



Unmanned Aircraft Systems and Privacy Alert

February 18, 2015

See note below about Hogan Lovells

White House releases memorandum on safeguarding privacy, civil rights, and civil liberties in the domestic use of unmanned aircraft systems

On February 15, the White House issued a [Presidential Memorandum](#) on safeguarding privacy, civil rights, and civil liberties in the domestic use of Unmanned Aircraft Systems (UAS). The memorandum launches a multi-stakeholder process to establish voluntary baseline privacy standards for commercial use of UAS and establishes principles that will govern the federal government's use of UAS.

The Presidential Memorandum, which was issued in conjunction with the Federal Aviation Administration's proposed framework of regulations for the use of certain small UAS, is the latest in a series of activities by policymakers to address privacy concerns associated with the use of UAS in governmental and civilian settings. In December, Sen. Jay Rockefeller (D-WV) released his proposed [Unmanned Aircraft Systems Privacy Act of 2014](#), which would establish rules on data collection and use by UAS operators. Additionally, in the last two years, several states, including [California](#), [Idaho](#), [Indiana](#), [Louisiana](#), [North Carolina](#), [Oregon](#), [Tennessee](#), [Texas](#), and [Wisconsin](#) enacted privacy laws that impact commercial and private use of UAS. Numerous states also have passed laws restricting law enforcement use of UAS.

Privacy standards for commercial use of UAS

The Presidential Memorandum directs the Department of Commerce's National Telecommunications and Information Administration (NTIA) to lead a group of private sector entities in the creation of commercial UAS privacy standards. Once completed, adoption of these standards by industry would be voluntary.

NTIA has significant experience with convening such processes. NTIA currently is leading a multi-stakeholder process on the privacy implications of [facial recognition technology](#). Previously, NTIA used the multi-stakeholder format to develop standards for [mobile application privacy policies](#). The mobile app process lasted over 12 months and resulted in the release of a code of conduct for "short form" privacy notices. NTIA's UAS work likely will follow the format and pace of those two efforts.

Federal use of UAS



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The Presidential Memorandum outlines policies that federal agencies must follow and enact to ensure that privacy, civil rights, and civil liberties are protected. Governing policies include: limitations on the collection, use, retention, and dissemination of UAS-gathered information; anti-discrimination and civil rights safeguards; and accountability and transparency measures. The memorandum also reminds federal agencies of their existing obligations under the Federal Privacy Act of 1974, “which, among other things, restricts the collection and dissemination of individuals' information that is maintained in systems of records, including personally identifiable information (PII), and permits individuals to seek access to and amendment of records.”

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On February 19, Hogan Lovells and the Association of Unmanned Vehicle Systems International are hosting a day-long workshop that will discuss, among other issues, the Presidential Memorandum. For more information on the workshop, titled “Getting Approved to Fly: Regulatory and Business Hurdles to Operating Unmanned Aircraft Systems,” please click [here](#).

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