DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Office of Commercial Space Transportation; Record of Decision to document the Federal Aviation Administration's final approval for issuing, renewing, or modifying Launch Operator Licenses for launch vehicles covered under the Evolved Expendable Launch Vehicle Program, which include Atlas V and Delta IV vehicles, from Cape Canaveral Air Force Station and Vandenberg Air Force Base.

AGENCY: The Federal Aviation Administration

ACTIONS: Record of Decision

SUMMARY: The Federal Aviation Administration (FAA) Office of Commercial Space Transportation (AST) prepared this Record of Decision (ROD) to document the FAA's final approval for issuing, renewing, or modifying Launch Operator Licenses for launch vehicles covered under the Evolved Expendable Launch Vehicle (EELV) Program, which include Atlas V and Delta IV vehicles, from Cape Canaveral Air Force Station (CCAFS) and Vandenberg Air Force Base (VAFB). The Federal action selected in this ROD is the FAA's issuance, renewal, or modification of Launch Operator Licenses for launch vehicles covered under the EELV Program from CCAFS and VAFB.

The FAA participated as a cooperating agency with the U.S. Air Force (USAF) in the preparation of the 1998 Final Environmental Impact Statement for the EELV Program (1998 FEIS) and the 2000 Supplemental Environmental Impact Statement for the EELV Program (2000 SEIS) in accordance with the National Environmental Policy Act (NEPA) of 1969, 42 United States Code (U.S.C) § 4321-4347 (as amended) and Council on Environmental Quality (CEQ) NEPA implementing regulations (40 Code of Federal Regulations [CFR Parts 1500-1508]) to evaluate the potential environmental impacts of the development, deployment, and operation of EELV systems to replace the Atlas II, Delta II, and Titan IV launch systems at CCAFS and VAFB. The FAA served as a cooperating agency because the 1998 FEIS and 2000 SEIS discussed the possibility of both FAA/AST-licensed launches and non-FAA/AST licensed or government launches of Atlas V and Delta IV vehicles from CCAFS and VAFB.

In November 2003, the USAF published a Final Environmental Assessment (EA) for the Atlas V System from SLC-3E at VAFB (2003 EA). The FAA did not participate as a cooperating agency in the development of this Environmental Assessment, but has independently evaluated the information contained in the 2003 EA and has verified the continued validity of the analysis contained in the document. Through this re-revaluation, the FAA determined that there is no new information or analysis that would require the preparation of a new or supplemental EA according to the CEQ Regulations (40 CFR § 1502.9(c)(1)). The FAA has therefore, adopted the 2003 EA and issued a Finding of No Significant Impact. The 2003 EA is incorporated by reference into this ROD.

The FAA has independently evaluated the information contained in the 1998 FEIS and 2000 SEIS and has verified the continued validity of the analysis contained in both documents. Through this re-evaluation, the FAA has determined that there is no new information or analysis that would require preparation of a new or supplemental EIS according to the CEQ Regulations (40 CFR § 1502.9(c)(1)). The FAA is therefore adopting the 1998 FEIS and 2000 SEIS, and is using these documents to support its decision on the Proposed Action.

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PURPOSE AND NEED: The purpose of the Proposed Action is to fulfill FAA/AST's responsibilities under the Commercial Space Launch Act, 51 U.S.C. Ch. 509, §§ 50901-23 (2011) and Executive Order 12465, *Commercial Expendable Launch Vehicle Activities*, for oversight of commercial space launch activities, including licensing of launch and reentry activities. The issuance, renewal, or modification of Launch Operator Licenses for the launch of Atlas V and Delta IV expendable launch vehicles from CCAFS and VAFB would be consistent with the agency's responsibilities under the CSLAA.

The need for action results from the statutory direction from Congress to encourage, facilitate, and promote commercial space launches and reentries by the private sector and facilitate the strengthening and expansion of the U.S. space transportation infrastructure, in accordance with the applicable requirements.[1]

PUBLIC AND AGENCY INVOLVEMENT: *1998 FEIS.* Public participation in the NEPA process promotes better decision-making and provides for and encourages open communication between FAA and the public. The Notice of Intent to prepare an EIS for EELV systems was published in the *Federal Register* on February 19, 1997. The USAF held scoping meetings on March 11 and 13, 1997 to receive comments from the public regarding the scope of issues to be addressed and to identify significant issues related to the proposal. A Draft EIS was filed with the U.S. Environmental Protection Agency (EPA) on December 12, 1997, and public hearings on the Draft EIS were held on January 13 and 15, 1998, where the USAF presented the findings of the Draft EIS and invited public comments. All public comments received during the 45-day public comment period following the publication of the Draft EIS were considered in developing the Final EIS. The Final EIS was filed with the EPA on May 1, 1998 and a Notice of Availability was published in the *Federal Register* on May 8, 1998.

2000 SEIS. Following proposed modifications to the launch vehicles analyzed in the 1998 FEIS, a Notice of Intent to prepare the Draft Supplemental EIS was published in the *Federal Register* on April 12, 1999. The public scoping period for the Draft Supplemental EIS began on April 13,

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[1] The Commercial Space Launch Amendments Act of 2004 (Public Law 108-492), the Commercial Space Transportation Competitiveness Act of 2000 (Public Law 106-405); Executive Order 12465, Commercial Expendable Launch Vehicle Activities (February 24, 1984); CFR Title 14, Aeronautics and Space, Parts 400-450, Commercial Space Transportation, Federal Aviation Administration, Department of Transportation; the Commercial Space Act of 1998 (Public Law 105-303); the U.S. Space Transportation Policy of 2004; and the National Space Policy of 1996 and 2006.

1999, and ended on May 31, 1999. The USAF published the Notice of Availability of the Draft Supplemental EIS for public review in the *Federal Register* on November 12, 1999, initiating a 45-day comment period, which closed on December 27, 1999. In addition, the USAF placed ads in newspapers of the affected communities notifying the public of their opportunities to participate in the comment period. During the comment period, the USAF held public hearings at Cape Canaveral, Florida, on December 7, 1999, and at Lompoc, California, on December 9, 1999, where the USAF presented the findings in the Draft Supplemental EIS. The USAF filed the Final Supplemental EIS with EPA on April 7, 2000, and published a Notice of Availability in the *Federal Register* on April 14, 2000.

2003 EA. As a result of a program restructure in September of 2000, the USAF terminated plans for development of the EELV launch pad on SLC-3W and the implementation of the Atlas V System from VAFB. However, in 2003 changes in USAF programs resulted in the reinstatement of the Atlas V System, but the program needed to be implemented from SLC-3E on South VAFB rather than SLC-3W as originally planned. SLC-3E was selected for the Atlas V System because SLC-3W was no longer available due to an earlier signed agreement between Space X Corporation and the USAF and because the 21-month schedule levied on the proponent prevented the design of a new launch pad. The 2003 EA analyzed the environmental impacts associated with the proposed action of modifying existing facilities and roadways and launching the Atlas V from SLC-3E at VAFB. The FAA did not participate as a cooperating agency with the USAF in preparation of the 2003 EA. The analysis from the 2003 EA and the FAA's findings on that analysis are incorporated by reference in this ROD, and therefore references from the 1998 FEIS and 2000 SEIS to SLC-3W at VAFB have been revised to read "SLC-3E" throughout this ROD.

PROPOSED ACTION AND ALTERNATIVES CONSIDERED: The Proposed Action and Alternatives considered are described in detail in Chapter 2 of the 1998 FEIS and 2000 SEIS; and they are summarized in this ROD. As noted earlier, this ROD provides the FAA's final approval for issuing, renewing, or modifying Launch Operator Licenses for launch vehicles covered under the EELV Program, which include Atlas V and Delta IV vehicles, from CCAFS and VAFB. The 1998 FEIS and 2000 SEIS discussed the possibility of both FAA-licensed and non-licensed or government launches of the Atlas V and Delta IV vehicles from CCAFS and VAFB.

1998 FEIS Proposed Action and Alternatives

Under the Proposed Action in the 1998 FEIS, CCAFS and VAFB would be used for launch activities under the EELV program. Delta IV launches would occur from Space Launch Complex-37 (SLC-37) at CCAFS and from SLC-6 at VAFB; the Atlas V launches would occur from SLC-41 at CCAFS and from SLC-3E at VAFB.[2] Use of these complexes could require new construction and facility modification in order to adapt the complexes to the launch vehicles. Operational activities at the complexes would involve launches of both medium and

[2] The 1998 FEIS and 2000 SEIS state that SLC-3W would be used for Atlas V launches, but in 2003 the USAF decided to use SLC-3E as the launch site for the Atlas V. The USAF analyzed the potential environmental impacts of using SLC-3E in the 2003 EA and the FAA has independently evaluated that analysis and issued its own finding of no significant impact. Therefore, SLC-3E will be cited as the launch site for Atlas V launches in this ROD.

heavy lift expendable, orbital "concept vehicles." The three alternatives analyzed in the 1998 FEIS included: 1) use of only the Concept A family of vehicles (later identified as Lockheed Martin Commercial Launch Services, Inc. [Lockheed Martin]'s Atlas V family of vehicles); 2) use of only the Concept B family of vehicles (later identified as The Boeing Company [Boeing]'s Delta IV family of vehicles); and 3) use of both Concept A and B vehicles. Under the third alternative, a maximum of 30 combined FAA-licensed launches and non-licensed launches of Atlas V and Delta IV would occur in one year from VAFB and CCAFS, combined. Under the No Action Alternative, the USAF would not proceed with the development and deployment of the EELV program, and Atlas IIA, Delta II, and Titan IVB launch vehicles would continue to be used to support space launches to meet the requirements of the government. These launch vehicles would provide the Department of Defense's source of expendable medium and heavy spacelift transportation to orbit through 2020. The No Action Alternative did not include analysis of FAA-licensed launches.

The USAF issued a ROD on June 8, 1998, which presented the agency's decision to select the third alternative, the use of both Concept A and B vehicles, and permit the continued development and deployment of the EELV program. The ROD stated that the USAF would adopt all practicable means to avoid or minimize the environmental harm resulting from the Proposed Action, including appropriate mitigation and monitoring measures, as set forth in the ROD.

2000 SEIS Proposed Action and Alternatives

Under the Proposed Action in the 2000 SEIS, up to five solid-propellant strap-on rocket motors (SRMs) would be added to the Atlas V medium lift vehicle and larger SRMs would be used on the Delta IV vehicle. The Atlas V vehicle would launch from SLC-41 at CCAFS and SLC-3E at VAFB, and the Delta IV vehicle would launch from SLC-37 at CCAFS and SLC-6 at VAFB. While use of SRM-assisted vehicles was considered in the 1998 FEIS, the 2000 SEIS considered a higher proportion of vehicles using SRM-assisted vehicles than the 1998 FEIS. Under the Proposed Action, a maximum of 33 combined FAA-licensed launches and non-licensed launches of Atlas V and Delta IV would occur in one year from VAFB and CCAFS, combined. Under the No Action Alternative, the EELV program would continue, except that SRMs would not be added to the Atlas V launch vehicles and smaller SRMs would be used on Delta IV launch vehicles.

The USAF issued a ROD on May 25, 2000, which presented the agency's decision to permit the use of additional and larger SRMs in support of the EELV program. This ROD noted that while the environmentally preferred alternative was the No Action Alternative, the USAF would implement all practicable means to avoid or minimize the environmental harm resulting from the Proposed Action, including appropriate mitigation and monitoring measures, as set forth in the ROD.

FAA/AST Proposed Action/Preferred Alternative

The FAA/AST served as a cooperating agency in the preparation of the 1998 FEIS and 2000 SEIS due to its role in issuing Launch Operator Licenses to operate launch vehicles at CCAFS and VAFB, and because FAA-licensed launches of both the Atlas V and Delta IV launch

vehicles were included in the Proposed Action of both documents. Under the FAA's Proposed Action, FAA/AST could issue, renew, or modify Launch Operator Licenses for Atlas V and Delta IV operations at CCAFS and VAFB. The FAA's Proposed Action is also the FAA's Preferred Alternative. The 1998 FEIS and 2000 SEIS analyzed the full potential scope of the operations that could be covered under a Launch Operator License for Atlas V and Delta IV at CCAFS and VAFB. The FAA may use the analysis in the 1998 FEIS, 2000 SEIS, and this ROD to support the issuance, renewal, or modification of Launch Operator Licenses for Atlas V and Delta IV expendable launch vehicles at CCAFS and VAFB.

In accordance with the requirements of FAA Order 1050.1E, Change 1, paragraph 515, the FAA has independently evaluated the information contained in the 1998 FEIS and 2000 SEIS and has verified the continued validity of the analysis contained in both documents. The FAA has determined that the 1998 FEIS and 2000 SEIS sufficiently address the concerns of the FAA and comply with FAA requirements for implementing NEPA as stated in FAA Order 1050.1E, Change 1. The FAA has determined that there is no new information or analysis that would require the preparation of a new or supplemental EIS according to the CEQ Regulations (40 CFR § 1502.9(c)(1). The FAA is therefore adopting the 1998 FEIS and 2000 SEIS, and is using these documents to support its decision in this ROD. The USAF's 1998 FEIS and 2000 SEIS are incorporated by reference and summarized as necessary in this ROD.

FAA/AST No Action Alternative

Under the No Action Alternative, the FAA would not issue, renew, or modify Launch Operator Licenses for Atlas V or Delta IV expendable launch vehicles at CCAFS and VAFB. Without a license, there could not be any commercial launches of Atlas V or Delta IV vehicles from CCAFS or VAFB; however, non-licensed or government launches of these vehicles could continue from both locations.

Environmentally Preferable Alternative

The FAA/AST No Action Alternative is the environmentally preferable alternative. Under the FAA's No Action Alternative, the FAA would not issue licenses, renewals, or modifications of Launch Operator Licenses for Atlas V and Delta IV expendable launch vehicles at CCAFS or VAFB. Although, the environmentally preferable alternative is the FAA's No Action Alternative, all practicable means to avoid or minimize the environmental harm resulting from the FAA's Proposed Action/Preferred Alternative, including appropriate mitigation and monitoring measures, would be implemented as set forth in this ROD.

ENVIRONMENTAL IMPACTS UNDER THE PROPOSED ACTION: The following presents a brief summary of the potential environmental impacts considered in the 1998 FEIS and 2000 SEIS. This ROD incorporates the USAF's 1998 FEIS and 2000 SEIS by reference, summarizes those findings where appropriate, and is based on the potential impacts discussed in those documents. The FAA has determined the analysis of impacts presented in the 1998 FEIS and 2000 SEIS represents the best available information regarding the potential impacts associated with the FAA's regulatory responsibilities described in this ROD. In addition, this ROD presents any relevant newly available data on existing conditions, potential impacts, and measures to mitigate those impacts.

Air Quality

The proposed launch vehicle operations at CCAFS and VAFB would not result in significant impacts to local atmospheric air quality. Air quality impacts from nominal launches and launch failures of the Atlas V and Delta IV vehicles would include a temporary increase in hydrogen chloride, carbon monoxide, PM_{10}, and $PM_{2.5}$.[3] The use of SRMs would generate emission of aluminum oxide, nitrogen oxides, and chlorine compounds into the stratosphere that would affect stratospheric ozone. Temporary local ozone losses would occur. Cumulative global impacts to stratospheric ozone would depend on the future rate of launches. Atlas V and Delta IV launch vehicle operations at CCAFS and VAFB would not be expected to have a significant impact on air quality.

Biological Resources

The proposed operations at CCAFS and VAFB for the Atlas V and Delta IV launch program could result in impacts to vegetation and wildlife. These impacts could occur if a post-launch ground cloud or launch noise were to affect biological resources. Species protected by National Marine Fisheries Service could be affected by launch activities at VAFB; however, all FAA-licensed launches would comply with all pertinent monitoring and mitigation measures. In order to comply with the requirements of the Endangered Species Act and the Marine Mammal Protection Act and avoid significant adverse impacts to species, the licensee would be required to adhere to all requirements that CCAFS or VAFB implements as a result of the past, current, and ongoing consultations with the USFWS and NMFS, including conditions of the current Biological Opinions that CCAFS and VAFB are operating under. With these measures, the Proposed Action would not be expected to have a significant impact on biological resources. The effects of hydrogen chloride and aluminum oxide deposition from launches would be minimal. Plant species are expected to recover from short-term launch impacts. Damaged vegetation resulting from a launch anomaly would be expected to recover within the same growing season because no lingering effects would be present. No significant impacts to vegetation are anticipated as a result of the Proposed Action. Atlas V and Delta IV launches would not be expected to have a significant impact on biological resources at CCAFS and VAFB.

Cultural Resources

An increase in the number of launches associated with the Proposed Action would not affect registered or eligible cultural resources at CCAFS and VAFB or alter their character or setting. Archaeological surveys at VAFB have identified more than 2,200 prehistoric and historic cultural sites ranging from prehistoric village sites and temporary encampments to Cold War

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[3] As the EPA did not finish setting NAAQS for $PM_{2.5}$ until 2006, it was not evaluated in the 1998 FEIS or 2000 SEIS. However, as $PM_{2.5}$ is a component of PM_{10}, a conservative estimate of emission concentrations from a Delta IV or Atlas V launch can be made by assuming the PM_{10} concentrations reported in the 2000 FSEIS equal $PM_{2.5}$ concentrations. A similar methodology can be used to estimate annual $PM_{2.5}$. Using these methods, the FAA has determined that $PM_{2.5}$ emissions would not exceed the NAAQS standards, and therefore no significant impacts to $PM_{2.5}$ are anticipated as a result of the Proposed Action.

infrastructure. However, activities associated with the Proposed Action would not result in any new ground disturbances and would not represent a new type of activity in the area that would affect the character or setting of a cultural resource. Under the Proposed Action no adverse impacts would be anticipated at SLC-37 or SLC-41 at CCAFS or SLC-3E or SLC-6 at VAFB. Therefore, the Proposed Action would not be expected to have a significant impact on cultural resources at CCAFS and VAFB.

Geology and Soils

The proposed launch vehicle operations at CCAFS and VAFB would not result in a significant impact to geology or soils. Since no new construction would occur under the FAA's Proposed Action, the risk of soil erosion and landslides would be minimal.

Land Use and Section 4(f) Resources

Atlas V and Delta IV launches would not result in significant impacts to land use compatibility at CCAFS and VAFB. Launch activities would occur at SLC-37 and SLC-41 at CCAFS, and SLC-3E and SLC-6 at VAFB, which are designated for space launch activities and are consistent with the base comprehensive plan. These SLCs are still active and currently designated for space launch operations, and the Proposed Action would not impact or require changes to land use. The proposed action would not require the use of Section 4(f) resources.

There are no public beaches on Cape Canaveral; therefore, no beach closures would occur as a result of the Proposed Action at CCAFS. Atlas V and Delta IV launches at VAFB could result in temporary beach closures. The Proposed Action could result in a maximum of 28 (from a maximum of 11[4] launches closing both Ocean Beach County Park and Jalama Beach County Park during low-azimuth launches from SLC-3E) potential public beach closures per year.

Noise

The proposed launch vehicle operations at CCAFS and VAFB would not result in significant impacts to noise. The relative isolation of CCAFS reduces the potential for noise to affect adjacent communities. The area surrounding VAFB primarily consists of undeveloped and rural land, and potential impacts to noise-sensitive receptors would not be expected under the Proposed Action. Atlas V and Delta IV launches from CCAFS and VAFB would be expected to occur infrequently (up to a combined total of 26 times per year at CCAFS and 11 times per year at VAFB), and the launch noise generated from each event would be temporary and brief. Noise levels resulting from launches at CCAFS and VAFB would not be expected to cause more than a slight annoyance to nearby communities. Although rocket launches could result in sonic booms, these would be directed out over the Atlantic and Pacific Oceans and would not be expected to affect the Florida and California coastlines. Exposure to short-term noise from launches could cause startle effects in marine mammals and bird species, but this impact would not be expected

[4] Although the 1998 FEIS analyzed up to a maximum of 14 EELV launches annually from VAFB, the 2003 EA only included a maximum of 4 Atlas V launches annually (3 fewer than was considered in the 1998 FEIS) and therefore, this written re-evaluation (WR) will consider a maximum of 11 combined EELV launches from VAFB.

to be significant. The Proposed Action would result in day-night average noise levels (DNL) at CCAFS and VAFB that are substantially less than the FAA's significance threshold of 65.

Physical Resources (Water Resources [Surface Water, Ground Water, Floodplains], Hazardous Materials, Pollution Prevention, and Solid Waste)

Water Resources

Significant impacts to water resources would not be expected from Atlas V and Delta IV launch operations at CCAFS and VAFB. Although the sites are near coastal waters and wetlands, there are no creeks or other natural surface waters present in the immediate vicinity of SLC-37 and SLC-41 at CCAFS, and SLC-3E and SLC-6 at VAFB. Launches would require the use of deluge, acoustic suppression, and wash down water. Any wastewater generated during launch activities would be monitored and properly disposed of in accordance with the current wastewater disposal regulations. Minimal deposition of hydrochloric acid associated with the use of solid rocket motors would be concentrated near the launch pad, and adverse impacts to surface water and groundwater are not anticipated. The Proposed Action would not be expected to have a significant impact on water resources.

Hazardous Materials, Pollution Prevention, and Solid Waste

Proposed launch vehicle operations at CCAFS and VAFB would not result in significant impacts to hazardous materials, hazardous waste management, or solid waste. Activities related to vehicle launch activities could result in hazardous materials and hazardous waste generation; however, no significant impacts would be expected as the licensee would adhere to existing standards for hazardous materials and waste management at CCAFS and VAFB. As a result, Atlas V and Delta IV launches would not pose significant impacts to hazardous materials and hazardous waste management.

Socioeconomics, Environmental Justice, and Children's Environmental Health and Safety

Proposed launch vehicle operations at CCAFS and VAFB would not result in significant impacts to environmental justice, socioeconomics, or children's environmental health and safety. In addition, no impacts to surrounding populations, including minorities and low-income populations, would be expected under the Proposed Action.

Cumulative Impacts

The Proposed Action would not result in significant cumulative impacts to any resource. While some impacts to biological resources, especially marine mammals, are anticipated, these impacts are not expected to be significant. The Proposed Action would not affect any other actions at CCAFS and VAFB and the surrounding areas, and conversely the Proposed Action would not be affected by any other actions at these locations.

It is highly unlikely that the maximum 26 annual commercial launches at CCAFS or 11 annual commercial launches at VAFB would actually occur, as the Commercial Space Transportation

Advisory Committee and FAA/AST's 2010 forecast projects an average annual demand of 27.6 commercial space launches worldwide from 2010 to 2019. As a result, the number of Atlas V and Delta IV launches per year at CCAFS and VAFB would not be considered significant relative to the overall launch rate at these locations or worldwide, and thus no substantial cumulative impacts to any resources would be expected.

DECISION AND ORDER: Based on the potential environmental impacts identified in the 1998 FEIS and 2000 SEIS, applicable regulatory requirements, public and agency comments, and the FAA's responsibilities to support the continued growth and expansion of the U.S. space transportation industry, the FAA has decided to implement the FAA's Proposed Action (Preferred Alternative). The FAA believes the FAA's Proposed Action best fulfills the purpose and need identified in this ROD. In contrast, the FAA's No Action Alternative fails to meet the purpose and need identified in this ROD. For reasons summarized earlier in this ROD, the FAA has determined that the FAA's Proposed Action is a reasonable, feasible, practicable, and prudent alternative for a Federal decision in light of the established goals and objectives. An FAA decision to take the required actions and approvals is consistent with its statutory mission and policies supported by the findings and conclusions reflected in the environmental documentation and this ROD.

The FAA has independently evaluated the information contained in the 1998 FEIS and 2000 SEIS and has verified the continued validity of the analysis contained in both documents. Through this re-evaluation, the FAA has determined that there is no new information or analysis that would require preparation of a new or supplemental EIS according to the CEQ Regulations (40 CFR § 1502.9 (c)(1)). The FAA is therefore adopting the 1998 FEIS and 2000 SEIS, and is using these documents to support its decision on the Proposed Action.

After careful and thorough consideration of the facts contained herein and following consideration of the view of those Federal agencies having jurisdiction by law or special expertise with respect to the environmental impacts described, the undersigned finds that the proposed Federal action is consistent with existing national environmental policies and objectives as set forth in Section 101(a) of NEPA.

This ROD represents the FAA's final decision and approvals for the actions identified, including those taken under the provisions of the Commercial Space Launch Act, 51 U.S.C. Ch. 509, §§ 50901-23 (2011), Subtitle VII, Parts A and B. Based upon the record of this proposed Federal action, and under the authority delegated to me by the Administrator of the FAA, I find that this Record of Decision is reasonably supported.

FAA Decisionmaker:

8/12/11

Dr. George C. Nield
Associate Administrator for
Commercial Space Transportation

Date