

Cleared for Takeoff: Do You Need FCC Permission to Operate that Drone?

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In recent years, the drone industry has proliferated, enjoying exponential growth in popularity and technological sophistication. Drone technology available to the general public has become increasingly advanced. Now, drones can fly great distances, and, in some cases, transmit a live video back to the operator to allow the drone to maneuver beyond the operator's visual line-of-sight. This has led to the popularization of first person view (FPV) flying. FPV flying allows drone "pilots" to experience their surroundings as if they are sitting in the drone's "cockpit." FPV flying has myriad applications in the commercial arena, and has been a subject of increasing popularity among businesses in the insurance, agricultural, entertainment, and logistics industries. U.S. regulators have noticed. For example, on February 15, 2015, the Federal Aviation Administration (FAA) released a proposed framework regulating small-scale commercial drone use. However, with so much attention paid to the FAA's proposed regulations, it seems that few have considered the potential impact of regulations already in effect. One regulatory framework that may impact the multi-billion dollar drone industry is promulgated by the Federal Communications Commission (FCC). Most drones use radio communications in some aspect of their operation. Depending on the power, type, and frequency of the radio transmission, a specialized license may be required. However, transmissions sent on certain unlicensed frequencies, or with specialized equipment, may not require the end-user to obtain special permission from the FCC. To effectively operate at great distances and transmit video back to the operator in real time, drones transmit and receive radio signals at different powers and frequencies, many of which require the operator to obtain special licensing. Less sophisticated products, however, may be pre-certified by the FCC. In some circumstances, FCC compliance may become further complicated due to the FCC's prohibition against certain communications in which the operator has a pecuniary interest. Consequently, many drone manufacturers may be selling a product that the vast majority of consumers may not operate legally, and many operators may be flying drones without the requisite authorization. Drone operators and manufacturers should pay close attention to new and proposed regulations, but must also be careful not to overlook existing

regulatory schemes that may impact this technology in less obvious ways. As with any avant-garde technology, the extent to which the FCC rules will be interpreted remains to be seen.

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