Submitted on Behalf of the
News Media Coalition Consisting Of:

Advance Publications, Inc.
American Broadcasting Companies, Inc.
American Society of Media Photographers
The Associated Press
Capitol Broadcasting Co.
Fusion Media Network, LLC
Gannett Co., Inc.
GateHouse Media, LLC
Getty Images (US), Inc.
Gray Television, Inc.
Media Law Resource Center
National Press Photographers Association
NBCUniversal Media, LLC
News Media Alliance
Nexstar Media Group, Inc.
The New York Times Company
Radio Television Digital News Association
Reporters Committee for Freedom of the Press
The E.W. Scripps Company
Sinclair Broadcast Group, Inc.
Society of Professional Journalists
TEGNA, Inc.
WP Company LLC

April 15, 2019

Via Electronic Filing and Courier

Docket Operations, M-30
U.S. Department of Transportation (DOT)
1200 New Jersey Avenue SE, Room W12-140
West Building, Ground Floor
Washington, DC 20590-0001

Re: Docket Number FAA-2018-1086, Notice No. 18-08, Safe and Secure Operations of Small Unmanned Aircraft Systems
Introduction

The News Media Coalition, consisting of news media organizations with significant interest in the development of drone law and policy in the United States, submits this Comment on behalf of the news executives, journalists, viewers, readers, and social media users with respect to the Federal Aviation Administration’s (FAA) advance notice of proposed rulemaking regarding Safe and Secure Operations of Small Unmanned Aircraft Systems (Docket Number FAA-2018-1086, Notice No. 18-08) published in the Federal Register on February 13, 2019.

The News Media Coalition includes:

- The nation’s leading television and cable networks;
- The leading national newspapers;
- More than 479 television stations serving local U.S markets;
- More than 545 regional and local U.S. newspapers;
- More than 35 U.S. radio stations;
- More than 570 local market websites;
- Content providers for hundreds of online and mobile platforms and devices;
- The leading wire services in the U.S. and abroad;
- The largest stock film and photo agencies worldwide;
- The leading professional association of visual journalists;
- The country’s premier trade association representing commercial television and radio broadcasters;
- A nonprofit organization representing the interests of online, mobile and print news publishers in the United States and Canada and focusing on the major issues that affect today’s news publishing industry, including protecting the ability of a free and independent media to provide the public with news and information on matters of public concern;
- The country’s premier trade association representing independent photographers;
- The leading membership association for content providers in all media, supported by over 115 media members and 200 law firms worldwide;
- A Washington D.C.-based nonprofit that, for more than 40 years, has provided free legal resources, support and advocacy to protect the First Amendment and freedom of information rights of journalists.

Representing a wide cross-section of the news professionals who provide Americans each day with the news they need, the companies in the News Media Coalition compete in many different markets. But they, and the journalism nonprofit organizations in the Coalition, have come together for this Comment, as with other efforts during the past several years concerning the regulation of small unmanned aircraft systems (“UAS”)—or “drones”—in the
unified belief that preserving the right to gather news, from the ground or from the air, is not a competitive issue.

For the past several years, the News Media Coalition has worked cooperatively with the federal government toward the development of statutes, regulations, industry training, and professional best practices for the safe gathering of news by UAS, while at the same time strongly encouraging the maintenance of the existing legal framework for privacy protection, especially as it concerns the ability to gather news and information for the public benefit. As part of those efforts, the News Media Coalition actively participated in the rulemaking process that led to the June 2016 implementation of 14 C.F.R. Part 107, as well as the National Telecommunications and Information Administration multi-stakeholder process on drones and privacy, which culminated in May 2016 with a set of sensible, voluntary “best practices.”

The News Media Coalition believes that any proposed rulemaking related to drones should continue to foster innovative journalism in the public interest and should respect the free speech/press protections provided under the First Amendment to the United States Constitution.

**Overview of News Media Coalition’s Comments**

The FAA’s Part 107 regulation has, in a short period of time, fostered significant innovation and growth in commercial and private unmanned aircraft systems. Enhanced opportunities for drone journalism at night and over people will strongly serve the public’s interest.\(^1\) As the government and the private sector have envisioned, drones are quickly becoming powerful commercial and editorial tools that provide enormous benefits in the public interest. Whether drones are performing search and rescue missions, gathering news and enhancing the public’s access to information, allowing farmers to be more efficient and productive, inspecting power lines and cell towers, performing aerial photography to real estate and insurance service providers, surveying and mapping areas for public policy, delivering medicine to rural locations, providing wireless internet, enhancing construction site safety, or more—society is only just beginning to realize the full potential of UAS.

Drones are now a critical tool for newsgathering in particular. For example, after Hurricane Florence struck North Carolina in 2018, drones again proved themselves an essential tool for news coverage of widespread natural disasters by allowing journalists to provide the world with access and perspectives that previously would have been prohibitively expensive or simply unavailable.\(^2\) Similarly, drone journalists helped keep the public

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\(^1\) The News Media Coalition has also submitted comments with respect to the Federal Aviation Administration’s Notice of Proposed Rulemaking regarding Operation of Small Unmanned Aircraft Systems Over People, Docket Number FAA-2018-1087, Notice No. 18-07.

\(^2\) Adam L. Neal, TCPalm, *Florida Today Drone Journalists Helping USA Today Network Cover Hurricane Florence*, TCPalm, September 11, 2018 (available at

Public agencies throughout the United States have come to rely on news organizations as part of the emergency response system, enlisting the help of journalists to provide vital, timely information to ensure public safety in times of crises.\footnote{See Bailey Schulz, \textit{Drones Increasingly Being Used For Public Safety}, Las Vegas Review - Journal, September 5, 2018 (available at https://www.reviewjournal.com/business/drones-increasingly-being-used-for-public-safety/); Sharon Kennedy Wynne, \textit{Despite Regulations, Drones Flying High}, Tampa Bay Times, December 24, 2016, pg. 1 (available at https://www.pressreader.com/usa/tampa-bay-times/20161224/281487866007960).} No doubt, in the years to come, journalists will devise innovations for the use of drones in impactful news reporting that will further save lives and money, and continue to serve the public interest in new technologies.

The Coalition believes that, in preparing a proposed rulemaking that reflects the issues raised in the ANPRM, the FAA should continue to foster an increasingly flexible regulatory framework for the safe use of drones. That framework should encourage innovation, foster informative journalism, and respect the First Amendment. A proposed rulemaking should also avoid unnecessarily increasing burdens or costs on journalists that would render existing drone fleets obsolete, restrict innovation, or require journalists undertake the responsibilities of manufacturers.
Comment In Response to Advance Notice of Proposed Rulemaking Regarding Safe and Secure Operations of Small Unmanned Aircraft Systems

The News Media Coalition was invited by the Federal Aviation Administration to participate in the Aviation Rulemaking Committee (ARC) on UAS Identification and Tracking that was chartered on May 4, 2017. The ARC involved extensive deliberations and resulted in recommendations to the FAA on how to identify and track small UAS. The News Media Coalition opposed the final recommendation because we believe it did not include reasonable accommodations for the First Amendment rights of journalists.5 Our public comments on safe and secure small UAS operations are informed by our participation in the ARC.

The News Media Coalition is dedicated to the safe and secure operation of drones. As representatives of the media, we seek to use technology, such as drones, to cover the news and avoid becoming a part of the story ourselves as a result of safety or security issues. As a Coalition, we have dedicated significant time, resources and training to ensure the safe and secure operation of drones.

I. Stand-Off Distances

The FAA seeks comment regarding the need for regulation of “stand-off” distances from buildings. Currently, drones operated under Part 107 do not have any prescriptive horizontal or vertical standoff distances from people or structures. Rather, remote pilots must comply with performance-based rules. The Coalition believes that the current regulatory scheme is appropriate and should not be changed. See Advance Notice at 3734.

Congress directed the FAA to encourage the integration of small UAS into the national airspace. See FAA Modernization and Reform Act of 2012, Pub. L. No. 112-95, § 332, 126 Stat. 11, 73 (2012). The Coalition believes that the creation of any vertical or horizontal standoff perimeter would serve to inhibit, rather than encourage, this continued integration. Creation of standoff rules would encourage litigation aimed at restricting all drone operations near buildings, and the difficulty inherent in accurately assessing the distance between a drone and a building would create disputes of fact that would likely prevent early resolution of such claims. Journalists in particular would be targets of unscrupulous litigants seeking to chill speech.

The current regulatory scheme is preferable as it puts the responsibility for safe operation in the hands of the pilot, who is ultimately best able to use his or her judgment in specific circumstances. As the FAA notes in the ANPRM, it considered standoff distances

5 The ARC Recommendations and Final Report, including the dissent submitted by the News Media Coalition, is available at https://www.faa.gov/regulations_policies/rulemaking/committees/documents/media/UAS%20ID%20ARC%20Final%20Report%20with%20Appendices.pdf
when initially adopting Part 107, but decided that “a prescriptive numerical stand-off distance requirement would be more burdensome than necessary for some operations while not being stringent enough for other operations...” and that a performance based requirement “provided flexibility to small UAS operators to determine the appropriate standoff distance, if any, for low-risk operations....” Advance Notice at 3734. This logic is as compelling now as it was when Part 107 was adopted.

II. Altitude, Airspeed, and Other Performance Limitations

The FAA seeks comment regarding whether to impose additional operating or performance limitations on small UAS. Currently, Part 107 limits small UAS ground speed to 100 mph and maximum altitude of 400 feet. See Advance Notice at 3734-35.

The Coalition does not believe that any additional performance limitations are necessary. The FAA’s proposed rule regulating operations over people already will create additional performance limitations, designed to limit the amount of risk posed by drone operations in proximity to people. See Docket No. FAA-2018-1087, Notice, No. 18-07. Any further new performance regulations would not substantively increase safety and would ultimately be an unreasonable burden on drone operations.

III. Unmanned Traffic Management System

The FAA seeks comment regarding the need for a decentralized unmanned traffic management (UTM) system. Congress has directed the FAA and NASA to develop a plan for a UTM allowing drone operators to share information about their operations with unmanned and manned pilots. This shared information may include flight plans and operational boundaries. The FAA, in its advance notice, seeks comment on several questions related to the development of the UTM. See Advance Notice at 3735.

Members of the Coalition believe that creation of a UTM could be a benefit to ensuring safe drone operations in specific contexts. With certain important parameters, such a system would be useful if shared in a local area of the flight – perhaps no more than a mile radius from the drone operation. For example, use of a UTM over a protest or other large group event could be quite useful in deconflicting the airspace and preventing accidents.

Given First Amendment considerations essential to the operation of a free and independent press, the Coalition would be concerned with any broad system of UTM that would require drone journalists to share information with each other, or with the government, under all circumstances. This would be particularly concerning if the UTM system could be accessed by the public or the government nationwide, with each operator identified without a compelling interest or probable cause. For example, requiring a journalist to file a publicly available drone flight plan for a news operation near a manufacturing plant could alert the manufacturer that the journalist is reporting on the installation and allow the manufacturer to take proactive steps to prevent this lawful reporting.
IV. Payload Restrictions

The FAA seeks input regarding whether it should consider rulemaking to restrict the use of certain types of drone payloads or installed equipment. See Advance Notice at 3736.

The Coalition opposes any additional restrictions on payloads that would restrict journalists’ ability to attach cameras or video equipment to drones in order to report on news events and other matters of public concern. A performance-based standard ensuring that any payload does not affect the ability to fly safely is sufficient. Any regulation regarding payloads should exempt cameras used in newsgathering.

V. Small UAS Critical System Design Requirements

Finally, the FAA seeks input regarding possible requirements for manufacturers to certify redundancies of critical systems on drones. The FAA specifically raises the possibility of conditioning the approval of future waivers on operational limitations – such as waivers for flights beyond of line of sight of the pilot or over people – upon the operator demonstrating that the drone has redundant backup systems. See Advance Notice at 3737.

The members of the Coalition have already made substantial investments into their drone fleets. The Coalition opposes the proposed regulation to the extent that it would render those fleets obsolete. The Coalition believes that any regulation requiring manufacturers meet certain performance or operational thresholds, should also allow for modification of existing drone fleets to comply with any new requirements.

Conclusion

The members of the News Media Coalition appreciate the opportunity to provide our comments and look forward to working with you on these issues going forward.

Very truly yours,

Charles D. Tobin
BALLARD SPAHR LLP

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Re: Docket Number FAA-2018-1087, Notice No. 18-07, Operation of Small Unmanned Aircraft Systems Over People
**Introduction**

The News Media Coalition, consisting of news media organizations with significant interest in the development of drone law and policy in the United States, submits this Comment on behalf of the news executives, journalists, viewers, readers, and social media users with respect to the Federal Aviation Administration’s (FAA) notice of proposed rulemaking regarding Operation of Small Unmanned Aircraft Systems Over People (Docket Number FAA-2018-1087, Notice No. 18-07) published in the Federal Register on February 13, 2019.

The News Media Coalition includes:

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- The country’s premier trade association representing independent photographers;
- The leading membership association for content providers in all media, supported by over 115 media members and 200 law firms worldwide;
- A Washington D.C.-based nonprofit that, for more than 40 years, has provided free legal resources, support and advocacy to protect the First Amendment and freedom of information rights of journalists.

Representing a wide cross-section of the news professionals who provide Americans each day with the news they need, the companies in the News Media Coalition compete in many different markets. But they, and the journalism nonprofit organizations in the Coalition, have come together for this Comment, as with other efforts during the past several years concerning the regulation of small unmanned aircraft systems (“UAS”)—or “drones”—in the
unified belief that preserving the right to gather news, from the ground or from the air, is not a competitive issue but a universal one of great importance.

For the past several years, the News Media Coalition has worked cooperatively with the federal government toward the development of statutes, regulations, industry training, and professional best practices for the safe gathering of news by UAS, while at the same time strongly encouraging the maintenance of the existing legal framework for privacy protection, especially as it concerns the ability to gather news and information for the public benefit. As part of those efforts, the News Media Coalition actively participated in the rulemaking process that led to the June 2016 implementation of 14 C.F.R. Part 107, as well as the National Telecommunications and Information Administration multi-stakeholder process on drones and privacy, which culminated in May 2016 with a set of sensible, voluntary “best practices.”

For the reasons outlined below, the News Media Coalition is in favor of the proposed rule changes, to the extent they promote greater freedom to use drones for newsgathering and reporting. As discussed below, however, there are certain parts of the proposed regulations that the News Media Coalition believes should be improved.

Overview of News Media Coalition’s Comments

The FAA’s Part 107 regulation has, in a short period of time, fostered significant innovation and growth in commercial and private unmanned aircraft systems. Enhanced opportunities for drone journalism at night and over people will strongly serve the public’s interest. As the government and the private sector has envisioned, drones are quickly becoming powerful commercial and editorial tools that provide enormous benefits in the public interest. Whether drones are performing search and rescue missions, gathering news and enhancing the public’s access to information, allowing farmers to be more efficient and productive, inspecting power lines and cell towers, performing aerial photography to real estate and insurance service providers, surveying and mapping areas for public policy, delivering medicine to rural locations, providing wireless internet, enhancing construction site safety, or more—society is only just beginning to realize the full potential of UAS.

Drones are now a critical tool for newsgathering in particular. For example, after Hurricane Florence struck North Carolina in 2018, drones again proved themselves an essential tool for news coverage of widespread natural disasters by allowing journalists to provide the world with access and perspectives that previously would have been prohibitively expensive or simply unavailable.¹ Similarly, drone journalists helped keep the public

informed and safe during the recent volcanic eruption of Kilauea in Hawaii and the wildfires in California.²

Public agencies throughout the United States have come to rely on news organizations as part of the emergency response system, enlisting the help of journalists to provide vital, timely information to ensure public safety in times of crises.³ No doubt, in the years to come, journalists will devise innovations for the use of drones in impactful news reporting that will inform the public, further save lives and money, and continue to serve the public interest in new technologies.

The Coalition believes that an increasingly flexible regulatory framework for the safe use of drones encourages innovation and fosters important journalism. The Coalition has concerns, however, that certain parts of the proposed regulations would unnecessarily increase burdens on, or costs to, journalists by rendering existing drone fleets obsolete, restricting innovation, or requiring journalists to undertake the responsibilities of manufacturers.

Comment in Response to Notice of Proposed Rulemaking Regarding Operation of Small Unmanned Aircraft Systems Over People

The News Media Coalition is strongly in favor of facilitating nighttime drone operations and operations over people, but it opposes certain technical aspects of the proposed regulations put forward by the FAA.


I. **Nighttime Operations**

The Proposed Rule would amend § 107.29 to permit drones to operate at night, provided that the drones are equipped with anti-collision lighting, visible for three miles, and the remote pilot receives night-operation training. Proposed Rule at 3867. The FAA has invited comments relating to the “economic, environmental, energy, or federalism impacts that may result in adopting the proposed rule.” Proposed Rule at 3902.

The Coalition believes that, in general, the FAA’s proposal to amend Part 107 to allow for nighttime operations is an important improvement to the current rules. In the past, members of the Coalition have sought to cover certain news events using drones but were stymied in their attempts due to the general prohibition on nighttime operations and the unpredictability of when newsworthy events would actually take place. For example, in 2016, journalists at the *Washington Post* sought to cover the Standing Rock protests using drones. Because activities would often take place at night, however, the *Post*’s coverage with drones could not include many significant events.

Similarly, last year, another Coalition member, Advance Publications, sought to cover the annual Canadian Pacific holiday train that travels from Ontario to Illinois. The train was scheduled to pass through Michigan sometime overnight on Nov 30 – Dec 1, 2018. Journalists discussed using a drone to capture areal footage of the train but were not able to secure a waiver for nighttime operation, because there was no specific time window for the flight.

Members of the Coalition further believe that allowing nighttime operations will not pose any substantial risk to the public or to property. Currently, several members of the Coalition have secured waivers for night flights and have collectively flown hundreds of flights with no significant adverse events. One member, the Sinclair Broadcast Group, has conducted 177 nighttime operations under its waiver. Additionally, one member of the National Press Photographers Association, which participates in the Coalition, has reported 24 nighttime operations.

The Coalition is generally in favor of the proposed rule, because it would allow journalists more freedom to better cover a wide array of newsworthy events, such as protests, festivals, construction projects, and natural disasters.

A. **Anti-Collision Lighting**

In the Proposed Rule, the FAA asks the public to comment on whether it should impose a specific color/type requirement concerning the anti-collision lighting contemplated by the rule. Proposed Rule at 3869.

The Coalition believes that a general requirement that the lights be visible for three miles is sufficient – no further lighting requirement is necessary. Given that the Coalition expects drone technology to continue evolving rapidly in the coming years, providing for
specific lighting requirements in regulation, beyond being visible for three miles, would unnecessarily restrict innovation and could render existing fleets obsolete. FAA regulations are most effective when they are performance based and not overly prescriptive; the Coalition believes requiring a particular color/type of lighting would be overly prescriptive.

The Coalition also believes that the FAA should encourage manufacturers to offer drones with lights installed that comply with the new regulations, rather than require end-users to add compliant lights in the aftermarket. The Coalition believes that inclusion of lights designed specifically for each model of drone, based on unique size, balance, weight, and aerodynamics considerations, would promote safety and uniformity and would be consistent with the FAA’s regulatory framework regarding drone operations over people. While end users can safely add external lighting in the aftermarket, manufacturers are best positioned to design and test lighting for each particular model and then include the lighting at the point of sale.

B. Training

In the Proposed Rule, the FAA states that it intends to add additional test questions to the initial knowledge test and recurrent training, which would focus on night psychology and night illusions and would emphasize the ability of pilots to maintain uninhibited visual observation of the airspace and detect aircraft in a dynamic, visually complex environment. See Proposed Rule at 3870.

The Coalition is generally in favor of a requirement that pilots undergo training that specifically addresses nighttime operations. Training is critically important to ensuring safe operation.

The Coalition would emphasize, however, that drone operations at night are substantively different from nighttime manned flight and any training module should reflect this difference. In addition to “emphasiz[ing] the ability [of the pilot] to maintain uninhibited visual observation of the airspace . . . [and] how to detect aircraft in a dynamic, visually complex operation environment,” Proposed Rule at 3870, any training module should take into account the unique characteristics of drone operations, such as the pilots’ fully 360 degree awareness and the lack of “blind spots” that may occur in manned aviation.

II. Operations Over People

The Proposed Rule would also amend § 107.39 to allow drones that meet certain performance thresholds to operate over people without a waiver. The Coalition is strongly in favor of allowing flights over people but believes that some of the performance-based restrictions that the FAA contemplates are overly restrictive.

The News Media Coalition was invited by the Federal Aviation Administration to participate in the Aviation Rulemaking Committee (ARC) on Micro UAS that was chartered
on February 24, 2016, and focused on UAS flights over people. The ARC involved extensive deliberations and resulted in a consensus recommendation to the FAA on a framework that would allow for drone flights over people. Our public comments are informed by our participation in the ARC.

In general, allowing for flights over people would greatly facilitate news coverage of a wide variety of events, including large gatherings such as protests or marches, natural disasters, or traffic jams and vehicular accidents. Current restrictions often hamstring journalists unable to secure a waiver to cover a fleeting or late-breaking event due to an inability to identify a flight location where a pilot can guarantee that the drone will not fly over a person. Moreover, restrictions on flights over people raise certain First Amendment concerns, such as when police departments set a perimeter around an accident or incident site, which, under the current rules, prevents any fly-over.

The Coalition believes, however, that the FAA’s approach, which would mandate the adoption of performance thresholds, is too focused on limiting specific functions of the drone—such as rotor blades. We believe these proposed limitations will harm innovation.

The Coalition is also concerned that the specific kinetic energy thresholds rely upon data and testing that is not available to consumers generally and the journalist in our Coalition specifically. The Coalition is concerned that the industry will be slow in rolling out new models that comply with the proposed rules and, consequently, journalists will continue to be unable to operate drones over people.

The Coalition further believes that the 0.5 pound weight restriction for Category 1 drones is too low. Journalists are typically not able to use such small drones in their newsgathering as such drones cannot support stabilized camera or video equipment of sufficient quality for broadcast or print. During our participation in the ARC, the weight of 0.5 pounds was arrived at based on a rational view that a drone of this weight would not practically result in an injury that creates an unreasonable risk. Now that FAA has settled on a specific injury threshold, we believe that FAA should recommend a Category 1 weight threshold that is higher than 0.5 pounds and set at a weight that can be proven to have an acceptable risk threshold based on weight, regardless of design.

As noted, the FAA should ensure that the proposed rule related to operations over people, and the rule related to flights at night, work together. For example, a drone that is compliant with one of the three categories allowing flights over people should not be rendered non-compliant because the operator also adds aftermarket lights to facilitate night operations, or vice versa.

In general, the Coalition believes that, more than increasing manufacturing and performance restrictions, the best way to ensure safe operations over people is to increase training and situation-awareness among pilots. Furthermore, the Coalition believes that the FAA should rely more on its own past findings regarding the safety of certain models of drones.
A. Operations Over Open-Air Assemblies

The FAA seeks public input regarding whether pilots who operate over “open air assemblies” (defined as groups of at least 15-20 people) should receive additional training, beyond the current requirements.

The Coalition believes that the FAA should not calibrate training requirements according to the number of people on the ground. Drone pilots should train to operate safely under all conditions on the ground. The Coalition believes that the current regulatory approach, which places the responsibility for safe operation in the hands of the pilot, is the best approach. The FAA should focus on ensuring that drone pilots are trained and knowledgeable, rather than focus on performance restrictions that could stifle innovation and impose significant costs on users.

B. Operations Over Moving Vehicles

The FAA seeks public input regarding whether to allow drone flights over moving vehicles. Part 107 currently prohibits operations over moving vehicles, but the FAA states in the Proposed Rulemaking that it is considering allowing operations over moving vehicles in the absence of a waiver. See Proposed Rule at 3889.

The Coalition is strongly in favor of allowing small UAS operations over moving vehicles. This ability would greatly facilitate news reports on traffic-related stories, such as traffic jams and vehicular accidents. In addition to preventing this type of activity, the current prohibition greatly chills the ability of journalists to use drones for newsgathering while in proximity to people or vehicles, because a stationary vehicle could begin to move at any point even at low speeds. Members of the Coalition have reported instances in which they have refrained from using drones for newsgathering due to concerns that a vehicle may drive under a drone’s flight path.

The Coalition believes that allowing drone operations over moving vehicles would not pose a substantial safety risk. In fact, we believe that allowing flights over moving vehicles can make drone operations safer. Under current regulations, the introduction of a moving vehicle can cause an operator to avoid flying over a vehicle even if that is the safest available flight path. The Federal Motor Vehicle Safety Standards (FMVSS) require vehicles to have roofs, airbags and windshields that protect occupants in rollover situations, in high-speed collisions with other moving vehicles, and in collisions with pedestrians and other objects,
such as deer, with a much greater mass than a drone. Given that this proposed rule generally imposes energy impact standards calibrated for direct impacts with humans, a drone complying with these standards is unlikely to cause substantial damage to passengers in a vehicle specifically designed to protect people upon impact with a high-speed moving vehicle or an object of greater mass than a drone. We recommend that the FAA consult with the National Highway Traffic Safety Administration regarding the energy impact assumptions that went into its rollover crash standard and other FMVSS to confirm that associated energy impact of a small UAS would already be accounted for in existing vehicle design standards.

C. Existing Small UAS

The FAA seeks public input regarding how its regulations should impact existing drones. In its rulemaking, the FAA proposes to allow manufactures or operators to test existing drones and submit evidence that these existing drones are eligible to operate over people, in the same manner as newly manufactured drones. See Proposed Rule at 3890.

The Coalition members have made significant investment in their current drone fleets and do not wish to see these drones become immediately obsolete. To the extent possible, the Coalition believes that the FAA should encourage manufacturers of existing drones to conduct testing to certify whether any currently available models comply with the proposed FAA rules for operations over people. This testing and certification should include both newly manufactured models, as well as recently sold models. In addition, the Coalition would like the FAA to encourage manufacturers to offer to customers a means to “upgrade” existing drones to be compliant with any new rules. This could be accomplished through either a kit or a software/firmware upgrade.

D. Modifications and the Resale Market

The FAA seeks public input regarding how the proposed regulations should impact any after-market modifications to drones. Under the proposed rules, any drone owner that makes a modification to his or her drone would assume the role of a manufacturer and be responsible for providing any subsequent buyer with remote operation instructions related to that modification. See Proposed Rule 3859.

While many of the institutional members of the Coalition have internal policies that prohibit the resale of their equipment, some individual, free-lance members do frequently resell their equipment, including drones. As drafted, the Coalition believes that the proposed rule, which mandates that any individual who modifies his or her drone, undertake the responsibilities of a manufacturer for purposes of the rule, imposes an unnecessary and unreasonable burden. The Coalition believes that a better rule would require that any buyer of a second-hand drone be solely responsible for determining his or her own compliance with the rules. This would appropriately assign the responsibility for safe operations while avoiding any unnecessary restriction on the resale market. It also would be consistent with other analogous aftermarket modifications to vehicles where such a burden is on the buyer.
E. Presentation of Certification

The FAA seeks public input regarding whether to require that any remote pilot in command present their “remote pilot in command certificates to the Administrator, authorized representatives of the National Transportation Safety Board (NTSB) or Transportation Security Administration (TSA), or any Federal, State, or local law enforcement officer, upon request.” See Proposed Rule at 3891.

Under appropriately narrow and well-defined circumstances, members of the Coalition do not oppose providing law enforcement with their certification papers. The Coalition, however, is concerned that blanket authorization for local law enforcement to demand immediate presentation of papers would interfere with journalists’ First Amendment rights to lawfully gather the news without unwarranted government interference. The Coalition, therefore, would propose that, absent voluntary consent to show the requested documentation, a police officer should only require a Pilot-in-Command to produce his or her Part 107 Certification and UAS Registration upon probable cause or reasonable suspicion that he or she has been engaged in criminal activity. Further, the FAA should also provide law enforcement – particularly local law enforcement – with training on the regulations to avoid unnecessary government overreach.

F. Changes to Knowledge Testing Framework

The FAA seeks public input regarding changes to how it will recertify existing drone pilots. The Coalition is strongly in favor of changing the recurrent training requirement to allow for online testing, as proposed in the rules. See Proposed Rule at 3891. The current system, which requires pilots to complete a knowledge-testing requirement every two years, is burdensome for journalists in terms of time and money. Coalition members report difficulty finding and traveling to testing centers – particularly those members who live in rural areas – and report that the entire process of recertification can take a full day. The Coalition believes that allowing for online recertification testing will make the process significantly easier.

Conclusion

The members of the News Media Coalition appreciate the opportunity to provide our comments and look forward to working with you on these issues going forward.
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