

November 6, 2015

The Honorable Anthony R. Foxx
Secretary of Transportation
The Honorable Michael P. Huerta
Administrator, Federal Aviation Administration
U.S. Department of Transportation
1200 New Jersey Avenue, S.E.
Washington, DC 20590

**RE: Clarification of the Applicability of Aircraft Registration
Requirements for Unmanned Aircraft Systems (UAS) and Request for
Information Regarding Electronic Registration for UAS; Docket No.
FAA-2015-4378**

Dear Secretary Foxx and Administrator Huerta:

The Retail Industry Leaders Association (RILA) welcomes the opportunity to respond to the Federal Aviation Administration's (FAA's or Agency) Clarification and Request for Information regarding the Applicability of Aircraft Registration Requirements for Unmanned Aircraft Systems (UAS) and Request for Information Regarding Electronic Registration for UAS. 80 Fed. Reg. 63912 (Proposed Oct. 22, 2015) (to be codified at 14 C.F.R. Chapter I). In recent years, interest in UAS has grown beyond a small group of specialists and hobbyists to include businesses seeking to explore business uses for UAS or drones and more consumers wanting to experience this creative technology. With an increasing number of UAS in current and future operation, retailers recognize the need for FAA to establish clear safety practices and use guidelines and a "culture of accountability."

RILA is the trade association of the world's largest and most innovative retail companies. RILA promotes consumer choice and economic freedom through public policy and industry operational excellence. Its members include more than 200 retailers, product manufacturers, and service suppliers, which together account for more than \$1.5 trillion in annual sales, millions of American jobs and operate more than 100,000 stores, manufacturing facilities and distribution centers domestically and abroad.

The retail industry is committed to product safety and frequently collaborates with government agencies, manufacturers and safety advocates to ensure that products sold meet the highest safety standard and that consumers are educated on safety procedures. RILA is supportive of the FAA's goal of enhancing UAS safety practices and consumer education. It is in this spirit of collaboration that RILA offers the following comments and suggestions covering five topic areas: 1) the current expedited timeframe to establish a registration process; 2) the need for the FAA to take a risk-based approach to product registration; 3) the critical role of unique product-specific level identification in the registration process; 4) FAA's role and responsibilities; and 5) the need for a comprehensive

customer awareness and education campaign. Each of these issues are discussed in more detail below.

I. The Current Expedited Timeframe Set Forth in the Federal Register Notice Does Not Allow for a Thoughtfully Developed and Consistently Implemented UAS Registration Program

RILA is concerned with the short timeline set forth in the Federal Register Notice for gathering information, establishing a working group, developing consensus recommendations and implementing a federally regulated registration system just weeks before the holiday season. While we appreciate the Agency's goal of increasing safe and responsible UAS use, the logistical challenges in implementing such a system within the current expedited timeframe make doing so responsibly and coherently impossible. As detailed below in these comments, there are several serious issues that need to be addressed prior to implementation of an effective UAS registration program, including:

- Determination of the scope of the products that will be subject to the registration process;
- Addition of new product specific identification numbers to UAS products;
- Development of new IT and data security systems to support product registration;
- Determination of information to be required in the registration process;
- Identification of appropriate payment mechanism(s) for any product registration fee; and
- Rollout of a comprehensive consumer education campaign regarding UAS safe practices and any new product registration requirement.

Each of these components will require time to thoughtfully work through. RILA fears that FAA's rush to implement a registration program prior to the holiday season will not be effective in registering high-risk UAS products, and instead, will result in consumer anger and confusion and, if not constructed thoughtfully, impose heavy administrative burdens on retailers. RILA urges the FAA to "hit the pause button" and take this opportunity to develop a strategic plan and timeline that will meet the goals of enhanced UAS safety and registration and include the participation of all interested stakeholders.

In the event that the FAA decides to move forward within the proposed current timeframe, we strongly urge the Agency to proceed with a narrowly crafted interim rulemaking and not implement a direct and final rule. Such an interim rule would give the FAA more time to work with all stakeholders to address all of the concerns raised below to develop a simple and effective customer-friendly registration process that addresses high-risk products and to rollout a comprehensive consumer awareness and education campaign.

II. FAA Should Take a Risk-Based Approach and Only Require Registration of UAS that Present the Greatest Safety Risks

Under the definition of UAS detailed in the Federal Register, any type of product capable of flight could be subject to a registration requirement. This includes small items that are often sold as toys as well as large UAS or drones capable of flying at an altitude of several thousand feet. It does not make sense for the FAA to use a “one size fits all” approach to safety regulation. Such an expansive approach would include UAS that pose low risk to safety, create customer confusion and impose administrative burdens and costs on the FAA, manufacturers, retailers and consumers without enhancing safety. Instead, the FAA should adopt a risk-based approach when defining categories of UAS that will be subject to registration and only require registration of UAS products that present the greatest safety risks. We urge the FAA to work with all stakeholders to establish clear and concise categories for specific types of UAS to be excluded from any registration requirement. Factors that could be considered when making the scope determination include: product weight and overall size; operating range; maximum speed; maximum altitude; fragility; and GPS or other navigation capability.

III. Unique Product Level Identification Numbers are Critical for Meaningful Product Registration

RILA members support the FAA’s goal of establishing a “culture of accountability” for users of UAS and its need to be able to quickly identify individual UAS users involved in safety-related incidents. In order to do this, products must contain product-specific unique identification numbers that consumers can use when registering the UAS. However, the vast majority of UAS models currently on retailers’ shelves and sold to consumers today do not contain product-specific unique identification numbers. Manufacturers will need time to initiate manufacturing process changes to add product-specific unique identification numbers to those categories of UAS defined by the FAA to be within the scope of the registration requirement. If the FAA moves forward with establishing a registration process without waiting for product-specific unique identification numbers to be added to UAS products, the only information that consumers will be able to provide during registration is the model or inventory number of the UAS product, rendering the registration data base essentially useless. In the event of a UAS-related safety incident, the FAA would not be able to identify the owner of the UAS involved in the incident. Instead, the UAS registration database would only provide the list of the several thousand or hundreds of thousands of customers that purchased that category of product. It is critical for the FAA to take the time to work with manufacturers to add product-specific unique identification numbers to UAS products and for retailers to ensure that products sold meet any new FAA requirements prior to the rollout of a new registration requirement.

IV. FAA, not Retailers Should Have the Primary Responsibility for Administering a UAS Registration Program and Collecting Registration Fees

The FAA has requested input and recommendations on whether prior-to-operation or point-of-sale registration would be a more effective method for product registration. RILA members strongly believe that registration prior-to-operation will most efficiently accomplish FAA's goal of product registration while protecting consumers' privacy. The choice of prior-to-operation registration requirement would be consistent with how other vehicles or modes of transportation are registered. For example, a consumer can purchase a boat freely but is required to register the boat and take safe boating classes prior to operation. Similarly, purchasers of high-risk UAS product should be allowed to purchase the UAS freely subject to a prior-to-operation registration requirement. Requiring UAS users to register directly through an FAA website will give the FAA the opportunity to educate UAS users regarding safety practices and guidelines. To encourage consumers to register their products prior to operation, the FAA could work with manufacturers to explore the use of software technology that prevents operation of high-risk UAS products until after registration with the FAA. A prior-to-operation registration requirement coupled with a software operation lock and product-specific unique identification numbers will most efficiently and effectively result in the registration of high-risk UAS by consumers prior to operation, and will provide the FAA with the necessary details to identify a specific UAS user involved in a safety-related incident.

Requiring point-of-sale registration and the potential collection of a registration fee poses several logistical and policy concerns. First, a point-of-sale registration requirement would exponentially multiply the need for new IT systems and increase the likelihood of a system glitch or breakdown during the rollout of a registration requirement. In addition to the new FAA IT systems to process UAS registration and house UAS registrant data that would need to be built and tested prior to rollout, each individual retailer would be required to establish its own IT link to the FAA's new registration site. The potential for chaos will only increase if retailers are also burdened with collecting and processing registration fees. The FAA will need to establish a method for receiving and processing registration fees and retailers would need to establish new processes and procedures for identifying payments received as UAS registration fees and a method of transmitting those fees to FAA. With hundreds, if not thousands of retailers selling UAS products, a point-of-sale registration requirement will impose tremendous burdens on the retail industry without enhancing safety. This is particularly true if the FAA requires smaller low-risk UAS products to be registered. In addition, the timeframe for the FAA and retailers to develop IT systems that link to an undeveloped FAA UAS registration site and process and tender registration fees prior to the holiday season is too short to ensure an effective and workable system. Eliminating retailers as a middleman between the customer and the FAA will streamline the registration process and significantly reduce the possibility of a systems glitch preventing the registration of UAS products.

Second, even assuming that the technical challenges identified above could be addressed within the current proposed timeframe, the proposal for point-of-sale registration and fee collection presents several other challenges. Retailers are deeply committed to customer privacy and data security and data minimization is one key tenet of a good privacy policy. Requiring registration at point-of-sale creates potential privacy concerns as checkout clerks would be required to ask customers to reveal personal information (e.g., name, address, phone number, email address) while standing in the checkout line. Consumers are reticent about revealing personal information particularly in such a public forum. Retailers therefore should not have any responsibility for the collection, retention or sharing of customer data that will be generated as a result of the registration process. RILA believes that customers will be better protected by ensuring retailers are not an unnecessary middleman. Retailers place a high priority on the protection of their customers' personal information. Therefore, we recommend that customers provide the required information directly to the FAA through a web-based application that is then stored on systems owned and operated by the agency itself. Additionally, this information should be available only to government employees engaged in enforcement activities and stored securely with sufficient cybersecurity measures to prevent unauthorized access. The registration process should also clearly define the registrant's privacy protections and provide relevant legal disclosures regarding the limited use of registration information (*i.e.*, for enforcement purposes only).

Third, a point-of-sale registration requirement, particularly if it is rolled out without any consumer education campaign educating UAS users on safety guidelines and registration requirements, will create significant customer service issues for retailers and adversely impact consumers' retail shopping experiences. Retailers strive to provide their customers with a positive shopping experience with outstanding customer service and efficient sales checkout. A point-of-sale registration requirement would undermine retailers' current efficient retail operations. Instead, consumers would be required to complete the UAS registration process while standing in the checkout line or during the online checkout process. Since the FAA has not engaged in any consumer education campaign announcing the new registration requirement and explaining the specifics and process for registration, most, if not all customers will be unaware of the registration requirement and potential registration fee. The checkout clerk would then need to take the time away from his or her regular duties to explain the UAS registration and fee requirements to the customer, obtain the relevant registration information from the customer, and process the registration and fee prior to checkout. There is a significant likelihood of customer complaints. This in turn could necessitate the involvement of a store manager or customer service representative to resolve the customer service issue. All of these actions will create delays in processing customers' purchases resulting in lengthy checkout lines. Retailers are already challenged to meet customers' service expectations during the busy holiday season. A point-of-sale registration requirement will unnecessarily add to these challenges and will negatively impact consumers' shopping experiences without meeting the FAA's goal of establishing an efficient and simple customer friendly UAS registration process.

Fourth, we note that purchasers of UAS products may not in many instances be the

intended primary operator. These items are often purchased as gifts, particularly during the holiday season. Therefore, requiring registration at point-of-sale would not garner the necessary information required for FAA enforcement purposes.

Finally, RILA believes that imposing registration requirements at point of sale rather than on users prior to operation effectively regulates the sale rather than the use of UASs. RILA believes that FAA's authority to regulate extends to use but not sale of these products.

For the reasons mentioned above, RILA believes that FAA should establish an FAA-run registration system conducted via a web-based platform that will allow the owner to register the high-risk UAS product prior to operation.

V. FAA Needs to Engage in a Comprehensive Consumer Education Campaign to Address the Lack of Consumer Awareness of UAS Safety Practices and Registration Requirements Prior to and as Part of Implementation of a New Registration Requirement.

The key component to enhancing UAS safety and an effective rollout of a new UAS registration program is a comprehensive consumer education program. We urge the FAA to take the time to collaborate with manufacturers, retailers, safety experts and consumer advocates to develop an educational program that provides important safety information to UAS users and highlights the requirement for registration of high-risk UAS products. There are several actionable measures that manufacturers and retailers can take to support FAA's efforts. For example, as part of a future consumer education campaign manufacturers could include FAA's UAS safety guidelines as well as information about registration requirements within UAS product packaging. Additionally, some of RILA's members have already taken proactive steps to educate customers by distributing materials from the "Know Before You Fly" campaign established by the Association for Unmanned Vehicle Systems International (AUVDI), the Academy of Model Aeronautics (AMA), and the Small UAV Coalition. FAA's meaningful collaboration and cooperation with all stakeholders to develop an effective consumer awareness and education campaign will promote safe and responsible UAS usage and registration.

Conclusion

The issue of UAS safety and product registration is complicated with complex public policy issues that need to be worked through and logistical challenges that will take time to resolve. RILA urges the FAA to take the time necessary to engage with all interested stakeholders to develop a thoughtful and comprehensive solution to this critically important issue. RILA fully supports the FAA's goals of enhancing UAS safety and to operationalize a registration system for UAS products in order to increase safe and responsible UAS use. We believe that the most effective and efficient system will be a FAA operated and not have retailers directly involved with the registration process and fee collection. The practical realities of implementing a point-of-sale registration system in time for this holiday season would impose heavy and costly administrative burdens on the FAA and retailers while at the same time raise serious consumer privacy concerns. RILA

urges FAA to establish a simple, user-friendly web-based application that requires the prospective user to provide the necessary information directly to the FAA prior to operation. We also encourage FAA to use a risk-based approach to identify those UAS products that have the highest safety risk and narrow the scope of the registration program by eliminating low risk UAS products. Finally, we urge the establishment of a preemptive federal standard for UAS registration to allow for uniformity, consistency and alleviate potential burdens on both retailers and consumers if states are left to legislate potentially inconsistent UAS safety.

We thank the agency for the opportunity to provide comments and look forward to working with the FAA on this issue.

Sincerely,



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Retail Industry Leaders Association (RILA)