

49 USC 44809: Exception for limited recreational operations of unmanned aircraft

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From Title 49-TRANSPORTATION

SUBTITLE VII-AVIATION PROGRAMS

PART A-AIR COMMERCE AND SAFETY

subpart iii-safety

CHAPTER 448-UNMANNED AIRCRAFT SYSTEMS

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(a) IN GENERAL.-Except as provided in subsection (e), and notwithstanding chapter 447 of title 49, United States Code, a person may operate a small unmanned aircraft without specific certification or operating authority from the Federal Aviation Administration if the operation adheres to all of the following limitations:

(1) The aircraft is flown strictly for recreational purposes.

(2) The aircraft is operated in accordance with or within the programming of a community-based organization's set of safety guidelines that are developed in coordination with the Federal Aviation Administration.

(3) The aircraft is flown within the visual line of sight of the person operating the aircraft or a visual observer co-located and in direct communication with the operator.

(4) The aircraft is operated in a manner that does not interfere with and gives way to any manned aircraft.

(5) In Class B, Class C, or Class D airspace or within the lateral boundaries of the surface area of Class E airspace designated for an airport, the operator obtains prior authorization from the Administrator or designee before operating and complies with all airspace restrictions and prohibitions.

(6) In Class G airspace, the aircraft is flown from the surface to not more than 400 feet above ground level and complies with all airspace restrictions and prohibitions.

(7) The operator has passed an aeronautical knowledge and safety test described in subsection (g) and maintains proof of test passage to be made available to the Administrator or law enforcement upon request.

(8) The aircraft is registered and marked in accordance with chapter 441 of this title and proof of registration is made available to the Administrator or a designee of the Administrator or law enforcement upon request.

(b) OTHER OPERATIONS.-Unmanned aircraft operations that do not conform to the limitations in subsection (a) must comply with all statutes and regulations generally applicable to unmanned aircraft and unmanned aircraft systems.

(c) OPERATIONS AT FIXED SITES.-

(1) OPERATING PROCEDURE REQUIRED.-Persons operating unmanned aircraft under subsection (a) from a fixed site within Class B, Class C, or Class D airspace or within the lateral boundaries of the surface area of Class E airspace designated for an airport, or a community-based organization conducting a sanctioned event within such airspace, shall make the location of the fixed site known to the Administrator and shall establish a mutually agreed upon operating procedure with the air traffic control facility.

(2) UNMANNED AIRCRAFT WEIGHING MORE THAN 55 POUNDS.-A person may operate an unmanned aircraft weighing more than 55 pounds, including the weight of anything attached to or carried by the aircraft, under subsection (a) if-

(A) the unmanned aircraft complies with standards and limitations developed by a community-based organization and approved by the Administrator; and

(B) the aircraft is operated from a fixed site as described in paragraph (1).

(d) UPDATES.-

(1) IN GENERAL.-The Administrator, in consultation with government, stakeholders, and community-based organizations, shall initiate a process to periodically update the operational parameters under subsection (a), as appropriate.

(2) CONSIDERATIONS.-In updating an operational parameter under paragraph (1), the Administrator shall consider-

(A) appropriate operational limitations to mitigate risks to aviation safety and national security, including risk to the uninvolved public and critical infrastructure;

(B) operations outside the membership, guidelines, and programming of a community-based organization;

(C) physical characteristics, technical standards, and classes of aircraft operating under this section;

(D) trends in use, enforcement, or incidents involving unmanned aircraft systems;

(E) ensuring, to the greatest extent practicable, that updates to the operational parameters correspond to, and leverage, advances in technology; and

(F) equipment requirements that facilitate safe, efficient, and secure operations and further integrate all unmanned aircraft into the national airspace system.

(3) SAVINGS CLAUSE.-Nothing in this subsection shall be construed as expanding the authority of the Administrator to require a person operating an unmanned aircraft under this section to seek permissive authority of the Administrator, beyond that required in subsection (a) of this section, prior to operation in the national airspace system.

(e) STATUTORY CONSTRUCTION.-Nothing in this section shall be construed to limit the authority of the Administrator to pursue an enforcement action against a person operating any unmanned aircraft who endangers the safety of the national airspace system.

(f) EXCEPTIONS.-Nothing in this section prohibits the Administrator from promulgating rules generally applicable to unmanned aircraft, including those unmanned aircraft eligible for the exception set forth in this section, relating to-

- (1) updates to the operational parameters for unmanned aircraft in subsection (a);
- (2) the registration and marking of unmanned aircraft;
- (3) the standards for remotely identifying owners and operators of unmanned aircraft systems and associated unmanned aircraft; and
- (4) other standards consistent with maintaining the safety and security of the national airspace system.

(g) AERONAUTICAL KNOWLEDGE AND SAFETY TEST.-

(1) IN GENERAL.-Not later than 180 days after the date of enactment of this section, the Administrator, in consultation with manufacturers of unmanned aircraft systems, other industry stakeholders, and community-based organizations, shall develop an aeronautical knowledge and safety test, which can then be administered electronically by the Administrator, a community-based organization, or a person designated by the Administrator.

(2) REQUIREMENTS.-The Administrator shall ensure the aeronautical knowledge and safety test is designed to adequately demonstrate an operator's-

- (A) understanding of aeronautical safety knowledge; and
- (B) knowledge of Federal Aviation Administration regulations and requirements pertaining to the operation of an unmanned aircraft system in the national airspace system.

(h) COMMUNITY-BASED ORGANIZATION DEFINED.-In this section, the term "community-based organization" means a membership-based association entity that-

- (1) is described in section 501(c)(3) of the Internal Revenue Code of 1986;
- (2) is exempt from tax under section 501(a) of the Internal Revenue Code of 1986;
- (3) the mission of which is demonstrably the furtherance of model aviation;
- (4) provides a comprehensive set of safety guidelines for all aspects of model aviation addressing the assembly and operation of model aircraft and that emphasize safe aeromodelling operations within the national airspace system and the protection and safety of individuals and property on the ground, and may provide a comprehensive set of safety rules and programming for the operation of unmanned aircraft that have the advanced flight capabilities enabling active, sustained, and controlled navigation of the aircraft beyond visual line of sight of the operator;
- (5) provides programming and support for any local charter organizations, affiliates, or clubs; and
- (6) provides assistance and support in the development and operation of locally designated model aircraft flying sites.

(i) RECOGNITION OF COMMUNITY-BASED ORGANIZATIONS.-In collaboration with aeromodelling stakeholders, the Administrator shall publish an advisory circular within 180 days of the date of enactment of this section that identifies the criteria and process required for recognition of community-based organizations.

(Added Pub. L. 115-254, div. B, title III, §349(a), Oct. 5, 2018, 132 Stat. 3298 .)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsecs. (g)(1) and (i), is the date of enactment of Pub. L. 115-254, which was approved Oct. 5, 2018.

Section 501 of the Internal Revenue Code of 1986, referred to in subsec. (h)(1), (2), is classified to section 501 of Title 26, Internal Revenue Code.

PRIOR PROVISIONS

Provisions similar to those in subsecs. (a) and (e) of this section were contained in section 336(a) and (b) of Pub. L. 112-95, which was set out in a note under section 40101 of this title, prior to repeal by Pub. L. 115-254, div. B, title III, §349(b)(2), Oct. 5, 2018, 132 Stat. 3300 . The remainder of the note comprised of subtitle B of title III of Pub. L. 112-95 was transferred and is set out under section 44802 of this title.

USE OF UNMANNED AIRCRAFT SYSTEMS AT INSTITUTIONS OF HIGHER EDUCATION

Pub. L. 115–254, div. B, title III, §350, Oct. 5, 2018, 132 Stat. 3300 , provided that:

"(a) EDUCATIONAL AND RESEARCH PURPOSES.-For the purposes of section 44809 of title 49, United States Code, as added by this Act, a 'recreational purpose' as distinguished in subsection (a)(1) of such section shall include an unmanned aircraft system operated by an institution of higher education for educational or research purposes.

"(b) UPDATES.-In updating an operational parameter under subsection (d)(1) of such section for unmanned aircraft systems operated by an institution of higher education for educational or research purposes, the Administrator shall consider-

"(1) use of small unmanned aircraft systems and operations at an accredited institution of higher education, for educational or research purposes, as a component of the institution's curricula or research;

"(2) the development of streamlined, risk-based operational approval for unmanned aircraft systems operated by institutions of higher education; and

"(3) the airspace and aircraft operators that may be affected by such operations at the institution of higher education.

"(c) DEADLINE FOR ESTABLISHMENT OF PROCEDURES AND STANDARDS.-Not later than 270 days after the date of enactment of this Act [Oct. 5, 2018], the Administrator of the Federal Aviation Administration may establish regulations, procedures, and standards, as necessary, to facilitate the safe operation of unmanned aircraft systems operated by institutions of higher education for educational or research purposes.

"(d) DEFINITIONS.-In this section:

"(1) INSTITUTION OF HIGHER EDUCATION.-The term 'institution of higher education' has the meaning given to that term by section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

"(2) EDUCATIONAL OR RESEARCH PURPOSES.-The term 'education or research purposes', with respect to the operation of an unmanned aircraft system by an institution of higher education, includes-

"(A) instruction of students at the institution;

"(B) academic or research related uses of unmanned aircraft systems that have been approved by the institution, including Federal research;

"(C) activities undertaken by the institution as part of research projects, including research projects sponsored by the Federal Government; and

"(D) other academic activities approved by the institution.

"(e) STATUTORY CONSTRUCTION.-

"(1) ENFORCEMENT.-Nothing in this section shall be construed to limit the authority of the Administrator to pursue an enforcement action against a person operating any unmanned aircraft who endangers the safety of the national airspace system.

"(2) REGULATIONS AND STANDARDS.-Nothing in this section prohibits the Administrator from promulgating any rules or standards consistent with maintaining the safety and security of the national airspace system."