

Communications and Information Technology Alert

Akin Gump
STRAUSS HAUER & FELD LLP

FAA Releases Highly Anticipated Final Rules on UAS Remote ID and Operation Over People

December 28, 2020

On Monday, the Federal Aviation Administration (FAA) submitted two long-awaited Final Rules for publication in the Federal Register. Both the [Remote Identification of Unmanned Aircraft](#) and [Operation of Small Unmanned Aircraft Systems \(UAS\) Over People](#) rules will primarily take effect 60 days after publication, while implementation periods for specific elements within each rule vary. The publication of this regulatory package marks a major milestone for an industry which is eagerly looking to employ advanced operations that could lead to a strong commercial drone market.

For a number of years, key federal security agencies have made it clear that they would object to many foundational regulations which would enable ubiquitous flight over people, night operations and flights beyond visual-line-of-sight until Remote ID was implemented. Today's announcement is likely to bring hope to many UAS stakeholders and place additional pressure on the FAA to advance an aggressive UAS regulatory agenda over the next several years.

The Remote ID Final Rule, which will be published in the coming days, comes nearly exactly one year after the publication of the Notice of Proposed Rulemaking (NPRM) last December. While, the vast majority of UAS will still need to comply with Remote ID requirements, there are a few major changes from the original proposal. The headline grabber will likely be the elimination of the network-based remote ID requirement, where a UAS would have been required to transmit message elements through an internet connection. The Rule will instead require compliance through one of three methods; use of a Standard Remote ID UAS which is equipped with the capability to broadcast message elements; use of a Broadcast Module, which can be attached to or contained within a UAS; or use of certain aircraft without Remote ID only in FAA designated identification areas. Other key changes from the NPRM include the elimination of the changes to the UAS registration rules which would have required a unique registration number for each aircraft and changes to the implementation period, which is now 18 months and 60 days for manufactures to produce compliant aircraft and 30 months and 60 days for remote pilots to operate compliant aircraft.

The Operation Over People Final Rule generally allows for incidental flight over people not involved in the operation, if the operator can demonstrate that the aircraft will not

Contact Information

If you have any questions concerning this alert, please contact:

Jennifer L. Richter
Partner

jrichter@akingump.com
Washington, D.C.
+1 202.887.4524

Justin Towles
Senior Policy Advisor
jtowles@akingump.com
Washington, D.C.
+1 202.887.4024

Clifford Sweatte
Senior Policy Advisor
csweatte@akingump.com
Washington, D.C.
+1 202.887.4076

cause a serious injury to a person on the ground in the event of a technical failure. In addition, night flights will be permitted for operators that receive additional training and use an aircraft with a light that is visible for at least three nautical miles. This rule also had several key changes since the original NPRM. Some of those changes include the creation of a 4th category of compliance that allows flight over people under Part 107 for aircraft that have been issued an airworthiness certificate under Part 21, removal of the prohibition of flight over people in moving vehicles with some limitations, and changes to Part 107 that allow a remote pilot to obtain recurrent training rather than having to take a recurrent aeronautical knowledge test within every 24 months.

While many in the drone industry will welcome the certainty and promise this action represents, the FAA will still have work to do in order to address several gaps and alleviate serious concerns expressed by various stakeholders and industry groups as the rules are implemented over the next several years.

akingump.com