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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA-2019-0364]

Exception for Limited Recreational Operations of Unmanned Aircraft

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice implementing the exception for limited recreational operations of unmanned aircraft.

SUMMARY: This action provides notice of the statutory exception for limited recreational operations of unmanned aircraft. It also describes the agency's incremental implementation approach for the exception and how individuals can operate recreational unmanned aircraft (commonly referred to as drones) today under the exception.

FOR FURTHER INFORMATION CONTACT: For questions concerning this notice, contact Danielle Corbett, Aviation Safety Inspector, Unmanned Aircraft Systems Integration Office, 490 L'Enfant Plaza SW, Suite 7225, Washington, DC 20024, telephone (844) 359-6982, email UAShelp@faa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Operators of small unmanned aircraft (also referred to as drones) for recreational purposes must follow the rules in 14 CFR part 107 for FAA certification and operating authority unless they follow the conditions of the Exception for Limited Recreational

Operations of Unmanned Aircraft, discussed in this notice. The FAA refers to individuals operating under that statutory exception as “recreational flyers.”

On October 5, 2018, the President signed the FAA Reauthorization Act of 2018 (Pub. L. 115-254). Section 349 of that Act repealed the Special Rule for Model Aircraft (section 336 of Pub. L. 112-95; Feb. 14, 2012) and replaced it with new conditions to operate recreational small unmanned aircraft without requirements for FAA certification or operating authority. The Exception for Limited Recreational Operations of Unmanned Aircraft established by section 349 is codified at 49 U.S.C. 44809.

With the repeal of the Special Rule for Model Aircraft, the regulations at 14 CFR part 101, subpart E, which implemented the Special Rule, are no longer valid, and the FAA intends to remove that subpart in the near future.

Section 44809(a) provides eight conditions that must be satisfied to use the exception for recreational small unmanned aircraft (those weighing less than 55 pounds). Some of those conditions (specifically the aeronautical knowledge and safety test as well as recognition of community-based organizations and coordination of their safety guidance) cannot be implemented immediately. Accordingly, the FAA is incrementally implementing section 44809 to facilitate recreational unmanned aircraft operations. The next section sets forth the eight statutory conditions, explains how the agency is implementing each of them, and provides guidance to recreational flyers.

Recreational flyers must adhere to all of the statutory conditions to operate under the Exception for Limited Recreational Operation of Unmanned Aircraft. Otherwise, the recreational operations must be conducted under 14 CFR part 107.

Although 49 U.S.C. 44809(c) permits operations of some unmanned aircraft weighing more than 55 pounds under additional conditions and as approved by the FAA, the FAA intends to publish guidance concerning operations of these larger unmanned aircraft in the near future.

II. Statutory Conditions and Additional Guidance

The eight statutory conditions are as follows:

1. The aircraft is flown strictly for recreational purposes.

Your unmanned aircraft must be flown for only a recreational purpose throughout the duration of the operation. You may not combine recreational and commercial purposes in a single operation. If you are using the unmanned aircraft for a commercial or business purpose, the operation must be conducted under 14 CFR part 107 or other applicable FAA regulations.

2. The aircraft is operated in accordance with or within the programming of a community-based organization's set of safety guidelines that are developed in coordination with the FAA.

The FAA Reauthorization Act of 2018 requires the FAA and community-based aeromodelling organizations (CBOs) to coordinate the development of safety guidelines for recreational small unmanned aircraft operations. 49 U.S.C. 44809(a)(2). CBOs are defined in section 44809(h) and must be recognized by the FAA in accordance with section 44809(i). Section 44809(i) requires the FAA to publish guidance establishing the criteria and process for recognizing CBOs. The FAA is developing the criteria and intends to collaborate with stakeholders through a public process.

Until the FAA establishes the criteria and process and begins recognizing CBOs, it cannot coordinate the development of safety guidelines. Accordingly, no recognized CBOs or coordinated safety guidelines currently exist, as contemplated by section 44809(a)(2). Additionally, the FAA acknowledges that aeromodelling organizations have developed safety guidelines that are helpful to recreational flyers. The FAA has determined that it is in the public interest to reasonably interpret this condition to allow recreational unmanned aircraft operations under the exception while the FAA implements all statutory conditions. The alternative would be to prohibit these operations or to require all operators of recreational unmanned aircraft to obtain a remote pilot certificate under 14 CFR part 107 and comply with the part 107 operating rules. Accordingly, to facilitate continued recreational unmanned aircraft operations during the implementation process, the FAA finds that operations conducted in accordance with existing safety guidelines of an aeromodelling organization satisfy this condition, provided those guidelines do not conflict with the other statutory conditions of section 44809(a).

Alternatively, during this interim period, the FAA directs recreational flyers to existing basic safety guidelines, which are based on industry best practices, on its website (faa.gov/uas):

- Fly only for recreational purposes
- Keep your unmanned aircraft within your visual line-of-sight or within the visual line of sight of a visual observer who is co-located and in direct communication with you
- Do not fly above 400 feet in uncontrolled (Class G) airspace

- Do not fly in controlled airspace without an FAA authorization
- Follow all FAA airspace restrictions, including special security instructions and temporary flight restrictions
- Never fly near other aircraft
- Always give way to all other aircraft
- Never fly over groups of people, public events, or stadiums full of people
- Never fly near emergency response activities
- Never fly under the influence of drugs or alcohol

You also should be able to explain to an FAA inspector or law enforcement official which safety guidelines you are following if you are flying under the exception for limited recreational unmanned aircraft operations.

The FAA will provide notice when it has issued final guidance and has started recognizing CBOs.

3. The aircraft is flown within the visual line of sight of the person operating the aircraft or a visual observer co-located and in direct communication with the operator.

Either the person manipulating the controls of the recreational unmanned aircraft or a visual observer, who is near the operator and able to communicate verbally, must have eyes on the aircraft at all times to ensure the unmanned aircraft is not a collision hazard to other aircraft or people on the ground. Using a visual observer generally is optional, but a visual observer is required for first-person view (FPV) operations, which allow a view from an onboard camera but limit the operator's ability to scan the surrounding airspace.

4. *The aircraft is operated in a manner that does not interfere with and gives way to any manned aircraft.*

When flying an unmanned aircraft, you are responsible for knowing the aircraft's altitude and its position in relation to other aircraft. You also are responsible for maintaining a safe distance from other aircraft by giving way to all other aircraft in all circumstances.

5. *In Class B, Class C, or Class D airspace or within the lateral boundaries of the surface area of Class E airspace designated for an airport, the operator obtains prior authorization from the Administrator or designee before operating and complies with all airspace restrictions and prohibitions.*

Classes B, C, D, and E are collectively referred to as controlled airspace. The FAA has created different classes of airspace to reflect whether aircraft receive air traffic control services and to note levels of complexity, traffic density, equipment, and operating requirements that exist for aircraft flying through different parts of controlled airspace. Generally, these classes of controlled airspace are found near airports.

Manned aircraft operations receive air traffic control services in controlled airspace and are authorized in controlled airspace as part of these services. Small unmanned aircraft operations do not receive air traffic services, but they must be authorized in the airspace because FAA air traffic control is responsible for managing the safety and efficiency of controlled airspace. For operations under part 107, the FAA has an online system, Low Altitude Authorization and Notification Capability (LAANC), to provide this real-time, automated authorization. Part 107 operators also can request

airspace authorization through FAA's DroneZone portal, but this manual process can take longer.

The FAA currently is upgrading LAANC to enable recreational flyers to obtain automated authorization to controlled airspace. The FAA is committed to quickly implementing LAANC for recreational flyers. The FAA also is exploring upgrades to DroneZone to enable access for recreational flyers.

Authorization to Operate Recreational Unmanned Aircraft at Certain Fixed Sites in Controlled Airspace

Until LAANC is available for recreational operations, the FAA is granting temporary airspace authorizations to operate at certain fixed sites (commonly referred to as flying fields) that are established by an agreement with the FAA. For fixed sites that are located in controlled airspace two or more miles from an airport, operations are authorized up to the unmanned aircraft system (UAS) facility map (UASFM) altitudes. The FAA is reviewing fixed sites located within two miles of an airport and will make individualized determinations of what airspace authorization is appropriate.

Aeromodelling organizations that sponsor fixed sites, regardless of their location within controlled airspace, can obtain additional information about requesting airspace authorization from the person identified in the "For further information, contact" section of this document.

During this interim period, you may fly in controlled airspace only at authorized fixed sites. The list of authorized fixed sites is available on the FAA's website at www.faa.gov/uas and will be depicted on the maps on the FAA's UAS Data Delivery System, which is available at <https://udds-faa.opendata.arcgis.com>. Agreements

establishing fixed sites may contain additional operating limitations. If you fly at a fixed site in controlled airspace, you must adhere to the operating limitations of the agreement, which is available from the fixed site sponsor.

As a reminder, existing FAA rules provide that you may not operate in any designated restricted or prohibited airspace. This includes airspace restricted for national security reasons or to safeguard emergency operations, including law enforcement activities. The easiest way to determine whether any restrictions or special requirements are in effect as well as the authorized altitudes where you want to fly is to use the maps on the FAA's UAS Data Delivery System, which is available at <https://udds-faa.opendata.arcgis.com>, and to check for the latest FAA Notices to Airmen (NOTAMs). This information may also be available from third-party applications.

The FAA will provide notice when LAANC is available for use by recreational flyers.

Please do not contact FAA Air Traffic facilities for airspace authorization because these facilities will no longer accept requests to operate recreational unmanned aircraft in controlled airspace.

6. In Class G airspace, the aircraft is flown from the surface to not more than 400 feet above ground level and complies with all airspace restrictions and prohibitions.

Class G airspace is uncontrolled airspace in which the FAA does not provide air traffic services.

You may operate recreational unmanned aircraft in this airspace up to an altitude of 400 feet above ground level (AGL).

Additionally, you may not operate in any designated restricted or prohibited airspace. This includes airspace restricted for national security reasons or to safeguard emergency operations, including law enforcement activities. The easiest way to determine whether any restrictions or special requirements are in effect where you want to fly is to use the maps on the FAA's UAS Data Delivery System, which is available at <https://udds-faa.opendata.arcgis.com>, and to check for the latest FAA NOTAMs.

7. The operator has passed an aeronautical knowledge and safety test and maintains proof of test passage to be made available to the Administrator or a designee of the Administrator or law enforcement upon request.

Section 44809(g) requires the FAA to develop, in consultation with stakeholders, an aeronautical knowledge and safety test that can be administered electronically. This test is intended to demonstrate a recreational flyer's knowledge of aeronautical safety knowledge and rules for operating unmanned aircraft.

The FAA currently is developing an aeronautical knowledge and safety test and plans to engage stakeholders on its development through a public process.

The FAA acknowledges that satisfying this statutory condition is impossible until the FAA establishes the aeronautical knowledge and safety test. For the reasons discussed earlier in this document, the FAA has determined this condition will apply only after the FAA develops and makes available the knowledge and safety test. Accordingly, during this interim period, recreational flyers who adhere to the other seven conditions under section 44809(a), may use the exception for limited recreational unmanned aircraft operations.

The FAA will provide additional guidance and notice when the aeronautical knowledge and safety test is available and the date on which adherence to this condition is required.

8. The aircraft is registered and marked and proof of registration is made available to the Administrator or a designee of the Administrator or law enforcement upon request.

Registration and marking requirements for small unmanned aircraft, including recreational unmanned aircraft, can be found at 14 CFR part 48, and online registration can be completed at faa.gov/uas/getting_started/registration/. Each unmanned aircraft used for limited recreational operations must display the registration number on an external surface of the aircraft. Recreational flyers also must maintain proof of registration and make it available to FAA inspectors or law enforcement officials upon request.

The FAA remains committed to facilitating safe operation of recreational unmanned aircraft to the maximum extent authorized by Congress, while effectively addressing national security and public safety concerns. The FAA is devoting resources to fully implement this new framework as expeditiously as possible.

This interim implementation guidance provides information to recreational flyers on how to comply with the statutory conditions for the Exception for Limited Recreational Operations of Unmanned Aircraft, codified at 49 U.S.C. 44809. Accordingly, the FAA has determined this interim implementation guidance does not independently generate costs for recreational flyers.

The FAA has updated FAA Advisory Circular 91-57B to reflect the interim guidance provided in this notice. The FAA will continue to provide updated direction and

guidance as implementation proceeds. The FAA intends to follow up with regulatory amendments to formalize the exception for limited recreational unmanned aircraft operations.

The guidance provided in this notice is not legally binding in its own right and will not be relied upon by the Department or the FAA as a separate basis for affirmative enforcement action or other administrative penalty. Regardless of whether you rely on the guidance in this document, you are independently required to comply with all existing laws applicable to the operation of unmanned aircraft systems. Conforming your actions with the guidance in this notice does not excuse or mitigate noncompliance with other applicable legal requirements.

Nevertheless, if your operation fails to satisfy the eight statutory conditions, as described in this notice, or if you are not operating under part 107 or other FAA authority, your operation may violate other FAA regulations and subject you to enforcement action. Additionally, if you operate your recreational unmanned aircraft carelessly or recklessly, the FAA may exercise existing authority to take enforcement action against you for endangering the national airspace system.

Please continue to check faa.gov/uas on a regular basis for the most current direction and guidance.

Issued in Washington, D.C. on May 8, 2019.

Robert C. Carty,

Deputy Executive Director,

Flight Standards Service.

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