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“DILIGITE JUSTITIAM QUI JUDICATIS TERRAM.” “Ye who judge the earth, give diligent love to justice”



## New Mexican Drone´s Regulation: limitations and restrictions.

by Arturo Fragoso

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In recent decades, mankind has sought to simplify human life through the development of new technologies intended to achieve machine automatization through mechanisms and devices that do not need or require direct control and handling by humans. The advancement of new technologies has not been indifferent to the aviation industry. In this sense, Remotely Piloted Aircraft (RPAS) have appeared at first for military purposes but then with the intent to be used for either leisure or commercial purposes. Thus, solely on the fact that aircraft can be remotely piloted, the need to ensure a safe way to share the airspace with these devices has imposed an important task and duty to all aviation agencies worldwide: its regulation. In this edition, an analysis on the Mexican Drone´s regulation will be made to point out the most relevant and transcendent limitations or restrictions to operate within Mexican air space and territory.

On November 14, 2019, and after several months of having it reviewed, the Official Mexican Standard<sup>1</sup> identified as NOM-107-SCT3-2019<sup>2</sup> was enacted establishing all necessary requirements to operate RPAS, except for those used for military purposes, within Mexican air space. Mexico, as signatory of the Convention on International Civil Aviation (also known as Chicago Convention, 1944), has the duty to ensure the application of minimum and necessary standards to prevent not only any potential risk or accidents but to protect the crew, passengers, properties or third parties either located in flight or ground that could result injured or damaged<sup>3</sup>. Thus, since 2010, the Mandatory Circular<sup>4</sup> CO AV-23/10, issued by the Mexican Civil Aviation Authority, was the legal instrument governing all general aspects with regard to the operation of RPAS within Mexican jurisdiction, but the need to strengthen the essential conditions for RPAS to conduct operations within Mexican air space compared to an equivalent category of tribulated or manned aircraft and to handle all potential technical and operational issues, derived in a broader and thorough review of current norms and basic rules; however, it is important to have in mind that it will take a long time to have proper and adequate processes and legislations.

*“The advancement of new technologies has not been indifferent to the aviation industry. In this sense, Remotely Piloted Aircraft (RPAS) have appeared at first for military purposes but then with the intent to be used for either leisure or commercial purposes”.*

On one hand, the aforementioned legal instrument, amongst other things, contains not only general dispositions for the operation of RPAS but also specific requirements and limitations by virtue of their classification. Generally, RPAS must be operated outside (i) 5 nautical miles (nm) (9.2km) from any aerodromes<sup>5</sup> and (ii) 0.5nm (0.9km) from any heliport. Then, within the existing area between 5nm

1.- Official Mexican Standard (NOM), is a mandatory technical regulation issued by the competent standardization agencies through National Standardization Committees, in accordance with Article 40 of the Federal Metrology and Standardization Law (LFMN), which establishes the rules, specifications, attributes, guidelines, characteristics or requirements applicable to a product, process, service or production method or operation, as well as the rules regarding terminology, symbology, packaging and marking or labeling and their compliance or application.

2.- Coming into effect 60 calendar days after its publication, January 14, 2020.

3.- Annex 2 and 8 of the Chicago Convention, 1944.

4.- A legal administrative instrument under Mexican law.

5.- Described on Appendix “I” of the NOM-107-SCT3-2019.

(9.2km) and 10nm (18.5) around aerodromes, pilots must operate the RPAS at a maximum altitude of 328ft (100m). Moreover, to secure all drones operations’ safety, operators must refrain to:

- Drop any object, including those with parachutes;
- Operate when safety conditions<sup>6</sup> are not guaranteed;
- Operate in restricted areas<sup>7</sup> or over crowds either in open or closed areas;
- Operate after hours but solely during the official hours of daylight, between the sunset and the sunrise, unless special authorization issued by the Civil Aviation Authority for night flights;
- Use them to transport dangerous goods or prohibited substances, weapons or explosives;
- Operate from moving vehicles, unless a special operation authorization or if necessary if moving on water; and,
- Operate more than one RPAS at the same time or act carelessly or in a negligent manner placing third parties in danger.

Regarding foreign RPAS and operators, these can only operate within Mexican jurisdiction if between both countries, the country of registration marks and Mexico, and their Civil Aviation Authorities, exists a Bilateral Cooperation Agreement providing by mutual agreement the procedures to accept the operation and to validate the authorizations issued by the country of registration. Furtherly, if for investigation purposes, operators, either national or foreign, shall have a special authorization issued by the National Defense Secretariat (SEDENA) and the National Institute of Statistics and Geography (INEGI).

On the other hand, a distinction<sup>8</sup> is made based on their maximum take-off weight resulting in the application of different rules; such classification is made as follows:

Maximum Take-off Weight (kg)	Classification	Purpose
Less than or equal to 2 kg.	Micro RPAS	Leisure
		Private Non-Commercial
		Commercial
More than 2 kg and up to 25 kg.	Small RPAS	Leisure
		Private Non-Commercial
		Commercial
More than 25 kg.	Big RPAS	Leisure
		Private Non-Commercial
		Commercial

Regarding the maximum flight altitude, pilots of all micro and small RPAS and leisure purposes big RPAS must operate under 400ft (122m), while big RPAS for commercial and private non-commercial use must operate within the airspace class G<sup>9</sup>. It is important to have in mind all airspace restrictions since in the big cities the use of drones could be almost unthinkable, with one or more aerodromes within the existing area between 5nm (9.2km) and 10nm (18.5) around them and a significant amount of heliports distributed all over the city. For example, in the case of Mexico City, with the operation

6.- Safety conditions are to be determined by a pre-flight inspection as per Appendix “E” of the NOM-107-SCT3-2019.

7.- As per Section ENR 5.1 of the AIP.

8.- As per Section 4.9 of the NOM-107-SCT3-2019.

9.- In which instrument flight rules (IFR) and visual flight rules (VFR) flights are permitted and flight information services could be provided if requested.

of the Metropolitan Airport System that intends to include the existing airport in Mexico City (MEX) and the one in Toluca (TLC), in addition to the new Santa Lucia Airport, it will be barely impossible to have a greater area free of restrictions on the usage of drones. To be able to operate within the area of 5nm around aerodromes, RPAS will require a special authorization issued by the Aviation Authority and must have a device that allows its automatic identification and a device that does not allow it to fly beyond a certain altitude according to the following criteria:

Maximum Altitude (m)	Close Proximity Area to Aerodromes (NM)
Prohibited	0-2
30	2-3
50	3-4
75	4-5

To be able to operate within the area of 0.5 NM around heliports, RPAS must have a device that does not allow them to fly beyond a certain altitude according to the following criteria:

Maximum Altitude (m)	Close Proximity Area to Aerodromes (NM)
Prohibited	0-0.1
30	0.1-0.3
50	0.3-0.5

The NOM-107-SCT3-2019 also governs aspects relating to manufacturing, marketing, importation, and accident reporting as well as the authorization of special operations, however, for this edition, the most relevant aspects to highlight are the lack of regulation with regard to air transport via drone and the airspace restrictions on their operation as making its scope narrower in comparison with other jurisdictions. Undoubtedly, it would have been pretty interesting to see how our legislation could have dealt in advance with other alternatives on the usage of drones but I guess we will have to wait until further technological developments reaches us to see if our legislators and authorities are capable to manage them properly or they would just confine themselves to restrict their usage without proper analysis and perspective.

**Regressive and inquisitive are the proposals for the Reform in criminal matters.**

Through these days specialists have stated their concern for the series of proposals that will be presented on February 1st at the Senate in order to reform the criminal justice system; qualifying them as regressive, inquisitives and contrary to Human Rights. As Luis Tapia the coordinator of the legal area of Human rights Miguel Agustín Pro Juárez center said, the lack of a functioning system is mainly because our country must implement professional training to the officers and public ministry's that investigate and integrate the investigation's portfolio. [www.milenio.com/politica/regresivas-inquisitivas-propuestas-reforma-penal-especialistas](http://www.milenio.com/politica/regresivas-inquisitivas-propuestas-reforma-penal-especialistas) 15/01/2020.

**The National Commission of Human Rights (CNDH) condemns all acts of violence against the integrity of migrants.**

The CNDH condemns all acts of violence against the integrity and security of persons in the context of international migration, and calls on all authorities, especially the "National Guard", as well as Federal, State and Municipal Public Securities, to prevent and avoid Human rights violations of difficult or impossible reparation against migrants. National Commission of Human Rights. [www.cndh.org.mx/sites/default/files/documentos/2020-01/COMUNICADO-014-2020.pdf](http://www.cndh.org.mx/sites/default/files/documentos/2020-01/COMUNICADO-014-2020.pdf) 23/01/2020.

**Mexican Government analyses Legal Framework of the eventual raffle of the Presidential Aircraft.**

Its been two weeks since Mexico's president Andres Manuel López Obrador announced his intention on raffling his Aircraft since according to him, the money obtained from it, would be used to recover the investment that the Federal Government made in this asset. However, authorities such as Ricardo Peralta the sub secretary, has explained that the analysis of the raffle regarding the President's Aircraft remains open, since Mexico's legal framework does not contemplate a draw with such kind of assets. [www.eluniversal.com.mx/nacion/politica/segob-analiza-rifa-de-avion-presidencial-marco-normativo-no-considera-estos-bienes](http://www.eluniversal.com.mx/nacion/politica/segob-analiza-rifa-de-avion-presidencial-marco-normativo-no-considera-estos-bienes) 29/01/2020.

**Trump Lawyer Says Seeking Foreign Help In Elections Isn't Illegal If Information Is 'Credible'.**

Democrats were left "stunned" Wednesday after President Donald Trump's defense team made the bold claim during the Q&A portion of the Senate impeachment trial that soliciting or accepting information from foreign governments about one's political rivals is OK so long as the information is "credible." The argument was put forth by White House deputy counsel Patrick Philbin in response to a question posed by Sen. Chris Coons (D-Del.) about Trump's apparent willingness to solicit dirt about his campaign rivals from countries such as Russia and China. [www.huffpost.com/entry/trump-attorney-patrick-philbin-foreign-interference-impeachment-trial\\_n\\_5e325fd3c5b611ac94cf62b0](http://www.huffpost.com/entry/trump-attorney-patrick-philbin-foreign-interference-impeachment-trial_n_5e325fd3c5b611ac94cf62b0) 30/01/2020.

**Strengthening measures to prevent the spread of Coronavirus in Mexico.**

According to the Ministry of Health, all hospitals, Health Centers and clinics in the country are on alert, implementing protocols to deal with possible cases of the New Coronavirus. Meanwhile, the National Institute of Migration announced that the sanitary filters that are applied in 194 formal points of internment of the national territory 62 terrestrial, 67 maritime and 65 air will remain in force based on the protocols provided by the health authorities and even that these indicate their suspension. It was clarified that access to people, goods and goods from Asia is not prevented, while, in the field of prevention, insists on considering sanitary measures for all. [www.excelsior.com.mx/nacional/fortalecen-medidas-para-evitar-propagacion-de-coronavirus-en-mexico/1361348](http://www.excelsior.com.mx/nacional/fortalecen-medidas-para-evitar-propagacion-de-coronavirus-en-mexico/1361348) 30/01/2020.

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