



COMSTAC Legal & Regulatory Working Group FRs

May 2019



Federal Aviation
Administration

NPRM Comment Period

Background

- FAA has responded to SPD-2 as well as the United States commercial space industry's call for reforming the FAA's launch and reentry regulations.
- FAA, through its creation of an Aviation Rulemaking Committee (ARC) and issuance of a Notice of Proposed Rulemaking (NPRM), is working to streamline the current commercial space licensing regulations.
- On April 15, 2019, FAA released an extensive NPRM, with an additional 1000+ pages of supporting material released around April 22, 2019.
- Industry representatives have submitted over 50 comments requesting an extension of the prescribed NPRM comment period beyond 60 days.
- COMSTAC **finds** that, when final, FAA's new launch and reentry rules will have significant and long-lasting effects on the industry, including its ability to safely apply innovative technologies to commercial and government endeavors.
- COMSTAC **recommends** that FAA immediately extend the NPRM comment period to at least 120 days to afford industry experts time to conduct substantive review and provide meaningful industry consensus feedback to FAA for incorporation into the Final Rule.

ARC

Background

- FAA created an Aviation Rulemaking Committee (ARC) to discuss industry input prior to the release of the NPRM.
 - COMSTAC provides an opportunity for FAA to engage with members of industry in a public forum.
 - FAA has held no public meetings in preparation for the NPRM or following its release.
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- COMSTAC **finds** that there is significant industry interest in reconvening the ARC as a means to provide feedback to and engage in a dialogue with the FAA regarding the NPRM.
 - COMSTAC **finds** that there is concern among some industry members with aspects of the NPRM regarding the performance-based approach to regulating the industry.
 - COMSTAC **recommends** that, as soon as possible, FAA further engage with industry through the ARC and COMSTAC to address concerns in the NPRM.

Staffing

Background

- System safety serves as the basis for the regulatory approach in FAA's NPRM.
- The Secretary of Transportation has announced a reorganization of FAA AST.
- Industry is concerned that, given FAA's familiarity with and use of USAF's proscriptive approach, FAA's expertise in system safety could be lacking.
- COMSTAC **finds** that system safety assessments have been the evaluation measure for only a small percentage of the operations FAA has licensed, none of which have been large orbital launch vehicles.
- COMSTAC **finds** that, for licensing of large orbital launch vehicles, FAA traditionally relies on proscriptive regulations derived from USAF requirements, as well as on USAF expertise in applying those requirements.
- COMSTAC **finds** that FAA's NPRM has the opportunity to foster innovation and allow for flexibility in achieving an applicable performance standard.
- COMSTAC **recommends** that FAA ensure it has sufficient staff and expertise to efficiently transition to system safety-based regulations.

Update DoD MOA for Ranges

Background

- Operators at Federal Ranges are subject to duplicative USAF and FAA oversight. A launch operator must meet the flight & ground safety requirements of USAF's AFSPCMAN and RCC documents, as well as the flight and ground safety requirements in FAA's 14 C.F.R. Part 415/417 or 14 C.F.R. Part 431.
- The "Memorandum of Agreement (MOA) between USAF and FAA on Safety for Space Transportation and Range Activities" (2007) aligns FAA's Part 415/417 with USAF's AFSPCMAN and RCC requirements. The MOA does not, however, align FAA's Part 431 with USAF's requirements, which is a current deficiency of the MOA.
- The 2018 National Defense Authorization Act (NDAA) stated that, "the Secretary of Defense may not impose any requirement on a licensee or transferee that is duplicative of, or overlaps in intent with, any requirement imposed by the Secretary of Transportation under that chapter."
- When FAA issues the final launch & reentry licensing rule, the MOA will be similarly deficient as it will not align the new regulations with existing USAF requirements.
- COMSTAC **finds** that the MOA is out of date and does not achieve the direction of the NDAA.
- COMSTAC **recommends** that FAA engage with USAF immediately to update the MOA to implement the NDAA's direction to remove duplicative requirements, thereby increasing efficiency and innovation in the space flight industry.