

Government Agency Action Accelerates on Drone Operations

This edition of the Cozen O'Connor Drone Report discusses FAA's statement on the success of Part 107 (its regulations governing commercial uses of small drones), the status of drone-related rulemakings, DOD's guidance on drone operations over military installations, the new partnership between DHS and Mississippi to test and evaluate drones, pending federal drone legislation, federal citations for drone use in Yellowstone National Park, and proposed legislation in California related to the use of drones for law enforcement surveillance.

Regulatory

Federal Aviation Administration

FAA Issues Statement Crediting Part 107 for the Increase in Innovative Drone Operations

On September 6, 2017, the Federal Aviation Administration (FAA) issued a [statement](#) crediting the small unmanned aircraft rule (Part 107) for enabling the innovative and diverse drone operations in many different industries. Part 107 has now been in effect for over a year. During this period, over 80,000 drones were registered with the FAA for commercial and governmental purposes and over 60,000 people obtained a Remote Pilot Certificate to operate a drone for commercial purposes. In particular, the FAA cited the use of drones in the recovery operations for Hurricane Harvey. The FAA issued 127 authorizations for drone operations for search and rescue missions, in assessing the damage to critical infrastructure, and in providing media coverage on flooding. By 2021, the FAA thinks there could be up to 1.6 million small drones being used in commercial operations.

Department of Transportation

DOT Issues Significant Rulemaking Report

The Department of Transportation (DOT) issued its August 2017 [Significant Rulemaking Report](#), the first such report released under the Trump administration, providing the status of the following drone-related rulemakings:

Rulemaking	Projected Publication Date
FAA Proposed Rule on Operations of Small Unmanned Aircraft Over People	February 28, 2018
FAA Final Rule on Registration and Marking Requirements for Small Unmanned Aircraft	February 12, 2018
FAA Rulemaking on Unmanned Aircraft Systems Expanded Operations in the National Airspace System	Undetermined

Department of the Defense

Related Practice Areas

- Aviation Litigation
- Aviation Regulatory
- Transportation & Trade
- Unmanned Aircraft Systems (UAS) / Drones

Industry Sectors

- Aviation

DOD Restricts Drone Operations Over Military Installations in the United States

The Department of Defense (DOD) issued classified guidance on August 4, 2017 to military services and installations on how to interact with communities located near military installations about drone operations. DOD is concerned about the increase in commercial and recreational drone operations in proximity to its installations. U.S. Navy Captain Jeff Davis stated, “[p]rotecting our force remains a top priority, and that's why DOD issued the specific, but classified policy developed with the Federal Aviation Administration and our interagency partners that details how DOD personnel may counter the unmanned aircraft threat.” Further, he mentioned that the unauthorized activity of conducting drone operations over military installations is considered a threat and that the services have the right to take action to stop this type of threat.

Department of Homeland Security

DHS Partners with Mississippi to Test and Evaluate Drones

The Department of Homeland Security (DHS) announced its drone testing and evaluation partnership with the state of Mississippi would begin on August 22, 2017. The demonstration range facility involves multiple sites that create almost 2,000 square miles of restricted airspace where drone tests may be conducted at altitudes up to 60,000 feet. U.S. Senators Cochran and Wicker and U.S. Representatives Thompson, Harper, Palazzo, and Kelly made up the delegation of six congressmen from Mississippi that endorsed the proposal for this partnership, which is led by Mississippi State University. In the delegation’s letter of support, they stated “Mississippi is uniquely suited to assist DHS in leveraging this technology in a way that is cost effective, provides access to unrestricted flight time, and is available immediately to support evolving and diverse Department missions. Mississippi has made supporting unmanned technologies a statewide priority and is home to numerous existing UAS operators, manufacturers, and researchers.” This partnership and the FAA’s 2015 selection of the Mississippi State University Alliance for System Safety of UAS Through Research Excellence (ASSURE) to operate a new National Center of Excellence for Unmanned Aircraft System further advances Mississippi’s involvement in the drone industry.

Congressional Action Impacting Drones

The Drone Operator Safety Act of 2017 Introduced In House and Senate.

In early August 2017, identical “Drone Operator Safety Act of 2017” bills were introduced into both the U.S. Senate (S. 1755) and U.S. House of Representatives (H.R. 3644). The purpose of the bill is to punish unsafe drone operations conducted near passenger aircraft and in close proximity to airports. Under these bills, a person who knowingly or recklessly operates a drone that interferes with a passenger aircraft could be assessed a fine up to \$100,000 and/or imprisoned for one year or less. However, if the unsafe drone operations cause serious injury or death the operator could be fined up to \$250,000 and could be imprisoned for any period of years or for life. The bills’ provisions would also make it unlawful to operate a drone within an airport runway zone unless the operator has obtained prior authorization from the airport’s air traffic control tower or the operation is caused by a circumstance that the operator could not reasonably foresee or prevent.

Judicial

Yellowstone National Park Officials Issues Citations in Federal Court for Drone Use Within Park

In Wyoming, Yellowstone National Park officials are issuing citations to recreational drone users who fly within the park. The citations carry a penalty of between \$350 and \$1000 for the first offense. Since August 1, 2017, Yellowstone National Park has issued and filed four citations in federal court for users flying drones within the park.

Lawsuit Filed Related to The Drone Racing League in California

On August 22, 2017, defendants Drone Racing League, Inc. and Nicholas Horbaczewski removed a breach of contract, fraud, and breach of fiduciary duty lawsuit filed by plaintiff Justice Laub in the

Superior Court of California County of Los Angeles to the U.S. District Court for the Central District of California. The removed complaint alleges that defendants used ideas developed by plaintiff Laub and others to secretly develop the Drone Racing League, including services related to marketing, strategy, and competitor and fan interaction and experience. Plaintiff Laub alleges he declined offers to develop a drone racing TV show, as well as was other drone-related businesses, due to the defendants' actions.

Notable Proposed State Legislation

California

A new surveillance law pertaining to drones is pending in the California State Assembly. The bill, S.B. 21, requires law enforcement agencies in California to create and make public surveillance plans and policies, including surveillance plans involving drones, facial recognition software, and social media monitoring, before officially adopting any of the plans. Under the bill, law enforcement agencies could not buy any new technology designed to collect information about people or groups without a public discussion. Senator Jerry Hill first introduced S.B. 21 in the California State Senate, where it passed on December 5, 2016.

Please contact Rachael Wallace or Jennifer Urban, associates of the Cozen O'Connor Unmanned Aircraft Systems (UAS)/Drones Practice Group, for more information regarding drone issues.