

NATIONAL TRANSPORTATION SAFETY BOARD

Office of Aviation Safety
Washington, D.C. 20594

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Attachment 14
FAA Advisory Circular 413-1

SYSTEM SAFETY

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U.S. Department
of Transportation
**Federal Aviation
Administration**

Advisory Circular

Subject: LICENSE APPLICATION PROCEDURES

Date: August 16, 1999

AC No: 413-1

Initiated By: AST-1

Change:

1. PURPOSE. This advisory circular (AC) provides guidance to license applicants on the procedural aspects of the application process. These procedures apply to all applications, whether for a license to launch a launch vehicle, to reenter a reentry vehicle, or to operate a launch or reentry site.

2. RELATED COMMERCIAL SPACE TRANSPORTATION, FAA REGULATIONS. 14 CFR Part 413, Sections 413.5, 413.7, 413.9, 413.11, 413.13, 413.15, and 413.17, 413.19, 413.21 and 413.23.

3. BACKGROUND. The Federal Aviation Administration (FAA) office of the Associate Administrator for Commercial Space Transportation (AST) is responsible for licensing commercial space launches, the reentry of reentry vehicles, and the operation of launch and reentry sites. AST's regulations are located in 14 CFR Chapter III. 14 CFR Part 413 contains AST's license application procedures applicable to all license applications. The procedures apply to any application for a license to launch a launch vehicle or to operate a launch site or reentry site, or to reenter a reentry vehicle. A payload owner or operator requesting a payload review should also use these procedures.

Section 413.5 requires a prospective applicant to consult with the FAA before submitting an application. When an applicant is ready to submit an application, section 413.7 contains administrative information required to file an application, and section 413.9 describes how an applicant may request confidential treatment for trade secrets or proprietary commercial or financial data. Section 413.11 provides for the initial screening of an application by AST to determine

whether the application is sufficiently complete to enable the FAA to initiate the review. Section 413.13 states that the acceptance by the FAA of an application does not constitute a determination that the application is complete. Although review of an incomplete application may commence, section 413.13 requires an applicant to complete an incomplete application, and section 413.15 allows for tolling in the event an applicant does not submit the remaining material in sufficient time to avoid affecting the evaluation process. The purpose of these requirements is to ensure that adequate information is available to commence a meaningful review and required information is available to complete the review within 180 days.

Application amendment procedures are covered in section 413.17, and sections 413.19 and 413.21 cover license issuance and denial, respectively. Section 413.23 provides procedures for renewal of a license.

4. DISCUSSION

PRE-APPLICATION CONSULTATION. Under section 413.5, an applicant must consult with the FAA before submitting an application. Pre-application consultation is mandatory in order to allow both an applicant and the FAA the opportunity to identify potential issues relevant to the FAA's licensing determination. Pre-application consultation allows a prospective applicant to familiarize the FAA with its proposal and the FAA to familiarize the prospective applicant with the licensing process. It is intended to provide an efficient and effective process leading to the development of a substantially complete application. It should also ensure that an applicant is aware of the responsibilities of a licensee.

Pre-application consultation is not a formal structure or need not be accomplished within a set timetable. Early consultation is advisable to enable the applicant to identify potential licensing issues at the planning stage when changes or modifications to an applicant's program or commercial space transportation application are less likely to result in significant delays or costs to the applicant. This avoids potential wasted efforts by a prospective applicant in preparation of an application. For new launch concepts, the pre-application process allows a prospective applicant and AST's Licensing and Safety Division to identify an efficient process for the applicant to

demonstrate the safety of any proposed launch, reentry or operation of a launch or reentry site.

The requirement for pre-application consultation does not require personal face-to-face meetings. For many proposals consultation may be made by telephone, electronic mail or other means. A prospective applicant's concept, issues and schedule nearly always drive the schedule and order of such discussions. Space transportation concepts are often very complex, and the establishment of a good working relationship with FAA early in the life cycle of a commercial space transportation program is beneficial to all participants. Recognizing that an applicant's schedule is often subject to change and driven by availability of resources, early discussion of schedules with the FAA can assist in effective planning of resources to evaluate an application. The submittal by an applicant of parts or elements of the necessary material for review as they are developed is strongly recommended. In all cases, the FAA encourages the proposed applicant to submit, as part of the process, application material in draft, and the FAA will review and provide feedback on the content.

THE APPLICATION. When ready to submit an application, an applicant is not required to fill out a particular form, but should follow the instructions given in section 413.7. An application must be in writing, in English and filed in duplicate with the FAA. An application must identify the name and address of the applicant; the name, address, and telephone number of a point of contact; and the type of license for which the applicant is applying. An applicant must also sign, date, and certify the application as true, complete, and accurate. The individual signing an application must be an officer of the company. Electronic versions of the application will be accepted provided a hardcopy is submitted containing a signature page signed by an authorized individual representing the corporation; partnership or sole proprietorship; or joint venture, association, or other entity.

CONFIDENTIALITY. Under section 413.9, an applicant may request in writing that trade secrets or proprietary commercial or financial data be treated as confidential. The request must be made at the time the information or data is submitted, and state the period of time for which confidential treatment is desired. This request may be made during pre-application consultation. Applicants

should note that the information or data must be clearly marked with an identifying legend, such as "Proprietary Information," "Proprietary Commercial Information," "Trade Secret," or "Confidential Treatment Requested." Where this marking proves impracticable, a cover sheet containing the identifying legend must be securely attached to the compilation of information or data for which confidential treatment is requested.

The treatment of confidential information is governed by applicable law, including the Freedom of Information Act, 5 U.S.C. 552. Information or data for which confidential treatment has been requested or information or data that qualifies for exemption under section 5 U.S.C. 552(b)(4) will not be disclosed to the public unless AST determines that the withholding of the information or data is contrary to the public or national interest.

APPLICATION ACCEPTANCE, COMPLETENESS, AND REVIEW. AST decides whether to accept a particular application through an initial screening of the application to see if it is substantially complete. Commencing the review of an incomplete application is in the interest of the applicant in that it allows for early identification of required information that an application may not have otherwise addressed. The FAA determines when an application is sufficiently complete for the 180-day review period to commence and notifies the applicant. When the FAA receives an application that fails to provide sufficient information for the FAA to commence a meaningful review, the applicant will be notified, in writing, noting the areas of deficiency. Accordingly, the 180-day review period will start to run only upon receipt of an accepted application.

Acceptance of the application does not establish that an application is complete. The fact that an application is only substantially complete means that more information may be required before the application is entirely complete. The FAA may also ask for additional information or clarifications in the course of the licensing process in situations where an applicant's proposal contemplates unique activities, vehicle configurations or technologies.

The FAA can toll, or stop the clock on the 180-day review period when an applicant fails to provide information required for the FAA to complete its review. If an applicant does not address requests for required

information in sufficient detail, or if the application contains inconsistencies, the FAA will advise the applicant and provide a time by which the requested information must be provided. Once the deadline has passed, and while the FAA waits for any information necessary to complete its review, the 180-day time limit on the FAA does not run.

AMENDMENTS TO AN APPLICATION. Under section 413.17, an applicant may amend or supplement a license application at any time prior to issuance or transfer of a license.

Perhaps more importantly, an applicant is responsible for the continuing accuracy and completeness of information furnished to the FAA as part of a pending license application. An applicant must advise the FAA in a timely manner of any proposed material change in any representation contained in its application, including, without being limited to, its launch or reentry operations, launch or reentry procedures, classes of payloads, orbital destinations, the type of vehicle, flight path, launch or reentry site, and launch point, or any safety related system, policy, procedure, requirement, criteria or standard, that may affect public health and safety, the safety of property, including government property, or hazards to the environment.

Because the FAA proposes to rely upon federal launch ranges for launches from those launch sites, an applicant must also notify the FAA in a timely manner in the event the applicant applies to the federal launch range for a waiver to, or deviates from the federal launch range's safety requirements or procedures.

Changes to an application may lengthen the time that the FAA requires to complete its reviews in support of a license determination. The FAA will reserve to itself the right to toll the 180-day review period in the event that any amendment to an application so radically changes the applicant's proposal that the change, in effect, constitutes a new application. The FAA's experience, however, has been that most amendments, while important, have a relatively minor impact on the processing time, particularly if those amendments are submitted in a timely manner.

ISSUANCE OR DENIAL OF A LICENSE. After the FAA completes its reviews and makes the approvals and determinations

required by the regulations, the FAA issues a license. The license will include one or more license orders listing terms and conditions of the license.

If a license application has been denied, the FAA will inform a license applicant, in writing, and state the reasons for denial. An applicant then has two options. One is to request a hearing. Procedures for hearings are found in 14 CFR Part 406. An applicant's other option is to correct the deficiencies that resulted in the denial and request reconsideration of the revised application. The FAA has 60 days within which to reconsider its licensing determination, or the number of days remaining in the 180-day review period, whichever is greater. If the license application is denied again after reconsideration, an applicant may still request a hearing.

LICENSE RENEWAL. Section 413.23 allows a licensee to apply for renewal of an expiring license, as long as the authorization sought by the licensee is substantially the same as the authorization under the expiring license. A licensee must apply for a renewal at least 90 days before the expiration date of the license, and must describe any proposed changes in its conduct of licensed activities and provide any additional clarifying information required by the FAA. The renewal application must satisfy all of the requirements for a license, although the application may incorporate by reference information provided as part of the application for the expiring license. The application review and license issuance or denial procedures are otherwise the same as for an original license or any modification to that license.

GENERAL POINTS. As noted above, the procedures described in this AC are applicable to all license applications. The specific requirements for safety, payload, policy, environmental, and financial responsibility may be found in the regulations. A few general points are worth considering when preparing material to meet those requirements:

AST issues licenses based on a policy review, a payload determination and an evaluation of the applicant's ability to ensure public safety and the safety of property.

The applicant is responsible for ensuring public safety and safety of property relative to licensed operations. Its ability and resources to handle this responsibility should be documented.

The application should identify and address all critical or sensitive public safety issues. All conclusions should be well supported with facts.

The review process will be based on the information provided by the applicant, so the application should include supportable facts and figures.

A handwritten signature in black ink, appearing to read 'Patricia Grace Smith', with a long horizontal flourish extending to the right.

Patricia Grace Smith
Associate Administrator
Commercial Space Transportation