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1999-5401

Date: 8/10/99 5: 15 PM  
Sender: "Blain Nelson" <b.nelson@NelsonEngrCo.com>  
To: 9-NPRM-CMTS  
Priority: Normal  
Subject: Comment on Docket No. FAA-I 999-5833-3

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Blain Nelson

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1999 AUG 13 A 10: 19  
OFFICE OF THE  
CHIEF COUNSEL  
RULES DOCKET

August 10, 1999

U.S. Department of Transportation Dockets  
Dockets No. FAA-1999-5833  
400 Seventh Street, SW, Room Plaza 401  
Washington, DC 20590

**SUBJECT:** Comment on Draft Rule, 14 CFR Parts 417 and 420: Licensing and Safety Requirements for Operation of a Launch Site; Docket No. FAA-19995833; Notice No. 99-07

**Summary:**

As the FAA starts to manage the commercial aerospace licensing portion of the industry, the National Environmental Policy Act (NEPA) aspects need to be divorced from the safety review and overflight issues of the vehicles and the launch site.

**Background:**

Nelson Engineering Co. supports the aerospace industry in the environmental services area. We are Lockheed Martin's environmental contractor for the X-33 program and Boeing's environmental contractor for their Evolved Expendable Launch Vehicle (EELV) at Cape Canaveral Air Station. For the X-33 program we were heavily involved with Lockheed Martin and NASA during NASA's preparation of the Environmental Impact Statement (EIS) to satisfy the provisions of NEPA. We are also in the process of writing two environmental assessments (EAs) for smaller commercial aerospace projects at Kennedy Space Center.

As the X-33 EIS was being prepared, NASA, as the lead agency for that NEPA action, elected to include overflight and safety issues of the X-33 into the EIS. This was a major concern of the citizens during the public scoping meetings. It was included into the EIS partly because there was no other forum for the citizenry to voice their concerns and have them properly considered by the government agency involved. An aspect that needs to be properly addressed in FAA's launch site and vehicle licensing is the separation of NEPA compliance and vehicle and overflight safety. Separation is needed to avoid unnecessary duplication of effort. The proposed draft rule, Docket No. FAA-1 999-5833; Notice No. 99-07, does not clearly indicate that safety considerations for licensing are not part of the NEPA process.

**Discussion:**

The NEPA was established in 1969. It forces government agencies to consider the environmental consequences of its actions. Over time, the NEPA process has become many more things than it was originally intended. The FAA/AST (formerly Office of Commercial Space Transportation) published its "Guidelines for Compliance with the National Environmental Policy Act and Related Environmental Review Statues for the Development of Commercial Launch Sites" in May 1995. The guidelines do not specifically address flight safety issues, but do address the accident potential of the launch site. The draft rule described in Docket No. FAA- 1999-5833 also addresses safety considerations for launch site licensing. We believe

that this will require a duplication of effort on behalf of companies pursuing vehicle and launch site licensing.

We recognize that persons living within the vicinity of a commercial launch site have the right to know of the environmental hazards from the site. This is analogous to living next to a major industrial site. Many environmental regulations (the Emergency Planning and Community Right to Know (EPCRA) provisions of the Superfund Amendment and Reauthorization Act (SARA) and the Risk Management Planning (RMP) provisions of the Clean Air Act (CAA) Amendments of 1990) cover industrial safety aspects similar to this.

We also recognize that the FAA, as the government agency responsible for licensing future commercial launch vehicles and launch sites, has the responsibility to ensure:

- The public is adequately protected through its licensing process (both vehicles and launch sites);
- It offers the public a forum to voice its concerns and request data on safety issues related to licensing of launch systems;
- The provisions of NEPA are properly addressed.

***Recommendations:***

The safety issues for launch systems (both launch vehicle licensing and launch site licensing) should be properly considered by the FAA during the licensing process, but be divorced *from NEPA* and any environmental work conducted in support of a commercial aerospace program. The NEPA process should focus on traditional environmental issues that it was intended to address. The draft rule should be revised to clearly indicate the process for public consideration of safety issues and indicate that they are divorced from the NEPA process. Future commercial aerospace EAs and EISs should not be required to include detailed safety analyses to the level of depth covered by the licensing rules proposed by the FAA.

If the FAA believes it is necessary, it should establish a separate process to allow public participation and comment on the launch vehicle licensing and launch site licensing process that it conducts. From a NEPA standpoint, it should be indicated in scoping meetings and in programmatic NEPA documents that safety issues are addressed separately by the FAA licensing process.

I would be glad to discuss the issue with any members of the FAA. Please contact me at your convenience if you would like to discuss the issue further.

Sincerely,

A handwritten signature in black ink that reads "Blain L. Nelson". The signature is written in a cursive, slightly slanted style.

Blain L. Nelson, P.E.  
President