
**BEFORE THE
FEDERAL AVIATION ADMINISTRATION**

WASHINGTON, D.C.

**REQUEST FOR COMMENTS REGARDING
ASTRAEUS AERIAL – EXEMPTION/RULEMAKING**

Docket Number: FAA-2014-0352 Deadline: 7/16/2014

**COMMENTS OF THE
NATIONAL PRESS PHOTOGRAPHERS ASSOCIATION
(NPPA)**

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July 16, 2014

SUMMARY

The National Press Photographers Association (“NPPA”) supports and joined in the analysis submitted by *News Media Coalition’s Comments in Support of Video-Production Companies’ Petitions to the FAA for Section 333 Exemption*. We submit these additional comments to reflect the specific concerns of our members.

On behalf of its nearly 7,000 visual journalist members, the NPPA has an acute interest in helping the FAA properly expedite the integration of small Unmanned Aircraft Systems (“sUAS”) into the national airspace system (“NAS”). We also support exemptions by the FAA that would permit journalists, and in particular visual journalists, to use sUAS for newsgathering purposes.

As both staff photographers and independent photojournalists, members of the NPPA use a wide range of photographic equipment from large video and Digital Single Lens Reflex (DSLR) cameras to iPhones and GoPro’s. As noted in a paper¹ presented at this year’s Association for Unmanned Vehicle Systems International (AUVSI) conference, there are many beneficial uses for which news organizations and individual journalists would deploy sUAS as another tool in their reporting and newsgathering endeavors, much in the same way that they might use a wide angle or telephoto lens. And while a sUAS is defined as a vehicle weighing less than 55 pounds, in point of fact, most of the sUAS being considered for newsgathering purposes are under 10 pounds.

NPPA believes that a process by which the FAA issues exemptions, such as those requested by Astraeus Aerial and other similar companies would be helpful for those individuals and organizations wishing to operate sUAS with FAA approval. We also believe the exemption request by the applicant(s) contain voluntary, self-imposed limitations that should not be adopted as general requirements or standards for future sUAS exemptions because they would create an unnecessary and undue burden for visual journalists.

COMMENTS OF THE NATIONAL PRESS PHOTOGRAPHERS ASSOCIATION

INTRODUCTION

The NPPA is a 501(c)(6) non-profit organization dedicated to the advancement of visual journalism in its creation, editing and distribution. NPPA’s approximately 7,000 members include staff photographers and independent photojournalists, photographers who create original still and moving images for publication and broadcast in all media. Since its founding in 1946, the NPPA has vigorously promoted the constitutional rights of journalists as well as freedom of the press in all its forms, especially as it relates to visual journalism. Our members’ images and video inform Americans and others to better understand the world in which we live.

¹ Mickey H. Osterreicher, *Charting The Course For Use Of Small Unmanned Aerial Systems In Newsgathering* (Orlando: AUVSI, 2014) Available at <http://www.auvshow.org/auvsi2014/public/SessionDetails.aspx?FromPage=Sessions.aspx&SessionID=773&SessionDateID=20>

The NPPA supports the safe integration of sUAS into the national airspace. Visual journalists rely on the latest available technology, including aerial photography, in their efforts to inform the public. Our members and other journalists work under extremely tight deadlines, covering events of great national and international importance, including political campaigns, wars, breaking news and sports. In 2014, this necessarily includes the use of sUAS.

While aerial photography has traditionally been a crucial tool for reporting on matters of public concern, its benefits come with safety and financial costs. It is self-evident that with increasing fuel and insurance prices, operating any type of manned aircraft (fixed or rotary wing) is extremely costly for most news organizations and prohibitive for most independent journalists. And no matter how safe, accidents still occur, such as one on March 18, 2014, where a pilot and photographer were killed when a television news helicopter covering a breaking news story crashed on takeoff in Seattle, Washington. The crash also critically injured a motorist on the ground.² A tragedy of this magnitude is unlikely to occur when operating a sUAS.

The evolution, ease of use, comparative safety, and relative affordability of high quality sUAS presents an enormous opportunity for visual journalists to bring a better understanding of important news and information to the public while minimizing risk to both the journalists themselves and the public at large.

Seven aerial photo and video production companies recently asked the FAA for regulatory exemptions that would allow, for the first time, the film and television industry to use Unmanned Aircraft Systems (UAS) with FAA approval. Because the FAA is seeking only for comments on the Astraeus Aerial petition (“seeking an exemption to operate commercially a small unmanned vehicle (55lbs or less) in motion picture and television operations”), we address that petition specifically. However, as the other six companies’ petitions are asking for identical exemptions, our comments apply to those as well.

NPPA SUPPORTS THE SECTION 333 EXEMPTION PROCESS

The NPPA appreciates the opportunity to make public comment on the petition seeking relief from specified requirements of Part 11 of the Federal Aviation Regulations and also to provide input in order to improve the promulgation of rules regarding the future use of UAS and sUAS. It is in that spirit that the NPPA supports the Section 333 exemption process in general and the instant petition in particular.

While NPPA continues to assert that sUAS use for newsgathering is not a “commercial operation” we expect to see other tangible benefits if these exemption requests are granted. Specifically we would hope that NPPA might also be allowed to “facilitate” exemption petitions on behalf our membership in a similar manner to what has been achieved by the Motion Picture Association of America.

Given the recent study done by NPPA regarding the use of sUAS for newsgathering,³ in which fifty (50) news organizations and media associations participated, and which received 680 responses, mostly from those identifying themselves as “journalists,” NPPA is providing the

² <https://nppa.org/news/two-killed-komo-tv-seattle-helicopter-crash>.

³ Osterreicher, *Use of sUAS in Newsgathering*

FAA with data from this first-of-its-kind study of this subject (see attached). NPPA seeks to collaboratively develop future exemption requests in order to satisfy the safety and public interest concerns of the FAA and the general public on behalf of our independent and staff visual journalists.

As the agency is well aware, a number of news organizations and other groups have also been considering ways to utilize the provisions of Section 333 of the FAA Modernization and Reform Act of 2012 (“Reform Act”) so that the FAA may expedite sUAS integration as well as promulgate commonsense and constitutionally valid sUAS rulemaking.

NPPA CONCERNS REGARDING PROPOSED LIMITATIONS AND CONDITIONS

NPPA has reviewed the voluntary and self-imposed “limitations and conditions” proposed by the applicant. While they may be acceptable to them, we urge the FAA to decline to adopt or extend these as prerequisites for future exemptions or as future standards in its rulemaking required under Section 332 of the Reform Act. While some of the limitations and conditions may be acceptable, others are impractical and would be an undue burden on sUAS use for newsgathering. We specifically have concerns regarding:

- a) A requirement for consent of all persons involved in the filming, as this is not practical in newsgathering. While the film industry may, in its controlled environment, have the ability to obtain consent from those who will be filmed, photographers in the newsgathering industry do not. Journalists report on many people that don’t want to be reported on, including criminals, officials engaged in inappropriate activities, businesses engaged in illegal or unethical behavior, and others who don’t want their involvement in matters of public concern to be made known. Any requirement for consent of the individuals being photographed would not only be inappropriate for newsgatherers, it would impose a burden that might be impossible to overcome and would run afoul of First Amendment protections.
- b) A requirement for written and/or oral permission from relevant property holders as well as permits “from territorial, state, county or city jurisdictions, including local law enforcement, fire, or other appropriate governmental agencies.” While the term “relevant” is not defined in the application, the NPPA is concerned that it could be interpreted to mean permission is required from owners of property depicted in images obtained by sUAS use or of property overflown by a sUAS. Such requirements would also place an undue and previously unrequired burden on news photography as well as on the flight paths of aircraft used for newsgathering purposes. In an urban area, a sUAS can capture images of hundreds of different independently owned pieces of real property, much like any photographer looking out of the window of a high-rise building or from a hill. It is crucial that there be no requirement for permission from the property holders depicted in the images or from owners of property which may be incidentally overflown. The same concerns and objections hold true for requiring local governmental permits once said sUAS operation has been approved by the FAA.

- c) A requirement to submit a written “Plan of Activities” three days prior to a sUAS flight. Such a requirement would make it virtually impossible to cover breaking news.
- d) A maximum flight time requirement, as this might operate as a prior restraint. The NPPA does not object to a requirement that a flight must end once the battery level reaches a certain point; however, journalists and other operators should be able to operate sUAS for the amount of time that the craft is, within safety parameters, able to remain airborne.
- e) A requirement that sUAS be operated by no less than a crew of three. While this minimum crew level may be attainable and desirable on a major motion picture or television production, it is not practical or appropriate for newsgathering purposes. Given that manned aircraft regularly fly with a single pilot, a 55 pound (or much lighter) sUAS carrying no humans should be allowed to be operated by one or two persons at most. At this time the NPPA does not take a position as to whether an “observer” should be required in addition to a “sUAS pilot in command” as an exemption requirement.
- f) A requirement that a sUAS pilot be an FAA licensed airman. While the NPPA supports some type of sUAS pilot training or certification we believe that requiring sUAS operators to qualify and obtain either a commercial or private pilot’s license, as proposed in the application, is excessive, overly burdensome and counterproductive. We also assert that the medical requirements for sUAS pilots and observers are unnecessary, inapplicable and establish another layer of regulatory control that will detrimentally impede sUAS operation and integration into the NAS.

The NPPA finds that some of the self-imposed limitations in the application for exemption would not create undue burdens on sUAS use for newsgathering. Specifically the NPPA finds the following safety limitations acceptable:

- a) A 55 lb. weight limit.
- b) A requirement for flights to remain within the line of sight of the pilot and/or observer.
- c) A maximum altitude limit of 400 feet above ground level.
- d) A requirement that the flight must be terminated at 25% battery power.
- e) A requirement that the operator must be trained in UAS operations generally.
- f) A requirement that the sUAS have the ability to return to a pre-determined location if communication with the controller is lost.
- g) A requirement that the sUAS will have the capability to abort a flight in the event of an emergency.

CONCLUSION

The NPPA believes it is imperative that the FAA address general flight rules, pilot certificate requirements and airworthiness certification as allowed under Section 333 in order to expedite sUAS use and their safe integration into the national airspace. We generally support FAA approval of the petition to grant Section 333 exemptions to Astraeus Aerial permitting commercial sUAS use in motion picture and television operations. In our opinion the petition satisfies the requirement that the proposed sUAS operations will not adversely affect safety, and in fact provide a greater level of safety when compared to the rules from which they seek an exemption.

That is not to say that others, such as journalists, seeking an exemption should be required to adopt the same limitations and conditions that the motion picture industry seems willing to embrace. We believe that satisfying Section 333 criteria relating to size, weight, speed, operating capabilities, etc. should be the sole basis for granting any requested exemptions and that a denial should not be premised based upon pretextual safety concerns or by privacy fears, which are sufficiently covered by state laws.

NPPA also asserts that there are other uses, such as newsgathering, where granting an exemption would be in the public interest and we hope that FAA approval of this petition will be a step in the right direction. It is our expectation that sUAS operation under this exception will provide invaluable information and experience that will encourage the FAA to permit further exceptions for visual journalists and others. Such operations should also contribute to coherent and commonsense rulemaking and help the FAA fulfill its mission while allowing journalists and others to exercise their First Amendment rights.

The NPPA appreciates the opportunity to provide comment and feedback and remains available to assist with this process in any way possible. Thank you for your time and consideration.

Respectfully submitted,

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