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FAA Extends Public Comment Period on Interpretation of Model Aircraft/Unmanned Aircraft Systems for Special Rule Exemption

The Federal Aviation Administration (FAA) has granted a 60-day extension for the public to comment on its interpretation of the Special Rule for Model Aircraft established by Congress as part of the FAA Modernization and Reform Act of 2012 (the Act). **The new deadline for comment is September 23, 2014.**

On July 25, 2014 (the original deadline for public comment), the FAA granted the Academy of Model Aeronautics' request for an additional 60 days for the public to submit comment so it could further educate its members about the impact of the FAA's interpretation of the scope of the Special Rule and the FAA's enforcement authority over model aircraft/unmanned aircraft systems (UAS). The Special Rule prohibits the FAA from promulgating "any rule or regulation regarding a model aircraft, or an aircraft being developed as a model aircraft." The FAA noted that the extension would be helpful to allow the public "to prepare meaningful comments which will help the FAA to determine what clarifications to the interpretation may be necessary."

As noted in this firm's July 22, 2014 alert, of greatest importance to businesses seeking to use UAS is the FAA's interpretation of the "hobby or recreational purpose" requirement under Section 336(b) of the Act to exclude commercial operations and flights in furtherance of, or incidental to, business.

What This Means to You

Extension of the public comment period allows businesses additional time to consider and comment on the FAA's current no-fly restriction regarding

commercial use of UAS (in the context of the FAA's interpretation of the special rule for model aircraft). Currently a business must apply for and receive express authorization from the FAA, for example through Certificates of Waiver or Authorization (COA), to operate UAS commercially, even when such operations may be shown to pose no risk to the safety of the national airspace system or persons or property on the ground. A number of petitions for exemption to the FAA's restrictions are pending the FAA's determination.