



## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Federal Site Providing Ground Safety Services and Oversight for Launch or Reentry Activities Conducted from a Commercial Site Located on Land Owned by a Federal Site

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

**ACTION:** General notice.

**SUMMARY:** This document clarifies that, in instances where launch or reentry activities are conducted from an FAA-licensed commercial site located on land that is owned by a Federal site that the commercial site uses pursuant to an agreement with the Federal site, and the Federal site provides ground safety services and oversight, the vehicle operator may be able to demonstrate an equivalent level of safety to the FAA's ground safety requirements.

**FOR FURTHER INFORMATION CONTACT:** For additional information concerning this action, contact Katie Cranor, Acting Executive Director, Office of Operational Safety, 800 Independence Ave., S.W., Washington, DC 20591; (202) 267-9525; 9-AST-Inquiries@faa.gov.

#### SUPPLEMENTARY INFORMATION:

##### I. Authority

The Commercial Space Launch Act of 1984, as amended and codified at 51 U.S.C. 50901 through 50923, authorizes the DOT, and the FAA through delegation,<sup>1</sup> to oversee, license, and regulate commercial launch and reentry activities, and the operation of launch and reentry sites<sup>2</sup> as carried out by U.S. citizens or within the United States. The FAA exercises these responsibilities consistent with public health and safety, safety of property, and the national security and foreign policy interests of the United States. *See* 51 U.S.C. 50905.

##### II. Background

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<sup>1</sup> *See* 49 CFR 1.83(b).

<sup>2</sup> For definitions of the terms “launch,” “reentry,” “launch site,” or “reentry site,” see 14 CFR 401.7.

As defined in § 401.7 of title 14 of the Code of Federal Regulations (CFR), a “Federal site” is “a launch or reentry site, from which launches routinely take place, that is owned and operated by the government of the United States.”

This document also references a “commercial site.” For the purposes of this document, a commercial site is a launch or reentry site operated<sup>3</sup> under an FAA license in accordance with 14 CFR part 420 or part 433. Unlike a Federal site, a commercial site is not owned and operated by the government of the United States. In operating a commercial site, the site license holder is required to, among other things, prevent unauthorized public access to the site; schedule and coordinate hazardous activities conducted by customers; issue all necessary notifications prior to a launch from the launch site, including notifications to all adjacent property owners and local jurisdictions of the pending flight of a launch vehicle; and follow the requirements and procedures of the site’s explosive site plan. *See* 14 CFR part 420, subpart D. A site operator license authorizes the operation of a site but does not include an authorization for an operator to conduct a launch or reentry. Any vehicle operators seeking to conduct launch or reentry from a launch or reentry site must obtain a separate vehicle operator license in accordance with the applicable regulations in 14 CFR chapter III.

#### **A. Ground Safety Requirements Exemption for Launch and Reentry Activities from Federal Sites**

Under certain circumstances, vehicle operators conducting launch or reentry activities from a Federal site need not demonstrate compliance with the ground safety requirements in 14 CFR 450.181 through 450.189. Examples of Federal sites include the Cape Canaveral Space

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<sup>3</sup> The FAA issues licenses to the operators of commercial launch or reentry sites. Any natural or legal person that meets any of the conditions set forth in paragraphs (b)(2), (c)(2), or (d) of 14 CFR 413.3 and intends to offer its launch site to others is required to obtain a commercial launch site license in accordance with the procedures set forth in 14 CFR part 420. *See* 14 CFR 413.1(b), .3(b)(2), .3(c)(2), and .3(d). Natural or legal persons meeting any of the conditions set forth in paragraphs (b)(4), (c)(4), or (e) of 14 CFR 413.3 and intending to offer a reentry site to others are required to obtain a commercial reentry site license in accordance with the procedures set forth in 14 CFR part 433. *See* 14 CFR 413.1(b), .3(b)(4), .3(c)(4), and .3(e). Licenses to operate a launch or reentry site authorize the license holder to host vehicle activities in accordance with the terms of the license. *See* 14 CFR 420.41(b) and 433.3(b).

Force Station (CCSFS), Vandenberg Space Force Base (VSFB), Wallops Flight Facility (WFF), and Kennedy Space Center (KSC).

Specifically, for activities licensed under 14 CFR part 450, § 450.179(b) exempts a vehicle operator from demonstrating compliance with the ground safety requirements in §§ 450.181 through 450.189 if: (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 FAA has determined that the Federal launch or reentry site's ground safety processes, requirements, and oversight are not inconsistent with the FAA's statutory authority (through delegation) over commercial space activities. *See* 14 CFR 450.179(b).

For the purpose of establishing that the ground safety requirements exemption in § 450.179(b) applies, the Federal site may seek a determination from the FAA that the condition in of § 450.179(b)(3) has been met—that is, the determination that the Federal site's ground safety processes, requirements, and oversight are not inconsistent with the FAA's statutory authority over commercial space activities. In making the § 450.179(b)(3) determination, the FAA will consider 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 safety personnel, and the Administrator's knowledge of the Federal launch or reentry site's requirements. *See* 14 CFR 450.179(c). Upon the issuance of the § 450.179(b)(3) determination for a particular Federal site, the FAA will develop a Memorandum of Agreement (MOA), or similar agreement, with that Federal site and publish it on the FAA's website. These agreements and related documents memorialize the FAA's findings related to the oversight and services provided at the corresponding Federal site. Together with documentation demonstrating that the conditions in §§ 450.179(b)(1) through (b)(2) are met, a vehicle operator may then use the MOA or similar agreement to demonstrate compliance with § 450.179(b) rather than the ground safety requirements in §§ 450.181 through 450.189. *See* 14 CFR 450.179(b).

## **B. Availability of Equivalent Level of Safety Determination to Ground Safety**

### **Requirements for Some Launch or Reentry Activities from Commercial Sites**

In some instances, commercial sites, which hold launch and/or reentry site operator licenses that are issued by the FAA under 14 CFR part 420 or part 433, are located on land owned by a Federal site.<sup>4</sup> The Mid-Atlantic Regional Spaceport (MARS) at WFF, Space Florida (SPFL) LC-46 at CCSFS, and the Shuttle Landing Facility (SLF) at KSC are examples of commercial sites located on land owned by a Federal site but not operated by the U.S. Government because the site license holders have a lease or agreement with a Federal site to operate their commercial site within the boundaries of the Federal site.

Even in instances when the Federal site leasing the land to the commercial site has obtained a § 450.179(b)(3) determination, and per agreement with either the commercial site or vehicle operator, is providing ground safety services equivalent to those for which the Federal site obtained a § 450.179(b)(3) determination, commercial vehicle operators conducting launch or reentry activities from the commercial site are unable to qualify for the ground safety requirements exemption in 14 CFR 450.179(b). This is due to the fact that the ground safety requirements exemption in 14 CFR 450.179(b) is only available when the proposed launch or reentry activity will be conducted from a Federal launch or reentry site (rather than a commercial site operating its site within the boundaries of a Federal site through a lease or similar agreement).

However, subject to the requirements discussed below, vehicle operators operating from a commercial site can obtain an Equivalent Level of Safety Determination (ELOS Determination) to the ground safety requirements of §§ 450.181 through 450.189 when (1) the proposed launch or reentry activity will be conducted from a commercial site that is located on

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<sup>4</sup> For the purposes of this document, references to the fact that a commercial site is located on land that is owned by a Federal site are used as a shorthand to indicate that the land on which the commercial site is located is owned by the Federal site but used and/or occupied by the commercial site pursuant to a lease or similar agreement with the Federal site.

land owned by a Federal site, (2) the Federal site has obtained a § 450.179(b)(3) determination for the ground safety services provided at the Federal site, and (3) the vehicle operator or site operator<sup>5</sup> and the Federal site have agreed in writing that the Federal site will provide ground safety services and oversight for the proposed launch or reentry activity equivalent to those at the Federal site.

### **III. Rationale for Availability of ELOS Determination**

For the majority of requirements in 14 CFR part 450, an applicant can propose an alternative approach that does not satisfy the requirement if the applicant clearly and convincingly demonstrates that the alternative approach provides an equivalent level of safety to the requirement. *See* 14 CFR 450.37. Under § 401.7, the phrase “equivalent level of safety” is defined as “an approximately equal level of safety as determined by qualitative or quantitative means.”

A vehicle operator may demonstrate an ELOS with part 450's ground safety requirements when the following conditions are met: (1) the licensed activity occurs at a commercial site located on land owned by a Federal site; (2) the Federal site has obtained a § 450.179(b)(3) determination; and (3) there is a written agreement for the Federal site to provide ground safety services and oversight for the vehicle operator. This is because the FAA has found that a Federal site that has obtained a § 450.179(b)(3) determination has ground safety processes, requirements, and oversight that are not inconsistent with the FAA’s statutory authority over commercial space activities. As a result, vehicle operators conducting launch or reentry from such Federal sites may not be required to comply with the part 450 ground safety requirements. Because the ground safety services offered to a vehicle operator conducting launch or reentry activities from a commercial site located on land owned by a Federal site are equivalent to the services offered on

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<sup>5</sup> A vehicle operator may only have an agreement with a commercial site operator to conduct launch or reentry operations at that commercial site. If this is the case, the commercial site and the Federal site may have a contractual arrangement in place according to which the Federal site provides ground safety services and oversight to vehicle operators conducting launch or reentry activities from the commercial site.

the Federal site itself; and because the Federal entity providing ground safety services and oversight to the commercial site is familiar with the site and its facilities, safety personnel, and operations, the FAA finds that the vehicle operator may demonstrate an ELOS to the part 450 ground safety requirements. Further, when the commercial site is located on land owned by a Federal site pursuant to a lease or similar agreement, the Federal site generally has more familiarity with or oversight of the commercial site because of the physical proximity of the two sites. This proximity facilitates coordination among the two sites, such as when the Federal site's personnel are able to physically access the commercial site or the commercial site uses the Federal site's infrastructure and resources. Thus, at this time, the FAA finds a vehicle operator using a Federal site for ground safety services and oversight may demonstrate an equivalent level of safety to the FAA's ground safety requirements only when the commercial site is also located on land that is owned by the Federal site.

#### **IV. Implementation**

An applicant proposing to conduct launch or reentry from a commercial site located on land that is owned by a Federal site may be able to demonstrate an equivalent level of safety with the ground safety requirements of §§ 450.181 through 450.189. Such an applicant should request an equivalent level of safety determination during pre-application consultation. In particular, if an applicant proposes to conduct launch or reentry activities from a commercial site that is located on land that is owned by a Federal site and the Federal site has obtained a § 450.179(b)(3) determination for ground safety services provided at the Federal site, the applicant may be able to demonstrate an equivalent level of safety with the ground safety requirements of §§ 450.181 through 450.189. The applicant would need to demonstrate that the Federal site has agreed, in writing, to provide ground safety services and oversight for launch or reentry activities conducted at the commercial site equivalent to those for which the Federal site obtained a § 450.179(b)(3) determination. In order to assess whether the Federal site has obtained a § 450.179(b)(3) determination for ground safety services provided at the Federal site, the FAA will

look to whether a MOA, or similar agreement, with that site has been developed and published on the FAA's website. The existence of such documentation assures the FAA that the Federal site's ground safety services are not inconsistent with the FAA's statutory authority over commercial space activities.

In order to demonstrate that the Federal site will provide to the commercial site ground safety services and oversight equivalent to those for which it obtained a § 450.179(b)(3) determination, a vehicle operator would also need to demonstrate in its license application that the Federal site has contractually agreed to provide ground safety services and oversight for the purpose of the proposed launch or reentry activity. If the vehicle operator has directly contracted with the Federal site for the provision of the ground safety services and oversight, that agreement is likely sufficient to demonstrate that the Federal site has contractually agreed to provide ground safety services and oversight for the purpose of the proposed launch or reentry activity.

However, if there is not a direct contractual relationship between the vehicle operator and the Federal site, the vehicle operator could demonstrate that the Federal site has contractually agreed to provide ground safety services and oversight for the purpose of the proposed launch or reentry activity by including both its agreement with the commercial site and the agreement between the commercial site and the Federal site for the provision of ground safety services and oversight. A comparison of the obligations and responsibilities outlined in the agreements with the services for which the Federal site obtained a § 450.179(b)(3) determination will also allow the FAA to assess whether the ground safety services, and oversight provided at the commercial site will be equivalent to the ground safety services and oversight available at the corresponding Federal site.

#### **V. Existing § 450.179(b)(3) Determinations**

At the time of this Notice, § 450.179(b)(3) determinations have been obtained for ground safety services at the following Federal sites:

- Memorandum of Agreement (MOA) Between the Department of the Air Force (DAF) and the FAA for Launch and Reentry Activity on Department of the Air

Force Ranges and Installations (specifically CCSFS and VSFB), Agreement Number: FAA-DAF-SLR-2021.01.

- This MOA states that the DAF will provide ground safety services and oversight for activity on a USSF installation consistent with the FAA Ground Safety Policy, 3 November, 2020, and 14 CFR 450.179(b). The DAF will ensure its ground safety requirements and process protect the public health and safety, safety of property, and national security and foreign policy interests of the U.S.
- Notice of Determination on KSC Ground Safety Services and Oversight, dated December 12, 2024.
- This document establishes that, in accordance with 14 CFR 450.179(b)(3) and (c), the FAA 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.
- Non-reimbursable Umbrella Interagency Agreement (IAA) Between the NASA and FAA for Commercial Launch and Reentry Activities on NASA Ranges and Installations, signed January 10, 2025.
- This IAA states that for licensed launch and reentry operations from a Federal launch site, the FAA will accept NASA ground safety processes and procedures performed in accordance with the appropriate Annex of this Umbrella IAA. The FAA and NASA will execute Annexes focused on the most utilized NASA installations at NASA KSC and WFF.

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.

Issued in Washington DC.

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