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Locke Lord QuickStudy: New Drone Regulations Coming – Requesting Permission for Flyby? Negative Ghost rider, the ?Pattern Is Full...Unless You Have Remote ID

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On Monday, December 28, 2020, the FAA announced that it released the final Remote ID rule and the Operations of Small Unmanned Aircraft Systems Over People (OOP) rule to the Federal Register.

REMOTE ID RULE

The announcement of the Remote ID rule is a major step towards opening up the commercial drone industry, including the use of drones for package delivery. Under the new rule, all Unmanned Aircraft (“UA” or “drones”) weighing more than 0.55 pounds will be required to broadcast their ID, location, altitude, velocity, time marks, and emergency status, as well as the location of the controller from takeoff until shutdown. The tracking mandate takes effect thirty (30) months from the rule’s publication.

In preparation for enforcing that tracking mandate, the new rule also requires that within eighteen (18) months, all UA produced for operation in US airspace must have built-in remote identification that can’t be disabled by the user and which prevents the drone from taking off if the remote ID unit fails a self-test. Older models will need to be retrofitted with a remote identification broadcast module in order to be flown anywhere other than in FAA-recognized identification areas.

The Remote ID rule establishes minimum performance requirements for remote identification without establishing a specific means of compliance. That said, the FAA must accept a proposed means of compliance before it can be used to substantiate a design for production and use. This approach by the FAA is generally in line with how the FAA has handled design and manufacturing criteria for traditional manned aviation. Mavericks out there will surely go their own way, but it might behoove players in the drone space to leverage the expertise of those in the traditional manned aviation world for assistance in developing and seeking approval for proposed means of compliance with the Remote ID rule.

The FAA dropped (for now) its requirement that drones provide network-based remote identification. Instead, the rule requires that UA broadcast on radio frequencies compatible with personal wireless devices at one second

intervals. Of course, the rule includes performance standards (e.g., location and altitude accuracy) for the broadcast message. This requirement has raised [privacy concerns](#) by at least one major player in the industry.

The Remote ID Rule applies to all UA that are required to be registered under the FAA's current regulations. This means that whether you are flying a drone in the backyard with the kids, mapping crops, or engaging in other commercial activities, your drone will likely have or need a remote identification in 2024.

OOP RULE

The OOP rule covers operations over people and motor vehicles, night operations, and changes to pilot testing. Currently (and until Remote ID becomes operational), a commercial drone pilot needs a specific exemption from the FAA to fly over people who are not participating in the operation.

The new rule establishes aircraft eligibility and operating requirements to allow for operations over people without requiring operators to go through the exemption process, and creates four separate categories:

- Category 1 involves operations with UA weighing 0.55 pounds or less.
- Category 2 involves operations with UA that weigh more than 0.55 pounds and would not cause injury to a human being equal to or greater than that caused by a transfer of 11 foot-pounds (ft-lbs) of kinetic energy upon impact from a rigid object.
- Category 3 addresses operations involving UA similar to Category 2, but the amount of the injury maximum increases to the equivalent of 25 ft-lbs.
- Category 4 involves those UA that have an airworthiness certificate.

In Categories 1 through 3, there is a requirement that the drone be equipped with guards that would protect people from being cut by the propellers in the event of an accident. Categories 2 and 3 also expressly include a requirement that the UA not contain any safety defects. Categories 3 and 4 are subject to additional operating restrictions spelled out in the rule.

The new rule also adds a section dealing with drone operations over moving vehicles. Under this rule, commercial operators will be able to fly drones over moving vehicles within a closed- or restricted-access site, subject to certain operating restrictions.

Night operations will be allowed under two conditions. First, the pilot has to pass additional testing regarding night operations. Second, the drone will need anti-collision lighting visible for at least 3 statute miles that flash at a sufficient rate to avoid collisions.

The Remote ID rule and OOP rule are welcome developments. Although more work remains on the regulatory front, particularly with respect to operations beyond visual line of sight, these two new rules represent a significant step towards allowing the industry to reach its full potential. So it's not quite time to buzz the tower, but it's getting ever closer.

The Locke Lord team stands at the ready to assist you in navigating these new rules, including in providing guidance with respect to structuring of operations and regulatory compliance.

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