



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

January 19, 2016

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

**Re: FAA-2015-7396: Registration and Marking Requirements for Small Unmanned Aircraft: Comments of Small UAV Coalition**

Dear Administrator Huerta:

The Small UAV Coalition<sup>1</sup> provides the following comments in response to the FAA's interim final rule on the FAA's establishment and implementation of an on-line electronic registration system for small unmanned aircraft. 80 Fed. Reg. 78594 (Dec. 16, 2015).

General comments

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 in issuance of aircraft registration certificates.

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.

---

<sup>1</sup> 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, Kesyry, Parrot, PrecisionHawk, Strat Aero, Verizon Ventures, and Zero Tech.

## Specific comments

### **1. Excluding micro UAVs from registration**

The Coalition agrees with the notion expressed by the Task Force that certain very small and lightweight UAVs more closely resemble toys than aircraft. We suggested 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. The interim final rule sets the registration threshold weight at 250 grams. At this light weight, there are very few small UAVs, whether operated commercial or recreationally, that weigh 250 grams or less, so that the carve-out in the interim final rule will have a negligible effect. As we explained in our comments to the Task Force report, there is widespread support for a higher threshold, such as 1 kilogram.

- There is 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.

Given these considerations, 1 kg is a more reasonable, pragmatic threshold for registration of sUAVs.

### **2. Eliminating the registration fee**

The Coalition supports the FAA's effort to streamline the registration of UAVs to make it 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. The Coalition is concerned that the \$5 fee, especially as it applies to recreational users and very small businesses, will provide a disincentive to register. The initial report of over 200,000 registrations in the first several weeks since the FAA's online registration system went live suggests that there are many hundreds of thousands of small UAV owners who have not yet registered, even with the incentive of a refund of the \$5 fee for registrations within the first 30 days. Once this fee is

in place, this particular incentive will be gone. It remains the Coalition's view that the FAA should not impose any fee for registration of small UAVs in order to promote the broadest participation in the registration system. While the FAA stated in the preamble to the interim final rule that some fee is required by statute (citing 49 U.S.C. §45305), 80 Fed. Reg. at 78621, the FAA did not state this requirement in directing the Task Force (and seeking public comment) to determine whether there should be a fee.<sup>2</sup> Given the FAA's decision to refund the \$5 fee for any person registration a UAV in the first 30 days, we believe the FAA has similar discretion to waive the \$5 fee indefinitely. A one-year grace period would be much more likely to promote registration than the 30 days set out in the interim final rule. Alternatively, we urge the FAA to consider seeking a legislative correction if necessary to not impose any registration fee.

### **3. FAA enforcement policy**

To promote compliance, the FAA should not pursue a civil penalty for a person's non-compliance with new Part 48 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. Most importantly, the FAA should focus its resources on educating the public on the registration requirement, not on enforcement. Accordingly, we support the FAA's statement that "FAA has used and will continue to use outreach and education to encourage compliance with regulatory requirements that pertain to the registration of unmanned aircraft." 80 Fed. Reg. at 78630.

The FAA states that it "may also use administrative action or legal action to gain compliance." Id. We believe administrative action, such as a warning letter, would be more appropriate than legal action (a civil penalty). 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.

### **4. Limiting public access to personal information of registrant**

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 address of non-commercial operators against public disclosure, whether through blocking information from an Aircraft Situation Display or in response to 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. 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. While a sizeable business entity may not have a particular privacy interest in its business address, individuals have a reasonable privacy interest

---

<sup>2</sup> See 80 Fed. Reg. at 78601 (restating question in the initial Federal Register notice at 80 Fed. Reg. at 63914: "Should a registration fee be collected . . . ?").



in their home address even if used as a business. It should not matter whether that individual is operating a small UAV for recreational or commercial purposes.

The interim final rule requires a registrant to provide an email address, as well as credit card information to process the \$5 fee. The personal privacy interest in protecting an email address as well as credit card information is paramount. In the preamble to the FAA's interim final rule, the FAA expresses its intent to provide privacy protection for registration information, but does not expressly state which personal information it will protect. The Coalition urges the FAA to spell out which personal information will be protected and how it will protect that information.

#### **5. State and local registration requirements should be preempted**

While the preemption issue was not raised in the FAA's initial request for information and was not included in the Task Force's recommendations, the Coalition applauds the statement in the December 17, 2015 Fact Sheet from the FAA Office of Chief Counsel that strongly suggests that state and local registration requirements are preempted:

Because Federal regulation is the exclusive means for registering UAS for purposes of operating an aircraft in navigable airspace, no state or local government may impose an additional registration requirement . . . without first obtaining FAA approval.

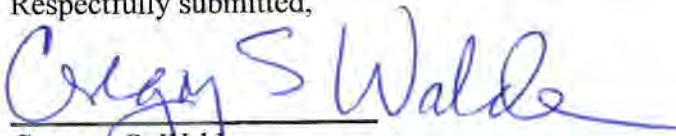
The Coalition believes that consumer acceptance of the FAA registration requirement will be easier if a person is required to register only with the FAA and not any additional State or local Government. State and local governments have no authority to govern or regulate the operation of aircraft, both manned and unmanned, in the National Airspace System (NAS).

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). Thus, we urge the FAA to include a preemption provision in the final rule that explicitly preempts state and local registration requirements pertaining to any UAV owner who registers with the FAA registration system.

\* \* \* \* \*

In order for the sUAS registration system to be successful, it must be flexible, easy to use, and protective of personal privacy interests. To best achieve compliance, the FAA regulatory and enforcement approach must be pragmatic and the system should not include a fee.

Respectfully submitted,



Gregory S. Walden  
Akin Gump Strauss Hauer & Feld

For The Small UAV Coalition