

# UAS OPERATION AND REGULATION UNDER FEDERAL LAW (FOR NOW)

Nicholas M. Clabbers  
Kaplan Kirsch & Rockwell LLP

# The Only Constant Is Change

- Sec. 333 → Part 107 → LAANC
- Sec. 336 → 2018 Reauthorization
- Airports' involvement ... “notify” → nothing!
- Register! → No, it's illegal → register!
- Flight in B, C & D? Ok but... → Not without FAA OK!
- LAANC just for 107 → everyone



# Baseline Legal Materials

- 49 U.S.C. § 44807 operations (formerly Sec. 333)
- Part 107 operations - commercial
- Operations about which we are most worried about today
  - Recreational
  - Those with ill-intent



# Multiple Regulatory Schemes

- Governmental – not our focus today
  - HOWEVER, if your police or public works department has a drone, be sure to do it right. Talk to your municipal lawyer and the district attorney's office.
- Section 333s “COAs” (modified as of end of 2018!)
- Part 107s (generally, commercial)
- Section 336 operations (gone as of end of 2018!)





## A few details...

- **333s / COAs**

- The “old” way to get authorization
- Still applies to operations involving UAS weighing more than 55lbs
- Long, detailed document.
- Now reserved for “unique” use of UAS under 49 U.S.C. § 44807

- **Part 107**

- The new(ish)/improved/streamlined mainline regulatory scheme
- Can apply to commercial or recreational flights...particularly now



**Non-Model (Commercial & Non-336)**

**HIGHLIGHTS OF PART 107**

**NON-MODEL Part 107 & Section 333**

- Aircraft Must Be Under 55 lbs.
- Visual Observer is NOT Required
- Daylight Only
- Cannot Operate Over People
- 400 ft. Max Height Above the Ground
- Remote Pilot Certificate
- The Test Costs \$150
- FPV Is Allowed If There Is a Visual Observer
- No Operations From a Moving Vehicle in a Populated Area
- Operations in Class G Airspace Only

**CERTIFIED Remote Pilot 2016**

Summary by Jonathan Rupprecht, Esq.





# Part 107 Waivers

*(Sometimes you need something special)*



Flying at Night



100 MPH +



Flying Beyond Visual Line of Sight



Flying Over People



Flying Over 400 ft. Above the Ground

Operations Near Manned Aircraft



Multiple Drones for 1 Pilot (Swarm)



FPV Without a Visual Observer



No Operations From a Moving Vehicle in a Populated Area



Operations in Class B, C, D, & E @ SFC



Special Thanks to Rupprecht Law, P.A.



# Regulatory Gap-Filling, Slowly But Surely

- Original law, Sec. 333 and Sec. 336 gap
- Section 107 – commercial operators
- Filling the holes: FAA Reauthorization Act of 2018
  - Repeals Sec. 336, all drone operators must follow same rules
  - Key for Airports: **No flight in controlled airspace without FAA Approval**
  - No formal regulations for recreational operators yet
  - Ever-evolving regulatory scheme – latest . . . May 17
    - LAANC to be used
    - Practical impact around airports – “land of the zeroes”
    - July 23 – LAANC available to recreational users
  - FAA to develop policy to guide local governments and law enforcement FAA continues to publish rules to integrate drones



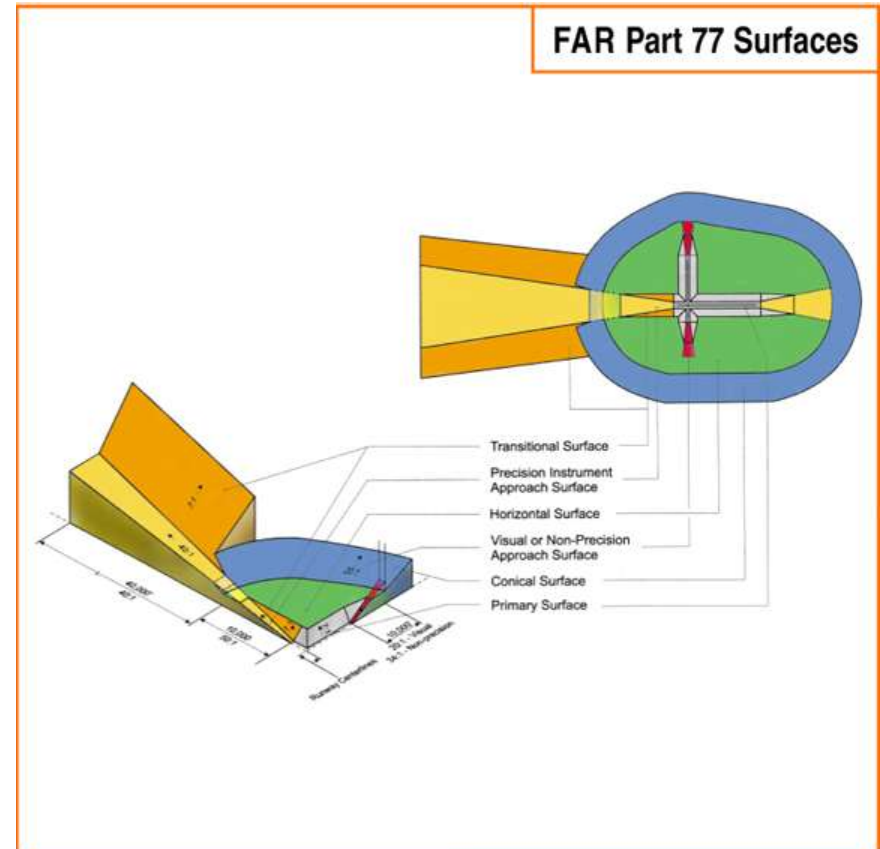


# What is the LAANC?



# Airport Sponsors' Obligations for Airspace Protection

- Sponsors have always had responsibilities in protection of airspace surrounding the field.
- Many iterations possible
- Core obligations are the same
- Safety obligations imposed by grant assurances



# What Can (and Should) Airports Do?

- Shoot ‘em down??
  - “The FAA currently does not support the usage of C-UAS systems [by airports]”
- Pass new laws?
  - Not much power – preemption
  - Utilize land use regulatory power...maybe
- Enforcement of existing laws?
  - UAS-specific laws
  - General purposes laws
- Unquestionably permissible
  - Coordination with local law enforcement
  - Training of staff and officers
  - Education of the public



# Questions?

Nicholas M. Clabbers

[nclabbers@kaplankirsch.com](mailto:nclabbers@kaplankirsch.com)

303-825-6388

ATTORNEY ADVERTISEMENT. The contents of this document, current at the date of publication, are for reference purposes only and do not constitute legal advice.  
© 2019 Kaplan Kirsch & Rockwell LLP

