[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 400

[Docket No.: FAA-2012-0318; Amdt. No. 400-4]

RIN: 2120-AJ84

Voluntary Licensing of Amateur Rocket Operations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: The FAA is amending the scope of its regulations to allow launch operators that conduct certain amateur rocket launches an opportunity to voluntarily apply for a commercial space transportation license or experimental permit.

DATES: Effective [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

Submit comments on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]. If adverse comment is received, the FAA will publish a timely withdrawal in the *Federal Register*.

ADDRESSES: You may send comments identified by docket number FAA-2012-0318 using any of the following methods:

- Federal eRulemaking Portal: Go to http://www.regulations.gov and follow the online instructions for sending your comments electronically.

- Mail: Send comments to Docket Operations, M-30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue, SE, Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.
- Hand Delivery or Courier: Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE, Washington, DC, 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: The FAA will post all comments it receives, without change, to http://www.regulations.gov, including any personal information the commenter provides. Using the search function of the docket web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the *Federal Register* published on April 11, 2000 (65 FR 19477-19478), as well as at http://DocketsInfo.dot.gov.

Docket: Background documents or comments received may be read at http://www.regulations.gov at any time. Follow the online instructions for accessing the docket or Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For technical questions, contact Shirley McBride, Senior Transportation Industry Analyst, Regulations and Analysis

Division, AST-300, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267-7470; facsimile (202) 267-5463; e-mail Shirley.McBride@faa.gov.

For legal questions, contact Laura Montgomery, Senior Attorney for Commercial Space Transportation, Office of the Chief Counsel, Regulations Division, AGC-200, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267-3150; facsimile (202) 267-7971, e-mail laura.montgomery@faa.gov .

SUPPLEMENTARY INFORMATION:

Authority for this Rulemaking

The FAA's authority to issue rules on commercial space transportation safety is found in Title 49 of the United States Codes, section 322(a), which authorizes the Secretary of Transportation to carry out Subtitle V, Chapter 509, 51 USC 50901-50923, popularly referred to as the Commercial Space Launch Act or the CSLA. The CSLA authorizes the Department of Transportation (DOT) and thus the FAA, through delegations, 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. 51 U.S.C. 50904, 50905. The CSLA directs the FAA 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. 51 U.S.C. 50905. The FAA is also responsible for encouraging, facilitating, and promoting commercial space launches by the private sector. 51 U.S.C. 50903.

Direct Final Rule Procedure

A direct final rule is a quicker way to issue rules that are not controversial. It is based on the Administrative Procedure Act's good cause exception to notice and comment procedures. 5 U.S.C. 553. We use this exception where we have found the public comment procedures to be unnecessary because we do not expect to receive adverse comment. It involves publishing a rule in the *Federal Register* with a statement that, unless we receive an adverse comment on the rule (or a notice of intent to file an adverse comment) within the comment period, the rule will become effective on a specified date. Normally, the effective date of a direct final rule is at least 30 calendar days after the end of the comment period.

Adverse Comment

An adverse comment explains why a rule would be inappropriate, or would be ineffective or unacceptable without a change. It may challenge the rule's underlying premise or approach. In determining whether an adverse comment is significant enough to end a rulemaking, we consider whether the comment raises an issue that would warrant a substantive response in a notice of proposed rulemaking (NPRM).

If we do not receive an adverse comment (or notice of intent to file an adverse comment), we publish a confirmation document in the *Federal Register*, generally within 30 calendar days after the comment period closes. The confirmation document tells the public the effective date of the direct final rule.

If we do receive an adverse comment (or notice of intent to file an adverse comment), we publish a Notice of Withdrawal in the *Federal Register* before the effective date of the direct final rule. The document may withdraw the direct final rule in

whole or in part. We may incorporate the commenter's recommendation into another direct final rule or we may publish an NPRM.

The Direct Final Rule

The FAA anticipates that this regulation will not result in adverse or negative comment since its application is strictly voluntary. Therefore, the agency is issuing it as a direct final rule. This rule allows an operator of a Class 3[1] amateur rocket[2] to voluntarily apply for a license or experimental permit under chapter III. Because these applications are purely voluntary, there should be no adverse effects of this rule. Operators of Class 3 amateur rockets who do not wish to apply for a license or permit need not do so. Such operators would continue to operate as they do now under part 101.

Comments Invited

The Regulatory Policies and Procedures of the Department of Transportation (DOT) (44 FR 1134; February 26, 1979) provide that to the maximum extent possible, operating administrations for the DOT should provide an opportunity for public comment on regulations issued without prior notice. Accordingly, the FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The agency also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting this final rule. The most helpful comments reference a specific portion of the document, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, please send only one copy of written comments, or if filing comments electronically, please submit your comments only one time.

[1] Class 3 as defined by § 101.22.

The FAA will file all comments we receive in the docket, as well as a report summarizing each substantive public contact with FAA personnel concerning this rulemaking. Before acting on this direct final rule, the FAA will consider all comments received on or before the closing date for comments. The agency will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this direct final rule in light of the comments we receive.

Proprietary or Confidential Business Information

Do not file in the docket information that you consider to be proprietary or confidential business information. Send or deliver this information directly to the person identified in the FOR FURTHER INFORMATION CONTACT section of this document. Mark the information that is considered proprietary or confidential. If the information is on a disk or CD ROM, mark the outside of the disk or CD ROM and also identify electronically within the disk or CD ROM the specific information that is proprietary or confidential.

Under 14 CFR 11.35(b), when the FAA is aware of proprietary information filed with a comment, the agency does not place it in the docket. The FAA holds it in a separate file to which the public does not have access, and the agency places a note in the docket that it has received it. If the FAA receives a request to examine or copy this information, the FAA treats it as any other request under the Freedom of Information Act, 5 U.S.C. 552. The FAA processes such a request under the DOT procedures found in 49 CFR part 7.

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[2] Amateur rocket as defined by § 1.1.

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by:

(1) Searching the Federal eRulemaking portal at http://www.regulations.gov;

(2) Visiting the FAA's Regulations and Policies web page at http://www.faa.gov/regulations_policies/; or

(3) Accessing the Government Printing Office's web page at http://www.gpo.gov/fdsys/.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue S.W, Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the docket and amendment numbers of this rulemaking.

Background

Currently, the FAA's commercial space regulations specify that the requirements in chapter III do not apply to amateur rockets activities. This direct final rule amends § 400.2 of chapter III to allow operators of Class 3 amateur rockets to voluntarily apply to the FAA for a license or experimental permit.

Chapter III contains the requirements that apply to commercial space transportation activities conducted in the United States or by a United States citizen. Section 400.2 (Scope) states that the requirements of chapter III do not apply to amateur rocket activities. Section 1.1 of chapter I defines an amateur rocket as an unmanned rocket propelled by a motor or motors having a combined total impulse of 889,600 Newton-seconds (200,000 pound-seconds) or less; and cannot reach an altitude greater than 150 kilometers (93.2 statute miles) above the earth's surface.

In 2008, the FAA amended its regulations governing amateur rocket activities to create three separate classes of amateur rockets.[3]

- Class 1 Model Rocket - Uses no more than 125 grams (4.4 ounces) of propellant; uses a slow-burning propellant; is made of paper, wood, or breakable plastic; contains no substantial metal parts; and weighs no more than 1,500 grams (53 ounces), including the propellant.
- Class 2 High-Power Rocket - An amateur rocket other than a model rocket that is propelled by a motor or motors having a combined total impulse of 40,960 Newton- seconds (9,208 pound-seconds) or less.
- Class 3 Advanced High-Power Rocket - An amateur rocket other than a model rocket or high-powered rocket.

On May 26, 2011, The National Aeronautics and Space Administration (NASA) issued Release 11-170,[4] which sought proposals for services from commercial suborbital flight providers and others to support the agency's Flight Opportunities Program. This program combines NASA's Facilitated Access to the Space Environment for Technology and Commercial Reusable Suborbital Research efforts.

On August 9, 2011, NASA issued Release 11-258[5] in which it selected seven companies to support its Flight Opportunities Program through launches to near space. In order for the financial responsibility requirements of the CSLA[6] to apply, NASA has required these operators to be licensed by the FAA. The suborbital launches under the NASA program typically involve smaller launch vehicles, some of whose launches

[3] See 14 CFR § 101.22.
[4] NASA Calls for Commercial Suborbital Flight Services Proposals, Release 11-170.
[5] NASA Selects Seven Firms To Provide Near-Space Flight Services, Release 11-258.

would satisfy the amateur rocket definition, and thus would fall outside the scope of the FAA's space transportation regulations in chapter III.

At least one amateur rocket operator has sought to obtain an FAA license. The operator said it will not change its operational profile to otherwise fall within the authority of chapter III regulations. Without a rulemaking, the FAA may not entertain applications for the licensing or permitting of amateur rocket activities.[7]

The CSLA provides that the United States should encourage private sector launches, reentries, and associated services and, only to the extent necessary, regulate those launches to ensure compliance with international obligations of the United States and to protect the public health and safety, safety of property, and national security and foreign policy interests of the United States.[8] Thus, because a license is necessary for a launch operator to be eligible for the NASA program, it is appropriate to issue this direct final rule to allow operators of specified amateur rockets to voluntarily submit an application for a chapter III license or experimental permit.[9]

This direct final rule amends § 400.2 to allow operators of Class 3 amateur rockets to voluntarily apply to the FAA for a license or permit.

New Requirements

To accommodate NASA's interest in funding only licensed launches, the FAA will allow launches of sufficient size to voluntarily apply for an FAA license and, therefore, fall under the financial responsibility requirements of the CSLA. The changes

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[6] 51 U.S.C. 50914 – Liability Insurance and Financial Responsibility requirements.
[7] Allentown Mack Sales & Serv. v. NLRB**,** 522 U.S. 359, 373-74 (1998)**;** United States v. Nixon, 418 U.S. 683, 695-96 (1974); Nat'l Family Planning & Reprod. Health Ass'n v. Sullivan**,** 979 F.2d 227, 235-41 (D.C. Cir. 1992).
[8] 51 USC 50901(a)(7), 50903(b)

do not apply to launches involving a Class 1 or Class 2 amateur rocket. Instead, they only apply to launch activities related to a Class 3 amateur rocket. The FAA will not solicit such applications, because solicitation would call into question whether the application was, in fact, voluntary.

Also, this rule only permits voluntary applications for a license from entities that are not part of the U.S. Government. The CSLA does not apply to activities the U.S. Government conducts for the government, which means the FAA does not have the authority to consider even voluntary applications for a license from other Federal agencies.[10]

Further, a prospective applicant must keep in mind that once it applies for and accepts an FAA license or permit, part 101 will not apply and the requirements of chapter III will apply to and govern its operations. These requirements govern not only the operational safety requirements of chapter III, but also requirements applicable to financial responsibility, the signing of reciprocal waivers of claims, environmental impacts, and civil penalties.

Paperwork Reduction Act

Information collection requirements in the amendment to the Commercial Space Transportation Licensing Regulations have been previously approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), and assigned OMB Control Number 2120-0608. This final

[9] Although NASA does not require a permit, the FAA sees no need to distinguish between the two authorizations.
[10] 51 U.S.C. 50919(g).

rule allows launch operators that conduct certain amateur rockets launches an opportunity to voluntarily apply for a commercial space transportation license or experimental permit.

Regulatory Evaluation, Regulatory Flexibility Determination, International Trade Impact Assessment, and Unfunded Mandates Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 and Executive Order 13563 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Public Law 96-354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Public Law 96-39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this direct final rule. We suggest readers seeking greater detail read the full regulatory evaluation, a copy of which we have placed in the docket for this rulemaking.

In conducting these analyses, FAA has determined that this final rule: (1) has benefits that justify its costs, (2) is not an economically "significant regulatory action" as defined in section 3(f) of Executive Order 12866, (3) is not "significant" as defined in

DOT's Regulatory Policies and Procedures; (4) will not have a significant economic impact on a substantial number of small entities; (5) will not create unnecessary obstacles to the foreign commerce of the United States; and (6) will not impose an unfunded mandate on state, local, or tribal governments, or on the private sector by exceeding the threshold identified above. These analyses are summarized below.

Total Benefits and Costs

The FAA does not require licensing of amateur rocket operators, who may continue to operate as before, without incurring the cost of obtaining a license. The FAA notes that an operator's customers, including other agencies such as NASA, may require a license for an amateur rocket operator who wishes to provide launch services or to participate in programs, such as NASA's Flight Opportunities Program. Since this license is not an FAA requirement, the FAA attributes the costs of operator compliance to the customer, not to this rule. Whenever a license or permit is issued, the FAA will incur a cost to produce the authorization. Operators who choose to obtain a license under this rule will also incur costs although we do not attribute these costs to the rule, because they are voluntary.

The estimated cost associated with issuing licenses and experimental permits under this rule is $1.8 million ($1.5 million present value using a 7 percent discount rate and $ 1.7 million present value using a 3 percent discount rate) over 5 years for the cost to the government. Operator benefits are expected to equal or exceed their costs. The FAA is not able to quantify other societal benefits of this rule. To the extent the licensing requirements provide a societal benefit, those benefits, including any reduction in risk,

may attend this rule. Those benefits are not quantifiable for launch vehicles of this size, but the benefits are present.

Who is Potentially Affected by this Rule?

- Launch operators who would like to launch amateur rocket vehicles under a license or permit
- Customers, including NASA
- FAA

Assumptions

- All monetary values are expressed in 2011 dollars.
- The time horizon for the analysis is 5 years because this time period captures all of the relevant costs.
- Present value costs are estimated at 7 percent and 3 percent.
- Hourly burdened government rate is $51.72.
- Ten operator licenses for amateur rocket launches will be issued over the first 5 years.[11]
- Operator licenses for reusable launch vehicles are valid for 2 years.
- Operators will begin license renewal process for each license the second year of the license.

Year	1	2	3	4	5	Total
# of Original Licenses	1	2	2	2	3	10
# of Renewals	0	1	2	3	4	10

[11] NASA's Flight Opportunities Program (FOP) has awarded contracts to seven operators. We find it reasonable to assume that in the first 2 years after the rule publishes, three amateur rocket licenses will be granted. Two more amateur rocket operators not involved with the FOP have inquired into the possibility of obtaining voluntary licenses for research and development and demonstration launches. It is reasonable to estimate that the FAA could issue up to 10 amateur rocket licenses in the first 5 years.

Issuance of Amateur Rocket Launch Licenses Over Time

- Operators will renew with amendments to include additional configurations.
- Cost of these renewals will be 70 percent of the cost of the original license because configurations will be expanded beyond original license.
- There will be multiple launches per year.
- We assume amateur rocket operators who choose to obtain a license will decide to launch from a licensed launch site which will already have a completed environmental review or which will have a government grant for preparing an environmental review. This would result in minimal costs.

Benefits

Because the rule is voluntary, the FAA does not require amateur operators to obtain a license. Amateur rocket operators will choose to obtain an FAA license in order to launch rockets only if their expected benefits exceed their costs. An operator will seek a license only if the costs of obtaining a license are worth it. .Any benefit to the operator associated with having a license will be realized only after an operator has incurred the cost of obtaining a license. This rule encourages rocket launches, which is consistent with the FAA mission. The FAA is not able to quantify other societal benefits of this rule, other than to note the expected benefits exceed the expected costs.

Costs Associated with Licenses

Although the FAA does not attribute such costs to this rule, the FAA notes that amateur rocket operators would incur costs to submit the data and analyses to the FAA for a license or experimental permit and for the cost of third party liability insurance. Assuming 10 licenses are issued in the first 5 years, operators will voluntarily expend a

total of $2 million ($1.66 million present value using a 7 percent discount rate and $ 1.85 million present value using a 3 percent discount rate) over 5 years for licenses. These costs are presented in the table below:

Table 1 – Cost voluntarily incurred by operators

	Year 1	Year 2	Year 3	Year 4	Year 5	Total
Launch License Forecast	1	2	2	2	3	10
Renewal Forecast		1	2	3	4	10
Total # of Licenses	1	3	5	7	10	
Average # of launches per license	5	8	10	12	14	
Total # of Launches	5	24	50	84	140	
7% Discount Rate	1	0.9346	0.8734	0.8163	0.7629	
3% Discount Rate	1	0.9709	0.9426	0.9151	0.8885	
Launch License cost	$65,000	$130,000	$130,000	$130,000	$195,000	$650,000
Renewal Costs	$0	$45,500	$91,000	$136,500	$182,000	$455,000
Insurance Costs	$15,000	$72,000	$150,000	$252,000	$420,000	$909,000
Total Costs	**$80,000**	**$247,500**	**$371,000**	**$518,500**	**$797,000**	**$2,014,000**
Discounted by 7%	**$80,000**	**$231,000**	**$324,000**	**$423,000**	**$608,000**	**$1,666,000**
Discounted by 3%	**$80,000**	**$240,000**	**$350,000**	**$474,000**	**$708,000**	**$1,852,000**

The FAA would incur the cost of reviewing and processing the materials that the operators submit for a license or experimental permit. These costs are presented in the table below:

Table 2 – Costs to FAA

	Year 1	Year 2	Year 3	Year 4	Year 5	Total
Launch License Forecast	1	2	2	2	3	10
Renewal Forecast		1	2	3	4	10
7% Discount Rate	1	0.9346	0.8734	0.8163	0.7629	
3% Discount Rate	1	0.9709	0.9426	0.9151	0.8885	
Cost to Review and Process Original Launch Licenses	$108,000	$215,000	$215,000	$215,000	$323,000	$1,076,000
Cost to Review and Process Renewals	$0	$75,000	$151,000	$226,000	$301,000	$753,000
Total Costs	**$108,000**	**$290,000**	**$366,000**	**$441,000**	**$624,000**	**$1,829,000**
Discounted by 7%	$108,000	$271,000	$320,000	$360,000	$476,000	$1,535,000
Discounted by 3%	$108,000	$282,000	$345,000	$404,000	$554,000	$1,693,000

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Public Law 96-354) (RFA) establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the

objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration." The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions. Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The FAA believes that this final rule will not have a significant impact on a substantial number of entities for the following reasons: the rule is voluntary and does not create costs on operators. Also, operators of amateur rockets would not willingly obtain licenses or experimental permits if the costs were to exceed the expected benefits.

Therefore, as the Acting FAA Administrator, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The Trade Agreements Act of 1979 (Public Law 96-39), as amended by the Uruguay Round Agreements Act (Public Law 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, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this final rule and determined that it will have only a domestic impact and therefore will not create unnecessary obstacles to the foreign commerce of the United States.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a "significant regulatory action." The FAA currently uses an inflation-adjusted value of $143.1 million in lieu of $100 million. This direct final rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we determined that this final rule does not have federalism implications.

Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in Chapter 3, paragraph 312d, governing rulemakings such as this, and involves no extraordinary circumstances.

Regulations that Significantly Affect Energy Supply, Distribution, or Use

The FAA has analyzed this final rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use, 66 FR 28355 (May 18, 2001). We have determined that it is not a "significant energy action" under the executive order because it is not a "significant regulatory action" under Executive Order 12866, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

List of Subjects in 14 CFR Part 400

Commercial space transportation, Licensing, Reporting and recordkeeping requirements

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends chapter III of Title 14, Code of Federal Regulations as follows:

PART 400—BASIS AND SCOPE

1. The authority citation for part 400 continues to read as follows:

Authority: 51 U.S.C. 50901-50923

2. Revise § 400.2 to read as follows:

§ 400.2 Scope.

These regulations set forth the procedures and requirements applicable to the authorization and supervision under 51 U.S.C. Subtitle V, chapter 509, of commercial space transportation activities conducted in the United States or by a U.S. citizen. The regulations in this chapter do not apply to—

(a) Space activities carried out by the United States Government on behalf of the United States Government; or

(b) The launch of an amateur rocket as defined in § 1.1 of chapter I unless—

(1) The rocket is a Class 3 advanced high-power rocket as defined in § 101.22 of chapter I; and

(2) The operator of the Class 3 advanced high-power rocket voluntarily submits an application for a license or a permit.

Issued in Washington, D.C. on July 31, 2012.

Michael P. Huerta
Acting Administrator

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