

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

July 28, 2020

Honorable Elaine Chao
Secretary of Transportation
United States Department of Transportation
1200 New Jersey Avenue SE
Washington, DC 20590

Honorable Steve Dickson
Administrator
Federal Aviation Administration
800 Independence Avenue SW
Washington, DC 20591

Re: Unmanned Aircraft System Integration Pilot Program (IPP): recommendations to strengthen its gains in anticipation of its completion

Dear Secretary Chao and Administrator Dickson,

As you know, the Unmanned Aircraft Systems Integration Pilot Program (IPP), established by an October 25, 2017 Presidential Memorandum, expires by its own terms on October 25, 2020. While the Presidential Memorandum permits the Secretary to extend the IPP, we have been informed that the Department has decided not to seek an extension of the program.¹

The Small UAV Coalition² strongly supported the IPP's establishment and implementation. Several members of the Coalition have been participating in one or more lead applicant teams and have gained valuable experience operating under various mechanisms including certified Part 135 commercial operations and Part 107 waivers with the support of State and local governments. While the FAA has not provided any further relief from Part 107 prohibitions and limitations to UAS operators as part of the IPP, initial UAS IPP operations benefited from expedited review and approval of waiver and airspace authorization requests, focused guidance from FAA officials, and from the partnerships UAS operators formed with State and local governments. In particular, the

¹ The IPP was codified in section 351 of the FAA Reauthorization Act of 2018. Subsection 351(i) terminates the IPP "established" under section 351 on the 3-year anniversary of the Presidential Memorandum. The Coalition does not read this section as removing the Administration's discretion to extend the IPP, to revise it, or to create a new program.

² Members of the Small UAV Coalition are listed at www.smalluavcoalition.org.

IPP has successfully demonstrated that integration of UAS technologies into the airspace and in our communities is possible and provides high value services: we need to continue to push toward a regulatory environment that allows these systems to safely scale.

The four stated objectives of the IPP are: (1) accelerating UAS integration by testing and validating BVLOS operations in a controlled environment, focusing on detect-and-avoid technologies and command and control links; (2) addressing security and safety concerns with operations in close proximity to persons on the ground and critical infrastructure through UAS communications with Federal, State, local and Tribal governments; (3) promoting UAS innovation in sectors in which there are significant public benefits, such as emergency response; and (4) identifying the most effective mode of balancing local and national interests in UAS integration.³

With these objectives in mind, the Small UAV Coalition provides the following recommendations as the Department and FAA complete the IPP and consider next steps.

- While Department and FAA officials have provided regular reports on individual IPP achievements, no comprehensive report has been published. Sharing with the public the lessons learned across the program, by explaining what operations have been conducted and what approvals have been granted, would support increased awareness and understanding of UAS operations. **As the IPP comes to a close, the Coalition urges the DOT and FAA to prepare a report that not only summarizes the UAS operations conducted under the IPP, but also addresses how the IPP met its stated objectives and what actions will be taken from the lessons learned from the IPP.**
- Department and FAA officials have indicated that participants in the IPP will continue to benefit from FAA involvement, without providing specific information on what that involvement might entail. **The Coalition recommends that the Flight Standards representative assigned to each IPP lead applicant continue to advise and assist IPP participants in making the safety case for expanded operations under waivers and other approvals.**
- For the UAS industry to capture the benefits of UAS technology and to realize meaningful return on investment, routine and scalable BVLOS operations are imperative. The IPP has not yet yielded routine BVLOS operations. In several cases EVLOS using visual observers and/or highly constrained BVLOS approvals with appreciable limitations have been granted. However, these have not yet yielded sufficiently productive results suitable for sustained and scalable operations. DOT and the FAA will need to build upon the progress made under the IPP to provide guidance for the approval of scalable and commercially viable BVLOS flights. This guidance should include an explanation of the credit the FAA will give for strategic and tactical mitigations, such as terrain and structure masking (linear infrastructure, very low altitude, widespread buildings found in populated areas), low level flights in populated areas, and cooperative airspace technologies such as ADS-B. The FAA

³ Under the IPP, the data collected and experience gained is to be used for five enumerated purposes, which largely address the four IPP objectives, and also include identifying and resolving technical challenges to UAS integration, addressing airspace use, and informing FAA standards that would obviate waivers.

should also provide a clear set of guidelines for the amount and quality of data on the existing technology needed to enable advanced operations. **The Coalition urges the FAA to provide additional guidance for building an acceptable safety case for BVLOS operations, including such operations that do not require visual observers.**

- We recognize that the FAA seeks to transition more complex operations to a type and airworthiness certification process, and is currently using its authority under 49 U.S.C. 44807 to grant exemptions to allow for air carrier operations under Part 135 using a UAS without an airworthiness certificate, provided the exemption applicant has made significant progress in obtaining type certification, albeit under the special conditions authority in 14 C.F.R. 21.17.

Part 107 was promulgated in part under the authority of Section 333 of Public Law 112-95, which provision was superseded and repealed by Section 44807, but Part 107 also rests on other, more general statutory authority of the Administrator. Thus, as a matter of statutory authority, Part 107 will survive the sunset of Section 44807. **In this regard, for clarity we urge you to announce at this time that operations under Part 107 may continue past the September 30, 2023 sunset of section 44807.**

- The text of the sunset subsection in section 44807 reads: “The authority under this section for the Secretary to determine if certain unmanned aircraft systems may operate safely in the national airspace system terminates effective September 30, 2023.” Part 107 is such a determination, as are waivers and airspace authorizations granted under Part 107. As Part 107 continues in force past September 30, 2023, so does Part 107’s waiver authority, as it is part and parcel (Subpart D) of Part 107. This would include post-September 30, 2023 renewals of such waivers.

We agree with the FAA’s objective of promulgating rules that will obviate waivers and exemptions. Once a rule is in place covering the subject of a waiver, operators should be expected to comply with the rule and not need to obtain a waiver.

Therefore, we also request that you announce that waivers granted under Part 107 will continue in effect, by their terms, past the sunset of Section 44807, and that waivers sought under Part 107 will continue to be granted post-sunset if a regulation pertaining to the provision for which a waiver is being sought has not yet been issued. For example, if a final rule authorizing BVLOS operations is not in place by September 30, 2023, a UAS operator may obtain a waiver under Part 107 to operate BVLOS.

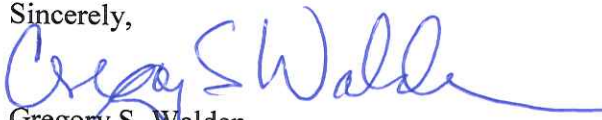
- For the airworthiness of UAS, the Coalition supports a deliberate and considered transition of operations under the IPP, Part 107, and section 44807, to a certification framework. The durability and reliability (D&R) concept the FAA is considering holds much promise, and **we urge the Department and FAA to consult with industry stakeholders, including companies that have begun the type certification process and those that have not yet done so, in developing this concept into a more complete and streamlined policy and program.**

- Certain IPP participants have successfully used Section 44807 and Part 135 exemptions to accomplish pioneering operations under the IPP. These exemptions were originally set to expire at the end of the IPP and rapid progress through type certification was assumed. At this time, considering the challenging events of 2020, the D&R enabling policy has not yet been published and made effective. To our knowledge, no certification basis has been published (either the section 21.17 D&R basis or the part 36 requirements for noise). With a sunset of the IPP, extensions of those exemptions will be necessary for current operations to continue as companies work with the FAA to gain approvals through alternate processes that have not yet been finalized. **The Coalition urges the FAA to consider granting automatic extensions of section 44807 approvals currently in place to allow for continuity of operations in communities currently being served under the IPP.**

In sum, the Coalition believes there is much to be gained by continuing the good work that was done as part of the IPP and broadening its applicability to all UAS operations, while pursuing integration of true viable BVLOS operations. The Department and FAA can build on the experience and knowledge gained in the IPP to advance a risk- and standards-based regulatory framework to authorize productive and more complex operations in the navigable airspace.

Thank you for your consideration.

Sincerely,



Gregory S. Walden
Aviation Counsel
Small UAV Coalition

Copy to:
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