



January 15, 2024

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Docket Number – FAA-2023-1739-0001
Federal Aviation Administration
800 Independence Avenue SW
Washington, DC 20591

Re: The Commercial Drone Alliance Comments to the Proposed Policy on the Definition of Aeronautical Activities [FAA–2023–1739-0001]

To Whom it May Concern:

The Commercial Drone Alliance (CDA) appreciates the opportunity to respond to the Federal Aviation Administration’s (FAA) Request for Comment on the agency’s proposed Policy on the Definition of Aeronautical Activities (hereafter the “Policy Update”).¹

The CDA is an independent non-profit organization led by key members of the commercial drone industry. The CDA actively participates in legislative, regulatory, and policy efforts to facilitate the safe and secure development and expansion of commercial drone operations. The CDA works with all levels of government to collaborate on policies for industry growth and seeks to educate the public on the safe and responsible use of commercial drones to achieve economic benefits and humanitarian gains, including the countless public benefits enabled by uncrewed aircraft systems (UAS or drones). We bring together commercial drone end-users, manufacturers, service providers, advanced air mobility companies, drone security organizations, and vertical markets including oil and gas, precision agriculture, construction, security, communications technology, infrastructure, newsgathering, filmmaking, and more.²

Commercial UAS provide extraordinary benefits to the American public, including creating jobs, enhancing worker safety, fighting wildfires, promoting infrastructure resilience by revolutionizing inspections of critical infrastructure, expanding equitable and efficient access to critical supplies, enhancing public safety, homeland security, and emergency response, ensuring America’s competitiveness in the global economy and leadership in global aviation, supporting the U.S. economy, generating tremendous economic value, and facilitating commercial deliveries. However, these lifesaving, economic, and societal benefits face numerous barriers to scalability under the current federal regulatory and policy framework in the United States.

¹ 88 FR 78448 (November 15, 2023), Policy on the Definition of Aeronautical Activities.

² Learn more at www.commercialdronealliance.org.

The FAA has several efforts underway to overcome these hurdles and revisit the current UAS certification and operating regimes, with the rulemaking to enable routine beyond visual line-of-sight (BVLOS) UAS operations under a new Part 108 rule leading the way.³ The CDA believes that this proposed Policy Update revising the FAA’s Airport Compliance Manual⁴ to include UAS in the definition of “*Aeronautical Activity*” will complement these efforts. This proposed change will support UAS companies with existing on-airport UAS operations, as well as companies who may seek to use airport facilities and services in the future. Accordingly, CDA concurs with the Policy Update that adds UAS and Advanced Air Mobility (AAM) to the examples of aeronautical activities. While we support implementation of this proposed policy change, we also believe it could benefit from the clarifications and technical revisions discussed below.

I. The Proposed Policy Update Helpfully Clarifies the Current State of Airport Sponsor Federal Compliance Obligations

Under federal law, airports that receive federal grant funds for airport development projects under the Airport Improvement Program (AIP) and other similar grant programs must agree to comply with federal grant assurances. These grant assurances are designed to protect the Federal Government’s investment at specific airports and further protect the public’s interest in civil aviation. Grant assurances are set forth in the application for grant monies and become binding on the airport when it accepts federal funds for airport development.

Under the federal grant assurances, airport sponsors are required to “make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public.”⁵ The FAA Airport Compliance Manual currently defines “aeronautical activity” as “any activity that involves, makes possible, or is required for the operation of aircraft or that contributes to or is required for the safety of such operations.” Applicable federal law and agency regulations⁶ collectively define UAS as aircraft, and for this reason, we believe the proposed Policy Update is merely clarifying an airport sponsor’s existing legal obligations under federal law and the grant assurances to make airports available for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including those relating to UAS. The Policy Update is important to the UAS industry’s growth, including potentially increasing the availability of leased space airport facilities for UAS operators.

II. The Proposed Policy Update Will Enhance Safety within the National Airspace System

UAS can play an important role in supporting airport operations, including, but not limited to, performing tasks such as inspections, wildlife control, and security monitoring. The Policy Update will facilitate the integration of UAS into airport operating environments, and in doing so, enhance the safety and efficiency of airport operations in the National Airspace System (NAS). The Policy Update rightly affirms that authority for such operations—like all aircraft operations—

³ 88 FR 33855 (May 25, 2023), UAS Beyond Visual Line-of-Sight Operations.

⁴ FAA Order 5190.6B.

⁵ See, e.g., Grant Assurance 22, *Economic Nondiscrimination*; see also 49 U.S.C. 47107(a)(1).

⁶ Title 49 U.S.C. 40102 and 14 C.F.R. § 1.1.

remains subject to aviation safety considerations, including FAA operational and airspace approvals and other relevant safety reviews.

It is also worth noting that, while UAS operations can and do occur at airports today, airport access is not generally a prerequisite for typical UAS operations in the same way that it is for most crewed aircraft. This is a feature, not a bug, as the ability to operate without needing access to airports is often advantageous for a UAS operation, expanding geographic reach and operational flexibility while avoiding the air traffic associated with an airport. Irrespective of the FAA's Policy Update, it is fair to anticipate that many UAS operators will keep their operations off-airport as they are today.

III. The FAA Should Adopt Proposed Technical Revisions to the Policy Update's Definition of "Aeronautical Activities"

In line with the spirit and intent of the proposal, the CDA recommends several minor revisions to the "aeronautical activities" definition proposed in the Policy Update.

The examples listed in the current definition of "aeronautical activities" in the FAA Airport Compliance Manual differentiate by operation type (e.g., air taxi and charter operations, crop dusting, sport pilot activities), not by aircraft type. The Policy Update's proposed definition, however, appears to deviate from this longstanding approach with its addition of "unmanned aircraft systems." Separate but related, the Policy Update qualifies the inclusion of UAS by inserting the term "certain" in front of "unmanned aircraft systems." Notably, no other category of operation or activity listed in the Policy Update's proposed definition includes similar qualifiers.

The "certain" qualifier is unnecessary and should be removed from the proposed definition. To the extent that the FAA believes that inclusion of the qualifier term would mitigate against unauthorized or off-airport UAS operations from being categorized or understood as "aeronautical activities," the CDA believes this point is moot as such operations would not qualify as aeronautical activities in the first place. Rather, the use of this qualifier term—when no other category of operation or activity includes a similar qualification—has the potential to confuse rather than clarify.

Finally, as described earlier in this comment, the FAA has long recognized (in its regulations, orders, and guidance) that UAS are aircraft. The last part of the proposed "aeronautical activities" definition, however, which includes an unnecessary distinction between "aircraft" operations and "UAS" operations, has the potential to undermine the overall spirit and intent of the Policy Update.

To remedy these inconsistencies and potential points of confusion, the CDA recommends that the FAA make the following technical revisions to the Policy Update's definition of aeronautical activities (recommended revisions in bold):

"...parachute or ultralight activities, **certain** unmanned aircraft systems (UAS) **operations**, advanced air mobility (AAM) operations, commercial space vehicle operations, and any other activities that because of their direct relationship to the operation of aircraft, ~~UAS~~, or commercial space launch and re-entry vehicles can appropriately be regarded as aeronautical activities."

IV. The Proposed Change Reflects the UAS Industry's Substantial Investment in Aviation Safety, for the Benefit of All Aviation Stakeholders

The UAS industry has spent hundreds of millions, if not billions, of dollars investing in technologies that make the NAS safer, for the benefit of all aviation stakeholders. Many helpful technologies – such as those that enhance situational awareness in the airspace for all airspace traffic – have been developed by the uncrewed aviation marketplace. The FAA's proposed change recognizes this.

While some stakeholders have asserted that the UAS industry ought to contribute to the Airport and Airway Trust Fund (AATF), including as a result of the FAA's proposed change, this assertion is misguided. As envisioned by ICAO, global norms relative to cost recovery systems (generated with extensive U.S. involvement) focus cost recovery on airport infrastructure and air navigation services provision.⁷ As noted above, while UAS can provide significant benefits to airports, UAS generally do not require airports for operations. Moreover, the vast majority of UAS operate in low-altitude airspace, and are not managed by FAA's Air Traffic Organization. Finally, it is notable that AATF revenues will soon well-exceed the draw downs.⁸

V. Conclusion

The CDA appreciates this opportunity to comment on the FAA's Policy Update and commends the FAA's effort to (i) facilitate the rightful accommodation of UAS operations at airports, and (ii) recognize the importance of the UAS industry's growth, particularly for the safety of the NAS, leading to new sources of funding, operations, and leased space for UAS operators. The CDA looks forward to continuing to work with the FAA to accelerate the safe and secure integration of commercial drones into the NAS, which will unlock the countless benefits of commercial drone operations for the American people.

Respectfully submitted,



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⁷ See https://www.icao.int/publications/documents/9082_9ed_en.pdf.

⁸ See Congressional Budget Office, Baseline Projects, Airport and Airway Trust Fund, May 2023.