



CASE IN POINT

FAA Grants Exceptions for Commercial UAV Use

In early 2012, Congress passed the FAA Modernization and Reform Act, requiring the Federal Aviation Administration (FAA) to develop a plan for integrating commercial unmanned aerial vehicles into the national airspace. Under pressure from the burgeoning industry and amid growing concern that the United States was being outpaced in this arena by other countries, Congress gave the FAA a deadline of September 2015 for integrating small UAVs, or drones weighing less than 55 pounds, into the NAS. While the FAA is expected to miss the deadline for adopting its final rules, it has begun issuing commercial exemptions on a case-by-case basis under Section 333 of the 2012 Act. Cooley has been at the forefront of these evolving developments, successfully navigating clients through the complex FAA process for obtaining such authorizations.

Film Industry Takes Flight

On September 25, 2014, Cooley helped secure a groundbreaking victory for a collection of film production clients when the FAA granted six companies exemptions to use small UAVs for closed set filming and movie production. These marked the first exemptions to be issued under Section 333 of the 2012 Act, which authorizes the FAA to grant exemptions from its rules to allow the use of commercial drone operation pending adoption of final rules regulating their use.

In order to obtain these exemptions, the clients needed to demonstrate that their operations would not adversely affect air safety. Cooley lawyers were instrumental in guiding the production companies through the process of developing appropriate safety manuals and operating procedures that would stand up to the FAA's rigorous scrutiny. The companies – Astraeus Aerial; Aerial MOB, LLC; HeliVideo Productions, LLC; Pictorvision Inc.; Vortex Aerial; and Snaproll Media, LLC – are authorized to utilize three-person teams with operators holding private pilot certificates. The exemptions, which cover quad copters, require

Overview

Cooley's unmanned aerial vehicles team represented the first eight companies to receive exemptions from the Federal Aviation Administration to operate UAVs on a commercial basis. The exemptions mark a critical milestone in broadening the commercial use of UAVs in the United States.

Perspectives

"This is going to bring a lot of business back home to the United States."

– **Chris Dodd**

Chairman & CEO

Motion Picture Association of America

"If you're in the burgeoning commercial drone industry, yesterday's news was big –real big."

– **Clay Dillow**

Reporter, *Fortune*

Cooley

operators to keep the UAVs within line of sight at all times, restrict flights to only certain specified areas, and inspect the aircraft before each flight. They are prohibited from operating at night.

A seventh film production client, Flying-Cam Inc., was granted approval in October after providing additional information to the FAA. Flying-Cam, which had filed a nearly identical application at the same time as the first six film companies, was also seeking an exemption to use its own proprietary remote-controlled helicopter.

Aerial Surveys and Precision Agriculture Get Greenlight

On December 10, 2014, Cooley was again successful in securing an FAA exemption, this time for client Trimble Navigation, Ltd, which had applied at roughly the same time as the movie companies. Trimble was one of three companies in the second group of exemptions that the FAA issued on that date permitting use of commercial drones in aerial surveying, construction site monitoring, and oil rig flare stack inspections.

The exemption – the first since the film companies' in September – allows Trimble to provide precision aerial surveys with its UX5 Aerial Imaging Solution. The Trimble UX5 is an unmanned fixed-wing aircraft targeted for use in the surveying, agriculture, oil and gas, mining, construction and environmental industries. It autonomously captures a series of high-resolution images during flight, which are then used to generate 2D and 3D deliverables.

What's Next?

To date, the FAA has received more than 250 applications for exemptions to operate drones commercially. While the process for safely integrating drones into the national airspace has been slower than many had hoped, the Section 333 exemptions are a crucial first step in opening the US market to this technology. Industry experts at the Association for Unmanned Vehicle Systems International (AUVSI) estimate that drones will have an \$82 billion economic impact on the US in the decade following integration.

On February 15, 2015, the FAA issued a notice of proposed rulemaking setting forth its suggested administrative regulations for commercial UAV operations. Comments are due on April 24, 2015, and final rules are expected in 2017. Until then, Section 333 exemptions remain the only means for compliant commercial operation.

The Cooley Team



Anne Swanson

+1 202 776 2534

aswanson@cooley.com