
**BEFORE THE
FEDERAL AVIATION ADMINISTRATION**

WASHINGTON, D.C.

**REQUEST FOR COMMENTS REGARDING
DESIGNATION OF AIRSPACE TO RESTRICT THE OPERATION OF UNMANNED AIRCRAFT
IN CLOSE PROXIMITY TO A FIXED SITE FACILITY**

Docket No. FAA-2026-4558

**COMMENTS OF THE
NATIONAL PRESS PHOTOGRAPHERS ASSOCIATION**

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I. SUMMARY

The National Press Photographers Association (“NPPA”) appreciates the opportunity to comment on the Federal Aviation Administration's Notice of Proposed Rulemaking concerning the designation of airspace restrictions around fixed site facilities.

NPPA recognizes and supports the FAA’s responsibility to protect critical infrastructure, national security assets, and other sensitive facilities from legitimate threats posed by uncrewed aircraft systems (“UAS”), more commonly known as drones. NPPA does not challenge the FAA’s authority to impose appropriate narrowly tailored restrictions where necessary to address documented safety and security concerns.

At the same time, drones have become an indispensable tool of modern journalism and an increasingly important means by which the public receives information concerning matters of significant public concern. For more than a decade, NPPA has worked with federal agencies, lawmakers, public safety officials, educators, manufacturers, operators, and industry stakeholders to promote and support the safe integration of drones into the National Airspace System (“NAS”). During that time, visual journalists have demonstrated that drones can be operated safely and responsibly, in a manner consistent with both aviation safety and legitimate privacy concerns.

Today, journalists routinely use drones to document natural disasters, environmental emergencies, infrastructure failures, public demonstrations, transportation incidents, government-funded construction projects, traffic, search-and-rescue operations, wildfires, flooding, industrial accidents, and government activities in public view. Drone journalism frequently provides a safer, less costly, and less intrusive alternative to crewed aircraft while expanding the public’s ability to receive timely and accurate information about events affecting their communities.

A consideration of the proposed rule must acknowledge that prior government restrictions on drone operations have ranged from narrowly tailored measures addressing legitimate safety concerns to increasingly expansive restrictions that have significantly affected lawful newsgathering and the public’s ability to receive information concerning governmental activities and other matters of public concern. When journalists are faced with transparent procedures and reasoning with a meaningful way to manage the rules – such as prompt authorization, exemption, or accommodation process, it is manageable even if not ideal. But past arbitrary and overly broad restrictions have undermined the ability to engage in important newsgathering and, on occasion, have violated the due process and First Amendment protections of journalists. These comments propose a balance between the government’s valid needs for safety and security, the need for newsgathering on matters of public concern, and the public’s right to be properly informed.

NPPA is concerned that the proposed rule establishes a process by which potentially significant portions of the NAS may be subject to long-term or effectively permanent restrictions without sufficient transparency, public participation, documented findings, procedural safeguards, or consideration of the impact on First Amendment-protected newsgathering activity.

Recent experience demonstrates that these concerns are not theoretical. Expansive restrictions associated with Department of Homeland Security (“DHS”) operations, including the Chicago Temporary Flight Restriction (“TFR”) and subsequent restrictions involving DHS mobile assets, generated substantial concern among journalists, drone operators, civil liberties advocates, and members of the public regarding the scope, duration, justification, and practical impact of such restrictions. Similarly, restrictions associated with major international events have expanded beyond primary venues to encompass training facilities, support facilities, accommodations, and related locations spread across multiple jurisdictions. These developments demonstrate how restrictions initially described as narrow, temporary, or event-specific may expand significantly in geographic scope, duration, and application.

The FAA should therefore incorporate meaningful safeguards directly into the final rule rather than relying solely upon future agency discretion. The rule itself should contain the restraint. Transparency, public participation, documented findings, meaningful administrative records, narrowly tailored boundaries, periodic review, expiration requirements, and meaningful opportunities for challenge should be requirements of the rule itself.

NPPA is further concerned that the proposed rule contains no mechanism by which journalists, drone operators, researchers, public safety agencies, local governments, property owners, or members of the public can readily determine what facilities have been designated, the scope of any resulting restrictions, whether those restrictions remain in effect, or when they expire. As the number of restricted locations grows, transparency and compliance will increasingly depend on a centralized, publicly searchable database that identifies all approved designations, renewals, modifications, and expiration dates.

The FAA should also publish annual aggregate statistics regarding implementation of this rule, including the number of applications received, designations approved, renewal requests granted or denied, reconsideration requests, enforcement actions, unauthorized incursions, and authorized operations conducted within designated areas. Such reporting would promote transparency, permit meaningful public evaluation of the program, and assist the FAA in assessing whether the rule is achieving its intended objectives without unnecessarily burdening lawful operations.

NPPA also urges the FAA to ensure that any waiver, authorization, exemption, reconsideration, or challenge process established under the rule does not require journalists to disclose confidential reporting plans, investigative targets, sources, unpublished information, editorial strategies, or the anticipated content of future reporting. The government has no legitimate need to evaluate the content of a proposed news story in determining whether a particular drone operation may safely occur.

Accordingly, NPPA urges the FAA to revise the proposed rule to require:

- Public disclosure of all designation applications and applicants;
- Public notice and opportunity for comment before approval whenever practicable;

- Periodic application, response and approval periods as opposed to a rolling application acceptance,
- Creation of a publicly searchable database identifying all approved facilities, restrictions, renewals, modifications, and expiration dates;
- Written findings and meaningful administrative records supporting every designation decision;
- Demonstration of a specific, articulable threat supporting the requested restriction;
- Publication of the FAA's reasoning and supporting findings for approval or denial;
- Narrowly tailored geographic boundaries for restrictions that are supported by specific findings;
- Automatic expiration and periodic review of all designations;
- Procedures allowing reconsideration and challenge of restrictions;
- Protection of confidential newsgathering information from compelled disclosure;
- Maintenance of the government's burden to justify restrictions on public airspace; and
- Appropriate accommodations for legitimate newsgathering activities consistent with safety and security requirements.

NPPA supports reasonable measures necessary to protect public safety and national security. However, restrictions affecting drone operations increasingly affect the public's ability to gather, receive, and disseminate information and images regarding matters of public concern. The FAA should therefore ensure that any final rule reflects not only its security responsibilities but also the longstanding principles of transparency, accountability, and freedom of the press that are essential to democratic governance.

II. COMMENTS

A. INTRODUCTION

Founded in 1946, the National Press Photographers Association is the nation's leading professional organization dedicated to visual journalism. Its members include staff photographers, photojournalists, videographers, documentary filmmakers, drone journalists, editors, reporters, students, and visual journalism educators working throughout the United States and abroad. NPPA's mission is to advance visual journalism and to protect the constitutional and legal rights of journalists engaged in gathering and reporting news in the public interest.

NPPA has been actively involved in developing drone journalism policy since the earliest stages of the FAA's efforts to integrate uncrewed aircraft systems into the NAS. Long before drones became commonplace in journalism, NPPA recognized their potential to expand public access to information while reducing the costs and risks of traditional aerial newsgathering.

For more than a decade, NPPA has participated in FAA rulemakings, congressional discussions, Department of Commerce initiatives, industry working groups, state legislative proceedings, litigation, and multi-stakeholder efforts involving the safe and responsible use of drones for journalism. NPPA has advocated for regulatory approaches that protect aviation safety while preserving the public's ability to obtain information about matters that concern them.

NPPA is a founding participant in the News Media Coalition, a coalition of many of the nation's leading broadcast, print, digital, wire service, and visual journalism organizations. Through that coalition and independently, NPPA has worked extensively with federal agencies and policymakers regarding drone operations, privacy, aviation safety, and First Amendment protections. NPPA has participated in FAA advisory initiatives, NTIA privacy proceedings, Uniform Law Commission discussions involving drone-related legislation, and numerous federal and state proceedings involving drone regulation.

NPPA has also organized and hosted recurring Drone Journalism Leadership Summits that brought together journalists, FAA officials, public safety agencies, emergency responders, educators, manufacturers, operators, and industry representatives to discuss best practices for the safe integration of drone journalism into the NAS. These summits served as a unique forum where aviation regulators, public safety officials, and journalists could collaborate to address safety concerns while preserving the press's ability to gather news.

Throughout those efforts, the FAA has repeatedly recognized the value of drone journalism and, through mechanisms such as the Systems Operations Support Center, has demonstrated that timely accommodations for lawful newsgathering can often be achieved without compromising aviation safety. The final rule should preserve that longstanding cooperative approach.

Beyond its advocacy efforts, NPPA and its members have conducted training programs, workshops, conferences, and educational initiatives throughout the country concerning drone journalism, aviation safety, privacy considerations, ethics, operational best practices, and lawful newsgathering. These efforts reflect NPPA's longstanding commitment to ensuring that drones are operated safely, responsibly, and in a manner consistent with both aviation safety and constitutional principles.

As a result of these efforts, NPPA has consistently advocated for a regulatory framework that promotes aviation safety while preserving the public's ability to be informed. Drones have become an indispensable journalistic tool, enabling visual journalists to safely document natural disasters, environmental emergencies, infrastructure failures, public demonstrations, search-and-rescue operations, transportation incidents, government activities, and other significant events. In many circumstances, drones provide a safer, less costly, and less intrusive alternative to helicopters and other crewed aircraft.

NPPA therefore approaches this proceeding as both a strong supporter of aviation safety and a long-standing advocate for preserving the public's First Amendment interest in receiving information gathered through lawful drone-based newsgathering.

B. FIRST AMENDMENT CONSIDERATIONS

Drone-based newsgathering constitutes protected expressive activity. The use of drones to document events, gather information, and create visual records concerning matters of public concern implicates core First Amendment interests. Although the First Amendment does not guarantee journalists unrestricted access to all locations or facilities, it does protect the process of gathering information and creating news content concerning matters of public importance. Photography and filming “are within the ambit of protection” of the First Amendment. *Joseph Burstyn v. Wilson*, 343 U.S. 495, 501, 72 S. Ct. 777, 780 (1952). More broadly, “creating, distributing, or consuming speech.” *Brown v. Entm’t Merchs. Ass’n*, 564 U.S. 786, 792 n.1, 131 S. Ct. 2729, 2734 (2011); *Sorrell v. IMS Health Inc.*, 564 U.S. 552, 570, (2011). See also, *United States v. Stevens*, 559 U.S. 460, 472, (2010); (striking down a law that banned the filming of animal cruelty on First Amendment grounds).

Drone technology has fundamentally altered the way journalists document events and provide information to the public, and are an increasingly critical tool for journalists, “central to communicating the message of the news.” In *Nat’l Press Photographers Ass’n v. McCraw*, 594 F. Supp. 3d 789, 797 (W.D. Tex. 2022) rev’d on other grounds, 90 F.4th 770 (5th Cir. 2024), the district court recognized that journalists’ use of drones to document the news implicates protected expression. Visual journalists rely upon drones to gather information that would otherwise be unavailable, prohibitively expensive to obtain, or unsafe to collect using traditional methods. Drone journalism has enabled the public to observe and better understand natural disasters, environmental contamination, industrial accidents, infrastructure failures, publicly funded construction projects, transportation incidents, emergency response activities, governmental operations, detention facilities, and public demonstrations from aerial perspectives that were previously inaccessible to most news organizations. These are not merely theoretical benefits. In many instances, drone imagery provides the only practical means of accurately, independently, and in real time documenting matters of profound public concern. Such reporting serves not only the interests of journalists but also the public’s compelling interest in governmental transparency, corporate accountability, public safety, and informed democratic oversight.

In many circumstances, drones serve as a substitute for traditional aerial newsgathering conducted by helicopters and fixed-wing aircraft. Unlike those aircraft, however, drones allow smaller news organizations, local media outlets, freelance journalists, documentary filmmakers, and independent visual journalists to engage in aerial reporting that would otherwise be financially impossible. As a result, restrictions on drone operations increasingly affect not merely how journalists gather information, but whether certain information can be gathered at all. This is particularly true as drones are significantly safer than the traditional means of aerial photography such as helicopters and small planes. See e.g., Trish Hartman, Maggie Kent and Katherine Scott, *What we know after pilot, photographer killed in Action News’ Chopper 6 crash in NJ*, 6ABC.COM, Dec. 22, 2023, <https://6abc.com/post/action-news-helicopter-6abc-chopper-6-crash-new-jersey-philadelphia-crew-wpvi-tv/14205051/>; *2 killed as KOMO News helicopter crashes near Space Needle*, KOMONEWS.COM, March 18, 2014, <https://komonews.com/news/local/2-killed-as-komo-news-helicopter-crashes-near-space-needle-11-20-2015>; *Helicopter crashes*

during magazine photo shoot, BOATING INDUSTRY, September 11, 2007, <https://boatingindustry.com/people/2007/09/11/helicopter-crashes-during-magazine-photo-shoot/>

The proposed rule also creates a disparity between traditional crewed aerial newsgathering and modern drone journalism. News helicopters and drones frequently document the same events from substantially similar vantage points, yet the proposed restrictions apply only to uncrewed aircraft. As drones have become the only economically feasible means of aerial reporting for many local television stations, newspapers, nonprofit news organizations, documentary filmmakers, and independent journalists, restrictions that apply solely to drones disproportionately burden smaller news organizations while leaving larger organizations capable of deploying helicopters, comparatively unaffected. The FAA should carefully consider whether such disparate treatment is necessary to accomplish its stated security objectives.

Federal courts have increasingly recognized that restrictions affecting drone journalism implicate First Amendment concerns. In *Nat'l Press Photographers Ass'n v. McCraw*, the court recognized that journalists' use of drones to document the news constitutes protected expression. 90 F.4th 770 (5th Cir. 2024). Although the court acknowledged the government's authority to regulate aviation safety and other legitimate concerns, it nevertheless recognized that drone journalism falls within the scope of First Amendment protections.

The FAA has historically sought to balance aviation safety with public interest in newsgathering. NPPA appreciates the FAA's recognition that drones have become a legitimate tool of journalism and urges the agency to continue that approach in this proceeding.

The proposed rule is not merely an aviation safety regulation. It creates a framework through which potentially significant portions of public airspace may become unavailable for journalistic observation and documentation. Because restrictions established under this rule will directly affect journalists' ability to gather information regarding newsworthy events, the FAA should ensure that such restrictions are supported by documented evidence, are narrowly tailored to address legitimate security concerns, and are accompanied by meaningful procedural safeguards.

Restrictions affecting aerial newsgathering also affect the public's ability to receive information. The Supreme Court has long recognized that the First Amendment protects not only speakers but also the public's interest in receiving information concerning matters of public importance. As drone journalism becomes increasingly central to modern visual reporting, restrictions on drone operations increasingly affect that public interest. Thus, while the FAA appropriately seeks to protect public safety and national security, it should also recognize that journalism itself advances those same interests. Independent aerial reporting frequently alerts the public to environmental hazards, infrastructure failures, emergency conditions, industrial accidents, governmental misconduct, and other threats affecting public health and safety. A regulatory framework that unnecessarily impedes lawful drone journalism therefore risks diminishing an important source of information that itself promotes public safety, governmental accountability, and informed public decision-making.

For these reasons, the FAA should carefully consider the impact of this rule on lawful newsgathering and should ensure that any restrictions adopted pursuant to the rule burden no

more First Amendment-protected activity than necessary to achieve legitimate security objectives.

Those burdens include not only the loss of newsgathering opportunities but also the operational and compliance costs associated with rerouting, additional staffing, extended flight planning, and obtaining alternative imagery. Such costs will fall particularly heavily on small news organizations and independent journalists; the very operators for whom drones provide the only economically practical means of aerial newsgathering.

C. TRANSPARENCY, PUBLIC NOTICE, AND PUBLIC PARTICIPATION

NPPA is particularly concerned that the proposed rule provides no meaningful mechanism for public participation in the designation process.

The proposal contemplates a framework through which federal agencies and other eligible entities may seek designation of facilities for special protection from drone operations. Although the NPRM contemplates publication of a conditionally approved UAFR in the *Federal Register* before final approval, the proposal expressly provides that the FAA will have already evaluated the need for and impacts of the requested restriction during the conditional approval stage and will not reconsider that determination de novo after receiving public comments. As a practical matter, this risks reducing public participation to a largely ministerial exercise in which comments may affect only unforeseen issues rather than the fundamental merits of the proposed restriction.

The absence of public participation is especially troubling given the potentially significant consequences of designation decisions. Once approved, restrictions may affect journalists, researchers, public safety organizations, educational institutions, commercial operators, infrastructure inspectors, local governments, property owners, and members of the public. Many of these stakeholders may possess information relevant to whether a proposed restriction is necessary, appropriately tailored, evidence-based, or broader than necessary to address the identified concern.

At a minimum, the FAA should maintain a publicly accessible docket identifying:

- Every applicant seeking designation;
- The facility proposed for designation;
- The statutory authority relied upon by the applicant;
- The factual basis supporting the request;
- The geographic scope of the proposed restriction;
- The requested duration of the restriction;
- Publicly releasable supporting materials;
- Any proposed renewals, expansions, or modifications; and

- The FAA’s final determination and supporting rationale.

The public has a substantial interest in understanding what portions of the NAS are being restricted and why. Transparency promotes accountability. Transparency promotes compliance. Transparency also improves public confidence in agency decision making.

Without public notice and an opportunity for comment, the designation process becomes effectively one-sided. The applicant is heard. Those affected by the restriction are not, and the agency cannot properly judge the validity of claims on an application without the opportunity for the public to correct overstatements, exaggerations, and other alleged facts that favor applicants and disfavor journalists and others intent upon gathering information in the public interest.

The FAA should therefore require public notice and an opportunity for comment before approving any designation whenever practicable. Although emergency circumstances may occasionally justify expedited action, the general rule should favor transparency and public participation.

D. A PERIODIC, NOT ROLLING, APPLICATION PROCESS

The proposed rolling application process further undermines meaningful public participation. As discussed above, the NPRM contemplates publication only after the FAA has conditionally approved the requested designation and evaluated its merits. Requiring interested parties to continuously monitor rolling applications throughout the year, while limiting meaningful review until after conditional approval, places an unnecessary burden on journalists, drone operators, public-interest organizations, local governments, and other stakeholders. Meaningful notice requires not only publication, but a process that provides a realistic opportunity for affected parties to review applications, gather relevant information, consult with experts, and prepare informed comments before agency decisions become effectively fixed.

Establishing periodic application windows, whether annually or semiannually, would significantly improve the quality and fairness of the process. Interested stakeholders could anticipate application periods, allocate resources accordingly, and review proposed designations comprehensively rather than attempting to identify and respond to applications submitted on an unpredictable rolling basis. Periodic application cycles would also promote more consistent agency review, facilitate public participation, and create a more complete administrative record.

Periodic application windows would also enhance transparency by allowing all proposed designations to be reviewed together. That approach would make it easier for the FAA, affected stakeholders, and the public to identify trends, evaluate cumulative impacts on the National Airspace System, and assess whether restrictions are becoming concentrated within particular geographic areas or categories of facilities. Such review is significantly more difficult under a rolling application process.

A periodic application process would not impair the FAA’s ability to address genuine emergencies. Existing Temporary Flight Restriction authority remains available whenever immediate action is necessary to protect public safety or national security. For nonemergency requests, however, periodic application windows would allow the FAA to benefit from

meaningful public participation while providing applicants, journalists, and other interested stakeholders an opportunity to identify practical concerns, propose narrower alternatives, and develop a more complete administrative record before long-term restrictions are imposed.

Periodic review also enables the FAA and the public to assess the cumulative impact of individual designations on the National Airspace System, an evaluation that becomes increasingly difficult as restrictions are adopted incrementally through a rolling process.

E. PUBLIC DATABASE OF DESIGNATED FACILITIES

In addition to public notice-and-comment requirements, the FAA should establish and maintain a publicly searchable online database that identifies all facilities designated pursuant to this rule.

At a minimum, the database should identify:

- The applicant seeking designation;
- The facility subject to the designation;
- The geographic location and boundaries of the restricted area;
- The application, communications with applicants and other related public documents, and a link to public comments;
- The date the designation was approved;
- The duration of the restriction;
- Any subsequent modifications to the restriction;
- Any renewal requests and approvals;
- The date upon which the designation expires; and
- Publicly releasable portions of the FAA's findings supporting the designation.

Such a database is essential to ensuring transparency and public accountability. Comparable federal agencies maintain centralized, searchable public databases that allow affected parties to locate applications, supporting materials, agency decisions, and current status information. Journalists, drone operators, researchers, local governments, public safety organizations, property owners, and members of the public should be able to determine which facilities have received protection under this rule, the scope of those restrictions, and whether they remain in effect.

A publicly accessible database is particularly important because recent experience demonstrates how quickly the number and scope of restricted locations can expand. Major event security restrictions, DHS operations, and other large-scale security initiatives have illustrated the challenges faced by operators attempting to identify and understand the growing number of locations subject to drone-related restrictions.

Journalists cannot reasonably comply with restrictions they cannot readily identify. Nor should compliance depend upon locating scattered notices, rolling deadlines or applications unmoored to specific dates, press releases, agency announcements, temporary websites, or third-party reporting.

A centralized database is also essential to promote voluntary compliance. As the number of designated facilities increases, drone operators cannot reasonably be expected to identify restrictions scattered among Federal Register notices, FAA publications, agency announcements, temporary advisories, and other sources. A single searchable database would significantly improve compliance while reducing inadvertent violations by otherwise lawful operators.

A centralized, publicly searchable database would promote compliance, improve public understanding, reduce confusion, and enhance confidence in the designation process.

The FAA should therefore open the application period on a regular, not rolling, basis, require that all approved designations be promptly published in a publicly accessible database, and ensure they remain available for public review throughout the duration of the restriction.

F. DOCUMENTED FINDINGS AND ADMINISTRATIVE RECORD REQUIREMENTS

Every designation should be supported by written findings and a meaningful administrative record. The database should include the application and any communications between the FAA and the applicant, as well as a link to any public comments submitted during the application period.

The NPRM currently provides broad discretion to approve restrictions without requiring sufficiently detailed findings explaining why a restriction is necessary, why the selected boundaries are appropriate, why the duration is justified, or why less restrictive alternatives are inadequate.

That approach is inconsistent with sound administrative practice in other agencies, such as the USPTO, and creates a substantial risk that restrictions may be imposed without sufficient evidentiary support.

Applicants should be required to demonstrate, through specific and articulable evidence, that the facility is subject to a genuine security threat warranting additional protection. Generalized concerns regarding drone operations, speculative risks, hypothetical threats, or broad references to national security should not justify restrictions on the otherwise lawful use of public airspace. Nor should the FAA equate independent photography or videography with a security threat. Since September 11, photographers have repeatedly encountered unsupported claims that photography itself is suspicious or indicative of criminal intent. The FAA should avoid incorporating similar assumptions into this rulemaking. The mere possibility that a facility may be photographed or documented from lawful public airspace cannot, standing alone, justify restricting lawful drone operations.

Before approving any designation, the FAA should require applicants to demonstrate why existing statutory and regulatory authorities are insufficient to address the identified threat and why the proposed restriction will materially improve security. Existing Part 107 operating restrictions, Temporary Flight Restrictions, Remote ID requirements, geofencing technologies, enforcement authorities, criminal penalties, and other security measures already provide substantial protection for sensitive facilities. A designation should therefore be approved only where the applicant establishes, through specific evidence, both that existing authorities are inadequate and that the proposed restriction is reasonably likely to provide a meaningful additional security benefit. Restrictions that primarily burden lawful, compliant operators while offering little deterrence to malicious actors do not meaningfully advance aviation safety or national security. This designation process should remain an exceptional remedy, not the default response whenever a facility seeks additional protection or simply objects to lawful drone operations.

In its findings, the FAA should then further explain:

- Why the facility qualifies for designation;
- Why the proposed boundaries are necessary;
- Why the requested duration is appropriate;
- What specific threat is being addressed;
- How the restriction balances with the public interest in reporting on public infrastructure, including private businesses that impact public health and safety.
- Why less restrictive alternatives are inadequate; and
- Why the public interest favors approval.

Recent litigation involving drone-related restrictions has highlighted concerns regarding the adequacy of the administrative record supporting significant restrictions on public airspace. Regardless of the outcome of any particular case, those controversies demonstrate the importance of ensuring that restrictions affecting large segments of public airspace are balanced with the public interest in reporting, and supported by documented findings rather than conclusory assertions.

The FAA should therefore require meaningful administrative records and written findings for every designation approved under this rule. Those records should be publicly available to the maximum extent consistent with legitimate security concerns, with targeted redactions available only in exceptional circumstances.

Such a requirement would improve transparency, facilitate meaningful review, strengthen public confidence, and help ensure that restrictions remain tied to demonstrable facts rather than speculation.

G. RECENT EXPERIENCE DEMONSTRATES THE NEED FOR PROCEDURAL SAFEGUARDS

Recent FAA actions demonstrate why robust procedural safeguards are necessary and why meaningful limitations should be incorporated directly into the rule itself.

During the past several years, journalists have witnessed a significant expansion in the use of flight restrictions affecting drone operations. These restrictions have extended beyond traditional facility-specific concerns to encompass major public events, large-scale security operations, DHS activities, and other governmental functions.

Of particular concern were restrictions on DHS operations, including the Chicago TFR, as well as subsequent restrictions on DHS mobile assets. These actions generated substantial concern among journalists, drone operators, civil liberties advocates, and members of the public because of their extraordinary geographic scope, uncertain duration, and impact upon the ability to document government activities occurring in public spaces.

Whatever one may think of the ultimate merits of those restrictions, the controversy surrounding them illustrates an important lesson. Restrictions affecting public airspace can have substantial consequences for journalists, researchers, commercial operators, and members of the public. Such restrictions therefore require transparency, documented findings, meaningful review, and clearly defined limits.

Recent experience further demonstrates that restrictions initially described as narrow or temporary may expand significantly in scope and application. Restrictions imposed in connection with major international events have extended beyond primary venues to encompass training facilities, team accommodations, support facilities, fan zones, and other associated locations spread across multiple jurisdictions. What begins as a restriction focused on a single location may ultimately affect numerous related facilities that were not the original basis for the restriction. A perfect example is the expansion of the drone restrictions at the 2026 World Cup. See section II. H. *supra*,

These developments demonstrate why the FAA should not rely solely upon the expectation that future restrictions will always be exercised with restraint. The issue is not whether the agency intends to act responsibly. Rather, the issue is whether the rule itself contains sufficient safeguards to ensure transparency, accountability, and meaningful review when difficult cases arise.

The rule itself should contain the restraint.

Meaningful standards governing approval, duration, scope, renewal, modification, and review should be incorporated directly into the regulatory framework. Transparency, public participation, documented findings, expiration requirements, and opportunities for challenge should not depend upon future administrative discretion. They should be required by the rule itself.

H. RECENT WORLD CUP RESTRICTIONS ILLUSTRATE THE RISK OF MISSION CREEP

Restrictions implemented in connection with the 2026 FIFA World Cup provide a useful example of why meaningful limiting principles are necessary.

Although initially justified by security concerns surrounding World Cup matches, restrictions associated with the event have extended beyond stadiums hosting games. Restrictions have been imposed on training facilities, team accommodations, base camps, fan zones, and other associated locations across multiple jurisdictions. In some cases, restrictions have extended to locations that are not hosting matches at all but are instead serving as training or support sites.

NPPA does not question the government's authority to protect major international events from legitimate security threats or safety concerns when large crowds gather. However, the World Cup experience demonstrates how restrictions initially focused upon a specific facility or event may expand to encompass numerous related locations that were not the original justification for the restriction.

The proposed rule should therefore contain clear standards governing the scope of any designation. Applicants should be required to demonstrate why each requested facility requires protection and why the requested boundaries are necessary.

The FAA should avoid permitting restrictions to automatically expand from a qualifying facility to affiliated facilities, surrounding properties, temporary locations, support facilities, or other related sites without separate factual findings for each restriction.

The World Cup experience demonstrates that once a designation framework exists, there is a substantial risk that restrictions may grow beyond their original justification. The FAA should therefore ensure that any final rule contains safeguards preventing such expansion absent documented findings, public notice, and meaningful review.

I. PROTECTION OF CONFIDENTIAL NEWSGATHERING INFORMATION

To the extent the FAA establishes any authorization, notification, exemption, reconsideration, or review process under this rule, journalists and news organizations should not be required to disclose confidential reporting plans, unpublished information, investigative targets, sources, editorial strategies, or the anticipated content of future reporting.

The government has no legitimate need to evaluate the content of a proposed news story in determining whether a particular drone operation may safely occur.

Any authorization process should therefore be based solely upon operational, geographic, safety, and security considerations rather than the purpose or subject matter of the reporting activity.

Requiring journalists, or others who gather information, to identify the story they intend to pursue, the individuals or entities they intend to investigate, the information they hope to obtain, or the editorial purpose of a proposed flight would raise significant First Amendment concerns and could chill constitutionally protected newsgathering activity. Safety and health advocates

should also be protected, as the information they gather can provide a valuable basis for investigative reporting.

Such requirements could discourage coverage of matters involving governmental accountability, law enforcement activities, environmental hazards, labor disputes, public corruption, public demonstrations, industrial accidents, and other issues of substantial public concern.

The FAA should therefore expressly provide that journalists seeking authorization, waivers, exemptions, or review under this rule will not be required to disclose confidential reporting plans, unpublished information, sources, or editorial objectives as a condition of obtaining relief.

J. THE BURDEN SHOULD REMAIN ON THE GOVERNMENT AND THE APPLICANT

Restrictions established under this rule should be supported by specific findings that demonstrate their necessity.

The burden should remain on the government to justify restrictions on otherwise lawful use of public airspace. Journalists and members of the public should not bear the burden of demonstrating why they deserve access to public airspace.

Public airspace is not the property of the applicant seeking protection. It is a public resource subject to governmental regulation. The appropriate question is therefore not whether a journalist can justify access to public airspace, but whether the government can justify restricting it.

Accordingly, agencies and entities seeking restrictions should be required to establish through documented findings that such restrictions are necessary, narrowly tailored, supported by evidence, and responsive to a specific security concern.

The FAA should not presume that restrictions are warranted merely because an eligible entity requests them. Rather, the FAA should independently evaluate whether the applicant has demonstrated a specific and articulable need for the requested restriction.

K. NEED FOR NARROWLY TAILORED GEOGRAPHIC BOUNDARIES

Any restricted area established under the proposed rule should be limited to the minimum geographic area necessary to address a documented threat.

Designation decisions should be based on demonstrated security risks associated with a facility, rather than on generalized concerns about drone operations or assumptions about the intentions of particular categories of operators.

Applicants should be required to explain why the requested boundaries are necessary and why a smaller restriction would be insufficient.

The FAA should avoid creating unnecessarily large buffer zones that encompass surrounding public areas where lawful drone operations and newsgathering may otherwise occur. Large restrictions risk burdening substantial amounts of protected activity without providing corresponding security benefits.

The FAA should also publish precise geographic coordinates and provide a detailed explanation supporting the selected boundaries.

Narrow tailoring is particularly important because restrictions adopted under this rule may remain in place for extended periods and affect areas well beyond the facility that originally prompted the designation request.

Accordingly, the FAA should require applicants to demonstrate not only why a restriction is necessary, but also why the particular size and scope of the requested restriction are necessary.

Only through such a showing can the agency ensure that restrictions burden no more activity than required to address the identified threat.

L. EXPIRATION, RENEWAL, AND PERIODIC REVIEW REQUIREMENTS

NPPA strongly urges the FAA to require automatic expiration dates for all designations approved under this rule.

Restrictions on public airspace should not become permanent by default. Facilities change. Threat environments change. Security technologies evolve. Operational practices improve. A restriction that may be justified at one point in time may no longer be necessary years later.

Yet the proposed rule contains insufficient safeguards to ensure that restrictions remain tied to current conditions rather than historical assumptions. Without meaningful expiration requirements, there is a substantial risk that restrictions adopted in response to temporary concerns may remain in effect long after those concerns have dissipated.

Accordingly, every designation should include a clearly defined expiration date of 1 or 2 years.

Upon expiration, restrictions should terminate automatically unless the applicant submits a renewal request supported by updated evidence demonstrating that the restriction remains necessary.

Renewal requests should not be treated as routine administrative actions. Rather, they should be evaluated using substantially the same standards applicable to an initial designation request.

At a minimum, renewal requests should require:

- Updated evidence supporting the continued need for the restriction;
- A new explanation of the specific threat being addressed;
- Reassessment of the geographic scope of the restriction;
- Consideration of changed circumstances and available alternatives;
- Public notice of the renewal request; and
- An opportunity for public comment whenever practicable.

The FAA should also conduct periodic reviews of existing designations to ensure that restrictions remain appropriately tailored and continue to serve their intended purpose.

Such requirements would help prevent the accumulation of outdated restrictions and ensure that limitations on public airspace remain tied to current and demonstrable needs.

M. RECONSIDERATION AND CHALLENGE PROCEDURES

Because restrictions imposed under this rule may remain in effect for years and substantially affect lawful newsgathering, commercial operations, and other uses of the National Airspace System, the FAA should establish meaningful administrative procedures that allow affected parties to seek reconsideration, modification, or termination of designation decisions as circumstances change.

The NPRM provides little guidance on how journalists, drone operators, property owners, researchers, public-interest organizations, local governments, or other affected parties may challenge a designation after it becomes effective, seek to modify unnecessarily broad restrictions, or present new evidence demonstrating that a restriction is no longer warranted.

This omission is particularly significant because the NPRM contemplates conditional approval before meaningful public participation occurs. If interested parties have only a limited opportunity to influence the agency's initial determination, a meaningful reconsideration process becomes even more important to ensure that restrictions can be revisited in light of new information, changed circumstances, or issues not fully considered during the original designation process.

Meaningful review mechanisms are particularly important because restrictions adopted under this rule may remain in effect for extended periods, and the need for reporting on certain locations may change; thus, the restrictions may affect individuals and organizations who had no opportunity or need to participate during the initial designation process.

The FAA should therefore establish procedures allowing interested parties to:

- Seek reconsideration of designation decisions;
- Request modification of overly broad restrictions;
- Present evidence demonstrating changed circumstances;
- Challenge renewals that are unsupported by current evidence; and
- Request termination of restrictions that are no longer necessary;
- Request narrowing of geographic boundaries;
- Present evidence that existing FAA authorities have become sufficient to address the identified concern without continued designation.

The FAA should also establish reasonable timelines for reconsideration requests and require written decisions explaining the basis for granting or denying them. Written decisions will strengthen the administrative record, facilitate judicial review where appropriate, and promote consistency in the agency's administration of the rule.

The FAA should also make all requests for reconsideration, together with the agency's written decisions, publicly available through the centralized database proposed above. Public access to those materials will promote consistency, transparency, and informed participation in future designation proceedings.

Meaningful reconsideration procedures will improve transparency, strengthen administrative accountability, encourage periodic reassessment of existing restrictions, and help ensure that limitations on public airspace remain no broader and no longer than necessary to address legitimate security concerns.

N. ACCOMMODATIONS FOR LEGITIMATE NEWSGATHERING

NPPA is not seeking unrestricted access to designated facilities. The NPRM's distinction between aircraft merely "transiting" a restricted area and aircraft conducting operations within that area also warrants careful consideration. Effective visual newsgathering rarely occurs while traveling in a straight line across a scene. Journalists frequently must slow down, hover, adjust altitude, circle a location, or reposition repeatedly as events unfold. A regulatory framework that effectively limits drone operations to simple transit risks discouraging lawful newsgathering and creating uncertainty regarding whether ordinary journalistic flight profiles may later be characterized as violations.

Rather, NPPA urges the FAA to recognize that drone journalism serves important public interests and that appropriately tailored mechanisms should exist to accommodate legitimate newsgathering activities whenever consistent with safety and security requirements.

Throughout the history of American journalism, the press has documented significant public-concern events at locations subject to heightened security. Natural disasters, industrial accidents, environmental incidents, infrastructure failures, transportation accidents, public demonstrations, emergency response activities, and governmental operations frequently occur at or near facilities that may be eligible for designation under this rule. Indeed, many facilities eligible for designation, including chemical facilities, energy infrastructure, transportation systems, detention facilities, and water treatment plants, are precisely the locations where independent public oversight may be most important following accidents, environmental releases, labor disputes, infrastructure failures, governmental investigations, or other matters affecting public health, safety, and welfare.

The public's interest in understanding such events does not disappear simply because a facility receives special protection. On the contrary, the need for timely, accurate, and independent reporting is often greatest during emergencies, security incidents, industrial accidents, and other extraordinary events. Restrictions adopted under this rule should therefore not unnecessarily impair journalists' ability to document those events when doing so can be accomplished safely and without compromising legitimate security objectives.

Accordingly, the FAA should encourage the development of reasonable accommodation procedures that facilitate lawful newsgathering whenever consistent with aviation safety and legitimate security requirements.

Potential approaches may include:

- Expedited authorization or accommodation procedures;
- Expedited authorization or notification procedures, where applicable;
- Designated operational corridors;
- Delayed access arrangements;
- Pool coverage procedures;
- Broad exemption options for drone operators with additional clearance;
- Emergency response media access protocols; and
- Other narrowly tailored accommodations developed in consultation with affected stakeholders.

NPPA recognizes that not every request can or should be granted. However, the existence of a designation should not automatically foreclose consideration of reasonable accommodations for newsgathering that may permit the public to receive information concerning matters of significant public concern.

The FAA has long recognized the importance of facilitating newsgathering in a manner consistent with public safety and security. That principle should continue to guide implementation of any designation process adopted pursuant to this rule.

O. BALANCING SECURITY, TRANSPARENCY, AND THE PUBLIC INTEREST

NPPA recognizes that the FAA faces a difficult task in balancing legitimate security concerns with the public's interest in maintaining access to public airspace.

The Association does not dispute that certain facilities may warrant additional protection from unauthorized drone operations. Nor does NPPA minimize the importance of protecting critical infrastructure, national security assets, and other sensitive facilities from legitimate threats. But these should be the exception to publicly accessible airspace, not the rule, and restrictions should not be imposed without due process for those whose reporting will be limited in otherwise public spaces.

Many facilities eligible for designation under the proposed rule are privately owned entities whose operations directly affect public health, environmental protection, labor conditions, transportation, communications, energy production, or other matters of substantial public concern. Independent aerial journalism frequently provides an important means of documenting conditions at such facilities and promoting both governmental and corporate accountability. Those significant public interests should remain integral to the FAA's balancing analysis.

The issue is not whether additional protections may occasionally be warranted, but whether applicants have demonstrated that existing authorities are insufficient before imposing new and potentially long-term restrictions on public airspace.

The issue presented by this rulemaking is therefore not whether restrictions may be justified.

The issue is whether the process by which such restrictions are imposed will be transparent, evidence-based, accountable, and subject to meaningful review.

Those safeguards matter. As noted above, Controversies surrounding expansive TFRs, DHS operations, restrictions on mobile assets, and major-event security restrictions have repeatedly illustrated the consequences that can arise when restrictions affecting public airspace are implemented without sufficient transparency, public participation, or clearly articulated limiting principles.

Those experiences also demonstrate that restrictions initially described as narrow, temporary, or limited may expand significantly in scope, duration, geography, and application.

The lesson is not that such restrictions are necessarily improper. The lesson is that meaningful safeguards must be built into the rule itself.

The FAA should not rely solely upon assumptions that future restrictions will always be implemented narrowly or administered with restraint. The regulatory framework itself should require transparency, documented findings, public accountability, periodic review, and meaningful opportunities for challenge.

In short, the rule itself must contain the restraint.

III. CONCLUSION

NPPA supports reasonable efforts to protect genuinely sensitive facilities from legitimate security threats. However, the proposed rule should be substantially revised to ensure that restrictions remain transparent, narrowly tailored, periodically reviewed, subject to due process, supported by documented findings, and consistent with First Amendment principles.

Recent controversies involving large-scale TFRs, DHS operations, restrictions involving mobile assets, and major event-related restrictions demonstrate that the question is not whether the FAA will exercise this authority responsibly in most circumstances. Rather, the question is whether the rule itself contains sufficient safeguards to ensure transparency, accountability, and meaningful review when difficult cases arise.

NPPA respectfully submits that those protections should be built into the rule at the outset.

Accordingly, the FAA should revise the proposed rule to require:

1. Public disclosure of all designation applications and applicants;
2. Periodic, as opposed to rolling, application periods;
3. Public notice and comment opportunities before approval whenever practicable;
4. Creation of a publicly searchable database identifying all approved facilities, restrictions, renewals, applications and related documents, modifications, and expiration dates;

5. Publication of the FAA's reasoning and supporting findings for approval or denial;
6. Written findings and meaningful administrative records supporting all designation decisions;
7. Demonstration of a specific, articulable threat supporting any requested restriction;
8. Consideration and analysis of less restrictive alternatives;
9. A requirement that applicants demonstrate why existing statutory and regulatory authorities are insufficient before new restrictions are imposed;
10. Narrowly tailored geographic boundaries supported by specific findings;
11. Automatic expiration and periodic review of all designations;
12. Meaningful procedures for reconsideration and challenge;
13. Protection of confidential newsgathering information from compelled disclosure;
14. Maintenance of the government's burden to justify restrictions on public airspace; and
15. Appropriate accommodations for lawful newsgathering activities.

As drones have become an essential tool of modern journalism, restrictions on their use increasingly limit the public's ability to receive information about newsworthy events. The FAA should therefore ensure that this rule protects against genuine security threats while preserving journalists' ability to use drones as a principal means of documenting matters of public concern, informing the public, and promoting governmental transparency and democratic accountability. For the foregoing reasons, NPPA respectfully urges the FAA to revise the proposed rule consistent with these comments before issuing any final regulation.

Respectfully submitted,

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