U.S. Department
of Transportation
**Federal Aviation
Administration**

SEP 2 3 2016

Brett Godown, Manager
Salinas Municipal Airport
30 Mortensen Avenue
Salinas, CA 93905

Re: Airport inspections using public aircraft

Dear Mr. Godown,

Thank you for your letter of January 7, 2016, requesting an interpretation of the public aircraft statute. Specifically, you request that the FAA find that "airport operations area inspections" be included in the definition of governmental function.

Your letter cites to the FAA finding in an interpretation to the Tennessee Valley Authority in 2015 in which we stated that the list of governmental functions in 49 USC 40125(a)(2) is not exclusive by its own terms, and that the FAA may reasonably expand the list to include certain public works functions. Our criteria for expansion are centered on what exists in the statute now, and whether the proposed governmental function may be categorized as a "core function" of a state. By that we meant basic things necessary to function as a state.

While we are willing to expand the definition to certain basic public works such as road and bridge inspection and maintenance, not everything a state decides to do qualifies as a governmental function that supports a public aircraft operation (PAO). If that were true, the list in the statute would be at best advisory and the scope of a federal statute could be expanded at the will of a state legislature. A state may create all manner of political subdivisions and branches of state government that meet the standard of 49 USC 40102(a)(41)(C) to qualify as a valid governmental entity that may operate a public aircraft, but not everything the entity decides to do automatically becomes a valid governmental function under §40125, or that portion of the federal statute would be superfluous. These were our conclusions in an interpretation issued in June of this year, and we have attached a copy for your convenience.

Although the state of California considers the Salinas Airport a public entity and the airport may qualify under 49 USC 40102(a)(41), the FAA does not consider the operation of an airport to be a governmental function under the standard we have described, nor would the inspection of it using a UAS change that status. There is nothing basic to the core function of a state (or a political subdivision of a state) that supports the operation of an airport as a governmental function, nor the inspection of it using a UAS or a manned public aircraft. That the city of Salinas considers the airport to be a public works project, and that the airport is itself a regulated entity, are not the deciding factors in the FAA finding that the public

aircraft statute may reasonably be expanded to include airport maintenance as supporting the operation of any aircraft as a PAO.

The City of Salinas should be aware that it is not being denied the authority to operate a UAS for its intended purpose of airport inspection. The City of Salinas may operate a UAS as a civil entity under the regulations of the new 14 CFR Part 107, including the waiver provisions of §§107.200 and 107.205. If the limitations on operation in Part 107 do not meet its needs, the city may apply for an exemption from the FAA as a civil operator; with such status, the city would not be subject to the limitations of governmental function under the public aircraft statute. Further information regarding applying for a civil operating authority exemption may be found on the FAA's website at:
https://www.faa.gov/uas/legislative_programs/section_333/how_to_file_a_petition/

This interpretation was prepared by Karen Petronis, Senior Attorney for Regulations on my staff. If you have further questions regarding this interpretation, please contact my staff at 202-267-3073.

Sincerely,

Lorelei Peter
Assistant Chief Counsel for Regulations

City of Salinas

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Municipal Airport • 30 Mortensen Avenue • Salinas, California 93905
(831) 758-7214 • www.ci.salinas.ca.us

January 7, 2016

Office of the Chief Counsel
800 Independence Avenue SW
Washington, DC 20591

Re: Legal Interpretation – Public Aircraft and Governmental Functions

The City of Salinas has reviewed the Tennessee Valley Authority correspondence and findings dated June 09, 2015, authored by Mark W. Bury, Assistant Chief Counsel for Regulations regarding public aircraft and governmental functions as defined in 49 USC 40125 (a)(2). and requests the public government functions definition be expanded to included Airport Operations Area Inspections.

The public aircraft statute states that -

The term "governmental function" means an activity undertaken by a government, such as national defense, intelligence missions, firefighting, search and rescue, law enforcement (including transport of prisoners, detainees, and illegal aliens), aeronautical research, or biological or geological resource management.
49 USC 40125 (a)(2).

We understand our proposed governmental function of inspecting Airport Operations Area (Runway, Taxiway, Ramp, Runway Safety Areas, Aerial Protection Zones, Perimeter Fence, etc.) is not included in any of the listed functions. But we also understand the FAA does not consider the list to be exclusive since the definition includes the term "such as." The FAA has found that the list has at its base a description of the core functions of government entities, whether by state governments to operate the core functions as a state, or federal government entities to carry out their basic statutory authorizations, without the additional burden of the aviation safety regulations that apply to civil aviation operations.

The City of Salinas is requesting the statutory description to be expanded to include Airport Operations Area Inspections. The inspections are a public works function and characterized as valid governmental functions because the projects and infrastructure are owned, operated, and maintained by the City of Salinas and the operations do not constitute a commercial operation. The City of Salinas is regulated by California Public Utilities Code Section 21001 – State Aeronautics Act, Title 14 of the Code of Federal Regulations, Federal Grant Assurance Section 49 USC 47107(a), and Title 14 – Salinas Municipal Airport Rules and Regulations, for the safe orderly operation, maintenance, and development of the Salinas Municipal Airport (a public use airport). The above sited statutory requirements are mandatory. The City of Salinas will conduct public aircraft operations using a UAS for the purpose conducting mandatory code and statutory inspections of the Airport Operations Area.

Sincerely,

Brett J. Godown
Salinas Municipal Airport Manager

Salinas Municipal Airport
30 Mortensen Ave
Salinas, CA 93905

Ph: 831.758.7214