



U.S. Department
of Transportation
**Federal Aviation
Administration**

Commercial Space Transportation

800 Independence Ave., SW.
Washington, DC 20591

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 450

FAA Determination that National Aeronautics and Space Administration (NASA) Kennedy Space Center (KSC) Ground Safety Processes, Requirements, and Oversight are not Inconsistent with FAA Ground Safety Requirements and May Be Used By Launch and Reentry Operators to Satisfy FAA Ground Safety Requirements at NASA KSC.

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT)

ACTION: Notice of Determination

SUMMARY: This action provides notice that the FAA, in accordance with 14 CFR §§ 450.179(b)(3) and (c), has determined that the NASA KSC ground safety processes, requirements, and oversight are not inconsistent with the FAA's statutory authority over commercial space activities conducted at NASA KSC.

DATE: The date of this notice is 18 November 2022.

FOR FURTHER INFORMATION CONTACT: For additional information concerning this action, contact Executive Director, Office of Operational Safety, via letter: 800 Independence Ave SW, Washington, DC 20591; via email: 9-AST-Inquiries@faa.gov.

SUPPLEMENTARY INFORMATION: The Commercial Space Launch Act of 1984, as amended and codified at 51 U.S.C. §§ 50901-50923, authorizes the Department of Transportation, and the FAA through delegation, to oversee, license, and regulate commercial launch and reentry activities, and the operation of launch and reentry sites as carried out by U.S. citizens or within the United States. The FAA, through regulations, exercises this responsibility consistent with public health and safety, safety of property, and the national security and foreign policy interests of the United States. 51 U.S.C. 50905.

I. Background

In order to reduce duplicative government requirements, the FAA has historically relieved operators from having to demonstrate compliance with FAA ground safety requirements¹ when

¹ 14 CFR §§ 417.402(b) and 415.31(a).

conducting licensed activities at a Federal site if a launch operator has contracted with a Federal site for ground safety services, and the FAA through its launch site safety assessment (LSSA) found that the Federal site's ground safety process satisfies the FAA requirements.

For activities licensed under 14 CFR part 450, an operator need not comply with the ground safety requirements of §§ 450.181 through 450.189 if the following conditions in § 450.179(b) are met:

- (1) The launch or reentry is being conducted from a Federal launch or reentry site;
- (2) The operator has a written agreement with the Federal launch or reentry site for the provision of ground safety services and oversight; and
- (3) The Administrator has determined that the Federal launch or reentry site's ground safety processes, requirements, and oversight are not inconsistent with the Secretary's statutory authority over commercial space activities.

The FAA limits the applicability of § 450.179(b) to certain Federal sites, such as Cape Canaveral Space Force Station (CCSFS) and Vandenberg Space Force Base (VSFB), that have a long history of conducting launches and reentries in a manner consistent with FAA regulations.² In general, when the FAA finds that a site meets the conditions in § 450.179(b), the FAA will develop a Memorandum of Agreement (MOA) with the approved site and publish the MOA on the FAA's website.³ It should be noted that, even where § 450.179(b) is satisfied, the FAA preserves its statutory jurisdiction over those ground safety activities that are part of launch and reentry but recognizes certain Federal processes and procedures as sufficient to meet the FAA's mandate.

To make the determination specified in § 450.179(b)(3), the Administrator considers the nature and frequency of launch and reentry activities conducted from the Federal launch or reentry site, coordination between the FAA and the Federal launch or reentry site personnel, and the Administrator's knowledge of the Federal launch or reentry site's requirements.⁴ The FAA's assessment of a Federal site's ground safety processes and procedures under § 450.179(b)(3) is substantively equivalent to LSSAs under part 415, through which the FAA determines whether the Federal site's requirements and practices satisfy FAA safety regulations.

Following the promulgation of part 450, the FAA completed its LSSA of NASA KSC's ground safety processes, requirements, and oversight, which the FAA found not to be inconsistent with the FAA's ground safety requirements in §§ 450.181 through 450.189.

II. Discussion of the Determination

This notice documents and announces that the FAA, per § 450.179(b)(3), has determined that NASA KSC ground safety processes, requirements, and oversight are not inconsistent with the FAA's statutory authority over commercial space activities as long as NASA provides services that meet requirements, policies, and standards that would apply to operations conducted by and for NASA (referred to here as NASA operations). NASA's ground safety requirements⁵ for

² 85 FR 79592.

³ *Id.* at 79593. See Memorandum of Agreement Between the Department of the Air Force and the Federal Aviation Administration for Launch and Reentry Activity on Department of the Air Force Ranges and Installations, Agreement Number: FAA-DAF-SLR-2021.01.

⁴ § 450.179(c).

⁵ KNPR 8715.3-2 and KNPR 8715.3-3 define a *Partner* as a non-KSC organization that has a formal agreement with

operators operating at KSC include, but are not limited to those detailed in:

- 1) KNPR 8715.3-1, KSC Safety Procedural Requirements Volume 1, Safety Procedural Requirements for NASA Civil Servants and Contractors;
- 2) KNPR 8715.3-2, KSC Safety Procedural Requirements Volume 2, Safety Procedural Requirements for Partner Organizations Operating in Joint-Use Facilities; and
- 3) KNPR 8715.3-3, KSC Safety Procedural Requirements Volume 3, Safety Procedural Requirements for Partners Operating in Exclusive-Use Facilities.

KNPR 8715.3-2 and KNPR 8715.3-3 set safety requirements for a Partner's operations at KSC, with references to definitions in KNPR 8715.3-1.

Consequently, an operator with a written agreement to use NASA KSC ground safety services and oversight need not comply with FAA ground safety requirements at KSC as long as those services are performed in a manner that meets requirements, policies, and standards that apply to NASA operations. Per § 450.179(c), the FAA in making this determination for KSC, considered the nature and frequency of launch and reentry activities conducted from the site, coordination between the FAA and the Federal site safety personnel, and the FAA's knowledge of the Federal site's requirements.

Notwithstanding the completion of the LSSA with KSC, the FAA intends to pursue an MOA with NASA KSC, as done with the Department of the Air Force (DAF) for CCSFS and VAFB, which will be published on the FAA's website. The FAA will not continue to update the LSSAs for ground safety at CCSFS, VAFB, WFF, and KSC.⁶ However, the FAA will continue to work with the DAF and NASA through the Common Standards Working (CSWG)⁷ to maintain insight into the ground safety requirements and practices at these sites to ensure that these requirements and processes satisfy the FAA's statutory mandate to protect the public.

III. Implementation

An applicant seeking to not comply with the ground safety requirements of §§ 450.181 through 450.189 should request a determination under § 450.179(b) during pre-application consultation. In order for § 450.179(b) to apply, an applicant must provide a written agreement with NASA KSC for the provision of ground safety services and oversight by KSC for the proposed activities at this site. With regard to § 450.179(b)(3), an applicant may use this Notice to document the FAA's determination that the NASA KSC ground safety processes, requirements and oversight are not inconsistent with the FAA's statutory authority over commercial space activities as long as NASA provides services that meet requirements, policies, and standards that would apply to NASA operations at KSC.

The contents of this document do not have the force and effect of law and are not meant to bind

NASA KSC for use of KSC property, facilities, or both, to do operations. That includes at least: commercial Partners, international Partners, and tenants. A commercial Partner is a commercial operator who does launch and reentry activities—including ground operations—that would be licensed by the FAA. Furthermore, although the NASA KSC requirements go beyond public safety, the FAA ground safety requirements pertain just to safety of the public.

⁶ See Statement of Policy on Waiving Ground Safety Regulations at Cape Canaveral Air Force Station, Vandenberg Air Force Base, Wallops Flight Facility, and Kennedy Space Center, effective 3 November 2020 (86 FR 20627).

⁷ The CSWG, which is tri-chaired by FAA, DAF, and NASA, is comprised of range safety personnel from CCSFS, VAFB, WFF, and KSC.

the public in any way. It is intended only to provide clarity to the public regarding existing requirements under the law and agency policies.

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