

FAA Releases Application and Instructions for Small Drone Waivers

On August 29, 2016, the Federal Aviation Administration (FAA) released the [form](#) and [instructions](#) on how to apply for a waiver from certain requirements included in the “[Operation and Certification of Small Unmanned Aircraft Systems](#)” Final Rule. This final rule went into effect on August 29, 2016, and permits the use, with certain limitations, of small unmanned aircraft systems (small drones) for non-hobby and non-recreational purposes. See Babst Calland’s previous [Pipeline Safety Alert](#) on small drones for more information. This new waiver process will be of interest to the energy industry.

The FAA will allow operators of small drones to apply for a waiver from the following requirements:

- Operation from a moving vehicle or aircraft (§ 107.25)
- Daylight operation (§ 107.29)
- Visual line of sight aircraft operation (§ 107.31)
- Visual observer (§ 107.33)
- Operation of multiple small unmanned aircraft systems (§ 107.35)
- Yielding the right of way (§ 107.37(a))
- Operation over people (§ 107.39)
- Operation in certain airspace (§ 107.41)
- Operating limitations for small unmanned aircraft (§ 107.51)

The FAA will not consider waivers for the carriage of property of another by aircraft for compensation or hire. An applicant must describe the risks of the waived operation and identify appropriate risk-mitigation strategies to ensure that the proposed operation can be safely conducted.

The ability to seek a waiver is particularly important to the energy industry which may choose to use small drones for inspections of infrastructure. For example, a waiver of the line-of-sight requirements may make the use of small drones for pipeline right-of-way patrols more practical.

The FAA is encouraging applicants to submit waiver requests at least 90 days prior to the desired commencement of the drone operation. The agency hopes to respond to each waiver request within 90 days but notes it could take longer depending on the complexity of the application or if information is missing. If the FAA seeks additional information, waiver applicants must respond within 30 days or risk the withdrawal of their application.



CONTACT

JAMES CURRY

JCurry@babstcalland.com
202.853.3461

KEITH J. COYLE

KCoyle@babstcalland.com
202.853.3460

BRIANNE K. KURDOCK

BKurdock@babstcalland.com
202.853.3462

805 15th Street NW
Suite 601
Washington, DC 20005
202.853.3455

BABSTCALLAND.COM

The agency has also stated that it is working to issue proposed rules by the end of 2016 for certain operations without the need for a waiver including the use of small drones over people, operations beyond the line of sight, flight in urban areas, and flight at night. See [FAA press release](#).

Babst Calland is assisting energy industry clients with FAA rule implementation issues and strategy involving the use of small drones. Please contact Brianne Kurdock at (202) 853-3462 or by email at bkurdock@babstcalland.com, James Curry at (202) 853-3461 or jcurry@babstcalland.com, or Keith Coyle at (202) 853-3460 or kcoyle@babstcalland.com.



JAMES CURRY



KEITH COYLE



BRIANNE KURDOCK

Led by three former Pipeline and Hazardous Materials Safety Administration (PHMSA) attorneys, our Pipeline and Hazardous Materials Safety practice group counsels pipeline and midstream companies, gas utilities, terminal operators, investors, trade associations, and other stakeholders, throughout the United States. James Curry, Keith Coyle and Brianne Kurdock together have more than 25 years of experience with a multitude of pipeline safety issues. They partner with client engineering and legal personnel to address day-to-day compliance questions and develop business and regulatory strategies.