

APPENDIX C: LIST OF APPLICABLE LAW

International Conventions and Protocols, and Federal Environmental Legislation, Regulations, and Orders

National Environmental Policy Act (NEPA)

42 USC §§ 4321-4370c

The National Environmental Policy Act requires federal agencies, early in the agency's planning process, to assess the potential environmental impacts of implementing major federal actions so that this information can be used in the decision-making process. The Act requires analysis of effects from the full range of project alternatives, along with public comment and review. NEPA specifies several levels of environmental review, ranging from a Categorical Exclusion for actions with no potentially significant impact, to Environmental Impact Statements for major, unprecedented, or controversial actions having potentially significant environmental impacts. NEPA is implemented through Council on Environmental Quality regulations.

Council on Environmental Quality (CEQ) Regulations Implementing NEPA

40 CFR Parts 1500-1508

Regulations developed by the Council on Environmental Quality define the procedures for completing the environmental review and analysis called for in NEPA. The regulations outline the principles to be followed in the environmental impact analysis process, including incorporating environmental review early in project planning, preparing an action-forcing environmental document to assist in project decisions rather than one that documents decisions previously made, and ensuring public involvement throughout the process. The regulations also include guidelines for determining what level of environmental review is required; the contents of environmental documents; procedures for comments by the public and federal agencies; and schedules. The regulations specify that notices will be published in the Federal Register prior to preparation of an EIS, and require all EISs to be filed with EPA's Office of Federal Activities upon completion.

Clean Air Act (CAA)

42 USC § 7401 *et seq*

The Clean Air Act of 1970 was passed to "protect and enhance the quality of the Nation's air resources so as to promote public health and welfare and the productive capacity of its population." Several major revisions have been passed since 1970. The Act requires the establishment of national primary and secondary ambient air quality standards (NAAQS) to address pervasive air pollution problems. Primary standards define levels of air quality necessary to protect public health, while secondary standards define levels necessary to protect the public welfare from known or anticipated adverse effects from pollutants. These standards have been established for sulfur dioxide, carbon monoxide, ozone, nitrogen dioxide, lead, and particulate matter less than 10 microns in diameter. The Act gives state and local authorities the responsibility to ensure regional attainment of the standards. The most recent 1990 Clean Air Act Amendments provide new objectives for (1) regions not attaining the NAAQS, particularly concerning ozone; (2) a control program for 189 toxic air pollutants, including requirements for both stationary and mobile sources; (3) new rules on monitoring, emission tracking and trading, permitting, and other standards for acid rain and the sulfur dioxide and nitrogen oxide precursors of acid precipitation; (4) requirements for phasing out CFCs as well as other steps to address stratospheric ozone depletion and

atmospheric warming; (5) tighter mobile source emission standards; and (6) strengthening of the enforcement powers of regulatory agencies.

Montreal Protocol on Substances that Deplete the Ozone Layer, Title VI of the Clean Air Act Amendments of 1990

The Montreal Protocol was developed under the guidance of the United Nations Environmental Programme (UNEP) in September 1987. As amended in 1990 and 1992, and as ratified by 149 countries as of May 1996, the Protocol identifies the main ozone depleting substances (ODSs) and specifies a timetable for phasing out the consumption and production of ODSs. Title VI of the Clean Air Act Amendments of 1990 establishes phaseout requirements for ODSs consistent with the Montreal Protocol.

Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships of 1973 as Amended (MARPOL) and Annexes I, II, III, and IV to MARPOL

The United States is party to the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships of 1973 as Amended (MARPOL) and Annexes I, II, III, and IV to MARPOL. With respect to normal debris released by expendable launch vehicles after launch, such debris is not covered by MARPOL as this agreement applies to ships. After lift-off from the launch pad, vehicles and their payloads are not ships within the meaning of MARPOL.

Discharges of spent stages and residual kerosene are part of the normal operation of launch vehicles, regardless of whether the vehicles are launched from land or sea, and therefore, are not covered by the London Dumping Convention or other related agreements. In particular, they do not fall within the meaning of “dumping” as the term is defined in Article III, section 1 of the London Dumping Convention or Article 1 section 4 of the 1996 protocol.

To the best of the FAA’s knowledge the international community shares this view. The FAA understands that such normal operational launch vehicle discharges have not generally been viewed by countries as dumping within the London Dumping Convention, and that the International Maritime Organization Secretariat has received no country reports indicating that countries have subjected such operational discharges to the London Dumping Convention regime.

Noise Control Act 42 USC § 4901 *et seq*

The Noise Control Act seeks to limit the exposure and disturbance individuals and communities suffer from noise. Its focus is on surface transportation and construction sources, particularly near airport environments. The Act also specifies that performance standards for transportation equipment will be established, with the assistance of the Department of Transportation. Section 7 regulates sonic booms and gives the Federal Aviation Administration regulatory authority, after consultation with the EPA. In addition, the 1987 Quiet Community amendments give state and local authorities greater involvement in controlling noise.

Pollution Prevention Act of 1990 (PPA) 42 U.S.C. § 13101 *et seq*

The Pollution Prevention Act establishes pollution prevention as a national objective, and specifies a hierarchy of practices led by pollution prevention. The Act defines pollution prevention as source reduction and other practices that reduce or eliminate the creation of pollutants. It requires firms that

prepare toxic chemical release forms under the Emergency Planning and Community Right to Know Act to provide information on pollution prevention and recycling activities.

Coastal Zone Management Act (CZMA)

16 USC § 1451 *et seq*

The Coastal Zone Management Act seeks to preserve, protect, and restore coastal areas. Coastal areas include wetlands, floodplains, estuaries, beaches, dunes, barrier islands, coral reefs, and fish and wildlife and their habitat. The Act emphasizes state leadership and development of state Coastal Zone Management Plans. The Act also encourages inventories of coastal resources be taken and standards set to protect those resources defined as nationally significant. All federal agencies must assess whether their activities will affect a state's coastal zone and ensure, to the maximum extent possible, that the activities are consistent with approved state Coastal Zone Management Programs.

Clean Water Act (CWA)

33 USC §1251 *et seq*

The Clean Water Act establishes water pollution control standards and programs with the objective of restoring and maintaining the chemical, physical, and biological integrity of the nation's water resources. The Act provides for the elimination of the discharge of pollutants into navigable waters and for water quality goals to protect fish and wildlife. The Act specifies (1) that actions must comply with federal and state water quality criteria; (2) regulations for issuing permits under the National Pollutant Discharge Elimination System (NPDES) for storm water discharge be established by the EPA, (3) states assess non-point source water pollution problems and develop pollution management plans.

Resource Conservation and Recovery Act (RCRA)

42 USC § 6901 *et seq*

The Resource Conservation and Recovery Act regulates generators and transporters of hazardous waste and owners or operators of facilities for the treatment, storage, and disposal of hazardous waste. In addition, the Act establishes standards pertaining to solid waste. RCRA establishes a “cradle-to-grave” system of requirements for managing hazardous waste, from generation to eventual disposal. Under RCRA, EPA has promulgated extensive regulations defining solid and hazardous waste, and stipulating technical and procedural requirements for waste management. The Act encourages states to assume responsibility for implementing the regulatory program in place of EPA. In 1984 the Hazardous and Solid Waste Amendments Act revised RCRA to add limitations on land disposal of hazardous wastes, regulate underground storage tanks containing petroleum or hazardous substances, and create additional state powers and responsibilities to regulate municipal and industrial solid waste.

Toxic Substances Control Act (TSCA)

15 USC § 2601 *et seq*

The Toxic Substances Control Act authorizes the EPA to administer a toxic substances control program by requiring information about the production, use, and health and environmental effects of existing chemicals as well as new chemicals proposed for manufacture. The Act gives EPA the authority to require manufacturers to conduct tests, evaluate the potential risks of a chemical, and prohibit its manufacture if an unreasonable risk to health or the environment is found. Section 6 of the Act specifically regulates, among others, polychlorinated biphenyls (PCBs) and asbestos.

National Historic Preservation Act (NHPA)

16 USC § 470 *et seq*

The National Historic Preservation Act establishes a national policy to preserve, restore, and maintain cultural resources. It gives the Advisory Council on Historic Places the responsibility for implementation. The Act sets up the National Register of Historic Places as the mechanism to designate public or privately owned properties deserving protection. Federal agencies must take into account the effect of a project on any property included in or eligible for inclusion in the National Register. State Historic Preservation Officers are given the responsibility to review potential impacts to cultural resources and they have enforcement authority.

Antiquities Act

16 USC § 431-433

The Antiquities Act was the first piece of historic-preservation legislation. It was approved in reaction to the destruction of important historic and archaeological sites and it established a system of permits for conducting archaeological antiquity permits issued under this law are still in eddict, though new permits are now being issued under the Archaeological Resources Protection Act of 1979 (16 USC § 470aa-mm) and its implementing regulations (43 CFR 7).

Historic Sites Act

16 USC § 469-467

The Historic Sites Act declares that it is national policy to “preserve for public use historic sites, buildings, and objects of national significance.”

Reservoir Salvage Act

16 USC § 469-469c (Pub. L. 86-523)

The Reservoir Salvage Act authorizes the expenditure of Federal funds for archaeological salvage at Federally funded reservoir projects. After World War II, dam construction took place throughout the United States, and numerous archaeological excavations were conducted in conjunction with this construction, leading to the passage of the act.

Executive Order 11593

Executive Order 11593 directs Federal agencies to identify and nominate historic properties to the National Register and requires that these agencies should avoid damaging historic properties that might be eligible for the National Register.

Archaeological and Historical Preservation Act

16USC § 469a-469c

The Archaeological and Historical Preservation Act amends the Reservoir Salvage Act of 1960, and deals only with the preservation of data, not historic properties as physical entities.

Archaeological Resources and Protection Act (ARPA)

16 USC § 470aa-470mm.

The Archeological Resources and Protection Act ensures the protection of archaeological sites on Federal land. The ARPA requires that Federal permits be obtained before cultural resource investigations begin at sites on Federal land. This Act also requires that investigators consult with the appropriate Native American groups prior to initiating archaeological studies on sites of Native American origin

American Indian Religious Freedom Act

42 USC § 1996

The American Indian Religious Freedom Act states that it is the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express and exercise the traditional religions including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonial and traditional rites.

Native American Graves Protection and Repatriation Act

25 USC § 3001 (PL 101-601)

The Native American Graves Protection and Repatriation Act is triggered by the possession of human remains or cultural items by a Federally funded repository or by the discovery of human remains or cultural items on Federal or tribal lands and provides for the inventory, protection, and return of cultural items to affiliated Native American groups. Permits are required for intentional excavation and removal of Native American cultural items from Federal or tribal lands. The Act includes provisions that, upon inadvertent discovery of remains, the action will cease in the area where the remains were discovered, and the FAA official will protect the materials and notify the appropriate lands management agency.

Uniform Relocation Assistance and Real Property Acquisition Policies Act

42 USC § 4601

If acquisition of real property or displacement of persons is involved, 49 CFR part 24 implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended must be met. Otherwise, the FAA, to the fullest extent possible, observes all local and State laws, regulations, and ordinances concerning zoning, transportation, economic development, housing, etc. when planning, assessing, or implementing the proposed action.

Executive Order 13007, Indian Sacred Sites

61 FR 26771 (May 29, 1996)

Executive Order 13007 requires Federal agencies that manage Federal lands, defined as any land or interests in land owned or leased by the United States, except Indian trust lands, to the extent practicable, permitted by law, and not clearly inconsistent with essential agency functions, to: (1) accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners, and (2) avoid adversely affecting the physical integrity of such sacred sites.

Endangered Species Act (ESA)

16 USC § 1531 *et seq*

The Endangered Species Act seeks to conserve endangered and threatened species of plants and animals. It directs the Fish and Wildlife Service to maintain a list of such species and designate critical habitat to afford them legal protection. The Act requires federal agencies to consult with the Fish and Wildlife Service or the National Marine Fisheries Service to assess the potential effects to listed species or critical habitat. If a listed species may be affected, a biological assessment is required to determine the impact. The agency must undertake mitigation measures if the impact is found to be negative, or the project must be stopped.

Sikes Act Amendments of 1974

PL 93-452

The Sikes Act and various amendments authorize States to prepare statewide wildlife conservation plans and the Department of Defense (DoD) to prepare similar plans for resources under its jurisdiction. Actions should be checked for consistency with the State Wildlife Conservation Plans and DoD plans where such plans exist.

Fish and Wildlife Conservation Act of 1980

16 U.S.C. 2901-2912 PL 96-366

The Fish and Wildlife Conservation Act provides for financial and technical assistance to States to develop conservation plans, subject to approval by the Department of Interior, and implement State programs for fish and wildlife resources. The Act also encourages all federal departments and agencies to utilize their statutory and administrative authority, to the maximum extent practicable and consistent with each agency's statutory responsibilities, to conserve and to promote conservation of non-game fish and wildlife and their habitats, in furtherance of the provisions of this Act.

Executive Order 13112, Invasive Species

64 FR 6183

The Executive Order 13112 and the DOT Policy on Invasive Species require the FAA to identify proposed actions that may involve risks of introducing invasive species on native habitat and populations.

Section 2 of the Executive Order spells out federal agency duties. Where such an action has been identified, the FAA may not authorize, fund, or carry out actions that the FAA believes are likely to cause or promote the introduction or spread of invasive species in the United States or elsewhere unless, pursuant to guidelines that it has prescribed, the agency has determined that the benefits of such actions clearly outweigh the potential harm caused by invasive species; and that all feasible and prudent measures to minimize risk of harm will be taken in conjunction with the actions.

Presidential Memorandum on Economically and Environmentally Beneficial Landscaping Practices on Federally Landscaped Grounds

The memorandum encourages the use of native plants at federal facilities and in federally funded landscaping projects.

Bald and Golden Eagle Protection Act

16 USC §688 *et seq*

The Bald Eagle and Golden Eagle Protection Act makes it illegal to take, pursue, or disturb American bald and golden eagles, their nests, or their eggs. Consultation with the Department of Interior is required if a nest is found within a project area.

Marine Mammal Protection Act (MMPA)

16 USC § 1361

The Marine Mammal Protection Act seeks to conserve endangered and threatened species of marine mammals. The Act authorizes the National Oceanic and Atmospheric Administration and the National Marine Fisheries Service to review federal projects for potential impacts to marine mammals and their habitat.

Executive Order 12088, Federal Compliance with Pollution Control Standards,

Executive Order 12088 requires the head of each executive agency to be responsible for ensuring that all necessary actions are taken for the prevention, control, and abatement of environmental pollution with respect to federal facilities and activities under the control of the agency.

Federal Coastal Zone Management Act of 1972

16 USC section 1451 *et seq.*

The Federal Coastal Zone Management Act authorizes the National Oceanic and Atmospheric Administration (NOAA) to make grants to states to develop coastal zone management programs in order “to preserve, protect, develop and where possible, to restore or enhance the resources of the nation’s coastal zone.” An applicant for a federal license is required to certify that the proposed action complies with the state’s approved program, and to obtain the state's concurrence with the certification.

Fish and Wildlife Coordination Act

16 USC section 661 *et seq.*

The Fish and Wildlife Coordination Act requires federal agencies to consult with the USFWS and state wildlife agency (or agencies) where any water body or wetlands under Corps jurisdiction is proposed to be modified by a federal agency or an applicant for a federal permit.

Migratory Bird Treaty of 1972

16 USC sections 703-711

The Migratory Bird Treaty protects migratory waterfowl and all seabirds by limiting the transportation, importation, killing, or possession of these birds.

Marine Protection, Research, and Sanctuaries Act

33 USC § 1401 *et seq*

The Marine Protection, Research, and Sanctuaries Act regulates the disposal of all materials into the ocean to prevent adverse effects to human welfare, the marine environment, ecological systems, or economic benefits. It provides EPA with the authority to issue permits for ocean dumping. The Act also

establishes the Marine Sanctuaries Program, which designates certain areas as ocean sanctuaries to preserve or restore them for their conservation, recreational, ecological, or aesthetic values.

Safe Drinking Water Act

42 USC section 300f et seq.

The Safe Drinking Water Act requires the EPA to establish a program which provides for the safety of the nation's drinking water. Regulations under this act can be found in 40 CFR, section 141 et seq.

Underground Injection Control (UIC) Program

40 CFR 146

As part of the Safe Drinking Water Act, the UIC program establishes regulations for the injection of fluids into wells for storage or disposal, which are designed to protect underground sources of drinking water. Wells which inject fluids which are produced in conjunction with oil or gas, or for storage of hydrocarbons, are Class I injection wells under the program.

Rivers and Harbors Act of 1899,

sections 9 and 10, 33 USC section 1344

The Rivers and Harbors Act regulates all types of development in or over navigable waters, including bridges, dams, dikes, piers, wharfs, booms, weirs, jetties, dredging, and filling by requiring a Corps of Engineers permit for such actions. Navigable waters are defined in Title 33 CFR section 329 to include past, present, and potential future use in transporting commerce. Court decisions have expanded protection to estuaries and wetlands (Dedrick 1984).

Wild and Scenic Rivers Act of 1968

16 U.S.C. 1271-1287, PL 90-542 as amended by PL 96-487

The Wild and Scenic Rivers Act, as amended, describes those river segments designated or eligible to be included in the Wild and Scenic Rivers System. Federal agencies are directed to avoid or mitigate adverse effects on rivers identified in the Nationwide Rivers Inventory as having potential for designation under the Wild and Scenic Rivers Act.

Oil Pollution Act of 1990 (OPA)

The Oil Pollution Act is a comprehensive statute designed to expand oil spill prevention activities, establish new federal authority to direct responses to oil spills, and improve spill preparedness and response capabilities. The OPA requires the federal government to "ensure effective and immediate removal of a discharge, and mitigation or prevention of a substantial threat of a discharge, of oil or a hazardous substance" into the navigable waters of the U.S., adjoining shorelines, and the exclusive economic zone. For spills large enough to pose a substantial threat to the public health or welfare, the federal government is now required to direct all public and private efforts to remove the discharge or to mitigate or prevent the threat of the discharge.

Farmland Protection Policy Act

7 USC section 4201 *et seq.*, and 7 CFR § 658

The Farmland Protection Policy Act provides for federal agencies to identify and take into account the adverse effects of their programs on the preservation of farmland, including prime and unique farmlands and farmlands of statewide or local importance, and to consider alternative actions, as appropriate, that could lessen adverse effects. The Act does not authorize the federal government, in any way, to regulate the use of private or non-federal land, nor does it affect the property rights of owners of such lands.

Executive Order 13123, Greening the Government Through Efficient Energy Management

64 FR 30851, June 8, 1999

Executive Order 13123 encourages each federal agency to expand the use of renewable energy within its facilities and in its activities. The Executive Order also requires each federal agency to reduce petroleum use, total energy use and associated air emissions, and water consumption in its facilities. It is also the policy of the FAA, consistent with NEPA and the CEQ regulations, to encourage the development of facilities that exemplify the highest standards of design including principles of sustainability.

Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA)

42 USC 9601 *et seq*

The Comprehensive Environmental Response, Compensation, and Liability Act, also known as CERCLA or the Superfund, creates authority and procedures for conducting emergency responses, removal and remediation actions at sites requiring a cleanup of releases of hazardous substances. The Act establishes a federal fund, based on taxes on petroleum and chemical feedstocks, to pay for cleaning up sites containing hazardous substances if the parties responsible for the sites do not pay. The Act also specifies standards of liability, and provides rules or procedures for determining compensation, reportable quantities of releases of hazardous substances, penalties, employee protection, claims procedures, and cleanup standards. The Superfund Amendment and Reauthorization Act of 1986 (SARA) revised and extended CERCLA in 1986. SARA Title III, the Emergency Planning and Community Right To Know Act, provides for emergency planning and preparedness, community right-to-know reporting, and toxic chemical release reporting. The Act requires that information about hazardous materials be provided to state and local authorities. Such information includes material safety data sheets, emergency and hazardous chemical inventory forms, and toxic chemical release reports.

Executive Order 12580, Superfund Implementation,

amended by Executive Order 13016 and 12777

Executive Order 12580 delegates most response authorities to EPA and U.S. Coast Guard for abatement. Agencies must participate in response teams with opportunity for public comment before removal action is taken.

The Department of Transportation Act of 1966, Section 4(f)

49 USC § 303(c)

The Act prohibits the Secretary of Transportation from approving the use of publicly owned land from a park, recreation area, wildlife or waterfowl refuge or land from a historic site unless there is no feasible alternative and impacts to recreational resources have been minimized through planning and/or mitigation.

FAA Order 1050.1D, Policies and Procedures for Considering Environmental Impacts

Executive Order 1050.1D establishes the FAA policies and procedures for assuring agency compliance with environmental procedures as set forth in the Council of Environmental Quality regulation for implementation of NEPA. Specifically, this includes procedures for the preparation of Environmental Impact Statements and Findings of No Significant Impact and for preparing and processing environmental assessments of the FAA actions. This order implements NEPA, Order DOT 5610.1C, Procedures for Considering Environmental Impacts, and 27 other statutes, directives, and orders.

Executive Order 11988, Floodplain Management

Executive Order 11988 requires federal agencies to develop procedures that consider potential flood hazards and floodplain management criteria for projects proposed in a floodplain area. Its guidelines seek to restrict development in floodplains and avoid impacts whenever possible.

Executive Order 11990, Protection of Wetlands

Executive Order 11990 requires federal agencies to consider protecting wetlands when selecting a location for a proposed action. Its guidelines seek to minimize impacts to wetlands from federal development.

Executive Order 12114, Environmental Effects Abroad of Major Federal Actions

Executive Order 12114 provides for the consideration of potential environmental effects from federal actions on the global commons outside of the jurisdiction of any nation or on natural resources of global importance designated for protection by the President or by international agreement.

Section 1 outlines the purpose of this EO is to “enable responsible officials of Federal Agencies having ultimate responsibility for authorizing and approving actions encompassed by this Order to be informed of pertinent considerations and to take such considerations into account with other pertinent considerations of national policy, in making decisions regarding such actions. While based on independent authority, this Order furthers the purpose of the National Environmental Policy Act ... and represents the United States Government’s exclusive and complete determination of the procedural and other actions to be taken by Federal agencies to further the purpose of the National Environmental Policy Act, with respect to the environment outside the United States, its territories and possessions.” Section 2-3 sets forth the categories of actions included in and covered by this Executive Order. These actions include: (a) major Federal actions significantly affecting the environment of the global commons outside the jurisdiction of any nation (e.g., the oceans or Antarctica); (b) major Federal actions significantly affecting the environment of a foreign nation not participating with the United States and not otherwise involved in the action; and (c) major Federal actions significantly affecting the environment of a foreign nation which provide to that nation a product or physical project “which is strictly regulated by Federal law in the United States.”

The Executive Order sums up the FAA’s right to require NEPA compliance, including the consideration of potential environmental impacts, in the case of launch licensing actions that have the potential to significantly impact foreign States and/or the global commons. In the case where a vehicle is launching from a foreign soil and the foreign government requires an EA or EIS as part of its own government’s regulations, the FAA reserves the right to accept the environmental documentation required by the foreign government. Additionally, the foreign government may have entered into internationally binding

Treaties or Agreements as a nation that must be addressed in the environmental documentation, even if the United States is not a party to the treaty.

Additional environmental requirements may be placed upon a U.S. company doing business abroad by the World Bank, The United Nations (to potentially include organizations sanctioned by the United Nations), and any local or regional regulatory body recognized by the foreign government.

Hazardous Materials Transportation Act

49 USC 1801 et seq.

The Hazardous Materials Transportation Act governs transportation of substances and materials in quantities and forms that the Secretary of Transportation has found may pose an unreasonable risk to health and safety or to property when transported in commerce. Regulations implementing the Act are found in 49 CFR Parts 171 through 179. Hazardous substances and wastes are defined in legislation and regulated for purposes of transportation by DOT. Hazardous substances are defined and regulated in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 USC 9601), as amended by Superfund Amendments and Reauthorization Act (PL 99-499), and Clean Water Act (39 USC 1251 et seq.). Hazardous wastes are defined and regulated by the Resource Conservation and Recovery Act (42 USC 6901 et seq.). Transportation and handling of radioactive materials are regulated by the Nuclear Regulatory Commission and by DOT.

Hazardous Materials Transportation Uniform Safety Act of 1990 (HMTUSA)

The Hazardous Materials Transportation Uniform Safety Act amends the Hazardous Materials Transportation Act of 1975, attempting to create consistent federal laws and regulations, as necessary and desirable, to reduce the maze of conflicting State, local, and federal regulations. HMTUSA requires that the DOT promulgate standards to be used by the states when designating highway routes for hazardous materials transportation. These standards must enhance overall public safety, provide for consultation with affected jurisdictions, offer an opportunity for public comment, and must not unreasonably burden commerce. The statute also enumerates twelve factors that states must consider when they establish routes. If a conflict arises between jurisdictions over routing restrictions, any affected state may petition the Secretary of Transportation to implement dispute resolution provisions.

Executive Order 12372, Intergovernmental Review of Federal Programs

Executive Order 12372 directs federal agencies to provide opportunities for consultation by elected officials of state and local governments that would be directly affected by proposed federal financial assistance or direct federal development. Federal agencies must provide state and local officials the opportunity to comment on actions that could affect their jurisdictions.

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 requires federal agencies to make environmental justice a priority by identifying and addressing disproportionately high and adverse human health or environmental effects of its actions on minority and low-income populations. The Order requires minority and low-income communities to be given access to public information and an opportunity for public participation concerning programs, policies, and activities that could affect human health.

Executive Order 13089, Coral Reef Protection

Executive Order 13089 requires federal agencies to: identify actions that may affect existing U.S. coral reef ecosystems, use their resources to protect and enhance the coral reefs, and insure that their actions will not adversely affect the quality of the coral reef ecosystem. This order establishes a U.S. Coral Reef Task Force that will work with fishery management officials, affected states, and other relevant agencies to reduce the effects of pollution, sedimentation, and fishing on the reef ecosystem.

International Treaties, Federal Commercial Space Legislation and Orders

Commercial Space Launch Act of 1984

As codified at 49 USC Subtitle IX, ch. 701-- Commercial Space Launch Activities, 49 USC §§ 70101-70121

Chapter 701 of 49 U.S.C. Subtitle IX authorizes the Secretary of Transportation to license, oversee, and regulate launches as carried out by U.S. citizens or within the United States. This authority has been delegated to the Federal Aviation Administration's Office of the Associate Administrator for Commercial Space Transportation. The Act charges the Secretary with the responsibility to protect the public health and safety, safety of property, and national security and foreign policy interests of the U.S.

The Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies,

Article VII "Each State Party to the Treaty that launches or procures the launching of an object into outer space, including the moon and other celestial bodies, and each State Party from whose territory or facility an object is launched, is internationally liable for damage to another State Party to the Treaty or its natural or judicial persons by such object or its component parts on Earth, in airspace or in outer space, including the moon and other celestial bodies."

Convention on International Liability for Damage Caused by Space Objects (United Nations Document)

Article 1, the term "Launching State" refers to: "A State which launches or procures launching of a space object" or "A State from whose territory or facility a space object is launched."

DOT Order 5610.1C Procedures for Considering Environmental Impacts

DOT Order 5610.1 C establishes procedures for consideration of environmental impacts in decision making on proposed Department of Transportation actions. The Order provides that information on environmental impacts of proposed actions will be made available to public officials and citizens through environmental impact statements, environmental assessments or findings of no significant impact (currently being updated).

Executive Order 12465, Commercial Expendable Launch Vehicle Activities

Executive Order 12465 establishes the responsibilities of the lead agency and other agencies and states that the Department of Transportation is the lead agency for encouraging and facilitating expendable launch vehicle activities by the private sector. The Order establishes an interagency group composed of the Department of State, Department of Defense, Department of Commerce, Federal Communications Commission, and the National Aeronautics and Space Administration.

Part Three: International Activities, Legal Issues, and Regulations, Interagency Report on Orbital Debris (1995)

Section II notes that ch. 701 authorizes DOT to “proscribe such requirements, with respect to launches and operation of launch sites, necessary to protect the public health and safety, safety of property, national security interests and foreign policy interests of the United States.”

Department of Transportation

OCST Guidelines for Compliance with the National Environmental Policy Act and Related Environmental Review Statutes for the Development of Commercial Space Launch Sites

These Guidelines are intended to aid applicants for launch site operator licenses in understanding the FAA’s policies and procedures for compliance with NEPA requirements.

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