



**SMALL UAV
COALITION**
*A Partnership for
Safety & Innovation*

November 16, 2015

Honorable Michael Huerta
Administrator
Federal Aviation Administration
800 Independence Avenue SW
Washington, DC 20591

Re: FAA-2015-4378: Request for Information Regarding Electronic Registration for UAS: Comments of Small UAV Coalition

Dear Administrator Huerta:

The Small UAV Coalition¹ provides the following comments in response to the FAA's "Request for Information Regarding Electronic Registration for UAS" 80 Fed. Reg. 63912 (Oct. 22, 2015).

The Coalition applauds the FAA's decision to move to a web-based, digital registration system for unmanned aerial vehicles and systems (UAVs and UASs). In its comments on the FAA's small UAS (sUAS) Notice of Proposed Rulemaking, the Coalition urged the FAA to establish an electronic sUAS registration database that would provide relevant information to the FAA, TSA, or the public, but would avoid the paperwork exercise and delay of aircraft registration certificates.²

The Coalition also wishes to commend the Secretary of Transportation and FAA Administrator for convening a task force to make recommendations, for ensuring the task force represents a fair cross-section of the small UAS industry, and for populating the task force with many industry representatives, rather than artificially designating a single representative of manufacturers, operators, and retailers, given the broad and diverse purposes for which small UAVs will be operated. The Coalition urges the Secretary and Administrator to utilize similar industry-inclusive task forces or working groups as it considers the regulatory framework outside of the sUAS rulemaking, such as to address operations beyond the visual line of sight, traffic management, and flights over persons not involved in the operation.

¹ Members of the Small UAV Coalition are 3D Robotics, AGI, Airmap, Amazon Prime Air, Botlink, DJI, Drone Deploy, Flirtey, Google [X] Project Wing, GoPro, Intel, Kespry, Parrot, PrecisionHawk, Strat Aero, Verifly, Verizon Ventures, and Zero Tech.

² The Coalition incorporates by reference its comments on the registration provisions in proposed Part 107.

Excluding micro UAVs from registration

The Coalition agrees with the notion that certain very small and lightweight UAVs more closely resemble toys than aircraft. We believe that UAVs weighing no more than 1 kilogram (just over 2 pounds) that are used for recreational (other than commercial) purposes should not be required to be registered, provided they are operated below 200 feet Above Ground Level (AGL) and at a sufficient distance from airports, because the safety risk they pose is negligible. We note that an exclusion from registration for UAVs weighing no more than 1 kilogram limit has been adopted in Ireland. The class of UAVs that weigh 1 kilogram or less is also proposed to be in the European Aviation Safety Agency's (EASA) "toy and mini drone" class in the open category, subject to the least amount of regulatory requirements. (See European Aviation Safety Agency, "Advance Notice of Proposed Amendment 2015-10," page 23.) The Academy of Model Aeronautics guidelines also recognize the very low risk of UAVs weighing no more than 2 pounds. Further, in 14 CFR Part 101, the FAA excludes kites weighing 5 pounds or less from a set of operating limitations. These very small UAVs certainly present a lower risk than unmanned free balloons and amateur rockets, authorized in Part 101, whose descent is uncontrolled. The 1 kilogram limit is also lower than the 4.4 pounds provision in section 334 of the FAA Modernization and Reform Act of 2012, which addresses operation of small UAVs by public agencies, and in the FAA's micro UAS option contained in the preamble to the sUAS NPRM. Finally, we point out that in all of the sUAS flight hours accrued in the past couple of years, there is not a single fatality to a non-participating individual recorded. In the absence of other performance data, 1 kg appears to be a reasonable, pragmatic threshold for registration sUAVs used for recreational purposes.

The obligation to register should rest with the owner/operator

The Coalition believes the regulatory responsibility to register a UAV should rest with the owner of the UAV, as it is with the current FAA Aircraft Registry, and as set forth in Chapter 441 of Title 49 and 14 C.F.R. Part 47. In many, and perhaps most, instances, the owner and operator will be the same person. If a UAV is leased to another person, the owner-lessor should remain the registrant.

Registration should be required before operation

The Coalition supports registration prior to the operation of the UAV by the registrant. As is the case with the current FAA Aircraft Registry, neither manufacturers nor retailers should be held responsible for registration. Whether a retailer or other third party facilitates registration for the owner at point-of-sale or at any other point prior to operation should be left to the marketplace.

Promoting compliance

The Coalition supports the FAA in streamlining a registration of UAVs that is as simple as possible to encourage registration, not only for UAVs purchased after the effective date of the FAA's change in policy, but also for UAVs purchased before the effective date. Additionally, the FAA should not impose any fee for registration of small UAVs in order to promote broad participation in the program.

To promote compliance, the Coalition also believes the FAA should provide a generous grace period for current owners of UAVs to register, such as 120 days. Further, the FAA should not pursue a civil penalty for a person's non-compliance with these new registration requirements unless the FAA first sends a notice of alleged noncompliance to that person and the person fails to register within 60 days of receipt of such notice. The FAA should also, as a matter of enforcement policy and discretion, revise its Sanction Guidance Table in Appendix B to FAA Order 2150.3B to provide a "minimum" civil penalty, rather than the "maximum" in current guidance, and reserve such a penalty only for a failure to register after written notice and an opportunity to cure. In any event, we believe an administrative action, such as a warning letter, would be more appropriate than a civil penalty. Most importantly, the FAA should focus its resources on educating the public on the registration requirement, not on enforcement.

Limiting public access to data

A registration system is intended to provide accountability for the benefit of the Government. The Coalition does not believe the public has a general right to know the identity of the owner or operator of a UAV. The information the FAA will require of a registrant should be no more than necessary to provide the FAA and law enforcement and national security agencies with the ability to ensure proper and prompt accountability in the event of an accident or incident. Because of legitimate privacy concerns, and to again promote participation in the registration program, the FAA should protect the owner's name and address against public disclosure, whether through an Aircraft Situation Display or through a Freedom of Information Act request. Such a practice would be in line with the FAA's Limiting Aircraft Data Displayed Via Aircraft Situation Display to Industry (ASDI), formerly known as the Block Aircraft Registration Request (BARR) program. Although the protection of voluntarily provided safety information in Part 193 would technically not cover registration information required to be provided, the best way to promote registration with the general public is to give an assurance that the information provided will not be shared outside of the Government.

State and local registration requirements should be preempted

While the preemption issue was not raised in the request for information, the Coalition believes that consumer acceptance of this requirement will be easier if a person is required to register only with the FAA and not any other Government, whether state or local. State and local governments have no authority to govern or regulate the operation of aircraft, both manned and unmanned, in the National Airspace System (NAS). We are concerned that allowing state and local governments to require registration – likely in order to impose a personal property tax – may well discourage current and future UAV owners to register with the FAA's electronic database. This disincentive will be much greater should the information provided to the FAA's electronic database be publicly available.

The Supreme Court has held that Federal regulations have the same preemptive effect as Federal statutes. The FAA has previously used this authority to preempt by regulation certain state and local laws relating to drug and alcohol testing. See 14 CFR §120.121 (drugs); 14 CFR §120.205 (alcohol). The FAA should include a preemption provision in its registration rules.

Given the large volume of sUAS that have already been sold, and the significant amount of sUAS that will be purchased in the future, in order for the sUAS registration system to be successful, it must be flexible, it must not be fee-based, and it must be easy to use. Just importantly, if compliance is the primary goal, the approach must be pragmatic: there must be a dividing line established between those devices classified as toys, and those defined as other than toys, in order for the registration system to be embraced and adopted by the public.

Thank you for the opportunity to provide comments on this important initiative.

Sincerely,



Michael Drobac
Gregory S. Walden
Akin Gump Strauss Hauer & Feld

For The Small UAV Coalition

Copy to:

Honorable Anthony Foxx
Secretary of Transportation