

 <p>NEW YORK STATE OF OPPORTUNITY.</p> <p>Parks, Recreation and Historic Preservation</p> <p>Section: Operations</p>	<p>Procedure Title: Regulating Unmanned Aircraft Systems</p> <p>Directive: OPR-PCD-018</p> <p>Effective Date: 01/06/2015</p>
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Summary

An Unmanned Aircraft System (UAS) operating within OPRHP facilities may impact staff, visitors, buildings and natural resources, including wildlife, in various ways. Recent requests to permit UAS (and unauthorized uses of UASs) in several facilities have generated questions regarding their legality, compatibility with OPRHP’s mission and resources, patron ability to control their use, and visitor safety and privacy. This procedure shall guide the Office of Parks, Recreation and Historic Preservation (OPRHP) staff in regulating the recreational, commercial and administrative uses of UASs in OPRHP facilities through its permit system.

OPRHP’s statute and regulations address some UAS activities. Generally, UAS activity can be divided into three use categories: recreational (hobby); commercial (including film and photography); and administrative. OPRHP’s statute, regulations, this new procedure and permits shall apply only to a UAS launched from within OPRHP-controlled property. A UAS that is launched from *outside* of OPRHP property but flown over OPRHP-controlled property is regulated by the Federal Aviation Administration (“FAA”) and adjacent landowners.

Procedure

Definition

For purposes of this procedure, the term “**Unmanned Aircraft System**” (**UAS**) means a device that is used or intended to be used for flight in the air without the possibility of direct human intervention from within or on the device and the associated operational elements and components that are required for the pilot or system operator to control the device such as cameras, sensors, communication links etc. This term includes all types of devices that meet this definition (e.g., model airplanes, quad copters, drones etc.) that may be used for *any* purpose including, but not limited to: recreational, commercial or administrative uses.

Statement

The launch, landing and operation of UAS is allowed in state parks and historic sites only with prior written approval by the agency through a permit authorizing the specific time, location

and type of use. OPRHP retains sole discretion to determine whether to approve or deny requests to launch an Unmanned Aircraft System. The detailed criteria OPRHP will use in determining whether to issue a permit are provided below, and conditions are provided in the attached sample permit. Any launch or operation of a UAS that has not received prior approval from OPRHP through issuance of a written permit is prohibited. OPRHP will actively enforce this procedure and other relevant agency statutes, regulations and guidelines.

Recreational Uses

The recreational flying of toy or model rockets or aircraft (types of UAS) is subject to 9 NYCRR Section 372.7(j) and in the Palisades Region to 9 NYCRR Section 409.1(j). Under these regulations and this procedure, the launching, landing or operation of a UAS for recreational purposes from or on lands and waters administered by OPRHP is an activity that requires an operator to apply for a special UAS permit that shall include conditions outlining the time, place and manner of use.

Commercial Uses

The use of a UAS for commercial purposes is authorized by PRHPL Section 3.09(2) and 9 NYCRR Sections 372.7(b) and 409.1(c) where, generally, a permit is required for any commercial activity in OPRHP facilities (i.e., the selling or offering for sale, hire or lease of any merchandise, service, or other thing of value).

Film Permit

Importantly, 9 NYCRR Sections 372.7(b) and 409.1(c) support a subcategory of commercial permit—known as the standard film permit—that OPRHP issues for activities involving filming or photography that may interfere with the public or park operations. This procedure supplements the procedure and guidelines that govern standard film permits when a UAS is also used in filming. Conditions outlined in the sample UAS permit may be incorporated into the standard film permit.

Administrative Uses

OPRHP regulates governmental agency and not-for-profit use of UASs for administrative purposes on property under OPRHP jurisdiction through its general authority to operate and maintain its facilities (Section 3.09(2) of the Parks, Recreation and Historic Preservation Law).

FAA Authorization or Certification Required

The FAA has standards in place for the operation of a UAS regardless of its intended use. Every UAS permit issued by OPRHP shall be conditioned on compliance with FAA requirements. The FAA has authorized recreational use of model aircraft through **Advisory Circular 91-57** and **section 336 of the FAA Reauthorization Act of 2012** (see Other Related

Information). Although they do not require specific permission from the FAA, these recreational UAS operators must abide by the FAA requirements *in addition* to OPRHP's conditions for the UAS permit, including the requirement to provide proof of insurance coverage.

Alternatively, recreational uses of a UAS that do not comply with the FAA's description of model aircraft, as well as any commercial or administrative uses of a UAS require specific case-by-case permission from the FAA. These operators shall receive a Certificate of Operation ("COA") and/or Airworthiness Certification from the FAA before receiving a permit from OPRHP and shall operate in accordance with all applicable FAA regulations.

Some examples of types of commercial or administrative uses requiring FAA approval include, but are not limited, to

- (i) OPRHP staff operating the UAS or acting as crew for official purposes;
- (ii) Cooperators such as government agencies and universities conducting pilotless aircraft operations; or
- (iii) Commercial entities conducting operations on behalf of OPRHP (i.e. contractors hired by the agency).

Operational Considerations

Regions that intend to issue a special permit specifically authorizing the launching, landing or operation of a UAS—in addition to requiring the operator to adhere to FAA rules, provide proof of insurance and other conditions—shall consult and coordinate with the NYS Park Police prior to issuance as some OPRHP properties have specific restrictions on the use of their airspace.

When presented with a request to launch, land or operate a UAS on lands or waters administered by OPRHP, staff shall use their professional judgment to adequately evaluate the appropriateness of the requested activities and determine whether they could result in unacceptable impacts to agency resources and values.

In determining whether to issue a UAS permit, OPRHP staff shall consider whether the proposed use could:

- involve restricted airspace;
- present a clear danger to staff and/or the public's health and safety;
- violate FAA requirements;
- potentially damage park resources;
- conflict with the purposes for which the park or historic site was established;
- unacceptably impact the atmosphere of quiet enjoyment maintained in wilderness, natural, historic or commemorative locations within the facility;
- unreasonably interfere with the interpretive, visitor service or other program activities;

- interfere with the administrative activities of OPRHP staff or the performance of their duties;
- substantially impair the operation of public facilities or the services of OPRHP concessioners or contractors;
- result in significant conflict with other existing uses;
- cause significant negative impacts to wildlife such as pursuit or harassment, disturbance of nesting or breeding activities, stress on juvenile wildlife etc.;
- create a risk of public alarm or nuisance by causing noise that would be unreasonable under the circumstances or by creating a hazardous or physically dangerous condition for members of the public; or
- violate a reasonable expectation of privacy normally associated with being in a public facility (e.g., filming that could capture identifiable faces may require the company to obtain signed “photography releases” and filming over an occupied campground or bathhouse may not be appropriate).

If the Regional Director determines the requested UAS activity is appropriate and compatible with the values and resources of a facility, he or she may approve a special permit that clearly identifies the designated area(s) for these activities within the facility, the time(s) of operation and the manner(s) of use, as well as any restrictions, terms and conditions that may be necessary to ensure safe operation and mitigate unacceptable impacts. Counsel’s Office will work with regions to modify the sample UAS permit attached to this procedure.

OPRHP shall use its authority to regulate activities within our facilities to manage the operations of UAS for recreational, commercial or administrative uses, including compliance and enforcement actions by the NYS Park Police when necessary.

Questions regarding this procedure should first be directed to the Regional Director (or their designee) who will then coordinate with their respective operations deputy commissioner if necessary.

Forms

Standard Film Permit and Procedure
Sample Remote-Controlled Aircraft Permit (Long Island Region)
Sample UAS Permit

Other Related Information

9 NYCRR 370-378
Advisory Circular 91-57
Section 336 of the FAA Reauthorization Act of 2012
FAA UAS Guidance (<http://www.faa.gov/uas/>)

History

01/06/2015: This new procedure is effective immediately and was developed to meet requests to operate different kinds of UAS at facilities under OPRHP jurisdiction as well as to control unauthorized use of UAS.