

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

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**IN THE MATTER OF**

**Notice of Proposed Rulemaking: Normalizing Unmanned Aircraft Systems Beyond Visual  
Line of Sight Operations**

**Docket No. FAA-2025-1908**

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**COMMENTS OF THE SMALL UAV COALITION**

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**Notice of Proposed Rulemaking: Normalizing Unmanned Aircraft Systems Beyond Visual Line of Sight Operations**

**Docket No. FAA-2025-1098**

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**COMMENTS OF THE SMALL UAV COALITION**

The Small UAV Coalition<sup>1</sup> (“Coalition” or “we”) is pleased to provide comments in response to the Notice of Proposed Rulemaking (“NPRM” or “proposed rule”) entitled “Normalizing Unmanned Aircraft Systems Beyond Visual Line of Sight Operations,” issued jointly by the Federal Aviation Administration (“FAA”) and the Transportation Safety Administration (“TSA”), 90 Fed. Reg. 38212 (Aug. 7, 2025). We appreciate the efforts of the FAA, DOT, TSA, Trump Administration, and Congress, in moving this essential rulemaking forward to the notice-and-comment stage.

In particular, Congress first directed the FAA to undertake rulemaking that would address beyond visual line of sight (“BVLOS”) operations as well as unmanned traffic management (“UTM”) services in the FAA Reauthorization Act of 2018, Pub. L. 115-254.<sup>2</sup> The FAA chartered an Aviation Rulemaking Committee (“ARC”), in which many Coalition members participated, and which issued a report, with proposed regulatory text, in March 2022.

More recently, in the FAA Reauthorization Act of 2024, Pub. L. 118-63, Congress provided detailed directions to the FAA with respect to the several key components of the proposed rule. Section 930 established new Section 44811 of Title 49 and required the NPRM to be published no later than four months after enactment (September 16, 2024) and a final rule no later than 16 months after a proposed rule is published. Other sections address electronic conspicuity, the

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<sup>1</sup> Members of the Small UAV Coalition are listed at [www.smalluavcoalition.org](http://www.smalluavcoalition.org).

<sup>2</sup> See Section 341, adopting 49 U.S.C. §44801 and §44802; Section 345, adopting 49 U.S.C. §44805; Section 348 (air carrier package delivery), adopting 49 U.S.C. §44808, and Section 370 (sense of Congress), and Section 376 (unmanned traffic management “UTM”).

carriage of hazardous materials, and noise. In Executive Order 14307, *Unleashing American Drone Dominance*, 90 Fed. Reg. 24727 (June 6, 2025), President Trump directed the proposed rule to be published within 30 days of the Order (July 6), with a final rule within 240 days of the Order (February 1, 2026).

The public benefits that are likely to be the product of this rulemaking enabling commercial BVLOS operations at scale are manifold: for businesses, economic benefits in the tens of billions of dollars in cost savings and increased sales from operational efficiencies, and time savings valued in the tens of billions of dollars saved; consumer benefits in terms of time saved value in billions of dollars; environmentally significant reductions in greenhouse gas emissions and water preservation; and societal benefits from increased public safety and lives saved by first responders, and hundreds of thousands of work and personal injuries avoided. To be submitted in this rulemaking docket is an analysis of these benefits conducted by Accenture and sponsored by the Coalition, entitled “BVLOS Drone Integration in the United States,” which addresses the proposed rule’s use case categories of package delivery, aerial survey, civic interest, and agriculture.

Notwithstanding these projected benefits, the proposed rule as drafted would also impose significant and, in some respects, incalculable costs on the industry that would offset these benefits to a large degree. In the Coalition’s general comments and specific section-by-section comments below, we point out several proposed provisions that would impose burdens that we do not believe safety or security requires and suggest removal or revision of such provisions to ensure the industry and public receive the benefits as projected by sources including Accenture’s analysis in this docket.

Before providing detailed comments on each provision of interest to the Coalition, we provide several general comments.

### **General comments**

***The proposed rule addresses the requirements in the FAA Reauthorization Act of 2024.*** The Coalition is pleased that the proposed rule follows the directions Congress provided in Section 930 of the 2024 Reauthorization Act with respect to the BVLOS provisions in proposed part 108. As discussed further in the specific comments to proposed §108.335, the proposed requirements with respect to the transport of hazardous materials in proposed part 108 fall short of the risk-based directions in Section 933 of the 2024 Reauthorization Act.

Also, the proposed rule does not include any discussion of accepting network-based remote identification (“remote ID”) as an alternative means of compliance, as provided in Sections 907 and 930(b)(5) of the 2024 law. The Coalition believes network-based remote ID would provide safety benefits to enable the furnishing of data via automated data service providers and in increasing the electronic conspicuity of drones equipped with network remote ID.

***The proposed rule in several respects eschews formal certification in favor of approvals and acceptance.*** The Coalition supports the FAA’s decision not to require airman certification or medical certification of individuals considered to be operations personnel under part 108. The Coalition also supports the FAA’s proposal to approve the airworthiness of a drone by means of

an “acceptance,” without requiring type or airworthiness certification under part 21. In this respect, the proposal follows the congressional direction in Section 930. While the Coalition supports the concept of permitted operations that do not require operator certification, we also do not object to the concept of operator certification as the drone equivalent of part 135 for crewed aircraft. (Specific comments on permitted operations are provided below.) The Coalition also does not object to the proposed certification of automated data service providers.

***The Coalition supports the performance-based provisions in the proposed rule.*** The FAA asserts that the proposed rule is performance-based, and the Coalition largely agrees with that assertion. However, as pointed out below in the section-by-section analysis, several provisions in proposed part 108 are highly prescriptive, and should be revised in the final rule. The FAA should accompany performance standards with advisory circulars and other guidance published in time to prevent delays in implementation of part 108 permits, certificates, and airworthiness acceptance. As part of this, the FAA should ensure that alternative means of compliance that achieve the underlying objectives of core requirements are accepted and that proposals on testing and design are streamlined and tailored to the use case and risk profile of drones.

***The proposed rule in key respects relies on the development of industry consensus standards; it is also critical that FAA allows for any person to submit and use of alternative means of compliance (“MOC”), especially in instances where standards have not yet been developed and adopted.*** The Coalition supports the FAA’s reliance on industry consensus standards with respect to the specified design, production and proposed use of airworthiness acceptance requirements under proposed subparts D, E, G and H, services provided by automated data service providers under proposed part 146, the collection of flight data under proposed §108.725, and the operation of multiple drones by a flight coordinator under proposed §108.210, where such standards have been developed and will be adopted by the effective date of the final rule.

In addition to recognizing industry consensus standards, it is equally important to accept alternative means of compliance that successfully satisfy the requirements. Accepting alternative means of compliance is essential where such consensus standards have not been developed or do not address the unique aspects of the drone system, its operation, or its risk control. Several of the consensus standards FAA claims will support parts 108 and 146 are not final; some have not yet been developed. It cannot be known at this time whether standards once developed will be optional or broadly feasible or aligned with already developed and deployed technologies. The FAA should explicitly permit entities other than standards organizations to submit means of compliance. The FAA should define minimum performance criteria that any MOC must meet or exceed; such criteria will serve as a clear safety floor while facilitating innovation.

***The proposed rule is more conservative than certain conditions in exemptions the FAA has already granted under 49 U.S.C. §44807.*** The Coalition is concerned that several proposed requirements are more restrictive than what the FAA has permitted in waivers under part 107 and exemptions under Section 44807. For example, proposed §108.210 limits a flight coordinator to one drone, although it provides that the FAA may allow for a number of drones to be operated by a single operator on a “case-by-case” basis. The Coalition recommends the final rule explain the showing that is needed to authorize a flight coordinator to operate multiple aircraft, based on the FAA’s experience with granting such relief in many exemptions. The FAA should grandfather any

higher ratio than 1:1 already approved in an exemption under Section 44807 to ensure that operations currently approved may continue unimpeded, as recommended below.

Another example is proposed §108.175, which would allow a drone to maneuver only up to 450 feet to avoid a collision, while exemptions have allowed drones to fly up to 500 feet higher to avoid a collision.

***The FAA must grandfather current part 135 operating approvals to avoid lapses in authorizations and service.*** As noted above, many drone operators have obtained approvals under part 107 waivers, part 91/135, and Section 44807 exemption conditions and limitations that address proposed part 108 requirements. The proposed rule does not provide a clear path to transition existing operators to part 108, failing to consider that drone service providers have been operating safely for years under waivers and exemptions providing a valuable, fast and safe delivery system to American consumers. Operators currently conducting safe, authorized operations under part 135 should not be forced to resubmit previously accepted manuals, procedures, or request the same authorizations that have been granted under part 135 to transition to part 108. The Coalition urges the FAA in the final rule and any supplementary guidance to grandfather FAA approvals to manufacturers and operators as applicable to part 108 requirements as well as to allow manufacturers and operators to continue to manufacture and operate uninterrupted. All existing operating, airworthiness, and airspace authorizations and safety materials (i.e., BVLOS approvals; one-to-many authorizations, FAA-approved safety management systems, and approved hazardous materials programs) should remain valid beyond the effective date of the final rule, provided the operator continues to hold and operate under valid Section 44807 and part 135 authority. These authorizations should allow uninterrupted operations without the need to resubmit or revalidate approvals that FAA has already found sufficient for safety. When an operator elects to transition to a part 108 certificate, the FAA should accept all prior approvals issued under Section 44807 and part 135 as baseline compliance, requiring only a differences review where part 108 introduces new or materially distinct requirements.

This approach would preserve continuity, respect prior safety findings, conserve FAA resources, and, and prevent duplicative oversight while maintaining the agency's ability to apply new safety provisions prospectively. This approach would benefit the public and industry. To allow for implementation and not adversely affect already constrained FAA resources, existing operators should be allowed to continue under their prior authorizations (whether under part 107 waivers or under part 135) for a period of up to three years after the effective date of this rule.

***The proposed rule avoids categorical prohibitions and restrictions in proposing that the Administrator may approve an operation otherwise prohibited or restricted by the proposed section.*** The Coalition supports the thirty-four provisions in the proposed rule that allow the Administrator to authorize an operation under a specific provision notwithstanding the operation is not permitted by the language of the specific provision, provided that the applicant demonstrates an equivalent level of safety. The Coalition supports the inclusion of broad deviation language in the final rule, because the flexibility will "future-proof" part 108 and enable the Administrator to authorize operations beyond the baseline requirements and constraints expressly set forth in the proposed rule. The pace of technological and operational advancement will inevitably require

expansion beyond the initial operating profiles and constraints, and a flexible authorization mechanism is both reasonable and consistent with FAA’s stated intent.

Properly structured, this authority avoids the delays and inefficiencies of waivers and exemptions while still ensuring an equivalent or greater level of safety. The Coalition seeks confirmation that such “unless authorized by the Administrator” language means that requests by manufacturers, operators, and automated data service providers for authorization by the Administrator obviate the formal and more protracted waiver and exemption processes. As noted in comments on specific provisions in the proposed rule, the Coalition also seeks guidance from the FAA either in final rule text or in the preamble of examples of what suffices to obtain the Administrator’s authorization and assurances that Administrator approvals will maintain safety standards.

***The FAA recognizes the benefits of electronic conspicuity in proposing right-of-way provisions, but the FAA should mandate ADS-B Out or equivalent electronic conspicuity equipment for all crewed aircraft operations below 500 feet AGL.*** The Coalition has long maintained that universal electronic conspicuity is the most urgent safety imperative to promote the safe integration of various types of aircraft in uncontrolled airspace. Congress recognized the benefits of electronic conspicuity (“EC”) in several provisions of the FAA Reauthorization Act of 2024.

In that respect, the Coalition supports the proposal’s recognition of a new EC pathway for traditional aircraft that broadcast on Universal Access Transceiver/978 MHz. Those devices are both acceptable and reasonable methods for crewed aircraft, including those such as hot air balloons that lack electronic systems, to retain right-of-way (ROW) over unmanned aircraft.

Meanwhile, the FAA proposes to give part 108 operations right-of-way over unequipped crewed aircraft except when the part 108 operator is operating over category 5 population densities (proposed §108.185) or when operating in Class B or C airspace (proposed §108.180). Besides these exceptions adding unneeded complexity to operations, e.g., transiting ROW change boundaries during flight, they are unsupported by any operational safety data. They are also logically flawed: Category 5 population being fundamentally a ground risk proxy that requires an air risk mitigation and Class B and C airspace actually being the most cooperative airspace with ADS-B Out being required through 14 C.F.R. 91.225/91.227. As a result, the Coalition strongly disagrees that drone operations must yield to non-cooperative aircraft in Category 5 population densities and in Class B and C airspace.

Instead of this overly complex operating structure, at below 500 feet altitudes, there should be a consistent, easy-to-understand operating ruleset for both manned and unmanned aircraft. FAA should (1) allow updated right-of-way changes of UAS avoiding all equipped aircraft in all airspace regardless of the airspace class or population density being overflown; (2) require all crewed aircraft operating below 500 feet AGL to be conspicuous through ADS-B Out or low-cost portable EC devices as proposed by the rule; and (3) require drones to avoid *all* conspicuous crewed aircraft. This policy would increase overall safety of the NAS by increasing visibility of crewed aircraft and cooperation between and among crewed and uncrewed traffic.

***The TSA provisions must be removed from the final rule; any further consideration should require a separate notice-and-comment rulemaking.*** The Coalition strongly opposes the breadth

of the security threat assessment (“STA”) requirements in proposed §108.335, particularly in light of the lack of evidence to suggest it will improve security for the governed operations. The imposition of these burdens ignores the measures operators have put into place to address security vulnerabilities from the design phase forward and is fundamentally contradictory to the President’s directives in Executive Order 14307, “Unleashing American Drone Dominance.” In any event, TSA and FAA must not finalize their proposal to require “up to” a Level 3 STA.

In contrast to the FAA’s proposal in §108.315 that the operations supervisor may determine the suitability of operations personnel considering the factors the FAA delineates in that section, the FAA in proposed §108.335 removes any such discretion in determining which operations personnel must be subject to a security threat assessment. Indeed, the requirement extends to anyone who may be in contact with a package or material to be transported, which could cover tens of thousands of individuals, if not more, including shoppers at any of the retail establishments: certainly not what a deregulatory administration should countenance. The FAA’s regulatory philosophy, like many departments and agencies, is to use the concept of acceptable risk. If the no-risk approach in proposed §108.335 were applied to aircraft operations, no aircraft would be allowed to takeoff. Moreover, the Regulatory Impact Analysis considers only the direct fees to be imposed in conducting security threat assessments, neglecting to even attempt to quantify how many individuals would be subject to the STA or to consider the tremendous burden on both employers and employees and agents. of the time and processes to secure and renew STAs. Vetting to this degree is not appropriate for personnel who do not have the information needed to carry out an attack, or for personnel who have no ability to alter the route of the aircraft.

The Coalition is also concerned with the proposed security provision requiring part 108 operators to develop and maintain an FAA- and TSA-approved limited security program under 49 C.F.R. part 1544. As discussed below, the proposed rule provides no reasoned analysis of the costs of imposing such a program in the Regulatory Impact Analysis. Further, the preamble indicated that TSA may impose additional requirements in the final rule. That approach fails to provide fair notice under the Administrative Procedure Act (“APA”), depriving stakeholders of a meaningful opportunity to comment on the substance, scope, or cost of the obligations that may ultimately be imposed. If the TSA believes the new security requirements are warranted for part 108 operators, it must pursue them in a separate risk-based notice-and-comment rulemaking, supported by a complete cost-benefit analysis and rationale, and in compliance with the APA.

Whether the TSA has statutory authority to promulgate these proposed amendments is questionable, as the authorities cited in the preamble have been applied to date to all-cargo aircraft weighing in excess of 100,000 lbs. A fuller analysis of the TSA’s claimed authority is provided below in comments on part 1544, especially in light of recent Supreme Court decisions requiring stricter evidence of statutory authority to propose and impose regulatory requirements. Additionally, imposing the same or similar regulatory regimen to drones to be operated under part 108 (limited to 1,320 lbs. under proposed §108.805(b)) is a significant step that would necessitate a separate notice-and-comment process (which could take the form of a supplemental notice of proposed rulemaking) and a regulatory impact analysis. If TSA continues to seek to require STAs for operations personnel, it must do so in a separate rulemaking process, which should not in any event halt or delay the FAA’s final rule to advance safety and economic benefits.

## Section-by-section comments

### **Part 36 – Noise standards: Aircraft type and airworthiness certification**

**36.0 – Applicability; aircraft that do not conform to a type certificate.** There are no existing noise testing standards for drones, and part 36 does not contain clear criteria applicable to drones. Part 36 was adopted for crewed aircraft and operations. Pending adoption of part 36 requirements, and consistent with the FAA Reauthorization Act of 2024, the FAA should allow each manufacturer to develop their own means of compliance to meet FAA requirements, rather than being required to rely solely on industry consensus standards to develop procedures for compliance.

The FAA claims that drones frequently operate closer to noise sensitive areas, at lower altitudes, with “higher tempo” and a “disruptive” noise signature. 90 Fed. Reg. at 38314. The preamble does not include the FAA’s statement in the preamble to several rules of particular applicability that, “[i]n many cases, UA are small, electrically (battery) powered, and may include distributed propulsion systems. As a result, these aircraft may generate less noise than was contemplated when part 36 was promulgated.”

There is also no recognition in the preamble that legacy aircraft at takeoff and up to 5,000 or more feet AGL often drown out speakers on the ground as well as disrupt teaching and sleeping. The noise from a transport category aircraft or rotorcraft can last much longer than a drone that flies overhead. While drones have an “unconventional design,” FAA proposes to impose requirements based on weight, design, and means of propulsion. FAA also acknowledges that 49 U.S.C. §44715(b) required the FAA to consider economic reasonableness, technological practicability, and appropriateness for the aircraft. 90 Fed. Reg. at 38315.

In paragraph 909(f)(3) of the FAA Reauthorization Act, not referenced in the preamble, Congress required the FAA, not later than 18 months after enactment (November 2025), to develop and establish substantive criteria and standard metrics to determine whether to approve a drone pursuant to part 36, including the criteria and metrics related to the noise impacts of the drone. In amendments to part 36 in the proposed rule, FAA proposes that manufacturers can show compliance with FAA-approved consensus standards or FAA-determined requirements in the absence of such standards. FAA has imposed requirements for seven drone models in adopting a rule of particular applicability for each aircraft (one drone model in September 2022 and six other “essentially similar” models in July 2023). The Coalition supports this approach to date and urges the agency to use the experience it gained in developing these rules of particular applicability to develop requirements that will apply to various drone models. Pending the FAA’s adoption of part 36 requirements, the final rule should allow manufacturers to develop their own means of compliance.

The Coalition also points out that in paragraph 909(f)(1), Congress directed the FAA to waive the determination of compliance with part 36 for an applicant seeking type and airworthiness certifications, notwithstanding Section 44715, and this waiver is to continue until the FAA finalizes the noise certification requirements for drones in part 36. Further the FAA may not deny, withhold, or delay such certifications due to the absence of a noise certification basis, provided the

FAA has developed appropriate noise measurement procedures for drones and has received from the applicant the noise measurement results based on such procedures. The Coalition recognizes that FAA proposes to accept the airworthiness of a drone and thereby obviating type and airworthiness certification. The Coalition requests the FAA to explain in the preamble to the final rule how it intends to comply with the letter and spirit of Section 909.

Regarding the noise certification framework in proposed Subsection 36.0, the Coalition reads proposed §36.0(b)'s requirements as to noise limits and testing procedures to apply to such limits and testing procedures that may be in a consensus standard or an FAA adopted rule of particular applicability.

**36.3 – Compatibility with airworthiness requirements.** The proposed amendment would not add any substantive requirement other than to incorporate the airworthiness acceptance requirements. The Coalition supports this proposed amendment.

**36.1501 – Procedures, noise levels and other information.** The proposed amendment to Subsection (a) would require part 108 aircraft manufacturers to include the noise levels declared during airworthiness acceptance in the operating instructions. The Coalition supports this proposed amendment.

**36.1581 – Manuals, markings, placards.** This proposed new Subsection (h) would require certain information in the manual as set forth in proposed §108.720. The Coalition supports this proposed amendment.

### **Part 43 – Maintenance, preventive maintenance, rebuilding and alteration**

**43.1 – Proposed paragraph 41.1(b)(4)** would exclude part 108 operators from part 43 maintenance requirements. The Coalition supports confining maintenance requirements for part 108 operators and operations to part 108.

### **Part 45 – Identification and registration marking**

**45.1 – Applicability.** Currently, drones registered under part 48 (small unmanned aircraft) are not covered by part 45, and applying part 45 to part 108 operators is currently not needed given the utility of part 89 for identification purposes

**45.10 – Marking.** Please reference the Coalition's comments below on proposed amendments to §45.11 and §45.15.

**45.11 – Marking of products.** Proposed §45.11(i) would require the drone manufacturer to attach a fireproof identification plate to the exterior of the drone so that it is legible from the ground when the drone is not being operated and secured so that it is not likely to be defaced or removed during normal service or lost or destroyed by accident. This would be in addition to requirements for the drone to provide electronic identification of the more relevant operator information under part 89. Most drones that will be operating under part 108 are very light weight, are of small size, and are powered by high energy batteries. The Coalition is concerned that the weight of a fireproof plate

attached to the exterior of the drone may adversely affect the drone's weight and balance or its efficiency by limiting the weight of the drone's payload. Moreover, fireproof ID plates would be unlikely to withstand a battery fire. In the case of some small drones, a required fireproof ID plate could potentially be the most hazardous element of the aircraft in the event of a collision with a person. As such, the requirement for a fireproof ID plate would have a broad negative impact upon current and future drone operations and should not be applied to part 108 operations.

Also, §45.11(a) requires including the manufacturer's name, model design, and serial number. Given the limited utility of this provision and the cost of retrofitting previously manufactured (as well as in use) drones, the Coalition does not support applying the requirements under this provision to part 108 operators and recommends its removal.

**45.13 – Identification data.** Proposed paragraph (a)(8) would also require a drone operated under part 108 include the words "Part 108." Please see the comments to proposed §45.11 above with respect to the costs of retrofitting drones.

**45.29 – Size of marks.** The Coalition appreciates the FAA's recognition that the small size of most drones that will be operated under part 108 would not allow either a 12-inch marking or a 3-inch marking applicable to crewed aircraft. The Coalition is also concerned with the FAA's fallback position that the marking must be "as large as practicable" and "placed on the largest external surface." If this marking is required to be fireproof and impervious to defacement, loss, or destruction per §45.11, the largest external surface of a drone may not be made of a material that would support such a marking. This proposed provision is an example of a prescriptive rule that does not fit with many small drones as they are configured or with innovations in design and materials that happen in the life of the final rule..

#### **Part 48 – Registration and marking requirements for unmanned aircraft**

**48.1 – Applicability.** The Coalition opposes Subsection (c), which would require drones operating under part 108 to be registered under part 47. Shifting from the current status quo for small UAS of registering under part 48 to registration under part 47 would take a step back in terms of progress. Part 47, which broadly applies to aircraft of all sizes and purposes, is too cumbersome and ill-suited to the UAS industry, which is better served with a tailored registration regime through part 48. Section 48.1 should therefore be revised to include part 108 aircraft. The FAA should also transition to an online aircraft registry, at least for drones.

**48.110 – Application.** The Coalition supports proposed paragraph (a)(7) that would require a remote ID module to display its serial number.

#### **Part 89 – Remote identification of unmanned aircraft**

As stated above, the preamble to the proposed rule does not include any discussion of accepting network-based remote ID as an alternative means of compliance, as provided for in Sections 907 and 935(b)(5) of the FAA Reauthorization Act of 2024. The Coalition believes network-based remote ID would provide security and awareness benefits to enable the furnishing of identification data beyond visual line of sight from drones equipped with network remote ID.

**89.305 – Minimum message elements broadcast by standard remote identification unmanned aircraft.** This proposed amendment is to align the message elements requirements in this section with the message elements requirements in proposed §108.200. The Coalition supports this proposed amendment.

**89.505 – Serial numbers.** The Coalition supports the proposed requirement that the manufacturer of a standard remote ID drone and remote ID broadcast module must assign a serial number to the drone or module that complies with the ASTM/CTA-2063-A standard.

**89.511 – Production requirements for unmanned aircraft produced under an airworthiness acceptance under part 108.** The Coalition supports the proposed requirement that the manufacturer of a drone under a part 108 airworthiness acceptance must design the drone to meet the requirements of §89.310 in accordance with a means of compliance.

**89.515 -- Production requirements for unmanned aircraft without design approval or production approval under part 21 or airworthiness acceptance under part 108.** This proposed amendment is intended to conform to proposed new §89.511. The Coalition supports this proposed amendment.

#### **Part 91 – General operating and flight rules**

**91.1 – Applicability.** The Coalition supports proposed Subsection (g), which states that part 91 does not apply to any aircraft governed by part 108, except for §108.180 (operations in controlled airspace).

**91.113 – Right of way rules (except water).** The Coalition’s comments on this section are included in the comments on right-of-way provisions in part 108 (proposed §§108.195, 108.205, 108.820, and 108.825).

**91.225 – ADS-B Out equipment and use.** Although this section does not directly pertain to drones, the Coalition supports all requirements that include the electronic conspicuity of crewed aircraft. Proposed paragraph (f)(3) would exclude ADS-B Out-equipped aircraft operated “in accordance with proposed §108.195 and operated solely to meet the conspicuity requirements in 9§1.113(h)(2)” from the requirement to operate an aircraft equipped with ADS-B Out “in the transit mode at all times.” Please see the Coalition’s comments below on proposed §108.195.

#### **Part 107 – Small unmanned aircraft systems**

**107.1 – Applicability.** The Coalition supports the exclusion from part 107 in paragraph (b)(3) for operations under 49 U.S.C. §44807, part 91, BVLOS operations, and carriage of property or packages for compensation or hire.

**107.8 – Aviation Safety Reporting Program: Prohibition against use of reports for enforcement purposes.** The Coalition supports prohibiting the FAA to use ASRP information in any enforcement matter, except for accidents or criminal offenses. The FAA should also revise

Advisory Circular 00-58C (Voluntary Disclosure Reporting Program) to include part 107 operators.

**107.10 – Prohibition on interference with a remote pilot in command or visual observer.** The Coalition strongly supports this provision. Drone operations personnel should be protected from assaults, threats, or intimidation in the performance of their duties. The Coalition urges the FAA to broaden this prohibition to cover interference with the drone while in flight or on the ground.

**107.41 – Operation in certain airspace.** Per proposed §107.1(b)(3), this amendment provides that this section does not apply to BVLOS operations under part 108 (or 49 U.S.C. §44807). The Coalition supports this amendment.

**107.205 – Waivers.** The Coalition supports the FAA’s proposal to remove references to drone operating package delivery for compensation or hire from §§107.25, 107.31, and 107.41, as these operations will be governed by proposed part 108.

## **Part 108 – Operations of unmanned aircraft systems beyond visual line of sight**

### **Subpart A -- General**

**108.1 – Applicability.** The Coalition supports this provision as written.

**108.5 – Definitions.** The comments below address the definitions in proposed §108.105 where each definition first appears in a proposed provision in part 108.

The Coalition recommends the following terms should be defined in §108.5 in the final rule: *aerial survey* and *civic interest* (*package delivery* is defined in this proposed section); *operations supervisor* (*flight coordinator* and *operations personnel* are defined in this proposed section); *open air assembly* (the preamble’s statement that this term is to be applied on a “case-by-case basis” is unsatisfactory), *shielded area*, *operations area*, *automated data services*, and *simplified user interaction*. The Coalition notes in particular that the term “aerial survey” may both be too limiting and insufficiently descriptive. The term should include infrastructure monitoring, security operations, aerial work, photography, observation and search and rescue that does not constitute “civil interest.” The term “aerial commercial services” should replace “aerial survey.”

**108.10 – Reproduction or alteration.** The Coalition supports this proposed section, which is similar to §107.5, and which prohibits fraud and deceptive practices. In note 45 of the preamble, 90 Fed. Reg. at 38226, FAA states that a pending rulemaking proceeding is intended to promulgate a comprehensive prohibition on fraud and deceptive practices and when a final rule is adopted this proposed section will not be necessary.

**108.15 – Prohibition on interference with unmanned aircraft operations personnel.** The Coalition strongly supports this provision. Drone operations personnel should be protected from assaults, threats, or intimidation in the performance of their duties. The Coalition urges the FAA to broaden this prohibition to cover interference with unmanned aircraft whether in flight or on the ground.

**108.20 – Inspection, testing, and demonstration of compliance.** The Coalition supports this proposed section, which is similar to §107.7. The Coalition seeks confirmation that operational authorization is either a permit or a certificate.

**108.25 – Aviation Safety Reporting Program: Prohibition against use of reports for enforcement purposes.** The Coalition supports prohibiting the FAA to use ASRP information in any enforcement matter, except for accidents or criminal offenses.

**108.30 – Base of operations.** The Coalition opposes the requirement in proposed §108.30(d) that FAA authorization is needed before an operator conducts operations other than at its base of operations. Part 108 operators are expected to conduct operations in many locations across the United States. Air carrier operations specifications do not require the air carrier to get FAA authority to land or takeoff at each airport in the United States. Further, because part 108 operations will be highly automated, it is likely that flight may be initiated remotely from anywhere in the U.S. For these reasons, the final rule should be revised to refer to a “principal base of business,” which should satisfy the FAA’s need to have a single location for purposes of corporate (or operator) responsibility. Sites may be open or closed based on demand, but a principal place of business would ensure stability and continuity.

**108.35 – Operator identification.** The Coalition supports the prohibition in proposed §108.35(a) on using a doing business as (“d/b/a”) name unless it is included in the name registered with the FAA. The Coalition does not object to the requirement in proposed Subsection 108.35(b) that the operator’s name be displayed on the exterior of the drone, but requests the FAA be more specific in the final rule with respect to the meaning of “in a manner acceptable to the Administrator.” The preamble suggests that the operator may display a phone number or QR code but, considering the proposed amendments to part 45 that would require the display also of the manufacturer’s name, drone model, and serial number, the FAA should allow an operator the flexibility with how it displays its name. Specifically, we ask the FAA for clarification to ensure it accommodates lawful d/b/a usage and commercial branding practices. The FAA should confirm that operators may use registered d/b/a’s, provided the certificated entity remains clearly disclosed, and that promotional markings or co-branded aircraft liveries are permissible so long as the operator is properly identified. It should also provide guidance on what constitutes “a manner acceptable to the Administrator” to support predictable, consistent compliance.

**108.40 – Operator recordkeeping requirements.** The Coalition urges the FAA to evaluate whether the cumulative impact of the recordkeeping requirements in this section and the reporting requirements in proposed §108.45 outweighs the resources it would require from drone operators. To most effectively support American innovation, particularly for smaller operators, it is important to simplify the regulatory framework as much as possible and remove unnecessary compliance burdens.

**108.45 – Operator reporting requirements.** The Coalition objects to several proposed reporting requirements in this section. Paragraph 108.45(a)(2) does not indicate whether the data to be available to the manufacturer is aggregate data or per flight. In either case, it would impose a significant burden, unless reporting were limited to flights in which an incident occurred. The FAA

claims that this sharing of data is to ensure continued operational support for the operator, however, if that is the case, then the sharing of data must be done in response to a safety incident or through FAA's prompting. As proposed, this requirement raises confidentiality concerns, especially when the operator and the manufacturer are not the same entity.

The FAA claims at page 38229 that these data collection systems are already voluntarily implemented by industry to analyze flight data to aid in the identification of safety issues with the design of the drone, yet the way this proposed section is drafted it is not tailored to sharing information in response to safety incidents or anomalies.

The Coalition also objects to the scope of the security incident reporting provision in §108.45(e) and 96-hour reporting deadline in §108.45(h)(5). It is not realistic, logistically feasible, or risk-proportionate to regard “unauthorized access to the operator facilities, aircraft, loading areas, hazmat or goods to be transported” as an incident to be reported. The Coalition recommends adding a qualifier at the end of provision §108.45(h)(3) stating “that could have an effect on safety.” The portion of security occurrence reporting pertaining to access to networks, devices or data at the very least should be scoped solely to impact on the security of the operation, if not also removed. Furthermore, proposed §108.45(e)(3) may be interpreted as imposing overly broad and burdensome cybersecurity reporting requirements on drone operators and should be revised to limit reporting to only those incidents that directly affect drone operations.

## **Subpart B – Operating rules**

**108.100 – General.** The Coalition supports the proposed prohibition on advertising that an operator has authority when it does not.

**108.105 – Unmanned aircraft.** The Coalition supports these three general requirements that (a), the drone and its associated elements must be in condition for safe operation; (b), the drone must have received an airworthiness acceptance under subparts G and H; and (c), the drone must meet the equipage requirements of subpart H. In addition, aircraft that have received a Section 44807 exemption under the CMD process should be allowed to operate under part 108.

**108.110 – Unmanned aircraft lighting.** The Coalition supports the lighting requirements in this proposed section with respect to an anti-collision lighting system that complies with proposed §108.830 and with respect to position lights per the requirements of §108.835, to be used during any night operations. The Coalition supports the flexibility in proposed subsection (c) that would allow the flight coordinator to reduce the intensity of, or turn off the lighting, if the flight coordinator determines that, because of operating conditions, it would be in the interest of safety to do so.

**108.115 – Registration.** This provision proposes to prohibit an operation under part 108 unless the drone is registered under part 47. Consistent with the Coalition’s recommendation to maintain drone registration under part 48 (while moving to an electronic system), the Coalition recommends replacing “part 47” with “part 48.”

**108.120 – General operating requirements.** The Coalition supports these four general requirements but recommends targeted revisions to enhance regulatory clarity and ensure alignment with scalable, certificate-based drone operations.

Proposed §108.120(a) appears to duplicate proposed §108.105(a)’s requirement that aircraft be in a condition for safe operation. We recommend consolidating or cross-referencing the two provisions to establish a unified and consistently applied “airworthy condition” standard.

The Coalition also supports the use of manufacturer’s instructions under proposed §108.120(b) and (c), but requests that the FAA clarify that operator-developed procedures may also be used (particularly where the operator is also the manufacturer) when accepted by the Administrator. This flexibility reflects the structure of vertically integrated drone manufacturers and operators and supports innovation without compromising safety.

Proposed §108.120(d) designates the operations supervisor as the final authority for flight safety and compliance. However, it does not address the optional role of flight coordinators, who, in many drone concepts of operations, are responsible for real-time go/no-go decisions and flight oversight. We request clarification on whether, and under what conditions, such authority may be delegated to flight coordinators, consistent with FAA precedents for role-based delegation in certificate-based systems.

**108.125 – Careless or reckless operations.** The Coalition supports this provision, as it is consistent with §91.13 and §107.23. However, we request the FAA to confirm that proposed §108.125(b) would not prohibit package drops when conducted safely in accordance with an operator’s concept of operations, as is the case with some operators’ concept of operations that involve safe, controlled drops.

**108.130 – Manuals and instructions.** This proposed section would require that all manuals and other documents be accessible to all operations personnel insofar as the information in the manual or other document pertains to their duties and responsibilities. The Coalition supports this provision.

**108.135 – Company operations manual.** The Coalition supports the required contents in proposed §108.135.

**108.140 – Aircraft performance.** Proposed Subsection (a) would require a drone not to be flown in excess of the speed limitation in the manufacturer’s instruction, unless necessary for safety purposes. The Coalition supports this subsection. Proposed Subsection (b) would require the drone to be operated at a weight more than the weight limit specified in the permit or certificate. The Coalition supports this subsection.

**108.145 – Weather conditions.** The Coalition supports the proposed requirement that operations must not be conducted in weather conditions, or with frost, ice, or snow adhering to the drone prior to takeoff, other than as provided in the manufacturer’s operating instructions.

**108.150 – Operating location.** Proposed §108.150(a) provides that operations must be conducted from locations that are pre-designated and access-controlled and ensure any persons who are not directly participating in the operation are safely segregated from flight operations. Subsection (a) should be revised to be limited to “locations in the United States or territories of the United States” as part 108 is limited to operations in the United States, as the FAA states in the preamble, 90 Fed. Reg. at 38324. The Coalition also seeks confirmation that the operator’s “pre-designation” does not require notice to or approval of the FAA, as this would be highly burdensome as well as impractical. Please see also the Coalition’s comments to proposed §108.165.

The Coalition notes that some individuals who are not directly participating in the operation may nonetheless be employees or guests of the operator. The Coalition seeks confirmation that “safely segregated” does not mean that such employees or guests of the operator cannot be in the same room in which a flight initiated or conducted. The Coalition supports proposed §108.150(c), which requires an operator to develop and implement physical security policies and processes to prevent unauthorized access to the operation’s facilities and protect other controlled access areas. The Coalition asks that “access-controlled” also be interpreted flexibly to allow for safety-based controls tailored to the scale and nature of the operation, including signage, fencing, electronic surveillance, and procedural safeguards.

**108.155 – Unmanned aircraft tracking.** The Coalition supports this proposed section, which would require the operator to have access to the drone’s location and altitude throughout the drone’s flight.

**108.160 – ADS-B Out and transponder use.** The Coalition supports the proposed prohibition on the use of ADS-B Out or a transponder in transmit mode, for the reasons stated in the preamble.

**108.165 – Area of operations.** The Coalition does not support the requirement in proposed §108.165(a) that the operator obtain advance approval of the FAA for the area of intended operations. In consideration of the multiple areas of operations for many drone operators, requiring advance approval is impractical, unnecessarily constraining, creates unnecessary distraction and uncertainty during planning, and is not an effective use of FAA resources. Further, we do not know why the FAA needs this information and what it intends to do with it, nor do we envision how the FAA would justify creating such an automated tool and/or staffing such a new role in sufficiently responsive manner.

Proposed §108.165(b) must be revised to reflect more advanced capabilities. While the designation of alternate landing areas is important, as the FAA is aware some operators use onboard perception systems to identify safe landing areas in real time. This technology has been successfully evaluated and approved for use by FAA. To support safety and to avoid moving backwards, the final rule must explicitly permit real-time alternate site identification through onboard technology as a valid compliance path.

Regarding loading areas in proposed §108.165(c), proposing to restrict access only to persons participating in the drone operation, is logistically unrealistic and unnecessary. This provision is disproportionate to the risk it seeks to address, and the business impact of this directive would far exceed any perceived threat. Proposed §108.165(c)(1)’s requirement to limit access to “persons

participating in the operation” is too limited, as FAA has considered this term to include only those individuals that can influence the flight itself. Operators need others who are aware of the operations but are not directly involved in the flight. Several Coalition members make use of loading areas that have no infrastructure and where the drone does not land for loading. Such low impact areas should not have an additional burden of installing infrastructure for access controls that would render them non-viable for many small businesses.

**108.170 – Preflight requirements.** The Coalition supports this proposed section, with two exceptions. Subsection (a) requires the operator to determine that the flight may be conducted under current weather conditions, in accordance with any limits in the manufacturer's specifications. But this subsection also requires the operator's determination be “in a manner acceptable to the Administrator.” The FAA explains in the preamble that is “not practical or appropriate for most UA operations” to require operators to use an FAA-approved weather source, so FAA is proposing to allow operators to obtain weather information in other ways, such as the use of weather services provided under an ADSP construct under proposed part 146, “or through other sources found acceptable to the Administrator.” 90 Fed. Reg. at 38235. The Coalition requests the FAA provide more specific guidance as to “acceptable” sources, so that operators know well in advance what sources of weather will meet this requirement.

With respect to an operator ensuring the density of the population to be overflown in §108.870 (c), please see the Coalition's comments on the population density provisions in the proposed rule.

The Coalition supports §108.870(h), which uses a performance standard in place of a specified amount of battery power in the event the intended destination is not available.

**108.175 – Operating restrictions.** The Coalition supports the flexibility around the 400 feet AGL limit for part 108 operations provided in proposed §108.175(a). However, proposed §108.175(a)(3), which allows an operation to fly up to 450 ft. AGL to avoid a collision is more restrictive than in some grants of exemption, which allow an operation to fly up to 500 ft. AGL. This proposed section should be harmonized with proposed §108.215(b), which would allow a drone to deviate from a rule to respond immediately to an in-flight emergency, without a limit on the altitude of the drone's response.

**108.180 – Operations in controlled airspace.** FAA proposes in §108.180(a) to enable routine BVLOS UAS operations in certain areas within controlled airspace at or below 400 feet AGL when participating in strategic deconfliction and conformance monitoring. The Coalition opposes a final rule that would require conformance monitoring in all forms of controlled airspace and believes the FAA should develop risk-based criteria for applying this requirement. For example, in areas of low ground and/or air risk (e.g., where there are few BVLOS operations), such services should not be required as financial burden is not justified by a safety benefit. Nonetheless, as proposed §§108.180(c) and (d), airspace authorization would be required only in those portions of Class B, Class C, or Class D airspace, or within the lateral boundaries of the surface area of Class E airspace designated for an airport, that FAA specifically designates as requiring authorization. The Coalition supports the proposal that operators would be able to access the remaining portions of controlled airspace without an airspace authorization. This is a key benefit of a part 108 rule that obviates case-by-case exemptions or other approvals.

FAA proposes additional restrictions on operations in Class B and C airspace, proposing in §108.180(b) that the drone must have the capability to “detect and avoid” non-cooperative aircraft (not electronically conspicuous), “unless otherwise authorized by the Administrator.” The Coalition does not support this requirement. Classes B and C are the airspaces with the highest concentration of ADS-B-Out equipped aircraft. For Surface Class B and C below 500’ AGL, the risk of non-participating aircraft is reduced even further by the provisions of §91.225(d)(1) and §91.119(b). Of those that are authorized to operate in that substrate of airspace, the helicopters are equipped with ADS-B by rule, and powered parachutes/weight shift controlled aircraft are extremely unlikely to operate near a major metropolitan airport. Package delivery aircraft have been operating in the Class B Mode C Veil for years without a major incident using a combination of proven procedural mitigations and ADS-B DAA. Furthermore, Wing operated with visual observers almost every day for two years in the DFW area and never witnessed a non-cooperative aircraft below 500’ AGL in their operating areas. The FAA’s proposal for a non-cooperative DAA system in this strata is therefore both unsupported by safety data and unjustified by the residual collision risk when appropriate mitigations are in place.

In addition, this provision implies that the FAA is allowing non-electronic conspicuous crewed aircraft to enter such airspace. While the Coalition understands the need to minimize collision risk with non-equipped crewed aircraft, allowing crewed aircraft that are not electronically conspicuous to operate in controlled airspace, maintains a significant loophole that compromises safety in the NAS for manned and unmanned alike. Instead, as stated elsewhere, the Coalition recommends the FAA require all crewed aircraft in controlled airspace to be electronically conspicuous. Class B and C airspace is characterized as airspace surrounding the busiest airports with higher volumes of traffic and where electronic conspicuity is most effective for safety benefits, already required, and therefore has the highest rate of equipped crewed air traffic. The lack of electronic conspicuity on crewed aircraft generally in Class B and C airspace continues to pose an unacceptable and unnecessary new risk to other aircraft including to passenger aircraft. The January 29 midair collision above the Potomac River was likely in part the result of the military aircraft not being electronically conspicuous, having turned off the aircraft’s ADS-B Out equipment as a matter of practice and policy.

In the Coalition’s view, which we expect to be shared by the Comptroller General, the safety benefits of such a requirement will clearly outweigh the equipage and implementation costs, particularly given the limited number of aircraft that are not already electronically conspicuous.

Further, §108.180(c) provides that an operator must comply with any FAA-designated restricted airspace under §108.180(d). The Coalition supports this provision. The Coalition requests the FAA designate airspace in JO 7400 [XX] based on whether operators are operating under part 107 or 108 and that restrictions be reduced based on performance. These areas should be no smaller than the current UASFM and expanded given the increased airworthiness and performance of part 108 operations.

**108.185 – Operations over people.** This section inappropriately uses ground population as the fundamental data point for stratifying air risk and guidepost for shaping policy on addressing air risk. For Category 5 operations, the FAA inappropriately proposes ground population as a

correlator for air risk. Similarly, the proposed prohibition in §108.185(b) on UAS operations over open-air assemblies without a waiver is overly restrictive and as written could include locations such as picnic areas that have been used safely for delivery or other purposes.

If the FAA retains its reliance on evaluating ground-risk via population density, the FAA must define cell size, which is discussed in subsection (c) numerous times. As written, the definition of “cell” is not specific, meaning operators could use 3 arc seconds or 30 arc seconds. We request that the FAA specify the required use of ‘LandScan 3 arc second cells – or equivalent’. LandScan USA has both day and night data sets. The Coalition recommends that the FAA be more precise in how it would use this tool.

The Coalition does not support the requirement for drones to detect and avoid non-cooperative aircraft in category 5 airspace. It is not economically feasible, and the FAA does not offer collision data to support this approach, as there is no such data available. In addition, from the perspective of crewed aircraft, it also is not realistic or practical to expect such aircraft to have constant awareness and knowledge of which category of population density they are currently overflying, which frequently shifts, to determine their right-of-way status. Instead, the FAA should (1) allow updated right-of-way changes of UAS avoiding all equipped aircraft in all airspace regardless of the airspace class or population density being overflown; (2) require all crewed aircraft operating below 500 feet AGL to be conspicuous through ADS-B Out or low-cost EC as FAA proposes; and (3) require drones to avoid *all* conspicuous crewed aircraft. This policy would increase overall safety of the NAS by increasing visibility of crewed aircraft and cooperation between and among crewed and uncrewed traffic.

With respect to operating requirements for proposed Category 2 (and higher categories), proposed §108.185(d)(2) would prohibit the use of radio frequency devices operating under 47 CFR parts 5 and 15 in C2 systems. In the preamble at page 38241 the FAA argues that these devices, which share spectrum equally among users, are susceptible to harmful interference that could prevent the drone from maintaining its flight path or performing avoidance maneuvers and believes the likelihood of such interference increases with population density, as many consumer electronics use these frequencies. This proposal does not reflect the current state of technology and practice. Many drone models currently operate on Industrial, Scientific, and Medical (“ISM”) radio bands. The use of a drone dedicated spectrum is not yet implemented. The proposed prohibition would lead to the discontinuation of many widely used systems that have a proven safety record. Instead of a categorical ban, the final rule should permit the use of ISM bands when additional mitigations are implemented, such as confirmation of adequate link performance via site survey, using multiple links (a combination of licensed cellular and point-to-point ISM), or incorporating a high level of onboard automation for the drone, like automated collision avoidance maneuvers.

**108.190 – Use of strategic deconfliction and conformance monitoring.** With regards to strategic deconfliction in proposed §108.190(c), this is a pre-flight service that coordinates flight-plans, identifies conflicts, and then requires the operator to resolve any potential drone-to-drone conflict prior to take-off. Given the proven success of this means of coordination, as demonstrated through Shared Airspace through and recognized by the FAA through issuing Letters of Acceptance to several of our members, we support this methodology being employed to facilitate effective deconfliction.

The adjustment to the regulatory text should include:

**108.190. Use of strategie interoperable deconfliction and conformance monitoring.**

(a) Unless otherwise authorized by the Administrator, ~~the following operations in Category 3 or higher operating category pursuant to §108.185~~ must be conducted with strategie interoperable deconfliction.

~~(1) Operations in controlled airspace pursuant to §108.180(a)(2)~~

~~(2) Operations in a Category 3 or higher operating category pursuant to §108.185.~~

(b) Unless otherwise authorized by the Administrator, operations in controlled airspace pursuant to §108.180(a)(2) must be conducted with conformance monitoring.

(c) Unless otherwise authorized by the Administrator, an interoperable strategie deconfliction capability must meet the following requirements:

(1) Perform strategic conflict detection and resolution prior to takeoff, and in relation to other unmanned aircraft operations that are discoverable at that time; and

(2) ~~Maintain a target average conformance to all activated operational intents~~ Ensure ongoing effectiveness and efficiency of deconfliction approach.

(d) A conformance monitoring capability must meet the following requirements: communicate airspace non-conformance information to FAA via a means acceptable to the Administrator.

~~(1) Provide immediate alerts to operations personnel when the unmanned aircraft exits its operational intent, consistent with criteria or parameters established prior to takeoff; and~~

~~(2) Communicate information to other airspace users and FAA about the alert in paragraph (d)(1) of this section via a means acceptable to the Administrator.~~

(e) Unless otherwise authorized by the Administrator, the requirements in paragraphs (a) and (b) must be achieved through operational use of an authorized service provided by an appropriately certificated automated data service provider under part 146 of this chapter.

**108.195 – Operations near aircraft: low altitude right-of-way rules.** The definitions the FAA proposes for part 108 drone operations largely reflect the industry's diverse composition, needs, and use cases. For instance, updating the terminology from “well clear” to “safe distance,” as defined in proposed §108.5, is an immense improvement that enables drone operators to tailor their detect-and-avoid solutions to unique operating environments. The Coalition urges the FAA to provide examples of what the FAA would consider “a method acceptable to the Administrator” to determine a safe distance.

The Coalition opposes a final rule that would establish fixed values for separation criteria related to drone-to-drone operations and drone-to-crewed operations.

The proposed rule states that drones must yield the right-of-way to crewed aircraft during departure and arrival phases of flight. The Coalition requests some clarification of what constitutes “departing or arriving” some aircraft flight paths, such as manned balloons, may allow arrival procedures to take place at very low altitudes for prolonged periods of time.

Through updating its right-of-way framework, including drones in shielded airspace (per proposed §108.205), the proposed rule provides the foundation needed to enable American BVLOS

operations at scale. In addition to this fundamental action, the FAA has recognized and supported the drone industry's effective automation by shifting away from pilot-related terms, including moving away from prescribing ratios for pilots to flight operations sites, and establishing a flight coordinator role in lieu of a pilot in command, with this optional position being the only section that provides such flight operations locations ratios.

Another beneficial precedent established in subpart B is emphasizing the importance of enabling portable ADS-B Out equipage for crewed aircraft, including general aviation, while still preserving the current protections for efficient airspace operations and avoiding spectrum congestion by continuing to prohibit drone equipage with ADS-B Out in proposed §108.160. This balanced and commonsense stance provides an effective means for facilitating situational awareness in the airspace and creating a more cooperative airspace paradigm.

**108.200 – Operational status broadcast.** Proposed §108.200(a)(4), which would alter the range of broadcast remote ID, does not provide a clear justification of the need for, or effectively address, the underlying stated objective of extending the range of situational awareness. Broadcast remote ID's suite of technological offerings are not well suited to facilitate an increased range of electronic conspicuity. If the FAA decides to require this expanded range, network remote ID would be much better positioned to provide a wider range of situational awareness, in addition to being able to tailor the accessibility of the transmitted information to different users while still maintaining the needed level of privacy. As noted above, Congress directed the FAA to consider network remote ID as an alternative means of compliance in the 2024 Reauthorization Act.

**108.205 – Operation in shielded areas.** The FAA proposes defining shielded areas as areas within 50 feet of certain infrastructure, to include power lines and substations, railroads, bridges, and pipelines, when permission from the facility or infrastructure owner is obtained. First, 50 feet is too short of a distance, as the FAA has commonly granted waivers for inspection operations that extend beyond 200 feet from critical infrastructure. Second, the Coalition opposes the proposed requirement to obtain permission from the facility or infrastructure owner, which would impose significant administrative costs and burdens with little benefit. In many circumstances, it may be difficult to determine the facility owner, and even if that is known, it may be difficult to identify an individual with authority to grant such permission. Furthermore, facility owners may not want the added cost and burden of dealing with such requests.

**108.210 – Operation of multiple unmanned aircraft.** The Coalition is very concerned that this proposed section limits a flight coordinator's operation to a single drone. While the proposed rule would allow the operator to operate multiple drones at one time, with FAA approval on a "case-by-case basis," many drone operators have received approval from the FAA in waivers under part 107 and exemptions under Section 44807, such as part 135 package delivery operators and are staffed for and operating safely today at ratios higher than 1:1. Such operators have made significant investment and are operating safely today; it would be a perverse result if the final rule were to create uncertainty, delay in operational approvals, or even appear to forbid these operators from continuing to operate at their currently authorized higher than 1:1 ratios. The Coalition recommends that the final rule allows a flight coordinator to continue to operate multiple drones per the terms of the operator's part 107 waiver or Section 44807 exemption without requiring any new FAA authorization.

**108.215 – Emergency conditions.** The Coalition supports this proposed section, which provides flexibility during emergencies, such as in-flight emergencies under proposed subsection (b). The Coalition is concerned, however, with the requirement in proposed subsection (a) that an operator must request deviation authority from FAA “from any current authorizations or limitations for the protection of life or property if those conditions necessitate the expeditious conduct of those operations.” The Coalition seeks clarification of whether deviation authority can be provided expeditiously to meet the emergency.

**108.220 – Unmanned aircraft flight restrictions.** This proposed section would prohibit an operator from conducting a flight in a restricted area except as specified in part 74. This section is a placeholder for the Section 2209 final rule, as that rulemaking is expected to be completed contemporaneously with a part 108 final rule.

### **Subpart C – Operations personnel**

**108.300 – General.** The Coalition supports the non-exhaustive list of roles that fit within the definition of *operations personnel* in proposed §108.5 as long as these roles are representative and not prescriptive with the key qualifier being “required for safe operations”. Roles that may perform some of the functions listed but have no impact on safe operations should not be subject to the *operations personnel* requirements. The Coalition also supports the proposed subsection (b) allowing an individual to serve in multiple roles so long as doing so does not affect the safety of operations.

**108.305 – Operations supervisor.** The Coalition supports the concept of operations supervisor and the proposal to allow for more than one per operator. The Coalition supports the requirements to serve as an operations supervisor and that FAA certification or approval will not be required. The Coalition recommends that the term *operations supervisor* be included in proposed §108.5 (definitions), as *flight coordinator* and *operations personnel* are defined in that section.

**108.310 – Flight coordinator.** The Coalition supports the definition of *flight coordinator* in proposed §108.5. Replacing the pilot-in-command position with a new optional flight coordinator role is more reflective of organizational operating structures and allows for greater flexibility for the diverse use cases and concept of operations within the UAS industry. The Coalition supports manufacturer’s operating instructions to require the designation of a flight coordinator, as suggested in proposed Subsection (a) and also proposed Subsection (c), which would allow a flight coordinator to hand off responsibility to another flight coordinator during flight, provided the handoff is done safely. We also support the requirements for a flight coordinator in proposed Subsection (d). Operations supervisors should have the authority to assign crew above minimums specified in manufacturer’s operating instructions.

**108.315 – Personnel knowledge and training.** The Coalition supports this proposed section, which explicitly tailors the knowledge and training requirements to the particular responsibilities of each individual serving in one or more operations personnel roles and does not require any FAA certification or approval.

**108.320 – Medical condition.** The Coalition supports this proposed section, which provides a performance standard in place of a medical certificate and rating. The performance standard applies both to operations personnel (“no person”) and the operator: No person may serve or attempt to serve, and no operator may allow or continue to allow a person to serve, in an operations personnel position if the person or the operator knows or has reason to know the person has a physical or mental condition that would interfere with the safe operation of the drone or make the person unable to perform safely the duties required of their position.

**108.325 – Alcohol or drugs.** Proposed subsection (a) adapts the alcohol and drug prohibitions and limitations in §91.17, which apply only to “crewmembers,” to all operations personnel. The Coalition does not believe there is any reason to apply these prohibitions and limitations to a broader class of individuals than legacy aircraft crewmembers. The Coalition recognizes that the concept of crewmember does not directly translate to drone operations under part 108. A rough equivalent would be to apply these prohibitions only to flight coordinators and other individuals conducting the flight. The Coalition recommends the applicability of this proposed section be coterminous with legacy aviation operations under parts 91, 121, or 135.

The Coalition supports proposed subsection (b) requiring a person to submit to a law enforcement request for testing and proposed subsection (c) requiring a person to submit the results of a test to the FAA where there is a reasonable basis to believe the person has violated subsection (a), so-called reasonable suspicion testing. The Coalition supports limiting testing to the bases in this proposed section, as there is no showing to support pre-employment, periodic, or random testing.

**108.330 – Duty and rest.** The Coalition opposes this proposed section, which would impose prescriptive requirements that appear adapted from the rules for air carrier “crewmembers” in parts 117, 121, subparts Q, R, and S, and part 135, subpart F, on *all* part 108 “operations personnel.” We do not believe there is any demonstrated need to impose duty and rest requirements beyond those individuals serving as a flight coordinator or the part 108 equivalent of a pilot in command. Even as to these two categories of operations personnel, their role in conducting highly automated part 108 flights is not comparable with the responsibilities of crew members in operations subject to FAA flight and duty time rules, especially those with passengers on board but also all-cargo operations. Moreover, the time zone changes in combination with varying flight and duty time that can disrupt circadian rhythms transit times to duty location that characterize crewed aviation are not typically part of drone operations. As for those roles under part 108, the Coalition recommends the final rule provide a performance standard consistent with proposed §108.320. The Coalition suggests the following text:

No person may serve or attempt to serve, and no operator may allow or continue to allow a person to serve, in the position of flight coordinator or other person in charge of operating the flight if the person or the operator knows or has reason to know the person has not had an adequate amount of sleep or rest such that the individual’s fatigue would interfere with the safe operation of the drone or make the person unable to perform safely the duties required of their position.

As for other operations personnel, FAA rules currently cover flight instructors (Subsection 61.195(a) limits a flight instructor to eight hours within a 24-hour period), maintenance and

preventive maintenance personnel (Section 121.377 requires that maintenance and preventive maintenance personnel must have 24 consecutive hours of rest during any seven consecutive days), and aircraft dispatchers (Section 121.465 limits an aircraft dispatcher to ten hours within a 24-hour period and requires 24 consecutive hours of rest within any seven consecutive days). The Coalition does not believe there is a need for these requirements to apply to part 108 operations personnel who perform similar functions, given the highly-automated nature of part 108 flights.

If the FAA believes these other operations personnel should be covered, we urge the recommended performance standard text above be expanded to include those individuals performing maintenance or alterations, providing flight instruction, or aircraft dispatch. Also, if the FAA maintains a prescriptive duty and rest provision in the final rule, the Coalition recommends that the maximum hours of duty per week be increased from 50 to 60 hours.

**108.335 – Security threat assessment for certain personnel.** As drafted, this proposed section would require all “covered persons” to undergo a security threat assessment. As more fully explained in comments on proposed amendments to 49 C.F.R. parts 1540 and 1544, the Coalition questions whether the TSA has the authority to insist the FAA to demand these requirements. If the FAA decides to include a security threat assessment requirement in the final rule, the Coalition urges the FAA to limit the STA requirement to operations supervisors and only those with access to the ability to navigate the aircraft differently from its preprogrammed route. As proposed, “covered persons” would include any individual “(3) with unescorted access to the aircraft” and “(4) with unescorted access to the cargo loaded for transport on the aircraft.” Neither the preamble nor the Regulatory Impact Analysis provides an estimate of how many individuals would be “covered persons” under proposed §108.335. As drafted, countless individuals, both associated with the operating personnel and others completely unrelated, could be subject to this requirement (including shoppers at retail locations). The number could be tens of thousands of individuals or more, including employees of businesses that engage a drone operator to conduct package delivery for that business.

The Regulatory Impact Analysis does not support this proposed requirement. It does address the fees for an individual that undergoes a Level 3 initial Security Threat Assessment (“STA”) (criminal history background check, immigration status, and intelligence-related databases and watchlists) (\$87), a renewal (in-person \$76 and online \$51), and a comparability determination fee (not explained in the preamble) of \$30. (The preamble refers to TSA fee regulations at 49 C.F.R. part 1572, subpart E, but that subpart does not contain any fee information.) But there is no estimate of the number of individuals annually who would have to undergo this initial process or renewal, no aggregation of costs in the Regulatory Impact Analysis, and no consideration of the delay in the hiring process and paperwork burden for employer and employee, as well as the agency. These omissions alone mean the Regulatory Impact Analysis is inadequate at least with respect to the security threat assessment requirements in this proposed section.

Indeed, the astronomical cost resulting from the expansive and excessive scope of the TSA’s proposed security requirements for personnel poses the risk of offsetting all of the benefits to the drone industry in this proposed rule. Mandating an STA for all individuals who have unescorted access to the aircraft or the cargo loaded for transport would be devastating to the industry. In addition to creating a quagmire of logistical and implementation impediments, this requirement is

not proportionate to or necessitated in any way by the lower security risk profile of UAS operations. As such, the cost burden and impact to American UAS operations would overwhelmingly outweigh any possible envisioned security or safety benefit.

This disproportionate and unnecessary cost would be devastating to drone delivery operators, putting the industry at an unfair competitive disadvantage to ground delivery, which is not subject to any of these requirements despite having a similar business model. Moreover, these stringent requirements would very likely be out of reach for rural workforces, which would hinder the ability to serve a wider variety of communities. Finally, such regulatory burdens are wholly inconsistent with the Administration's goals of fostering enabling regulations while reining in unnecessary and unjustified regulatory burdens without meaningful and proven public benefit.

Given the questionable statutory authority cited to impose such requirements, recent Supreme Court precedent limiting agency authority to broadly interpret their regulatory authority, and as stated in the general comments section and discussed further in comments on proposed amendments to 49 C.F.R. parts 1540 and 1544, the Coalition recommends this section be removed from this proposed rule and be subject to a separate notice-and-comment proceeding, which could take the form of a supplemental notice of proposed rulemaking ("SNPRM"), but only if supported by a regulatory impact analysis. Such rulemaking process must not halt or delay the FAA's promulgation of a final part 108 rule.

#### **Subpart D – Permitted operations**

**108.400 – Operations under a permit.** The Coalition supports the list of categories of operations in §108.400(a). Subsection (b) can be read to require all operators, including certificated operators, to comply with the permitting requirements in this subpart. Subsection (b) should be revised to read:

Operators ~~issued must conduct operations under~~ an operating permit must comply in compliance with the requirements of this part and in accordance with any authorizations and limitations associated with that permit.

Subsection (f) would limit operators with a permit to those designated types of operations set forth by the manufacturer, as would be required under proposed §108.720. There will be many drones manufactured before the effective date of the final rule that may not include such designations. The Coalition recommends this subsection be revised to require the operator to be limited to any manufacturer designated type or types of operations, if such limitation is included in the manufacturer's operating instructions.

For package delivery, the FAA should adopt a certificate-only framework for all routine operations, while allowing a narrowly defined permit pathway limited to bona fide demonstrations and to emergency-relief deliveries supporting disasters and humanitarian crises. Any such permits must be strictly confined in scope and duration to the specific demonstration or emergency, ensuring they cannot be misused as a substitute for certification to engage in commercial package deliveries. Certificated operators, in turn, should be able to conduct both demonstrations and emergency missions under their existing certificates without seeking a separate permit. This

framework preserves the integrity of the certification standard while providing the flexibility needed to support innovation and sustain relief for the full duration of recovery.

**108.405 – Applications for operating permits.** The Coalition believes that an operator permit should allow the operator to conduct more than one type of operation, as the FAA proposes to authorize for operations under a certificate under subpart E. For example, a drone could be used interchangeably for both aerial survey and civic interest operations. The Coalition does not believe there is any reason to treat permitted and certificated operations differently with respect to this issue. Therefore, §108.405(b)(4) should read “the intended type or types of operations.”

Per the Coalition’s comments on proposed §108.165, we believe that an operation may conduct operations in any area of the country. Proposed §108.405(b)(5) should read “the intended area(s) of operations at the time of the application.”

The Coalition strongly supports the FAA’s determination that applying the U.S. citizenship requirement to permitted package delivery operations may not be necessary in all circumstances given the anticipated smaller scope of these operations, 90 Fed. Reg. at 38265, and that applicants for a permit are not required to demonstrate their U.S. citizenship. The Coalition requests the FAA clarify what circumstances will and will not require a demonstration of U.S. citizenship. The FAA also notes that:

In limited instances, operators whose operations are wholly within the geographic limits of a single State, transporting no more than a *de minimis* volume of passengers or property moving as part of a continuous journey to or from a point outside the State, may be considered as not engaging in air transportation and thus not requiring economic authority.

90 Fed. Reg. at 38266. While FAA adds that such determinations are case-specific and urges applicants to consult with the Office of the Secretary of Transportation (“OST”), the Coalition supports the FAA’s recognition that the U.S. citizenship requirement need not be given an unnecessarily broad construction.

The Coalition notes the anomaly of how U.S. law and policy consider foreign ownership and control. *Foreign-registered aircraft* may be operated in the United States if not engaged in air transportation (common carriage involving the transportation passengers, property, or mail). There is no prohibition on the operation of *foreign-manufactured aircraft* in U.S. law and no such prohibition is included in proposed part 108. Proposed part 146 would allow *foreign owned and/or controlled automated data service providers* to conduct certificated operations in the U.S.

But U.S. law still includes a prohibition on the conduct of interstate air transportation by *foreign-owned or controlled air carriers*. The historic reasons for such ownership and control provisions as to legacy aircraft are based on national security and labor concerns. The United States may need to rely on air carriers to provide lift for military personnel and material during war or conflict and has established the Civil Reserve Air Fleet (“CRAF”) program, and foreign air carriers may be reluctant to participate in a U.S. military operation. Drones operating under part 108 will not be capable of transporting personnel or military equipment, so there is no national security imperative. The other cited concern is that foreign air carriers operating in the United States would employ

foreign crews and therefore depress the labor market. As the FAA recognizes in subpart C by eschewing pilot certification because of the highly automated nature of operations to be conducted under part 108, there no risk that the U.S. labor market for operations personnel under part 108 would be depressed by non-citizens. Of course, there is no proposed requirement that any of the operations personnel must be a citizen of the United States in subpart C, as there is no such requirement in the FAA regulations.

In the preamble to part 146, the FAA states:

As a global leader in aviation safety and efficiency, FAA is also a strong proponent of international harmonization. In §146.115(e), FAA proposes to provide an avenue for qualifying foreign-based certificated service providers to operate in the United States.

90 Fed. Reg. at 38329. Indeed, “FAA expects foreign U-Space and UTM companies to seek reciprocal certification in the U.S.” 90 Fed. Reg. at 38327.

Moreover, FAA also recognizes that U.S. drone operators have conducted package delivery and other operations in other countries.

Foreign commercial aviation authorities (CAAs) enabling BVLOS operations through their own regulatory frameworks have fostered attractive environments for U.S. companies to expand their operations abroad. Today, U.S. companies are performing BVLOS operations abroad including in Italy, the U.K., Rwanda, and Japan.

90 Fed. Reg. at 38221. American drone companies are operating in the European Union notwithstanding that EU law on foreign ownership and control, as was also adopted to apply to legacy aircraft operations, is essentially the same as U.S. law.

In the FAA’s Part 107 rulemaking, the FAA sought comment on the economic authority question. While allowing certain very limited operations to be conducted without a DOT certificate, the FAA noted:

As technology develops in the future, the Department will evaluate the integration of more expansive UAS air carrier operations into the NAS and will propose further economic and safety regulations if warranted.

81 Fed. Reg. 42076 (June 28, 2016). The Coalition believes now is the time to conduct that evaluation. The Coalition urges the Administration to revise its economic authority rules and policy as may be necessary to “foster an attractive environment” and authorize certificated package delivery under part 108 by foreign-owned and/or controlled companies from allied countries with which the U.S. has an open skies agreement or memorandum of understanding, working with Congress if necessary. For purposes of this rulemaking, the Coalition agrees with the FAA’s determination that applying the citizenship requirement to permitted package delivery is unnecessary.

**108.410 – Duration of permits.** The Coalition believes the proposed 24-month period is too short. A grant of exemption typically lasts two years and part 107 waivers have been issued for 4 years duration. A permit issued under this rule should have a longer duration than a waiver or exemption. Certificates issued under subpart E do not expire. The Coalition recommends an open-ended and unspecified duration for certificated operators that also have a permit for most use categories. Permits should not expire. FAA, of course, would retain authority to suspend or revoke a permit at any time during this period. The Coalition agrees with proposed §108.410(d) that permits should not be transferable.

**108.415 – Issuance of an operating permit.** The Coalition supports this proposed section with one recommended revision. Subsection (c) states that a permit would include “(6) Type of operation.” The Coalition believes that a single permit could be issued for more than one type of operations, as the FAA proposes to authorize for certificated operations. Therefore, §108.415(c)(6) should read: “Type or types of operations.”

**108.420 – Denial, suspension, or revocation of permits.** The Coalition supports the FAA’s exercise of its discretion not to deny, suspend, or revoke a permit simply because of one or more violations of this part, even if has the authority to do so under proposed §108.420(f), as this statement in the preamble suggests the FAA would do.

FAA would holistically evaluate each applicant with a basis for denial to determine if it has reason to believe it should not issue a permit or certificate. As such, these actions would not require FAA to deny an application or suspend or revoke an existing operating permit or certificate. However, this requirement ensures that FAA would have the authority to deny, suspend, or revoke operating permits or certificates when there is an operator or applicant that may threaten public or aviation safety.

90 Fed. Reg. at 38268. The FAA enforcement policy for operators and personnel (FAA Order 2150.3C) reflects a balanced, measured approach to compliance and enforcement, including use of administrative actions such as a warning letter or letter of correction, and the use of civil penalties in lieu of certificate (here, permitting) action.

**108.425 – Amendments to permits.** The Coalition supports the amendment circumstances enumerated in this proposed section.

**108.430 – Display of permit.** The Coalition supports this proposed section, which requires the permit to be available at the point of drone operations’ control.

**108.435 – Cybersecurity.** The Coalition agrees that operators with a permit should protect against cybersecurity risks and supports the FAA’s proposal to use “performance-based language” to allow operators the “flexibility” to determine how to control access to software, hardware, and network computing infrastructure. 90 Fed. Reg. at 38271. Please see also the Coalition’s comments on proposed §108.875.

**108.440 – Package delivery operations.** For package delivery, as previously stated in comments on proposed §108.400, the FAA should adopt a certificate-only framework for all routine

operations, while allowing a narrowly defined permit pathway limited to bona fide demonstrations and to emergency-relief deliveries supporting disasters and humanitarian crises. Any such permits must be strictly confined in scope and duration to the specific demonstration or emergency, ensuring they cannot be misused as a substitute for certification to engage in commercial package deliveries. Certificated operators, in turn, should be able to conduct both demonstrations and emergency missions under their existing certificates without seeking a separate permit. This framework preserves the integrity of the certification standard while providing the flexibility needed to support innovation and sustain relief for the full duration of recovery.

The Coalition does not believe the FAA accurately characterizes drone package delivery at page 38216 as “riskier operational use cases.” In the drone industry in general and for drone package delivery specifically, there is – and will continue to be – significant diversity in risk profile. The preamble notes the many benefits the drone industry offers, including from package delivery operations, such as spurring economic growth and transforming logistics through rapid delivery of products to a wide variety of communities and locations. With Coalition members having successfully completed cumulatively millions of drone package deliveries without a single accident resulting in a fatality, there is a proven track record of industry’s capabilities in providing drone package delivery safely on a large scale.

Within the requirements for permitted and certificated package delivery operations, the FAA places far too much emphasis on ground population and risk in informing its policies. Tying ground risk or population to operations with the drone industry, particularly for small UAS aircraft, is not rooted in data. For instance, imposing population limits on permits for demonstrations or civic interest purposes is unnecessary and does not address a safety need, especially given that the FAA has allowed such activities in the past, which have a demonstrated track record of being successful and beneficial. Instead, these restrictions, as well as others such as requiring civil interest permits to be contracted with a governmental entity, will result in missed opportunities for drone package delivery operators to serve communities with a proven, safe, and fast delivery alternative. Similarly, mandating that certificated operators conduct ground risk assessments for pedestrians and moving vehicles is not data driven or proportionate to the risk profile of these operations and the mitigations that have already been established and recognized by the FAA.

*Certified and Permitted Operations:* The Coalition supports the proposed two-tier framework for operational authorization. However, commercial drone deliveries should in large part be conducted under the Operating Certificate category. Delivery operations involve frequent, repetitive flights over people and infrastructure, warranting heightened safety oversight. Requiring certification ensures Safety Management Systems apply, closes potential regulatory gaps, and supports one consistent safety bar for the highest-visibility operations. To provide flexibility in accommodating additional use cases, however, FAA could allow for a narrowly defined permit pathway limited to bona fide demonstrations and to emergency-relief deliveries supporting disasters and humanitarian crises. Any operations under such permits must be strictly confined in scope and duration to the specific demonstration or emergency, ensuring they cannot be misused as a substitute for certification to engage in commercial package deliveries. Certificated operators, in turn, should be able to conduct both demonstrations and emergency missions under their existing certificates without seeking a separate permit. However, this should not prohibit a certificated operator from conducting operations under a permit for demonstration or emergency relief. This framework

preserves the integrity of the certification standard while providing the flexibility needed to support innovation and sustain relief for the full duration of recovery.

**108.450– Aerial survey operations.** As stated in the Coalition’s comments on the definition of *aerial survey*, which the Coalition recommends be included in proposed §108.5, the term “aerial survey” may both be too limiting and insufficiently descriptive. The Coalition seeks confirmation that the category of aerial survey includes infrastructure inspection, such as for utilities, telecom, photography, observation, and search and rescue (that does not constitute “civic interest”), and that it also includes the conduct of security patrols at facilities and infrastructure sites. The Coalition recommends the term “aerial commercial services” should replace “aerial survey.”

**108.455 – Civic interest operations.** The Coalition believes that requiring civic interest operations to be conducted under a government contract is too limiting given how these operations often take place and may inadvertently exclude operations conducted with commercial partners even though in coordination with relevant government entities. Also, a local government can work with a utility or telecom company’s first responder team to repair a service after a natural disaster that is not through a government contract in order to respond quickly to community needs. Instead, the concept of civic interest operations should be expanded to include operations conducted with a government sponsor, or subject to an understanding or agreement with a government agency, which does not need to be in the form of a contract. This expansion of the concept would ensure reputable operations – rather than individual citizen responses – while also not unnecessarily limiting these important operations.

**108.460 – Unmanned aircraft operations training.** The Coalition recommends that a mix of simulated and real flights (i.e. a “constructive” environment) be authorized as an available method to comply with this proposed section.

**108.465 – Demonstration operations.** The proposed set-back requirement of 500 feet and limiting demonstration operations to Category 2 operations over people as proposed in §§108.465(d) and (e) would severely limit the ability to conduct these operations and should be eliminated given that the aircraft holds an airworthiness acceptance.

**108.470 – Flight test operations.** The proposed rule on flight test operations applies only to manufacturers and accredited educational institutions and excludes other entities that play a critical role in advancing UAS safety and integration. To foster innovation and support the safe integration of advanced drone operations, the FAA should expand eligibility for flight test operations to include operators and service providers engaged in testing and validating ADSP capabilities, network performance, and other enabling technologies. Allowing these stakeholders to conduct flight tests under controlled conditions will accelerate the development and deployment of robust, interoperable solutions that benefit the entire drone ecosystem. This approach will also ensure that the regulatory framework keeps pace with technological advancements and industry needs, ultimately enhancing the safety, efficiency, and scalability of BVLOS and other complex drone operations.

## **Subpart E – Certificated operations**

**108.500 – Operations under a certificate.** The Coalition supports the list of categories of operations in §108.500(a). Subsection (b) can be read to require all operators, including operators under a permit, to comply with the certificate requirements in this subpart. Subsection (b) should be revised to read:

Operators ~~issued must conduct operations under~~ an operating certificate must comply in compliance with the requirements of this part and in accordance with any authorizations and limitations associated with that certificate.

Subsection (d) would limit operators with a certificate to those designated types of operations set forth by the manufacturer, as would be required under §108.720. There will be many drones manufactured before the effective date of the final rule that may not include such designations. The Coalition recommends this subsection be revised to require the operator to be limited to any manufacturer designated type or types of operations, if such limitation is included in the manufacturer’s operating instructions.

**108.505 – Application for operating certificates.** The Coalition agrees with proposed §108.515(d) that an operator certificate may authorize the operator to conduct more than one type of operation. For example, a drone could be used interchangeably for both aerial survey and civic interest operations. Therefore, in the second line of proposed §108.405, “operation” should be replaced with “operations” and proposed §108.405(b)(4) should read “the intended type or types of operations.”

Per the Coalition’s comments on proposed §108.165, we believe that an operation may conduct operations in any area of the country upon notice to the FAA. Proposed §108.405(b)(5) should read “the intended area(s) of operations at the time of the application.”

**108.510 – Duration of certificates.** The Coalition supports the indefinite duration of a certificate, subject to the recency requirement in proposed §108.530. The Coalition agrees with proposed §108.510(b) that certificates should not be transferable.

**108.515 – Issuance of operating certificate.** The Coalition supports proposed §108.515(d), which would authorize an operator to conduct multiple types of operations under a single operating certificate issued under this subpart.

**108.520 – Denial, suspension, or revocation of operating certificate.** The Coalition supports the FAA’s exercise of discretion not to deny, suspend, or revoke a certificate simply because of a single violation of this part, even if has the authority to do so under proposed §108.520(f), as FAA indicates in the preamble at page 38268.

FAA would holistically evaluate each applicant with a basis for denial to determine if it has reason to believe it should not issue a permit or certificate. As such, these actions would not require FAA to deny an application or suspend or revoke an existing operating permit or certificate. However, this requirement ensures that FAA would have the authority to

deny, suspend, or revoke operating permits or certificates when there is an operator or applicant that may threaten public or aviation safety.

The FAA enforcement policy for operators and personnel (FAA Order 2150.3C) reflects a balanced, measured approach to enforcement, including use of administrative actions such as a warning letter or letter of correction, and the use of civil penalties in lieu of certificate action.

**108.525 – Amendment of certificates.** The Coalition supports the amendment circumstances enumerated in this proposed section.

**108.530 – Recency of operations.** The FAA should make clear that recency does not require constant flight activity at every site. Operators may scale flights up or down based on demand, weather, or geographic rollout plans. That flexibility is fundamental to how many types of drone services operate. A temporary pause in operations, whether due to seasonal factors, expansion sequencing, or customer volume, does not reduce our safety posture. Operators maintain trained personnel, active safety systems, and real-time monitoring across networks, even during periods of low activity. The FAA should allow operators to demonstrate recency through documented test flights, training exercises, or simulation, rather than tying it only to recent commercial flights.

**108.535 – Cybersecurity.** The Coalition agrees that operators with a certificate should protect against cybersecurity risks and supports the FAA’s proposal to use “performance-based language” to allow operators the “flexibility” to determine how to control access to software, hardware, and network computing infrastructure. 90 Fed. Reg. at 38280. The Coalition requests the FAA provide clarity regarding what data operators must provide. Please see also the Coalition’s comments on proposed §108.875.

**108.540 – Training program.** The Coalition supports the proposed training program for certificated operators. Further, the FAA should grandfather all FAA-approved training for part 135 operators to meet the proposed requirements of §108.540.

**108.545 – Validation tests.** All validation testing previously conducted by part 135 operators should be grandfathered for purposes of meeting the proposed requirements in §108.545.

**108.560 – Safety management system.** Though the Coalition agrees with the intent and overarching tenets of part 5, we urge the FAA to allow for sufficient transition time for industry compliance with establishing or refining their safety management system (“SMS”). The Coalition would prefer that the FAA would provide in the final rule an SMS tailored for the UAS industry.

**108.565 – Package delivery operations.** Please see the comments provided to section 108.440. The Coalition questions the 110-pound limit in proposed §108.565(b). The Coalition recommends that a certificated operator be permitted to fly drones over 110 lbs. with the approval of the Administrator, who may impose additional design criteria, limits and/or conditions if necessary to address any increase in air or ground risk due to the additional weight.

**108.570 – Hazardous materials.** While the proposed rule cites Section 933 of the FAA Reauthorization Act of 2024 that directs the FAA to use a risk-based approach for drone carriage

of hazardous materials (“hazmat”), this proposed section does not fulfill the intent of this provision. It not only enshrines the current burdensome provisions in part 135 but also imposes additional requirements rather than recognizing and accounting for the decreased risks associated with drone operations through a more streamlined framework due to the reduced quantities of hazmat transported. The existing Hazardous Materials Regulations (HMR), which under the proposed rule would still apply to drone operations, contain manual and training requirements that are not relevant or applicable to the needs, use cases and risk profile of drone package delivery. This includes onerous documentation requirements for shipping papers, pilot notifications, markings, labels and packaging.

Rather than acknowledging the reduced risk drone operations pose with decreased quantities and distance traveled in transporting hazmat, the preamble cites “risks to people and property on the ground resulting from intentionally dropping or releasing hazardous materials.” 90 Fed. Reg. at 38290. Because of this assessment, the proposed rule in subpart E would require certificated drone package delivery operators to conduct a safety risk assessment (SRA), which would involve in-depth system analysis, identification of all potential hazards that could arise in the hazmat transport and analysis of the associated safety risk. This requirement is excessive, disproportionate to the risk profile of drone operations and would impose unnecessary and unjustified compliance costs. Certificated operators with an accepted Safety Risk Assessment should be granted relief from 49 C.F.R. parts 171-180.

Unlike legacy aircraft will-carry certificate holders, the proposed rule would limit drone will-carry certificate holders to the specific types and quantities of hazardous materials listed in their manuals and hazardous materials training program. This would mean that any changes to manuals or training would necessitate receiving a new approval from the FAA for each adjusted quantity or type of hazmat transported and submitting an updated SRA. Such rigidity would not allow for drone package delivery operations to have the agility or efficiency to readily change their product offerings to consumers in a way that does not substantially alter the types of items in their respective catalogs.

The NPRM also specifies a hazmat design provision for the UA to have “sufficient structural integrity to contain the hazardous material without allowing leakage or release of the material in the event of a hard landing or crash.” This broad parameter serves as a prescriptive directive that could have unnecessarily restrictive implications as drone operators address package containment and may have the unintended effects of reducing endurance and payload, while increasing weight and rigidity. The Coalition regards this counterproductive to safety.

The proposed rule ignores progress made by the agency in recent years in approving will-carry operations approvals from PHMSA and FAA approved manuals. The final rule should also grandfather any current will carry approvals obtained by part 135 operators, provided the conditions of such approvals be aligned with the risk-based approach recommended in these comments and set the floor for future processes and approvals under the rule on those precedents.

**108.580 – Aerial survey operations.** As stated in the Coalition’s comments on the definition of *aerial survey*, which the Coalition recommends be included in proposed §108.5, the term “aerial survey” may both be too limiting and insufficiently descriptive. The Coalition seeks confirmation

that the category of aerial survey includes infrastructure inspection, such as for utilities, telecom, photography, observation, and search and rescue (that does not constitute “civic interest”), and that it also includes the conduct of security patrols at facilities and infrastructure sites. The Coalition recommends the term “aerial commercial services” should replace “aerial survey.”

**108.585 – Civic interest operations.** The Coalition believes that the proposed category of civic interest operations is too narrow and may exclude important civic operations that fall outside of government contracts. For instance, civic operations are often conducted whether they are not under contract with government entities. Additionally, the language even excludes operations conducted by government entities. As an example, a local government can work with a utility or telecom company’s first responder team to repair a service after a natural disaster that is not through a government contract in order to respond quickly to community needs. Instead, the concept of civic interest operations should be expanded to include operations conducted with a government sponsor, or subject to an understanding or agreement with a government agency, which does not need to be in the form of a contract. This expansion of the concept would ensure reputable operations – rather than individual citizen responses – while also not unnecessarily limiting these important operations.

#### **Subpart F –Maintenance and alterations**

**108.600 – General.** The Coalition believes this subpart largely takes a beneficial approach of eliminating unnecessary requirements while providing a simplified means to ensure the aircraft and systems are functioning properly. Through removing part 43’s mandate for certified maintenance personnel and instead requiring qualified personnel, the proposed rule gives UAS operators greater flexibility while maintaining standards of quality. Similarly, by not prescribing organization or program requirements for maintenance, the drone industry has the opportunity to seek global alignment and tailor these processes to their unique needs. This subpart also permits expanded reverse logistics options, supporting operators’ business growth and efficiency.

**108.605 – Persons performing maintenance and alterations.** As noted above, the Coalition supports the FAA’s proposal not to require the certification of maintenance and repair personnel, for the reasons the FAA provide in the preamble. 90 Fed. Reg. at 38292. Placing responsibility with the operator to ensure maintenance and repair personnel are adequately trained and skilled to perform their responsibilities is sufficient.

**108.610 – Unmanned aircraft maintenance.** The Coalition does not agree that software updates to aircraft, whether for individual aircraft or an entire fleet, are considered alterations. Characterizing software updates as alterations is not reflective or proportionate to their impact on drone operations, and this requirement will impose unneeded compliance burdens on operators without providing meaningful benefits to aircraft or system functioning.

**108.620 – Unmanned aircraft batteries.** The Coalition supports the proposed requirement in §108.620(a) that operators implement a battery monitoring plan to ensure the state of a battery’s health is not compromised, which plan does not require FAA approval or acceptance. The Coalition supports proposed §108.620(b), which would set a performance-based standard rather than a prescriptive reserve requirement.

**108.625 – Repairs and alterations.** The Coalition agrees that repairs and alterations should be conducted in compliance with the manufacturer’s instructions. The Coalition supports proposed §108.625(b), which provides that the “replacement of parts or assemblies with identical or alternative parts or assemblies specified by the manufacturer is not considered a repair or alteration” under this section.

**108.630 – Operation after maintenance or alterations.** Though we generally support this proposed section, we ask the FAA to clarify proposed Subsection (c), which states that an operational check of the unmanned aircraft must not be conducted over people or moving vehicles. Package delivery operators operate in populated areas. Even with meticulous planning and established safety protocols, which include pre-planned maintenance check routes that are not over property or people, drone operators cannot fully control for the unplanned presence or movement of people or property on the ground during a maintenance check flight.

### **Subpart G – Procedures for unmanned aircraft airworthiness acceptance**

Declarative compliance is critical to the future growth and success of the UAS industry, and the NPRM takes a significant step in achieving this objective through proposing an acceptance-based submission process for a declaration of compliance. Despite this notable progress, there are still many airworthiness requirements that are overly prescriptive in nature and do not adhere to the performance-based approach to which the FAA aspires. For instance, while the recognition of industry standards is welcome and appreciated, it is equally important to permit alternative means of compliance (AMOC) that can effectively fulfill these requirements. The lack of accepted AMOC is not only unprecedented in rulemaking but also could essentially shut down the American UAS manufacturing industry through stifling innovation. The UAS community today would be unable to comply with the draft proposal as currently written.

Rather than given specific directives about how to comply with FAA requirements, having a range of options to comply with regulations is key to the future of the UAS industry. As part of this, the rule should codify an approval framework for UAS that is similar to the current Criteria for Making Determinations (CMD) under Section 44807. This CMD approach has been proven to be efficient, safe and accepted amongst the industry.

While this tailored, flexible approach should extend to all requirements for the UAS industry under the FAA’s purview, one regulation that the NPRM specifically addresses on regulating noise would greatly benefit from application of this reasoning. Compliance with part 36 would be difficult and cumbersome for our members, and while the NPRM allows for industry standards to be developed, its framing of this issue is not ideal for how to make any standard created by industry notably different from part 36.

**108.700– Airworthiness acceptance generally.** As noted in the introductory comments to this subpart, the FAA should allow for alternative means of compliance rather than rely solely on industry consensus standards. Regarding §108.700(b)(2), the Coalition requests the FAA clarify whether the training and certification of quality assurance staff can be performed in-house or must it be performed by a third-party organization. The Coalition believes original equipment

manufacturers (“OEMs”) are best positioned to understand the aircraft design and train individuals on declaration of compliance requirements. Manufacturers should be able to self-certify.

**108.705 – Means of compliance.** The FAA proposes to limit means of compliance (“MOC”) submissions to voluntary consensus standards (“VCS”). Limiting MOC submissions to VCS is overly restrictive and inconsistent with federal policy, which prefers, but does not require, VCS submissions. This approach would block educational institutions, manufacturers, innovators, and other interested parties from submitting equally safe and effective MOCs, slowing adoption of new technologies. Instead, the final rule should allow any person to submit a MOC for FAA acceptance, with VCS as one option but not the only path. Further, the FAA should include minimum performance requirements so any person can create a MOC that meets minimum safety thresholds determined acceptable by the FAA.

**108.710 – Compliance with design, test, production, airworthiness, and noise requirements.** The FAA should allow for alternative means of compliance. With respect to noise requirements, please refer to the Coalition’s comments on proposed amendments to part 36.

**108.715 – Declaration of compliance.** Though generally supportive of this approach of allowing manufacturers to declare to the FAA their compliance with the proposed requirements, the final rule should allow manufacturers to develop their own means of compliance for FAA acceptance. Further, the FAA should provide clear guidance to comply with the proposed noise requirements.

**108.720 – Documents.** Though generally supportive of retaining the documentation required by the FAA, the final rule should allow manufacturers to develop their own MOC for FAA acceptance. Further, the FAA should provide clear guidance to comply with the proposed noise requirements under part 36.

**108.725 – Flight data.** FAA proposed §108.900(a) would mandate drones and/or GCS have a flight data recording system, working in tandem with §108.725 requirements for manufacturers to manage flight data for unmanned aircraft systems with airworthiness acceptance. The system must capture all onboard data from power-up to shutdown for accident recreation and cause determination. Additionally, §108.900(b) would require recorded data in a standardized, non-proprietary format, accessible to the FAA and NTSB for investigations, regulatory analysis, and identifying root causes of safety issues and failures.

The manned aviation industry lacks a regulatory requirement for data collection programs (in-service data or flight data analytics programs), which are currently voluntary. Retaining two years of the immense volume of data collected could prove to be an expensive burden for manufacturers. Moreover, operator data may well contain sensitive proprietary information. A standardized, non-proprietary data format is currently unavailable. Establishing such a format while simultaneously addressing cost management and data sharing concerns will be crucial for effectively analyzing data for safety purposes.

**108.730 -- Quality assurance system.** To avoid duplicative or low-value burden, the final rule should make three clarifications. First, the QMS should be satisfied by an FAA-accepted consensus standard or by a functionally equivalent industry certification (e.g., ISO 9001/AS9100)

supplemented with UAS-specific procedures identified in an FAA-accepted MOC. Second, any “quality assurance record” should be satisfied by existing electronic production records (model/serial build history, inspections, and release data)—not a new, bespoke record construct. Third, §108.730 should be expressly decoupled from the per-unit production acceptance mandate in §108.735. The QMS assures conformity and safe condition at scale, while production acceptance should be risk-based (sampling, end-of-line functional checks, and targeted flight tests when necessary), not flight-test-every-unit.

**108.735 – Production system.** The FAA should allow OEMs to demonstrate compliance with §108.735(c) without requiring manufacturers to conduct a full CONOPS/commercial flight. Requiring first flight tests for each individual drone is not scalable. Instead, the FAA should allow manufacturers to conduct end-of-line testing, which consists of a suite of checks and tests to ensure the drone is in condition for safe operation. This is especially true for drones that are highly automated and behave in a predictable manner, i.e., with a human-on-the-loop that is monitoring the aircraft and mainly reacting to the drone system’s prompts only versus human-in-the-loop where human interjection is necessary.

Proposed §108.735 would require manufacturers to inspect and test each individual UAS. That mirrors low-volume, crewed-aircraft practice and is incompatible with modern small-UAS manufacturing. Skydio alone currently produces approximately 1,000 aircraft per month in the United States and is scaling. Making per-unit inspection and flight test a gating requirement would turn production acceptance into the pacing item for BVLOS deployment without a commensurate safety benefit.

The risks associated with manufacturing defects and design escapes are best controlled by the documented quality assurance system required by §108.730. A mature, standards-based QMS—with configuration control, supplier oversight, document/change control, end-of-line functional checks, statistically valid lot sampling, corrective-action triggers, and in-service monitoring—provides the right level of assurance at production scale. Consistent with our comments on §108.730 below, compliance should be satisfiable either via an FAA-accepted consensus standard or via an equivalent industry certification (e.g., ISO 9001/AS9100). Per-unit testing under §108.735 seeks to mitigate the same risks already addressed by the QMS and should be replaced with a risk-based production acceptance approach (sampling and targeted flight tests only where necessary).

For similar reasons, §108.715 should be revised and streamlined. Requiring a Declaration of Compliance (DOC) for every serial number fits a world of hundreds of airframes flying for decades, not thousands of UAS with typical operator upgrade cycles of two to three years. A more scalable model is a configuration-level DOC (make/model/series and controlled production configuration), paired with an electronic roster linking covered serial numbers to that DOC. Subsequent units produced to the identical, controlled configuration would be deemed accepted when listed on the roster, eliminating repetitive, serial-by-serial filings while preserving traceability.

**108.740 – Continued operational safety program.** The Coalition supports the proposed requirement for a continued operational safety program. The Coalition requests the FAA define “safety hazard” as used in §108.740(c). Safety hazard is mentioned multiple times in the proposed rule but the term is not clearly defined.

**108.745 – Inspection and audits.** To protect operators’ privacy and competitively sensitive information, it is essential that the FAA remove the provision in §108.745(c) requiring an industry audit of UAS companies. Exposing this information would jeopardize data security, expose intellectual property and negatively impact the competitiveness of the American drone industry.

**108.750 – Design changes.** The Coalition suggests that the FAA should provide a pathway for operators to also make design changes for testing purposes—without manufacturer approval. This flexibility is critical to allow the drone industry to continue to innovate, especially in instances when conducting testing using consumer off-the-shelf (COTS) drones or when the drone manufacturer goes suddenly out of business.

**108.755 – Repairs and alterations.** The Coalition opposes this proposed section as written, which would prohibit operations personnel from conducting repairs or alterations in compliance with manufacturer instructions as provided in proposed §108.625 unless the operations personnel obtains manufacturer approval under proposed §108.755(a). Requiring manufacturer approval of each repair or alteration is burdensome to the point of being unworkable. The Coalition recommends that this section be removed or simply cross-reference the other applicable requirements.

The FAA should clarify that manufacturer authorization of a repair or alteration means that manufacturer's instructions must exist for that specific repair or alteration.

The Coalition also is concerned with proposed §108.755(c), which would require the testing required by §§ 108.930 and 108.935 “for any repair or alteration that affects the flight characteristics or demonstrated reliability.” See the Coalition’s comments on those sections below.

**108.760 – Record retention.** The Coalition requests clarification regarding who assumes responsibility for manufacturing recordkeeping requirements if the manufacturer changed hands. This is especially of concern in instances where the drone operator and manufacturer are not the same entity, and the operator’s active fleet is safe and operational. Providing clarity on the transition of record retention responsibilities protects industry stakeholders and the benefits of the drone industry from market volatility by ensuring stability and regulatory compliance after a manufacturer transitions. The FAA can promote this stability by establishing clear data retention agreements and designating parties—such as operators or FAA-approved third parties—to assume custody of critical records under these circumstances. This approach supports both operational continuity and safety oversight.

**108.765 – Rescissions.** The Coalition supports the proposed processes to rescind a means of compliance or an airworthiness acceptance but seeks clarification from the FAA regarding what happens to the operator’s fleet if an approved MOC is rescinded. The procedural requirements under proposed §108.765 provide operators with the opportunity to receive notice as well as

comment on the process. Providing such clarity would protect operators and the benefits of their operations from market volatility by ensuring stability and regulatory compliance.

### **Subpart H – Design and testing requirements for airworthiness acceptance**

Recognizing and supporting industry standards sets a beneficial precedent for a regulatory approach that acknowledges and accepts multiple solutions rather than prescribing a one-size-fits-all mandate. Subpart H contains many provisions that outline a production system without dictating associated content, controls, tests or FAA oversight. This latitude will enable greater flexibility for the industry to evolve and optimize their operations, promoting innovation and growth.

As proposed, however, drone manufacturers with excellent safety records over hundreds of thousands if not millions of flights currently would be unable to comply with certain design requirements outlined in subpart H. As discussed above in comments on proposed amendments to part 45, the NPRM's mandates for various labels and markings are excessive, requiring aircraft manufacturing alterations without significant improvements for safety and efficiency.

**108.800 – General.** The FAA states that drone design and performance must meet the requirements of subpart G, which as drafted relies on the use of industry consensus standards and does not allow for alternative means of compliance (“AMOCs”). Limiting MOC submissions to voluntary consensus standards (“VCS”) is overly restrictive and inconsistent with federal policy, which prefers but does not require VCS submissions. This approach would block educational institutions, manufacturers, innovators, and other interested parties from submitting equally safe and effective MOCs, slowing adoption of new technologies. Instead, the final rule should allow any person to submit a MOC for FAA acceptance, with VCAS as one option but not the only path. Further, the FAA should include minimum safety thresholds determined acceptable by the FAA.

**108.805 – Size, weight, and speed limits.** The Coalition supports the FAA in setting criteria based on calculating air and ground risk. We also support the proposal to provide manufacturers the opportunity to seek relief from any of proposed sections under this subpart H—so long as there is a targeted level of safety set by the FAA that is met by the requester.

**108.810 – Simplified user interaction.** The proposed rule would require a drone to have a simplified user interaction (SUI) to reduce human error and ensure safe flight, which serves as a valuable recognition of the efficacy of automation in supporting operations. The proposed rule would streamline operations through allowing the use of simple commands like changes in airspeed, altitude, and heading via push buttons, knobs, and touch screens. In addition to supporting enhanced operational efficiency, this provision sets a great precedent for legitimizing and modernizing UAS operations to reflect industry trends and capabilities. For operations that may require manual intervention, the FAA should establish a process in which such operators may readily request waivers or exemptions from these requirements. The Coalition requests the FAA clarify in proposed §108.810(b) that it is the unmanned aircraft system, not just the unmanned aircraft, that must be resistant to operation outside of the flight design envelope.

**108.815 – Signal monitoring and transmission.** The proposed text “link timeout” in §108.815(b) is ambiguous. The Coalition suggests revising the text to read “when the duration of the continuous link loss exceeds the predefined timeout, as defined by the manufacturer.” The manufacturer is best suited to develop the drone and design its unique attributes for its safe performance and operation.

**108.820 – Position, navigation, and timing.** Rather than rely solely on industry consensus standards, the manufacturer should be able to define the required accuracy of the drone “position, navigation, and timing” (PNT) solution based on the intended operation and associated risk of the operation. The manufacturer is best situated to develop the PNT capabilities of a drone with the accuracy needed to ensure safe separation in the airspace because it possesses the deepest understanding of the aircraft’s design, systems integration, and operational limitations. As the entity responsible for developing the aircraft, the manufacturer can holistically engineer the drone’s PNT solution to the FAA’s targeted level of safety. Further, the manufacturer can implement tailored PNT safety margins that depend on the aircraft capability for the intended operations.

**108.825 – Collision avoidance.** Proposed §108.825 would require drones obtaining airworthiness acceptance to have the capability to avoid aircraft in accordance with proposed §108.195. Proposed §108.195 provides the operating requirements for avoiding collisions with aircraft departing from or arriving at an airport or heliport or equipped and broadcasting their position using ADS-B Out or electronic conspicuity equipment. The Coalition strongly recommends requiring electronic conspicuity on crewed aircraft for collision avoidance, particularly in Category 5 (congested) areas and controlled airspace where ADS-B Out is mandated for crewed aircraft. Therefore, the Coalition suggests revising §108.195 to read “aircraft departing from or arriving at an airport or heliport, but these aircraft shall not take advantage of this rule to avoid use of electronic conspicuity.”

Authorizations under §91.225 should be limited, not normalized.

**108.830 – Anti-collision lighting.** The FAA should clarify in proposed §108.830(b) that controlling the intensity of an aircraft’s anti-collision light could be automated/built into the aircraft design. Given the highly autonomous nature of some aircraft designs, anti-collision light intensity should not be expected to be manually controlled by the flight coordinator, as referenced in proposed §108.110.

**108.835 – Position lighting.** Rather than prescribe prescriptive values that detail the lateral spans of position lights, the FAA should establish a clear, data-driven, safety objective—ensuring that the unmanned aircraft remain visible to other airspace users when necessary—while affording manufacturers the flexibility to determine how best to meet that objective within their unique aircraft designs. A performance-based approach, including allowing for automation to dim or turn on/off lights when there is no person in the loop, allows innovation to flourish without compromising safety.

In addition, by affording manufacturers this flexibility, the FAA would account for aircraft designs with versatile configurations, such as those that shift orientation between vertical takeoff and

landing (VTOL) and wing-borne flight. While position light visibility may differ in the VTOL orientation, this phase represents a small segment of the flight profile and occurs when close to the ground, where the risk of conflict with other airspace users is minimal. Therefore, these design characteristics should not prevent compliance, as they do not reduce operational safety.

**108.840 – Power generation, storage, and distribution system.** To avoid one-size-fits-all mandates, proposed requirements should be altered to be more risk-proportionate by distinguishing between different categories of drones based on the drone’s design, capabilities, and intended operation.

Proposed §108.840(b) mandates that the power generation, storage, and distribution system prevent flight or control loss from a single failure, requiring electrical system redundancies. The Coalition seeks clarification that a single failure accounts for the unique design of the aircraft. In particular, the FAA should clarify that proposed §108.840(b) provides manufacturers the flexibility to develop redundancies to account for single failures—depending on the aircraft design.

Some current drone models cannot meet these proposed requirements and could lead to the discontinuation of many widely used systems that have a proven safety record. Moreover, implementing system redundancy as proposed would increase the size and weight of the drone, thereby exchanging a lower probability of an accident for a more severe outcome (due to higher impact kinetic energy).

**108.845 – Propulsion system.** Proposed §108.845(c) similarly provides that the propulsion system design must ensure that a loss of power does not lead to loss of control, preventing safety hazards like asymmetric thrust. Current drone models cannot meet these proposed requirements and would lead to the discontinuation of many widely used systems that have a proven safety record. Moreover, implementing system redundancy as proposed would increase the size and weight of the drone, thereby exchanging a lower probability of an accident for a more severe outcome (due to higher impact kinetic energy).

This proposed rule requires multiple safety layers. Ground-risk is otherwise mitigated by limitations on operations over people and could be mitigated through various means, including use of parachutes. While drones are recognized as lower on the risk continuum, this proposed rule would impose stricter requirements on drones than general aviation (single-engine land) aircraft, which are not mandated to have redundant power and propulsion systems.

**108.855 – Fire protection.** To avoid one-size-fits-all mandates, proposed requirements should be altered to be more risk-proportionate by distinguishing between different weight categories of drones. In accordance with this approach, the NPRM’s crashworthiness requirement directing aircraft to be designed in such a way to ensure that there is no structural damage to the drone components that are likely to contribute to a potential post-event fire are inconsistent to the realities of certain drones.

The FAA should clarify that the intent of this requirement is to address normal operating deceleration loads of the aircraft design. Therefore, that should be the safety objective of this section. The confusion is due to the statement in the preamble, at page 38308, which uses the

example of “crashes” not resulting in structural damage to the drone, which is very different from the language in the text of this section that discusses “dynamic deceleration loads.” The FAA’s expectation and eventual requirement should be bounded by practicality; requiring a design to keep the aircraft free of structural damage during a crash is not practical. The FAA should continue to have a clear safety objective for the drone industry to follow and expect manufacturers to develop aircraft designs that prevent and contain damage, as applicable. To that end, the Coalition suggests §108.855 be revised to read:

The unmanned aircraft must be designed to sustain expected static and dynamic deceleration loads across the normal operating envelope without causing structural damage to the fuel or electrical system components or their attachments.

**108.860 – Software.** Should the FAA retain the proposed language in this section as proposed, the FAA should clarify the definition of “dependable” as referenced in §108.860 (a). The FAA needs to clarify in paragraph (c) of this section what it means when stating “software defects and modifications must be captured and recorded through a problem reporting system.” Further, the text may preclude compliant software—where defects and modification are recorded, but not through a problem reporting system—from meeting the requirements of this section.

**108.865 – Electronic hardware.** In complying with this requirement, as with other topics, the Coalition recommends empowering standards bodies to create risk-appropriate standards for type and use. Existing industry standards such DO-160G offer one means but not the only means for meeting the requirements of this section. Manufacturers who are compliant with DO-160G should be grandfathered.

**108.870 – Systems and equipment.** In complying with this requirement, as with other topics, the Coalition recommends empowering standards bodies to create risk-appropriate standards for type and use. Existing industry standards such DO-160G offer one means but not the only means for meeting the requirements of this section. Manufacturers who are compliant with DO-160G should be grandfathered.

Further, rather than rely on ambiguous terms, the FAA should clearly define its terms and establish metrics or guidelines to streamline compliance. For example, paragraph (c) of this section does not clearly define “hazard”, nor suggests an approach for drone manufacturers to define their “probable failure.”

**108.875 – Cybersecurity.** The NPRM primarily focuses on NIST Cybersecurity Framework, the FAA also acknowledges other recognized frameworks such as ISO 27001 in the 146-1 Advisory circular. The FAA should acknowledge and accept other similar established and mature cybersecurity frameworks and standards such ISO 27001 as a MOC for cybersecurity.

As a practical example, the National Institute of Standards and Technology ([NIST](#)) [itself provides a direct mapping and synergy](#) between ISO 27001 and NIST Cybersecurity Frameworks.

As a general matter, the FAA’s approach, including but not limited to cybersecurity, should be performance-based and allow operators to use alternative solutions that achieve the same outcome of successfully addressing risk.

**108.880 – Associated elements design and performance requirements.** The FAA does not clearly define “hazard”, nor suggest an approach for drone manufacturers to define their “probable failure, which is required as proposed in paragraph (b) of this section.

The FAA should revise proposed §108.870(c) to state as follows:

(c) The associated element must be designed to continuously monitor, display, and transmit information required for safe flight and operation, as defined by the manufacturer.

As proposed, the language does not offer manufacturers the flexibility to define the set of status data necessary to communicate to the flight coordinator to ensure the safety of the operation. Yet, the manufacturer is best suited to define those parameters for each aircraft’s unique design, level of automation, and capabilities, which would also account for the intended type of drone operation. The FAA should allow manufacturers to develop their own means of compliance to meet the safety objectives of this section and provide the minimum performance requirements for manufacturers to meet.

**108.890 – Operating environment conditions.** The Coalition reiterates its position of allowing for standards bodies to create risk-appropriate standards for fulfilling this requirement.

**108.895 – Lightning protection.** The FAA should clarify whether this requirement could prohibit drone operations in ordinary weather conditions— i.e., when it is cloudy or there is precipitation, and there may be potential for lightning strikes, although unlikely. This requirement should not be used or interpreted to limit drone operations in weather conditions in which lightning is possible but not probable. Doing so would lead to the adoption of overly cautious operational practices, which could stifle the drone industry and its societal benefits, without increasing public or aviation safety. Lightning protection requirement must be properly tailored to the actual risk environment of drones, not leveraged as a regulatory tool to restrict routine operations under ordinary, safe weather conditions. Instead, the FAA should adopt a performance-based provision that clearly states the safety objective—ensuring that drones can withstand environmental conditions realistically associated with their operations—without enabling regulatory overreach that could unjustifiably curtail safe and routine drone use.

**108.900 – Flight data recorder.** The Coalition does not believe that the benefits of having data on a future accident or incident outweigh the immense costs to the industry to equip drones with a flight data recorder. While air carriers operating under part 121 or 135 are required to have a flight data recorder, that requirement is borne from decades of fatal accidents and the imperative to learn lessons to prevent a recurrence of an accident. There is no drone accident history that would support the cost of requiring a flight data recorder.

Should the FAA include this proposed requirement in the final rule, the Coalition requests the FAA clarify the proposed language in § 108.900(b), which states that the recorded data must be in a standardized format and readily accessible to the FAA and the NTSB. Commercial package delivery operators, among others, protect customers’ information. To do so they may comply with information security rules that encrypt delivery data to make it unreadable without proprietary

software. If the FAA needs certain data, the final rule must explain what data it needs to be readily acceptable to the FAA and the NTSB, but without infringing upon customers' confidentiality and business confidential information and strictly limit data to what is necessary and has benefits that exceed what could be considerable costs.

The Coalition also requests clarification on the delivery methods for recorded data and the conditions that define "immediately available." For many automated systems, requested information may not be stored in, nor directly accessible via connection with, the aircraft itself. In such cases, the operator or OEM should provide the requested information as soon as practicable upon request from the investigating agency.

To ensure the integrity and security of the onboard software and data we cannot support a model which would allow any third parties direct remote access onto an operator's aircraft. Instead, we seek clarification on the format and content of the recorded data that the FAA and NTSB expect thus enabling UAS operators to gather and structure the recorded data as expected into a secure and safe location where on-demand access can be properly administered, monitored and secured.

**108.905 – Flight data analysis.** For reasons of confidentiality of proprietary information, manufacturers should not have complete or unfiltered access to operator data—especially when the entity is not the same. The operator can provide data to the manufacturer; however, such exchange of information needs to be based on safety and related to a safety incident. Further, this information exchanged between the manufacturer and the operator should be determined by both parties—as needed data for the purpose of continued safety of operations.

**108.910 – Noise.** Please see the Coalition's comments above on part 36 amendments.

**108.915 – Placards.** The Coalition supports the flexibility in this proposed section, recognizing what placards may be required and what size of each placard is practical given the size and shape of a drone.

**108.920 – Identification and marking.** Please refer to the Coalition's comments on the importance of ensuring a performance-based approach to identification and marking requirements for aircraft under part 108.

**108.925 – Additional design and performance requirements for specific operational purposes.** Proposed Subsection 108.925(b) would require the drone to have "sufficient structural integrity to contain the hazardous material without allowing leakage or release of the material in the event of a hard landing or crash." This broad requirement serves as a prescriptive directive that could have unnecessarily restrictive implications as UAS operators address package containment and does not address a practical risk associated with the limited quantities of hazardous materials that could be carried on a UAS under this proposed rule. Therefore, the requirement in 108.925(b) should be eliminated in the final rule.

**108.930 – Developmental testing & 108.935 – Function and reliability testing.** The FAA should allow manufacturers the flexibility to develop their own MOCs to comply with the requirements of proposed §108.930, rather than rely on industry consensus standards. With this framework, the

FAA should accept a manufacturer’s simulation data coupled with real-flight data to ensure coverage of the environmental envelope. This flexibility will enable manufacturers to leverage state-of-the-art modeling while ensuring robust safety verification.

Proposed §108.930 and §108.935 would prohibit “loss of control”, “loss of flight”, and unplanned landings during developmental and function and reliability testing. The preamble defines “loss of flight” as a drone's inability to complete its flight as planned, up to and through its originally planned landing. Loss of flight includes scenarios where the drone experiences “controlled flight into terrain, obstacles, or any other collision, or a loss of altitude that is severe or non-reversible.” 90 Fed. Reg. at 38302. “Loss of control” is defined as an unintended departure of an aircraft from controlled flight. It includes control reversal or an undue loss of longitudinal, lateral, and directional stability and control, and includes an upset or entry into an unscheduled or uncommanded attitude with high potential for uncontrolled impact with terrain. A loss of control means spin, loss of control authority, loss of aerodynamic stability, divergent flight characteristics, or similar occurrence, which could generally lead to crash. *Id.* These proposed sections would not permit proven mitigations, such as landing at a known safe location, should the aircraft be unable to complete its flight as originally planned, up to and including its landing.

FAA must allow for different levels of change and the associated requirements for documentation and testing based on the nature and extent of the change.

In the course of completing function and reliability testing, it is unreasonable and disproportionate to operational risk to require at least 150 flight hours without experiencing any failure leading to unplanned landings. Classifying unplanned landings as a hazard is not representative of the range of effective safety mitigations to adverse events, as unplanned landings can be a safe and responsible contingency for drones.

### **Part 119 – Certification: air carriers and commuter operators**

**119.1 – Applicability.** The proposed amendment to Subsection (e) would exclude part 108 operations from part 119. The Coalition supports this proposed amendment. The FAA should include in the final rule a clear and minimally burdensome path for transition or part 135 operators from part 119 to part 108, specifically grandfathering approvals and testing.

### **Part 133 – Rotorcraft External Load Operations**

**133.1 – Applicability.** The proposed amendment would exclude part 108 operations from part 133. The Coalition supports this proposed amendment.

### **Part 135 – Operating requirements: commuter and on demand operations and rules governing persons on board such aircraft**

**135.1 – Applicability.** The proposed amendments to paragraphs (a)(1) and (a)(7) would exclude part 108 operations from part 135. The Coalition supports these proposed amendments.

### **Part 137 – Agricultural aircraft operations**

**137.1 – Applicability.** The proposed amendment would exclude part 108 operations from part 137. The Coalition supports this proposed amendment.

## **Part 146 – Automated data service providers**

### **Subpart A – General.**

By establishing a new certificate and authorization pathway for UTM, the FAA has achieved a significant and needed milestone toward recognition of the efficacy of industry-provided digital services. Part 146 largely offers a flexible vehicle for codifying the proven track record from industry-led UTM and Shared Airspace implementation efforts, including the success in UAS operational coordination as first seen in the North Texas airspace. The emphasis of strategic deconfliction in this framework, both in the NPRM and the accompanying draft AC 146-1, sets the tone for safe and efficient UAS data exchange. The proposal also includes effective elements facilitating a digital FAA interface and authoritative data to access controlled airspace.

The Coalition supports the recognition that ADSP services are distinct from LAANC technically and contractually (proposed §146.1), especially as ADSP services are not providing authorizations on behalf of Air Traffic. The Coalition also supports the need for data sharing on behalf of Air Traffic, where appropriate and necessary, and recommends a CDM-like approach, tailored to the UAS community, to address and evolve data sharing between ADSPs and the FAA.

Despite this monumental progress, there are still major areas for improvement within Part 146 as proposed, most notably the provisions on conformance monitoring. FAA’s proposal to require conformance monitoring for situational awareness (“CMSA”) in §108.180(a)(2) is premature. CMSA has not yet been fielded as a deployable service outside of research and limited demonstrations. The added requirements related to CMSA in AC 146-1 Appendix B make clear that the purpose of CMSA is for data to be ingested by FAA air traffic systems, though no information is provided about the technical means of enabling that data sharing, or which FAA systems or personnel will process, receive, display and/or act upon that information. Furthermore, industry and FAA Air Traffic Organization have not had opportunity for dialogue and collaboration to understand how such data could support current user workflows.

Part 146 also contains other overly burdensome requirements that do not recognize the success and high safety bar established under the Shared Airspace effort. Given the effective data exchange demonstrated through Shared Airspace implementation, the non-repudiation directives outlined in the NPRM are not risk appropriate or a beneficial use of resources for UAS operators. Similarly, requisite notification regarding software updates is not needed or justified for interoperable UTM services. As evidenced by the Shared Airspace efforts, UAS operators took a collaborative, industry-led approach to streamline and optimize software development. The FAA has recognized the efficacy of both the software tenets and the larger operational systemic coordination as a whole by granting Letters of Acceptance to several of our members. Additionally, industry has taken steps to standardize operator-to-provider Service Level Agreements (SLAs). These will be useful artifacts under the proposed authorization regulation for services and will allow the FAA to adopt

a more flexible and scalable approach towards user notification, FAA notification, and deprecation requirements.

Also, instead of adhering to the four-pronged prioritization scheme described in draft AC 146-1, this framework should be streamlined, taking inspiration from the Shared Airspace effort. A simplified two-level prioritization framework that is established by industry has shown to be effective and would be more efficient than what is currently proposed.

**146.1 – Applicability.** The Coalition supports the proposed exclusions from part 146.

**146.5 – Definitions.** The Coalition supports the proposed definitions in this section as written.

**146.15 – Falsification, reproduction, alteration, or omission.** The Coalition supports this proposed section, which prohibits fraud and deceptive practices, as well as knowing concealment of information. In note 45 of the preamble, 90 Fed. Reg. at 38226, FAA states that a pending rulemaking proceeding is intended to promulgate a comprehensive prohibition on fraud and deceptive practices. Thus, when a final rule is adopted, this proposed section may not be necessary.

### **Subpart B -- Certificate**

**146.100 Application.** The Coalition supports the proposed application process, which FAA expects to be an online process.

**146.105 Applicant information.** The Coalition supports the proposed requirement that an applicant demonstrate its authority to conduct business in the United States, without requiring such applicant to demonstrate that it is a citizen of the United States. The proposed requirement in proposed §146.105(b)(1) for ADSP applicants to list all shareholders with 5% or more of voting stock is unnecessary because it duplicates existing Securities and Exchange Commission (SEC) regulations. Specifically, SEC Item 403 of Regulation S-K (17 CFR § 229.403) already mandates that public companies disclose information about security ownership by beneficial owners of more than 5% of their voting securities. To prevent this regulatory overlap, the FAA should amend the rule to state that submitting the information prepared under Item 403 satisfies the requirements of § 146.105(b)(1).

**146.115 Certification requirements.** FAA’s risk-based framework for categorizing Service Level certification is a logical approach, including anticipating potential need for a Level 3. In addition to supporting the riskiest of operations, Service Level 3 certification may also facilitate reciprocal certification of US ADSPs by foreign CAAs/ANSPs.

### **Subpart C – Service authorizations**

**146.200 Request for authorization.** The Coalition supports the proposal that only certificated operators may submit a request for authorization.

**146.205 Authorization requirements.** The Coalition supports establishing the service by submitting documentation that includes representation to service users. The submission should be

further expanded to include user notification and service deprecation process. These additions would support removal of overly prescriptive requirements in proposed §146.405 as described below.

#### **Subpart D – Certificated serviced providers**

**146.305 Cyber and data security.** Cybersecurity should apply only to the products and services specific to the ADSP function, and not the products and services beyond the ADSP function. This may be particularly applicable to a company that has additional lines of business.

**146.310 Quality management system.** Coalition members are currently employing quality management systems (QMS) for their current UTM services / platform adhering to international standard ISO 9001 as a framework. Their QMS is audited, and this process has allowed them to document and improve their practices in a manner that better addresses the needs and expectations of our users, stakeholders and interested parties. While we appreciate the recognition of this standard in the accompanying AC 146-1, some of the proposed regulatory text is overly prescriptive. ISO 9001 should be accepted as a means of compliance for proposed QMS provisions, and the FAA should remove the need for ADSPs to thoroughly document and share highly sensitive and business proprietary information that can be otherwise audited by an independent, third-party expert.

**146.320 Training program.** As currently written, the scope of this provision would require anyone who comes into contact or is involved in any way with the UTM system to complete training. Given that this could potentially encompass hundreds of software developers involved on a very limited basis and not involved in real-time part 108 operations, this would result in implementation challenges and unnecessary costs. This can also unnecessarily include commercial telecommunications and internet providers as well as commercial cloud solutions frequently and safely used by the many current service providers. A more efficient and targeted manner of ensuring sufficient training relevant to the duties for their area of responsibility and qualified personnel directly involved in the approval of ADSP services similar to the language in proposed §108.315.

**146.325 Reportable occurrences.** The requirement to report the occurrence of *any* unscheduled service outage is excessive, especially considering interdependencies, and does not take into account the more important factor of the outage's potential to impact safety. The Shared Airspace Service Level Agreements (SLA's) define uptime commitments for availability of ADSP services, typically 99.9%, as aspiring to 100% uptime is unreasonably expensive. The reportable cyber breaches should be limited to only those systems that directly support the ADSP operations.

#### **Subpart E – Authorized service requirements.**

**146.400 Authorized service data exchange requirements.** In addition to the aforementioned unnecessary compliance burdens imposed by the non-repudiation requirements, there is no cost basis for this, and the FAA has not provided a rationale for incorporating these data exchange measures. The approach to these directives is user prohibitive and not feasible to be implemented by part 108 operators, as such operators would be required to use additional levels of login beyond

what is currently utilized for LAANC, electronic flight bags (EFBs) or common industry practices. Given that light sport aircraft are not subject to these requirements, this proposed section is not proportionate to the risk it seeks to address. Regarding §146.400(e), the FAA should provide additional clarity in the final rule as to what it will consider “reasonable” and “non-discriminatory” service as difference in interpretation in these terms are entirely predictable.

**146.405 Software updates.** The notification requirements are overly burdensome and the software update risks are accounted for in the automated testing implemented through the Shared Airspace effort. Learnings from the U.S. UTM implementation effort has indicated that software updates can occur daily. The FAA approval requirement may be problematic to administer, especially if approvals are not processed promptly or are unduly withheld. Instead of notifying the FAA regarding software updates, this issue should be framed in terms of updating the SLA language, as highlighted in the accompanying AC 146-1, and notifying the FAA if there are any changes to the role or responsibility being provided as a service.

This can include moving proposed §146.405(g) and 146.405(f) to the services representation described in proposed §146.205(b)(2), providing notice to the FAA for material changes to the service as represented to users pursuant to proposed §146.205(b)(2), and approval by the FAA for any change that affects the capabilities, quality-of-service, limitations, or responsibilities as defined in proposes §146.205(b)(2) for Service Levels 2 and 3.

**146.500 Revocations and suspension.** The Coalition supports the revocation and suspension processes as proposed.

**146.505 Petition to reconsider.** The Coalition supports the reconsideration process as proposed.

### **Subpart F – Due process**

This subpart is included in the part 46 table of contents on page 38385, but not in the proposed rule contents as both proposed §§146.500 and 146.505 are duplicates of these sections in subpart E.

### **49 CFR Part 1540: Civil aviation security: general rules**

**1540.5 – Terms used in this subchapter.** This provision would add the terms “unmanned aircraft” and “unmanned aircraft systems,” and thus would subject drones, drone operators, and drone operations to TSA regulation.

### **49 CFR Part 1544 – Aircraft operator security: air carriers and commercial operators**

**1544.1 – Applicability of this part.** This provision would subject drone operators permitted or certificated under part 108 to TSA regulation under part 1544. The Coalition vigorously objects to this proposed amendment in the absence of a separate notice-and-comment proceeding and cost-benefit analysis tailored to the specific risk-profile of part 108 operations. As stated above, neither the preamble nor the Regulatory Impact Analysis estimates either costs or benefits in any but the most cursory fashion, including failing to estimate how many individuals would be “covered

persons” under proposed §108.335 required to undergo a security threat assessment and pay several fees as well as lost time experienced because of administrative burdens, often for positions that are seasonal in nature. As drafted, this could be tens of thousands of individuals or more, and yet these aggregated costs are not included in the Regulatory Impact Analysis. This omission alone means the attempt at a Regulatory Impact Analysis is inadequate at least with respect to the security threat assessment requirements in proposed §108.335.

Additionally, the Regulatory Impact Analysis does not include an estimate of the costs of adopting and maintaining a limited security program, which this proposed section and proposed §1544.101 would require. A limited security program must comply with subparts C (operations), D (threat and threat response), and E (screener qualifications) of part 1544, §1544.305 (comprising 22 requirements, many of which have no application to drones conducting package delivery), and meet the requirements of Subsection 1544.103(c). This omission means the Regulatory Impact Analysis is inadequate also at to the security requirements in 49 C.F.R. part 1544, as well proposed §§108.440(i) and 108.565(f).

The Coalition questions the TSA’s authority to subject drone operations under part 108 to a limited security program. In the preamble to the proposed rule, 90 Fed. Reg. at 38217, the FAA and TSA refer to two statutes as authority for the TSA-related provisions in the proposed rule – the security threat assessment in proposed §108.335 and the limited security program in proposed amendments to 49 C.F.R. parts 1540 and 1544. At the conclusion of the amendments to parts 1540 and 1544, 90 Fed. Reg. at 38391, the TSA cites 49 U.S.C. §§114, 44901, and 44903. Two of these statutes do not support the proposed amendments, and the third statute has been applied to TSA, until now, to all-cargo aircraft weighing over 100,000 lbs.

The first statute cited by TSA is 49 U.S.C. §114(l)(1). This provision authorizes TSA to undertake rulemaking to carry out the functions of TSA. Among the functions are those listed in subsection (d), civil aviation security functions under 49 U.S.C. chapter 449, which includes Sections 44901 and 44903. So, if TSA has authority for these proposed amendments, it must be either Section 44901 or 44903.

Subsection 44903(b) is entitled “Protection Against Violence and Piracy” and provides, in pertinent part (emphasis added)”:

The Administrator shall prescribe regulations to protect *passengers and property on an aircraft* operating in air transportation or intrastate air transportation against an act of criminal violence or aircraft piracy. When prescribing a regulation under this subsection, the Administrator shall—

- (1) consult with the Secretary of Transportation, the Attorney General, the heads of other departments, agencies, and instrumentalities of the United States Government, and State and local authorities;
- (2) consider whether a proposed regulation is consistent with—
  - (A) protecting passengers; and
  - (B) the public interest in promoting air transportation and intrastate air transportation;
- (3) to the maximum extent practicable, require a uniform procedure for searching and detaining passengers and property to ensure—

- (A) their safety; and
  - (B) courteous and efficient treatment by an air carrier, an agent or employee of an air carrier, and Government, State, and local law enforcement personnel carrying out this section; and
- (4) consider the extent to which a proposed regulation will carry out this section.

Section 44903 is concerned with protecting passengers and property on an aircraft. The authority granted to promote passenger security is not relevant to drone operations. The authority to protect property against acts of criminal violence and air piracy could be construed to cover drone payloads, although the more reasonable construction is to read “passengers and property” *in pari materia*, so that “property” refers to the property of passengers. Support for this construction is found in paragraph (2), which directs a regulation to protect passengers while promoting air transportation, and paragraph (3), which relates to “searching and detaining passengers and property” to ensure “their safety.” There is no reference in either paragraph to cargo.

Section 44901 is not relied upon in the preamble but is listed in the authority section at the conclusion of the amendments, 90 Fed. Reg. at 38391. Section 44901 pertains to screening persons and property on passenger aircraft except Subsection (f).

A system must be in operation to screen, inspect, or otherwise ensure the security of all cargo that is to be transported in all-cargo aircraft in air transportation and intrastate air transportation as soon as practicable.

TSA promulgated all-cargo security rules in *Air Cargo Security Requirements*, 71 Fed. Reg. 30478 (May 26, 2006). Section 1544.228, entitled “Access to cargo: Security threat assessments for cargo personnel in the United States,” “applies in the United States to each aircraft operator operating under a full program under §1544.101(a), or a full all-cargo program under §1544.101(h) of this part. Subsection (a) covers scheduled passenger operations. Subsection (h) covers all-cargo operations using aircraft over 100,000 lbs.

Given that drones operating under part 108 will typically weigh under 100 lbs., or 1/1000 of the minimum size of all-cargo regulated under current rules, it is questionable whether Congress intended to give TSA authority over such small drones.

Apart from the issue of TSA’s legal authority, there is the question of whether imposing a security program requirement is sound as a matter of policy. The Coalition believes that the proposed amendments to parts 1540 and 1544 of Title 49 are based on the erroneous view FAA and TSA expressed in the preamble that drone delivery operations pose greater risks than other categories of drone operations. We suspect this view has driven the TSA to propose requiring drone package delivery operators to adopt and maintain a TSA-approved limited security program geared towards this type of operation. The astronomical cost resulting from the expansive and excessive scope of the TSA’s proposed security requirements could apply to countless individuals, both associated with the UAS drone delivery operating personnel and others completely unrelated. The cost burden and impact to American UAS operations would overwhelmingly outweigh any possible envisioned security or safety benefit. This disproportionate and unnecessary cost would be devastating to the drone delivery operators and put the industry at an unfair competitive disadvantage to ground

delivery, which is not subject to any of these requirements despite having a similar business model. Moreover, these stringent requirements would very likely be out of reach for rural workforces, which would hinder the ability to serve a wider variety of communities.

The preamble states that “TSA is considering additional changes to security program applicability and requirements in a final rule.” While the preamble lists several possible additional requirements (several of which are already included in the limited security program that the proposed rule would require part 108 operators to have), the security discussion in the preamble at pages 38373-38974 reads more like an Advanced Notice of Proposed Rulemaking (“ANPRM”), rather than an NPRM. The Coalition strongly recommends that the final rule does not include amendments to parts 1540 and 1544 (and remove proposed Subsections 108.440(i) and 108.565(f)), and that TSA undertake a separate notice-and-comment rulemaking with a separate Regulatory Impact Analysis.

**1554.101 – Adoption and implementation.** This provision would require package delivery operators to develop and maintain a TSA-approved limited security program. The Coalition objects to this proposed requirement in the absence of a separate notice-and-comment proceeding and cost-benefit analysis tailored to the specific risk-profile of part 108 operations, and for the reasons stated above in comments to the proposed amendment of §1544.1. Along with a host of other problems, if made final as proposed, predicated commercial drone delivery on TSA actions or decisions could force current operations to slow or stop and greatly delay future operations, and by so doing harm U.S. consumers and underutilize investment in this innovative and safe delivery option.

Respectfully submitted,

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