

AVIATION

JUNE  
2016

ALERT

## FAA RELEASES COMMERCIAL DRONE REGULATIONS

By William D. Janicki

On Tuesday, the FAA issued its long-awaited commercial drone regulations allowing for a wide range of unmanned aircraft operations without further FAA approval. These regulations are contained in new 14 C.F.R. Part 107 and will take effect sixty days after publication in the Federal Register.

While the regulations were largely as expected, there are several provisions that are worth noting. For example, new Part 107 does not contain any requirement that an operator of unmanned aircraft carry liability insurance. This is in contrast to other countries such as Canada where liability insurance of \$100,000 is required. As a practical matter, however, those engaging in the commercial use of drones likely will be required to carry liability insurance by their customers in an amount appropriate for the operation. Low risk operations such as use by real estate brokers or remote aerial photography may require relatively low limits while higher risk operations such as closed-set filming may require higher liability coverage. There currently are a number of insurers offering coverage for UAS operations, with others expected to join suit in the near future.

The final rule also includes two mandatory reporting requirements: (1) an accident involving serious injury or damage to property other than the aircraft, and (2) deviation from the rules in Part 107. This is a departure from the mandatory

reporting requirements for normal operations currently required under Section 333 operations.

Unsurprisingly, the final rule creates a new airman certificate for remote pilots, which will be available to individuals at least 16 years of age who pass an aeronautical knowledge test and submit an application to the FAA. For current rated pilots, only an online training course is required.

The FAA's final rules include many of the restrictions that currently apply to those operating under a Section 333 Exemption, with some notable exceptions. Below is a summary of some of the other main provisions of the rule:

- Unmanned aircraft must weigh less than 55 lbs.
- Visual line of sight operations only
- May not operate over persons not directly participating in the operation unless they are under a covered structure or in a covered stationary vehicle
- Daylight only, or civil twilight if aircraft is equipped with anti-collision lighting
- Maximum altitude of 400 above ground level
- Maximum speed of 100 mph
- Minimum visibility of 3 miles
- Clear of clouds
- Unmanned aircraft must be registered with the FAA and marked with the registration number

- PIC may not operate more than one drone at a time
- PIC must conduct a preflight inspection
- Use of a visual observer is optional
- PIC must have a remote pilot certificate issued by the FAA

Of note, new Part 107 expressly states that several operating restrictions (e.g., weight, altitude, airspeed, visibility, operating only during daylight, operating under visual line sight, operating multiple small unmanned aircraft, and operating over people) may be waived by the FAA for operations demonstrated to be safe.

Until the final rule takes effect, companies may continue to operate under their Section 333 Exemption. Whether a company begins to operate under a Section 333 Exemption or waits to begin operating when the new Part 107 rules go into effect, the key will be to start operating as soon as possible. Companies can build a competitive edge by establishing a track record of successful drone operations, and a strong track record of safe and effective unmanned aircraft operations will be particularly useful for any company seeking an FAA waiver to expand operations—such as operating at night, operating beyond line of sight, or operating an aircraft greater than 55 pounds.

In sum, the new Part 107 rules are flexible, which should allow them to accommodate a wide variety of drone uses in the future. Nevertheless, some have criticized the rules for having a narrow focus and failing to sketch out a futuristic plan for the full integration of drones into the U.S. airspace. Although this is a much needed first step, we remain a long way away from pervasive use of UAS for delivery of packages. ♦

*This summary of legal issues is published for informational purposes only. It does not dispense legal advice or create an attorney-client relationship with those who read it. Readers should obtain professional legal advice before taking any legal action.*

*For more information about Schnader's Aviation Group or to speak with a member of the firm, please contact:*

*Robert J. Williams*  
*Chair, Aviation Group*  
*412-577-5291*  
[rwilliams@schnader.com](mailto:rwilliams@schnader.com)

*Barry S. Alexander*  
*Vice Chair, Aviation Group*  
*212-973-8099*  
[balexander@schnader.com](mailto:balexander@schnader.com)

*William D. Janicki*  
*415-364-6729*  
[wjanicki@schnader.com](mailto:wjanicki@schnader.com)

[www.schnader.com](http://www.schnader.com)  
© 2016 Schnader Harrison Segal & Lewis LLP  
\* See: [www.schnader.com/jakarta](http://www.schnader.com/jakarta)