COMMENTS OF ATTORNEYS GENERAL OF ILLINOIS, NEW YORK, WASHINGTON, CALIFORNIA, ARIZONA, COLORADO, CONNECTICUT, DELAWARE, MAINE, MARYLAND, MASSACHUSETTS, MICHIGAN, NEW MEXICO, OREGON, RHODE ISLAND, VERMONT, WISCONSIN, AND HARRIS COUNTY, TEXAS

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Via www.regulations.gov and Electronic Mail

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Re: Draft Programmatic Environmental Assessment for Drone Package Delivery Operations in the United States, 90 Fed. Reg. 57126 (Dec. 9, 2025)
Docket No. FAA-2013-0259-4288, FAA-2013-0259-4312

Dear Mr. Hufty:

The Offices of the Attorneys General of Illinois, New York, Washington, Arizona, California, Colorado, Connecticut, Delaware, Maine, Maryland, Massachusetts, Michigan, New Mexico, Oregon, Rhode Island, Vermont, Wisconsin, and Harris County, Texas (OAGs and Local Governments) submit these comments on the Federal Aviation Administration (Administration or FAA)'s Draft Programmatic Environmental Assessment for Drone Package Delivery in the United States (the Drone Delivery Draft PEA or Draft PEA), which the Administration published in the Federal Register on December 9, 2025.[1] On December 19, 2025, the Offices of the Attorneys General of Washington and New York submitted a written request to the Administration for a 45-day extension of the January 8, 2025 deadline for public comments, in light of the novel issues raised by the Drone Delivery Draft PEA, and challenges presented by the peak holiday season that fell within the 30-day comment period.[2] On January 5, 2026, the Administration published a notice of the Federal Register extending the comment deadline by 15 days, from January 8 to January 23, 2026.[3]

[1] Draft Programmatic Environmental Assessment for Drone Package Delivery Operations in the United States, 90 Fed. Reg. 57126 (Dec. 9, 2025).
[2] Letter from Office of the Attorney General of New York and the Attorney General of Washington to Derek Hufty re: Draft Programmatic Environmental Assessment for Drone Package Delivery (December 19, 2025), https://www.regulations.gov/comment/FAA-2013-0259-4297.
[3] Notice of Extension of Public Comment Period for the Draft Programmatic Environmental Assessment for Drone Package Delivery Operations in the United States, 91 Fed. Reg. 327 (Jan. 5, 2026).

The FAA's Draft PEA conducts an environmental analysis of drone package delivery across the entire United States that fails to fully address multiple potential impacts and fails to address certain impacts at all, including the fire danger of lithium-ion batteries in unmanned drones. The FAA must provide additional analysis of these impacts in the final environmental document in order to assess whether there will be significant impacts from the proposed action. The FAA's final environmental review document should be a nationwide programmatic Environmental Impact Statement (EIS) that fully analyzes the impacts of the proposed actions and issue a site-specific Environmental Assessment (EA), at a minimum, for each hub and Part 135 certification.

I. Factual Background

The FAA has been approving commercial drone delivery operations since 2019, generally for small-scale test operations. The operators conducting those tests are some of the largest companies in the United States, including Amazon and Walmart. Those companies now anticipate that drones will soon deliver all types of packages, ranging from tonight's dinner to children's medicine.[4] If they are right, our skies will soon look and sound much different. Indeed, deliveries are already expanding across the United States.[5]

The exact number of flights that have already occurred are undisclosed, but the Draft PEA indicates that past approvals allowed perhaps 500 flights per day.[6] Now, after several years of testing, these large companies are preparing to dramatically expand their drone delivery programs nationwide in the next few years, with potentially more than 500 million deliveries annually.[7] The Draft PEA does not disclose this imminent upscaling of drone deliveries, instead basing its analysis on past information from minimal, discrete operations, while admitting the lack of any factual context for potential future activities as the proposed sites are not yet known.[8] By limiting environmental analysis to a cursory nationwide assessment devoid of specifics, the Draft PEA dilutes and dismisses the potential environmental impacts of this expanding delivery sector to such a degree that it fails to fulfill its fundamental purpose: to inform the decisionmakers and the public of potential environmental impacts.

The process for these deliveries includes remote pilots entering flight information into flight management software, with management systems then automatically coordinating routes to

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[4] *See* Io Dodds, *Walmart is expanding its drone delivery to hundreds of additional stores*, The Independent (Jan. 13, 2026), https://www.independent.co.uk/news/world/americas/walmart-drone-delivery-us-cities-b2899149.html ("Whether it's a last-minute ingredient for dinner, a must-have charger for a phone, or a late-night essential for a busy family, the strong adoption we've seen confirms that this is the future of convenience.").

[5] Draft PEA at 10 (delivery flights approved in Arizona, California, Oregon, Virginia, and six other states).

[6] *Id.* at 30.

[7] *See, e.g.* John Koetsier, *Amazon Gets Key FAA Drone Delivery OK; Clears Path To 500M Package Goal*, Forbes (Jun. 10, 2024), https://www.forbes.com/sites/johnkoetsier/2024/05/30/faa-oks-amazon-drone-expansion-goal-is-500-million-packagesyear/; Mary Cunningham, *Walmart to expand drone delivery to hundreds of stores*, CBS News (Jan. 12, 2026) https://www.cbsnews.com/news/walmart-drone-delivery-service-wing-150-stores/.

[8] Draft PEA at 22.

avoid drone collisions and maintain safety. Pilots oversee multiple flights at a time, which are automatically operated unless a circumstance arises where a pilot would need to intervene and manually control the flight.[9]

These operations are authorized via the FAA's Part 135 certification process and amendments to those certifications through operations specifications (OpSpecs). OpSpecs identify the scope of operations allowed under the Part 135 certificate and must be amended to change the scope of operations. OpSpecs are the relevant agency approvals for National Environmental Policy Act (NEPA) purposes and the issuance or amendment of an individual OpSpec normally requires preparation of an environmental assessment.[10] An environmental assessment is the appropriate level of review when the agency determines the "proposed agency action []does not have a reasonably foreseeable significant effect on the quality of the human environment."[11] An environmental assessment provides the basis of the agency's determination that there will be no significant environmental impacts – a Finding of No Significant Impact (FONSI).[12]

Operations generally occur under 400 feet of altitude and packages weigh less than 5 lbs. Packages are delivered via a rope or line dropped down from the drone to a delivery location, dropped from a hover height, or by full stop landing. Commercial drones have an average wingspan of 5 feet and can be fixed-wing, multi-rotor, or hybrid virtual take-off and landing drones. The FAA has authorized package delivery by drones weighing as much as 110 pounds, traveling at speeds of 68 knots, and having 16 propellers.[13]

In this Draft PEA, the FAA explains that, since 2019, the FAA has completed EAs for 23 individual drone package delivery proposals and one prior programmatic environmental assessment for drone package delivery relating to deliveries throughout North Carolina. The FAA intends to use this nationwide PEA "to comply with its NEPA requirements for subsequent requests for authorizations from individual drone operators proposing to conduct package delivery operations in areas of the [United States]."[14] Upon receiving an authorization request, "the FAA will evaluate the proposal against this PEA to determine if the proposal and its potential environmental impacts fall within the scope of this PEA."[15]

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[9] *See* video: How Does Package Delivery by Drone Work?, FAA, https://www.faa.gov/uas/advanced_operations/package_delivery_drone (Jan. 6, 2026).
[10] FAA Order 1050.1G (1.5(c)(17)).
[11] FAA Order 1050.1G (1.5(a)).
[12] 42 U.S.C. §4336(b)(2).
[13] Draft PEA at 15-18. *See also* Amazon Prime Air comment on BVLOS NPRM at 19 n.19 (Oct. 6, 2025) (citing FAA approval under Exemption 18601E and 18162E) (available at https://www.regulations.gov/comment/FAA-2025-1908-2872).
[14] Draft PEA at 2.
[15] *Id.*

II. An Environmental Assessment with a Nationwide Geographic Scope Arbitrarily Dilutes the Potential Environmental Impacts and Cannot Support a Finding of No Significant Impact

The Draft PEA provides a cursory overview of drone package deliveries generally to occur anywhere in the United States at future points in time.[16] Without meaningful contextual information about the impacted environment, any finding by the FAA that drone deliveries will not have a significant impact on the environment would be arbitrary and capricious and without a reasonable basis in the record.[17]

In the section discussing the Draft PEA's methodology, the FAA claims that understanding the density of flight operations "within a geographical area" is required as the quantitative basis to assess environmental impacts.[18] However, since the geographical area covered by the Draft PEA is the entire United States, it is not possible to understand the full range of potential environmental impacts using this methodology. The result is a paper exercise, largely devoid of reliable qualitative or quantitative analyses.

The justification for this lack of rigor—the promise of future site-specific reviews—is wholly inadequate.[19] Those future reviews may be a site-specific EA (as has been the practice), a Determination of NEPA Adequacy (DNA), or application of a categorical exclusion (CatEx). Any of these future reviews will "tier" to a final PEA in the name of "streamlining" future permits. But if the FAA plans to prepare site-specific EAs, then this begs the question why the FAA has prepared a programmatic EA in the first place rather than a programmatic EIS. The Draft PEA does not contain sufficient data about specific resources found at any one location to demonstrate a lack of significant impacts. Since the Draft PEA does not contain the data and analysis necessary to support a Finding of No Significant Impact (FONSI), the FAA must prepare an EIS if it desires a programmatic document for tiering and streamlining purposes. A FONSI could only be supported by site-specific EAs that analyze the factual context (*e.g.*, biological resources, land use conditions) for an individual OpSpec.

III. The Draft PEA Would Violate the APA and NEPA

Under the APA, an agency action is unlawful if it is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law" or "without observance of procedure required by law."[20] To comply with the APA, an agency "must examine the relevant data and articulate a satisfactory explanation for its action including a 'rational connection between the facts found and the choice made.'"[21] An agency rule would be arbitrary and capricious "if the

[16] Draft PEA at 4 (describing the proposed action as "drone operators conducting commercial drone package deliveries under Part 135 in the U.S.").
[17] *Env't Def. Ctr. v. Bureau of Ocean Energy Mgmt.*, 36 F.4th 850, 872 (9th Cir. 2022) (when reviewing an EA, we examine it to determine "whether its determination that no EIS is required is a reasonable conclusion").
[18] Draft PEA at 7.
[19] Draft PEA at 2, 20.
[20] 5 U.S.C. § 706(2)(A), (D).
[21] *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (quotation omitted).

agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise."[22] The Draft PEA fails to meet these standards and thus the FAA's ultimate finding of no significant impact is arbitrary and capricious.

a. The Draft PEA's Analysis of Reasonably Foreseeable Effects Is Inadequate.

NEPA requires federal agencies to assess the "reasonably foreseeable environmental effects of the proposed agency action."[23] In doing so, the agency must take a "hard look" at the environmental impacts.[24] The Agency "may not rely on incorrect assumptions or data" in its analysis and ultimate finding of no significant effects.[25] Here the FAA entirely fails to consider multiple important aspects of the issue in violation of both the APA and NEPA. This insufficient analysis shows that the FAA has not "reasonably considered the relevant issues and reasonably explained the decision."[26]

The resources and impacts entirely ignored or only given cursory review in the Draft PEA include coastal resources, water resources, hazardous materials, solid waste, energy supply, impacts to neighboring communicates, and land use. The Draft PEA does not consider short term effects versus long term effects, which is particularly concerning given publicly stated intentions from several companies to expand the scale of drone package deliveries drastically in the near-term and over the next few years.[27] These failures cannot be remedied by referencing reviews or studies to be prepared at some future point in time.[28]

i. Local Effects

The study area of the Draft PEA is "the entire U.S. (including Alaska and Hawaii)."[29] Because of this, the FAA must assess the reasonably foreseeable environmental impacts of drone package delivery that could occur anywhere in the United States. However, because "the specific locations of Part 135 operators' proposed hubs and delivery recipients are currently unknown" it is impossible to conduct a meaningful analysis of potential nationwide impacts of the proposed action that could support a FONSI at this point.[30] In so doing, the FAA pushes any site-specific analysis of impacts onto a vaguely outlined site-specific application process.[31]

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[22] *Id.*
[23] 42 U.S.C. § 4332(C)(i).
[24] *Env't Def. Ctr. v. Bureau of Ocean Energy Mgmt.*, 36 F.4th at 872.
[25] *Id. (citing Native Ecosystems Council v. U.S. Forest Serv.*, 418 F.3d 953, 964 (9th Cir. 2005)).
[26] *Fed. Commc'n Comm'n v. Prometheus Radio Project*, 592 U.S. 414, 423 (2021).
[27] *See, e.g.*, fn 5 supra.
[28] *See* Draft PEA at 20 (explaining that the FAA can tier off the Draft PEA for future reviews to "focus solely on the environmental impacts that were not addressed in this PEA").
[29] Draft PEA at 5.
[30] *Id*.
[31] *See* Draft PEA at 5-6.

ii. Noise

The Draft PEA provides a detailed analysis of some potential noise impacts from the proposed action. However, it fails to account for all potential baseline noise conditions at a proposed operation location.

The FAA considers only the role of aviation noise from nearby airports in determining the additive effect of the noise from drone delivery.[32] The FAA acknowledges that ambient sound levels vary and are impacted by adjoining commercial, industrial, transportation, and residential land uses.[33] However, the FAA only looks at the impact of drone noise on top of aviation noise, and not on top of other sources of ambient noise.[34] The FAA provides no data on the level of ambient noise from non-aviation sources despite the fact that noise from other modes of transportation, including both rail and road transit, reach similar levels of cumulative exposure to aviation noise.[35] By failing to include any analysis of the addition of drone noise on top of other ambient noises such as traffic noise or directing any site-specific analysis of non-aviation noise for individual applications, FAA has failed to take a hard look at reasonably foreseeable noise impacts.

In sum, by failing to take account of non-aviation related noise, the FAA is relying on a faulty assumption that only aviation related baseline noise impacts the overall noise impacts of drone operation. The FAA must consider all potential sources of ambient noise when determining the noise impact of drone delivery.

Additionally, the Draft PEA does consider potential impacts to "noise sensitive" lands and then dismisses the likelihood of significant impacts, saying that hubs must be set back from sensitive areas.[36] But the Draft PEA does not identify how that requirement will be implemented and enforced considering that the FAA only has authority over issuing flight certifications and does not have authority over private and commercial property. Similarly, the FAA says that operations over any sensitive areas would not exceed 1,150 annual day deliveries but does not say how limits would be implemented or enforced, nor does it commit to any specific limit.

iii. Biological Resources

The Draft PEA is also seriously deficient in its impact analysis for biological resources. Here, the Draft PEA is arbitrary and capricious because the FAA bases its ultimate conclusion that wildlife will not be affected on faulty assumptions.

The FAA repeatedly states that data is not available regarding impacts to biological resources. The FAA states that "it is not possible to identify which [threatened and endangered] species may exist where deliveries by drone may occur," and instead only addresses "groups of

[32] Draft PEA at 26, 33, Appendix C Noise Assessment for Package Delivery Operations with Unmanned Aircraft in the United States at 5-2.
[33] Draft PEA at 26.
[34] Draft PEA at 33.
[35] *See, e.g.*, U.S. Department of Transportation National Transportation Noise Map, https://maps.dot.gov/BTS/NationalTransportationNoiseMap/.
[36] *See* Draft PEA at 23.

species that are most likely to encounter drone activity."[37] This group includes migratory birds, Bald Eagles, bats, and manatees. However, there are many other species that do not fall within these limited groups that are also very likely to encounter drone activity, including other state and federally endangered bird species. The draft PEA fails to consider potential impacts to non-listed or unprotected wildlife.[38] Indeed, the Draft PEA notes that state-listed species may occur within a proposed operating area, but at this point the FAA does not know where those operating areas will be.[39] Because of the nationwide programmatic nature of the Draft PEA the FAA does not, and cannot, analyze the impacts to all of the listed species that could foreseeably be impacted by drone package delivery operations across the nation.

Regarding noise and wildlife, the PEA also assumes that "operations would occur mostly in an urban and suburban environment," and any increase in sound levels "would be low and in short duration."[40] This conclusion relies on the same unsubstantiated assumptions about future hub locations, which the FAA admits it does not know.[41] It also conflicts with the Draft PEA's description of the affected visual environment, which included "rural farmland [and] natural areas."[42] In the impact analysis for migratory birds, the PEA concludes that "due to the limited scale of operations" no significant impacts to migratory bird species are expected under the proposed action.[43] This assumption is manifestly unreasonable and inadequately explained, particularly considering the public statements of the imminent expansion of drone deliveries nationwide.

The FAA justifies its lack of analysis by stating that "it is difficult to generalize animal responses to noise disturbances across species," but, nevertheless, goes on to determine that there will not be a significant impact to non-listed wildlife species.[44] Similarly, the Draft PEA only looks at the noise impact to wildlife of a single exposure to a drone, but does not conduct any analysis on the impact of repeated or long-term exposures.[45] The FAA has previously conducted this sort of cumulative impacts analysis for other proposed drone operations. For instance, in its Draft PEA for operation of drone package delivery in North Carolina, the FAA analyzed the potential for cumulative effects on wildlife.[46] The FAA must conduct a similar analysis here.

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[37] Draft PEA at 49.
[38] While a consultation under the Endangered Species Act (ESA) is limited to potential impacts on protected species, there is no such limitation in NEPA. An agency must assess potential impacts to the human environment, including domestic and wild animals.
[39] Draft PEA at 55.
[40] Draft PEA at 52.
[41] Draft PEA at 5.
[42] Draft PEA at 35.
[43] Draft PEA at 55.
[44] Draft PEA at 52.
[45] Draft PEA at 50.
[46] PEA Mitigated FONSI and ROD for Drone Package Delivery in NC at 71, https://www.faa.gov/uas/advanced_operations/nepa_and_drones/FONSI_ROD_Final_PEA_for_Drone_Package_Delivery_in_NC.pdf.

Birds are particularly sensitive to drone disturbances.[47] The FAA's own experience and research on drone use demonstrates that it can cause birds to leave or avoid an entire area.[48] Yet the Draft PEA dismisses these serious concerns. The type and level of disturbance varies based on many factors, none of which have been considered even on a cursory level. These factors can include breeding seasons, habitat type, drone type, or anticipated speed, distance, and altitude. According to the Draft PEA, at least one drone type currently in use travels at 68 knots, or 78 miles per hour. Another drone weighs over 90 pounds, and one type has 16 propellers. Impacts to birds can include flushing, increased vigilance, altered parental care, and nest abandonment, among others.

These factors and risks are identified and then minimized by concluding that birds disturbed by drone deliveries will simply leave the area and return once the disruption ends. The scientific support for this conclusion is largely based on studies of drone use for wildlife population surveys and behavioral observation.[49] Drones used for scientific observation, however, are unlikely to possess the same characteristics of many delivery drones and are unlikely to be used with the same frequency in a specific region. For example, Amazon has been using the MK-27 drone that travels at 50 miles per hour and weighs around 80 pounds–the size of a dining room table. Given the number of approvals the FAA has already issued, millions of drone package deliveries are anticipated, dwarfing the scale of drone use for research purposes. The potential impacts to wildlife from these disparate uses are very different when put into context.

The Draft PEA also dismisses the risks of wildlife strikes in the face of admitted unreliability of a voluntary self-reporting system.[50] It is unreasonable to conclude there will be no significant impacts based on unreliable data.[51] The dismissal of bird strike risk in particular conflicts with the data provided for commercial transport strikes. Most strikes occur below 500 feet altitude and most bird movements occur below 500 feet altitude.[52] The expected altitude for drone package deliveries is around 400 feet altitude, the same level where most bird species are found. The conclusion of low likelihood of bird strikes or other impacts based on flight altitude is therefore unreasonable.

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[47] Estefania Velilla et al., *Best practice guidance for recreational and professional drones near colonial breeding birds*, at 2, PLOS One (Nov. 5, 2025), https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0332619.

[48] *See* Haley Davoren, *FAA, USDA using drones to prevent bird strikes*, GlobalAir.com (Apr. 18, 2024), http://globalair.com/articles/faa-usda-using-drones-to-prevent-bird-strikes?id=7283 (noting "[t]he FAA plans to have an analysis of the testing and recommendations on the future use of drones to mitigate bird strikes by the end of 2025"); Jim Tise, *FAA Seeks Birds-Eye View of Wildlife Incursions*, Medium (Oct. 12, 2022), https://medium.com/faa/faa-seeks-birds-eye-view-of-wildlife-incursions-d72edc084add.

[49] Draft PEA at 51.

[50] Draft PEA at 51.

[51] *Envt. Def. Ctr. v. Bureau of Ocean Energy Mgmt.*, 36 F.4th at 873-74 (finding that relying on "questionable and inconclusive historical records" amounted to a failure to take a hard look).

[52] Draft PEA at 51.

Without the necessary data on actual wildlife impacts and an analysis of cumulative impacts on wildlife, the FAA has failed to consider the reasonably foreseeable impacts on wildlife as required under NEPA.[53]

iv. Long term impacts

The Draft PEA does not consider the short-term effects versus long-term effects of large-scale drone package delivery on any resources over time. The Draft PEA has assessed potential impacts through the lens of the short-term drone package deliveries already authorized, but if drone deliveries are to increase as rapidly and expansively as predicted, the analysis fails to reflect the proportional increase in potential long-term impacts. Some impacts, such as noise impacts to wildlife, will not have a significant impact until the noise is repeated multiple times. A single disturbance may cause an animal to run away, but return to the site. However, the repeated appearance of drones in an area may lead to the animal leaving the area all together. Similarly, the impacts of a single drone delivery flight on people living in the flight path may be minimal. But, repeated drone delivery flights throughout the day could cumulatively add up to a significant impact. The FAA must assess the potential for these long-term impacts from their proposed action.

v. Hazardous materials

The Draft PEA contains no analysis of potential impacts resulting from hazardous materials, solid waste, or any discussion of pollution prevention. The Draft PEA summarily concludes that the "proposed action is not expected to include any activities that would use hazardous materials."[54] But, the FAA then explicitly contemplates that drone operators may transport hazardous materials: "Operators will be required to disclose whether they would transport hazardous materials."[55] The types of potential hazardous materials and methods of delivery are not disclosed, making it impossible to identify what unique concerns may exist. It is reasonably foreseeable that more hazardous materials deliveries will occur, yet the potential impacts are ignored. The Draft PEA similarly ignores how thousands of drones and millions of package deliveries will contribute to solid waste either though additional packaging waste or used drone batteries and parts. It does not address impact risks from interactions with power lines despite intended heavy use in residential and congested urban areas replete with power lines and other competing structures, and despite known accidents.[56] The analysis also dismisses any impacts from battery use or disposal on the assumption that "operators are expected to properly manage UA at the end of their operating life."[57] Given the scale of drone service expansion, this cursory analysis gives no sense of the potential battery waste and arbitrarily dismisses the possibility of any impacts on an assumption of general compliance with other requirements. This is a faulty assumption and unreasonable.

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[53] *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).
[54] Draft PEA at 23.
[55] *Id.*
[56] *See, e.g.,* Lauren Leffer, *A Food Delivery Drone Hit Power Lines, Caught Fire, and Left Thousands Without Electricity*, Gizmodo (Sep. 30, 2022), https://gizmodo.com/wing-food-delivery-drone-power-lines-crash-australia-1849600820.
[57] Draft PEA at 23.

vi. Uniquely Affected Communities

The Draft PEA does not analyze or direct future applicants to look for impacts to communities that could be uniquely affected by expanded drone operations. For instance, because the FAA only analyzes noise impacts of drones in isolation and when added to other aviation noises, the FAA fails to analyze potential impacts to communities already experiencing significant noise impacts. Many communities already experience significant noise burdens from traffic or industrial actions. By completely omitting any analysis of this issue, the FAA has completely missed an important category of potential environmental impacts.

vii. Land Use Impacts, Distribution Center Siting, and Last-Mile Impacts

The Draft PEA entirely dismisses the possibility of land use impacts, such as the development of previously undeveloped land.[58] This is because the Draft PEA assumes that the proposed action "would not involve the development or disturbance of any land regardless of use, nor would it have the potential to convert any important farmlands to non-agricultural uses."[59] The FAA assumes throughout the Draft PEA that any new drone operation hubs will be on already developed sites such as "a commercial parking lot, rooftop, or other previously developed or disturbed area."[60] That analysis summarily dismisses the possibility that drone delivery ranges may prompt new or expanded distribution center developments or locations.[61] In fact, the FAA excises the possibility of newly developed drone operation sites from the Draft PEA's environmental review by excluding potential applications requiring ground-disturbing activities.[62] It is foreseeable that the ability to deploy large-scale drone deliveries will drive distribution center and hub development in more remote locations with fewer land use conflicts, potentially including farmlands. It is also foreseeable that the addition of drone deliveries from existing parking lots means existing distribution centers (typically near interstate travel hubs and ports) will now add new sources of noise pollution, visual pollution, air use conflicts, and biological resource impacts to those areas. The Draft PEA does not disclose or consider these compounding effects. The FAA thus fails to take a serious look at potential logistical developments.

The Draft PEA's failure to assess all the reasonably foreseeable potential impacts allows the FAA to divide its analysis into two phases that obfuscate the true extent of potential impacts. In doing so, the FAA avoids an overall assessment of how these categories will be impacted in the aggregate by nationwide operations, and segregates and dilutes the impacts by focusing on an isolated part of the problem in the future, without ever assessing the whole.

[58] Draft PEA at 23.
[59] Draft PEA at 23.
[60] Draft PEA at 50; *see also* Draft PEA at 10, 23, 36, 50, Noise Assessment for Package Delivery Operations with UA in the United States at 2-2.
[61] Kacen Bayless, *Amazon may bring drone delivery to Kansas City. Here's the plan*, Kansas City Star, https://www.kansascity.com/news/politics-government/article305322081.html (Apr. 30, 2025, 1:22 PM).
[62] Draft PEA at 50.

b. The Draft PEA Does Not Analyze a Reasonable Range of Alternatives.

NEPA requires federal agencies to study, develop, and describe appropriate alternatives in an Environmental Assessment.[63] The Draft PEA does not analyze any alternatives.[64] It considers only action or no action alternatives. This is legally insufficient.[65]

The proposed action is "operation of commercial drone package deliveries from takeoff and landing areas . . . within the U.S. . . . to delivery locations within the U.S."[66] This includes "operations up to a unit capacity threshold of 1,150 Average Annual Day (AAD) deliveries from a single hub."[67] The no action alternative "assume[s] drone operators would continue conducting drone package delivery operations in the U.S. according to existing approvals" with "[a]dditional requests for approval . . . reviewed on a case-by-case basis by the FAA."[68]

The proposed action describes general operations for drone deliveries, based on existing approved activities. But these activities under the proposed action are the same as those that are already underway pursuant to existing authorizations, meaning the no action and proposed action analyses are based on the same circumstances and information.[69] The Draft PEA does not identify or analyze conditions that distinguish between the no action alternative and the proposed action. There are easily identifiable reasonable alternatives that must be considered to fill the void.

One or more alternatives should consider a range of specific terms and conditions to be applied uniformly to future authorizations. Some examples are speed restrictions, size and weight restrictions, environmental mitigation conditions, and monitoring and reporting requirements for wildlife interactions, behavioral impacts, and strikes. The FAA's NEPA review procedures acknowledge that this is one of the functions to be achieved through a programmatic review.[70]

The FAA also should identify alternatives on a geographic basis, which is one of the FAA's primary purposes when preparing programmatic assessments.[71] These alternatives should assess operations in different environments with proposed terms and conditions tailored to those environments. For example, operations in areas prone to wildfires should have restrictions to

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[63] 42 U.S.C. § 4332(2)(C)(iii); *W. Watersheds Project v. Abbey*, 719 F.3d 1035, 1050 (9th Cir. 2013).
[64] 42 U.S.C. § 4332(2)(C)(iii).
[65] *W. Watersheds Project v. Abbey*, 719 F.3d at 1050 ("The existence of a viable but unexamined alternative renders an [EA] inadequate.").
[66] Draft PEA at 10.
[67] Draft PEA at 10.
[68] Draft PEA at 9.
[69] Draft PEA at 9-20.
[70] *See* FAA, Desk Reference for Unmanned Aircraft Systems Environmental Review at 31 ("[p]rogrammatic reviews and documentation can also identify mitigation measures to avoid environmental impacts on resources") https://www.faa.gov/uas/advanced_operations/nepa_and_drones/Desk-Reference-for-UAS-Environmental-Review.pdf.
[71] *Id.* at 31 (programmatic approaches can "leverage an environmental review for UA operations within a defined geographic region, including within and over commercial sites, industrial sites, or other sites").

minimize those risks. Operations in coastal areas should include restrictions or mitigations for impacts to species or sensitive areas found in that distinct environment.

The FAA should, but failed to, assess these reasonable alternatives. The Draft PEA's assessment of only the proposed action and no action alternative is thus legally insufficient, fails to comply with NEPA's hard look standard, and would fail the APA's arbitrary and capricious standard of review. The FAA must analyze additional alternatives in the final document.

c. The Drone Delivery Draft PEA Proposes an Inadequate Scope of Mitigation Measures.

As described above, the FAA cannot reasonably conclude that the proposed action of nationwide drone package delivery will have no significant impact without ensuring it has first taken a hard look at the context-specific operational conditions and at necessary mitigation measures. It is possible that future site-specific reviews could identify appropriate mitigation measures for each individual OpSpec, but since the FAA has conducted this review on a broad, programmatic, nationwide level through an environmental assessment, and not an EIS, it must assess and implement those measures now rather than later if the FAA intends to rely on the Draft PEA and the identified mitigation conditions to justify a FONSI and for tiering purposes.

The Draft PEA states that an "operator's proposed action or undertaking" must "comply with the measures established in this PEA."[72] However, the PEA provides very few mandatory measures and does not identify a mechanism by which those measures would be implemented, monitored, or enforced. Instead, the Draft PEA uses equivocal language throughout. For noise mitigation, it only says that the FAA would "request" that operators locate their hubs at "sufficient setback distances" from noise-sensitive land use.[73] For historic resources, the FAA simply concludes that "operators would not locate a hub" within 0.5 miles of the "most sensitive" historic properties considered, and if they did, more consultation might be necessary.[74]

Additionally, the mitigation measures for biological resources would apply only to a limited number of protected species or habitats, including known roosting areas for migratory birds, known bald eagle nests, bat roosting areas, and potential manatee habitat during warmer months.[75] There are no mandatory mitigation measures of general applicability or required best practices that could limit impacts to a broader range of biological resources. For general measures, the PEA includes only environmental "coordination efforts" and "commitments" that operators should implement.[76] These consist of a recommended environmental awareness "briefing" and a best management recommendation of, "where possible," drones should cross rivers in a perpendicular fashion. But these recommendations, too, are voluntary and have no mitigating value.

The mitigation measures for wildlife concerns only refer to drone operations that would occur over federal lands such as a National Wildlife Refuge or NPS lands, or where federally

[72] Draft PEA at 20.
[73] Draft PEA at 33.
[74] Draft PEA at 40.
[75] Draft PEA at 57.
[76] Draft PEA at 56-58.

listed species are present.[77] This mitigation measure completely ignores potential wildlife impacts on state or locally owned lands. It also fails to address potential mitigation for impacts to state listed species, or indeed even unlisted species.

Finally, even where a mitigation measure has been identified, the Draft PEA does not include the methods of implementing, monitoring, and enforcing the identified mitigations. Without this structure, the FAA cannot rely on these measures to determine that there will be no significant impacts on environmental resources.[78]

IV. The Draft PEA Has Not Addressed or Mitigated Risks Related to Lithium-Ion Batteries, Drone Transport of Higher-Risk Merchandise or Sensitive Materials, and Potential National Security Concerns.

a. Risks Related to Lithium-Ion Batteries Are Heightened Because Drones Are Autonomous and Typically Not Subject to Human Monitoring During Commercial Package Delivery Operations.

The Pipeline and Hazardous Materials Safety Administration (PHMSA) has recognized that lithium-ion and lithium-polymer batteries (referred to together here as "lithium-ion batteries") pose unique safety concerns "in the air transportation environment."[79] PHSMA explained in its December 2022 rule on *Enhanced Safety Provisions for Lithium Batteries Transported by Aircraft* that "[u]nlike most other hazardous materials, lithium batteries have a dual hazard of chemical and electrical. This combination of hazards, when involved in a fire, has the potential to create a scenario that exceeds the fire suppression capability of an aircraft[.]"[80] To mitigate these hazards, PHMSA and FAA regulations applicable to cargo-only aircraft require "all lithium ion cells and batteries to be shipped at not more than a 30 percent state of charge (SOC)."[81] The FAA fails entirely to take these dangers into account in the Draft PEA.

As the FAA explains its "Packsafe" guidance for commercial airline passengers, "lithium ion batteries are capable of overheating and undergoing a process called thermal runaway. Thermal runaway can occur without warning as a result of various factors, including if the battery is damaged, overheated, exposed to water, overcharged, or improperly packed. Thermal runaway can also occur on its own due to manufacturing defects."[82] For this reason, the FAA prohibits "[s]pare (uninstalled) lithium metal batteries and lithium-ion batteries, portable

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[77] Draft PEA at 56.
[78] *O'Reilly v. U.S. Army Corps of Eng'rs*, 477 F.3d 225, 233–34 (5th Cir. 2007) ("the EA provides only cursory detail as to what those [mitigation] measures are and how they serve to reduce those impacts to a less-than-significant level. Because the feasibility of the mitigation measures is not self-evident, we agree with the district court that the EA does not provide a rational basis for determining that the Corps has adequately complied with NEPA").
[79] Hazardous Materials: Enhanced Safety Provisions for Lithium Batteries Transported by Aircraft (FAA Reauthorization Act of 2018), 87 Fed. Reg. 77995 (Dec. 21, 2022).
[80] *Id. at* 77995.
[81] *Id.*
[82] *PackSafe – Lithium Batteries*, FAA, https://www.faa.gov/hazmat/packsafe/lithium-batteries (Feb. 21, 2025).

rechargers, electronic cigarettes, and vaping devices" in checked baggage.[83] The FAA requires that such devices "must be carried with the passenger in carry-on baggage and remain accessible" since "[s]moke and fire incidents involving lithium batteries can be mitigated by the cabin crew and passengers inside the aircraft cabin."[84] Fires caused by lithium-ion batteries cannot be as readily detected and mitigated if they occur in the cargo hold of the aircraft. These prohibitions demonstrate that the FAA believes that lithium-ion batteries should be monitored in-person and not left in isolated or unmanned locations.

Because virtually all recreational and commercial drones use rechargeable lithium-ion batteries, the FAA has warned passengers that "[w]hen you take your drone with you onboard passenger aircraft – whether you use drones for recreation, commercial activities, or as a public aircraft operator – your drone might be a dangerous good! Lithium batteries, fuel cells, and components of certain parachute systems can all be classified as dangerous goods" under FAA regulations.[85] Notwithstanding the FAA's safety regulations pertaining to lithium-ion batteries and related materials, in 2024, the most recent year for which full-year data is publicly available, the FAA verified 89 lithium-ion battery incidents "involving smoke, fire or extreme heat on passenger and cargo aircraft."[86] It is thus appropriate for the FAA to consider the risks of fire in the context of drone package delivery operations.

The OAGs and Local Governments' primary safety concern in the context of the Draft PEA is that commercial drone operators for package delivery do not appear to require that trained professionals (as opposed to autonomous systems) monitor each individual drone during ascent, flight, and descent. This means that the risk that drones may ignite or explode during operation due to thermal runaway or a related lithium battery malfunction is exacerbated under scenarios when swift human intervention to detect an explosion or fire is not possible, causing any required emergency response to be delayed. A package delivery drone that explodes or ignites mid-air due to a defect in the lithium battery may fall out of the sky into a heavily-wooded area, without any bystanders who could contact firefighters, and the delay in the firefighting response may exacerbate forest fires. Similarly, if a drone explodes or ignites near a residence during a package delivery route, and it is not immediately reported, the conflagration may spread and endanger nearby structures and residents before the local fire department is able to respond. Alternately, if drones fall onto roadways, serious traffic accidents may result.

For example, the National Transportation Safety Board (NTSB) is continuing to investigate an October 1, 2025, incident near Tolleson, Arizona where two MK30 drones operated by Amazon Prime Air collided with a mobile crane that had been extended to an estimated height of nearly 200 feet above ground level. The NTSB's preliminary report states

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[83] *Lithium Batteries in Baggage*, FAA (Sep. 24, 2025), https://www.faa.gov/newsroom/lithium-batteries-baggage.
[84] *Id.*
[85] FAA, *PackSafe - Traveling With Your Drone/UAS*, FAA Office of Hazardous Materials Safety Hazmat Highlights (Sep. 27, 2024), https://content.govdelivery.com/accounts/USAFAA/bulletins/3b81f57#:~:text=Traveling%20With%20Your%20Drone/UAS,on%20traveling%20with%20your%20drone.
[86] *On the Case: Preventing Lithium Battery Hazards*, FAA, https://www.faa.gov/blog/clearedfortakeoff/case-preventing-lithium-battery-hazards (Aug. 12, 2025)).

that the drones "came to rest on the ground near the crane" and that one of the drones' "battery had ejected and caught fire."[87] Local news in Arizona reported that one person was hospitalized from inhaling fumes at the site that resulted from the burning drone battery.[88] Thankfully, this incident's impact appears to have been mitigated by the prompt reporting of the collision to emergency responders.[89] Following the incident, Amazon stated that they "introduced additional processes like enhanced visual landscape inspections to better monitor for moving obstructions such as cranes."[90]

In addition to the risk of fires associated with malfunctioning lithium-ion batteries in drones deployed for package delivery, navigational accidents by package delivery drones can result in collisions that threaten communications infrastructure. We are aware of the Administration's ongoing probe into a package delivery drone that downed an internet cable in central Texas in late 2025.[91]

In sum, as the FAA has itself acknowledged in other contexts, lithium-ion batteries are associated with fire-related risks, and those risks are heightened for drones because reporting of incidents involving fires or explosions may be delayed because drones are unmanned. The FAA must assess these reasonably foreseeable environmental impacts in the final environmental document.

b. The FAA Is Still Finalizing a Rule for Safely Normalizing Beyond Visual Line of Sight (BVLOS) Drone Operations

In the Draft PEA, the FAA fails to account for known potential environmental and safety impacts from drone operation under active consideration by the FAA. On August 7, 2025, the FAA issued a proposed set of regulations for the operation of unmanned aircraft systems beyond an operator's visible line of sight (BVLOS).[92] These proposed regulations include detailed requirements for drone operations, aircraft manufacturing, keeping drones safely separated from

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[87] NTSB, Aviation Investigation Preliminary Report, at p.2, https://data.ntsb.gov/carol-repgen/api/Aviation/ReportMain/GenerateNewestReport/201774/pdf.

[88] ABC15 Arizona, *Two Amazon delivery drones crash into crane in Tolleson*, YouTube (Oct. 1, 2025), https://www.youtube.com/watch?v=t3Lxd5yhBpg.

[89] NTSB, Aviation Investigation Preliminary Report, at p.1.

[90] David Shepardson, *NTSB, FAA to probe crashes of two Amazon delivery drones in Arizona*, Reuters (Oct. 2, 2025), https://www.reuters.com/business/retail-consumer/ntsb-faa-probe-crashes-two-amazon-delivery-drones-2025-10-02/. There is also additional risk in the storage of drone fleets or lithium-ion batteries, at operators' "hubs." For example, on December 9, 2025, a massive fire in Jakarta, Indonesia that resulted in 22 fatalities is believed to have originated from a burning lithium battery in a storage location for a Japanese-owned drone company. Niniek Karmini and Edna Tarigan, *At least 22 people killed in office building fire in Indonesia's capital*, Los Angeles Times (Dec. 9, 2025), https://www.latimes.com/world-nation/story/2025-12-09/at-least-22-people-killed-in-office-building-fire-in-indonesias-capital.

[91] Annie Palmer, *Amazon faces FAA probe after delivery drone snaps internet cable in Texas*, CNBC (Nov. 25, 2025), https://www.cnbc.com/2025/11/25/amazon-faa-probe-delivery-drone-incident-texas.html; Shepardson, *supra*.

[92] Normalizing Unmanned Aircraft Systems Beyond Visual Line of Sight Operations, 90 Fed. Reg. 38212 (Aug. 7, 2025) (Notice of Proposed Rulemaking).

other aircraft, operational authorizations and responsibility, security, information reporting and record keeping. In the Draft PEA, the FAA does not account for the interplay between these forthcoming regulations and new drone delivery operations.

Additionally, in these proposed regulations, the FAA recognizes that operation of drones with lithium-ion batteries presents risks to both the operators and the public. The FAA notes that "[l]ithium batteries have a greater risk of fire and swelling than other technologies due to their internal chemistry."[93] To account for this in its proposed regulations, the FAA proposed that operators must have a battery monitoring program to head off the risk of fire and degraded performance. Additionally, the FAA proposed that operators must include procedures in their company operations manual "for the identification and disposition of hazardous materials."[94] The FAA specifically notes that "a large lithium battery that powers the UA should be identified [in the manual] to ensure that employees are aware that there are hazardous materials present within their operation."[95] The FAA proposes this provision in order "to prevent such materials from being improperly offered to (shipped on) traditional carriers."[96]

Nowhere does the Draft PEA analyze these potential impacts of lithium-ion batteries identified in the proposed BVLOS regulations. To comply with NEPA, the FAA must include analysis of the potential impacts of lithium-ion batteries as hazardous materials.

c. The Draft PEA Fails to Address, Let Alone Mitigate, the Heightened Fire Risks of Drone Package Delivery Associated with Lithium-Ion Batteries

The Draft PEA contemplates a dramatic expansion of package delivery by drones nationwide, but does not address the inherent safety risks tied to lithium-ion batteries in drones that are not subject to continuous human monitoring, which may lead to delays in emergency response in the event of an explosion or fire.

Because the Draft PEA fails to acknowledge these risks, it overlooks any necessary mitigation measures. For example, the FAA could require as a mitigation measure that drone operators receiving an Air Carrier and Operator Certification under 14 C.F.R. Part 135 for a specific operating area should notify relevant State and local firefighting agencies and other emergency response agencies about the locations of "hubs" and relevant flight paths. This would allow relevant agencies to evaluate the fire risk in the event of a drone-related accident and be prepared to deploy resources to the area to extinguish any fire. Such notice may be particularly relevant if the flight paths are over heavily-wooded areas where the precise location of a spreading fire is harder to pinpoint, and where the fires may be more difficult for responders to reach. Another measure to mitigate the fire risks associated with lithium-ion batteries in drones could be the development and deployment of GPS-enabled software that automatically notifies

[93] *Id.* at 38293.
[94] *Id.* at 38250.
[95] *Id.*
[96] *Id.*

the closest fire departments at the moment that an operator's systems confirm that a drone has ignited or has collided with an object.[97]

To operate under Part 135, drone companies must develop and maintain a Dangerous Goods training program and an accepted Hazardous Materials manual. This process involves a safety analysis of how the operator will manage the unique risks of lithium-ion batteries in their specific operational environment. An additional mitigation measure under the draft PEA could have required that drone operators allow for local fire prevention authorities to periodically inspect the conditions under which lithium-ion batteries are stored and charged at drone operators' hubs to mitigate the risk of fire.

d. The Draft PEA Fails to Include Any Restrictions on Drone Delivery of Higher-Risk Merchandise and Hazardous Materials.

Given the known risks of lithium-ion batteries in aircraft, and the inherent and documented collision risks of unmanned aerial vehicles, the FAA has missed an opportunity to mitigate these risks in the Draft PEA by failing to specify that certain cargo should be prohibited by drone delivery.

The Draft PEA is silent on whether safety matches, bleach, fireworks, ammunition, or other highly combustible items may be transported by commercial drone operators. The U.S. Postal Service, for example, allows the shipment of safety matches (in a book, card, or strike–on–box) only via surface transportation and only if "[t]hey cannot be readily ignited by friction unless struck on their own or on a similar box, card, or book."[98] The FAA has an advisory that identifies a wide range of "commonly shipped undeclared hazardous materials."[99] To mitigate the impacts of drone-related accidents, the FAA should specify categories of commercial products that are off-limits for drone delivery.

In November 2025, the FAA, in conjunction with PHMSA, published *Guidance for Transporting Hazardous Materials by Unmanned Aircraft Systems*, which is intended for UAS applicants under 14 CFR Part 135 and existing certificate holders who are interested in or expanding their current authorization for carrying hazardous materials.[100]

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[97] The NTSB has issued an advisory to civil uncrewed aircraft systems in the U.S. requiring notification to NTSB of certain incidents. See *Advisory to Operators of Civil Uncrewed Aircraft Systems in the United States*, NTSB (Aug. 1, 2022), https://www.ntsb.gov/investigations/process/Documents/NTSB-Advisory-Drones.pdf.

[98] *USPS Packaging Instruction 4B*, USPS, https://pe.usps.com/text/pub52/pub52apxc_015.htm (last visited January 23, 2026).

[99] *Commonly Shipped Undeclared Hazardous Materials*, FAA, https://www.faa.gov/sites/faa.gov/files/hazmat/what_is_hazmat/undeclared_items_commonly_shipped.pdf (last visited Jan. 23, 2026).

[100] Notice of Guidance: Transporting Hazardous Materials by Unmanned Aircraft Systems (UAS), 90 Fed. Reg. 52133 (Nov. 19, 2025); *Guidance for Transporting Hazardous Materials by Unmanned Aircraft Systems (UAS)*, FAA (Nov. 2025), https://www.faa.gov/hazmat/air_carriers/operations/drones/transporting-hazmat-by-uas-guidance.pdf.

Additionally, PHMSA has recently published an Advance Notice of Proposed Rulemaking on *Hazardous Materials: Modernizing Regulations to Facilitate Transportation of Hazardous Materials Using Highly Automated Transportation Systems*.[101] The Advance Notice covers drones and explains that "[s]ince UAS [Unmanned Aircraft Systems] are unmanned, there are no crewmembers on the aircraft to access or mitigate a potential incident."[102] The Advance Notice discloses that PHMSA published a Request for Proposal in April 2025 seeking a "contractor with the expertise, capabilities, and experience to evaluate the safety performance of existing dangerous goods packaging requirements in a UAS environment" and "will also identify potential hazards associated with malfunctions of UAS package containment systems at various cruise altitudes, up to 400 feet above ground level, which could inadvertently drop items during transit."[103] Comments on the Advance Notice are due on March 4, 2026, and PHMSA explains that it will use the comments, and potentially additional stakeholder input, to develop a "comprehensive and well-informed regulatory proposal" i.e., a notice of proposed rulemaking.[104]

We urge the Administration to consider relevant feedback that it may have received in response to its recent Guidance on transport of hazardous material via drones, and to consult with PHMSA on public comments it is collecting as part of the Advance Notice regarding transport of hazmat using "highly automated transportation systems," including drones, as well as any report from the contractor(s) selected to evaluate "the safety performance of existing dangerous goods packaging requirements in a UAS environment."[105] Consulting with PHMSA in this way would inform the Administration's decision to prepare an environmental impact statement or move forward on finalizing a programmatic environmental assessment for drone package delivery nationwide. In addition, the Administration should consult with PHMSA on whether additional appropriate mitigation measures should be analyzed in any final environmental review.

e. The Draft PEA Has Not Addressed Potential National Security Concerns Associated with Commercial Drone Fleets and Operator Cybersecurity.

On January 12, 2026, the U.S. Department of Homeland Security (DHS) announced the formation of a DHS Program Executive Office for Unmanned Aircraft Systems and Counter-Unmanned Aircraft Systems.[106] According to DHS, the new Office is charged with "taking the threat of hostile drones head-on and innovating ways drones can keep us safe from other threats on the ground."[107] This announcement follows the inclusion of the Safer Skies Act in the National Defense Authorization Act in December 2025, which "authorizes trained and certified

[101] 90 Fed. Reg. 55836 (Dec. 4, 2025).
[102] *Id.* at 55841.
[103] *Id.* at 55838.
[104] *Id.* at 55838, 55844.
[105] *Id.* at 55844.
[106] *Department of Homeland Security Launches New Office to Advance Drone and Counter-Drone Technologies*, DHS (Jan. 12, 2026), https://www.dhs.gov/news/2026/01/12/department-homeland-security-launches-new-office-advance-drone-and-counter-drone.
[107] *Id.*

state and territorial law enforcement and correctional officers to address the threat of nefarious drones in coordination with key federal agencies."[108]

Additionally, on December 22, 2025, the Federal Communications Commission (FCC) announced that "following a thorough review by an Executive Branch interagency body with appropriate national security expertise that was convened by the White House, the FCC received a specific determination that UAS and UAS critical component parts that are produced in foreign countries pose 'unacceptable risks to the national security of the United States and to the safety and security of U.S. persons' and should be included on the FCC's Covered List, unless the Department of War or the Department of Homeland Security makes a specific determination to the FCC that a given UAS, class of UAS, or UAS critical component does not pose such risks."[109] The FCC clarified that its Covered List rules apply to "new device models."[110]

Among the legitimate national security-related concerns about foreign-made drones are concerns that drone software can be hacked and drones remotely taken over by hostile actors for the purposes of terrorism, threatening critical infrastructure, or interference with airspace.[111] Such national security risks associated with commercial drone operations extend to risks to natural resources. Analogous national security risks with foreseeable environmental impacts have been found by courts to be within the scope of NEPA.[112]

Although these concerns may be mitigated if operators have exercised due diligence in procurement of their drone fleets, conducting security checks of drones and drone components for the possibility of malicious hardware or software, and maintaining state-of-the-art cybersecurity protocols, the Draft PEA's failure to acknowledge these concerns and offer any mitigation presents concerns to the OAGs and Local Governments, particularly in the wake of the FCC's action on including foreign-made drones and critical components on a Covered List based on national security concerns. It is recommended that drone package delivery operators

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[108] *Governors Applaud Congressional Action On Drone Threats*, National Governors Association (Dec. 17, 2025), https://www.nga.org/news/press-releases/governors-applaud-congressional-action-on-drone-threats/.

[109] *FACT SHEET: FCC Updates Covered List to Include Foreign UAS and UAS Critical Components on Going Forward Basis*, FCC (Dec. 22, 2025), https://docs.fcc.gov/public/attachments/DOC-416839A1.pdf . On January 7, 2026, the FCC announced that it had exempted from its Covered List those UAS and UAS critical components included on the Department of War's "Blue UAS Cleared List" as well as UAS and UAS critical components that qualify as "domestic end products" under the Buy American Standard. *FACT SHEET: FCC Updates Covered List to Exempt Certain Drones From Restrictions, Releases Additional FAQs*, FCC (Jan. 7, 2026), https://docs.fcc.gov/public/attachments/DOC-417528A1.pdf.

[110] *FACT SHEET: FCC Updates Covered List to Include Foreign UAS and UAS Critical Components on Going Forward Basis*, *supra*.

[111] Police Executive Research Forum, *A Report on the Use of Drones by Public Safety Agencies—and a Wake-Up Call about the Threat of Malicious Drone Attacks* 82-84 (2020), https://portal.cops.usdoj.gov/resourcecenter/content.ashx/cops-w0894-pub.pdf.

[112] *San Luis Obispo Mothers for Peace v. U.S. Nuclear Reg. Comm'n*, 449 F.3d 1016, 1035 (9th Cir. 2006) (reversing Nuclear Regulatory Commmission's "determination that NEPA does not require a consideration of the environmental impact of terrorist attacks"); *Cf. Brodsky v. U.S. Nuclear Reg. Comm'n*, 650 Fed. Appx. 804, 807 (2d Cir. 2016) (Summary Order) (holding that "NRC did consider the risks from terrorism in determining that its exemption decision would have no significant environmental impact").

implement cybersecurity controls consistent with the recommendations in an FAA-commissioned report on *Securing UAS Fleets from Cyber Attacks* (2024) and more overarching U.S.-government approved cybersecurity frameworks[113] to mitigate the risks of cybersecurity breaches against drone operators that may result in adverse environmental impacts.

V. Recommended Actions, Reason for Recommended Change, and Supporting Information

- The FAA must prepare a PEIS that includes analysis based on the reasonably foreseeable expansion of drone use for package delivery in the next five years. The rapid expansion of drone delivery on such a large, nationwide scale requires a serious environmental review in proportion to this development.

- The FAA must publish a Notice of Intent to prepare a PEIS in the Federal Register to provide appropriate nationwide public notice of the scope and scale of drone package delivery expansion.

- The FAA must commit to preparing a site-specific EA, at a minimum, for each hub and Part 135 certification and OpSpec. In particular, the FAA must adhere to enhanced, site-specific environmental and operational review for drone delivery operations proposed in highly congested airspace regions; explicitly account for cumulative National Airspace System congestion and public safety aviation impacts; establish clear mechanisms for priority access, emergency suspension, and enforcement in support of public safety operations; and ensure meaningful state and local agency coordination prior to approving Part 135 operational expansions.

- The FAA must commit to including every mitigation measure identified in this PEA or any PEIS, and any future environmental review (including both NEPA reviews and ESA consultations), as an enforceable term and condition of a Part 135 Certification or OpSpec approval. The FAA must identify where the term will be included and how it will be monitored to ensure enforcement if noncompliance occurs. The FAA must also clearly identify the specific mitigation measures that will be applied by listing them in a single section of any NEPA document (EA or EIS; ROD or FONSI).

- The FAA must consider additional potential mitigation measures in any final PEA or PEIS, and future environmental reviews, including buffer zones, speed and weight limits, and altitude restrictions to protect wildlife, including birds, surface species, and aquatic/marine species, not limited to protected species or eagles. Additional mitigations to consider include flight restrictions based on wildfire seasons, breeding seasons, and weather conditions. If any mitigation measure is not adopted, explain why the measure is not appropriate.

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[113] Center for Naval Analyses, *Securing UAS Fleets from Cyber Attacks* (2024), https://www.faa.gov/uas/programs_partnerships/BAA/BAA004-CNA-Securing-UAS-Fleets-from-Cyber-Attacks.pdf; U.S. Department of Commerce, National Institute of Standards and Technology, *The NIST Cybersecurity Framework (CSF) 2.0* (Feb. 26, 2024), https://nvlpubs.nist.gov/nistpubs/CSWP/NIST.CSWP.29.pdf.

- The FAA must identify the circumstances in which a supplemental analysis will be triggered to provide clarity and certainty for how the environmental review will continue to account for additional scientific research and other new information (e.g., when number of flights exceed analyzed intensity, change in drone design and capability, change in types of packages delivered, and new information on impacts to species).

- The FAA must disclose the areas of its analysis that lack existing or planned scientific research, particularly for impacts to birds and wildlife.

VI. CONCLUSION

In conclusion, the FAA must fully analyze the reasonably foreseeable environmental impacts of the proposed action in conformity with the requirements of NEPA. In order to meet these requirements, the FAA should issue a nationwide programmatic EIS that fully analyzes the impacts of the proposed actions and issue a site-specific EA, at a minimum, for each hub and Part 135 certification.

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