

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

<hr/>)	
ELECTRONIC PRIVACY)	
INFORMATION CENTER)	
)	
Petitioner)	
)	
v.)	Case No. 15-1075
)	
The FEDERAL AVIATION)	
ADMINISTRATION, MICHAEL P.)	
HUERTA, in his official capacity as)	
Administrator of the Federal Aviation)	
Administration, and ANTHONY R. FOXX,)	
in his official capacity as United States)	
Secretary of Transportation,)	
)	
Respondents)	
<hr/>)	

STATEMENT OF ISSUES TO BE RAISED

EPIC submits the following non-binding statement of issues to be raised in the above-captioned case. In this case, EPIC seeks review of the Federal Aviation Administration’s (“FAA” or “Agency”) denial of EPIC’s March 8, 2012, petition submitted under the Administrative Procedure Act, 5 U.S.C. § 553(e) (“EPIC’s 553(e) Petition”) to “urge the Agency to conduct a rulemaking to address the threat to privacy and civil liberties that will result from the deployment of aerial drones within the United States.”

After more than two years, the FAA sent a letter in response to EPIC's 553(e) Petition, indicating that the Agency had "begun a rulemaking addressing civil operation of small unmanned aircraft systems in the national airspace system" and that the Agency would "consider [EPIC's] arguments" as part of that rulemaking. The FAA subsequently issued its Notice of Proposed Rulemaking entitled "Operation and Certification of Small Unmanned Aircraft Systems," 80 Fed. Reg. 9544 (proposed Feb. 23, 2015) (to be codified at 14 C.F.R. pts. 21, 43, 45, 47, 61, 91, 101, 107, and 183) (the "Order").

However, the FAA formally denied EPIC's 553(e) Petition, finding that the "privacy concerns" raised by EPIC and other groups "are beyond the scope of this rulemaking." 80 Fed. Reg. 9552. The Agency interpreted its mandate to "develop a comprehensive plan" to implement drones into civil commerce under the FAA Modernization and Reform Act of 2012, § 332, Pub. L. 112-95, 126 Stat. 73 (2012), to exclude obvious and widely acknowledged privacy concerns. *Id.*

EPIC intends to raise the following issues on review:

1. Whether the Order is arbitrary, capricious, or an abuse of discretion within the meaning of the Administrative Procedure Act;
2. Whether the Order is otherwise contrary to law.

Respectfully Submitted,

By: /s/ Marc Rotenberg

Marc Rotenberg*

Alan Butler

Khaliah Barnes

Jeramie Scott

Electronic Privacy Information Center

1718 Connecticut Ave., NW

Washington, D.C. 20009

TEL: (202) 483-1140

E-MAIL: rotenberg@epic.org

Dated: May 4, 2015

* *Counsel of Record*

CERTIFICATE OF SERVICE

I, Marc Rotenberg, hereby certify that on May 4, 2015, I electronically filed the foregoing document with the Clerk of the Court for the United States Court of Appeals for the D.C. Circuit by using the CM/ECF system. The following participants in the case who are registered CM/ECF users will be served by the CM/ECF system:

Abby C. Wright
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Room 7252
Washington, D.C. 20530-0001
Tel. (202) 514-0664
Abby.Wright@usdoj.gov

/s/ Marc Rotenberg
Marc Rotenberg
Counsel for Appellant