



April 11, 2023

The Honorable Maria Cantwell
Chairwoman
U.S. Senate Commerce, Science and
Transportation Committee
254 Russell Senate Building
Washington DC, 20510

The Honorable Sam Graves
Chairman
U.S. House of Representatives Transportation
and Infrastructure Committee
2165 Rayburn House Office Building
Washington, DC 20515

The Honorable Ted Cruz
Ranking Member
U.S. Senate Commerce, Science and
Transportation Committee
512 Dirksen Senate Office Building
Washington DC, 20510

The Honorable Rick Larsen
Ranking Member
U.S. House of Representatives Transportation
and Infrastructure Committee
2165 Rayburn House Office Building
Washington, DC 20515

Dear Chairs Cantwell and Graves and Ranking Members Cruz and Ranking Members Larsen:

On behalf of a broad spectrum of both the commercial and general aviation industry we collectively represent, the undersigned organizations are writing to urge Congress:

- To explicitly codify longstanding law that the Federal Aviation Administration (FAA) is the sole regulator on all matters pertaining to aviation safety and operations in the National Airspace System (NAS) in the United States; and
- To clarify and strengthen the FAA's express regulatory authority with respect to the management of air traffic.

Without question, the United States has both the safest and most robust aviation system in the world. Central to this preeminence has been the existence of a single Federal system of aviation policy and regulation that the aviation industry, its employees, its customers, and the general public both rely on and entrust for their wellbeing. Protection of this single Federal, standardized framework is integral to continued FAA and U.S. leadership in safety, innovation, and transportation options for all communities. The upcoming FAA reauthorization is an opportunity for Congress to conclusively end any debate over the FAA's exclusive regulatory authority with respect to aviation safety, operations and air traffic management. In the process, the reauthorization would enhance the FAA's ability to respond more authoritatively and effectively to emerging safety issues.

In particular, with respect to aviation safety regulations, chapter 447 of title 49, United States Code, the Federal Aviation Regulations in title 14, Code of Federal Regulations and many other aviation laws, clearly reflect the Federal government's intent to fully occupy the field of safe operation of aircraft in the National Airspace System (NAS)—and indeed the federal government has fully occupied that field for good reason. However, because questions have arisen recently regarding the interplay of state laws of general applicability, Federal regulations and air carrier operations,¹ non-Federal entities are haphazardly building a state-by-state patchwork of laws attempting to regulate aviation operations, which has proven confusing for the industry and detrimental to safety. This potential patchwork also undermines and unravels Congress' constitutional power to regulate the instrumentalities of interstate commerce to the detriment of all users of the aviation system.

Exclusive Federal control over the safety and operations of aircraft is necessary given that our aviation system, from safety regulation to product certification to air traffic management, is a unique resource that demands centralized Federal control. To be clear, there are many laws of general applicability passed by states and local governments to which this coalition takes no issue; however, we do take specific issue with state and local laws, including those of general applicability, that when applied to aviation operations impact FAA regulation of the safe operations of aircraft. Therefore, we respectfully request that Congress expressly codify longstanding law and to further confirm the federal government's express authority over any state or local laws purporting to regulate aviation safety or the operation of aircraft in any respect.

Similarly, the coalition is concerned about efforts by states and municipalities to intrude on the express authority that arises under 49 U.S.C. 40103(b)(1)-(2), among other provisions, with respect to the FAA's exclusive authority to manage U.S. airspace. States and municipalities have attempted to prescribe flightpaths of uncrewed aerial systems (UAS), or to prohibit their operation entirely, in contravention of the FAA's exclusive authority to impose such requirements and limitations. As the FAA noted in its 2015 fact sheet, "[a] navigable airspace free from inconsistent state and local restrictions is essential to the maintenance of a safe and sound air transportation system."² Recognition by all stakeholders of a single authority on aviation safety and operations will help avoid disasters, promote safety and protect lives.

This is also consistent with the position that FAA has taken elsewhere. For example, when discussing the scope of its authority with the Government Accountability Office (GAO), FAA noted that it "is responsible for air safety 'from the ground up,' including with respect to UAS operations," and that this "authority and responsibility to regulate all aircraft operations down to the ground is based in part on 49 U.S.C. § 40103(b)(1)."³ Similarly, in pursuing enforcement against dangerous uses of drones, the agency has consistently viewed its responsibility as covering all UAS operations, no matter the altitude.

We strongly believe that our aviation laws today already confer upon the FAA the requisite and exclusive authority to regulate, with full effect, all matters of aviation safety and air navigation without undue intrusion from state and local regulators. But given efforts by state and local governments to regulate matters both impliedly and expressly reserved to the FAA, it is vital that the FAA's position as the sole regulatory authority for aviation be made even clearer through statutory text that (1) expressly codifies the implied authority that already currently arises under aviation safety laws, and (2) further clarifies and strengthens the express authority under section 40103(b) and elsewhere regarding air traffic management.

¹ See, e.g., *Sikkelee v. Precision Airmotive Corp.*, 822 F.3d 680 (3d Cir. 2016), *cert. denied*, 137 S. Ct. 495 (2016).

² *State and Local Regulation of Unmanned Aircraft Systems (UAS) Fact Sheet* at 2.

³ *B-330570 Current Drone Legal Issues* at 6.

We appreciate your consideration of this request and look forward to working with you and the members of your committees as the FAA reauthorization effort moves forward.

Respectfully,

Aerospace Industries Association
Airborne Public Safety Association
Aircraft Owners and Pilots Association
Airlines for America
Air Medical Operators Association
Association for Uncrewed Vehicle Systems International
Cargo Airline Association
Commercial Drone Alliance
Experimental Aircraft Association
General Aviation Manufacturers Association
Helicopter Association International
National Air Carrier Association
National Air Transport Association
National Association of Manufacturers
National Business Aviation Association
Regional Airline Association
Small UAV Coalition
U.S. Chamber of Commerce

Cc: Members of the Committee on Commerce, Science and Transportation
Members of the Committee on Transportation and Infrastructure