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U.S. Department of Transportation
Docket Management System
1200 New Jersey Ave., SE
Washington, DC 20590

Submitted via www.regulations.gov

Subject: Comments on behalf of National Association of Broadcasters in Support of the Petition of AeroCine, LLC to Amend Exemption No. 11150A, Docket No. FAA-2014-0400

To Whom It May Concern:

The National Association of Broadcasters (“NAB”), through counsel, is pleased to comment in support of certain aspects of the relief requested in the petition to amend Exemption No. 11150A issued to AeroCine, LLC (“AeroCine”) under Section 333 of the FAA Modernization and Reform Act of 2012 (“FMRA”). NAB is a nonprofit trade association that advocates on behalf of local radio and television broadcast stations and broadcast networks before Congress, the Federal Communications Commission, other federal agencies, and the courts.¹

The benefits of UAS in the news and entertainment industries are significant. UAS will expand the possibilities for capturing informative and engaging images, delivering both vital information and captivating entertainment to millions of Americans. The use of UAS will permit safer, less expensive, and better journalism and video production. UAS will provide television stations in smaller markets otherwise constrained by more limited budgets and resources with an unprecedented opportunity to offer aerial coverage while also allowing stations in larger markets to supplement, or even replace, their current aerial capabilities, better enabling journalists to inform the public and alert government first responders.

Recent exemptions granted under Section 333 of FMRA approving the use of UAS for newsgathering activities offer significant safety and efficiency benefits, and are a good first step. To unleash the full potential and safety benefits of this technology for commercial newsgatherers, however, the requirements imposed on commercial UAS operators should be refined so as not to unnecessarily hinder the deployment of UAS for important newsgathering purposes, as NAB, the National Cable & Telecommunications Association (“NCTA”) and the Radio Television Digital News

¹ Additional information on NAB and its members is available at: <http://www.nab.org/>.

Association (“RTDNA”) discussed in our joint comments on the FAA’s pending rulemaking on small UAS.²

AeroCine’s petition also identifies several key issues that would increase the utility of UAS for newsgathering activities and video production, including:

- Allowing an experienced UAS operator to be in direct control of the UAS while under direct supervision and in communication with an FAA-licensed private, recreational, or sport pilot, who acts as a visual observer (“VO”);
- Permission to operate over nonparticipating persons for breaking news, and above property where access is not controlled;
- Contemporaneous issuance of notice to airmen for breaking news instead of the current requirement for 24 hour advance notification; and
- Allowing night flights and operations from a moving platform.

For the reasons described in more detail below, NAB believes the grant of AeroCine’s petition would enhance public access to information without sacrificing safety.

A. Certificated Pilot Acting as Visual Observer

First, AeroCine seeks approval to fly with experienced UAS operators in direct control of the unmanned vehicle, while under the direct supervision of, and in direct communication with, an FAA-licensed private, recreational, or sport pilot acting as a VO. NAB agrees with AeroCine that the particular skills and qualifications needed to pilot a UAS are very different from those required to operate a manned aircraft. Indeed, without specialized training on the unique aspects of UAS flight, most certificated pilots would not have the requisite skills to precisely control a UAS.

AeroCine’s proposal to allow a competent, skilled, and experienced UAS operator to be in direct control of the vehicle, while under the direct supervision of, and in direct communication with, an FAA-certificated pilot, will be safer than having a newly trained UAS pilot who holds a private, recreational, or sport pilot certificate. Moreover, AeroCine’s proposal to have an FAA-certificated pilot act as VO will ensure adherence to all rules of the National Airspace System.

B. Flights Over Nonparticipating People and in Areas Open to the Public

AeroCine seeks permission to conduct UAS operations for newsgathering and broadcast activities over property where access is not controlled, and over people who are not directly involved in the newsgathering UAS operation. As is the case with other Section 333 Exemption holders, the conditions and limitations of AeroCine’s exemption generally prohibit UAS operations over nonparticipating persons, and confine operations to the airspace over private or controlled-access property *and* only with permission of the property owner/controller or authorized representative.

² NAB/NCTA/RTDNA, Joint Comments on Notice of Proposed Rulemaking (“NPRM”), *Operation and Certification of Small Unmanned Aircraft Systems*, Docket No. FAA-2015-0150 (filed Apr. 24, 2015).

However, to cover breaking news events, newsgatherers must be able to fly their UAS over people who are not directly involved in the flight operation. Also, in most instances, it would be impractical, if not impossible, to obtain timely permission from every landowner or authorized representative of the property that the UAS flies over. Absent this relief, these requirements significantly restrict the utility of using UAS for newsgathering activities, and make it impossible for journalists to cover the vast majority of news events with UAS.

The FAA's primary concern with allowing flights over nonparticipating people is the potential harm to nearby people in the event of a UAS accident. Journalists and other video programmers at both the local and national levels have many decades of experience using helicopters and fixed wing aircraft to obtain aerial videography in a responsible manner that balances the public interest in disseminating information with reasonable concerns about public safety.

While NAB supports broader approval for conducting UAS flights over areas open to the public than that proposed by AeroCine, as a first step, the FAA should grant AeroCine's request to operate "micro-UAS" over nonparticipating people. As recognized by the FAA in its NPRM on the operation and certification of small UAS, unmanned aircraft weighing no more than 4.4 pounds and made out of frangible materials that break, distort, or yield on impact, such as foam, present a lesser hazard to persons or objects. Consistent with this view, the additional safety mitigation procedures proposed by AeroCine would allow the UAS to be operated safely over members of the public who are not directly involved in the UAS flight operation.

C. Contemporaneous Issuance of Notice to Airmen for Breaking News

NAB supports AeroCine's requested relief to allow contemporaneous issuance of notice to airmen ("NOTAM") for breaking news events. The Blanket Certificate of Waiver or Authorization ("COA") issued to any operator with a valid Section 333 Grant of Exemption requires a NOTAM to be issued at least 24 hours in advance of a flight operation. By their very nature, breaking news events do not come with advance notice. While the 24-hour advance notice requirement may be practical for pre-planned events, the requirement prevents deployment of UAS for breaking news coverage. The added safety benefits of providing 24-hour advance notice of small UAS flight activity occurring below 200 feet above ground level ("AGL") to other aircraft flying in the area is negligible, if any. This is because the minimum safe altitude requirements of 14 C.F.R. § 91.119(c) prohibit an aircraft from operating closer than 500 feet to any person, vessel, vehicle, or structure. On the contrary, it would enhance safety and thereby expand the ability of newsgatherers and journalists to deliver vital information to millions of Americans.

D. Night Flight Operations

NAB believes the FAA should allow nighttime UAS operations where such operations may be conducted safely. In the absence of a broader rule authorizing nighttime flights, NAB supports AeroCine's requested relief to allow it to operate UAS on closed sets at nighttime. The FAA's current requirement that UAS only operate during daytime is unduly restrictive and makes it impossible for newsgatherers, journalists and video program producers to film special or other planned events that occur at night. Instead, the FAA should permit night flights under conditions that ensure safety. For example, nighttime flights should be permitted if UAS are operating with lights, or if UAS are operating in an environment that is well lit, such as a closed set environment.

The primary safety concern with allowing nighttime UAS flights is that the darker environment may affect the operator's ability to see-and-avoid other aircraft and to see people on the ground and take precautions to ensure that the UAS does not become a hazard. AeroCine's proposal to require a second VO, who will use an assisted-vision device such as a set of binoculars or a monocle with night vision technology, will ensure that the operator can see other aircraft and people on the ground and exercise necessary see-and-avoid measures.

E. UAS Operations from a Moving Platform

AeroCine seeks relief to allow it to fly UAS from a moving platform on a closed film set. News events and video programming shots are often fluid, and mobility is necessary. The ability to operate UAS from a moving platform would be much safer than using a full-sized helicopter for the same purpose. The FAA should consider allowing operation from a moving platform as long as the UAS operator and VO are not operating the moving platform.

As discussed in the FAA's NPRM for the operation and certification of small UAS, a key concern with allowing UAS operations from a moving vehicle is that the horizontal area-of-operation boundary tied to the operator's line of sight would move with the operator, thus increasing the size of the small unmanned aircraft's area of operation. This is not a concern in the context of closed set operations because the horizontal boundary of the operating area is limited, not only by the operator's ability to see the UAS, but also by the size of the closed set on which it operates. To the extent the FAA chooses to impose limits on operating UAS from a moving platform, an exception should be made for operations from a moving platform on a closed set.

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NAB appreciates the opportunity to provide these comments in support of AeroCine's petition, and looks forward to the FAA's continued efforts to refine and shape UAS rules and policies that unleash the true potential of this technology for journalists, newsgatherers and video program producers across the country. We also continue to urge the FAA to expeditiously conclude its rulemaking on small UAS.

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