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What You Need to Know About the New Drone Regulations

The FAA has just released its regulations governing the commercial use of drones. The rules explicitly do not apply to model aircraft. A summary is [here](#).

This regulation is codified as 14 CFR 107 of the Federal Aviation Regulations (FAR). It is commonly referred to as part 107 (as opposed to, for example Part 61, which governs traditional pilot ratings). Part 107 retains many of the restrictions currently governing the commercial flight of drones operating under 333 exemptions, but it also differs in several very promising ways. Rule 107 does not apply to operators who elect to continue to operate within the terms of their 333.

New allowances

The most promising element of Part 107 is the creation of a new kind of pilot certification called a "Remote Pilot in Command" (RPIC). Individuals over the age of 16 who can pass basic medical requirements will be able to obtain a special certificate allowing the operation of small drones (under 55 pounds) by passing a test at an FAA-approved testing center. Individuals who currently hold traditional pilot certificates and have a current flight review will be able to obtain their unmanned aircraft certificate by taking an online course. The RPIC must be the person at the controls or directly supervising that person.

Another very exciting provision of Part 107 is a loosening of the restrictions on flight near and over people. The thousands of 333 exemptions granted to date have all imposed strict limits on flights within 500 feet of people, even if the drone was not directly overhead. Part 107 simply says that the aircraft may not operate "over persons not directly involved in the operation." While this phrase is subject to some interpretation, it certainly adds a degree of much needed flexibility.

Until now, no drone flights had been permitted more than 400 feet above the ground. The new rules change this requirement. Flights may be conducted higher than 400 feet if the aircraft remains within 400 feet of a structure. Presumably, the FAA realized that, since manned aircraft must remain clear of structures, any unmanned aircraft within 400 feet of a structure would be clear of other aircraft.

Many drone enthusiasts enjoy an activity commonly known as first-person view (FPV) flying. This kind of flying involves watching a screen or donning goggles to get a “drone’s eye view” of a flight. Many observers were concerned that FPV flying would not be permitted under Part 107. Fortunately, the FAA has stated that while FPV cannot satisfy the requirement that an operator see their aircraft at all times, FPV can be used as long as the “requirement is satisfied in other ways.” This provision should allow FPV enthusiasts to develop creative ways to pursue this kind of flying while complying with the new rules.

All drones weighing over 0.55 pounds will have to be registered, whether flown for commercial or hobby use. The FAA is not requiring that drones receive any kind of airworthiness certification. Rather, the operator will have to conduct a pre-flight inspection ensuring that the aircraft is mission ready. Unlike 333 exemptions, there is no list of “approved” aircraft. Any registered aircraft, properly inspected and weighing under 55 pounds fully loaded can be flown under Part 107.

In a nod to the future of drone delivery services, Rule 107 will allow “external load operations” if the object is securely attached and does not adversely affect flight characteristics. Moreover, transportation for hire is allowed, provided that the operator complies with the weight and line of sight requirements and the operation does not cross state borders.

Many restrictions “waivable”

It is critical to understand what Part 107 does not permit. The following is a partial list of flights that will not be permitted:

- Beyond visual line of sight of the operator.

- More than 400 feet above ground level. Aircraft above 400 feet must remain within 400 feet of a structure.
- At night. Aircraft may operate during twilight hours with appropriate lighting.
- Aircraft weighing more than 55 pounds, with payload.
- A single operator controlling more than one aircraft.
- Directly over people not involved in the operation.
- Weather conditions with less than three miles' visibility.
- Controlled while in a moving vehicle, other than a boat on the water.
- Carriage of hazardous materials.
- Careless or reckless operations.

This is not to say that the above operations can never be conducted. It simply means that businesses will have to seek special approval from the FAA. Importantly, the rule contains a provision stating that "most of the restrictions are waivable." More specifically, the following can be waived:

- Operation from a moving vehicle.
- Line of sight operation.
- Visual observer.
- Operation of multiple aircraft.
- Yielding right of way.
- Operation over people.
- Operation in certain airspace.
- Altitude, airspeed, and visibility.

This is where experienced legal counsel can add tremendous value. If you have questions or need additional information, please contact [James Mackler](#) in Frost Brown Todd's [Regulated Business Practice Group](#).

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