

**§ 440.7 Determination of maximum probable loss.**

(a) The FAA will determine the maximum probable loss (MPL) from covered claims by a third party for bodily injury or property damage, and the United States, its agencies, and its contractors and subcontractors for covered property damage or loss, resulting from a permitted or licensed activity. The maximum probable loss determination forms the basis for financial responsibility requirements issued in a license or permit order.

(b) The FAA issues its determination of maximum probable loss no later than ninety days after a licensee or permittee has requested a determination and submitted all information required by the FAA to make the determination. The FAA will consult with Federal agencies that are involved in, or whose personnel or property are exposed to risk of damage or loss as a result of, a licensed or permitted activity before issuing a license or permit order prescribing financial responsibility requirements, and shall notify the licensee, or permittee, if interagency consultation may delay issuance of the MPL determination.

(c) Appendix A of this part contains information requirements for obtaining a maximum probable loss determination. Any person requesting a determination of maximum probable loss must submit the information required by Appendix A, unless the FAA has waived a requirement. In lieu of submitting required information, a person requesting a maximum probable loss determination may designate and certify certain information previously submitted for a prior determination as complete, valid, and equally applicable to its current request. The requester is responsible for the continuing accuracy and completeness of information submitted under this part and must promptly report any changes in writing.

(d) The FAA will amend a determination of maximum probable loss required under this section at any time prior to completion of licensed or permitted activities as warranted by supplementary information provided to or obtained by the FAA after the MPL determination is issued. Any change in financial responsibility requirements as a result of an amended MPL determination shall be set forth in a license or permit order.

(e) The FAA may make a determination of maximum probable loss at any time other than as set forth in paragraph (b) of this section upon request by any person.

**§ 440.9 Insurance requirements for licensed or permitted activities.**

(a) As a condition of each license or permit, a licensee or permittee must comply with all insurance requirements of this section and of a license or permit issued by the FAA, or otherwise demonstrate the required amount of financial responsibility.

(b) A licensee or permittee must obtain and maintain in effect a policy or policies of liability insurance, in an amount determined by the FAA under paragraph (c) of this section, that protects the following persons as additional insureds to the extent of their respective potential liabilities against covered claims by a third party for bodily injury or property damage resulting from a licensed or permitted activity:

(1) The licensee or permittee, its customer, and their respective contractors and subcontractors, and the employees of each, involved in a licensed or permitted activity;

(2) The United States, its agencies, and its contractors and subcontractors involved in a licensed or permitted activity; and

(3) Government personnel.

(c) The FAA will prescribe for each licensee or permittee the amount of insurance required to compensate the total of covered third-party claims for bodily injury or property damage resulting from a licensed or permitted activity in connection with any particular launch or reentry. A covered third-party claim includes a claim by the United States, its agencies, and its contractors and subcontractors for damage or loss to property other than property for which insurance is required under paragraph (d) of this section. The amount of insurance required is based upon the FAA's determination of maximum probable loss; however, it will not exceed the lesser of:

(1) \$500 million; or

(2) The maximum liability insurance available on the world market at a reasonable cost, as determined by the FAA.

(d) The licensee or permittee must obtain and maintain in effect a policy or policies of insurance, in an amount determined by the FAA under paragraph (e) of this section, that covers claims by the United States, its agencies, and its contractors and subcontractors involved in a licensed or permitted activity for property damage or loss resulting from a licensed or permitted activity. Property covered by this insurance must include all property owned, leased, or occupied by, or within the care, custody, or control of, the United States and its agencies, and its contractors and subcontractors involved in a licensed or permitted activity, at a Federal range facility. Insurance must protect the United States and its agencies, and its contractors and subcontractors involved in a licensed or permitted activity.

(e) The FAA will prescribe for each licensee or permittee the amount of insurance required to compensate claims for property damage under paragraph (d) of this section resulting from a licensed or permitted activity in connection with any particular launch or reentry. The amount of insurance is based upon a determination of maximum probable loss; however, it will not exceed the lesser of:

(1) \$100 million; or