Autonomous Akin Newsletter - February 2026

December and January saw many regulatory developments impacting advanced aviation and uncrewed aircraft systems (UAS). As an initial matter, DJI drones landed on the U.S. Federal Communications Commission's (FCC) Covered List (which DJI is fighting at the FCC) preventing DJI from obtaining future equipment authorizations for its drones. The FCC also placed all foreign-produced UAS and UAS-critical components on the Covered List and then followed that release with adoption of exemptions and limited waivers.

Finally, the FCC recently adopted a new framework that would allow it to further restrict the importation and marketing of previously authorized equipment on the Covered List, which could include foreign-produced drones. The Federal Aviation Administration (FAA) opened a new comment period for its Beyond Visual Line of Sight (BVLOS) regulations focused on electronic conspicuity (EC), an important concept for safety, and the industry is awaiting decisions on participants for the Electric Vertical Takeoff and Landing (eVTOL) Pilot Program. These developments and more are covered below.

In This Issue

Akin Spotlight

Developments Related to DJI. The FCC added all of DJI's "communications and video surveillance equipment and services," including its drones, listed in Section 1709(a)(1) of the Fiscal Year (FY) 2025 National Defense Authorization Act (NDAA) to the Covered List. As discussed below, the FCC simultaneously added all foreign-produced UAS and UAS critical components, which includes DJI drones, to the Covered List. In making this addition, the FCC relied on a "National Security Determination" made by an unidentified "Executive Branch interagency body." Equipment identified on the Covered List is prohibited from obtaining new FCC equipment authorizations, which are required for the importation, marketing and sale of equipment in the United States that emits radio frequency (intentionally and unintentionally). While previously authorized equipment may still be sold, a placement on the Covered List largely prevents manufacturers from introducing new and updated products that require new approvals. More details about this addition to the Covered List can be found here.

DJI Petition to FCC. On January 22, 2026, DJI filed a Petition for Reconsideration (Petition) of the Commission's action to add all of DJI's communications and video surveillance equipment and services to the Covered List. DJI states that following the inclusion of its products on the Covered List, the FCC sent letters to Telecommunication Certification Bodies asking that they set aside equipment authorizations for DJI products that had been granted authorization in the 30 days prior to the Covered List addition. DJI asks the Commission to: (1) reconsider inclusion of all of DJI's equipment and services on the FCC's Covered List; (2) remove DJI's listing; and (3) reverse any set-asides of existing equipment authorizations that rely on the listing. In its Petition, DJI states that the FCC's Public Safety and Homeland Security Bureau (PSHSB) erred in adding DJI's products to the Covered List because PSHSB exceeded its statutory authority and violated DJI's due process rights. In addition, or in the alternative, DJI asks the Commission to clarify that the Covered List does not apply to certain DJI equipment that does not satisfy the statutory definitions of "communications and video surveillance equipment." DJI's Petition for Reconsideration can be found here.

DJI Appeal to the D.C. Circuit. DJI separately challenged in the D.C. Circuit a federal court ruling upholding the Pentagon's decision to label the company a "Chinese military company." Oral arguments in that case took place on February 6, 2026.

Restrictions on All Foreign-Produced UAS. DJI was not the only foreign-made drone restricted by the FCC. The FCC has added all foreign-produced UAS and UAS-critical components to the Covered List. The FCC also released a Public Notice clarifying that certain UAS and UAS-critical components are not on the Covered List, including: (1) those that are included on the Defense Contract Management Agency's (DCMA) Blue UAS list; and (2) those that qualify as "domestic end products" under the Buy American Standard. The FCC also provided guidance on how entities that do not fall within the excluded categories may seek Conditional Approval from the Department of Defense/War, and the Department of Homeland Security. Notably, the exemption and Conditional Approval procedures do not apply to DJI drones. An in-depth review of the Covered UAS and UAS-critical components exemptions and Conditional Approval guidance can be found here.

On January 21, 2026, the FCC's Office of Engineering and Technology (OET) released another Public Notice announcing a limited waiver, which will allow covered UAS and UAS-critical components to receive permissive "Class I" changes. The now waived permissive changes include software and firmware updates that ensure the continued functionality of devices, such as updates that patch vulnerabilities and facilitate compatibility with different operating systems. You can find additional information on OET's limited waiver here.

Key Developments

FCC Adopts Procedures to Further Limit the Importation and Marketing of Previously Authorized Equipment on the Covered List

Separate from all of the above, the FCC has also adopted procedures that would allow OET and PSHSB to place importation and marketing limitations on equipment that already has equipment authorizations (Covered Equipment). This limitation, if imposed, would not limit continued use of already sold devices. The procedures for prohibiting continued importation and marketing of Covered Equipment would begin after issuance of a public notice in which OET and PSHSB are required to:

- Describe the devices by class, type, or other description that will be prohibited from further importation or marketing in the United States.
- Include an Impact Assessment whereby FCC staff will provide an initial assessment of the impact of the proposed prohibition, public interest factors, unacceptable national security risks the equipment poses, the economic and supply chain impacts, and any other relevant criteria.
- Propose timing of prohibition for the new limitation and seek comment on timeline considerations.
- Initiate a public comment period that would allot a 30-day comment cycle, and staff has discretion to provide an opportunity for reply comments.

Staff Determination and Expected Timing. Once the comment period has lapsed, FCC staff will review submissions and issue determinations about whether it will prohibit the further importation and marketing of relevant devices, providing the reasons and timeline. While it is unclear when OET/PSHSB will release a public notice(s), FCC staff could initiate individual limitation proceedings at any time. It is not clear which Covered List entity(ies)/equipment will be the example case for the new equipment authorization limitation procedures.

FAA Seeks Additional Comment on Proposed BVLOS Rules

The FAA reopened the comment period for its BVLOS notice of proposed rulemaking (NPRM) to seek additional comment on a limited number of questions relating to EC and proposing: (1) legacy right-of-way rules that would give Part 108 UAS operators presumptive right-of-way over manned aircraft with certain exceptions; and (2) rules that would require UA operating in Class B and Class C airspace or over Category 5 populations areas to have detect-and-avoid capabilities. Specifically, stakeholders are asked to provide input on the following questions:

- Are there alternate EC devices capable of complying with the proposed rules that are available today? What are the names and manufacturers of those devices? Where are the devices currently approved for use and for what purpose(s)? Do any of them have the capability to inform the user that the device is not working properly?
- Are these EC devices approved for the same purpose as ADS-B Out? Do these alternate EC devices provide other benefits beyond what ADS-B Out offers? Are existing alternate EC devices used for, or capable of providing, anonymity?
- If not currently available, how quickly can alternate EC devices be available to the U.S. market once an approved standard is available?
- Would the performance requirements applicable to ADS-B Out also be appropriate for alternate EC devices? Why or why not?
- RTCA has a standard for EC (RTCA DO-282C). Are there any reasons why applying this standard for alternate EC devices in the United States would not be feasible or appropriate? Are there other existing industry consensus standards for EC that the FAA should consider accepting?
- What would be the potential downside(s) of requiring EC devices to include some sort of indicator (g., visual or audio) to notify the pilot that the device is not working properly?
- Are there other methods or technologies that the FAA should consider allowing manned operators to use to be electronically detectable besides ADS-B Out or alternate EC devices?

The limited comment period closed on February 11, 2026.

FAA Advances eVTOL Policy with Pilot Program for Public-Private Partnership

Late last year, Department of Transportation (DOT) Secretary Sean Duffy announced the eVTOL and Advanced Air Mobility (AAM) Integration Pilot Program (eIPP). The period for submitting proposals closed late last year, but awardees have not been announced. The program, which sits within the FAA, aims to support the deployment of AAM vehicles, such as those capable of eVTOL. The announcement explains that AAM vehicles have the potential to greatly benefit the American public by reducing road traffic, expanding connectivity to rural American communities and improving emergency transport. As such, the eIPP will host several pilot projects, which will support what Secretary Duffy deems the "next great technological revolution in aviation."

The eIPP announcement follows President Trump's executive order regarding promotion of American drones and emerging technologies, and fulfilled the executive order's requirement to announce the eIPP and solicit proposals from state, local, tribal and territorial (SLTT) governments. The eIPP will support public-private relationships between SLTT governments and private sector companies to engage in pilot projects that will develop frameworks and potential regulations for safe operation of AAM vehicles. The FAA solicited applicants who can "demonstrate the viability of new AAM technologies . . . in ways that deliver new benefits to the American public." Eligibility was limited to SLTT government entities that have a U.S.-based private sector partner with measurable experience in eVTOL or other AAM development, manufacturing and operations, or that have new supporting technologies to help integrate AAM safely into the National Airspace System.

The FAA notes that the program will be managed differently than the UAS Integration Pilot Program, which was primarily focused on evaluation and operations in specific geographic areas. Here, the FAA's eIPP will "encourage an ambitious scale of pre-certification operations and will

incorporate varied solutions where the most successful implementations become standards of practice for future scaling of operations." The types of vehicles to be used in the eIPP are large vehicles heavier than 1,320 pounds that may carry passengers and require air traffic control interactions.

While proposals are not public, a few states—Michigan, Kansas, Florida and Hawaii—have previewed their plans to integrate AAM into their government agencies under the pilot program. Additionally, Joby Aviation, Beta Technologies, and Archer Aviation—three U.S.-based eVTOL start-ups—previously announced their intention to submit proposals and participate in the program.

Updates from Washington

U.S. Senate Hearing on Autonomous Vehicles

The Senate Committee on Commerce, Science and Transportation hosted a hearing titled "Hit the Road, Mac: The Future of Self-Driving Cars." The full committee convened to discuss potential congressional action on a national autonomous vehicle safety standard. Specifically, the hearing examined how outdated regulations are holding back opportunities to minimize traffic and to maximize the lifesaving benefits of reducing distracted driving and dramatically cutting down on the human errors that cause car crashes. A recording of the hearing can be found here.

U.S. Senate Passed the FACT Act (S.259)

Late last year, the Senate passed the Foreign Adversary Communications Transparency (FACT) Act, a bill that would require the FCC to annually publish a list of licensees that have ownership or financial ties to China, Russia, Iran and North Korea. The legislation is currently being held at the House desk for a vote. More information about the bill can be found here.

House to Consider the SELF DRIVE Act (H.R. 7390)

On January 13, 2026, Reps. Bill Latta (R-OH) and Debbie Dingell (D-MI) introduced a draft of their bill—the Safely Ensuring Lives Future Deployment and Research in Vehicle Evolution Act of 2026 (SELF DRIVE Act). This bipartisan legislation would "establish a national safety and regulatory framework for autonomous vehicle technology." The draft of the SELF DRIVE Act can be found here.

DOT and FAA Announce Two New UAS Testing Sites

In early January 2026, the Department of Transportation (DOT) and FAA announced two new UAS Test Sites in the Chocktaw Nation of Oklahoma and the Indiana Economic Development Corporation. The UAS Test Sites program was created to aid in safely developing, testing, and evaluating public and civil unmanned aircraft. These are the first new test sites in nearly a decade. More information about the new test sites can be found here.

Congress and the White House Working Toward a National Robotics Strategy

A bipartisan and bicameral effort is underway to develop a robust national robotics strategy. A recent report circulated information about plans by a bipartisan group of representatives to introduce legislation in the House that would set up a commission to help craft robotics policy. The same report discusses activity within the administration to potentially craft a new robotics executive order. Subscribers should be on the lookout for an in-depth Client Alert on the proposed bill and potential executive order in the coming days.

Industry News

Unmanned Aircraft Systems

European Commission Presents Action Plan on Drone and Counter Drone Security – *European Commission*

"[W]hile safeguarding critical infrastructure, external borders, public spaces and ensuring aviation and maritime security remain primarily the responsibility of Member States, the cross-border character and high-impact of drone-related incidents make enhanced coordination, shared preparedness and solidarity at EU level indispensable. An effective response requires a comprehensive, coordinated and targeted approach, bringing together the civil and military dimensions. This Action Plan is a response to the calls from Member States and the European Parliament to develop a united approach against the threats posed by malicious drone operations. It is designed to support Member States through coordinated action and to complement national measures, reinforcing a coherent and effective response."

Read the Article

Pennsylvania Guard Shapes Army's Unmanned Aircraft Capabilities – *U.S. Army*

"The Pennsylvania National Guard UAS Team has an ongoing partnership with DEVCOM, supporting the command's development efforts for UAS systems and payloads. . . Soldiers test DEVCOM systems while providing feedback and recommendations to help refine products for the Army's UAS transformation efforts."

Read the Article

Texas DPS First Agency to Use New Aircraft System Against Drones – *KCBD News*

"'As drone use continues to evolve and expand across the country, so does the potential for these devices to be misused in ways that threaten public safety and law enforcement operations,' said Chief Pilot of DPS' Aircraft Operations Division Stacy Holland. 'Integrating ACUS into our aviation fleet gives us the ability to quickly detect, identify and avoid hostile or unauthorized drones — protecting our aircrews, ground personnel and the communities we serve.'"

Read the Article

Black Hawk Swaps Cockpit for Cargo Doors to Go Fully Autonomous – *New Atlas*

“At the heart of the U-Hawk is Sikorsky's Matrix autonomy technology combined with a third-generation fly-by-wire system. Installed in both crewed and uncrewed aircraft, this acts as a digital co-pilot that can automatically generate flight plan, navigate the craft, and avoid obstacles and threats by means of on-board cameras. In other words, it can handle a full mission from take off to shut down without a human pilot.”

Read the Article

Advanced Air Mobility

UCF Partners with NASA, Ocala Airport to Study Effects of Air Transportation – *UCF Today*

“UCF Trustee Chair Subith Vasu and postdoctoral scholar Justin Urso have been awarded a $750,000 grant from NASA to study the effects that AAM may have on communities. The UCF researchers have partnered with Ocala International Airport on this project, which will specifically explore the effects of pollution and noise on the surrounding neighborhoods.”

Read the Article

FAA Grants Experimental Airworthiness Certification for Air One eVTOL – *AIN Online*

“Air now intends to offer the vehicle as a two-seater for personal transportation or as an uncrewed platform that could be used for utility roles, such as logistics flights. It will offer 70 cubic feet of space for cargo, a payload of 550 pounds, a flight endurance of one hour, and a top speed of 135 knots.”

Read the Article

Archer Aviation Acquires Lilium GmbH Patent Portfolio – *FutureTransport News*

“Archer has stated that the acquisition will strengthen its leadership position within the next-generation electric aviation space, as well as reinforce its overall commitment to ensuring that the US remains at the forefront of the development of eVTOL technology.”

Read the Article

Autonomy & Electric Vehicles

Self-Driving Tech, AI Take Center Stage at CES as Automakers Dial Back EV Plans - *Reuters*

“Just as automakers have hit the brakes on electric vehicle (EV) plans and look for their next money maker, a slew of auto suppliers and start ups are lining up to show off their latest autonomous vehicle hardware and software. Partnerships and deals that promise to take away much of a driver's responsibilities, or remove the need for a human driver completely, [were] announced.”

Read the Article

Waymo Self-Driving Cars to Deliver DoorDash - *The Verge*

“Waymo will start out by delivering orders from DoorDash’s DashMart convenience, grocery, and retail store in Phoenix, with plans to add more restaurants, retail, and grocery stores over time. DoorDash customers who order items from DashMart may be matched with a Waymo vehicle as their delivery vehicle. Once it arrives, customers can use their DoorDash app to unlock the vehicle’s trunk to retrieve their order.”

Read the Article

Autonomous Electric Mining Vehicles Revolutionize Industry Operations - *Discovery Alert*

“Autonomous electric mining vehicles employ sophisticated multi-layered navigation architectures processing thousands of data points per second. These systems must handle challenging terrain conditions, variable weather, and dynamic operational environments while maintaining safety standards exceeding human-operated alternatives.”

Read the Article

Technology, Autonomy and the Environment

Former Google CEO Will Fund Boat Drones to Explore Rough Antarctic Waters - *Wired*

“The four USVs that will be deployed over the five-year course of the Schmidt Sciences-funded project can go outside the bounds of the usual shipping routes, collecting data on areas which

would be nearly impossible to reach with crewed vessels. The drones will run continuously over the course of five years, piloted remotely, collecting valuable data even during the winter."

Read the Article

Firm to Farm: Extending Drone Applications in Agriculture 'Beyond the Visual Line of Sight' (BVLOS) - *RFDTV*

"The FAA's proposed BVLOS rule marks a critical turning point for precision agriculture. By transitioning from restrictive individual waivers to a scalable, performance-based regulatory framework, the FAA is directly addressing the operational challenges faced by modern farmers and ranchers."

Read the Article

SkyGrid and MIT Lincoln Laboratory Partner to Advance Weather Forecasting – *The AI Journal*

"'Advanced Air Mobility will best succeed if we can solve the weather challenge at scale. By integrating MIT Lincoln Laboratory's high-resolution forecast models into our simulation environments, we can begin to understand the precise weather requirements for safe, routine, and highly automated operations,' said Jordan Cohen, R&D Technical Lead at SkyGrid. 'This collaboration is a critical step toward building the decision support systems that AAM operators and service providers will need to thrive.'"

Read the Article

Vimana-LS Production-Ready Electric UAS for Mountain Intervention Units & Environmental Monitoring – *Unmanned Systems Technology*

"The system supports a range of operator-defined roles, including natural or forest hazard detection, survivor searches using thermal cameras, wide-area policing, and large-field agricultural monitoring. The UAS is also ideal for long-distance border observation, security-breach detection on expansive sites, and aerial photogrammetry for terrain mapping. The airframe's versatility enables monitoring, surveillance, and search and rescue configurations."

Read the Article

Events

Mobile World Congress – Barcelona 2026

March 2-5, 2026

Akin will be attending. Please reach out to Jennifer Richter, Steve Rowings or Halie Peacher if you will be there and want to meet.

Law-Tech Connect

May 13-14, 2026
Detroit, MI

Law-Tech Connect is part of AUVSI designed to connect and inform all those involved in uncrewed and autonomous systems, focused on the intersection between technology and legal issues. Akin will be speaking on the following panels:

- May 13, 1:45 pm: Building the Future: Legal Frameworks for Global AAM and eVTOL Operations and Infrastructure - Panelist Virginia Hyner Antypas
- May 13, 2:45 pm: Guardrails for Innovation: Liability & Risk Management in Autonomy and Robotics - Panelist Anne Borkovic
- May 14, 8:15 am: Drone Pathways in the Sky: Global UTM and BVLOS Integration - Panelist Jennifer Richter
- May 14, 11:15 am: Building Digital Fortresses: Cybersecurity & Communications Resilience for Autonomous Systems - Panelist Evan Wolff

We hope to see you at any of these events.

AUVSI XPONENTIAL 2026

May 11-14, 2026
Detroit, MI

Join the global community advancing uncrewed and robotic systems across air, land, sea and space — live in the heart of American innovation. Please reach out to Jennifer Richter, Anne Borkovic, Evan Wolff, Virginia Hiner Antypas, or Halie Peacher if you will be there and want to meet.

Akin Thought Leadership

FCC Announces a 'Waiver of Prohibitions' on Certain Permissive Changes to Covered UAS and UAS Critical Components (February 2, 2026)

FCC Excludes Certain Foreign-Produced UAS and UAS Critical Components from Covered List and Provides Guidance for DoD and DHS Conditional Approvals (January 16, 2026)

Subscribe

Autonomous Akin, written by Akin's cross-practice autonomous systems and advanced mobility team, focuses on developments in the FAA, DOT and FCC regulatory spaces, policy, trade, intellectual property, cybersecurity and privacy. Autonomous Akin helps you keep a pulse on what is happening in government and industry that is impactful for your business. For our new readers, you can subscribe to future issues of this newsletter here.

Learn more about our Autonomous Systems & Advanced Mobility practice.

Learn More

Questions?

If you have any questions, please contact your regular Akin lawyer or advisor or:

Jennifer Richter
Partner
Washington, D.C.

Christian Davis
Partner
Washington, D.C.

Susan Lent
Partner
Washington, D.C.

Rubén Muñoz
Partner
Philadelphia

Virginia Hiner Antypas
Counsel
Washington, D.C.

Halie B. Peacher
Counsel
Washington, D.C.

Sharanya Sriram
Associate
Washington, D.C.

Alexandra M. Van Cleef
Associate
Washington, D.C.

Joseph Hold
Senior Practice Attorney
Washington, D.C.