



VIA ELECTRONIC SUBMISSION

April 15, 2019

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

Re: Docket No. FAA-2018-1087, Comments on the FAA’s Notice of Proposed Rulemaking on the Operation of Small Unmanned Aircraft Systems Over People

Dear Sir or Madam:

Associated Builders and Contractors submits the following comments to the U.S. Department of Transportation’s Federal Aviation Administration in response to the above-referenced notice of proposed rulemaking published in the *Federal Register* on Feb. 13, 2019, at 84 Fed. Reg. 3856.

About Associated Builders and Contractors

ABC is a national construction industry trade association representing more than 21,000 members. ABC and its 69 chapters help members develop people, win work and deliver that work safely, ethically and profitably for the betterment of the communities in which ABC and its members work. ABC's membership represents all specialties within the U.S. construction industry and is comprised primarily of firms that perform work in the industrial and commercial sectors. Moreover, the vast majority of our contractor members are classified as small businesses. Our diverse membership is bound by a shared commitment to the merit shop philosophy in the construction industry. The philosophy is based on the principles of nondiscrimination due to labor affiliation and the awarding of construction contracts through open, competitive bidding based on safety, quality and value.

ABC members know exceptional jobsite safety and health practices are inherently good for business. ABC understands the importance of common-sense regulations based on sound evidence and scientific analysis with appropriate consideration paid to implementation costs and input from employers. Many ABC members have implemented safety programs that are among the best in the industry, often far exceeding legal requirements.

Background

On Feb. 23, 2015, the FAA issued a proposed rule to amend its regulations to adopt specific rules to allow the operation of small unmanned aircraft systems (UAS) in the National Airspace System.¹ ABC

¹ 80 Fed. Reg. 9544.

submitted comments to the FAA offering its input on how the proposal would affect the construction industry's ability to use drones on project sites.²

On June 28, 2016, the FAA issued a final rule on the operation and certification of non-hobbyist small UAS.³ The final rule covers commercial uses for UAS that weigh less than 55 pounds, limiting small UAS operations to daylight and visual line-of-sight only as well as prohibiting the operation of small UAS over any persons not directly participating in the operation without obtaining a waiver.

On Feb. 13, 2019, the FAA issued a proposed rule to amend its rules applicable to the operation of small UAS, including allowing the operation of small UAS at night and over people under certain conditions without obtaining a waiver.⁴

ABC's Comments in Response to FAA's Proposed Rule

ABC welcomes the FAA's proposal to ease certain restrictions on the use of small UAS without compromising the FAA's valid safety objections. The use of this technology has had an immensely positive impact on today's economy, and its potential for the future is enormous. Innovators continue to develop the capabilities of UAS that not only expand on their utility, but also further ensure their safety.

Below are comments on the proposed rule as well as suggested improvements to ensure that ABC members are able to utilize drone technology safely and for the betterment of the construction industry and the U.S. economy.

Daylight-only Operations

ABC agrees with the FAA's proposal to allow small UAS to operate at night without a waiver, as long as they are equipped with an anti-collision light that is visible for three statute miles. In ABC's 2015 comment letter, we argued "daylight-only" operations place severe limitations on the use of small UAS in the construction industry.⁵ For example, thermal imaging is a necessary tool, especially for roof inspections. Heat is absorbed during the day and at night it is released, allowing thermal imaging.⁶ Wet areas release heat slower than dry areas, showing needed repairs.⁷ Using small UAS to conduct this imaging is economical and reaches areas that could not be previously imaged or where human observation is dangerous.⁸ The UAS operator can safely perform the thermal imaging from the ground or a single location as opposed to traversing dangerous heights, especially at night, and risking an on-site injury.⁹ Further, some ABC member companies perform critical tasks during overnight shifts. It is

² See ABC's comments filed on April 24, 2015 (RIN: 2120-AJ60).

³ 81 Fed. Reg. 42064.

⁴ 84 Fed. Reg. 3856.

⁵ See ABC's comments filed on April 24, 2015 (RIN: 2120-AJ60).

⁶ Id.

⁷ Id.

⁸ Id.

⁹ Id.

often difficult to capture the scope of those operations from the ground without assistance from some form of air support. We urge the FAA to relax the current restriction on daylight-only operations.

Operation Over People

ABC is pleased the proposal would allow the operation of small UAS over people who are not directly participating in the operation of the small UAS without obtaining a waiver. The current restriction is overly burdensome, particularly to those in the construction industry, where vertical structures in various stages of the construction process can more than adequately protect workers from potential UAS equipment failure.¹⁰ Risk can be further mitigated on a construction site by requiring all individuals working on the site to utilize and follow prescribed personal protective equipment and procedures, offering an orientation that educates workers about the UAS equipment prior to entering the work site and notifying workers of UAS operations prior to commencement of these operations while on site.¹¹ Utilizing drones during the building process, including tasks at high elevations or tough-to-observe areas, can help to protect workers from potential worksite risks and injuries. In sum, this proposal will help to enhance safety on the construction site and make the building process more efficient. We urge the FAA to relax the current restriction on operating over people.

Operation Over Moving Vehicles

For similar reasons stated in the above paragraph, ABC also urges the FAA to allow the operation of small UAS over moving construction vehicles on a restricted, active construction work zone. To reduce safety risks and ensure safety on the construction worksite, project managers and safety specialists can provide safety education and training to workers. Such safety measures include limiting vehicles to those with adequately protective roofs and windshields, requiring all individuals working on the site to utilize and follow prescribed personal protective equipment and procedures, offering an orientation that educates workers about the UAS equipment prior to entering the work site, limiting the speed of vehicles, maintaining radio communication between the drone operators and the vehicle drivers, and notifying workers of UAS operations prior to commencement of these operations while on site. The construction company can also restrict other vehicles from entering the work site to ensure that only trained and notified personnel operate vehicles in the vicinity of UAS. By taking proactive safety measures on a construction worksite, we believe lifting the prohibition will not compromise the safety of individuals at the construction site.

Visual Line-of-Sight

ABC encourages the FAA to withdraw the 2016 final rule's visual line-of-sight requirement. Today, technology exists that exceeds the safety benefits provided by any line-of-sight requirement. For example, first-person view technology, visual and inertial sensing technology, GPS, the use of multiple

¹⁰ Id.

¹¹ Id.

cameras and other advanced technologies allow operators to not only have better visual awareness of an aircraft's immediate environment, but also allow safe autonomous operation by the aircraft itself.¹² In addition, a line-of-sight restriction eliminates some of the most beneficial opportunities unmanned aircrafts provide, such as giving their operators the opportunity to survey construction projects (e.g., the underside of bridges, tall buildings, pipeline and power line inspections, and land surveying) that would otherwise be a physical challenge or cost prohibitive.¹³ Further, utilizing unmanned aircrafts would allow companies to better protect the safety of their workers by providing visuals of areas that would place a human observer at a high risk of danger. In sum, foregoing a line-of-sight restriction will allow the regulatory process to keep pace with the exponentially developing technology while satisfying the safety concerns of both the FAA and ABC.¹⁴

Knowledge Test

ABC appreciates that the proposal amends the requirement that operators pass a recurrent aeronautical knowledge test every 24 months. In ABC's 2015 comments, we argued the recurrent knowledge test was burdensome, as it required an applicant to travel to one of the FAA's testing locations to take the exam.¹⁵ We also stated that the FAA missed a number of factors when looking at the economic impact on businesses and individuals.¹⁶ Additionally, ABC is pleased that under this proposal pilots could fulfill the recurrent training requirement through online training, which will help to mitigate associated costs. Because the FAA will maintain the current initial knowledge testing requirement and require recurrent training every 24 months, remote pilots will continue to have the tools and resources necessary to operate safely.

Conclusion

ABC appreciates the opportunity to submit comments on this matter and would welcome the opportunity to work with the FAA in evaluating the operation of small UAS as the technology continues to evolve.

Respectfully submitted,



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¹² Id.

¹³ Id.

¹⁴ Id.

¹⁵ Id.

¹⁶ Id.