

August 4, 2016

FAA/Office of the Chief Counsel
International Law, Legislation, & Regulations Division, AGC-200
Attn: Request for Legal Interpretation
800 Independence Avenue, SW.
Washington, DC 20591

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To Whom It May Concern:

Please consider this letter a request for interpretation from the FAA's Office of the Chief Counsel.

Interpretation is requested on the following:

"Are small unmanned aircraft systems (UAS or "drones") exempted in hobby or commercial use from the requirement to operate with a Mode C transmitting transponder when operating within the lateral limits of Mode C veil requirements around Class B airspaces without prior approval, coordination with, or authorization from the supervising ATC facility?"

In consideration of the following:

- § 1.1 defines an "aircraft" as "a device that is used or intended to be used for flight in the air", and to which the FAA has applied this regulation to any UAS of "drone" of greater than .55 lbs for requirement of registration;
- § 91.215 (b)(2) requires that a transponder with altitude encoding capability be used "In all airspace within 30 nautical miles of an airport listed in Appendix D, section 1, of this part from the surface upward to 10,000 feet MSL." (of FAR part 91);
- § 91.215 (d) requires any deviation from this compliance "be made to the ATC facility having jurisdiction over the concerned airspace within the time periods..." of operation and meeting the compliance requirements of FAR 91.215(d)(1), (2), and (3);
- It is understood that a UAS or "drone" intending to conduct operations in Class B, C, D and E airspace need ATC approval. In this case, underlying a Class B airspace will most commonly exist Class E airspace, however, in some cases, Class G airspace may exist underneath a Class B airspace shelf. In either case, the question proposed here shall not be considered to be intended to imply operation within the Class B vertical airspace shelf

limits, but be underneath or laterally to the side yet still within the Mode C transponder requirement veil that exists outside of most Class B airspace designated airports; as per §107.41 Operation in certain airspace it is understood that no person may operate a small unmanned aircraft 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 unless that person has prior authorization from Air Traffic Control (ATC);

- These operations are not “operated in accordance with a community-based set of safety guidelines and within the programming of a nationwide community-based organization” as designated in FAR 101;
- § 91.1 does not currently exempt the applicability of FAR 107 operated aircraft;
- This would not be requesting interpretation of operations of aircraft subject to the provisions of part 101 or any operation that a remote pilot in command elects to conduct pursuant to an exemption issued under section 333 of Public Law 112-95, unless otherwise specified in the exemption.

One FAA FAQ document notes the following, “the FAA notes that operations conducted under part 107 do not need to comply with part 91 unless explicitly directed by part 107. The transponder requirement in the mode C veil (14 CFR part 91.215(b)(2)) is not required of part 107 operations.” However, current regulatory guidance I have been able to find does not support that statement at this time.

Your efforts in interpretation of this question are appreciated and I look forward to your correspondence.

Should there be any questions relating to my inquiry, please feel free to reach me at jblair@jasonblair.net, via the above address, or via phone at 269-275-7959.

Respectfully,

Jason Blair