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Prime Air Encounters FAA Turbulence

April 5, 2015 · by Julie Cummings · in GGU Law Review. ·



(<https://ggulawreview.files.wordpress.com/2015/04/istock-drone-package-delivery-cummings.jpg>)

Safety first. That was the message (http://www.faa.gov/news/press_releases/news_story.cfm?newsId=18295) the Federal Aviation Administration (FAA) sent in a February 15th press release.

Unmanned aircraft systems (UAS), often called drones, are rapidly entering the public space. Beyond hobby flight, drones have many useful applications. For instance, drones can be used for crop monitoring, bridge inspection, aerial photography, and much more. Moreover, major corporations like Amazon and Google see a bright future in drone package delivery (<http://www.theatlantic.com/technology/archive/2014/08/inside-googles-secret-drone-delivery-program/379306/>) programs. Nevertheless, safety concerns temper some of the excitement.

The FAA is responsible for the safety of civil aviation. Because drones operate in federal airspace, Congress tasked the FAA with creating new safety rules to address commercial drone flight. In February, the FAA (https://www.faa.gov/news/press_releases/news_story.cfm?newsId=18295) released its proposed new rules governing drones weighing less than 55 pounds, which are used for non-recreational purposes. Among other restrictions, the proposed rules (http://www.faa.gov/regulations_policies/rulemaking/media/021515_sUAS_Summary.pdf) limit flights to daylight, visual-line-of-sight, below 500 feet, at flight speeds not to exceed 100 miles per hour. Additionally, operators must not fly drones over people. The FAA would also require operators to be certified and to incur other responsibilities.

Not everyone is happy with the FAA's newly proposed rules. Opponents say that the rules needlessly stifle technological development with unwarranted safety concerns. For example Jeff Bezos, CEO of e-commerce giant Amazon, wants its drone-based Prime Air (<http://abcnews.go.com/Technology/faa-drone-regulations-blow-amazon/story?id=28997803>) program to reduce package delivery down to a 30-minute window. Bezos first announced in 2013 (<http://www.engadget.com/2013/12/01/amazon-prime-air-drones/>) his plans to reinvent package delivery through the use of unmanned drones. Since that time, Amazon has hired various aeronautical and robotics experts in hopes of testing (<http://thenextweb.com/insider/2014/11/12/amazon-plans-prime-air-delivery-drone-tests-uk/>) in the United States and eventual launch of Prime Air.

Under the proposed FAA rules, however, Prime Air remains grounded. Currently the FAA's policy (<http://www.gpo.gov/fdsys/pkg/FR-2007-02-13/html/E7-2402.htm>) for UAS operations is that "no person may operate a UAS in the National Airspace System without specific authority." Even under the newly proposed rules, Prime Air's wings remain clipped. Visual restrictions combined with the ban on human over-flight would hinder Prime Air, rendering drone-based package delivery useless. After all, the purpose of drone-based delivery is to substitute drones for humans. To require continuous line-of-sight drone delivery quashes this purpose.

Tensions between public safety and commerce are not new. Nevertheless, safety concerns regarding the use of drones are worth contemplating. Consider for instance the once revolutionary idea of placing the newly invented automobile (http://amhistory.si.edu/onthemove/themes/story_86_1.html) into the public's hands in 1910. With the benefits of increased mobility and independence, the automobile simultaneously brought pedestrian, driver, and passenger injuries and fatalities. These new problems required novel solutions. As ubiquitous now as airbags, seatbelts, and headlights are, none of these existed during the early stages of automobile development. More importantly, changes to the law and the creation of new automobile laws and regulations helped ensure public safety without discouraging innovation.

Before thousands of drones get a free pass to drop packages on porches, the possible risks must be mitigated. The FAA Modernization and Reform Act (<http://www.gpo.gov/fdsys/pkg/PLAW-112publ95/pdf/PLAW-112publ95.pdf>) of 2012 stipulates that the FAA "provide for the safe integration of civil unmanned aircraft systems into the national airspace system as soon as

practicable, but not later than September 30, 2015.” The concern for public safety is significant, and the FAA must get its new rules right. Anyone who has been struck by an errant ball or Frisbee knows that flying objects hurt on contact. Damage to property no less injures. Drone-to-person contact and air-to-air collision are just some areas posing significant public risk. Whether by operator error, computer glitch, or frequency jamming, drones are by no means risk-free modes of flight. Even with modern advances in sense-and-avoid technologies purportedly being integrated into newer drones, the public has a right to demand thorough flight-safety regulations and restrictions.

Understandably, Amazon and others want fewer restrictions and faster authorization to fly. However, the revamping of airspace regulations should emphasize safety over commercial needs. In the interim, the FAA can grant Special Use Airspace (https://www.faa.gov/air_traffic/publications/atpubs/aim/aim0304.html) privileges to Amazon and others so those companies may continue to develop and refine safe drone flight. Smart regulatory reform and technological advances need not proceed at odds. A concerted effort among aerospace and commercial leaders, combined with well-crafted regulations, serves both the public and industry.

The proposed FAA rules are not yet final. Until April 24, 2015, FAA Director Michael Huerta says the FAA will accept public comment. Huerta (<http://www.regulations.gov/#!documentDetail;D=FAA-2015-0150-0017>) asserts that, “[w]e want to maintain today’s outstanding level of aviation safety without placing an undue regulatory burden on an emerging industry.” In addition to Amazon, lobbyists (<http://www.reuters.com/article/2015/02/24/us-usa-drones-lobbying-idUSKBN0LS04R20150224>) from aerospace industries to news media plan to push back on the regulations. To voice suggestions before the FAA decides on new drone airspace regulations, go to the Federal government’s easy online public comment (<http://www.regulations.gov/#!documentDetail;D=FAA-2015-0150-0017>) form. Submissions are due by 11:59 Eastern Time, April 24, 2015.

Tags: Amazon, comment, delivery, drone, e-commerce, FAA Modernization and Reform Act of 2012, Federal Aviation Administration, Jeff Bezos, Prime Air, Regulation, Technology, Unmanned Aircraft, Unmanned Aircraft System

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