

NEWS MEDIA COALITION'S COMMENTS IN SUPPORT OF VIDEO-PRODUCTION COMPANIES' PETITIONS TO THE FAA FOR SECTION 333 EXEMPTION

Submitted on Behalf of: Advance Publications, Inc.; A.H. Belo Corp.; The Associated Press; Gannett Co., Inc.; Getty Images (US), Inc.; Gray Television, Inc.; The National Press Photographers Association; NBCUniversal, Inc.; The New York Times Company; Scripps Media, Inc.; Sinclair Broadcast Group, Inc.; and WP Company LLC (d/b/a *The Washington Post*) (the "News Media Coalition").

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We represent the News Media Coalition comprised of newspaper and magazine publishers, broadcast and cable television companies, wire services, website operators and nonprofit journalists' associations who share an interest in the Federal Aviation Administration's efforts to integrate unmanned aircraft systems ("UAS") into the national airspace system by 2015. Specifically, our clients support all efforts that will further the FAA's progress in providing journalists with maximum opportunities, and only narrowly tailored restraints, for the safe and lawful use of UAS for newsgathering purposes.

The News Media Coalition appreciates the opportunity to provide the following analysis comments in support of the Petitions for Section 333 exemptions filed by Astraeus Aerial and other film and video production companies ("Petitions") (Docket Number FAA-2014-0352), submitted by the FAA for public comment on June 26, 2014.

The News Media Coalition is pleased that the FAA is seriously considering whether certain UAS may operate safely in the national airspace system before completion of the small UAS rulemaking required under Section 332 of the FAA Modernization and Reform Act of 2012 ("the Act"). The Petitions demonstrate that the film and video production companies meet the requirements for Section 333 exemptions and will be capable of operating UAS safely and responsibly under the specific circumstances and in the manner they propose.

Further, the FAA's granting these Petitions would provide guidance and experience that will aid other industries, like the news media, in the safe operation of UAS in a manner consistent with both the FAA's mission and the protections of the First Amendment. As the FAA moves forward in integrating UAS, the News Media Coalition urges the FAA to adopt policies that will protect aviation safety without restricting freedom of the press. Therefore, for the reasons discussed below, the News Media Coalition urges the FAA to approve the Petitions.

The Petitions For Section 333 Exemptions Contain Proposals For Operations That Are Safer Than The Current Film And Video Operations Using Piloted Aircraft

The Petitions from the film and video production companies are extensive in their safety-related limitations and conditions. As the Petitions set forth, "these limitations provide for at least an equivalent or even higher level of safety to operations under the current regulatory structure because the proposed operations represent a safety enhancement to the already safe movie and television filming operations conducted with conventional aircraft."

Specifically, there are 18 limitations that the film and video production companies have set forth in their Petitions that will ensure the UAS are operated safely and responsibly. We believe the stringent self-imposed limitations in the Petitions go well beyond what is required to achieve safe UAS operations, but are significant first steps nonetheless. For example:

- The Unmanned Aerial Vehicles ("UAVs")--the component of the UAS that flies--will weigh less than 55 lbs.
- Flights will be operated within line of sight of a pilot and/or observer.
- Maximum total flight time for each operational flight will be 30 minutes. Flights will be terminated at 25% battery power reserve should that occur prior to the 30 minute limit.
- Flights will be operated at an altitude of no more than 400 feet or not more than 200 feet above an elevated platform from which filming is planned.
- The UAS pilot will be an FAA-licensed airman with at least a private pilot's certificate and third class medical certificate. The observer will hold at least a third class medical certificate.
- The UAVs will only operate within a confined "Sterile Area."
- The operator will obtain the consent of all persons involved in the filming and ensure that only consenting persons will be allowed within 100 feet of the flight operation. The UAS operator will submit a written Plan of activities to the relevant Flight Standards District Offices.
- If the UAV loses communications or loses its GPS signal, the UAS will have capability to return to a pre-determined location within the Security Perimeter and land.
- The UAS will have the capability to abort a flight in case of unpredicted obstacles or emergencies.

These safety-related restrictions should help to allay any of the FAA's concerns about the use of small UAS for filmmaking, while allowing the public to take an important step forward towards meeting the goal of UAS integration by 2015.

Approving The Petitions Will Be An Important Step Toward Integrating Certain Small UAS Into The National Airspace System

The restrictions set forth in the Petitions reflect the specific UAS that will be used and the conditions under which they will operate. Specifically, the video production companies have requested an exemption for the use of "rotorcraft, weighting 55 or fewer lbs. including payload." According to the Petitions, "They [will] operate, under normal conditions at a speed of no more than 50 knots and have the capability to hover, and move in the vertical and horizontal plane simultaneously."

As the film and video production companies explain in the Petitions, these small UAS will be taking the place of jet or piston power aircraft, which operate at extremely low altitudes just feet from the subject being filmed and in extreme proximity to people and structures and present the risks associated with vehicles that weigh in the neighborhood of 4,000 lbs. In contrast, the Petitions request an exemption to use much smaller vehicles--small UAVs weighing fewer than 55 lbs. and powered by batteries. The UAS will carry no passengers or crew and, therefore, will not expose passengers or crew to the risks associated with manned aircraft flights.

Yet, even recognizing the significantly reduced risks associated with the use of small UAS (compared to the aircraft currently used), the Petitions set forth a cautious approach that reflects the size of the UAV the operators seek to use and the relative novelty of the technology. This approach will allow an industry to begin testing UAS under conditions that pose virtually no risk and will allow operators and the FAA to gain more confidence in the technology, so that certain small UAS may ultimately be flown by others, such as the news media, without these same restrictions.

The FAA should approve the film and video production companies' Petitions and should consider similar petitions from potential operators in other industries, including the news media. Once the petitioners (and others operating with Section 333 exemptions) can demonstrate the safe and responsible use of small UAS, it is very likely that fewer restrictions will be needed going forward. This is the integration process that Congress envisioned, and the FAA should take concrete steps, such as approving the Petitions of the film and video companies, to progress towards far greater integration of commercial UAS into the national airspace system.

The FAA Should Allow More Flexibility For Smaller UAS

Small UAS are currently defined as an unmanned aircraft weighing less than 55 pounds. *See* FAA Modernization and Reform Act of 2012, Section 331(6). There is significant variation in the vehicles or systems that will fall within this definition.

Indeed, many of the UAS the news media would use weigh less than 10 pounds. These lightweight UAS present fewer risks and will ultimately, once tested, require fewer regulations. For example, while time-of-flight limitations based on the battery life of the small UAS may be appropriate regardless of the size of the aircraft, some of the self-imposed operational requirements set forth in the Petitions--such as requiring that the UAS be operated by an FAA-licensed airman with at least a private pilot's certificate and third class medical certificate, and submission of flight plans to the Flight Standards District Office three days before the proposed

flight--will not be appropriate or practical for the use of lightweight small UAS by the news media. The same would be true of a requirement to obtain consent of the subjects of the filming. In fact, UAVs weighing less than 10 lbs can be safely operated under standards similar to the guidelines applicable to hobbyists. *See* FAA Advisory Circular 91-57; Interpretation of the Special Rule for Model Aircraft, 14 CFR Part 91, Docket No. FAA-2014-0396; Australian Government Civil Aviation Authority Notice of Proposed Rulemaking.¹

In light of the wide variety of small UAS, a one-size-fits-all approach to Section 333 exemptions would hinder the process of integrating UAS into the national airspace system. Instead, as the FAA moves forward to allow the use of certain UAS under the Section 333 exemptions, the FAA should recognize the wide variety of small UAS and structure the exemptions accordingly.

CONCLUSION

For the reasons discussed above, the News Media Coalition urges the FAA to approve the Petitions of the film and video companies for Section 333 exemptions.

¹ Available at http://casa.gov.au/scripts/nc.dll?WCMS:STANDARD::pc=PC_102028.