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Client Alert: New Rule for Flying a Drone for Commercial Purposes Now Effective

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The new small unmanned aerial aircraft (UAS) rule, 14 C.F.R. §107 *et seq.*, is effective as of August 29, 2016. This rule permits the flying of drones for commercial purposes provided that the drone operations and pilot meet the requirements of the new small UAS rule.

Some of the key operational limitations include, but are not limited to:

- The drone must weigh less than 55 pounds
- Visual-line-of-sight only; that is, the drone must be within the sight of the remote pilot in command and the person manipulating the flight controls, or the drone must remain in the sight of a visual observer (first-person camera view insufficient)
- Daylight only operations or civil twilight (30 minutes before official sunrise or 30 minutes after official sunset) with appropriate anti-collision lighting
- Maximum groundspeed of 100 mph
- Maximum altitude of 400 feet above ground level
- Cannot operate the drone from a moving aircraft, a moving vehicle (unless in a sparsely populated area), over any persons not directly participating in the operation, or under a covered structure
- Must yield to other aircraft
- The drone cannot be operated carelessly or recklessly and cannot carry hazardous materials (such as wastes, marine pollutants, and elevated temperature materials)

Some of the key pilot limitations include, but are not limited to:

- Having a remote pilot in command
- Operator must hold a remote pilot airman certification with a small UAS rating which requires (1) demonstrating aeronautical knowledge (by either (a) passing an "airman knowledge test" at an FAA-approved testing center or (b) holding a pilot certificate with a flight review and completing an FAA UAS training course), (2) being vetted by the Transportation Security Administration, and (3) being

at least sixteen years old

- No person may act as a pilot in command for more than one drone at a time
- Conduct a preflight inspection to ensure the drone is in a safe and proper condition
- The drone is registered with the FAA

The “airman knowledge test” is a comprehensive 60-question exam that covers numerous topics, including applicable regulations to drones, airspace classification, weather sources and effects, emergency procedures, radio communication procedures, drone performance, aeronautical decision making and judgment, airport operations, recommended traffic advisory procedures, and preflight inspections. The test is now available at FAA-approved testing centers, costs \$150, and takes approximately two hours to complete. There are 22 approved testing centers throughout Ohio. Because there is not a single collection of materials to review to prepare for the exam, it is recommended that if the hopeful pilot of the drone has no prior pilot/flight experience, the person enroll in a one-day course at an approved testing center to learn the pertinent information to pass the exam.

Although the new small UAS rule is a step by the FAA towards using drones for commercial purposes such as photography, surveying, and site inspections, it still has significant limitations. For example, a photographer or videographer cannot fly a drone over people, thereby presenting significant challenges in photographing or filming wedding parties or events. It will be some time before we see FAA-approved autonomous technology for drone operations that retailers seek to utilize for the mass delivery of packages, or your pizza, to your doorstep. For additional information, please contact Jessica Knopp Cunning.