

HOBBYISTS REQUIRED TO REGISTER DRONES

DECEMBER 2015

On December 14, 2015 – just in time for Christmas – the Department of Transportation announced that non-commercial unmanned aircraft systems (“UAS” or “drone”) owners must register their UAS by February 19, 2016, pursuant to the Interim Final Rule (“IFR”). The new rule covers non-commercially operated UAS weighing more than 0.55 pounds and less than 55 pounds. According to FAA Deputy Administrator Michael G. Whitaker, the rule “tracks closely” the recommendations of an industry task force convened by the DOT and FAA in October. The FAA published the Interim Final Rule to the Federal Register on December 15; the notice and comment period for the IFR closes on December 21.

Registration requires disclosure of the UAS operator’s name, physical address, mailing address if different from the physical address, email address, and the UAS’s manufacturer, model name, and serial number for each UAS to be operated. Registration can be completed online, and the \$5 registration fee will be refunded for applications filed through January 20, 2016. Thereafter, the fee will not be refunded, although several members of the task force are lobbying the FAA to continue to permit free registration. The [registration link](#) on the FAA website will go live on December 21. Existing UAS must be registered no later than February 19, 2016; new UAS must be registered before use. Registrants will be issued a certificate of registration with a unique identification number. The ID number may be used for all of certificate holder’s UAS and it must be marked on all UAS. UAS operators must carry the certificate of registration when operating the UAS, and registration must be renewed every three years.

After several years of observing developments in UAS hobby use, the FAA acted with extraordinary speed to promulgate the IFR this fall, having been spurred into action by a surge in reported incidents between UAS and manned aircraft. FAA data suggests that there could be as many as 1,000 incidents in 2015 – nearly four times the 238 incidents reported in 2014 and a trend the FAA expects to continue. UAS sales have skyrocketed as prices have dropped and quality and ease of use has dramatically improved. Sales forecasts are all over the map, but the consensus is that millions of UAS will be in the air in 2016, causing a potential safety crisis.

Deputy Administrator Whitaker said the new regulation focuses on education.

“While we are confident that the vast majority of these people care about safety and want to operate safely, the reality is that most have little to no aviation experience,” Whitaker said. “So our challenge is to educate these new operators that, as soon as they start flying, they are pilots. They have the responsibility to fly safely. And there are rules and regulations that apply to them.”

The FAA believes that registration will give the agency an “immediate and direct” opportunity to educate UAS operators about safe operations. It is intended to supplement the FAA’s Know Before You Fly campaign, which targeted the hobby UAS operators.

Although the IFR follows the task force’s recommendations relatively closely, the IFR has been criticized by the hobby drone community. Dave Mathewson, executive director of the Academy of Model Aeronautics said his organization is “disappointed” with the new rule, which he said is “counter to Congress’s intent” and imposes an “unnecessary burden” of registration. In the AMA’s view, education has been sufficient to “ensure the safety of our airspace.”

The FAA’s Whitaker disagrees: “Make no mistake: unmanned aircraft enthusiasts are aviators, and with that title comes a great deal of responsibility. Registration gives us an opportunity to work with these users to operate their unmanned aircraft safely.”

Failure to comply is punishable by civil penalties – which include a fine of up to \$27,500 – and criminal penalties – which include a fine of up to \$250,000 and three years in jail. The FAA has indicated, however, that it intends to use outreach and education to encourage voluntary compliance in lieu of the penalties.

COMMERCIAL OPERATIONS STILL UNADDRESSED

At the time the FAA registration website goes live, it will not satisfy existing registration requirements for UAS that will be used for any purpose other than recreation. To operate a UAS for non-recreational purposes in the United States, users must obtain a Certificate of Authorization from the FAA (also known as a Section 333 exemption). The FAA is considering allowing online registrations for non-recreational operations, but no change is expected until at least spring 2016. The IFR does contain some information – or at least hints – about the direction the FAA intends for commercial registration. Tucker Ellis will issue a client alert with its assessment of the direction of commercial registration later this month. The FAA Modernization and Reform Act of 2012 charged the FAA with promulgating rules for commercial drone use, establishing a September 30, 2015, deadline, which the FAA has missed.

ADDITIONAL INFORMATION

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