rules/sro.shtml). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of Phlx. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2008–02 and should be submitted on or before February 13, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–1059 Filed 1–22–08; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Approval of the Finding of No Significant Impact and Record of Decision for the Final Environmental Assessment (EA) for the Construction of a New Land-Based Airport in Akutan, AK

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of approval of the Finding of No Significant Impact/ Record of Decision.

SUMMARY: The Federal Aviation Administration is announcing the approval of the Finding of No Significant Impact/Record of Decision (FONSI/ROD) for the Final Environmental Assessment (EA) for the construction of a new land-based airport in Akutan, AK. The FONSI/ROD provides final agency determinations and approvals for the proposed development.

[11] 17 CFR 200.30–3(a)(12).

FOR FURTHER INFORMATION CONTACT: Patti Sullivan, Environmental Specialist, Federal Aviation Administration, Alaskan Region, Airports Division, 222 W. 7th Avenue #14, Anchorage, AK 99513–7504. Ms. Sullivan may be contacted during business hours at (907) 271–5454 (phone) and (907) 271–2851 (facsimile).

SUPPLEMENTARY INFORMATION: The FONSI/ROD is for the approval of actions for the construction of an airport, including a runway, a runway safety area, connecting taxiway, an apron, and a snow removal equipment and maintenance facility; an airport access road; two hovercraft landing pads; a hovercraft storage and maintenance facility; and acquisition of a hovercraft. The FONSI/ROD provides the final agency determinations and approvals for Federal actions by the FAA related to the selection of alternatives to meet the purpose and need for the action. The FONSI/ROD also includes required mitigation measures and conditions of approval.

The FONSI/ROD indicates that the selected actions are consistent with existing environmental policies and objectives set forth in the National Environmental Policy Act (NEPA) of 1969, as amended, as well as other Federal and State statutes, and that the actions will not significantly affect the quality of the environment.

The FAA's decision is based upon information contained in the Final EA, issued in December 2007, and on all other applicable documents available to the agency and considered by it, which constitutes the administrative record.

The FAA's determinations are discussed in the FONSI/ROD, which was approved on December 26, 2007.

FONSI/ROD Availability

The FONSI/ROD may be viewed at the following Web site: *http://www.faa.gov/airports_airtraffic/airports/regional_guidance/alaskan/.*

Issued in Anchorage, Alaska on January 11, 2007.

Byron K. Huffman,

Manager, Airports Division, Alaskan Region.

[FR Doc. 08–232 Filed 1–22–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Finding of No Significant Impact

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Environmental Finding Document: Finding of No Significant Impact; Notice.

SUMMARY: The FAA participated as a cooperating agency with the U.S. Army Space and Missile Defense Command/ U.S. Army Forces Strategic Command in preparation of the SpaceX Falcon Program Environmental Assessment (EA). The Falcon Launch Vehicle Program is a venture by Space Exploration Technologies, Inc. (SpaceX) to provide space launch operations. The EA analyzed the environmental consequences of conducting an average of six Falcon 1 launches per year and up to four Falcon 9 launches per year (starting after 2008) for the next ten years from Omelek Island, U.S. Army Kwajalein Atoll Ronald Reagan Ballistic Missile Test Site (USAKA/RTS). The EA also analyzed the reentry of the Dragon reentry capsule, which would be carried as a payload on the Falcon 9 launch vehicle. Additionally, the SpaceX Falcon Program EA analyzed infrastructure improvements proposed on Omelek Island and Kwajalein to support the proposed launch activities. SpaceX would require a launch or reentry license from the FAA for launches or reentries of commercial payloads.

From its independent review and consideration, the FAA has determined that the FAA's proposed action is substantially the same as the actions already analyzed in the SpaceX EA and that FAA's comments and suggestions have been satisfied (see 1506.3(c) and FAA Order 1050.1E, 518h). The FAA formally adopts the EA and hereby incorporates the analysis to support future decisions on license applications.

After reviewing and analyzing currently available data and information on existing conditions, project impacts, and measures to mitigate those impacts, the FAA has determined that the proposed action is not a Federal action that would significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act (NEPA). Therefore, the preparation of an Environmental Impact Statement (EIS) is not required and the FAA is issuing a Finding of No Significant Impact (FONSI). The FAA made this determination in accordance with all applicable environmental laws.

For a Copy of the Environmental Assessment or the FONSI Contact: Questions or comments should be directed to Ms. Stacey Zee; FAA Environmental Specialist; Federal Aviation Administration; 800 Independence Ave., SW.; AST–100,

Suite 331; Washington, DC 20591; (202) 267–9305.

Background

Launches of launch vehicles and the reentry of reentry vehicles must be licensed by the FAA pursuant to 49 U.S.C. 70101–70121, the Commercial Space Launch Act. Issuing a launch or reentry license is a Federal action requiring environmental analysis by the FAA in accordance with NEPA, 42 U.S.C. 4321 *et seq.* Upon receipt of a complete license application, the FAA must evaluate the information and determine whether to issue a launch or reentry license to SpaceX, as appropriate. The FAA would use the analyses in the SpaceX Falcon Program EA as the basis for the environmental determination of the impacts to support licensing launches of the Falcon 1 launch vehicle or the Falcon 9 launch vehicle from Omelek Island and/or the reentry of Dragon reentry vehicle. The issuance of a FONSI does not guarantee that a license will be issued by the FAA for the launch of the Falcon launch vehicles or the reentry of the Dragon capsule. It also must meet all safety, risk and indemnification requirements.

Proposed Action

SpaceX is proposing to launch the Falcon 1 and the Falcon 9 launch vehicles and the Dragon reentry capsule from Omelek Island, USAKA/RTS. The Falcon 1 is a small, unmanned, two-stage launch vehicle designed to put small payloads into orbit. The vehicle uses liquid oxygen (LOX) and kerosene as propellants. The first stage is recoverable by use of a parachute. The second stage is not reusable and is not intended to be recovered.

The Falcon 9 is a two-stage, medium class, liquid launch vehicle designed to put space systems and satellites into orbit. Falcon 9 uses LOX and kerosene as propellants. The first stage is recoverable by use of a parachute. The second stage would be reused when launch inclination, payload requirements, and weight allow for its recovery.

The Dragon capsule would be carried as a payload on the Falcon 9 vehicle. The Dragon capsule is being developed to deliver cargo to the International Space Station under contract with the National Aeronautics and Space Administration. Following its mission to deliver cargo to the ISS, the Dragon would reenter the atmosphere and would be recovered similar to the Falcon 9 first stage. The capsule may or may not be refurbished or reused. Locations in the Gulf of Mexico, the coast of California, and the Kwajalein Atoll are being considered as recovery zones.

SpaceX has proposed several infrastructure improvements to Omelek Island to support the proposed launch activities, including construction of a Falcon 9 launch pad and a hangar facility, upgrades to existing propellant storage and loading facilities, and several other facility improvements. SpaceX has also proposed the construction of a LOX plant facility and a Payload Processing Facility on Kwajalein.

Under the No Action Alternative, the proposed Falcon launch activities would not be conducted at Omelek, and SpaceX would not proceed with further construction or modification efforts at USAKA. No additional launches would take place beyond the five that have been authorized.

Environmental Impacts

The following presents a brief summary of the environmental impacts considered in the SpaceX Falcon Program EA. The SpaceX Falcon Program EA is incorporated by reference in this FONSI and the FAA's FONSI is based upon the impacts discussed in that EA.

Air Quality: Emissions from site preparation activities are not expected to exceed USAKA Environmental Standards (UES). Levels of generator emissions are not expected to impact the regional air quality or exceed the USAKA ambient air standards. However, generators may not be in compliance with the incremental degradation standards allowable by the UES. Operational measures, such as limiting fuel consumption or increasing stack height, would be enacted to ensure generator compliance with the UES incremental degradation standards and USAKA ambient air standards. The operation of the proposed LOX plant on Kwajalein would use the existing power supply on Kwajalein that is already subject to the Army's current Document of Environmental Protection (DEP) (U.S. Army Kwajalein Atoll/Kwajalein Missile Range 1999. *Document of Environmental Protection (DEP), Activity: Air Emissions from Major Stationary Sources at USAKA/KMR [Modified November 2000], November).*

Falcon 1 and Falcon 9 launches would have only a localized, minimal impact on air quality. Long-term effects are not expected because the launches would be infrequent and the resulting emissions would be rapidly dispersed and diluted by trade winds. Regional air quality would not be impacted and USAKA ambient air quality standards would not be exceeded by launches of the Falcon launch vehicles or reentry of the Dragon vehicle. No significant impacts to air quality are expected.

Airspace: USAKA/RTS is located under international airspace and therefore, has no formal airspace restrictions governing it. Bucholz Army Airfield is approximately 35 kilometers (22 miles) south of the Omelek launch site. Although site preparation activities may involve flights in and out of Bucholz Army Airfield, they would not restrict access to, nor affect the use of the Airfield. Falcon 1 and Falcon 9 launches could potentially impact flight patterns for military aircraft in the area. However, SpaceX would coordinate Falcon launches with the FAA and USAKA/RTS Commander, which would include scheduling launches to avoid airspace conflicts. No significant impacts to airspace are expected.

Biological Resources: Site preparation activities would result in the removal of trees and vegetation from existing non-forested areas and some forested areas (primarily *Pisonia* trees) from the north point, south point, and along the west coast of the island totaling approximately 10 percent of the total acreage of Omelek. Additionally, some trees would need to be removed around the Falcon 1 launch site, and from the area of the Falcon 9 hangar. No threatened or endangered vegetation has been identified in the area.

Construction noise and the increased presence of personnel could temporarily affect wildlife in the area. Construction ground disturbance and equipment noise-related impacts could include a loss of habitat, displacement of wildlife, and short-term disruption of daily/seasonal behavior. Vegetation removal would likely result in the permanent removal of some of the habitat available for nesting seabirds or foraging shorebirds on Omelek.

Sedimentation from the installation of pilings and a concrete barge-dock 3 meters (10 feet) into the harbor could temporarily degrade water quality in the vicinity due to short-term turbidity. Effects to reef fish and benthic species would be temporary. Work would be delayed if threatened or endangered species are observed in the area.

Potential habitat for sea turtles on Omelek includes sandy beaches along the southern and northern tips of the island and the area of the lagoon shoreline from the northern tip of the island south to the north jetty. Personnel would be instructed to avoid all contact with sea turtles or turtle nests that might occur within the area. Within two hours prior to the launch, SpaceX personnel would survey the shoreline 100 meters (328 feet) on both

sides of the launch site to determine whether sea turtles are present or hauling out in the area. If turtles are observed in the area, SpaceX would consult with USAKA Environmental before continuing with launch activities. A fence may be required to prevent a sea turtle take during launches.

Disturbances to vegetation and wildlife during Falcon launches would be minimal and brief. Based on existing analyses of prior and current launches within the region, launch disturbances on migratory birds, threatened or endangered species and other wildlife would be minimal. There is a very small possibility that debris or booster drops could impact migratory whales or sea turtles; however, the majority of the potential impact area is open ocean, where the probability of impacting a species would be very low. No significant impacts to biological resources are expected.

Cultural Resources: All ground-disturbing activities would be planned so that archeologically sensitive areas such as those areas at the northern portion of the islet would be avoided to the extent possible. If the proposed facilities cannot be located to avoid these areas, archeological monitoring with systemic sampling as necessary would accompany construction of any facilities. To minimize disturbances to cultural resources, appropriate measures would be taken, such as installing signage to designate sensitive areas and educating facility personnel about protecting sensitive island resources.

Personnel involved in launch and other operational activities would follow UES requirements in handling or avoiding any cultural resources uncovered during operational or monitoring activities. In addition, no structures eligible for listing on the Republic of the Marshall Islands (RMI) National Register have been identified on Omelek. No significant impacts to cultural resources are anticipated.

Geology and Soils: Due to the minimal duration of site preparation activities, and adherence to Best Management Practices and the USAKA Stormwater Pollution Prevention Plan, adverse geological or soil impacts are not anticipated.

Falcon launch vehicle emissions would consist mainly of carbon monoxide, carbon dioxide, hydrogen and water and would not result in any impacts to geology or soils. There would be a slight risk of soil contamination from accidental spills of propellants or premature flight termination; however, this risk would be minimized because emergency response personnel would comply with the UES, the Emergency Response Plan prepared by SpaceX, and the Kwajalein Environmental Emergency Plan. No significant impacts to geology and soils are expected.

Hazardous Materials and Waste: All hazardous materials used and waste generated during site preparation activities would be handled, transported, stored, treated, and disposed of off-site in accordance with a Hazardous Materials Contingency Plan and Hazardous Waste Management Plan, which would be prepared by SpaceX. These plans would follow regulations established in the UES and the Kwajalein Environmental Emergency Plan.

Materials proposed for use as a result of the proposed action are similar to hazardous materials already in use for other operations at USAKA/RTS. Hazardous materials associated with the proposed action would represent only a small increase in the total amount of materials handled and could easily be accommodated by existing hazardous materials management systems.

Hazardous waste management at USAKA/RTS would continue to be performed in accordance with the UES, which requires hazardous waste to be shipped to the continental United States for treatment and/or disposal. A trained immediate spill response team would be established onsite, and spills would be contained and cleaned up according to the procedures identified in the Kwajalein Environmental Emergency Plan and a SpaceX-specific emergency plan. Therefore, there would not be a significant impact from hazardous materials and hazardous waste management.

Health and Safety: Proposed construction activities would comply with all applicable UES and USAKA/RTS Range Safety Requirements. Additionally, Falcon 1 and Falcon 9 launches would comply with all UES and USAKA/RTS Range Safety Requirements.

All operations involving explosives would require implementation of a written procedure, approved by the USAKA/RTS safety office. These operations would be conducted under the supervision of an approved ordnance officer using explosive-certified personnel.

The Range Safety Officer would review and agree on all missile flight safety specifications prior to all Falcon 1 or Falcon 9 launches. Protection circles, based on the payload, missile and launch azimuth, would be established for each launch. Access to Omelek would be limited to all but mission essential personnel, and personnel would be evacuated from the islet prior to launch. Therefore, significant impacts to health and safety would not be expected.

Infrastructure: The proposed new helipad would be located on the southeast side of the island in order to reduce the potential of impacting the approach and departure path when additional facilities are added.

Unimproved paths used to access the island would be paved. Road design would include an evaluation of rainwater drainage on Omelek, and rainwater control channels or conduit would be installed during paving construction. SpaceX would manage rainwater run-off from paved areas on Omelek by allowing run-off to drain naturally along the access road to the north and along the paved roads to the east toward vegetated areas, and by constructing surface or underground culverts to divert water from the central and southern portions of the island to the harbor.

Power, communications, water, and sewage would be routed through new underground conduits to and from the facilities. Additional trenching would be required in several areas to extend power and communication availability to the new facilities. Construction would include a generator facility with ample power to support proposed launch activities. A Kerosene Propellant, Diesel Fluid, and Water Storage Area on Omelek would be developed to store kerosene and diesel fuel in aboveground tanks or standardized containers, within a concrete containment area. A proposed reverse osmosis system would generate approximately 11,356 liters (3,000) gallons of water per day to support the deluge system; water would be stored in the proposed new Kerosene Propellant, Diesel Fluid, and Water Storage Area.

The demand on electrical, wastewater, solid waste, and water systems to support the storage facility is expected to be within the current capacity of utility systems on Kwajalein and Meck. No significant impacts to existing infrastructure are expected.

Land Use: Construction and operation of proposed facilities and upgrades to existing facilities would not change any existing land uses on Omelek or Kwajalein. Falcon 1 and Falcon 9 launches would be entirely consistent with the mission of the island and would not conflict with any known land use plans, policies, or controls at USAKA.

The establishment and activation of a launch hazard area would require the temporary clearance of the Pacific Ocean area adjacent to the launch site. Temporary clearance of this launch

hazard area should have no impacts on recreational or commercial use of these waters since the area off the island is not used frequently by commercial fisherman or for recreational use by residents of USAKA/RTS. No significant impacts to land use are expected.

Noise: Noise produced during site preparation activities would be minor and short-term, resulting in little to no effect on construction workers or launch personnel. To minimize noise level impacts, all personnel or contractors involved in construction activities would wear hearing protection in areas where noise levels would exceed limits set by the Occupational Safety and Health Administration.

No sensitive noise receptors are in the vicinity of Omelek. The island has been developed solely as a launch support facility with no permanent inhabitants, and there are no inhabited islands within 21 kilometers (13 miles) of the site; therefore, no significant noise impacts from launch activities are expected.

Socioeconomics: Approximately 30 people would be involved in both Falcon 1 and Falcon 9 launch activities. Up to 8 of the 30 SpaceX personnel would live temporarily on Omelek in the SpaceX office facility, as necessary. The remaining transient personnel would reside on Kwajalein and would commute daily between the two islands. No additional facilities would be required to house personnel.

Launch procedures on Omelek could continue to employ a small number of Marshallese from Ebeye and possibly from Majuro in support of ground and facility maintenance. The personal income of the three to seven Marshallese employed to support the launches from Omelek may increase. There would be no impact on the permanent population size, employment characteristics, and the type of housing available on Ebeye and Majuro. No significant impacts to socioeconomics are expected.

Water Resources: Construction of the new Falcon 9 launch pad and the Payload Processing Facility would be confined within the immediate construction area in compliance with the UES and would thus not impact water resources. Proposed construction activities would be performed in accordance with the USAKA Stormwater Pollution Prevention Plan to minimize potential erosion and stormwater runoff. Impacts to the waters surrounding Omelek due to stormwater runoff would be in compliance with the UES nonpoint source requirements and the USAKA Stormwater Pollution Prevention Plan. Best Management Practices would be used to limit turbidity during installation of new pilings and the proposed concrete barge dock.

There is the potential for carbonic acid (a mild acid similar to that in a carbonated beverage) to be produced during launch from the reaction of carbon dioxide in the exhaust plume and water. This carbonic acid would be expected to rapidly evaporate and would have a similar pH to that of rainwater; therefore, no impacts to water resources would be expected to occur from launch emissions.

There is the potential for an accidental propellant spill or premature flight termination to result in released propellant contaminating water resources. This risk, however, would be minimized through compliance with the Hazardous Materials Contingency Plan and Hazardous Waste Management Plan prepared by SpaceX and the Kwajalein Environmental Management Plan. No significant impacts to water resources are expected.

Cumulative Impacts: The proposed action would not occur at the same time as other programs such as Ground-Based Midcourse Defense or Minuteman III planned for the region. The increased size and use of the power station may not comply with the allowable UES incremental degradation standards. Operational options, including a wind-based generator or limiting fuel consumption, are available that would achieve compliance with ambient air quality and incremental degradation standards. With the implementation of such options, it is not likely that the proposed action at Omelek would result in significant cumulative impacts to the regional air quality.

Launches are short-term, discrete events, thus allowing time between launches for emission products to be dispersed and minimizing the potential for impacts to airspace users, biological resources, and public health and safety. Using the required scheduling process for international airspace would minimize the potential for cumulative impacts to the airspace above the open ocean. The loss of approximately 12 percent of the vegetation on Omelek would contribute cumulatively to the reduction of wildlife habitat in the area. No significant cumulative impacts to terrestrial or marine biological resources have been identified as a result of prior launch-related activities in the region. Avoidance would minimize the potential for cumulative cultural resources impacts. Preparation of the launch site and adherence to established hazardous waste and spill prevention procedures and regulations would minimize the potential for cumulative impacts to geology or soils.

Adherence to the hazardous materials and waste management systems of USAKA/RTS and SpaceX would preclude the potential accumulation of hazardous materials or waste. Adherence to the high safety standards at USAKA/RTS would serve to keep any cumulative safety impacts attributable to all USAKA/RTS operations within acceptable standards to both workers and the public. The additional demand on transportation, electrical, wastewater, solid waste, and water systems to support the small number of project-related personnel would be accomplished by the proposed infrastructure upgrades or be within the current capacity of USAKA/RTS. The sound level generated by each Falcon launch would be a short, discrete event and no cumulative noise impacts are anticipated. Adherence to established hazardous waste and spill prevention procedures and regulations would minimize the potential for cumulative impacts to water resources.

Determination: An analysis of the proposed action has concluded that there are no significant short-term or long-term effects to the environment or surrounding populations. After careful and thorough consideration of the facts herein, the undersigned finds that the proposed Federal action is consistent with existing national environmental policies and objectives set forth in section 101(a) of the NEPA and other applicable environmental requirements and will not significantly affect the quality of the human environment or otherwise include any condition requiring consultation pursuant to section 102(2)(c) of NEPA. Therefore, an Environmental Impact Statement for the proposed action is not required.

Date Issued: January 10, 2008, Washington, DC.

Patricia Grace Smith,

Associate Administrator for Commercial Space Transportation.

[FR Doc. E8–1068 Filed 1–22–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Change in Use of Aeronautical Property at Louisville International Airport, Louisville, KY

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).