

LEGAL UPDATES

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FAA Approves Commercial Use of Unmanned Aircraft Systems; Provides Guidance for Accelerated Use

In a historic decision, the FAA for the first time last month approved the commercial use of unmanned aircraft systems (UAS) through petitions for exemption under the Section 333 of the FAA Modernization and Reform Act of 2012 (“Special Rules for Certain Unmanned Aircraft Systems”). The FAA has previously provided Certificates of Authorization (COA) to allow for certain public and governmental uses, and earlier this year issued a civil COA to allow BP and ConocoPhillips to patrol pipelines in the Arctic; however, this is the first time the FAA has granted exemptions from general flight rules and airworthiness requirements to allow commercial entities to operate UAS.

In May 2014, seven aerial photo and video production companies, Aerial Mob, Astraeus Aerial Cinema Systems, Flying-Cam Aerial Systems, Heli Video Productions, PictorVision, Snaproll Media and Vortex Aerial, petitioned the FAA under Section 333 for exemption from the FAA’s current no-fly restriction on the commercial use of UAS. Under Section 333, Congress gave the FAA flexibility to expedite operational authorization of certain UAS (before completion of small UAS rulemaking, expected to be out for comment by the end of this year), upon consideration of factors such as UAS size, weight, speed, proximity to airports and populated areas, and operation within visual line of sight.

In support of their petitions, the companies and the Motion Picture Association of America developed certain guidelines and safety procedures, including that operators hold private pilot certificates; the aircraft be kept below 400 feet and within line of sight of the operator; and that flights be restricted to the “sterile area” of the particular set. In granting the exemptions, the FAA included an additional requirement that the aircraft be inspected

before each flight, and prohibited operations at night. Further, the FAA said that it would issue COAs to regulate each such planned operation.

Consistent with these guidelines and procedures and concurrent with its grant of these first six of seven petitions, the FAA posted on its website a “how-to” roadmap for petitioning for exemption under Section 333.

What This Means to You

The FAA’s announcement, and the guidance that it has provided as a result of its review of these initial petitions, has proven Section 333 to be a viable avenue for the commercial use of UAS, and opened the door to other businesses seeking to use UAS to support their operations. Indeed, in announcing its grant of these first petitions, the FAA encouraged other businesses to petition the FAA under Section 333.

To date, the FAA has received 45 requests for exemptions under Section 333 from a variety of companies across a range of industries, including agriculture, oil and gas, GIS/mapping, construction, and real estate, as well as pipeline and power line inspectors and surveyors. If your business is considering using UAS, we can help you take advantage of this opportunity and lead the way in your industry.