

MUNICIPAL EXCESS LIABILITY JOINT INSURANCE FUND

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BULLETIN MEL 23-21

Date: January 1, 2023
To: Fund Commissioners of Member Joint Insurance Funds
From: MEL Underwriting Manager, Conner Strong & Buckelew
Re: Unmanned Aircraft Systems (“Drones”)

This bulletin does not apply to the NJUA JIF.

Coverage for Unmanned Aircraft Systems (“UAS”) is included in the JIF and MEL Casualty policies. The member entities will receive coverage through the first \$5 million of coverage with the local JIF and MEL, and Munich will provide up to the excess limit purchased by the member entity, but no more than \$5 million excess \$5 million.

DEFINITIONS

Unmanned Aircraft System – An **unmanned aircraft** and its associated elements, including the control stations, communication links, data links, navigation equipment, launch / recovery equipment, other support equipment and **payload** that are required for the pilot-in-command together with his or her crewmembers and visual observers to operate safely and efficiently in the national airspace system.

Unmanned Aircraft – An aircraft that is designed and manufactured to be operated without the possibility of being controlled directly by a person from within or on-board the aircraft, and that is owned by the insured.

Payload – Any property installed on, carried on-board, or being loaded onto or unloaded from, an **unmanned aircraft**. **Payload** includes, but is not limited to, cameras or other equipment enhancing the utility of the **unmanned aircraft** or products loaded prior to flight to, dispensed during flight from or removed after flight from, an **unmanned aircraft**.

COVERAGE / COMPLIANCE

The willful failure of any **insured**, or any other person or entity authorized by you to operate the **unmanned aircraft system** specifically in your business, to comply with any of the following shall void coverage:

1. Federal Aviation Administration (FAA) regulations, certifications, rules, procedures, policies and standards with respect to an **unmanned aircraft system**, including any amendment or addition to such regulations, certifications, rules, procedures, policies and standards;
2. United States Department of Transportation laws and regulations with respect to an **unmanned aircraft system**, including any amendment or addition to such laws and regulations;
3. Any other applicable federal laws and regulations with respect to an **unmanned aircraft system**, including any amendment or addition to such laws and regulations; or
4. Any state and local laws and regulations with respect to an **unmanned aircraft system**, including any amendment or addition to such laws and regulations.

Special exclusions apply to the UAS exposure:

1. Physical contact with any other aircraft (including hot air balloons and blimps);
2. Existence or use of weapons and ammunition attached to or incorporated within any UAS, including as part of the **payload**;
3. **Unmanned aircraft**, including its **payload**, in excess of 55 pounds;
4. the operator not holding a remote pilot airman certificate or the operator not being under the direct supervision of a person who does hold a remote pilot certificate;

- a. however, this exclusion does not apply to the **Member Entity** if the pilot is an independent contractor; or
- 5. the transportation of property other than the **Payload**.

ADDITIONAL NOTES

First and foremost, we strongly recommend counsel review of the planned operations of the UAS and the compliance requirements.

Following is the link to the FAA's UAS rules:

<https://www.faa.gov/uas/>

Following is the specific site for FAA's Public Safety and Law Enforcement Toolkit:

https://www.faa.gov/uas/public_safety_gov/public_safety_toolkit/

Part 107, and as further modified, is the regulation for drone usage. Below are a few highlights.

Summary of Small Unmanned Aircraft Rule (Part 107) – June 21, 2016

Operational Limitations:

- Unmanned aircraft must weigh less than 55 lbs. (25 kg).
- Visual line-of-sight (VLOS) only; the unmanned aircraft must remain within VLOS of the remote pilot in command and the person manipulating the flight controls of the small UAS. Alternatively, the unmanned aircraft must remain within VLOS of the visual observer.
- At all times the small unmanned aircraft must remain close enough to the remote pilot in command and the person manipulating the flight controls of the small UAS for those people to be capable of seeing the aircraft with vision unaided by any device other than corrective lenses.
- Small unmanned aircraft may not operate over any persons not directly participating in the operation, not under a covered structure, and not inside a covered stationary vehicle.
- Daylight-only operations, or civil twilight (30 minutes before official sunrise to 30 minutes after official sunset, local time) with appropriate anti-collision lighting.
- Must yield right of way to other aircraft.
- Maximum altitude of 400 feet above ground level (AGL) or, if higher than 400 feet AGL, remain within 400 feet of a structure.

Remote Pilot in Command Certification and Responsibilities:

- Establishes a remote pilot in command position.
- A person operating a small UAS must either hold a remote pilot airman certificate with a small UAS rating or be under the direct supervision of a person who does hold a remote pilot certificate (remote pilot in command).

Aircraft Requirements:

- FAA airworthiness certification is not required. However, the remote pilot in command must conduct a preflight check of the small UAS to ensure that it is in a condition for safe operation.

Special Provisions for Government Entities

Government entities or organizations (e.g. law enforcement agencies, public universities, state governments, local municipalities) have 2 options for flying UAS:

1. Fly under the [small UAS rule](#) – follow all rules under 14 CFR part 107, including aircraft and pilot requirements; or
2. Obtain a blanket public Certificate of Waiver or Authorization (COA) – permits nationwide flights in Class G airspace at or below 400 feet, self-certification of the UAS pilot, and the option to obtain emergency COAs (e-COAs) under special circumstances.

The above description is a general discussion of the coverage and limits provided by the FUND. Please have counsel review the most recent regulations regarding unmanned aerial systems, as the above may not be the most recent. The actual terms and conditions are defined in the policy document and all issues shall be decided based on the policy document.

If you have any questions concerning this bulletin, please contact your Risk Management Consultant, JIF Executive Director or the Underwriting Manager.

cc: Risk Management Consultants
Fund Professionals
Fund Executive Directors