

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
CERTIFICATE OF WAIVER

ISSUED TO

BNSF Railway
Responsible Person: Brent York
Waiver Number: 107W-2023-02703

ADDRESS –

2400 Western Center Blvd
Fort Worth, TX 76131

This certificate is issued for the operations specifically described hereinafter. No person shall conduct any operation pursuant to the authority of this certificate except in accordance with the provisions contained in this certificate.

OPERATIONS AUTHORIZED

Small unmanned aircraft system (sUAS) operations beyond the visual line of sight of the remote pilot in command (PIC).

LIST OF WAIVED REGULATIONS BY SECTION AND TITLE

14 CFR § 107.31—Visual line of sight aircraft operation

STANDARD PROVISIONS

1. A copy of the application made for this certificate shall be attached to and become a part hereof.
2. This certificate shall be presented for inspection upon the request of any authorized representative of the Administrator of the Federal Aviation Administration, or of any State or municipal official charged with the duty of enforcing local laws or regulations.
3. The holder of this certificate shall be responsible for the strict observance of the terms and provisions contained herein.
4. This certificate is nontransferable.

NOTE—This certificate constitutes a waiver of those Federal rules or regulations specifically referred to above. It does not constitute a waiver of any State law or local ordinance.

SPECIAL PROVISIONS

Special Provisions Nos. 1 to 35, inclusive, are set forth on the attached pages.

This Certificate of Waiver is effective from November 14, 2023, to June 30, 2027, and is subject to cancellation at any time upon notice by the Administrator or an authorized representative.

BY DIRECTION OF THE ADMINISTRATOR

Emerging Technologies Division, AFS-700

SPECIAL PROVISIONS ISSUED TO BNSF Railway

General.

This Certificate of Waiver is an amendment which supersedes and replaces Waiver 107W-2023-00846 issued to BNSF Railway for operations under 14 CFR 107. Waiver 107W-2023-00846 is no longer valid.

The FAA's Flight Standards Service has reviewed your application to ensure compliance with the requirements of 14 CFR § 107.200 and § 107.205. Pursuant to these authorities, the Administrator finds that the proposed small unmanned aircraft (sUA) operation can be conducted safely under the provisions of this Certificate of Waiver (Waiver) as listed below because you have established adequate mitigations for risks involved with operating your sUA in the manner you described. Adherence to the provisions of this Waiver establishes the required level of safety within the national airspace system.

The Administrator may cancel this Waiver at any time. As a general rule, this Waiver may be canceled when it is no longer required, there is an abuse of its provisions, or when unforeseen safety factors develop. Failure to comply with any provision listed below is a violation of the terms of this Waiver and will serve as justification for cancellation.

List of Regulations Waived by Section and Title. The following regulations are waived:

14 CFR § 107.31, Visual line of sight aircraft operation, is waived to allow operation of the small unmanned aircraft (sUA) beyond the direct visual line of sight of the remote pilot in command (PIC).

No part of this waiver will function as an airspace authorization under 14 CFR § 107.41. The FAA's Air Traffic Organization responds directly to requests for such authorizations.

Common Special Provisions. The Responsible Person is directly responsible for safety of operations conducted under this Waiver and will ensure the Remote Pilot in Command (remote PIC), manipulator of the controls, and visual observer(s) (VO)¹ comply with all provisions of this Waiver.

1. The Responsible Person listed on the Waiver is responsible to the FAA for the safe conduct of the operations. Prior to conducting operations that are the subject of this Waiver, the Responsible Person:
 - a. Must ensure the remote PIC, manipulators of the controls, and VO(s) are informed of the terms and provisions of this Waiver and strictly observe the terms and provisions herein;
 - b. Must ensure the remote PIC, manipulators of the controls, and VO(s) are informed and familiar with part 107 regulations; and
 - c. Evidence of the above (a and b) must be documented and must be presented for inspection upon request from the Administrator or an authorized representative;
2. This Waiver may not be combined with any other waiver(s), authorizations(s), or exemption(s) without specific authorization from the FAA;

¹ Title 14 CFR § 107.3 defines the term "visual observer." Any VO participating in operations conducted under this Waiver must meet the requirements listed in § 107.33 throughout the duration of flight operations.

3. The FAA has the authority to cancel or delay any or all flight operations if the safety of persons or property on the ground or in the air are in jeopardy or there is a violation of the terms of this Waiver;
4. A copy of this Waiver must be accessible and available to the remote PIC at the ground control station during sUA operations that are the subject of this Waiver;
5. The Responsible Person listed on this Waiver must maintain a current list of pilots by name and remote pilot certificate number used in operations under this Waiver. This list must be presented for inspection upon request from the Administrator or an authorized representative;
6. The Responsible Person listed on this Waiver must maintain a current list of sUA by registration number(s) used in operations under this Waiver. This list must be presented for inspection upon request from the Administrator or an authorized representative;
7. For the purposes of this Waiver, direct participants are the remote PICs, persons manipulating the controls, VOs, and any persons whose involvement is necessary for safety of the sUA operation. All other persons are considered non-participants;

Visual Line of Sight Operations Special Provisions The remote PIC may conduct sUAS operations without the ability to see the unmanned aircraft throughout the entire flight, provided:

OPERATIONAL PROVISIONS

8. The remote PIC must ensure that routes are preplanned prior to flight and aircraft are programmed to automatically follow the route;
9. Geofencing must be used to confine the flight path;
10. The RPIC must be located in the continental United States;
11. Return to Home feature must not allow sUA to deviate from the normal planned flight path;
12. The sUA must not exceed
 - a. 50 feet above ground level (AGL); or
 - b. Within a 50 foot radius from any natural obstruction or manmade object that is being inspected
13. The area of operation must be safeguarded as described in the waiver application;
14. Operations that occur within 3 miles from an airport must have an executed Coordination Agreement in place prior to the operation;
15. Prior to conducting operations under this Waiver, the remote PIC must identify operational area obstacles and boundaries so as to avoid collision with, or damage to property;
16. The Responsible Person must ensure all operations conducted under this Waiver follow the procedures outlined in the waiver application. If a discrepancy exists between the provisions in this Waiver and the procedures outlined in the Waiver application, the Waiver takes precedence and must be followed;

17. The Responsible Person must ensure a copy of the Waiver application and Waiver is available to the remote PIC and all other direct participants prior to and during sUAS operations that are the subject of this Waiver;
18. Prior to operations under this Waiver, all direct participants must attend a safety briefing that addresses at minimum, the following items:
 - a. Designated positions, physical locations, responsibilities, and Crew Resource Management,
 - b. Planned flight operating area,
 - c. Designated launch and recovery areas,
 - d. Verification of geo-fence boundaries,
 - e. Verification of return home and land flight profile, and course,
 - f. Verification of emergency landing site(s), land profile, and course,
 - g. Procedures for avoidance of other aircraft,
 - h. Procedures for operating under this Waiver;
19. Operations subject to this waiver must cease if, at any time:
 - a. Safety of human beings or property on the ground or in the air is in jeopardy,
 - b. Any failure to comply with the provisions of this Waiver exists,
 - c. sUA control link is lost,
 - d. A non-participating aircraft or person enters the designated flight operating area,
 - e. GPS signal is lost, or sUA GPS location information is degraded or uncertain,
 - f. any part of the DAA strategy is not functioning or unavailable;
20. No sUA flight that occurs under this waiver may carry the property of another for compensation or hire;
21. The Responsible Person must file a Notice to Air Mission (NOTAM) no more than 72 hours and no less than 24 hours prior to operating under this waiver. A NOTAM can be filed by calling 1-877-487-6867 (1-877-4-US-NTMS) or online at <https://www.1800wxbrief.com/Website/login#!/>, and must include the location and/or operating area, altitude, and time and nature of the activity. The Responsible Person must verify the NOTAM has been issued prior to conducting waived operations;

TECHNICAL PROVISIONS

22. Operations conducted under this Waiver may only occur with the Skydio X2 and X2E. Proposed operations of any other manufacturer, make or model of sUAS will require a new waiver application or a request to amend this Waiver;
23. All sUAS operations conducted in accordance with this Waiver must comply with all manufacturer recommendations and limitations for the sUAS;

24. The Responsible Person must maintain each sUAS and its components in accordance with manufacturer's instructions and recommendations. sUAS maintenance includes scheduled and unscheduled overhaul, repair, inspection, modification, replacement, and system software upgrades of the sUAS and its components necessary for flight. A log of all maintenance performed must be kept for each aircraft operated under this waiver. This log must be available to the remote PIC for review prior to conducting operations that are the subject of this waiver. Each sUAS maintenance log must be presented to the Administrator when requested. The log must contain the following information for each maintenance activity:
 - a. A description (or reference data acceptable to the Administrator) of work performed,
 - b. The date of completion of the work performed,
 - c. The name of the person who performed the work, and
 - d. The signature of the person who performed the work;
25. Any sUAS that has undergone maintenance must undergo a functional test flight prior to conducting operations under this Waiver. A log entry must be made for each functional test flight. The log entry must contain at minimum the:
 - a. Calendar date,
 - b. sUA registration number,
 - c. Remote PIC who performed the functional test flight,
 - d. Duration of the flight, and
 - e. The result of the functional flight test;
26. A functional test flight may only be conducted under the standard requirements of part 107 (without waiver);
27. The sUA must be equipped with lighted anti-collision lighting visible from other aircraft at a distance of no less than 1 statute mile for daytime operations and 3 statute miles for night operations. The remote Docking Station must be sufficiently lit for night operations to allow pre-flight inspections and landing pad identification;
28. sUAS ground control must display in real time the following information: sUA altitude, sUA position, sUA direction of flight or attitude, sUAS flight mode, battery life, DAA status and C2 status. This information must be available at all times to the remote PIC;
29. The sUAS must audibly and visually alert the remote PIC of degraded system performance, sUAS malfunction, or loss of Command and Control (C2) link between the ground control station and the sUA;
30. Launch or recovery areas must be pre-designated and monitored to keep any human being who is not directly participating in the operation out of the areas prior to, during, and immediately following flight operations;
31. Prior to conducting operations under this Waiver, the remote PIC must determine all control links used in the sUAS, will maintain the ability to control the sUA at the maximum planned distance for the proposed operation. At all times during operations that are the subject of this Waiver, the remote PIC must maintain the ability to direct the sUA to ensure compliance with the applicable provisions of this waiver;

32. If the remote PIC loses command or control link with the sUA, the sUA must follow a predetermined route to either reestablish link or immediately recover/land at a predesignated location;
33. ADS-B OUT (1090/978 MHz) may not be transmitted from the sUAS when operating pursuant to this Waiver. ADS-B IN is required for operations under this waiver;
34. All emitters used in sUAS must be in compliance with all applicable FCC regulations and all provisions of the FCC authorization granted for the emitter. A FCC experimental authorization may not be used for sUAS operations under this Waiver; and

ENVIRONMENTAL PROVISIONS

35. Operations conducted under this waiver are limited to the BNSF locations meeting the performance requirements of this Waiver.