Draft Programmatic Environmental Assessment for Drone Package Deliveries: Implications and Uncertainty

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Firm Alert

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On December 9, 2025, the Federal Aviation Administration (FAA) published a Notice of Availability and Request for Comment on the Draft Programmatic Environmental Assessment (PEA) for Drone Package Delivery Operations in the United States.[1] The PEA was issued pursuant to the FAA Reauthorization Act of 2024's requirement that FAA examine and integrate programmatic-level approaches to the requirements of the National Environmental Policy Act (NEPA) for Unmanned Aircraft Systems (UAS) package delivery. The stated purpose of the PEA, and the hope of both FAA and industry, is to "streamline the NEPA process for multiple repetitive actions by broadly analyzing reasonably foreseeable direct and indirect impacts that may occur as a result of Part 135 approvals for drone operators throughout the U.S."[2]

Streamlining the NEPA process is a worthy goal. Since 2019 when the FAA began issuing air carrier certificates to drone operators in accordance with 14 C.F.R. Part 119 for operations under 14 C.F.R. Part 135, FAA has conducted environmental reviews, and has issued Environmental Assessments (EA), for 23 individual drone package delivery proposals.[3]

Each EA resulted in a Finding of No Significant Impact (FONSI), meaning that FAA determined that significant environmental impacts as a result of the operation were unlikely. Each environmental review was time consuming, resource intensive, and was often a gating factor in beginning operations. NEPA, however, permits agencies to conduct a broader environmental review on a site- or project-specific level, known as programmatic NEPA review. Agencies may then create a PEA or a Programmatic Environmental Impact Statement (PEIS) and make informed decisions based on a tiered NEPA review. In other words, if the proposed action "fits" in the confines of the PEA or PEIS, the action will likely be approved without further review, but if the action falls outside of the PEA or PEIS, a separate, individual NEPA review may be necessary. In this case, if an operator's proposal and its potential impacts fall within the scope of the PEA, the request will be approved; if it falls outside the scope of the PEA, the FAA will conduct further NEPA review.[4]

Still, while tiered, programmatic NEPA analyses such as PEA can improve agency efficiency and streamline the decision-making process, PEAs rely heavily on broad assumptions that may not translate into real-world impacts or fully capture operational realities. Drone technologies and operations may also change and grow over time and as the industry continues to grow and technologies develop, more individual projects may have to undergo individual NEPA reviews which would only lengthen the review period. Additionally, certain operations by their nature may not fall within the PEA, requiring those operators to undergo individualized supplemental environmental review for all of their operations, potentially placing them at a commercial disadvantage compared to those operators who conform with the assumptions of the PEA. Thus, in a very real sense, the PEA may have the effect of not only streamlining the approval process but shaping the industry itself. The PEA's assumptions and established measures must be carefully considered with industry input.

Moreover, by attempting to streamline the NEPA process, the PEA has the practical effect of introducing a new level of FAA review. Under the PEA, FAA must first determine as a threshold matter whether a proposed operation complies with the established measures in the PEA. If FAA determines it does not, the portions of the proposal that do not comply will be "tiered off" and subject to additional environmental reviews. Although FAA expects this to "streamline the environmental review process,"[5] without a clear understanding as to what falls outside of the PEA's measures and, perhaps more importantly, an accepted process for severing the effects of the tiered-operations from those that fall within the PEA, there is a danger the expected benefits of these tiered reviews will not be realized.

The comment period on the draft PEA was extended from its original deadline of January 8, 2026, and now closes on January 23, 2026.

Babst Calland and Immel Law continue to track these developments and are available to assist with FAA compliance and NEPA-related matters. For more information on this development and other similar issues, please contact Justine Kasznica at (412) 394-6466 or **jkasznica@babstcalland.com**, Mackenzie Moyer at (412) 394-6578 or **mmoyer@babstcalland.com**, or Jeff Immel at (412) 556-0090 or **jimmel@immellawfirm.com**.

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[1] 90 Fed. Reg. 57126 (Dec. 9, 2025).

[2] PEA, at 4.

[3] Because an operator must apply for an amendment to its Operational Specifications (OpSpecs) to conduct each type and number of operation, FAA has determined that the grant of such an amendments is a final Federal action and must undergo environmental review to comply with NEPA. *See* PEA, at 4.

[4] In 2024, FAA issued a Programmatic EA for Drone Package Delivery in North Carolina which uses much the same approach as outlined in the PEA. *See* Final Programmatic Environmental Assessment, Mitigated Finding of No Significant Impact, and Record of Decision for Drone Package Delivery in North Carolina (July 2024) at **https://www.faa.gov/uas/advanced_operations/nepa_and_drones/FONSI_ROD_Final_PEA_for_Drone_Package_Delivery_in_NC.pdf**.

[5] PEA, at 20.