BEFORE THE
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, D.C.

PILOT RECORDS DATABASE – NOTICE OF PROPOSED RULEMAKING

Docket No. FAA-2020-0246

COMMENTS OF THE SMALL UAV COALITION

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The Small UAV Coalition[1] (Coalition) provides its comments in support of the FAA's Notice of Proposed Rulemaking (NPRM) to establish a Pilot Records Database, 85 Fed. Reg. 17660 (March 30, 2020).

The Small UAV Coalition applauds the FAA's development of a robust and effective Pilot Records Database (PRD) and supports the safety objectives a pilot records search is intended to accomplish. We recognize the work done by FAA and the initial effort of the Aviation Rulemaking Committee to develop streamlined information request and production workflows; process efficiencies will enhance compliance and elevate safety. For many aviation companies, knowing a pilot's detailed safety history is crucial to safety assurance and to promoting that company's overall operation. Moreover, public trust in aviation generally is strengthened by knowing that a process exists to identify unsafe pilots and prevent them from performing duties that would create an unacceptable risk to the public. Therefore, the Coalition generally supports the FAA's proposal.

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[1] Members of the Small UAV Coalition are listed at www.smallauvcoalition.org.

While the Coalition agrees with and supports the safety objectives underlying the PRD's implementation, we believe that the proposed rule should account for the unique nature of air carriers operating highly automated unmanned aircraft systems (UAS) under 14 C.F.R. part 135 (UAS air carriers). Specifically, the rule should modify proposed 14 C.F.R. part 111, subpart C (Subpart C), to revise subsection 111.220(a) with respect to the requirement that UAS air carriers report records pertaining solely to employer-created requirements that are unique to the employer's UAS. UAS operators envision a very near future where "flight control" is performed via a distributed model, meaning the Operator in Command (OIC) has operational control and responsibility for multiple simultaneous missions flown by autonomous aircraft, but does not provide any flight control inputs. Further, while skill and proficiency are required for safe UAS air carrier operations, the risks presented by these UAS are orders of magnitude smaller than the risks presented by most standard, normal, and transport category aircraft.

For these reasons, each of which is discussed further below, we request that FAA revise Subpart C to remove the requirement for UAS air carriers to report records regarding employer-created training, testing, currency, etc. that would not be applicable to other aircraft.

Further, we urge FAA to initiate a comprehensive rulemaking that would establish an operating authority process for companies performing commercial UAS operations, as required by 49 U.S.C. 44808, added by section 348 of the FAA Reauthorization Act of 2018 (requiring an update of existing regulations by October 5, 2019). Such a rulemaking would produce clear and specific

regulations tailored for commercial UAS operations, obviating the FAA use of exemption authority.

UAS Air Carriers Expect to Operate Under a Distributed Model with a One Operator-to-Many UAS Ratio

As UAS technology continues to advance, companies are developing new operating models that leverage enhanced aircraft capabilities. Autonomous flight, built on sensing capabilities, computer-based decision-making, UAS Traffic Management (UTM), and integrated mission planning and notification are developments that will enable truly autonomous flight. These capabilities, once approved by the FAA, will require little to no input from the OIC once the decision to launch the mission has been made. This means that the autonomous aircraft, and not the OIC, will perform the functions necessary to maintain safe flight, which in turn will enable an OIC to simultaneously monitor fleets of vehicles.

In such an operating model, the OIC's role evolves from a more traditional one based on in-flight control and airspace de-confliction, to one more closely resembling fleet monitoring and management. This operating model will require skills and proficiency different from what has been demanded of pilots in the past. Because of this, the employer-created (and employer-specific) training, disciplinary, and separation records of OICs performing fleet management under a distributed model for one UAS air carrier are much less relevant for other UAS air carriers using a different UAS than for the air carriers employing pilots in traditional manned aviation roles.

UAS Air Carrier Operations Are Significantly Different than those of Traditional Air Carriers

UAS operated by part 135 air carriers are not analogous to the manned aircraft operated by air carriers (under either part 121 or 135), and the safety considerations related to UAS operations are not comparable to manned aircraft operations. The UAS used by Coalition members are significantly smaller and produce substantially less power than manned aircraft, and do not often utilize turbine-powered engines. In addition, each UAS air carrier will likely use different and unique types of individually certified UAS complete with their own rules, systems, interfaces, operating limitations, and training and proficiency specifications. This means that even among commercial UAS operators, there will be significant differences in the training and proficiency records produced specific to the UAS used. Because these UAS are so different from the aircraft used in traditional air carriage, the safety risks that the PRD seeks to mitigate are not comprehensively addressed by requiring UAS air carriers to produce or review these records. Moreover, because these aircraft are so distinct from even other UAS, and with OICs trained against increasingly unique systems, the ability to compare things like training and performance records becomes so difficult as to diminish the relevance of that review.

Accordingly, the Coalition recommends revising subsection 111.220(a) to add a new (3), which would read:

> 111.220(a)(3) – Paragraph (a)(2) of this section does not apply to air carriers and other operators operating only autonomous unmanned aircraft systems.

In this respect, the Coalition requests the FAA include in the preamble to its final rule an acknowledgement that certain requirements for submission of documentation of compliance with employer-required training, checking, testing, etc. do not apply to air carriers or other operators using only autonomous UAS.

A Comprehensive Rule Enabling UAS Air Carrier Operations Would More Appropriately Address Safety Concerns Related to Pilot Hiring

UAS air carrier operations are growing and are expected to keep growing for the foreseeable future.[2] Because a comprehensive regulatory scheme for UAS air carrier operations does not yet exist, these operations must be conducted under regulations created for traditional, manned aviation activities. For example, recent grants of exemption to two companies seeking to conduct UAS operations for compensation or hire show the breadth and depth of exemptions requested for aspects of parts 91 and 135 that simply do not apply to UAS operations.[3] The PRD proposed rule is another regulation that applies to UAS air carriers only because a more suitable regulatory scheme addressing such operations does not exist, and UAS air carriers must therefore comply with a set of regulations originally intended for manned aviation. In other words, UAS air carriers would not automatically and directly be subject to the requirements of the PRD if they were subject to a set of regulations addressing pilot and operator skills and proficiencies tailored to highly automated and autonomous operations. A set of comprehensive laws and regulations specific to

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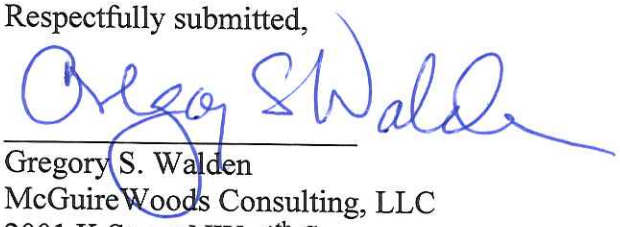
[2] *See, e.g.*, Federal Aviation Administration, *Aerospace Forecast Fiscal Years 2020-2040* (2020), p. 50, *available at* https://www.faa.gov/data_research/aviation/aerospace_forecasts/media/Unmanned_Aircraft_Systems.pdf (last visited June 8, 2020) ("The commercial UAS sector is dynamic and appears to be at an inflexion point, demonstrating powerful stages of growth. Unless the recreational UAS sector, the FAA anticipates that the growth rate in this sector will remain high over the next few years.").

[3] *See In the Matter of the Petition of Wing Aviation, LLC*, Exemption No. 18163A, Docket No. FAA-2018-0835 (Oct. 11, 2019); *In the Matter of the Petition of UPS Flight Forward, Inc.*, Exemption No. 18338, Docket No. FAA-2019-0652 (Sept. 23, 2019).

UAS operations would help address these unintended consequences and resolve the regulatory compliance burden that UAS operators face when seeking to conduct commercial business under existing regulatory schemes. This is not to suggest that the overarching safety purposes of the PRD are wholly inapplicable to commercial UAS operations; rather, it is to say that commercial UAS operations merit a realistic and tailored approach to records retention and review that is an integral part of a comprehensive rule on UAS air carriers.

To that end, the Coalition urges the FAA to begin the statutorily-required rulemaking to update air carrier operating rules for UAS air carriers.

Respectfully submitted,



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