

# **VOLUNTARY BEST PRACTICES FOR COMMERCIAL AND PRIVATE USE OF UNMANNED AIRCRAFT SYSTEMS:**

## **PRIVACY, TRANSPARENCY, AND ACCOUNTABILITY**

### **For discussion purposes only**

#### **INTRODUCTION**

The benefits of commercial and private unmanned aircraft systems (UAS) are substantial. Technology has moved forward rapidly, and what used to be considered toys are quickly becoming powerful commercial tools that can provide enormous benefits in terms of safety and efficiency. UAS integration will have a significant positive economic impact in the United States. Whether UAS are performing search and rescue missions, helping farmers grow better crops in a more sustainable manner, inspecting power lines and cell towers, gathering news and enhancing the public's access to information, performing aerial photography, providing real estate and insurance services, surveying and mapping areas for public policy, delivering medicine to rural locations, providing wireless internet, enhancing construction site safety, or more—society is only just beginning to realize the full potential of UAS. UAS technology is already bringing substantial benefits to people's daily lives, including cheaper goods, innovative services, safer infrastructure, recreational uses, and greater economic activity. Inevitably, creative minds will devise many more UAS uses that will save lives, save money and make our society more productive.

The very characteristics that make UAS so promising for commercial and non-commercial uses, including their small size, maneuverability and capacity to carry various kinds of recording or sensory devices, also may raise privacy issues. The purpose of this document is to outline and describe voluntary Best Practices that UAS operators could take to advance UAS privacy, transparency and accountability for the private and commercial use of UAS. UAS operators may implement these Best Practices in a variety of ways, depending on their circumstances and technology uses, and evolving privacy expectations.

#### **APPLICABILITY**

These voluntary Best Practices for UAS focus on data collected via a UAS operator, which includes both commercial and non-commercial operators. The Best Practices do not apply to data collected by other means—for instance, a company need not apply these Best Practices to data collected via the company's website.

Nothing in these Best Practices shall:

- Be construed to limit or diminish freedoms guaranteed under the Constitution;
- Replace or take precedence over any local, state, or federal or regulation;

- Take precedence over contractual obligations or the representations of entities contracting UAS operators; or
- Impede the safe operation of a UAS.

Newsgathering and news reporting are strongly protected by United States law, including the First Amendment to the Constitution, and these protections apply without regard to the particular technologies used to gather or publish information. The public relies on an independent press to gather and report the news and ensure an informed public. The public benefits when the press is able to exercise its First Amendment rights without regard to the technology used.

The Best Practices do not apply to the use of UAS for purposes of emergency response, including safety and rescue responses.

The Best Practices do not—and are not meant to—create a de-facto standard of care by which the activities of any particular UAS operator should be judged. These Best Practices are also not intended to serve as a template for future statutory or regulatory obligations, in part because doing so would raise First Amendment issues.

## **SCOPE**

These best practices follow the directive of President Obama’s February 15, 2015 Memorandum “to develop and communicate best practices for privacy, accountability, and transparency issues regarding commercial and private UAS use in the [National Airspace System].”

## **VOLUNTARY BEST PRACTICES**

- UAS operators should be aware of and comply with all applicable laws and regulations. This includes compliance with FAA registration and marking requirements, as applicable.
- In public spaces, UAS operators may use UAS without limitation to capture data or images as with any other technology. There shall be no limitations or restrictions on the subsequent use of data or images gathered by UAS in public spaces.
- In private spaces, UAS operators collecting data or images should take into account the reasonable expectations of privacy of subjects photographed and/or observed. Reasonable expectations of privacy regarding UAS shall be the same privacy expectations under existing state and federal law.

*For Private UAS Operators:*

- Private UAS operators should operate in accordance with a community-based set of guidelines, such as the Academy of Model Aeronautics Guidelines.

*For Commercial UAS Operators:*

- A commercial UAS operator's use of UAS and the data and images recorded by UAS should be guided by the standards and practices of the organizations for which they work.

## **DEFINITIONS**

***Commercial UAS Operator*** means a UAS operator engaged in, or whose UAS activities affect, commerce.

***Private UAS Operator*** means a UAS operator engaged in hobby or recreational activities.

***UAS Operator*** means a person, partnership, or organization engaged in commercial or private UAS activities. Where a best practice refers only to "UAS operators," the best practice should apply to both commercial and private UAS operators.

***Unmanned Aircraft System or "UAS"*** means an unmanned aircraft and associated elements (including communication links and the components that control the unmanned aircraft) that are required for the pilot in command to operate safely and efficiently in the national airspace system.