

# FAA's New Rules for Small Unmanned Aircraft

06.23.2016 | UPDATES

Since the Federal Aviation Administration issued its proposed rules for small Unmanned Aircraft Systems (UAS) in February of 2015, the industry has been eagerly waiting to learn what the final rules will be. On Tuesday, June 21, 2016, that wait ended as the FAA announced its final rules for small UAS. Here is the [FAA's summary of the final rules](#) and here is the [complete text of the rules](#).

The rules replace the cumbersome and largely ad-hoc system that has governed the commercial operation of UAS to date. While the rules are a significant step toward integrating unmanned aircraft into the national airspace system, they are only the first step.

The rules reflect the FAA's incremental approach to regulation in this area—allowing what the FAA deems as “low risk” operations to begin now, while continuing to develop rules for “higher risk” operations. As a result, future rulemaking is expected to allow a broader range of operations, moving even closer to full integration of UAS into the national airspace system. Additionally, the new rules give the FAA the flexibility to grant exceptions to some of the rules, so the FAA can adapt to technological advances without having to wait for the rulemaking process to catch up. The new rules are expected to go into effect in August 2016, 60 days after they are published in the *Federal Register*.

## What This Means for the UAS Industry

**Companies that already have Section 333 exemptions.** Until now, most companies operating small UAS did so under FAA-granted exemptions to the current regulations, which are commonly referred to as Section 333 exemptions. The new rules allow companies that have Section 333 exemptions to continue operating under those exemptions until they expire (renewal after the expiration is also possible). Alternatively, those companies can begin operating under the new rules once they go into effect.

**Companies that are planning to begin UAS operations.** Once the new rules go into effect, companies can begin operating under them. The new rules make it easier and cheaper for companies to start UAS operations because they will not need to go through the costly and time-consuming Section 333 exemption process. Additionally, under most Section 333 exemptions, the pilot of a UAS had to have a pilot certificate for manned aircraft. The new rules create a new type of pilot certificate that is specific to UAS, which should be cheaper and easier to obtain. This change should further reduce the cost of operating UAS.

**Manufacturers of UAS.** Because the Section 333 exemption process focused on granting operators permission to fly, it did not impose requirements on manufacturers of UAS. The new rules continue to focus on operators and minimize regulatory burdens on manufacturers. Normally, manned aircraft must be certified by the FAA before they can be flown. That certification process can be long and expensive. But under the new rules, small UAS can operate without airworthiness certificates. Additionally, in the new rules, the FAA declined to mandate that manufacturers include specific technologies, such as geo-fencing. These provisions will make it easier for manufacturers to produce small UAS (and their components) for commercial applications.

## What's Next?

**Micro UAS.** The rules the FAA proposed in February 2015 included special provisions for “micro” UAS, which were defined as UAS weighing no more than 4.4 pounds. After the comment period on the proposed rules ended, but before the final rules were issued, the FAA convened a committee with industry stakeholders to develop recommendations for how micro UAS should be regulated. In the end, the FAA decided not to include special rules for micro UAS in the small UAS rules it just released, and instead will go through a separate rule making process for micro UAS. It is expected that those rules will allow much greater flexibility for micro UAS operators. Until those micro UAS rules are proposed and finalized, micro UAS will be governed by the same rules that apply to other small UAS.

**Beyond visual line of sight.** The new rules only allow operation of UAS within the pilot's visual line of sight. But many UAS applications that are being explored by the industry require UAS to operate beyond visual line of sight. While the rules allow the FAA to, in some circumstances, grant an exception to the visual line-of-sight rule, the ability to grant

waivers is a stopgap measure. The FAA will continue to work with the industry to evaluate technologies that will allow UAS to operate safely beyond the pilot's line of sight and will consider future rulemaking to allow those operations.

**Larger UAS.** The new rules only apply to small UAS, which are UAS that weigh less than 55 pounds. Further rulemaking will be necessary to set standards for larger UAS.

As UAS users and manufacturers adjust to the FAA's impending rules, we recommend reaching out to experienced counsel for assistance with guidance on applicability, regulatory compliance and risk management.

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