



FAA Issues Final Rule for Operators of Drones (Small UAS) - Part 107

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On June 21, 2016, the Federal Aviation Administration (FAA) issued its final rule on how businesses may use small unmanned aircraft systems (UAS). The rule, which is commonly known as Part 107, is expected to take effect in late August and offers operational and safety regulations for small UAS that are conducting non-hobbyist operations. The FAA, however, continues to maintain the Section 333 exemption process, primarily to accommodate businesses that wish to use small UAS in ways that differ from what is allowed under Part 107.

Under Part 107, a small UAS must be operated by an individual (i) holding a remote pilot airman certificate with a small UAS rating or (ii) under the direct supervision of a person who holds a remote pilot airman certificate with a small UAS rating. An operator (remote pilot) of a UAS must be at least 16 years old and pass an initial aeronautical knowledge test at an FAA-approved knowledge testing center (which test is not scheduled to be available until late August) or have an existing non-student Part 61 pilot certificate and pass a small UAS online training course provided by the FAA. The remote pilot is responsible for performing a preflight visual and operational check of a small UAS to ensure that safety-pertinent systems are functioning properly. This includes checking the communications link between the control station and the UAS.

From an operational standpoint, Part 107 maintains many of the same requirements in the Notice of Proposed Rulemaking (NPRM) and recent FAA Section 333 grants:

- UAS must weigh no more than 55 pounds.
- Operations must take place within the visual line of sight (VLOS) of the operator and occur during daylight hours or within the hours of civil twilight (30 minutes before sunrise and after sunset).
- UAS may not operate over any persons not directly participating in the operation.
- Approval by Air Traffic Control required before operating in controlled airspace.
- Operations are not permitted directly over non-participating people.
- Maximum groundspeed of 100 mph (87 knots).
- Minimum weather visibility of 3 miles from control station.
- Report to the FAA within 10 days of any operation that results in serious injury, loss of consciousness, or property.
- FAA registration is required of UAS.

However, Part 107 also contains several provisions that depart from the NPRM and current Section 333

grants:

- UAS operations must remain below 400 feet above ground level. However, allowance for flight above 400 feet is permitted when operating within 400 feet of a structure (an adjustment from the NPRM, which allowed a maximum of 500 above ground level).
- A visual observer (VO) may be used, but is not required.
- No operations from a moving vehicle are permitted, unless the operation is over a sparsely populated area.
- A property owner's consent is not required to operate over private property.
- A Certificate of Waiver or Authorization is not required unless the operator wishes to perform certain operations that are restricted (see discussion below).

Under Part 107, the FAA will allow small UAS operators to seek waivers from a number of the restrictions on a case-by-case basis. Restrictions that the FAA has stated it will consider when granting waivers include:

- Operations from a moving vehicle
- Beyond visual line of sight operations
- Night time operations
- Operations of multiple small UAS
- Operations in certain airspace
- Operating near people who are not participating in the activity
- Operating at higher than 400 feet

The FAA has stated that it will develop a streamlined waiver process in order to issue these waivers as quickly as possible. It also stated that it will develop an electronic waiver system.

While Part 107 does not address any privacy concerns arising from the use of small UAS, the FAA is acting to address privacy considerations in this area. As part of a privacy education campaign, the FAA will provide all drone users with recommended privacy guidelines for the UAS registration process and through the FAA's B4UFLY mobile app. The FAA also will educate all commercial drone pilots on privacy during their pilot certification process, and will issue new guidance to local and state governments on drone privacy issues.

Finally, until the final rule goes into effect, existing Section 333 exemption holders may continue to operate under their exemptions. After the regulations go into effect, exemption holders can choose to operate under the new Part 107 or under their exemption(s). For those who have pending Section 333 exemption applications, the FAA will be dividing them into the following three categories.

- FAA has stated it will not be taking further action on Section 333 requests that would otherwise be allowed under Part 107.
- FAA will move applications that include requests for exemptions from the matters set forth in "Waivers" above directly into a waiver program without the applicant taking further action.
- Requests for operations that are not waivable under the new Part 107 will continue to require a Section 333 exemption, and the FAA will continue to consider the requests on an individual basis.

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