Updates

The Federal Aviation Administration (FAA) and U.S. Department of Transportation (DOT) jointly published a December 31, 2019, notice of proposed rulemaking for the remote identification (remote ID) of unmanned aircraft systems (UAS). 84 FR 72438. The proposed rule, which would apply to most UAS operated in the airspace of the United States, would require UAS to provide certain identification and location information remotely. The rule would also facilitate the collection and storage of such data.

Unlike Part 107, the proposed new rule imposes burdens on both UAS manufacturers and operators. Under the new rule, UAS manufacturers would, with limited exceptions, be required to design and produce UAS that can comply with the proposed new rule's requirements for remote ID.

The proposed rule is designed to promote the safe and efficient use of navigable airspace in the United States. By requiring almost all UAS flying in the United States to identify themselves, the rule aims to enhance the ability of regulators, law enforcement, and national security agencies to monitor compliance with applicable regulations and to mitigate safety risks and threats. It is also a key step in the development of more advanced operational capabilities (such as detect-and-avoid and aircraft-to-aircraft communications). For these reasons, the FAA and DOT view the rule as essential to the development of a comprehensive UAS traffic management system in the United States, and with it, the advancement of the safe integration of UAS into the national airspace.

The key provisions of the proposed rule are discussed below. Any comments on the rule must be received by the FAA by March 2, 2020.

Two Forms of Remote Identification Permitted. Although existing regulations require UAS to be registered and marked to facilitate identification, this information is typically only accessible upon physical examination of the aircraft. The proposed rule would change this by requiring almost all UAS to be designed, produced, and operated to facilitate remote identification in one of the following two ways:

- Standard remote identification UAS would be required to broadcast identification and location information both across the internet and directly from the UAS.
- Limited remote identification UAS would only need to be able to transmit remote identification information across the internet. But UAS in this category would be limited in the operations they could conduct, operating no more than 400 feet from a control station (e.g., the smartphone or other device used to control the UAS) and within visual line of sight.

Under the proposed new rule, UAS operators would have to ensure all their UAS meet these remote ID requirements within three years. And all manufacturers who are producing UAS for operation in the United States would, with a few exceptions, be required to ensure their UAS could comply with these requirements.

Heightened Registration Requirements for UAS Owners. In addition to ensuring that UAS are designed, produced, and operated in compliance with these remote identification requirements, the rule would also revise registration requirements so that all UAS must be registered individually under a unique number. As part of the registration process, owners would also be required to provide certain device-specific information, such as serial number, manufacturer, model, and name, as well as a telephone number at which the owner can be reached.

Data Privacy and Information Security Implications. The remote identification message elements that operators would be required to transmit would be considered publicly accessible information. However, the proposed rule does provide for some privacy safeguards. Service providers who contract with the FAA to receive remote ID information via the internet would be required to maintain the confidentiality of other types of information, including personally identifiable information. Additionally, information voluntarily provided to a service provider for the purpose of other value-added services would not be subject to disclosure to the FAA. Both service providers who receive remote ID transmissions and UAS producers would be responsible for ensuring that UAS remote identification data and connections are protected against cyber-attacks.

Additional Requirements for UAS Designers and Producers. Aside from requiring that most UAS produced for operation within the United States be able to meet the remote ID requirements, the proposed rule also includes other requirements for designers and producers of UAS. Specifically, all persons "responsible for the production of UAS" would be required to do the following:

- Issue each UAS a unique serial number
- Label each UAS to indicate that it is remote identification compliant, and the type of compliance (standard or limited)

- Submit a declaration of compliance to the FAA

Under certain circumstances, developers and producers could be required to provide additional information to establish that their products are compliant and meet minimum performance requirements. Additionally, the rule would require producers to perform independent compliance audits on a recurring basis, and to allow the FAA to inspect their facilities, technical data, and products upon request. Data used to establish compliance would be subject to record retention requirements.

Most UAS Would be Required to Comply. Under this proposal, the vast majority of UAS would be subject to the rule, including both recreationally and commercially operated UAS. And, although some UAS would be exempt, such as those that are amateur built and those manufactured prior to the compliance date, these UAS would only be permitted to fly without remote identification in specific geographic areas established to accommodate them. The rule would also not apply to UAS weighing less than .55 pounds.

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