



Information Alert

State-Federal Relations Division

FAA Finalizes New Drone Rules For Operations Over People, at Night, and Remote ID Jan. 7, 2021

On Dec. 28, the Federal Aviation Administration (FAA) issued two new final rules for unmanned aerial systems (UAS), more commonly known as drones. The new rules pertain to flights over people, moving vehicles, and at night as well as the remote identification of drones, commonly referred to as Remote ID. These two rules represent key actions towards integrating drone operations more fully into the national airspace and everyday life. To date, the FAA has registered over 1.5 million drones.

One of the new rules allows for four categories of operations at night and over people, which was previously prohibited without an FAA waiver, and applies to drone pilots during commercial operations. The four categories of operation depend upon the type of drone being operated and the number of people below on the ground. Drones operating at night can only be operated by operators with additional training and must be equipped with flashing anti-collision lights that can be seen for 3 miles.

The second new rule covering Remote ID, provides for the identification of drones in flight as well as the location of their control stations, providing crucial information to law enforcement partners and other public safety officials. The rule requires operators to comply with Remote ID requirements by having the drone itself broadcast its identification and location information, equipping the drone with a Remote ID broadcast module, or separate device attached to the drone, that broadcasts the required information. Drones will be allowed to operate outside of Remote ID requirements if the drone is being operated at a specific FAA recognized area which will be determined by the agency in the future. The new rule does not require a drone to be connected to the internet as the FAA initially proposed.

Both rules will become effective 60 days after publication in the Federal Register. The Remote ID rule includes two compliance dates. Drone manufacturers will have 18 months to begin producing drones with Remote ID, with operators having an additional year to start using drones with Remote ID.

Even with the finalization of these new rules, a host of unanswered questions remain pertaining to state and local government authority to restrict drone operations at low altitudes. Prior to the

FAA's announcement, the District Court for the [Western District of Texas dismissed](#) a portion of lawsuit against a [Texas drone law](#). The court found that Texas's restrictions on drone operations, or no-fly zones, near critical infrastructure were not preempted by federal law and dismissed the plaintiffs' claims. However, the court did not dismiss claims pertaining to the law's prohibition of photography of people or places, which will move forward to a full hearing.

Relatedly, in September 2020 the Government Accountability Office, a congressional investigative agency, issued a report highlighting a number of outstanding issues and the role of states regarding the integration of commercial and recreational drones into the national airspace system.

- Does the FAA have the authority to regulate all drone operations, including low-altitude operations?
- How will property rights and nuisance claims, an area of law traditionally within state and local police powers, be affected by drone low-altitude operations?
- Whether and to what extent Congress intended to preempt states, localities, and tribes from regulating UAS operations at low altitudes?
- What authority do federal, state, local and tribal governments have to protect against invasions of physical privacy and personal data privacy involving UAS operations?
- What is the scope of civil and criminal trespass authority in low altitude airspace?

NCSL will continue to advocate for a strong state role in regulating the time, manner and place of drone operations at very low altitudes. For more information on these rules contact NCSL staff Ben Husch (ben.husch@ncsl.org) or Kristen Hildreth (kristen.hildreth@ncsl.org)

Additional Resources:

[Final Rule for Operations Over People and At Night](#)

[Final Rule for Remote Identification of Drones](#)

[Part 107 Operator Requirements](#)