

# Small Unmanned Aircraft Systems Rule

## Small Unmanned Aircraft Systems Rule

**Insight — 2/16/2015**

Although the proposed regulations for unmanned aircraft systems ("UAS") were due last year, the Department of Transportation's Federal Aviation Administration ("FAA") has finally proposed a framework of regulations that would allow routine use of certain small unmanned aircraft systems ("sUAS") in the National Airspace System ("NAS") for commercial operations. These proposed regulations would govern any commercial entity that intends to use sUAS in the course of its business and are not restricted to entities whose service is to supply either sUAS or operations of sUAS to commercial entities. The new rules would not apply to model aircraft. In contrast to the popular individualized exemption process that began last spring, authorized by section 333 of the FAA Modernization and Reform Act of 2012 ("FMRA"), these proposed regulations would be generally applicable. Below is a chart showing the operational limitations, operator certification and responsibilities, and aircraft requirements in the sUAS proposed rule, and where they differ, in general, from the section 333 exemptions recently granted. When finalized, the only entities needing an exemption will be those whose need to operate outside of the sUAS regulatory scheme.

Some of the differences between the proposed rule and the exemptions granted per section 333 are noteworthy. For instance, under the proposed rule, the sUAS could be operated by an "operator" rather than a pilot-in-change ("PIC"). The operator would need to obtain an unmanned aircraft ("UA") operator certificate with a sUAS rating from the FAA and retake a knowledge test every 24 months. These tests and certificates will be created by the FAA and administered by FAA-approved knowledge testing centers. In recent grants of exemption, the FAA was not swayed by requests to allow a PIC that did not hold at least a private pilot's license. The proposed rules also relax the visual observer ("VO") requirement, making the use of a VO optional rather than mandatory as required by the exemptions. Once finalized, the proposed rule will likely streamline the process for many UAS operations.

Another interesting aspect of the proposed rule is the estimate of the regulatory costs associated with sUAS operations. Entities wanting to use sUAS for commercial purposes now will need to weigh the cost of the current section 333 exemption process against the costs of waiting until the rule is finalized (which may not be until 2017).

Comments will be accepted for 60 days from the date of publication in the Federal Register. The FAA will also hold public meetings to allow for other opportunities to provide feedback on the proposed regulations. Industry will want to weigh in on whether operations should be allowed beyond the

visual line of sight ("VLOS"), the feasibility of micro UAS ("mUAS") rules, and whether the FAA knowledge test and certification is sufficient for sUAS operators.

Limitations, Certifications, Requirements	Proposed sUAS Rule	Section
<b>*Significant changes denoted in red text below.</b>		
Maximum weight for unmanned aircraft	55 lbs. (25 kg)	55 lbs.
Visual line-of-sight requirements	The UA must remain within VLOS of the operator or visual observer.	The PIC must maintain VLOS
Distance between operator and unmanned aircraft	Operator must be capable of seeing the aircraft with vision unaided by any device other than corrective lenses.	PIC to be able to maintain vision unaided other than corrective lenses.
Operations over any persons not directly involved in the operation	Small unmanned aircraft may not operate over any persons not directly involved in the operation.	PIC must maintain appropriate altitude and nonparticipation with 14 C.F.R. § 101.11
Time of day for operations	Daylight-only operations.	Daylight-only operations.
Yield requirements	Must yield right-of-way to all other aircraft.	Must avoid other aircraft and yield right-of-way to all other aircraft.
<b>Use of visual observer</b>	May use VO but not required.	VO required for operations over populated areas.
"See-and-avoid" requirement	First-person view camera cannot satisfy "see-and-avoid" requirement, but can be used as long as requirement is satisfied in other ways.	<i>Same requirement as for manned aircraft.</i>
Use of multiple visual observers to extend visual line of sight	Not allowed.	Not allowed.
Maximum airspeed	100 mph (87 knots).	Case-by-case, but not exceeding 100 knots.
Maximum altitude	500 feet above ground level.	500 feet above ground level.
Minimum weather visibility	3 miles from sUAS control station.	Prohibits operations below 500 ft. below horizontal visibility when visibility is less than 3 miles from control station.
Class A (18,000 feet & above) airspace	No operations are allowed in Class A.	No operations are allowed in Class A.
<b>Class B, C, D, and E airspace</b>	Operations in are allowed with the required Air Traffic Control permission.	Operations in Class B, C, D, and E airspace require an Air Traffic Control certificate of authorization for that class of airspace.

		and poten requireme
<b>Class G airspace</b>	Operations in are allowed without Air Traffic Control permission.	Operation Traffic Org certificate airspace r class of ai and poten requireme
Acting as a visual observer for multiple unmanned aircrafts simultaneously	Not allowed.	<i>Same res exemption</i>
Standard of care	No careless or reckless operations.	No carele operations:
Preflight inspection by the operator	Required.	Required.
Physical or mental conditions that interfere with safe operation of sUAS	Not allowed.	<i>Same res exemption</i>
<b>mUAS special rules</b>	mUAS operations allowed in Class G airspace, over people not involved in the operation, provided the operator certifies he or she has the requisite aeronautical knowledge to perform the operation.	N/A
<b>Designation of operator</b>	Pilots of a sUAS would be considered operators.	Entity rec the operat
<b>Requirement for an initial aeronautical knowledge test at an FAA-approved knowledge testing center</b>	Operators would be required to pass.	N/A; comr license re
<b>Vetting by the Transportation Security Administration</b>	Required for operators.	Screening Homelanc the comm certificatic
<b>Obtain an unmanned aircraft operator certificate with a sUAS rating</b>	Required for operators.	N/A; comr license re
<b>Pass a recurrent aeronautical knowledge test every 24 months</b>	Required for operators.	N/A; comr license re
Age requirement	Operators must be at least 17 years old.	Silent.
Required inspection or testing, and any associated documents/records	Make available to the FAA, upon request.	Make ava request.
Accident reports to FAA	Operators must report within 10 days of any operation that results in	Any incide operation boundarie

	injury or property damage.	area must FAA's UA within 24   be reporte
Preflight inspection, including specific aircraft and control station systems checks	Required for operators.	Required
Aircraft Registration	Required.	Required.
FAA airworthiness certification	Not required; however, safe operation conditions and preflight inspections are required.	Not requir complianc document for deterr an airwort
Aircraft markings required	If aircraft is too small to display standard markings, display markings in the largest practicable manner.	If aircraft i standard   markings practicabl
Applicability to model aircraft satisfying FRMA § 336	N/A	N/A
<b>Impact on FAA's authority to prohibit model aircraft operators from endangering the safety of the National Air Space</b>	Codifies the FAA's enforcement authority in part 101.	N/A

---

*This publication is designed to provide general information on pertinent legal topics. The statements made are provided for educational purposes only. They do not constitute legal or financial advice nor do they necessarily reflect the views of Holland & Hart LLP or any of its attorneys other than the author(s). This publication is not intended to create an attorney-client relationship between you and Holland & Hart LLP. Substantive changes in the law subsequent to the date of this publication might affect the analysis or commentary. Similarly, the analysis may differ depending on the jurisdiction or circumstances. If you have specific questions as to the application of the law to your activities, you should seek the advice of your legal counsel.*