

The FAA relies upon thrust versus lift during powered flight in differentiating launch vehicles from aircraft because it provides a clear and objective point of demarcation that relies on technical distinctions grounded in the science of physics, not labels. Other options for differentiating launch vehicles from aircraft are not as well grounded in science or logic. For example, the FAA could point to the use of wings and classify all winged vehicles as aircraft that must satisfy airworthiness certification requirements; however, the Pegasus launch vehicle is a winged vehicle used to place payloads in Earth orbit and is subject to CSLA licensing. Similarly, the Space Shuttle has wings but is not regarded as an aircraft (nor is it subject to licensing because its operation is deemed to be by and for the Government and therefore exempt from the CSLA). The FAA could look to other traditional indicia of space flight, such as use of pressure suits or reaction control systems, but both are used for high altitude aircraft and therefore do not help us distinguish launch vehicles from aircraft. Altitude is also not an appropriate discriminator for launch vehicles and aircraft because some suborbital rockets, including sounding rockets, are not necessarily intended for launch into Earth orbit or outer space and because aircraft can be designed to operate at increasingly extreme altitudes above controlled airspace. Therefore, altitude does not offer an objective means of distinguishing suborbital launch vehicles from aircraft.

The FAA finds that flight physics provides a clear, certain and objective criteria the public can use in determining whether a vehicle requires a license from the FAA under the CSLA. Using the suborbital rocket criteria identified above, a prospective operator can determine whether it must contact AST and begin the pre-application consultation process required for a launch license.

Licensing Requirements for Suborbital RLVs

A launch license is issued consistent with public health and safety, safety of property, and U.S. national security and foreign policy interests, including international obligations. Upon satisfactory completion of the various reviews required under the Commercial Space Transportation Licensing Regulations, AST issues a license to an operator authorizing the mission; however, authorization is subject to operator compliance with license terms and conditions.

The FAA has an established regulatory framework governing

launches of suborbital rockets, both expendable and reusable. Suborbital ELVs are regulated under license requirements contained in 14 CFR part 415.² Suborbital RLVs, including those that employ traditional aviation characteristics, such as wings and landing gear, are regulated under RLV mission licensing requirements contained in 14 CFR part 431.

Certain suborbital RLVs, described in this Notice as "hybrid," that employ aviation characteristics are also regulated under FAA aircraft regulations. Where operation of a launch vehicle includes operation of a civil aircraft for any portion of flight, an EAC may be required, in addition to a launch license, in order to obtain complete flight authorization for operation in the national airspace system. Where appropriate, obtaining and complying with an EAC under 14 CFR parts 21 and 91, with special operating conditions, would be made a condition of a suborbital RLV mission license. During pre-license application consultation, AST will refer an applicant proposing a hybrid suborbital RLV mission to the FAA's Aircraft Certification Service and Flight Standards Service to obtain the required certificate if the applicant has not already done so.

AST has issued an advisory circular (AC) regarding test flight launch licensing to illustrate acceptable means of satisfying safety requirements of 14 CFR part 431. Test flights may be a desirable means of validating performance capabilities of a new vehicle under increasingly demanding flight parameters. AC 431.35-3, "Licensing Test Flight RLV Missions," issued August 2002, explains how a license applicant can streamline its submissions under the safety requirements of part 431, when seeking authorization to conduct a series of suborbital RLV test flights that are subject to licensing under the CSLA.

Not all test flights will require licensing under the CSLA. A license will be required only for those vehicles that operate as a suborbital rocket and that are launched. In addition, the Commercial Space Transportation Licensing Regulations exempt from licensing certain low-powered rocket launches known as "amateur rocket

activities." Test flights of a hybrid suborbital RLV that fit the definition of "amateur rocket activities" are not licensed by the FAA, although an EAC may be required. The term, "amateur rocket activities," is defined in 14 CFR 401.5. It means launch activities conducted at private sites that satisfy all three of the following characteristics:

- Powered by a motor(s) having a total impulse of 200,000 pound-seconds or less;
- Total burning or operating time of less than 15 seconds; and
- A ballistic coefficient—*i.e.*, gross weight in pounds divided by frontal area of rocket vehicle—less than 12 pounds per square inch.

The FAA also retains authority to waive for a particular applicant the requirement to obtain a license where the agency determines that the waiver is in the public interest and will not jeopardize public health and safety, the safety of property and U.S. national security and foreign policy interests.

Issued in Washington, DC, on October 14, 2003.

Patricia Grace Smith,

Associate Administrator for Commercial Space Transportation.

Nicholas A. Sabatini,

Associate Administrator for Regulation and Certification.

[FR Doc. 03-26373 Filed 10-15-03; 4:42 pm]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Mobile and Baldwin Counties, AL

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for a proposed highway project in Mobile and Baldwin Counties, Alabama.

FOR FURTHER INFORMATION CONTACT: Mr. Joe D. Wilkerson, Division Administrator, Federal Highway Administration, 500 Eastern Blvd., Suite 200, Montgomery, Alabama 36177, Telephone: (334) 223-7370.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the Alabama Department of Transportation (ALDOT) will prepare an environment impact statement on a proposal to increase the capacity of Interstate Route 10 at Mobile by constructing a new six-lane bridge across the Mobile River at Mobile and

² AN FAA rulemaking is pending that would revise licensing and safety requirements for licensed ELV launches, including suborbital ELVs. See Docket No. FAA-2000, accessible through the Department of Transportation's electronic Docket Management System (DMS), for the most current rulemaking proposal and public comments. You can access the DMS using the following Web site: <http://dms.dot.gov>.