

action. The FAA's approval or disapproval of Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Act and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of Part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing non-compatible land uses around the airport and preventing the introduction of additional non-compatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in Part 150, section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required. Prior to an FAA decision on a request to implement the action, an environmental review of the proposed action may be required. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA San Francisco Airports District Office in the Western-Pacific Region.

The Airport Commission submitted their noise compatibility program to the FAA on July 17, 2018, including the noise exposure maps, descriptions and other documentation produced during the noise compatibility planning study conducted from March 3, 2014 through October 18, 2018. The San Francisco International Airport noise exposure maps were determined by FAA to be in compliance with applicable

requirements on January 29, 2016.

Notice of this determination was published in the **Federal Register** (81 FR 7186) on February 10, 2016.

The noise exposure maps are based on operational data that is now over five years old. FAA received certification, in accordance with 14 CFR 150.21, that the noise exposure maps are representative of conditions at the airport for the existing and forecast timeframe as of the date of August 2015. Due to the aircraft operational and fleet mix changes since 2015, at the airport, FAA recommends the Airport Commission review, revise, and update, as appropriate the future noise exposure maps under 14 CFR 150.21 at the earliest opportunity.

The San Francisco International Airport study contains a proposed noise compatibility program update comprised of actions designed for phased implementation by the Airport Commission through the year 2019. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in section 47504 of the Act. The FAA began its review of the program on October 26, 2018, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new or modified flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained 3 (three) proposed measures for noise abatement, noise mitigation, and program management. The FAA completed its review and determined that the procedural and substantive requirements of the Act and Part 150 have been satisfied. The overall program was approved by the FAA, effective April 1, 2019.

Outright approval was granted for the 3 (three) program measures. The approved measures include: Noise Abatement Measure #1—Install Permanent or Portable Aircraft Noise and Operations Monitoring Equipment; Noise Mitigation Measure #1—Acoustical Treatment Program; and Program Management Measure—Review and Revision of the Noise Compatibility Program.

These determinations are set forth in detail in a Record of Approval signed by the Director, Office of Airports, Western-Pacific Region on April 1, 2019. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the

administrative offices of the Airport Commission.

The Record of Approval also will be available on-line at: [http://www.faa.gov/airports/environmental/airport\\_noise/part\\_150/states/](http://www.faa.gov/airports/environmental/airport_noise/part_150/states/).

Issued in El Segundo, California on May 6, 2019.

**Arlene B. Draper,**

*Acting Director, Office of Airports, Western-Pacific Region.*

[FR Doc. 2019-09956 Filed 5-16-19; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[Docket No. FAA-2019-0364]

#### Exception for Limited Recreational Operations of Unmanned Aircraft

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Notice implementing the exception for limited recreational operations of unmanned aircraft.

**SUMMARY:** This action provides notice of the statutory exception for limited recreational operations of unmanned aircraft. It also describes the agency's incremental implementation approach for the exception and how individuals can operate recreational unmanned aircraft (commonly referred to as drones) today under the exception.

**FOR FURTHER INFORMATION CONTACT:** For questions concerning this notice, contact Danielle Corbett, Aviation Safety Inspector, Unmanned Aircraft Systems Integration Office, 490 L'Enfant Plaza SW, Suite 7225, Washington, DC 20024, telephone (844) 359-6982, email [UAShelp@faa.gov](mailto:UAShelp@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Operators of small unmanned aircraft (also referred to as drones) for recreational purposes must follow the rules in 14 CFR part 107 for FAA certification and operating authority unless they follow the conditions of the Exception for Limited Recreational Operations of Unmanned Aircraft, discussed in this notice. The FAA refers to individuals operating under that statutory exception as "recreational flyers."

On October 5, 2018, the President signed the FAA Reauthorization Act of 2018 (Pub. L. 115-254). Section 349 of that Act repealed the Special Rule for Model Aircraft (section 336 of Pub. L. 112-95; Feb. 14, 2012) and replaced it

with new conditions to operate recreational small unmanned aircraft without requirements for FAA certification or operating authority. The Exception for Limited Recreational Operations of Unmanned Aircraft established by section 349 is codified at 49 U.S.C. 44809.

With the repeal of the Special Rule for Model Aircraft, the regulations at 14 CFR part 101, subpart E, which implemented the Special Rule, are no longer valid, and the FAA intends to remove that subpart in the near future.

Section 44809(a) provides eight conditions that must be satisfied to use the exception for recreational small unmanned aircraft (those weighing less than 55 pounds). Some of those conditions (specifically the aeronautical knowledge and safety test as well as recognition of community-based organizations and coordination of their safety guidance) cannot be implemented immediately. Accordingly, the FAA is incrementally implementing section 44809 to facilitate recreational unmanned aircraft operations. The next section sets forth the eight statutory conditions, explains how the agency is implementing each of them, and provides guidance to recreational flyers.

Recreational flyers must adhere to all of the statutory conditions to operate under the Exception for Limited Recreational Operation of Unmanned Aircraft. Otherwise, the recreational operations must be conducted under 14 CFR part 107.

Although 49 U.S.C. 44809(c) permits operations of some unmanned aircraft weighing more than 55 pounds under additional conditions and as approved by the FAA, the FAA intends to publish guidance concerning operations of these larger unmanned aircraft in the near future.

## II. Statutory Conditions and Additional Guidance

The eight statutory conditions are as follows:

### 1. *The aircraft is flown strictly for recreational purposes.*

Your unmanned aircraft must be flown for only a recreational purpose throughout the duration of the operation. You may not combine recreational and commercial purposes in a single operation. If you are using the unmanned aircraft for a commercial or business purpose, the operation must be conducted under 14 CFR part 107 or other applicable FAA regulations.

### 2. *The aircraft is operated in accordance with or within the programming of a community-based organization's set of safety guidelines*

*that are developed in coordination with the FAA.*

The FAA Reauthorization Act of 2018 requires the FAA and community-based aeromodelling organizations (CBOs) to coordinate the development of safety guidelines for recreational small unmanned aircraft operations. 49 U.S.C. 44809(a)(2). CBOs are defined in section 44809(h) and must be recognized by the FAA in accordance with section 44809(i). Section 44809(i) requires the FAA to publish guidance establishing the criteria and process for recognizing CBOs. The FAA is developing the criteria and intends to collaborate with stakeholders through a public process.

Until the FAA establishes the criteria and process and begins recognizing CBOs, it cannot coordinate the development of safety guidelines. Accordingly, no recognized CBOs or coordinated safety guidelines currently exist, as contemplated by section 44809(a)(2). Additionally, the FAA acknowledges that aeromodelling organizations have developed safety guidelines that are helpful to recreational flyers. The FAA has determined that it is in the public interest to reasonably interpret this condition to allow recreational unmanned aircraft operations under the exception while the FAA implements all statutory conditions. The alternative would be to prohibit these operations or to require all operators of recreational unmanned aircraft to obtain a remote pilot certificate under 14 CFR part 107 and comply with the part 107 operating rules. Accordingly, to facilitate continued recreational unmanned aircraft operations during the implementation process, the FAA finds that operations conducted in accordance with existing safety guidelines of an aeromodelling organization satisfy this condition, provided those guidelines do not conflict with the other statutory conditions of section 44809(a).

Alternatively, during this interim period, the FAA directs recreational flyers to existing basic safety guidelines, which are based on industry best practices, on its website ([faa.gov/uas](http://faa.gov/uas)):

- Fly only for recreational purposes
- Keep your unmanned aircraft within your visual line-of-sight or within the visual line of sight of a visual observer who is co-located and in direct communication with you
- Do not fly above 400 feet in uncontrolled (Class G) airspace
- Do not fly in controlled airspace without an FAA authorization
- Follow all FAA airspace restrictions, including special security instructions and temporary flight restrictions

- Never fly near other aircraft
- Always give way to all other aircraft
- Never fly over groups of people, public events, or stadiums full of people
- Never fly near emergency response activities
- Never fly under the influence of drugs or alcohol

You also should be able to explain to an FAA inspector or law enforcement official which safety guidelines you are following if you are flying under the exception for limited recreational unmanned aircraft operations.

The FAA will provide notice when it has issued final guidance and has started recognizing CBOs.

### 3. *The aircraft is flown within the visual line of sight of the person operating the aircraft or a visual observer co-located and in direct communication with the operator.*

Either the person manipulating the controls of the recreational unmanned aircraft or a visual observer, who is near the operator and able to communicate verbally, must have eyes on the aircraft at all times to ensure the unmanned aircraft is not a collision hazard to other aircraft or people on the ground. Using a visual observer generally is optional, but a visual observer is required for first-person view (FPV) operations, which allow a view from an onboard camera but limit the operator's ability to scan the surrounding airspace.

### 4. *The aircraft is operated in a manner that does not interfere with and gives way to any manned aircraft.*

When flying an unmanned aircraft, you are responsible for knowing the aircraft's altitude and its position in relation to other aircraft. You also are responsible for maintaining a safe distance from other aircraft by giving way to all other aircraft in all circumstances.

### 5. *In Class B, Class C, or Class D airspace or within the lateral boundaries of the surface area of Class E airspace designated for an airport, the operator obtains prior authorization from the Administrator or designee before operating and complies with all airspace restrictions and prohibitions.*

Classes B, C, D, and E are collectively referred to as controlled airspace. The FAA has created different classes of airspace to reflect whether aircraft receive air traffic control services and to note levels of complexity, traffic density, equipment, and operating requirements that exist for aircraft flying through different parts of controlled airspace. Generally, these classes of controlled airspace are found near airports.

Manned aircraft operations receive air traffic control services in controlled airspace and are authorized in controlled airspace as part of these services. Small unmanned aircraft operations do not receive air traffic services, but they must be authorized in the airspace because FAA air traffic control is responsible for managing the safety and efficiency of controlled airspace. For operations under part 107, the FAA has an online system, Low Altitude Authorization and Notification Capability (LAANC), to provide this real-time, automated authorization. Part 107 operators also can request airspace authorization through FAA's DroneZone portal, but this manual process can take longer.

The FAA currently is upgrading LAANC to enable recreational flyers to obtain automated authorization to controlled airspace. The FAA is committed to quickly implementing LAANC for recreational flyers. The FAA also is exploring upgrades to DroneZone to enable access for recreational flyers.

#### *Authorization To Operate Recreational Unmanned Aircraft at Certain Fixed Sites in Controlled Airspace*

Until LAANC is available for recreational operations, the FAA is granting temporary airspace authorizations to operate at certain fixed sites (commonly referred to as flying fields) that are established by an agreement with the FAA. For fixed sites that are located in controlled airspace two or more miles from an airport, operations are authorized up to the unmanned aircraft system (UAS) facility map (UASFM) altitudes. The FAA is reviewing fixed sites located within two miles of an airport and will make individualized determinations of what airspace authorization is appropriate. Aeromodeling organizations that sponsor fixed sites, regardless of their location within controlled airspace, can obtain additional information about requesting airspace authorization from the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document.

During this interim period, you may fly in controlled airspace only at authorized fixed sites. The list of authorized fixed sites is available on the FAA's website at [www.faa.gov/uas](http://www.faa.gov/uas) and will be depicted on the maps on the FAA's UAS Data Delivery System, which is available at <https://udds-faa.opendata.arcgis.com>. Agreements establishing fixed sites may contain additional operating limitations. If you fly at a fixed site in controlled airspace, you must adhere to the operating

limitations of the agreement, which is available from the fixed site sponsor.

As a reminder, existing FAA rules provide that you may not operate in any designated restricted or prohibited airspace. This includes airspace restricted for national security reasons or to safeguard emergency operations, including law enforcement activities. The easiest way to determine whether any restrictions or special requirements are in effect as well as the authorized altitudes where you want to fly is to use the maps on the FAA's UAS Data Delivery System, which is available at <https://udds-faa.opendata.arcgis.com>, and to check for the latest FAA Notices to Airmen (NOTAMs). This information may also be available from third-party applications.

The FAA will provide notice when LAANC is available for use by recreational flyers.

Please do not contact FAA Air Traffic facilities for airspace authorization because these facilities will no longer accept requests to operate recreational unmanned aircraft in controlled airspace.

*6. In Class G airspace, the aircraft is flown from the surface to not more than 400 feet above ground level and complies with all airspace restrictions and prohibitions.*

Class G airspace is uncontrolled airspace in which the FAA does not provide air traffic services.

You may operate recreational unmanned aircraft in this airspace up to an altitude of 400 feet above ground level (AGL).

Additionally, you may not operate in any designated restricted or prohibited airspace. This includes airspace restricted for national security reasons or to safeguard emergency operations, including law enforcement activities. The easiest way to determine whether any restrictions or special requirements are in effect where you want to fly is to use the maps on the FAA's UAS Data Delivery System, which is available at <https://udds-faa.opendata.arcgis.com>, and to check for the latest FAA NOTAMs.

*7. The operator has passed an aeronautical knowledge and safety test and maintains proof of test passage to be made available to the Administrator or a designee of the Administrator or law enforcement upon request.*

Section 44809(g) requires the FAA to develop, in consultation with stakeholders, an aeronautical knowledge and safety test that can be administered electronically. This test is intended to demonstrate a recreational flyer's knowledge of aeronautical safety

knowledge and rules for operating unmanned aircraft.

The FAA currently is developing an aeronautical knowledge and safety test and plans to engage stakeholders on its development through a public process.

The FAA acknowledges that satisfying this statutory condition is impossible until the FAA establishes the aeronautical knowledge and safety test. For the reasons discussed earlier in this document, the FAA has determined this condition will apply only after the FAA develops and makes available the knowledge and safety test. Accordingly, during this interim period, recreational flyers who adhere to the other seven conditions under section 44809(a), may use the exception for limited recreational unmanned aircraft operations.

The FAA will provide additional guidance and notice when the aeronautical knowledge and safety test is available and the date on which adherence to this condition is required.

*8. The aircraft is registered and marked and proof of registration is made available to the Administrator or a designee of the Administrator or law enforcement upon request.*

Registration and marking requirements for small unmanned aircraft, including recreational unmanned aircraft, can be found at 14 CFR part 48, and online registration can be completed at [faa.gov/uas/getting\\_started/registration/](http://faa.gov/uas/getting_started/registration/). Each unmanned aircraft used for limited recreational operations must display the registration number on an external surface of the aircraft. Recreational flyers also must maintain proof of registration and make it available to FAA inspectors or law enforcement officials upon request.

The FAA remains committed to facilitating safe operation of recreational unmanned aircraft to the maximum extent authorized by Congress, while effectively addressing national security and public safety concerns. The FAA is devoting resources to fully implement this new framework as expeditiously as possible.

This interim implementation guidance provides information to recreational flyers on how to comply with the statutory conditions for the Exception for Limited Recreational Operations of Unmanned Aircraft, codified at 49 U.S.C. 44809. Accordingly, the FAA has determined this interim implementation guidance does not independently generate costs for recreational flyers.

The FAA has updated FAA Advisory Circular 91-57B to reflect the interim guidance provided in this notice. The FAA will continue to provide updated

direction and guidance as implementation proceeds. The FAA intends to follow up with regulatory amendments to formalize the exception for limited recreational unmanned aircraft operations.

The guidance provided in this notice is not legally binding in its own right and will not be relied upon by the Department or the FAA as a separate basis for affirmative enforcement action or other administrative penalty. Regardless of whether you rely on the guidance in this document, you are independently required to comply with all existing laws applicable to the operation of unmanned aircraft systems. Conforming your actions with the guidance in this notice does not excuse or mitigate noncompliance with other applicable legal requirements.

Nevertheless, if your operation fails to satisfy the eight statutory conditions, as described in this notice, or if you are not operating under part 107 or other FAA authority, your operation may violate other FAA regulations and subject you to enforcement action. Additionally, if you operate your recreational unmanned aircraft carelessly or recklessly, the FAA may exercise existing authority to take enforcement action against you for endangering the national airspace system.

Please continue to check [faa.gov/uas](http://faa.gov/uas) on a regular basis for the most current direction and guidance.

Issued in Washington, DC, on May 8, 2019.

**Robert C. Carty,**

*Deputy Executive Director, Flight Standards Service.*

[FR Doc. 2019-10169 Filed 5-16-19; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

[FHWA Docket No. FHWA-2018-0044]

#### Surface Transportation Project Delivery Program; TxDOT Audit #5 Report

**AGENCY:** Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).

**ACTION:** Notice.

**SUMMARY:** The Surface Transportation Project Delivery Program allows a State to assume FHWA's environmental responsibilities for review, consultation, and compliance for Federal highway projects. When a State assumes these Federal responsibilities, the State becomes solely responsible and liable for carrying out the responsibilities it has assumed, in lieu of FHWA. Prior to

the Fixing America's Surface Transportation (FAST) Act of 2015, the Program required semiannual audits during each of the first 2 years of State participation to ensure compliance by each State participating in the Program. This notice finalizes the findings of the fifth and last audit report for the Texas Department of Transportation's (TxDOT) participation in accordance to these pre-FAST Act requirements.

**FOR FURTHER INFORMATION CONTACT:** Dr. Owen Lindauer, Office of Project Development and Environmental Review, (202) 366-2655, [owen.lindauer@dot.gov](mailto:owen.lindauer@dot.gov), or Mr. David Sett, Office of the Chief Counsel, (404) 562-3676, [david.sett@dot.gov](mailto:david.sett@dot.gov), Federal Highway Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

An electronic copy of this notice may be downloaded from the specific docket page at [www.regulations.gov](http://www.regulations.gov).

##### Background

The Surface Transportation Project Delivery Program (or NEPA Assignment Program) allows a State to assume FHWA's environmental responsibilities for review, consultation, and compliance for Federal highway projects. This provision has been codified at 23 U.S.C. 327. Since December 16, 2014, TxDOT has assumed FHWA's responsibilities under NEPA and the responsibilities for reviews under other Federal environmental requirements under this authority.

Prior to December 4, 2015, 23 U.S.C. 327(g) required the Secretary to conduct semiannual audits during each of the first 2 years of State participation, annual audits during years 3 and 4, and monitoring each subsequent year of State participation to ensure compliance by each State participating in the Program. The results of each audit were required to be presented in the form of an audit report and be made available for public comment. On December 4, 2015, the President signed into law the FAST Act, Public Law 114-94, 129 Stat. 1312 (2015). Section 1308 of the FAST Act amended the audit provisions by limiting the number of audits to one audit each year during the first 4 years of a State's participation. A draft version of this report was published in the **Federal Register** on December 14, 2017, at 82 FR 59206 and was available for

public review and comment. The FHWA received one response during the 30-day public notice and comment period. The American Road and Transportation Builders Association voiced support of this program. This notice finalizes the findings of the fifth and final audit report for the TxDOT participation in the Surface Transportation Project Delivery Program.

**Authority:** Section 1313 of Public Law 112-141; Section 6005 of Public Law 109-59; Public Law 114-94; 23 U.S.C. 327; 49 CFR 1.85.

Issued on: May 9, 2019.

**Nicole R. Nason,**

*Administrator, Federal Highway Administration.*

#### Surface Transportation Project Delivery Program, FHWA Audit #5 of the Texas Department of Transportation, August 1, 2017, to August 1, 2018

##### Executive Summary

This is a report of Federal Highway Administration's (FHWA) fifth audit (Audit #5) of the Texas Department of Transportation (TxDOT) responsibilities assigned under a memorandum of understanding (MOU) effective December 16, 2014. From that date, TxDOT assumed FHWA's National Environmental Policy Act (NEPA) responsibilities assigned for the environmental review and compliance and for other environmental review laws and requirements for highway projects in Texas (NEPA Assignment Program). This report concludes with a status update for FHWA's observations from the fourth audit review (Audit #4).

The FHWA Audit #5 team (team) was formed in October 2017 and met regularly to prepare for the on-site portion of the audit. Prior to the on-site visit, the team: (1) performed reviews of project files in TxDOT's Environmental Compliance Oversight System (ECOS), (2) examined TxDOT's responses to FHWA's pre-audit information requests (PAIR), and (3) developed interview questions. The on-site portion of this audit, comprised of TxDOT interviews, was conducted on May 21-25, 2018.

The TxDOT continues to develop, revise, and implement procedures and processes required to carry out the NEPA Assignment Program. Overall, the team found continued evidence that TxDOT is committed to establishing a successful program. This report summarizes the team's assessment of the status of several aspects of the NEPA Assignment Program, including a variety of successful practices and five observations that represent opportunities for TxDOT to improve its program. The team identified two