of policy, and rules relating to organization, procedure, or practice are issued as final rules without notice or other proceedings.

(c) In the Director’s discretion, interested persons may be invited to participate in the rulemaking proceedings described in § 404.19 of this Subpart.

§ 404.13 Petitions for extension of time to comment.

(a) Any person may petition the Director for an extension of time to submit comments in response to a notice of proposed rulemaking. The petition shall be submitted in duplicate not less than three days before expiration of the time stated in the notice. The filing of the petition does not automatically extend the time for petitioner’s comments.

(b) The Director grants the petition only if the petitioner shows a substantive interest in the proposed rule and good cause for the extension, and if the extension is in the public interest. If an extension is granted, it is granted as to all persons and is published in the FEDERAL REGISTER.

§ 404.15 Consideration of comments received.

All timely comments are considered before final action is taken on a rulemaking proposal. Late filed comments may be considered to the extent possible, provided they do not cause undue additional expense or delay.

§ 404.17 Additional rulemaking proceedings.

The Director may initiate any additional rulemaking proceedings, if necessary or desirable. For example, the Director may invite interested persons

to present oral arguments, participate in conferences, appear at informal hearings, or participate in any other proceedings.

§ 404.19 Hearings.

(a) Sections 556 and 557 of Title 5, United States Code, do not apply to hearings held under this part. As a fact-finding forum, each hearing held under this part is nonadversarial and there are no formal pleadings or adverse parties. Any rule issued in a proceeding in which a hearing is held is not based exclusively on the record of the hearing, but on the entire record of the rulemaking proceeding.

(b) The Director designates a representative to conduct any hearing held under this part. The General Counsel designates a legal officer for the hearing.

PART 405—INVESTIGATIONS AND ENFORCEMENT

Sec.

405.1 Monitoring of licensed and other activities.

405.3 Authority to modify, suspend or revoke.

405.5 Emergency orders.

405.7 Civil penalties.

AUTHORITY: Secs. 14, 17 and 19, Pub. L. 98-575 (49 U.S.C. App. 2601 note).

SOURCE: 53 FR 11014, Apr. 4, 1988, unless otherwise noted.

§ 405.1 Monitoring of licensed and other activities.

Each licensee shall allow and cooperate with Federal officers or employees or other individuals authorized by the Director to observe licensed activities, including launch sites, production facilities or assembly sites used by any contractor or a licensee in the production or assembly of a launch vehicle and in the integration of a payload with its launch vehicle. Such observations are conducted in order to monitor the activities of the licensee or contractor at such time and to such extent as the Director considers reasonable and necessary to determine compliance with the license or to carry out the Director’s responsibilities pertaining to payloads for which no Federal license, authorization, or permit is required.

§ 405.3 Authority to modify, suspend or revoke.

(a) Upon application by the licensee or upon the Office's own initiative, the Office may modify a license issued under this chapter if the Office finds that the modification is consistent with the requirements of the Act.

(b) If the Office finds that a licensee has substantially failed to comply with any requirement of the Act, any regulation issued under the Act, the terms and conditions of a license, or any other applicable requirement, or that public health and safety, the safety of property or any national security or foreign policy interest of the United States so require, the Office may suspend or revoke any license issued to such licensee under this chapter.

(c) Unless otherwise specified by the Office, any modification, suspension or revocation made by the Office under this section:

- (1) Takes effect immediately; and
- (2) Continues in effect during any review of such action under Part 406 of this chapter.

(d) Whenever the Office takes any action under this section, the Office immediately notifies the licensee in writing of the Office's finding and the action which the Office has taken or proposes to take regarding such finding.

§ 405.5 Emergency orders.

The Office may immediately terminate, prohibit or suspend a licensed launch or launch site operation if the Office determines that—

(a) Such launch or operation is detrimental to public health and safety, safety of property, or any national security or foreign policy interest of the United States; and

(b) The detriment cannot be eliminated effectively through the exercise of other authority of the Office.

§ 405.7 Civil penalties.

(a) Pursuant to section 19 of the Act, any person found by the Office, after notice and opportunity to be heard on the record in accordance with section 554 of Title 5, United States Code, to have violated a requirement of the Act, a regulation issued under the Act, or any term, condition or restriction of any license issued or transferred by the

Office, shall be liable to the United States for a civil penalty. Each day of a continuing violation shall constitute a separate violation. The amount of such civil penalty shall be assessed by the Office by written notice. The Office may compromise, modify, or remit with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

(b) If any person fails to pay a civil penalty assessed against such person after the penalty has become final or if such person appeals an order of the Office, and the appropriate court has entered final judgment in favor of the Office, the Office shall recover the civil penalty assessed in any appropriate district court of the United States.

(c) For purposes of conducting any hearing under this section, the Office may:

- (1) Issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, documents, and other records;
- (2) Seek enforcement of such subpoenas in the appropriate district court of the United States; and
- (3) Administer oaths and affirmations.

PART 406—ADMINISTRATIVE REVIEW

Sec.

406.1 Hearings.

406.3 Submissions; oral presentation.

406.5 Administrative law judge's recommended decision.

AUTHORITY: Sec. 12, Pub. L. 98-575 (49 U.S.C. App. 2601 note).

SOURCE: 53 FR 11015, Apr. 4, 1988, unless otherwise noted.

§ 406.1 Hearings.

(a) Pursuant to section 12 of the Commercial Space Launch Act, the following are entitled to a determination on the record after an opportunity for a hearing in accordance with section 554 of Title 5, United States Code:

- (1) An applicant for a license and a proposed transferee of a license regarding any decision to issue or transfer a license with conditions or to deny the issuance or transfer of such license;

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(2) An owner or operator of a payload regarding any decision to prevent the launch of such payload;

(3) A licensee regarding any decision to suspend, modify, or revoke a license, or to terminate, prohibit, or suspend any licensed launch activity; and

(4) A person found by the Office to have violated a requirement of the Act, a regulation issued under the Act, or any term, condition or restriction of any license issued or transferred by the Office if the Office seeks civil penalties.

(b) An administrative law judge will be designated to preside over any hearing held under this part.

§ 406.3 Submissions; oral presentation.

(a) Determinations under this part will be made on the basis of written submissions unless the administrative law judge, on petition or on his or her

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own initiative, determines that an oral presentation is required.

(b) Submissions shall include a detailed exposition of the evidence or arguments supporting the petition.

(c) Petitions shall be filed as soon as practicable, but in no event more than 30 days after issuance of the Office's decision or finding under § 406.1.

§ 406.5 Administrative law judge's recommended decision.

(a) The recommended decision of the administrative law judge shall be reviewed by the Director, who shall make the final decision on the matter at issue. The Director shall make such final decision within thirty days of issuance of the recommended decision.

(b) The authority and responsibility to review and decide rests solely with the Director and may not be delegated.

SUBCHAPTER C—LICENSING

PART 411 [RESERVED]

PART 413—LICENSE APPLICATION PROCEDURES

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413.13	Complete application.
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413.17	Continuing accuracy of application; supplemental information; amendment.
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413.21	Denial of a license application.
413.23	License renewal.

AUTHORITY: 49 U.S.C. 70101-70121.

SOURCE: Amdt. 413-03, 64 FR 19614, Apr. 21, 1999, unless otherwise noted.

§ 413.1 Scope.

This part prescribes the procedures applicable to all applications submitted under this chapter to conduct licensed activities. These procedures apply to applications for issuance of a license, transfer of an existing license and renewal of an existing license. More specific requirements applicable to obtaining a launch license or a license to operate a launch site are contained in parts 415 and 417 of this chapter, respectively.

§ 413.3 Who must obtain a license.

(a) Any person must obtain a license to launch a launch vehicle from the United States or a license to operate a launch site within the United States.

(b) An individual who is a United States citizen or an entity organized or existing under the laws of the United States or any state must obtain a license to launch a launch vehicle outside of the United States or a license to operate a launch site outside of the United States.

(c) A foreign entity in which a United States citizen has a controlling interest, as defined in section 401.5 of this chapter, must obtain a launch license to launch a launch vehicle from or a license to operate a launch site within—

(1) Any place that is both outside the United States and outside the territory of any foreign nation, unless there is an agreement in force between the United States and a foreign nation providing that such foreign nation shall exercise jurisdiction over the launch or the operation of the launch site; or

(2) The territory of any foreign nation if there is an agreement in force between the United States and that foreign nation providing that the United States shall exercise jurisdiction over the launch or the operation of the launch site.

§ 413.5 Pre-application consultation.

A prospective applicant shall consult with the FAA before submitting an application to discuss the application process and potential issues relevant to the FAA's licensing decision. Early consultation enables an applicant to identify potential licensing issues at the planning stage when changes to a license application or to proposed licensed activities are less likely to result in significant delay or costs to the applicant.

§ 413.7 Application.

(a) *Form.* An application must be in writing, in English and filed in duplicate with the Federal Aviation Administration, Associate Administrator for Commercial Space Transportation, AST-200, Room 331, 800 Independence Avenue, S.W., Washington, D.C. 20591. Attention: Licensing and Safety Division, Application Review.

(b) *Administrative information.* An application must identify the following:

(1) The name and address of the applicant;

(2) The name, address, and telephone number of any person to whom inquiries and correspondence should be directed; and

(3) The type of license for which the applicant is applying.

(c) *Signature and certification of accuracy.* An application must be legibly signed, dated, and certified as true, complete, and accurate by one of the following:

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(1) *For a corporation:* An officer authorized to act for the corporation in licensing matters.

(2) *For a partnership or a sole proprietorship:* A general partner or proprietor, respectively.

(3) *For a joint venture, association, or other entity:* An officer or other individual duly authorized to act for the joint venture, association, or other entity in licensing matters.

§413.9 Confidentiality.

(a) Any person furnishing information or data to the FAA may request in writing that trade secrets or proprietary commercial or financial data be treated as confidential. The request must be made at the time the information or data is submitted, and state the period of time for which confidential treatment is desired.

(b) Information or data for which any person or agency requests confidentiality must be clearly marked with an identifying legend, such as "Proprietary Information," "Proprietary Commercial Information," "Trade Secret," or "Confidential Treatment Requested." Where this marking proves impracticable, a cover sheet containing the identifying legend must be securely attached to the compilation of information or data for which confidential treatment is requested.

(c) If a person requests that previously submitted information or data be treated confidentially, the FAA will do so to the extent practicable in light of any prior distribution of the information or data.

(d) Information or data for which confidential treatment has been requested or information or data that qualifies for exemption under section 552(b)(4) of Title 5, United States Code, will not be disclosed to the public unless the Associate Administrator determines that the withholding of the information or data is contrary to the public or national interest.

§413.11 Acceptance of an application.

The FAA will initially screen an application to determine whether the application is sufficiently complete to enable the FAA to initiate the reviews or evaluations required under any applicable part of this chapter. After com-

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pletion of the initial screening, the FAA notifies the applicant, in writing, of one of the following:

(a) The application is accepted and the FAA will initiate the reviews or evaluations required for a licensing determination under this chapter; or

(b) The application is so incomplete or indefinite as to make initiation of the reviews or evaluations required for a licensing determination under this chapter inappropriate, and the application is rejected. The notice will state the reason(s) for rejection and corrective actions necessary for the application to be accepted. The FAA may return a rejected application to the applicant or may hold it pending additional submissions by the applicant.

§413.13 Complete application.

Acceptance by the FAA of an application does not constitute a determination that the application is complete. If, in addition to the information required by the applicable parts of this chapter, the FAA requires other information necessary for a determination that public health and safety, safety of property and national security and foreign policy interests of the United States are protected during the conduct of a licensed activity, an applicant shall submit the additional information required to show compliance with this chapter.

§413.15 Review period.

(a) *180-day review.* Unless otherwise specified in this chapter, the FAA reviews and makes a determination on a license application within 180 days of receipt of an accepted application.

(b) *Review period tolled.* If an accepted application does not provide sufficient information to continue or complete the reviews or evaluations required by this chapter for a licensing determination, or an issue exists that would affect a licensing determination, the FAA notifies the applicant, in writing, and informs the applicant of any information required to complete the application. If further review is impracticable, the 180-day review period shall be tolled pending receipt by the FAA of the requested information.

(c) *120-day notice.* If the FAA has not made a licensing determination within

120 days of receipt of an accepted application, the FAA informs the applicant, in writing, of any outstanding information needed to complete the reviews or evaluations required by this chapter for a licensing determination, or of any pending issues that would affect the licensing determination.

§ 413.17 Continuing accuracy of application; supplemental information; amendment.

(a) An applicant is responsible for the continuing accuracy and completeness of information furnished to the FAA as part of a pending license application. If at any time information provided by an applicant as part of a license application is no longer accurate and complete in all material respects, the applicant shall submit a statement furnishing the new or corrected information. As part of its submission, the applicant shall recertify the accuracy and completeness of the application in accordance with section 413.7. An applicant's failure to comply with any of the requirements set forth in this paragraph is a sufficient basis for denial of a license application.

(b) An applicant may amend or supplement a license application at any time prior to issuance or transfer of a license.

(c) Willful false statements made in any application or document relating to an application or license are punishable by fine and imprisonment under section 1001 of Title 18, United States Code, and by administrative sanctions in accordance with part 405 of this chapter.

§ 413.19 Issuance of a license.

After the FAA completes its reviews and makes the approvals and determinations required by this chapter for a license, the FAA issues a license to an applicant in accordance with this chapter.

§ 413.21 Denial of a license application.

(a) The FAA informs a license applicant, in writing, if its application has been denied and states the reasons for denial.

(b) An applicant whose license application is denied may either:

(1) Attempt to correct any deficiencies identified by the FAA and request reconsideration of the revised application. The FAA has 60 days or the number of days remaining in the 180-day review period, whichever is greater, within which to reconsider its licensing determination; or

(2) Request a hearing in accordance with part 406 of this chapter, for the purpose of showing why the application should not be denied.

(c) An applicant whose license application is denied after reconsideration under paragraph (b)(1) of this section may request a hearing in accordance with paragraph (b)(2) of this section.

§ 413.23 License renewal.

(a) *Eligibility.* A licensee may apply to renew its license by submitting to the FAA a written application for renewal of the license at least 90 days before the expiration date of the license.

(b) *Application.*

(1) A license renewal application shall satisfy the requirements set forth in this part and any other applicable part of this chapter.

(2) The application may incorporate by reference information provided as part of the application for the expiring license or any modification to that license.

(3) The applicant must describe any proposed changes in its conduct of licensed activities and provide any additional clarifying information required by the FAA.

(c) *Review of application.* The FAA conducts the reviews required under this chapter for a license to determine whether the applicant's license may be renewed for an additional term. The FAA may incorporate by reference any findings that are part of the record for the expiring license.

(d) *Grant of license renewal.* After completion by the FAA of the reviews required by this chapter for a license and issuance of the requisite approvals and determinations, the FAA issues an order amending the expiration date of the license. The FAA may impose additional or revised terms and conditions necessary to protect public health and safety and the safety of property and to protect U.S. national security and foreign policy interests.

(e) *Denial of license renewal.* The FAA informs a licensee, in writing, if the licensee's application for renewal has been denied and states the reasons for denial. A licensee whose application for renewal is denied may follow the procedures set forth in section 413.21 of this part.

PART 415—LAUNCH LICENSE

Subpart A—General

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- APPENDIX A TO PART 415—FAA/USSPACECOM LAUNCH NOTIFICATION FORM

AUTHORITY: 49 U.S.C. 70101–70121.

SOURCE: Amdt. 415–03, 64 FR 19616, Apr. 21, 1999, unless otherwise noted.

Subpart A—General

§ 415.1 Scope.

This part prescribes requirements for obtaining a launch license and post-licensing requirements with which a licensee shall comply to remain licensed. Requirements for preparing a license application are contained in part 413 of this subchapter.

§ 415.3 Types of launch licenses.

(a) *Launch-specific license.* A launch-specific license authorizes a licensee to conduct one or more launches, having the same launch parameters, of one type of launch vehicle from one launch site. The license identifies, by name or mission, each launch authorized under the license. A licensee's authorization to launch terminates upon completion of all launches authorized by the license or the expiration date stated in the license, whichever occurs first.

(b) *Launch operator license.* A launch operator license authorizes a licensee to conduct launches from one launch site, within a range of launch parameters, of launch vehicles from the same

family of vehicles transporting specified classes of payloads. A launch operator license remains in effect for five years from the date of issuance.

§ 415.5 Policy and safety approvals.

To obtain a launch license, an applicant must obtain policy and safety approvals from the FAA. Requirements for obtaining these approvals are contained in subparts B, C and F of this part. Only a launch license applicant may apply for the approvals, and may apply for either approval separately and in advance of submitting a complete license application, using the application procedures contained in part 413 of this subchapter.

§ 415.7 Payload determination.

A payload determination is required for a launch license unless the proposed payload is exempt from payload review under § 415.53 of this part. The FAA conducts a payload review, as described in subpart D of this part, to make the determination. Either a launch license applicant or a payload owner or operator may request a review of its proposed payload using the application procedures contained in part 413 of this subchapter. Upon receipt of an application, the FAA may conduct a payload review independently of a launch license application.

§ 415.9 Issuance of a launch license.

(a) The FAA issues a launch license to an applicant who has obtained all approvals and determinations required under this chapter for a license.

(b) A launch license authorizes a licensee to conduct a launch or launches in accordance with the representations contained in the licensee's application, subject to the licensee's compliance with terms and conditions contained in license orders accompanying the license, including financial responsibility requirements.

§ 415.11 Additional license terms and conditions.

The FAA may modify a launch license at any time by modifying or adding license terms and conditions to ensure compliance with the Act and regulations.

§ 415.13 Transfer of a launch license.

(a) Only the FAA may transfer a launch license.

(b) An applicant for transfer of a launch license shall submit a license application in accordance with part 413 of this subchapter and shall meet the requirements of part 415 of this subchapter. The FAA will transfer a license to an applicant who has obtained all of the approvals and determinations required under this chapter for a license. In conducting its reviews and issuing approvals and determinations, the FAA may incorporate by reference any findings made part of the record to support the initial licensing determination. The FAA may modify a license to reflect any changes necessary as a result of a license transfer.

§ 415.15 Rights not conferred by launch license.

Issuance of a launch license does not relieve a licensee of its obligation to comply with all applicable requirements of law or regulation that may apply to its activities, nor does issuance confer any proprietary, property or exclusive right in the use of any federal launch range or related facilities, airspace, or outer space.

§§ 415.16–415.20 [Reserved]

Subpart B—Policy Review and Approval

§ 415.21 General.

The FAA issues a policy approval to a license applicant unless the FAA determines that a proposed launch would jeopardize U.S. national security or foreign policy interests, or international obligations of the United States. A policy approval is part of the licensing record on which the FAA's licensing determination is based.

§ 415.23 Policy review.

(a) The FAA reviews a license application to determine whether it presents any issues affecting U.S. national security or foreign policy interests, or international obligations of the United States.

(b) Interagency consultation.

§ 415.25

(1) The FAA consults with the Department of Defense to determine whether a license application presents any issues affecting U.S. national security.

(2) The FAA consults with the Department of State to determine whether a license application presents any issues affecting U.S. foreign policy interests or international obligations.

(3) The FAA consults with other federal agencies, including the National Aeronautics and Space Administration, authorized to address issues identified under paragraph (a) of this section, associated with an applicant's launch proposal.

(c) The FAA advises an applicant, in writing, of any issue raised during a policy review that would impede issuance of a policy approval. The applicant may respond, in writing, or revise its license application.

§ 415.25 Application requirements for policy review.

In its launch license application, an applicant shall—

(a) Identify the model and configuration of any launch vehicle proposed for launch by the applicant.

(b) Identify structural, pneumatic, propellant, propulsion, electrical and avionics systems used in the launch vehicle and all propellants.

(c) Identify foreign ownership of the applicant as follows:

(1) For a sole proprietorship or partnership, identify all foreign ownership;

(2) For a corporation, identify any foreign ownership interests of 10% or more; and

(3) For a joint venture, association, or other entity, identify any participating foreign entities.

(d) Identify proposed launch vehicle flight profile(s), including:

(1) Launch site;

(2) Flight azimuths, trajectories, and associated ground tracks and instantaneous impact points;

(3) Sequence of planned events or maneuvers during flight;

(4) Range of nominal impact areas for all spent motors and other discarded mission hardware, within three standard deviations of the mean impact point (a 3-sigma footprint); and

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(5) For each orbital mission, the range of intermediate and final orbits of each vehicle upper stage, and their estimated orbital lifetimes.

§ 415.27 Denial of policy approval.

The FAA notifies an applicant, in writing, if it has denied policy approval for a license application. The notice states the reasons for the FAA's determination. The applicant may respond to the reasons for the determination and request reconsideration.

§§ 415.28–415.30 [Reserved]

Subpart C—Safety Review and Approval for Launch From a Federal Launch Range

§ 415.31 General.

(a) The FAA conducts a safety review to determine whether an applicant is capable of launching a launch vehicle and its payload without jeopardizing public health and safety and safety of property. The FAA issues a safety approval to a license applicant proposing to launch from a federal launch range if the applicant satisfies the requirements of this subpart and has contracted with the federal launch range for the provision of safety-related launch services and property, as long as those launch services and the proposed use of launch property are within the federal launch range's experience. The FAA evaluates on an individual basis all other safety-related launch services and property associated with an applicant's proposal. A safety approval is part of the licensing record on which the FAA's licensing determination is based.

(b) The FAA advises an applicant, in writing, of any issue raised during a safety review that would impede issuance of a safety approval. The applicant may respond, in writing, or revise its license application.

§ 415.33 Safety organization.

(a) An applicant shall maintain a safety organization and document it by identifying lines of communication and approval authority for all launch safety decisions. Lines of communication, both within the applicant's organization and between the applicant and any

federal launch range providing launch services, shall be employed to ensure that personnel perform launch safety operations in accordance with range safety requirements and with plans and procedures required by this subpart. Approval authority shall be employed to ensure compliance with range safety requirements and with plans and procedures required by this subpart.

(b) *Safety official.* An applicant shall identify by name, title, and qualifications, a qualified safety official authorized to examine all aspects of the applicant's launch safety operations and to monitor independently personnel compliance with the applicant's safety policies and procedures. The safety official shall report directly to the person responsible for an applicant's licensed launches, who shall ensure that all of the safety official's concerns are addressed prior to launch.

§415.35 Acceptable flight risk.

(a) *Flight risk through orbital insertion or impact.* Acceptable flight risk through orbital insertion for an orbital launch vehicle, and through impact for a suborbital launch vehicle, is measured in terms of the expected average number of casualties (E_c) to the collective members of the public exposed to debris hazards from any one launch. To obtain safety approval, an applicant shall demonstrate that the risk level associated with debris from an applicant's proposed launch shall not exceed an expected average number of 0.00003 casualties per launch ($E_c \leq 30 \times 10^{-6}$).

(b) *Hazard identification and risk assessment.* To demonstrate compliance with this section, an applicant shall submit an analysis that identifies hazards and assesses risks to public health and safety and safety of property associated with nominal and non-nominal flight under its launch proposal.

(c) A launch vehicle shall be designed to ensure that flight risks meet the criteria set forth in this section. An applicant shall identify and describe the following:

(1) Launch vehicle structure, including physical dimensions and weight;

(2) Hazardous and safety critical systems, including propulsion systems; and

(3) Drawings and schematics for each system identified under paragraph (c)(2) of this section.

(d) A launch vehicle shall be operated in a manner that ensures that flight risks meet the criteria set forth in this section. An applicant shall identify all launch operations and procedures that must be performed to ensure acceptable flight risks.

§415.37 Flight readiness and communications plan.

(a) *Flight readiness requirements.* An applicant shall designate an individual responsible for flight readiness. The applicant shall submit the following procedures for verifying readiness for safe flight:

(1) Launch readiness review procedures involving the applicant's flight safety personnel and federal launch range personnel involved in the launch. The procedures shall ensure a launch readiness review is conducted during which the individual designated under paragraph (a) of this section is provided with the following information to make a judgement as to flight readiness:

(i) Flight-readiness of safety-related launch property and services to be provided by a federal launch range;

(ii) Flight-readiness of launch vehicle and payload;

(iii) Flight-readiness of flight safety systems;

(iv) Mission rules and launch constraints;

(v) Abort, hold and recycle procedures;

(vi) Results of dress rehearsals and simulations conducted in accordance with paragraph (a)(4) of this section;

(vii) Unresolved safety issues as of the launch readiness review and plans for addressing and resolving them; and

(viii) Any additional safety information required by the individual designated under paragraph (a) of this section to determine flight readiness.

(2) Procedures that ensure mission constraints, rules and abort procedures are listed and consolidated in a safety directive or notebook approved by licensee flight safety and federal launch range personnel;

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(3) Procedures that ensure currency and consistency of licensee and federal launch range countdown checklists;

(4) Dress rehearsal procedures that—

(i) Ensure crew readiness under nominal and non-nominal flight conditions;

(ii) Contain criteria for determining whether to dispense with one or more dress rehearsals; and

(iii) Verify currency and consistency of licensee and federal launch range countdown checklists.

(5) Procedures for ensuring the licensee’s flight safety personnel adhere to federal launch range crew rest rules.

(b) *Communications plan requirements.*

An applicant shall submit a communications plan providing licensee and federal launch range personnel communications procedures during countdown and flight. Effective issuance and communication of safety-critical information during countdown shall include hold/resume, go/no go and abort commands by licensee and federal launch range personnel during countdown. The communications plan shall describe the authority of licensee and federal launch range personnel, by individual or position title, to issue these commands. The communications plan shall also ensure that—

(1) Communication networks are assigned so that personnel identified under paragraph (b) of this section have direct access to real-time safety-critical information required for issuing hold/resume, go/no go and abort decisions and commands;

(2) Personnel identified under paragraph (b) of this section monitor common intercom channel(s) during countdown and flight; and

(3) A protocol is established for utilizing defined radio telephone communications terminology.

(c) An applicant shall submit procedures that ensure that licensee and federal launch range personnel receive a copy of the communications plan required by paragraph (b) of this section, and that the federal launch range concurs in the communications plan.

§ 415.39 Safety at end of launch.

To obtain safety approval, an applicant must demonstrate for any proposed launch that for all launch vehicle

stages or components that reach earth orbit—

(a) There will be no unplanned physical contact between the vehicle or its components and the payload after payload separation;

(b) Debris generation will not result from the conversion of energy sources into energy that fragments the vehicle or its components. Energy sources include chemical, pressure, and kinetic energy; and

(c) Stored energy will be removed by depleting residual fuel and leaving all fuel line valves open, venting any pressurized system, leaving all batteries in a permanent discharge state, and removing any remaining source of stored energy. Other equivalent procedures may be approved in the course of the licensing process.

§ 415.41 Accident investigation plan.

(a) An applicant shall submit an accident investigation plan (AIP) containing the applicant’s procedures for reporting and responding to launch accidents, launch incidents, or other mishaps, as defined in § 401.5 of this chapter. The AIP shall be signed by an individual authorized to sign and certify the application in accordance with § 413.7(c) of this chapter, and the safety official designated under § 415.33(b) of this subpart.

(b) *Reporting requirements.* An AIP shall provide for—

(1) Immediate notification to the Federal Aviation Administration (FAA) Washington Operations Center in case of a launch accident, a launch incident or a mishap that involves a fatality or serious injury (as defined in 49 CFR § 830.2).

(2) Notification within 24 hours to the Associate Administrator for Commercial Space Transportation or the Federal Aviation Administration (FAA) Washington Operations Center in the event of a mishap, other than those in § 415.41 (b) (1), that does not involve a fatality or serious injury (as defined in 49 CFR 830.2).

(3) Submission of a written preliminary report to the FAA, Associate Administrator for Commercial Space Transportation, in the event of a launch accident or launch incident, as defined in § 401.5 of this chapter, within

five days of the event. The report shall identify the event as either a launch accident or launch incident, and shall include the following information:

- (i) Date and time of occurrence;
- (ii) Description of event;
- (iii) Location of launch;
- (iv) Launch vehicle;
- (v) Any payload;
- (vi) Vehicle impact points outside designated impact lines, if applicable;
- (vii) Number and general description of any injuries;
- (viii) Property damage, if any, and an estimate of its value;
- (ix) Identification of hazardous materials, as defined in § 401.5 of this chapter, involved in the event, whether on the launch vehicle, payload, or on the ground;
- (x) Action taken by any person to contain the consequences of the event; and
- (xi) Weather conditions at the time of the event.

(c) *Response plan.* An AIP shall contain procedures that—

(1) Ensure the consequences of a launch accident, launch incident or other mishap are contained and minimized;

(2) Ensure data and physical evidence is preserved;

(3) Require the licensee to report to and cooperate with FAA and National Transportation Safety Board (NTSB) investigations and designate one or more points of contact for the FAA or NTSB; and

(4) Require the licensee to identify and adopt preventive measures for avoiding recurrence of the event.

(d) *Investigation plan.* An AIP shall contain—

(1) Procedures for investigating the cause of a launch accident, launch incident or other mishap;

(2) Procedures for reporting investigation results to the FAA; and

(3) Delineated responsibilities, including reporting responsibilities for personnel assigned to conduct investigations and for any one retained by the licensee to conduct or participate in investigations.

§ 415.43 Denial of safety approval.

The FAA notifies an applicant, in writing, if it has denied safety approval

for a license application. The notice states the reasons for the FAA's determination. The applicant may respond to the reasons for the determination and request reconsideration.

§§ 415.44–415.50 [Reserved]

Subpart D—Payload Review and Determination

§ 415.51 General.

The FAA reviews a payload proposed for launch to determine whether a license applicant or payload owner or operator has obtained all required licenses, authorization, and permits, unless the payload is exempt from review under § 415.53 of this subpart. If not otherwise exempt, the FAA reviews a payload proposed for launch to determine whether its launch would jeopardize public health and safety, safety of property, U.S. national security or foreign policy interests, or international obligations of the United States. A payload determination is part of the licensing record on which the FAA's licensing determination is based.

§ 415.53 Payloads not subject to review.

The FAA does not review payloads that are—

(a) Subject to regulation by the Federal Communications Commission (FCC) or the Department of Commerce, National Oceanic and Atmospheric Administration (NOAA); or

(b) Owned or operated by the U.S. Government.

§ 415.55 Classes of payloads.

The FAA may review and issue findings regarding a proposed class of payload, e.g., communications, remote sensing or navigation. However, each payload is subject to compliance monitoring by the FAA before launch to determine whether its launch would jeopardize public health and safety, safety of property, U.S. national security or foreign policy interests, or international obligations of the United States. The licensee is responsible for providing current information, in accordance with § 415.79(a), regarding a payload proposed for launch not later than 60 days before a scheduled launch.

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§ 415.57 Payload review.

(a) *Timing.* A payload review may be conducted as part of a license application review or may be requested by a payload owner or operator in advance of or apart from a license application.

(b) *Interagency consultation.* The FAA consults with other agencies to determine whether launch of a proposed payload or payload class would present any issues affecting public health and safety, safety of property, U.S. national security or foreign policy interests, or international obligations of the United States.

(1) The FAA consults with the Department of Defense to determine whether launch of a proposed payload or payload class would present any issues affecting U.S. national security.

(2) The FAA consults with the Department of State to determine whether launch of a proposed payload or payload class would present any issues affecting U.S. foreign policy interests or international obligations.

(3) The FAA consults with other federal agencies, including the National Aeronautics and Space Administration, authorized to address issues identified under paragraph (b) of this section associated with an applicant's launch proposal.

(c) The FAA advises a person requesting a payload determination, in writing, of any issue raised during a payload review that would impede issuance of a license to launch that payload or payload class. The person requesting payload review may respond, in writing, or revise its application.

§ 415.59 Information requirements for payload review.

(a) A person requesting review of a particular payload or payload class shall identify the following:

- (1) Payload name;
- (2) Payload class;
- (3) Physical dimensions and weight of the payload;
- (4) Payload owner and operator, if different from the person requesting payload review;
- (5) Orbital parameters for parking, transfer and final orbits;
- (6) Hazardous materials, as defined in § 401.5 of this chapter, and radioactive materials, and the amounts of each;

(7) Intended payload operations during the life of the payload; and

(8) Delivery point in flight at which the payload will no longer be under the licensee's control.

(b) [Reserved]

§ 415.61 Issuance of payload determination.

(a) The FAA issues a favorable payload determination unless it determines that launch of the proposed payload would jeopardize public health and safety, safety of property, U.S. national security or foreign policy interests, or international obligations of the United States. The FAA advises any person who has requested a payload review of its determination, in writing. The notice states the reasons for the determination in the event of an unfavorable determination.

(b) Any person issued an unfavorable payload determination may respond to the reasons for the determination and request reconsideration.

§ 415.63 Incorporation of payload determination in license application.

A favorable payload determination issued for a payload or class of payload may be included by a license applicant as part of its application. However, any change in information provided under section 415.59 of this subpart must be reported in accordance with section 413.17 of this chapter. The FAA determines whether a favorable payload determination remains valid in light of reported changes and may conduct an additional payload review.

§ 415.64–415.70 [Reserved]

Subpart E—Post-Licensing Requirements—Launch License Terms and Conditions

§ 415.71 Public safety responsibility.

A launch licensee is responsible for ensuring the safe conduct of a licensed launch and for ensuring that public safety and safety of property are protected at all times during the conduct of a licensed launch.

§ 415.73 Continuing accuracy of license application; application for modification of license.

(a) A launch licensee is responsible for the continuing accuracy of representations contained in its application for the entire term of the license. A launch licensee must conduct a licensed launch and carry out launch safety procedures in accordance with its application. A licensee's failure to comply with the requirements of this paragraph is sufficient basis for suspension or revocation of a license.

(b) After a launch license has been issued, a licensee must apply to the FAA for modification of the license if:

(1) The launch licensee proposes to conduct a launch or carry out a launch safety procedure or operation in a manner that is not authorized by the license; or

(2) Any representation contained in the license application that is material to public health and safety or safety of property would no longer be accurate and complete or would not reflect the launch licensee's procedures governing the actual conduct of a launch. A change is material to public health and safety or safety of property if it alters or affects the licensee's launch plans or procedures submitted in accordance with subpart D of this part, class of payload, orbital destination, type of launch vehicle, flight path, launch site, launch point, or any safety system, policy, procedure, requirement, criteria or standard.

(c) An application to modify a launch license shall be prepared and submitted in accordance with part 413 of this chapter. The launch licensee shall indicate any part of its license or license application that would be changed or affected by a proposed modification.

(d) The FAA reviews approvals and determinations required by this chapter to determine whether they remain valid in light of a proposed modification. The FAA approves a modification that satisfies the requirements set forth in this part.

(e) Upon approval of modification, the FAA issues either a written approval to the launch licensee or a license order modifying the license if a stated term or condition of the license is changed, added or deleted. A written

approval has the full force and effect of a license order and is part of the licensing record.

§ 415.75 Agreement(s) with federal launch range.

Prior to conducting a licensed launch from a federal launch range, a launch licensee or applicant shall enter into an agreement with a federal launch range providing for access to and use of U.S. Government property and services required to support a licensed launch from the facility and for public safety related operations and support. The agreement shall be in effect for the conduct of any licensed launch. A launch licensee shall comply with any requirements of the agreement(s) that may affect public safety and safety of property during the conduct of a licensed launch, including flight safety procedures and requirements.

§ 415.77 Records.

(a) A launch licensee shall maintain all records necessary to verify that licensed launches are conducted in accordance with representations contained in the licensee's application. A launch licensee shall retain records for three years after completion of all launches conducted under the license.

(b) In the event of a launch accident or launch incident, as defined in § 405.1 of this chapter, a launch licensee shall preserve all records related to the event. Records shall be retained until completion of any federal investigation and until the FAA advises the licensee that the records need not be retained. The licensee shall make available to federal officials for inspection and copying all records required to be maintained under these regulations.

§ 415.79 Launch reporting requirements.

(a) Not later than 60 days before each flight conducted under a launch operator license, a licensee shall provide the FAA the following launch-specific information:

(1) Payload information contained in § 415.59 of this part;

(2) Flight information, including the launch vehicle, planned flight path, including staging and impact locations,

§415.81

and on-orbit activity of the launch vehicle including payload delivery point(s); and

(3) Mission specific launch waivers, approved or pending, from a federal launch range from which the launch will take place, that are unique to the launch and may affect public safety.

(b) Not later than noon, EST, 15 days before each licensed flight a licensee shall submit to the FAA a completed Federal Aviation Administration/U.S. Space Command (FAA/USSPACECOM) Launch Notification Form (OMB No. 2120-0608).

(c) A launch licensee shall report a launch accident, launch incident, or a mishap that involves a fatality or serious injury (as defined in 49 CFR 830.2) immediately to the Federal Aviation Administration (FAA) Washington Operations Center and provide a written preliminary report in the event of a launch accident or launch incident, in accordance with the accident investigation plan (AIP) submitted as part of its license application under §415.41 of this part.

§415.81 Registration of space objects.

(a) To assist the U.S. Government in implementing Article IV of the 1975 Convention on Registration of Objects Launched into Outer Space, each licensee shall provide to the FAA the information required by paragraph (b) of this section for all objects placed in space by a licensed launch, including a launch vehicle and any components, except:

(1) Any object owned and registered by the U.S. Government; and

(2) Any object owned by a foreign entity.

(b) For each object that must be registered in accordance with this section, not later than thirty (30) days following the conduct of a licensed launch, a licensee shall submit the following information:

(1) The international designator of the space object(s);

(2) Date and location of launch;

(3) General function of the space object; and

(4) Final orbital parameters, including:

(i) Nodal period;

(ii) Inclination;

(iii) Apogee; and

(iv) Perigee.

§415.83 Financial responsibility requirements.

A launch licensee shall comply with financial responsibility requirements specified in a license or license order.

§415.85 Compliance monitoring.

A launch licensee shall allow access by, and cooperate with, federal officers or employees or other individuals authorized by the FAA to observe any activities of the licensee, or of the licensee's contractors or subcontractors, associated with the conduct of a licensed launch.

§415.86-415.90 [Reserved]

Subpart F—Safety Review and Approval for Launch From a Launch Site Not Operated by a Federal Launch Range

§415.91 General.

The FAA evaluates on an individual basis the safety-related elements of an applicant's proposal to launch a launch vehicle from a launch site not operated by a federal launch range. The FAA issues a safety approval to a license applicant proposing to launch from a launch site not operated by a federal launch range when the FAA determines that the launch demonstrates an equivalent level of safety to that provided by a launch from a federal launch range as set forth in subpart C of this part. A safety approval is part of the licensing record on which the FAA's licensing determination is based.

§415.93 Denial of safety approval.

The FAA notifies an applicant, in writing, if it has denied safety approval for a license application. The notice states the reasons for the FAA's determination. The applicant may respond to the reasons for the determination and request reconsideration.

§§ 415.94–415.100 [Reserved]

Subpart G—Environmental Review

§ 415.101 General.

An applicant shall provide the FAA with information for the FAA to analyze the environmental impacts associated with a proposed launch. The information provided by an applicant must be sufficient to enable the FAA to comply with the requirements of the National Environment Policy Act, 42 U.S.C. 4321 *et seq.* (NEPA), the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA, 40 CFR parts 1500–1508, and the FAA's Procedures for Considering Environmental Impacts, FAA Order 1050.1D.

§ 415.103 Environmental information.

An applicant shall submit environmental information concerning:

- (a) A proposed launch site not covered by existing environmental documentation;
- (b) A proposed launch vehicle with characteristics falling measurably outside the parameters of existing environmental documentation;
- (c) A proposed launch from an established launch site involving a vehicle with characteristics falling measurably outside the parameters of any existing environmental impact statement that applies to that site;
- (d) A proposed payload that may have significant environmental impacts in the event of a mishap; and
- (e) Other factors as determined by the FAA.

APPENDIX A TO PART 415—FAA/USSPACECOM LAUNCH NOTIFICATION FORM

Form Approved OMB No. 2120-0608

 <small>U.S. Department of Transportation Federal Aviation Administration</small>	<h2>FAA/USSPACECOM Launch Notification</h2>
1) Launch Site & Launch Date:	
2) Earliest and Latest possible Launch Time (GMT):	
3) List of objects to achieve orbit - to include payload description, Rocket bodies, and all other objects:	
4) Launch Booster, sustainer, and strap-on descriptions:	
5) Launch operator POC - to include name, address, & phone numbers:	
6) Orbital Parameters for all objects achieving orbit	
a) inertial launch azimuth at liftoff:	
b) inertial flight azimuth after liftoff:	
c) epoch time:	
d) nominal period (min):	
e) inclination (deg):	
f) eccentricity:	
g) semimajor axis (km):	
h) argument of perigee (deg):	
i) right ascension of ascending node (deg):	
j) mean anomaly (deg):	
k) start time of orbit (hh:mm:ss after launch):	
l) end time of orbit (hh:mm:ss after launch):	
7) Injection data	
a) injection point latitude (deg n or s) & longitude (deg e):	
b) inertial azimuth at injection point:	
c) height above earth (km):	

FAA/USSPACECOM Launch Notification	
d)	injection time (hh:mm:ss after liftoff):
8)	Sequence of Events from liftoff to final injection. Give the times (hh:mm:ss after liftoff)
a)	separation of each motor:
b)	ignition of each motor:
c)	cutoff of each motor:
d)	jettison of pieces:
e)	maneuvers:
f)	reorientations:
g)	deorbit:
h)	ejection of special packages or other experiments:
9)	Optional - Schedule for events (not included in no. 8), such as ejection or experiments, maneuvering (unclassified missions), jettison of parts, extension of antenna and solar arrays, venting, spinning or despinning attitude changes, reorientation, or anything which may affect the orbital characteristics:
10)	A brief narrative description of the mission:
11)	Transmitting frequencies and power (required only if space surveillance is required), including device, band, power (watts), frequency (mhz), and emission scheduled by fixed program, command, or transponder tracking:
12)	Orbital objects cataloging instructions (include all orbital objects listed in no. 3, including common name, international designation, and country:

PART 417—LICENSE TO OPERATE A LAUNCH SITE

Sec.

417.101 General.

417.103 Issuance of a license to operate a launch site.

417.105 Environmental.

417.107 Environmental information.

AUTHORITY: 49 U.S.C. 70101–70121.

SOURCE: Amdt. 417, 64 FR 19624, Apr. 21, 1999, unless otherwise noted.

§ 417.101 General.

The FAA evaluates on an individual basis an applicant's proposal to operate a launch site.

§ 417.103 Issuance of a license to operate a launch site.

(a) The FAA issues a license to operate a launch site when it determines that an applicant's operation of the launch site does not jeopardize public health and safety, safety of property, U.S. national security or foreign policy interests, or international obligations of the United States.

(b) A license to operate a launch site authorizes a licensee to operate a launch site in accordance with the representations contained in the licensee's application, subject to the licensee's compliance with terms and condition contained in any license order accompanying the license.

§ 417.105 Environmental.

An applicant shall provide the FAA with information for the FAA to analyze the environmental impacts associated with proposed operation of a launch site. The information provided by an applicant must be sufficient to enable the FAA to comply with the requirements of the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.* (NEPA), the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA, 40 CFR Parts 1500–1508, and the FAA's Procedures for Considering Environmental Impacts, FAA Order 1050.1D.

§ 417.107 Environmental information.

An applicant shall submit environmental information concerning:

(a) A proposed launch site not covered by existing environmental documentation; and

(b) Other factors as determined by the FAA.

PARTS 418–439 [Reserved]

PART 440—FINANCIAL RESPONSIBILITY

Subpart A—Financial Responsibility for Licensed Launch Activities

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AUTHORITY: 49 U.S.C. 70101–70119; 49 CFR 1.47.

SOURCE: Docket No. 28635, 63 FR 45619, Aug. 26, 1998, unless otherwise noted.

Subpart A—Financial Responsibility for Licensed Launch Activities

§ 440.1 Scope of part.

This part sets forth financial responsibility and allocation of risk requirements applicable to commercial space launch activities that are authorized to be conducted under a launch license issued pursuant to this subchapter.

§ 440.3 Definitions.

(a) For purposes of this part—

(1) *Bodily injury* means physical injury, sickness, disease, disability, shock, mental anguish, or mental injury sustained by any person, including death.

(2) *Contractors and subcontractors* means those entities that are involved

at any tier, directly or indirectly, in licensed launch activities, and includes suppliers of property and services, and the component manufacturers of a launch vehicle or payload.

(3) *Customer* means the person who procures launch services from the licensee, any person to whom the customer has sold, leased, assigned, or otherwise transferred its rights in the payload (or any part thereof) to be launched by the licensee, including a conditional sale, lease, assignment, or transfer of rights, any person who has placed property on board the payload for launch or payload services, and any person to whom the customer has transferred its rights to the launch services.

(4) *Federal range facility* means a Government-owned installation at which launches take place.

(5) *Financial responsibility* means statutorily required financial ability to satisfy liability as required under 49 U.S.C. 70101-70119.

(6) *Government personnel* means employees of the United States, its agencies, and its contractors and subcontractors, involved in launch services for licensed launch activities. Employees of the United States include members of the Armed Forces of the United States.

(7) *Hazardous operations* means activities, processes, and procedures that, because of the nature of the equipment, facilities, personnel, or environment involved or function being performed, may result in bodily injury or property damage.

(8) *Liability* means a legal obligation to pay claims for bodily injury or property damage resulting from licensed launch activities.

(9) *License* means an authorization to conduct licensed launch activities, issued by the Office under this subchapter.

(10) *Licensed launch activities* means the launch of a launch vehicle as defined in a regulation or license issued by the Office and carried out pursuant to a launch license.

(11) *Maximum probable loss (MPL)* means the greatest dollar amount of loss for bodily injury or property damage that is reasonably expected to result from licensed launch activities;

(i) Losses to third parties, excluding Government personnel and other launch participants' employees involved in licensed launch activities, that are reasonably expected to result from licensed launch activities are those having a probability of occurrence on the order of no less than one in ten million.

(ii) Losses to Government property and Government personnel involved in licensed launch activities that are reasonably expected to result from licensed launch activities are those having a probability of occurrence on the order of no less than one in one hundred thousand.

(12) *Office* means the Associate Administrator for Commercial Space Transportation of the Federal Aviation Administration, U.S. Department of Transportation.

(13) *Property damage* means partial or total destruction, impairment, or loss of tangible property, real or personal.

(14) *Regulations* means the Commercial Space Transportation Licensing Regulations, codified at 14 CFR Ch. III.

(15) *Third party* means:

(i) Any person other than:

(A) The United States, its agencies, and its contractors and subcontractors involved in launch services for licensed launch activities;

(B) The licensee and its contractors and subcontractors involved in launch services for licensed launch activities; and

(C) The customer and its contractors and subcontractors involved in launch services for licensed launch activities.

(ii) Government personnel, as defined in this section, are third parties.

(16) *United States* means the United States Government, including its agencies.

(b) Except as otherwise provided in this section, any term used in this part and defined in 49 U.S.C. 70101-70119, or in § 401.5 of this chapter shall have the meaning contained therein.

§ 440.5 General.

(a) No person shall commence or conduct launch activities that require a license unless that person has obtained a license and fully demonstrated compliance with the financial responsibility

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and allocation of risk requirements set forth in this part.

(b) The Office shall prescribe the amount of financial responsibility a licensee is required to obtain and any additions to or modifications of the amount in a license order issued concurrent with or subsequent to the issuance of a license.

(c) Demonstration of financial responsibility under this part shall not relieve the licensee of ultimate responsibility for liability, loss, or damage sustained by the United States resulting from licensed launch activities, except to the extent that:

(1) Liability, loss, or damage sustained by the United States results from willful misconduct of the United States or its agents;

(2) Covered claims of third parties for bodily injury or property damage arising out of any particular launch exceed the amount of financial responsibility required under § 440.9(c) of this part and do not exceed \$1,500,000,000 (as adjusted for inflation occurring after January 1, 1989) above such amount, and are payable pursuant to 49 U.S.C. 70113 and § 440.19 of this part. Claims of employees of entities listed in § 440.3(a)(15)(i)(B) and (C) of this part for bodily injury or property damage are not covered claims;

(3) Covered claims for property loss or damage exceed the amount of financial responsibility required under § 440.9(e) of this part and do not result from willful misconduct of the licensee; or

(4) The licensee has no liability for covered claims by third parties for bodily injury or property damage arising out of any particular launch that exceed \$1,500,000,000 (as adjusted for inflation occurring after January 1, 1989) above the amount of financial responsibility required under § 440.9(c) of this part.

(d) A licensee's failure to comply with the requirements in this part may result in suspension or revocation of a license, and subjects the licensee to civil penalties as provided in part 405 of this chapter.

§ 440.7 Determination of maximum probable loss.

(a) The Office shall determine the maximum probable loss (MPL) from covered claims by a third party for bodily injury or property damage, and the United States, its agencies, and its contractors and subcontractors for covered property damage or loss, resulting from licensed launch activities. The maximum probable loss determination forms the basis for financial responsibility requirements issued in a license order.

(b) The Office issues its determination of maximum probable loss no later than ninety days after a licensee or transferee has requested a determination and submitted all information required by the Office to make the determination. The Office shall consult with Federal agencies that are involved in, or whose personnel or property are exposed to risk of damage or loss as a result of, licensed launch activities before issuing a license order prescribing financial responsibility requirements and shall notify the licensee or transferee if interagency consultation may delay issuance of the MPL determination.

(c) Information requirements for obtaining a maximum probable loss determination are set forth in Appendix A of this part. Any person requesting a determination of maximum probable loss must submit information in accordance with Appendix A requirements, unless the Office has waived requirements. In lieu of submitting required information, a person requesting a maximum probable loss determination may designate and certify certain information previously submitted for a prior determination as complete, valid, and equally applicable to its current request. The requester is responsible for the continuing accuracy and completeness of information submitted under this part and shall promptly report any changes in writing.

(d) The Office shall amend a determination of maximum probable loss required under this section at any time prior to completion of licensed launch

activities as warranted by supplementary information provided to or obtained by the Office after the MPL determination is issued. Any change in financial responsibility requirements as a result of an amended MPL determination shall be set forth in a license order.

(e) The Office may make a determination of maximum probable loss at any time other than as set forth in paragraph (b) of this section upon request by any person.

[Doc. No. 28635, 63 FR 45619, Aug. 26, 1998; 63 FR 55175, Oct. 14, 1998]

§ 440.9 Insurance requirements for licensed launch activities.

(a) As a condition of each launch license, the licensee must comply with insurance requirements set forth in this section and in a license order issued by the Office, or otherwise demonstrate the required amount of financial responsibility.

(b) The licensee must obtain and maintain in effect a policy or policies of liability insurance, in an amount determined by the Office under paragraph (c) of this section, that protects the following persons as additional insureds to the extent of their respective potential liabilities against covered claims by a third party for bodily injury or property damage resulting from licensed launch activities:

(1) The licensee, its customer, and their respective contractors and subcontractors, and the employees of each, involved in licensed launch activities;

(2) The United States, its agencies, and its contractors and subcontractors involved in licensed launch activities; and

(3) Government personnel.

(c) The Office shall prescribe for each licensee the amount of insurance required to compensate the total of covered third-party claims for bodily injury or property damage resulting from licensed launch activities in connection with any particular launch. Covered third-party claims include claims by the United States, its agencies, and its contractors and subcontractors for damage or loss to property other than property for which insurance is required under paragraph (d) of this sec-

tion. The amount of insurance required is based upon the Office's determination of maximum probable loss; however, it will not exceed the lesser of:

(1) \$500 million; or

(2) The maximum liability insurance available on the world market at a reasonable cost, as determined by the Office.

(d) The licensee must obtain and maintain in effect a policy or policies of insurance, in an amount determined by the Office under paragraph (e) of this section, that covers claims by the United States, its agencies, and its contractors and subcontractors involved in licensed launch activities for property damage or loss resulting from licensed launch activities. Property covered by this insurance must include all property owned, leased, or occupied by, or within the care, custody, or control of, the United States and its agencies, and its contractors and subcontractors involved in licensed launch activities, at a Federal range facility. Insurance must protect the United States and its agencies, and its contractors and subcontractors involved in licensed launch activities.

(e) The Office shall prescribe for each licensee the amount of insurance required to compensate claims for property damage under paragraph (d) of this section resulting from licensed launch activities in connection with any particular launch. The amount of insurance is based upon a determination of maximum probable loss; however, it will not exceed the lesser of:

(1) \$100 million; or

(2) The maximum available on the world market at a reasonable cost, as determined by the Office.

(f) In lieu of a policy of insurance, a licensee may demonstrate financial responsibility in another manner meeting the terms and conditions applicable to insurance as set forth in this part. The licensee must describe in detail the method proposed for demonstrating financial responsibility and how it assures that the licensee is able to cover claims as required under this part.

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§ 440.11 Duration of coverage; modifications.

(a) Insurance coverage required under § 440.9, or other form of financial responsibility, shall attach upon commencement of licensed launch activities, and remain in full force and effect as follows:

(1) Until completion of licensed launch activities at the launch site; and

(2) For orbital launches, until the later of—

(i) Thirty days following payload separation, or attempted payload separation in the event of a payload separation anomaly; or

(ii) Thirty days from ignition of the launch vehicle.

(3) For suborbital launches, until the later of—

(i) Motor impact and payload recovery; or

(ii) The Office's determination that risk to third parties and Government property as a result of licensed launch activities is sufficiently small that financial responsibility is no longer necessary, as determined by the Office through the risk analysis conducted before the launch to determine MPL and specified in a license order.

(b) Financial responsibility required under this part may not be replaced, canceled, changed, withdrawn, or in any way modified to reduce the limits of liability or the extent of coverage, nor expire by its own terms, prior to the time specified in a license order, unless the Office is notified at least 30 days in advance and expressly approves the modification.

§ 440.13 Standard conditions of insurance coverage.

(a) Insurance obtained under § 440.9 shall comply with the following terms and conditions of coverage:

(1) Bankruptcy or insolvency of an insured, including any additional insured, shall not relieve the insurer of any of its obligations under any policy.

(2) Policy limits shall apply separately to each occurrence and, for each occurrence to the total of claims arising out of licensed launch activities in connection with any particular launch.

(3) Except as provided herein, each policy must pay claims from the first

dollar of loss, without regard to any deductible, to the limits of the policy. A licensee may obtain a policy containing a deductible amount if the amount of the deductible is placed in an escrow account or otherwise demonstrated to be unobligated, unencumbered funds of the licensee, available to compensate claims at any time claims may arise.

(4) Each policy shall not be invalidated by any action or inaction of the licensee or any additional insured, including nonpayment by the licensee of the policy premium, and must insure the licensee and each additional insured regardless of any breach or violation of any warranties, declarations, or conditions contained in the policies by the licensee or any additional insured (other than a breach or violation by the licensee or an additional insured, and then only as against that licensee or additional insured).

(5) Exclusions from coverage must be specified.

(6) Insurance shall be primary without right of contribution from any other insurance that is carried by the licensee or any additional insured.

(7) Each policy must expressly provide that all of its provisions, except the policy limits, operate in the same manner as if there were a separate policy with and covering the licensee and each additional insured.

(8) Each policy must be placed with an insurer of recognized reputation and responsibility that is licensed to do business in any State, territory, possession of the United States, or the District of Columbia.

(9) Except as to claims resulting from the willful misconduct of the United States or its agents, the insurer shall waive any and all rights of subrogation against each of the parties protected by required insurance.

(b) [Reserved]

§ 440.15 Demonstration of compliance.

(a) A licensee must submit evidence of financial responsibility and compliance with allocation of risk requirements under this part, as follows, unless a license order specifies otherwise due to the proximity of the licensee's intended date for commencement of licensed launch activities:

(1) The three-party reciprocal waiver of claims agreement required under §440.17(c) of this part must be submitted at least 30 days before commencement of licensed launch activities involving the customer that will sign the agreement;

(2) Evidence of insurance must be submitted at least 30 days before commencement of licensed launch activities;

(3) Evidence of financial responsibility in a form other than insurance, as provided under §440.9(f) of this part, must be submitted at least 60 days before commencement of licensed launch activities; and

(4) Evidence of renewal of insurance or other form of financial responsibility must be submitted at least 30 days in advance of its expiration date.

(b) Upon a complete demonstration of compliance with financial responsibility and allocation of risk requirements under this part, the requirements shall preempt any provisions in agreements between the licensee and an agency of the United States governing access to or use of United States launch property or launch services for licensed launch activities which address financial responsibility, allocation of risk and related matters covered by 49 U.S.C. 70112, 70113.

(c) A licensee must demonstrate compliance as follows:

(1) The licensee must provide proof of insurance required under §440.9 by:

(i) Certifying to the Office that it has obtained insurance in compliance with the requirements of this part and any applicable license order;

(ii) Filing with the Office one or more certificates of insurance evidencing insurance coverage by one or more insurers under a currently effective and properly endorsed policy or policies of insurance, applicable to licensed launch activities, on terms and conditions and in amounts prescribed under this part, and specifying policy exclusions;

(iii) In the event of any policy exclusions or limitations of coverage that may be considered usual under §440.19(c) of this part, or for purposes of implementing the Government's waiver of claims for property damage under 49 U.S.C. 70112(b)(2), certifying that in-

surance covering the excluded risks is not commercially available at reasonable cost; and

(iv) Submitting to the Office, for signature by the Department on behalf of the United States Government, the waiver of claims and assumption of responsibility agreement required by §440.17(c) of this part, executed by the licensee and its customer.

(2) Certifications required under this section must be signed by a duly authorized officer of the licensee.

(d) Certificate(s) of insurance required under paragraph (c)(1)(ii) of this section must be signed by the insurer issuing the policy and accompanied by an opinion of the insurance broker that the insurance obtained by the licensee complies with the specific requirements for insurance set forth in this part and any applicable license order.

(e) The licensee must maintain, and make available for inspection by the Office upon request, all required policies of insurance and other documents necessary to demonstrate compliance with this part.

(f) In the event the licensee demonstrates financial responsibility using means other than insurance, as provided under §440.9(f) of this part, the licensee must provide proof that it has met the requirements set forth in this part and in a license order issued by the Office.

§ 440.17 Reciprocal waiver of claims requirements.

(a) As a condition of each launch license, the licensee shall comply with reciprocal waiver of claims requirements as set forth in this section.

(b) The licensee shall implement reciprocal waivers of claims with its contractors and subcontractors, its customer(s) and the customer's contractors and subcontractors, under which each party waives and releases claims against the other parties to the waivers and agrees to assume financial responsibility for property damage it sustains and for bodily injury or property damage sustained by its own employees, and to hold harmless and indemnify each other from bodily injury or property damage sustained by its employees, resulting from licensed launch activities, regardless of fault.

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(c) For each licensed launch in which the U.S. Government, its agencies, or its contractors and subcontractors is involved in licensed launch activities or where property insurance is required under § 440.9(d) of this part, the Federal Aviation Administration of the Department of Transportation, the licensee, and its customer shall enter into a three-party reciprocal waiver of claims agreement in the form set forth in Appendix II to this part or that satisfies its requirements.

(d) The licensee, its customer, and the Federal Aviation Administration of the Department of Transportation on behalf of the United States and its agencies but only to the extent provided in legislation, must agree in any waiver of claims agreement required under this part to indemnify another party to the agreement from claims by the indemnifying party's contractors and subcontractors arising out of the indemnifying party's failure to implement properly the waiver requirement.

§ 440.19 United States payment of excess third-party liability claims.

(a) The United States pays successful covered claims (including reasonable expenses of litigation or settlement) of a third party against the licensee, the customer, and the contractors and subcontractors of the licensee and the customer, and the employees of each involved in licensed launch activities, and the contractors and subcontractors of the United States and its agencies, and their employees, involved in licensed launch activities to the extent provided in an appropriation law or other legislative authority providing for payment of claims in accordance with 49 U.S.C. 70113, and to the extent the total amount of such covered claims arising out of any particular launch:

(1) Exceeds the amount of insurance required under § 440.9(b); and

(2) Is not more than \$1,500,000,000 (as adjusted for inflation occurring after January 1, 1989) above that amount.

(b) Payment by the United States under paragraph (a) of this section shall not be made for any part of such claims for which bodily injury or property damage results from willful misconduct by the party seeking payment.

(c) The United States shall provide for payment of claims by third parties for bodily injury or property damage that are payable under 49 U.S.C. 70113 and not covered by required insurance under § 440.9(b), without regard to the limitation under paragraph (a)(1) of this section, because of an insurance policy exclusion that is usual. A policy exclusion is considered usual only if insurance covering the excluded risk is not commercially available at reasonable rates. The licensee must submit a certification in accordance with § 440.15(c)(1)(iii) of this part for the United States to cover the claims.

(d) Upon the expiration of the policy period prescribed in accordance with § 440.11(a), the United States shall provide for payment of claims that are payable under 49 U.S.C. 70113 from the first dollar of loss up to \$1,500,000,000 (as adjusted for inflation occurring after January 1, 1989).

(e) Payment by the United States of excess third-party claims under 49 U.S.C. 70113 shall be subject to:

(1) Prompt notice by the licensee to the Office that the total amount of claims arising out of licensed launch activities exceeds, or is likely to exceed, the required amount of financial responsibility. For each claim, the notice must specify the nature, cause, and amount of the claim or lawsuit associated with the claim, and the party or parties who may otherwise be liable for payment of the claim;

(2) Participation or assistance in the defense of the claim or lawsuit by the United States, at its election;

(3) Approval by the Office of any settlement, or part of a settlement, to be paid by the United States; and

(4) Approval by Congress of a compensation plan prepared by the Office and submitted by the President.

(f) The Office will:

(1) Prepare a compensation plan outlining the total amount of claims and meeting the requirements set forth in 49 U.S.C. 70113;

(2) Recommend sources of funds to pay the claims; and

(3) Propose legislation as required to implement the plan.

(g) The Office may withhold payment of a claim if it finds that the amount is unreasonable, unless it is the final

order of a court that has jurisdiction over the matter.

APPENDIX A TO PART 440—INFORMATION REQUIREMENTS FOR OBTAINING A MAXIMUM PROBABLE LOSS DETERMINATION FOR LICENSED LAUNCH ACTIVITIES

Any person requesting a maximum probable loss determination shall submit the following information to the Office, unless the Office has waived a particular information requirement under 14 CFR 440.7(c):

I. GENERAL INFORMATION

A. Mission description.

1. A description of mission parameters, including:
 - a. Launch trajectory;
 - b. Orbital inclination; and
 - c. Orbit altitudes (apogee and perigee).
2. Flight sequence.
3. Staging events and the time for each event.
4. Impact locations.
5. Identification of the launch range facility, including the launch complex on the range, planned date of launch, and launch windows.
6. If the applicant has previously been issued a license to conduct launch activities using the same launch vehicle from the same launch range facility, a description of any differences planned in the conduct of proposed activities.

B. Launch Vehicle Description.

1. General description of the launch vehicle and its stages, including dimensions.
2. Description of major systems, including safety systems.
3. Description of rocket motors and type of fuel used.
4. Identification of all propellants to be used and their hazard classification under the Hazardous Materials Table, 49 CFR 172.101.
5. Description of hazardous components.

C. Payload.

1. General description of the payload, including type (e.g., telecommunications, remote sensing), propellants, and hazardous components or materials, such as toxic or radioactive substances.

D. Flight Termination System.

1. Identification of any flight termination system (FTS) on the launch vehicle, including a description of operations and component location on the vehicle.

II. PRE-FLIGHT PROCESSING OPERATIONS

- A. General description of pre-flight operations including vehicle processing consisting of an operational flow diagram showing the overall sequence and location of operations, commencing with arrival of vehicle

components at the launch range facility through final safety checks and countdown sequence, and designation of hazardous operations, as defined in 14 CFR 440.3. For purposes of these information requirements, payload processing, as opposed to integration, is not a hazardous operation.

B. For each hazardous operation, including but not limited to fueling, solid rocket motor build-up, ordnance installation, ordnance checkout, movement of hazardous materials, and payload integration:

1. Identification of location where each operation will be performed, including each building or facility identified by name or number.
2. Identification of facilities adjacent to the location where each operation will be performed and therefore exposed to risk, identified by name or number.
3. Maximum number of Government personnel and individuals not involved in licensed launch activities who may be exposed to risk during each operation. For Government personnel, identification of his or her employer.
4. Identification of launch range facility policies or requirements applicable to the conduct of operations.

III. FLIGHT OPERATIONS

A. Identification of launch range facilities exposed to risk during launch vehicle lift-off and flight.

B. Identification of accident failure scenarios, probability assessments for each, and estimation of risks to Government personnel, individuals not involved in licensed launch activities, and Government property, due to property damage or bodily injury. The estimation of risks for each scenario shall take into account the number of such individuals at risk as a result of lift-off and flight of a launch vehicle (on-range, off-range, and down-range) and specific, unique facilities exposed to risk. Scenarios shall cover the range of launch trajectories, inclinations and orbits for which authorization is sought in the license application.

C. On-orbit risk analysis assessing risks posed by a launch vehicle to operational satellites.

D. Reentry risk analysis assessing risks to Government personnel and individuals not involved in licensed launch activities as a result of reentering debris or reentry of the launch vehicle or its components.

E. Trajectory data as follows: Nominal and 3-sigma lateral trajectory data in x, y, z and x (dot), y (dot), z (dot) coordinates in one-second intervals, data to be pad-centered with x being along the initial launch azimuth and continuing through impact for suborbital flights, and continuing through orbital insertion or the end of powered flight for orbital flights.

F. Tumble-turn data for guided vehicles only, as follows: For vehicles with gimballed nozzles, tumble turn data with zeta angles and velocity magnitudes stated. A separate table is required for each combination of fail times (every two to four seconds), and significant nozzle angles (two or more small angles, generally between one and five degrees).

G. Identification of debris lethal areas and the projected number and ballistic coefficient of fragments expected to result from flight termination, initiated either by command or self-destruct mechanism, for lift-off, land overflight, and reentry.

IV. POST-FLIGHT PROCESSING OPERATIONS

A. General description of post-flight ground operations including overall sequence and location of operations for removal of vehicle components and processing equipment from the launch range facility and for handling of hazardous materials, and designation of hazardous operations.

B. Identification of all facilities used in conducting post-flight processing operations.

C. For each hazardous operation:

1. Identification of location where each operation is performed, including each building or facility identified by name or number.

2. Identification of facilities adjacent to location where each operation is performed and exposed to risk, identified by name or number.

3. Maximum number of Government personnel and individuals not involved in licensed launch activities who may be exposed to risk during each operation. For Government personnel, identification of his or her employer.

4. Identification of launch range facility policies or requirements applicable to the conduct of operations.

APPENDIX B TO PART 440—AGREEMENT FOR WAIVER OF CLAIMS AND ASSUMPTION OF RESPONSIBILITY

THIS AGREEMENT is entered into this _____ day of _____, by and among [Licensee] (the "Licensee"), [Customer] (the "Customer") and the Federal Aviation Administration of the Department of Transportation, on behalf of the United States Government (collectively, the "Parties"), to implement the provisions of section 440.17(c) of the Commercial Space Transportation Licensing Regulations, 14 CFR Ch. III (the "Regulations").

In consideration of the mutual releases and promises contained herein, the Parties hereby agree as follows:

1. DEFINITIONS

Customer means the above-named Customer on behalf of the Customer, any person to

whom the Customer has sold, leased, assigned, or otherwise transferred its rights in the payload (or any part thereof) to be launched by the licensee, including a conditional sale, lease, assignment, or transfer of rights, any person who has placed property on board the payload for launch or payload services, and any person to whom the Customer has transferred its rights to the launch services.

License means License No. _____ issued on _____, by the Associate Administrator for Commercial Space Transportation, Federal Aviation Administration, Department of Transportation, to the Licensee, including all license orders issued in connection with the License.

Licensee means the Licensee and any transferee of the Licensee under 49 U.S.C. Subtitle IX, ch. 701.

United States means the United States and its agencies involved in Licensed Launch Activities.

Except as otherwise defined herein, terms used in this Agreement and defined in 49 U.S.C. Subtitle IX, ch. 701—Commercial Space Launch Activities, or in the Regulations, shall have the same meaning as contained in 49 U.S.C. Subtitle IX, ch. 701, or the Regulations, respectively.

2. WAIVER AND RELEASE OF CLAIMS

(a) Licensee hereby waives and releases claims it may have against Customer and the United States, and against their respective Contractors and Subcontractors, for Property Damage it sustains and for Bodily Injury or Property Damage sustained by its own employees, resulting from Licensed Launch Activities, regardless of fault.

(b) Customer hereby waives and releases claims it may have against Licensee and the United States, and against their respective Contractors and Subcontractors, for Property Damage it sustains and for Bodily Injury or Property Damage sustained by its own employees, resulting from Licensed Launch Activities, regardless of fault.

(c) The United States hereby waives and releases claims it may have against Licensee and Customer, and against their respective Contractors and Subcontractors, for Property Damage it sustains, and for Bodily Injury or Property Damage sustained by its own employees, resulting from Licensed Launch Activities, regardless of fault, to the extent that claims it would otherwise have for such damage or injury exceed the amount of insurance or demonstration of financial responsibility required under sections 440.9(c) and (e), respectively, of the Regulations, 14 CFR 440.9(c) and (e).

3. ASSUMPTION OF RESPONSIBILITY

(a) Licensee and Customer shall each be responsible for Property Damage it sustains

and for Bodily Injury or Property Damage sustained by its own employees, resulting from Licensed Launch Activities, regardless of fault. Licensee and Customer shall each hold harmless and indemnify each other, the United States, and the Contractors and Subcontractors of each Party, for Bodily Injury or Property Damage sustained by its own employees, resulting from Licensed Launch Activities, regardless of fault.

(b) The United States shall be responsible for Property Damage it sustains, and for Bodily Injury or Property Damage sustained by its own employees, resulting from Licensed Launch Activities, regardless of fault, to the extent that claims it would otherwise have for such damage or injury exceed the amount of insurance or demonstration of financial responsibility required under section 440.9(c) and (e), respectively, of the Regulations, 14 CFR 440.9(c) and (e).

4. EXTENSION OF ASSUMPTION OF RESPONSIBILITY AND WAIVER

(a) Licensee shall extend the requirements of the waiver and release of claims, and the assumption of responsibility, hold harmless, and indemnification, as set forth in paragraphs 2(a) and 3(a), respectively, to its Contractors and Subcontractors by requiring them to waive and release all claims they may have against Customer and the United States, and against the respective Contractors and Subcontractors of each, and to agree to be responsible, for Property Damage they sustain and to be responsible, hold harmless and indemnify Customer and the United States, and the respective Contractors and Subcontractors of each, for Bodily Injury or Property Damage sustained by their own employees, resulting from Licensed Launch Activities, regardless of fault.

(b) Customer shall extend the requirements of the waiver and release of claims, and the assumption of responsibility, hold harmless, and indemnification, as set forth in paragraphs 2(b) and 3(a), respectively, to its Contractors and Subcontractors by requiring them to waive and release all claims they may have against Licensee and the United States, and against the respective Contractors and Subcontractors of each, and to agree to be responsible, for Property Damage they sustain and to be responsible, hold harmless and indemnify Licensee and the United States, and the respective Contractors and Subcontractors of each, for Bodily Injury or Property Damage sustained by their own employees, resulting from Licensed Launch Activities, regardless of fault.

(c) The United States shall extend the requirements of the waiver and release of claims, and the assumption of responsibility as set forth in paragraphs 2(c) and 3(b), respectively, to its Contractors and Subcontractors by requiring them to waive and release all claims they may have against Li-

ensee and Customer, and against the respective Contractors and Subcontractors of each, and to agree to be responsible, for any Property Damage they sustain and for any Bodily Injury or Property Damage sustained by their own employees, resulting from Licensed Launch Activities, regardless of fault, to the extent that claims they would otherwise have for such damage or injury exceed the amount of insurance or demonstration of financial responsibility required under section 440.9(c) and (e), respectively, of the Regulations, 14 CFR 440.9(c) and (e).

5. INDEMNIFICATION

(a) Licensee shall hold harmless and indemnify Customer and its directors, officers, servants, agents, subsidiaries, employees and assignees, or any or them, and the United States and its agencies, servants, agents, subsidiaries, employees and assignees, or any or them, from and against liability, loss or damage arising out of claims that Licensee's Contractors and Subcontractors may have for Property Damage sustained by them and for Bodily Injury or Property Damage sustained by their employees, resulting from Licensed Launch Activities.

(b) Customer shall hold harmless and indemnify Licensee and its directors, officers, servants, agents, subsidiaries, employees and assignees, or any or them, and the United States and its agencies, servants, agents, subsidiaries, employees and assignees, or any of them, from and against liability, loss or damage arising out of claims that Customer's Contractors and Subcontractors, or any person on whose behalf Customer enters into this Agreement, may have for Property Damage sustained by them and for Bodily Injury or Property Damage sustained by their employees, resulting from Licensed Launch Activities.

(c) To the extent provided in advance in an appropriations law or to the extent there is enacted additional legislative authority providing for the payment of claims, the United States shall hold harmless and indemnify Licensee and Customer and their respective directors, officers, servants, agents, subsidiaries, employees and assignees, or any of them, from and against liability, loss or damage arising out of claims that Contractors and Subcontractors of the United States may have for Property Damage sustained by them, and for Bodily Injury or Property Damage sustained by their employees, resulting from Licensed Launch Activities, to the extent that claims they would otherwise have for such damage or injury exceed the amount of insurance or demonstration of financial responsibility required under sections 440.9(c) and (e), respectively, of the Regulations, 14 CFR 440.9(c) and (e).

6. ASSURANCES UNDER 49 U.S.C. 70112(E)

Notwithstanding any provision of this Agreement to the contrary, Licensee shall hold harmless and indemnify the United States and its agencies, servants, agents, employees and assignees, or any of them, from and against liability, loss or damage arising out of claims for Bodily Injury or Property Damage, resulting from Licensed Launch Activities, regardless of fault, except to the extent that: (i) as provided in section 7(b) of this Agreement, claims result from willful misconduct of the United States or its agents; (ii) claims for Property Damage sustained by the United States or its Contractors and Subcontractors exceed the amount of insurance or demonstration of financial responsibility required under section 440.9(e) of the Regulations (14 CFR 440.9(e)); (iii) claims by a Third Party for Bodily Injury or Property Damage exceed the amount of insurance or demonstration of financial responsibility required under section 440.9(c) of the Regulations (14 CFR 440.9(c)), and do not exceed \$1,500,000,000 (as adjusted for inflation after January 1, 1989) above such amount, and are payable pursuant to the provisions of 49 U.S.C. 70113 and section 440.19 of the Regulations (14 CFR 440.19); or (iv) Licensee has no liability for claims exceeding \$1,500,000,000 (as adjusted for inflation after January 1, 1989) above the amount of insurance or demonstration of financial responsibility required under section 440.9(c) of the Regulations (14 CFR 440.9(c)).

7. MISCELLANEOUS

(a) Nothing contained herein shall be construed as a waiver or release by Licensee, Customer or the United States of any claim by an employee of the Licensee, Customer or the United States, respectively, including a member of the Armed Forces of the United States, for Bodily Injury or Property Damage, resulting from Licensed Launch Activities.

(b) Notwithstanding any provision of this Agreement to the contrary, any waiver, release, assumption of responsibility or agreement to hold harmless and indemnify herein shall not apply to claims for Bodily Injury or Property Damage resulting from willful misconduct of any of the Parties, the Contractors and Subcontractors of any of the Parties, and in the case of Licensee and Customer and the Contractors and Subcontractors of each of them, the directors, officers, agents and employees of any of the foregoing, and in the case of the United States, its agents.

(c) In the event that more than one customer is involved in Licensed Launch Activities, references herein to Customer shall apply to, and be deemed to include, each such customer severally and not jointly.

(d) This Agreement shall be governed by and construed in accordance with United States Federal law.

IN WITNESS WHEREOF, the Parties to this Agreement have caused the Agreement to be duly executed by their respective duly authorized representatives as of the date written above.

LICENSEE

By: _____
Its: _____

CUSTOMER

By: _____
Its: _____

DEPARTMENT OF TRANSPORTATION

By: _____
Its: _____

[Doc. No. 28635, 63 FR 45619, Aug. 26, 1998; 63 FR 55175, Oct. 14, 1998]

PARTS 441-1199 [RESERVED]