



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 Parts 417, 420, 431, 433, 435, 437, and 450

Statement of Policy on Use of Letter of Intent (LOI) Between United States Coast Guard (USCG) and a Commercial Space Operator¹ to Establish Procedures for Issuance of Notice to Mariners (NOTMAR) and Other Measures Necessary to Protect Public Health and Safety for a Launch or Reentry.

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

ACTION: Policy Statement

SUMMARY: This action establishes the FAA's policy for accepting the attached LOI as a means of compliance with FAA regulations that require a written agreement between the operator and the USCG establishing procedures for the issuance of a NOTMAR prior to a launch or reentry. If additional measures beyond NOTMAR issuance are necessary to protect public health and safety, as specified in FAA regulations, the FAA will accept an LOI including those additional measures as an equivalent level of safety.

DATES: The policy described herein will be effective 19 October 2022.

FOR FURTHER INFORMATION CONTACT: For additional information concerning this action, contact Daniel Murray, Executive Director, Office of Operational Safety, via letter: 800 Independence Ave, SW, Washington, DC 20591; via email: 9-AST-Inquiries@faa.gov; via phone: (202) 267-7793.

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. To satisfy the FAA regulations, operators may use a means of compliance that has already been accepted by the FAA or propose an alternate

¹ An operator is a holder of a license or permit under 51 U.S.C. Subtitle V, chapter 509, but in this document it may also refer to an applicant applying for a license or permit.

approach. For flexibility, the FAA regulations² allow an operator to demonstrate that an alternative approach provides an equivalent level of safety to a regulatory requirement.

I. Background

Unless otherwise addressed in agreements with the site operator, for overflight of navigable water, 14 CFR § 450.147(a)(2) requires an operator to provide a written agreement with the USCG or other applicable maritime authority establishing procedures for the issuance of a NOTMAR prior to a launch or reentry and other measures necessary to protect public health and safety. Section 450.147(b) requires the agreement to clearly delineate the roles and responsibilities of each party to support a safe launch or reentry. The FAA requires a similar agreement between the applicant and USCG in §§ 420.31(a), 431.75(b)(1), and 437.63(b)(1) that establishes procedures for the issuance of a NOTMAR.³ Furthermore, under part 417, which sets forth the safety requirements for launch of an expendable launch vehicle, § 417.111(i)(5) requires an operator to describe its procedures to provide hazard information and communicate with the local USCG office to ensure that a NOTMAR is issued.

In the past, operators complied with this requirement by entering into a Memorandum of Agreement (MOA) with the USCG for the issuance of a NOTMAR. The USCG recently advised the FAA that it will no longer enter into MOAs with commercial entities due to restrictions on its legal authority. In order to ensure that operators can continue to meet the requirement for an agreement with the USCG regarding procedures for NOTMAR issuance, the FAA and USCG have developed an LOI template that will serve as a means of compliance with the FAA regulations requiring such an agreement between the applicant and USCG.

II. Discussion of the Policy

The FAA's policy with respect to use of the template LOI to satisfy the requirement for an agreement with the USCG for NOTMAR issuance is as follows:

- (1) The LOI is a means of compliance with FAA regulations requiring a written agreement for issuance of a NOTMAR⁴ because it expressly provides for NOTMAR issuance by the USCG and contains the same information and coordination requirements previously required of operators under MOAs. The LOI template delineates the roles and

² Sections 417.1, 420.1, 431.1, 435.1, 437.1, and 450.37 of title 14 of the Code of Federal Regulations provide applicants an option to demonstrate an equivalent level of safety to the requirements in parts 417 (Launch Safety), 420 (License to Operate a Launch Site), 431 (Launch And Reentry Of A Reusable Launch Vehicle), 435 (Reentry Of A Reentry Vehicle Other Than A Reusable Launch Vehicle), 437 (Experimental Permits), and 450 (Launch and Reentry License Requirements). An applicant for a license or permit to conduct a launch or reentry or to operate a launch or reentry site must demonstrate compliance with the requirements of the aforementioned parts of 14 CFR unless the applicant clearly and convincingly demonstrates that an alternative approach provides an equivalent level of safety to the requirement.

³ Section 431.75(b)(1) also applies to a reentry per § 435.51. In addition to the requirements of part 433, per § 413.13, the FAA identified additional information necessary (similar to § 420.31(a)) 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 operation of a reentry site.


⁴ 14 CFR § 417.111(i)(5), § 420.31(a), § 431.75(b)(1), § 437.63(b)(1), and § 450.147(a)(2).

responsibilities of the operator and USCG to support safe launch or reentry to the same extent as the MOAs previously used to meet this requirement.

(2) If additional measures beyond NOTMAR issuance are deemed necessary to protect public health and safety under 14 CFR § 450.147(a)(2), § 420.31(a), or § 431.75(b)(1), the FAA may accept a version of this LOI specifying all such additional measures as a separate means of compliance or make an equivalent level of safety determination as necessary. The template also contains the language embodied in past MOAs regarding the USCG's intent to conduct a risk assessment to determine what, if any, assets are appropriate to ensure public safety during a launch or reentry.

An applicant may submit an LOI that follows the attached template to demonstrate compliance with the following regulations requiring a written agreement with the USCG that establishes procedures for NOTMAR issuance: 14 CFR § 417.111(i)(5), § 420.31(a), § 431.75(b)(1), § 437.63(b)(1), and § 450.147(a)(2). If additional measures beyond NOTMAR issuance are necessary to protect public health and safety under 14 CFR § 450.147(a)(2), § 420.31(a), or § 431.75(b)(1), the FAA may accept an LOI that follows the attached LOI template and includes such additional measures as an alternate means of compliance or as an equivalent level of safety to those regulations as appropriate.

The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. It is intended only to provide clarity to the public regarding existing requirements under the law and agency policies.

A handwritten signature in black ink, appearing to read 'KBC', followed by a long horizontal line extending to the right.

Kelvin B. Coleman

Associate Administrator for Office of Commercial Space Transportation