

March 29, 2022

President Joseph R. Biden, Jr.
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Dear President Biden:

The undersigned business and trade associations write regarding the delayed development of the Federal Aviation Administration's (FAA) Notice of Proposed Rulemaking (NPRM) to *Prohibit or Restrict the Operation of an Unmanned Aircraft in Close Proximity to a Fixed Site Facility*. We have significant concerns that continued delays in promulgating this NPRM will adversely impact the safety and security of the national airspace, while this inaction effectively has invited states to enact varying restrictions on UAS operations.

According to the FAA, more than 860,000 commercial and recreational unmanned aircraft systems (UAS) are registered in the United States. This number is likely to grow as new use cases emerge and as the United States further develops a regulatory framework for UAS. The safe integration of UAS into the national airspace is paramount to ensuring public trust in the technology, maintaining the world's safest aviation system, and protecting people and property on the ground. A crucial component of this objective entails protecting critical infrastructure facilities and other sensitive sites from potential safety and security risks posed by a UAS. Some of these potential risks include espionage, safety hazards to ground operations, homeland security threats, and other criminal and illicit activities, in addition to otherwise lawful operations that mistakenly fly over critical infrastructure.

Congress recognized these risks, and included Section 2209 in the FAA Extension, Safety, and Security Act of 2016 (FESSA). Section 2209 directs the FAA to establish a process enabling operators and proprietors of fixed site facilities to apply for airspace restrictions or prohibitions to prevent UAS from operating adjacent to their facilities. Subsequently, in the FAA Reauthorization Act of 2018, Congress required the FAA to issue an NPRM implementing Section 2209 by March 31, 2019, and a final rule within a year. To date, the FAA has not issued an NPRM implementing Section 2209, and in fact, recently placed the NPRM on the Unified Agenda's Long-Term Actions with an expected timeframe of December 2022. In the absence of the mandatory rulemaking, many states have enacted legislation to protect people and property on the ground including critical infrastructure sites and other states are considering similar proposals, resulting in a patchwork of state laws that is confusing for critical infrastructure stakeholders, law enforcement, and the UAS industry.

We understand that the FAA has engaged in discussions with other agency stakeholders, and indeed some of the delay may be attributed to such discussion. To remedy the current situation, we request the Administration bring structure and a sense of urgency to these

interagency discussions to facilitate publication of the statutorily required and overdue NPRM as soon as possible. Interagency collaboration, while essential, must be given a timetable to avoid any further undue delay in publishing the NPRM to create a process that protects sensitive facilities from UAS.

We urge the Administration to prioritize this NPRM to facilitate protection of facilities enumerated in Section 2209, which will help ensure the safe and secure integration of UAS into the national airspace. We appreciate your consideration of our views, and we look forward to partnering with the Administration and other relevant agencies on this critical issue moving forward.

Sincerely,

American Chemistry Council
American Fuel & Petrochemical Manufacturers
American Gas Association
American Petroleum Institute
Association of American Railroads
Association for Uncrewed Vehicle Systems International
Consumer Technology Association
IAAPA, The Global Association for the Attractions Industry
Interstate Natural Gas Association of America
Nuclear Energy Institute
Small UAV Coalition
U.S. Chamber of Commerce

cc: The Honorable Pete Buttigieg, Secretary, U.S. Department of Transportation
The Honorable Alejandro Mayorkas, Secretary, U.S. Department of Homeland Security
The Honorable Jennifer M. Granholm, Secretary, U.S. Department of Energy
The Honorable Merrick B. Garland, Attorney General, U.S. Department of Justice
The Honorable Lloyd J. Austin III, Secretary, U.S. Department of Defense
The Honorable Jake Sullivan, National Security Advisor, National Security Council
The Honorable Shalanda Young, Director, Office of Management Budget