

ALERTS

Aviation Law Alert - FAA Gains Traction In Developing Rules Governing Drones In Flight Over People

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On April 6, a committee convened by the Federal Aviation Administration (FAA) released its recommendations for permissible flights of Unmanned Aircraft Systems (UAS) over people. The FAA's Micro UAS Aviation Rulemaking Committee, consisting of advocacy groups and companies in the UAS industry, presented the FAA with "recommendations for a performance-based standard that would allow small UAS (under 55 pounds) to be operated over people who are not directly participating in the operation of the UAS or under a covered structure." The committee said the risk posed by certain UAS flying over people is "injury or death to persons on the ground."

The recommendations include the creation of four categories to assess and limit risks to persons on the ground. The following are the four categories recommended by the committee:

- **Category 1:** For a small UAS that weighs less than 0.55 pounds (250 grams), operations over people would be permitted under very limited restrictions. Category one is designed for a toy UAS or a small UAS approximately the size of a smartphone that poses a low risk when flown over people.
- **Category 2:** For a small UAS weighing between four and five pounds that creates a low risk of serious injury based on its energy profile, operations over people would be permitted as long the operator maintains a minimum distance of 20 feet above people's heads or 10 feet laterally away from people on the ground. There are a number of small UAS currently on the market that are expected to fit within this category.
- **Category 3:** For a small UAS weighing between six and eight pounds that creates a moderate risk of serious injury based on their energy profile and meets certain manufacturer certification requirements, operations would be permitted over some people if they are incidental to the operation. In this category, operators would not be permitted to fly over crowds of people, but could fly over a closed or restricted access worksite or over transient or incidental pedestrians so long as the overhead flight was not sustained.
- **Category 4:** For a small UAS weighing between six and eight pounds that creates a moderate risk of serious injury based on their energy profile and meets certain manufacturer certification requirements, operations over people would be permitted in accordance with a required documented risk mitigation plan. In this

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category, operations over crowds would be permitted. The documented risk mitigation plan would have to meet voluntary consensus standards to be established later.

Flights that are not conducted over people will be subject to the requirements of the general small UAS Notice of Proposed Rulemaking (NPRM) once finalized. The next step is for the FAA to present a formal rulemaking to address small UAS flights over people. The FAA believes it will issue those rules by the end of this year with a final rulemaking sometime in 2017. In addition, Congress is considering FAA legislation that would include statutory requirements for small UAS flights over people.

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