



DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 450

[Docket No.: FAA-2026-9940; Notice No. 26-18]

RIN 2120-AM30

Lightning Hazard Mitigation Burden-Reducing Exception

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: FAA proposes to amend its commercial space launch and reentry licensing regulations to streamline the licensing process and reduce regulatory burden for license applicants. Specifically, FAA proposes to add an exception for compliance with lightning hazard mitigation requirements for certain licensed launch and reentry operations.

DATES: Send comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Send comments identified by docket number FAA-2026-9940 using any of the following methods:

- **Federal eRulemaking Portal:** Go to www.regulations.gov and follow the online instructions for sending your comments electronically.
- **Mail:** Send comments to Docket Operations; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue, SE, West Building, 5th Floor (W58-213), Washington, DC 20590-0001.
- **Hand Delivery or Courier:** Take comments to Docket Operations in Room W58-213 of the West Building, 5th Floor at 1200 New Jersey Avenue, SE,

Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- Fax: Fax comments to Docket Operations at (202) 493-2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to inform its rulemaking process better. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

Docket: Background documents or comments received may be read at www.regulations.gov at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W58-213 of the West Building 5th Floor at 1200 New Jersey Avenue, SE, Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lisa E. Cacciatore, Office of Commercial Space Transportation, Federal Aviation Administration, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 880-1489; email Lisa.E.Cacciatore@faa.gov.

SUPPLEMENTARY INFORMATION:

I. Overview

In accordance with Executive Order (E.O.) 14335, “Enabling Competition in the Commercial Space Industry,” FAA proposes to amend its commercial space launch and reentry regulations at 14 CFR part 450 with the goal of further streamlining the commercial licensing process. Specifically, FAA proposes to add an exception for compliance with lightning hazard mitigation requirements in 14 CFR 450.163(a) for certain licensed launch and reentry operations. Under this proposal, an operator would not be required to use a mitigation method listed in § 450.163(a) for descending phases of

flight if, once a vehicle descends to an altitude where lightning is foreseeable, the vehicle's flight path is clear of members of the public and critical assets.

II. Authority for This Rulemaking

The Commercial Space Launch Act of 1984, as amended and codified at 51 U.S.C. 50901–50924, authorizes the Secretary of Transportation to oversee, license, and regulate commercial launch and reentry activities, and the operation of launch and reentry sites within the United States (U.S.) or as carried out by U.S. citizens.

Section 50905 directs the Secretary to exercise this responsibility consistent with public health and safety, safety of property, and the national security and foreign policy interests of the United States. In addition, section 50903 requires the Secretary to encourage, facilitate, and promote commercial space launches and reentries by the private sector. As codified in 49 CFR 1.83(b), the Secretary has delegated authority to the FAA Administrator to carry out these functions.

III. Background

FAA has established commercial space regulations governing licensing of launch and reentry in 14 CFR chapter III. On December 10, 2020, FAA issued a final rule consolidating all substantive launch and reentry licensing regulations into a new part 450 (85 FR 79566) that went into effect on March 10, 2021.

On August 13, 2025, the President issued Executive Order 14335, “Enabling Competition in the Commercial Space Industry,” requiring the Secretary of Transportation to “reevaluate, amend, or rescind” the part 450 regulations for the purpose of further streamlining the commercial licensing process. This proposed rule is being published in furtherance of this executive order.

Lightning hazard mitigation requirements for launch and reentry license applicants are prescribed in 14 CFR 450.163. Section 450.163(a) prescribes mitigation methods available to license applicants. Under paragraph (a)(1), an operator may

establish flight commit criteria that mitigate the potential for a launch or reentry vehicle intercepting or initiating a direct lightning strike, or encountering a nearby discharge, by using a means of compliance accepted by the Administrator. Alternatively, under paragraph (a)(2), an operator can use a vehicle designed to protect safety-critical systems in the event of a direct lightning strike or nearby discharge. Simply put, § 450.163(a)(1) mitigates lightning through avoidance, while § 450.163(a)(2) mitigates lightning through hardening. Section 450.163(b) prescribes corresponding application requirements based on the mitigation method selected.

However, during the licensing process, operators have also shown that a reentry operation can mitigate some lightning hazards through clearance. In these instances, operators demonstrated an equivalent level of safety (ELOS) to the lightning mitigation regulation by showing that the potential impacts of the vehicle, on an unguided trajectory, were contained to an area clear of the public and critical assets.

IV. Discussion of the Proposal

To allow more operators to take advantage of the rationale underlying these ELOS determinations, the proposed rule would add clearance of a vehicle's flight path to § 450.163 as an exception to the lightning mitigation requirement. Under a new proposed paragraph (b), an operator would not be required to use a mitigation method listed in § 450.163(a) for descending phases of flight if, once a vehicle descends to an altitude where lightning is foreseeable, the vehicle's flight path is clear of members of the public and critical assets. The proposed exception could apply to any licensed launch and reentry operation that satisfies the relevant criteria, including first stage returns.

The proposed exception preserves public safety because the hazards of a lightning strike are mitigated by physical containment and ensuring the area is clear of public and critical assets. Furthermore, FAA anticipates that the exception would be a practicable alternative for applicants because the region where a lightning-caused hazard could occur

is often limited, predictable, and bounded by hazard areas that must be cleared to meet the safety criteria, in accordance with § 450.133. For instance, a first stage returning to a barge in an area cleared of the public and critical assets could likely use this exception for the final phases of flight (*i.e.*, during coast and landing burn phases). However, even when the region where a lightning-caused hazard could occur is not otherwise bounded by hazard areas that must be cleared, the exception would still be available to an applicant if the applicant can ensure that the region is clear of the public and critical assets. Continuing with the example of a first stage returning to a barge, if the region around the barge where the lightning-caused hazard could occur is only partially bounded by hazard areas that are otherwise required to be cleared to meet safety criteria, the operator could still utilize the exception by performing surveillance of the non-bounded area to ensure that the region is clear of the public and critical assets. In this way, the applicant can ensure that even in the event of a lightning strike, public safety is preserved.

The proposed rule would relocate the current application requirements for lightning mitigation to new paragraphs (c)(1) and (c)(2) and add application requirements for operators utilizing the exception in new paragraph (c)(3). Under the proposal, an applicant utilizing the exception would be required to submit (1) a description of a valid method to determine the limits of the vehicle's flight path; (2) representative limits of the vehicle's flight path; and (3) a description of methods used to ensure that the flight path is cleared of the public and critical assets. The first application requirement—a description of the method to determine the limits of the flight path at paragraph (c)(3)(i)—is necessary for FAA to evaluate compliance with § 450.101(g), which requires that any analysis used to demonstrate compliance with § 450.101 “must use accurate data and scientific principles and the analysis must be statistically valid. The method must produce results consistent with or more conservative than the results available from previous

mishaps, tests, or other valid benchmarks, such as higher-fidelity methods.” As such, proposed paragraph (c)(3)(i) includes a cross-reference to § 450.101(g) to help applicants identify this applicable standard when producing the description. Furthermore, proposed paragraph (c)(3)(i) also requires this description to identify the scientific principles and statistical methods used with associated assumptions and their justifications, as well as evidence for validation and verification. These items are modeled on the flight safety analysis description of methods requirements at § 450.115(c)(1), (2), and (4). As with the flight safety analysis method requirements, which are used by FAA to evaluate compliance with § 450.101(g) for the analyses that comprise the flight safety analysis, the items listed at proposed § 450.163(c)(3)(i) are necessary for showing that the analysis determining the limits of the flight path complies with § 450.101(g).

The second application requirement at paragraph (c)(3)(ii) requires that the applicant provide representative limits of the flight path. This means that the applicant must produce limits of the flight path by conducting an analysis for a representative mission. The analysis must utilize the method described by the applicant to meet paragraph (c)(3)(i).

The third application requirement at paragraph (c)(3)(iii) requires a description of methods used to clear the flight path of the public and critical assets. The requirement is modeled on a similar requirement in § 450.110(c)(2) regarding using physical containment as a hazard control strategy. The representative limits of the flight path provided under paragraph (c)(3)(ii) would be used to evaluate whether the operator’s methods for clearance are appropriate for operations under the license.

V. Regulatory Notices and Analyses

A. Regulatory Impact Analysis

E.O. 12866 (“Regulatory Planning and Review”) and E.O. 13563 (“Improving Regulation and Regulatory Review”) require agencies to regulate in the “most cost-

effective manner,” to make a “reasoned determination that the benefits of the intended regulation justify its costs,” and to develop regulations that “impose the least burden on society.” The Office of Management and Budget has determined this proposed rule is not a significant regulatory action as defined in Section 3(f) of E.O. 12866. FAA is seeking comments on the following analysis.

Currently, FAA provides two methods to demonstrate compliance with lightning hazard mitigation requirements for launch and reentry license applicants. This proposed rule would offer an exception for descending phases of flight in certain conditions.

Under this proposal, an operator would not be required to use a mitigation method listed in § 450.163(a) for descending phases of flight if, once a vehicle descends to an altitude where lightning is foreseeable, the vehicle’s flight path is clear of members of the public and critical assets.

In practice, when FAA encountered events where the two mitigation methods could not be demonstrated, the vehicle contained an area clear of the public and critical assets that satisfied the lightning hazard mitigation regulation through an ELOS. This proposed rule would create an exception allowing operators to satisfy the regulation in a similar manner for certain phases of flight without needing to request an ELOS determination. While the proposed rule does include new application requirements for operators utilizing the exception, these application requirements are not anticipated to increase costs for operators because a similar set of documentation would be required for an applicant applying for an ELOS. The cost savings analysis below only estimates the administrative savings gained from no longer submitting an ELOS request; it does not include the costs of conducting the underlying safety analysis. Therefore, FAA anticipates that the proposed rule would not increase costs to FAA or industry and instead would provide small cost savings in the limited events when this exception is used.

Removing the need for an applicant to request an ELOS determination and FAA to respond to the request would result in minimal cost savings per application. Per application, the proposed rule would save \$715 for industry and \$3,013 for FAA. This amounts to a total of \$3,729 per application. The calculations for these estimates are shown in the tables below. In Table 1, the industry and FAA wages are presented at the base wage rate and with benefits included. FAA assumes three different types of employee categories conduct an ELOS determination: aerospace engineer, supervisory engineer, and attorney. These employees are on the FAA Core Compensation Plan. The aerospace engineer is at a J band¹ with a base hourly rate of \$95.33, the supervisory engineer² is at a K band with a base hourly rate of \$109.62, and the attorney³ is at a J band with a base hourly rate of \$95.33. FAA uses a factor of 1.3625 for benefits,⁴ which results in the total loaded hourly wages of \$129.88 for the aerospace engineer, \$149.35 for the supervisory engineer, and \$129.88 for the attorney.

For industry, FAA assumes there are two types of employees who will work on an ELOS determination request: an aerospace engineer and an office and administrative professional. The base 2024 wage rate of a private industry worker working full-time as an aerospace engineer is \$67.88 per hour.⁵ When including benefits, the total

¹ FAA Engineering Pay Band J with Washington DC locality; effective Jan. 2026, maximum salary \$198,281, available at www.faa.gov/jobs/working_here/benefits/pay/core_salary_with_conversion.xlsx.

² FAA Engineering Pay Band K with Washington DC locality; effective Jan. 2026, maximum salary \$228,000, available at www.faa.gov/jobs/working_here/benefits/pay/core_salary_with_conversion.xlsx.

³ FAA Specialized (Attorney) Pay Band J with Washington DC locality; effective Jan. 2026, maximum salary \$198,281., available at www.faa.gov/jobs/working_here/benefits/pay/core_salary_with_conversion.xlsx.

⁴ Update to Civilian Position Full Fringe Benefit Cost Factor, Federal Pay Raise Assumptions, and Inflation Factors used in OMB Circular No. A-76, "Performance of Commercial Activities," Office of Management and Budget, March 11, 2008, available at www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/memoranda/2008/m08-13.pdf.

⁵ "Employer Costs for Employee Compensation – May 2024," Bureau of Labor Statistics, Employee costs for private industry workers in Series: 17-2011 Aerospace Engineers, available at data.bls.gov/oes/#/industry/000000.

compensation for an aerospace engineer is \$96.28 per hour.⁶ For the office and administrative professional, the base wage rate is \$32.99 per hour,⁷ and the total compensation is \$46.79 per hour.

To estimate FAA cost savings per application, the detailed process for FAA is listed in Table 2. It entails staff intake of the ELOS request, staff review of the ELOS request, staff discussion with the applicant, staff draft of the ELOS approval, ELOS review and approval by supervisory engineers, ELOS review and approval by an FAA attorney, and staff correspondence of the ELOS approval. An ELOS determination will take approximately five FAA staff aerospace engineers, two supervisory engineers, and one attorney. The number of employees and hours per employee for each phase of the process are shown in the table. The total hours per application are 18 hours, with total cost savings to FAA of \$2,416 per application.

Table 1. Wages for FAA and Industry

Employee	Hourly Wage	Hourly Wage with Benefits
FAA		
Aerospace Engineer	\$95.33	\$129.88
Supervisory Engineer	\$109.62	\$149.35
Attorney	\$95.33	\$129.88
Industry		
Aerospace Engineer	\$67.88	\$96.28
Office and Administrative Professional	\$32.99	\$46.79

Table 2. FAA Staff, Hours, Wages, and Cost Savings Per Application

Event	No. of Employees	Hours per Employee	Total hours	Cost per Application
FAA Staff ELOS Intake	1	1	1	\$129.88
FAA Staff Review	5	1	5	\$649.42

⁶ The total compensation includes Bureau of Labor Statistics (BLS) compensation data. For 2024, BLS estimates that wages make up 70.5 percent of total compensation while benefits make up 29.5 percent. Employer Costs for Employee Compensation – December 2024, available at www.bls.gov/news.release/archives/ecec_03142025.htm. To calculate total compensation, FAA multiplies the base wage by a factor of 1.42 (rounded from 100/70.5). Therefore, the total compensation for an aerospace engineers is \$96.28 per hour (\$67.88 per hour x 1.42).

⁷ BLS, *Employer Costs for Employee Compensation – May 2024, Industry: Nonscheduled Air Transportation, Office and Administrative Support Workers, All Other (43-9199)*, available at data.bls.gov/oes/#/industry/481200.

FAA Staff – Applicant Discussion	5	1	5	\$649.42
FAA Staff draft ELOS Approval	1	1	1	\$129.88
FAA Supervisory ELOS Approval	2	2	4	\$597.40
FAA Attorney ELOS Approval	1	1	1	\$129.88
FAA Staff sends ELOS Approval	1	1	1	\$129.88
Total – FAA			18	\$2,415.77

Note: The description “FAA Staff” in the event column corresponds to the aerospace engineer wage, while the “FAA Supervisory” description corresponds to the supervisory engineer wage.

To estimate the industry cost savings per application, the detailed process for industry is listed in Table 3. It entails drafting the ELOS request and discussion with FAA staff. An ELOS determination will take one aerospace engineer and one administrative professional. The number of employees and hours per employee for each phase of the process are shown in the table. The total hours per application are 10 hours, with total cost savings to industry of \$715 per application.

Table 3. Industry Staff, Hours, Wages, and Cost Savings Per Application

Event	No. of Employees	Hours per Employee	Total hours	Cost per Application
ELOS Draft	1 Engineer	4	4	\$385.13
ELOS Draft	1 Administrative Professional	4	4	\$187.18
FAA-Applicant Discussion	1 Engineer	1	1	\$96.28
FAA-Applicant Discussion	1 Administrative Professional	1	1	\$46.79
Total – Industry			10	\$715.39

Per application, this proposed rule would result in cost savings of \$715 for industry and \$2,416 for FAA. This amounts to a total of \$3,131 per application. This proposed rule would only impact for launch or reentries with descending phases of flight in certain conditions. FAA finds that there is uncertainty about how many launches or reentries will occur per year; therefore, it can only provide a per-application cost savings estimate.

Table 4. Total Cost Savings Per Application

	Cost Savings Per Application
FAA	\$2,415.77
Industry	\$715.39
Total	\$3,131.16

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), agencies must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rulemaking on small entities (i.e., small businesses, small organizations, and small government jurisdictions). No regulatory flexibility analysis is required, however, if the head of an agency certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities. FAA has concluded and hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities; therefore, an analysis is not included.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96-39), as amended by the Uruguay Round Agreements Act (Pub. L. 103-465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, they be the basis for U.S. standards.

FAA has assessed the potential effect of this proposed rule and determined that it would not create unnecessary obstacles to the foreign commerce of the United States.

D. Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or Tribal government or the private sector to incur

direct costs without the Federal Government having first provided the funds to pay those costs. FAA determined the proposed rule would not result in the expenditure of \$193,000,000 or more (\$100,000,000 adjusted for inflation using the most current Implicit Price Deflator for the Gross Domestic Product) by State, local, or Tribal governments, in the aggregate, or the private sector, in any one year.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires FAA consider the impact of paperwork and other information collection burdens imposed on the public. FAA has determined there would be no new requirement for information collection associated with this proposed rule.

F. International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. FAA has determined there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

G. Environmental Analysis

The Department has analyzed the environmental impacts of this notice of proposed rulemaking pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C 4321 et seq.). FAA has determined this proposed rule is categorically excluded pursuant to FAA Order 1050.1G. Categorical exclusions are categories of actions FAA has determined normally do not significantly affect the quality of the human environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS). In analyzing the applicability of a categorical exclusion, FAA must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS. This rulemaking, which would add an exception for

compliance with lightning hazard mitigation requirements for certain licensed launch and reentry operations, is categorically excluded pursuant to FAA Order 1050.1G, Appendix B, Paragraph B-2.6(f), which categorically excludes issuance of regulatory documents. FAA does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

VI. E.O. Determinations

A. E.O. 13132, Federalism

FAA has analyzed this proposed rule under the principles and criteria of E.O. 13132, Federalism. FAA has determined this action would not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, would not have federalism implications.

B. E.O. 13175, Consultation and Coordination With Indian Tribal Governments

Consistent with E.O. 13175, Consultation and Coordination with Indian Tribal Governments,⁸ and FAA Order 1210.20, American Indian and Alaska Native Tribal Consultation Policy and Procedures,⁹ FAA ensures Federally Recognized Tribes (Tribes) are given the opportunity to provide meaningful and timely input regarding proposed Federal actions that have the potential to affect uniquely or significantly their respective Tribes. At this point, FAA has not identified any unique or significant effects, environmental or otherwise, on Tribes resulting from this proposed rule.

C. E.O. 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

FAA analyzed this proposed rule under E.O. 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18,

⁸ 65 FR 67249 (November 6, 2000).

⁹ See FAA Order No. 1210.20 (January 28, 2004), available at www.faa.gov/documentLibrary/media/1210.pdf.

2001). FAA has determined it would not be a “significant energy action” under the E.O. and would not be likely to have a significant adverse effect on the supply, distribution, or use of energy.

D. E.O. 13609, Promoting International Regulatory Cooperation

E.O. 13609, Promoting International Regulatory Cooperation, promotes international regulatory cooperation to (1) meet shared challenges involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or (2) prevent unnecessary differences in regulatory requirements. FAA has analyzed this action under the policies and agency responsibilities of E.O. 13609 and has determined this action would have no effect on international regulatory cooperation.

E. E.O. 14192, Unleashing Prosperity Through Deregulation

This proposed rule, if finalized as proposed, is expected to be an E.O. 14192 deregulatory action.

VII. Additional Information

A. Comments Invited

FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. FAA also invites comments relating to the economic, environmental, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one time if comments are filed electronically, or commenters should send only one copy of written comments if comments are filed in writing.

FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rule. Before acting on this proposal, FAA will consider all comments it receives

on or before the closing date for comments. FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. FAA may change this proposal in light of the comments it receives.

B. Confidential Business Information

Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and is relevant or responsive to this NPRM, it is important you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to the person in the **FOR FURTHER INFORMATION CONTACT** section of this document. Any commentary FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

C. Electronic Access and Filing

A copy of this NPRM, all comments received, any final rule, and all background material may be viewed online at www.regulations.gov using the docket number listed above. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the Office of the Federal Register’s website at www.federalregister.gov and the Government Publishing Office’s website at www.govinfo.gov. A copy may also be found at FAA’s Regulations and Policies website at www.faa.gov/regulations_policies.

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue SW, Washington, DC 20591, or by calling (202) 267-9677. Requesters must identify the docket or notice number of this rulemaking.

All documents FAA considered in developing this proposed rule, including economic analyses and technical reports, may be accessed in the electronic docket for this rulemaking.

D. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121, 110 Stat. 857, Mar. 29, 1996) requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document may contact its local FAA official or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. To find out more about SBREFA on the Internet, visit www.faa.gov/regulations_policies/rulemaking/sbre_act/.

List of Subjects in 14 CFR Part 450

Aircraft, Aviation safety, Environmental protection, Investigations, Reporting and recordkeeping requirements, Space transportation and exploration.

The Proposed Amendments

For the reasons discussed in the preamble, the Federal Aviation Administration proposes to amend chapter III of title 14, Code of Federal Regulations, as follows:

PART 450— LAUNCH AND REENTRY LICENSE REQUIREMENTS

1. The authority citation for part 450 is revised to read as follows:

Authority: 51 U.S.C. Chapter 509.

2. Revise § 450.163 to read as follows:

§ 450.163 Lightning hazard mitigation.

* * * * *

(b) *Lightning hazard mitigation exception.* An operator is not required to comply with paragraph (a) of this section for descending phases of flight if, once a vehicle descends to an altitude where lightning is foreseeable, the vehicle's further flight path, including that of any possible resulting debris, is constrained by physics to remain within any area clear of the public and critical assets.

(c) *Application requirements.*

(1) An applicant electing to comply with paragraph (a)(1) of this section must submit flight commit criteria that mitigate the potential for a launch or reentry vehicle intercepting or initiating a direct lightning strike, or encountering a nearby lightning discharge.

(2) An applicant electing to comply with paragraph (a)(2) of this section must submit documentation providing evidence that the vehicle is designed to protect safety-critical systems against the effects of a direct lightning strike or nearby discharge.

(3) An applicant utilizing the exception described by paragraph (b) of this section must submit the following:

(i) A description of a valid method for determining the limits of the flight path, including that of any possible resulting debris. The description must demonstrate compliance with § 450.101(g) by documenting:

(A) The scientific principles and statistical methods used, with associated assumptions and their justifications; and

(B) Evidence for validation and verification.

(ii) Representative limits of the vehicles flight path, including that of any possible resulting debris, as obtained by conducting an analysis for a representative mission that utilizes the method described by paragraph (c)(3)(i) of this section.

(iii) A description of the methods used to ensure that the areas are cleared of the public and critical assets.

Issued under authority provided by 49 U.S.C. 106(f) and 51 U.S.C. chapter 509 in Washington, DC.

Minh A. Nguyen,

Deputy Associate Administrator, Office of Commercial Space Transportation.

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