



**SMALL UAV  
COALITION**  
*A Partnership for  
Safety & Innovation*

February 17, 2017

Honorable Mick Mulvaney  
Director  
Office of Management and Budget  
Executive Office of the President  
1650 Pennsylvania Avenue NW  
Washington, DC 20503

Re: Request for limited waiver from Executive Order 13771

Dear Director Mulvaney:

Congratulations on your appointment as Director of the Office of Management and Budget. As you take office and endeavor to evaluate the impact of both existing and new regulations on the economy and innovation, the Small UAV Coalition<sup>1</sup> respectfully requests that you waive the requirements in sections 2 and 3 of Executive Order 13771, “Reducing Regulation and Controlling Regulatory Costs” (Jan. 30, 2017) to permit the Federal Aviation Administration (“FAA”) to take three related rulemaking actions in Fiscal Years 2017 and 2018. These regulatory actions promise to deliver hundreds of millions of dollars of benefits to American industry and the public, at minimal cost to business, by authorizing commercial unmanned aircraft system (“UAS”) operations over people and beyond the visual line of sight, with varying degrees of autonomy. Specifically, the rulemaking actions are:

- (1) Notice of Proposed Rulemaking, Operation of Small Unmanned Aircraft Over People<sup>2</sup>
- (2) Final Rule, Operation of Small Unmanned Aircraft Over People
- (3) Notice of Proposed Rulemaking, Expanded Operations

Subsection 2(d) of the Executive Order directs you to provide guidance to agencies on implementing the Executive Order, including guidance “on circumstances that might justify individual waivers of the requirements of this section.” We believe that for the benefit of the American economy and consumers, the three rulemaking actions listed above warrant individual waivers.

On February 2, 2017, the Acting Administrator for the Office of Information and Regulatory Affairs published an Interim Guidance Memorandum explaining that the Executive Order 13771 applies only to “significant regulatory actions, as defined in Section 3(f) of Executive Order 12866[.]” Although we are not privy to the contents of the Operations Over People NPRM or

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<sup>1</sup> The Small UAV Coalition includes the following members: AirMap, Amazon Prime Air, Google[x], Intel, Kespry, PrecisionHawk, Verizon Ventures, Aerwaze, AGI, Flirtey, Fresh Air Educators, T-Mobile, and Walmart.

<sup>2</sup> The Operation of Small Unmanned Aircraft Over People NPRM, RIN 2120-AK85, is currently in interagency coordination and is subject to the review and approval of Secretary Chao under Presidential Memorandum “Regulatory Freeze Pending Review” (January 20, 2017).

what the FAA might intend to include in the Expanded Operations NPRM, it is not reasonable to expect that either rulemaking, when final, would have an annual effect on the economy of \$100 million or more. Further, we do not believe either would have a material adverse effect on the economy, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities, or raise novel legal or policy principles arising out of legal mandates, the President's priorities, or the principles in Executive Order 12866. If, however, these rulemakings were to be deemed "significant," we nonetheless urge you to grant waivers.

As a general matter, we applaud the objectives of reducing regulations and controlling regulatory costs. In most instances, an FAA regulation would be expected to impose costs on one or more sectors of the aviation industry, such as airlines, airports, and aircraft operators. As is the case with many rapidly developing sectors of the 21<sup>st</sup> century economy, however, commercial UAS technology is evolving at a pace that has exceeded nascent regulations and industry needs a forward-leaning, progressive regulatory framework to realize the manifold safety, economic, and social benefits of commercial UAS operations. Without rulemaking from the FAA, operations over people and beyond the visual line of sight will remain prohibited,<sup>3</sup> thereby stifling thousands of business opportunities and consumer benefits, as well as life-saving operations. The DOT summary of the Operation of Small Unmanned Aircraft Over People rulemaking states: "This rule would provide relief from certain operational restrictions implemented in the Operation and Certification of Small Unmanned Aircraft Systems final rule [Part 107]."

Granting individual waivers for these three rulemaking actions, if they are considered "significant regulatory actions," would not contravene the objectives of this Executive Order: these rulemaking actions would not result in the "governmental imposition of private expenditures" except to the extent persons might be required to complete a form to seek approval or authority, or to conduct additional remote pilot training or UAS testing. The costs that may be imposed by the Operations Over People Final Rule (no costs would be imposed by Notices of Proposed Rulemaking, while we expect the benefits from the Expanded Operations rulemaking to be enormous) would pale in comparison to the benefits to business and consumers.

The February 2 Interim Guidance states that "[c]osts should be measured as the opportunity cost to society." The status quo currently imposes significant opportunity costs as U.S. businesses and individuals are prohibited from receiving the benefits of commercial UAS operations over people and beyond visual line of sight.

Without these rulemaking actions, the UAS industry in the United States will stall, while other countries, such as European Union Member States and Australia, assume the mantle of leadership and surpass America by creating forward-looking, risk-based regulatory frameworks for widespread UAS operations over people and beyond the visual line of sight, with varying degrees of autonomy.

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<sup>3</sup> 14 C.F.R. Part 107, promulgated in 2016, includes waiver authority to permit operations over people and beyond the visual line of sight ("BVLOS"). To date, only one waiver has been granted to operate over people, and only four waivers to operate BVLOS.

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Thank you for your consideration.

Sincerely,



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Copy to:

Honorable Elaine Chao  
Honorable Michael Huerta