

DOT Launches UAS Integration Pilot Program

October 26, 2017

President Trump and Department of Transportation (DOT) Secretary Elaine Chao announced yesterday the creation of a pilot program intended to advance the integration of unmanned aircraft systems (UAS) into the national airspace. The UAS Integration Pilot Program is designed to “test and validate advanced operations for [UAS] in partnership with state and local governments in select jurisdictions,” and will cover a wide range of operations including night operations, flights over people, flights beyond the pilot’s visual line of sight, package delivery, detect-and-avoid technologies, counter-UAS security operations, and the reliability and security of data links between pilot and aircraft.” Ultimately, the program will help the DOT and FAA develop a regulatory framework that will “allow more complex low-altitude operations; identify ways to balance local and national interests; improve communications with local, state and tribal jurisdictions; address security and privacy risks; and accelerate the approval of operations that currently require special authorizations.” In the next 90 days, the DOT will establish the UAS Integration Pilot Program. 180 days after the program is established, the DOT will enter into a minimum of five partnerships with state and local governments through the pilot program.

Per a Presidential Memorandum signed by President Trump yesterday, the purpose of the Pilot Program is to: “(i) test and evaluate various models of State, local, and tribal government involvement in the development and enforcement of Federal regulations for UAS operations; (ii) encourage UAS owners and operators to develop and safely test new and innovative UAS concepts of operations; and (iii) inform the development of future Federal guidelines and regulatory decisions on UAS operations nationwide.”

Authors

Joshua S. Turner
Partner
202.719.4807
jturner@wiley.law

Sara M. Baxenberg
Partner
202.719.3755
sbaxenberg@wiley.law

Practice Areas

Telecom, Media & Technology
Uncrewed Aircraft Systems (UAS)

The UAS industry has long advocated for the establishment of such a pilot program. Most recently, industry stakeholders sent a letter to President Trump urging the President to initiate “a pilot program that allows state and local governments, along with UAS industry stakeholders, to develop a coordinated effort with the FAA concerning UAS airspace integration.” The stakeholders, which included the Association for Unmanned Vehicle Systems International, Amazon, CTIA, Qualcomm, and Verizon, among others, emphasized that a pilot program would “allow for a data-driven process, within a controlled operational environment, to explore the best options for states and municipalities to address their needs, as it relates to different types of UAS operations.”

The pilot program plans to explore two interesting (and controversial) topics:

1. The UAS Integration Pilot Program could be a useful way to navigate the role for state and local governments in UAS regulation, which is especially important as more state and local governments seek to impose their own UAS requirements. The tensions between local and federal UAS regulation were highlighted in the recent *Singer v. Newton* case, where a federal district court ultimately held that attempts by a locality to impose restrictions on the operation of UAS were preempted by federal law. The pilot program’s inclusion of state and local government participants may lead to productive discussions about how the FAA should move forward in balancing local and national interests in UAS.
2. The pilot program may add value in evaluating the safety risks associated with UAS flights over people. Commercial UAS users in numerous industries—from media to insurance—have expressed interest in operating UAS over people, which is currently banned by the FAA’s Part 107 rules unless the operator has received a waiver. An FAA Notice of Proposed Rulemaking on flights over people has long been anticipated, but in the meantime, the pilot program could produce real life examples and data of the safety case for such flights.

The FAA will make available more information about the application process in a forthcoming Federal Register notice. The Presidential Memorandum indicates that the Secretary of Transportation will be selecting proposals for participation based on a variety of factors including economic, geographic, and climatic diversity of the jurisdiction, the diversity of the UAS operations to be conducted, and the involvement of government, commercial entities, and affected communities. Proposals will also be evaluated based on the participants’ commitment to achieve the policy objectives of (A) promoting innovation and economic development; (B) enhancing transportation safety; (C) enhancing workplace safety; (D) improving emergency response and search and rescue functions; and (E) using radio spectrum efficiently and competitively.