

January 21, 2000

U.S. Department of Transportation Dockets
Docket No. FAA-1999-6265
400 Seventh Street SW, Room Plaza 401
Washington, D.C. 20590

To the Docket:

The Nevada Test Site Development Corporation (NTSDC) is a community-based, Department of Energy sponsored organization that promotes science and technology in Nevada. Our mission is to promote alternative uses for the Nevada Test Site (NTS). As such, the NTSDC is developing commercial space activities at the NTS. Our organization is particularly interested in regulations that may affect future Reusable Launch Vehicle (RLV) operations. NTSDC is pleased to provide comments on the FAA's proposed rulemaking in regard to the **Financial Responsibility Requirements for Licensed Reentry Activities**.

Definition of Launch

The NTSDC wishes to comment on the FAA's proposal to define the start of RLV launch operations for financial responsibility purposes as "beginning with the arrival of a launch vehicle or payload at a U.S. launch site."

The NTSDC understands that for ELV launches at the national launch ranges (most notably Cape Canaveral Air Force Station and Vandenberg Air Force Base), significant, high-valued, U.S. government owned facilities may be put at risk during pre-flight processing of the payload or launch vehicle. The NTSDC also understands that the ELV operators felt inadequately indemnified for this risk. Consequently, establishing the beginning of launch, and the attached insurance and indemnification requirements, when the vehicle or payload arrives at the launch site, may be appropriate for this situation.

At many commercial launch complexes, however, such indemnification requirements are either a) unnecessary due to absence of significant, high valued U.S. government owned facilities near the processing site, or b) unnecessary due to commercial insurance and indemnification agreements between the launch site operator and the launch vehicle operator. *Indeed the NTSDC considers this lack of need for Government indemnification during pre-flight processing a competitive advantage vis-à-vis the more crowded launch sites.*

At the proposed Kistler Aerospace Corporation launch site, for example, the nearest buildings are a pair of trailers at the Pahute Mesa Airport over 5 miles away. The nearest substantive buildings are at the entrance to an underground test facility approximately 15 miles away. It is also worth noting that due to intervening hills and mountains, neither of these facilities is “line-of-sight” from the Kistler processing building.

In light of the above, the NTSDC believes that defining the beginning of launch as “beginning with the arrival of the launch vehicle or payload” for all sites works against the competitive advantage of less crowded launch facilities such as the Nevada Test Site, and restricts the flexibility of commercial arrangements between the launch site operators and the launch system operators.

Recommended Definition of Launch

In 14 CFR 401.5, the FAA defines launch as “beginning with the arrival of a launch vehicle or payload at a U.S. launch site.” The NTSDC believes that ideally engine ignition should define the beginning of launch. This definition would limit Government-structured insurance requirements to the portion of operations where they are in fact necessary for all operators – the actual flight.

The FAA further states that launch “includes activities involved in the preparation of a launch vehicle for flight...” The NTSDC would recommend that at the very least the launch applicant be allowed to define the “activities involved in the preparation of the launch vehicle for flight.” In this manner the Government would be relieved of indemnification requirements for activities for which the vehicle operator and/or site operator were able to obtain adequate insurance on the commercial market.

This approach injects flexibility into the licensing and insurance processes for RLVs, relieves the Government of unnecessary indemnification responsibilities, and permits the identification of a competitive advantage at less crowded launch sites.

Sincerely,

Tim Carlson
President & CEO

Nevada Test Site Development Corporation

TC/jw