

**SOUTH DAKOTA BOARD OF REGENTS**

**Budget and Finance**

**AGENDA ITEM: 7 – K**

**DATE: April 2-3, 2025**

\*\*\*\*\*

**SUBJECT**

**Revised BOR Policy 1.7.3 (First Reading)**

**CONTROLLING STATUTE, RULE, OR POLICY**

[BOR Policy 1.7.3](#) – Unmanned Aircraft Systems Policy

[FAA UAS policy](#)

[SDCL ch 50-15](#)

**BACKGROUND / DISCUSSION**

Since the passage of BOR Policy 1.7.3 in March 2015, and subsequent revisions in 2017 and 2018, state and federal law has evolved and clarified the extent to which local entities can regulate the presence and use of unmanned aircraft systems (“UAS”) or “drones.” A review of the existing UAS policy indicated the need for revisions to ensure alignment with Federal Aviation Administration interpretation and guidance regarding state and local regulation of UAS, specifically to ensure that BOR policy does not overlap with or conflict with FAA regulation of aviation safety and airspace efficiency. Most significantly, adjustment was needed to clarify that while the FAA maintains regulation over areas such as allowable flight altitudes or flight paths in public airspace, institutions still maintain the ability to regulate certain use of UAS to protect institutional grounds or individuals from trespass, invasion of privacy, or other inappropriate uses.

**IMPACT AND RECOMMENDATIONS**

The proposed revisions leave crucial components in place, such as institutional designations of officers to educate institutional personnel on relevant requirements and policies, and to oversee compliance with FAA requirements (Certificates of Operation and Part 107 compliance) and state laws regarding UAS. The most significant changes adjust expectations around UAS use in institutional airspace, by clarifying which UAS operations are prohibited (monitoring or recording private institutional spaces or information) as opposed to specifying the locations where UAS may definitively operate. Finally, the proposed revisions clarify the interface with federal authority over certain airspace by denoting that potential violations of applicable laws or policies will be reported to law enforcement for engagement with federal enforcement authorities.

(Continued)

\*\*\*\*\*

**DRAFT MOTION 20250402\_7-K:**

I move to approve the first reading of the proposed revisions to BOR Policy 1.7.3 (Unmanned Aircraft Systems Policy) as presented.

Revised BOR Policy 1.7.3

April 2-3, 2025

Page 2 of 2

This is the first of two readings of the proposed revisions. Board staff recommends approval.

**ATTACHMENTS**

Attachment I – Proposed Revisions to BOR Policy 1.7.3 (Unmanned Aircraft Systems Policy)

## SOUTH DAKOTA BOARD OF REGENTS

### Policy Manual

**SUBJECT:** Unmanned Aircraft Systems Policy

**NUMBER:** 1.7.3

---

#### A. PURPOSE

To provide for the requisite oversight and authority for the operation of UAS, guidance concerning the appropriate operation of and uses for UAS, and to protect them from abuse and from unlawful or other misuse.

#### B. DEFINITIONS

- ~~1. **Certificate of Authorization (COA):** Pursuant to Federal Aviation Administration (“FAA”) regulations, the COA is an authorization issued by the Air Traffic Organization to a public operator for a specific UAS activity.~~
- ~~2. **Civil Operations:** Any UAS operations that are not “public operations” are civil operations. All UAS operations for commercial purposes, including university business, teaching and research, unless otherwise noted herein, are civil operations.~~
- ~~3. **Contracted UAS Use:** All UAS use conducted by contractors or third parties for institutional purposes pursuant to a contract with the university.~~
- ~~4. **Institutional Airspace:** Includes that portion of the air space between the surface of the ground and 300 feet above the ground or above a building or structure erected on the university property.~~
- ~~5. **Institutional UAS Use:** Any UAS operation by university employees or students as part of their university employment or as part of a university program.~~
- ~~6. **Model Aircraft:** UAS that is (1) flown for hobby or recreational purposes, per section 336(e) of the FAA Modernization and Reform Act of 2012 and any amendments thereto; (2) capable of sustained flight in the atmosphere; and (3) flown within visual line of sight of the aircraft operator. Model aircraft must not exceed 55 pounds and require FAA registration and appropriate marking prior to any flight operation.~~
- ~~7. **Part 107:** FAA final rule on Operation and Certification of Small Unmanned Aircraft Systems, 49 CFR Part 107 and any amendments thereto. This rule governs civil operations of small UAS weighing less than 55 pounds by a Remote Pilot in Command or under the direct supervision of a certified Remote Pilot. Part 107 does not apply to model aircraft.~~
- ~~8. **Private UAS Use:** All UAS operation that is not institutional UAS use or contracted UAS use, which includes model aircraft.~~
- ~~9. **Public Operations:** Include those aircraft owned and operated by government or public entities for governmental purposes and which are not operated under Part 107.~~

~~10. **Section 333 Exemption:** FAA exemption from certain approval requirements based on Section 333 of the FAA Modernization and Reform Act of 2012 and any amendments thereto, which grants the Secretary of Transportation the authority to determine whether an airworthiness certificate is required for a UAS to operate safely in the National Airspace System.~~

~~11. **Unmanned Aircraft Systems (“UAS”):** Unmanned aircraft and their associated elements (including communication links and the components that control the unmanned aircraft) that are required for the pilot in command to safely and efficiently operate the unmanned aircraft.~~

1. **Unmanned Aircraft System or Drone (“UAS”):** Unmanned aircraft and their associated elements (including communication links and the components that control the unmanned aircraft) that are required for the pilot in command to safely and efficiently operate the unmanned aircraft.

2. **Institutional property:** property or facilities owned, leased, or controlled by the SDBOR or an institution under its governance.

3. **Airspace:** the air available to aircraft to fly in. See the FAA regulations and policy for more information and airspace classifications.

## C. POLICY

### ~~1. **Compliance with Federal Aviation Administration Regulations**~~

~~The FAA has jurisdiction over all navigable airspace in the United States. All aircraft, whether manned or unmanned, are subject to FAA rules and regulations. All university employees, contractors, third parties, students and visitors operating UAS governed by this policy are responsible for complying with FAA regulations, state and federal laws, and university policies.~~

#### ~~2. — Establishment of Institutional Administration~~

~~Each institution that intends to operate UAS shall develop, implement and administer specific policies and procedures as necessary to comply with this policy and the requirements of state and federal law and designate an institutional office to assume responsibility for overseeing UAS compliance. The designated institutional office’s responsibilities shall include, but are not limited to, providing oversight and approval of institutional UAS use under Part 107, administering requests to pursue a COA or Section 333 exemption on behalf of an institutional unit, and ensuring compliance of institutional UAS use operating under a COA or Section 333 exemption.~~

#### ~~3. — Institutional UAS Use~~

~~Institutional UAS use must be conducted under Part 107 or by obtaining a Section 333 exemption or COA from the FAA. Any institutional UAS use permissible under Part 107 shall be considered a Civil Operation and governed by Part 107 unless the designated institutional office determines that a COA or Section 333 exemption is necessary and appropriate. Prior to granting approval for any institutional UAS use the designated institutional office must: (1) ensure the UAS operation is authorized under Part 107, a~~

~~Section 333 exemption, or a COA; (2) obtain adequate insurance coverage; (3) ensure each person controlling the UAS has received the requisite training, certification or licensure; and (4) establish and document such additional training, maintenance, logging and control procedures as may be required under FAA policy and guidance.~~

~~4. Institutional UAS Use Pursuant to Part 107~~

~~Any institutional UAS use permissible under Part 107 may be declared a Civil Operation and conducted in accordance with Part 107. Authorization to fly may be given by the designated institutional office upon completion of the documentation necessary to demonstrate compliance with the provisions of this policy and with the Part 107 pre-flight requirements. Operators must comply with all Part 107 requirements and restrictions, except to the extent that a waiver has been granted by the FAA and approved by the designated institutional office. The FAA summary of the Part 107 parameters is set forth in Appendix A.~~

~~5. Institutional UAS Use Pursuant to a COA~~

~~The FAA may grant permission to institutions to operate UAS, so long as their use qualifies as a government function under 49 USC §40125 and any amendments thereto. If an institution intends to operate UAS for a government function that cannot be conducted under Part 107, the institution must apply for and be granted a COA from the FAA. *Government uses for purposes of the COA include research in furtherance of core governmental functions, institutional security, facilities maintenance, institutional relations and activities provided to the public at no cost incidental to an institution's public service mission.*~~

~~The designated institutional office shall be responsible for determining if institutional UAS use conducted outside of Part 107 is necessary and appropriate, and if so, for pursuing a COA for such activity. COAs are only available to government agencies or public entities for operations that are considered public operations. *COAs cannot be granted to public institutions for education or training since these applications are considered commercial in nature.* A COA is granted to the institution, not to individuals. Data acquired through the use of the UAS belongs to the institution and not to the individual.~~

~~Due to the potential legal and risk management issues involved in managing a COA, the designated institution office must conduct due diligence, considering the need, any available alternative(s) and the pros and cons associated therewith, prior seeking a COA.~~

~~6. Institutional UAS Use pursuant to a Section 333 Exemption~~

~~Any institution wishing to engage in civil operations that are not permissible under Part 107 must pursue a Section 333 exemption. The designated institutional office shall be responsible for determining if institutional UAS use conducted outside of Part 107 is necessary and appropriate, and if so, for pursuing a Section 333 exemption for such activity.~~

~~7. Private UAS Use within institutional airspace~~

~~All private UAS use in institutional airspace requires prior approval and may not interfere with the use of institutional grounds. If an institution has not designated an institutional office to oversee UAS compliance, permission for private UAS use within institutional airspace shall be requested through the institutional office that administer requests for private use of institutional facilities.~~

~~The following restrictions apply to the time, place, and manner of private UAS use:~~

~~7.1. Only with prior permission;~~

~~7.2. Only during daylight hours;~~

- ~~7.3. Within full view and control of operator;~~
- ~~7.4. Not during outdoor institutional events;~~
- ~~7.5. Not over outdoor athletic facilities or any portion of the campus grounds within a 1,320 foot radius of the facility;~~
- ~~7.6. Not within 300 feet of buildings;~~
- ~~7.7. Not within 150 feet of persons or animals; and~~
- ~~7.8. Not in a manner which interferes with ground vehicles or traffic.~~

#### ~~8. Contracted UAS Use~~

~~All contractors or third parties conducting contracted UAS use must provide the university with proper proof of insurance evidencing insurance coverage. The default coverage limit shall be \$1,000,000 minimum coverage per occurrence, but the institution may approve a different coverage limit in writing and include such limit in the contract.~~

#### ~~9. UAS Compliance with Other Policies~~

~~This policy is to be read in conjunction with institutional policies regarding conduct while on institutional grounds and utilizing institutional resources.~~

### C.

1. UAS and their operations are regulated by the Federal Aviation Administration (“FAA”) and all UAS operations on institutional property must comply with applicable local, state, and federal laws and regulations.
2. UAS operations by institutions’ students, employees, and their agents must comply with federal and state laws, FAA regulations, and applicable policies.
  - 2.1. Institutional UAS operations will be conducted in accordance with Part 107, pursuant to a Section 333 exemption, or a Certificate of Authorization (“COA”) from the FAA.
  - 2.2. All contractors conducting contracted UAS operations for an institution must provide the institution with proper proof of insurance evidencing insurance coverage. The default coverage limit shall be \$1,000,000 minimum coverage per occurrence, but the institution may approve a different coverage limit, provided such limit is stated in the contract.
3. Institutions will comply with the requirements of organizations with which they participate. Where the organization requires UAS no-fly over a qualifying event, such as for NCAA Division I athletics events, the event will be stopped until UAS flight has ended.
4. Each institution that intends to operate UAS shall develop, implement, and administer specific policies and procedures as necessary to comply with this policy and the requirements of local, state, and federal law.
5. Institutions shall designate an official to oversee UAS compliance, including providing advice and guidance to the institution and its stakeholders on purchasing and appropriate use of UAS on and off institutional property.
  - 5.1. Designated institutional officials will manage the Institution’s UAS in conformity with property management regulations and policies and ensure appropriate insurance is maintained.

- 5.2. Designated institutional officials will maintain a process and records related to official approvals for UAS use by students, employees, and contractors on behalf of the institution.
6. Institutions may seek federal designation for temporary airspace restrictions as allowed by law.
7. To protect the safety and privacy of institutional stakeholders, unless an exception is granted by the designated institutional official, institutions will not permit the following uses of UAS:
- 7.1. Inside any institutionally owned or leased building;
- 7.2. Monitoring or recording private institutional spaces including but not limited to offices, classrooms, labs, restrooms, locker rooms, individual residential rooms, dressing rooms, campus camp facilities, daycare facilities, and health treatment rooms; or
- 7.3. Monitoring or recording sensitive institutional or personally identifiable information, which may be found, for example, on an individual's workspaces, computer or other electronic displays.
8. Noncompliant operation of a UAS in violation of applicable laws or regulations may subject the UAS Operator to civil or criminal penalties.
- 8.1. Observed third party violations of applicable laws will be reported to law enforcement for engagement with federal enforcing agencies and violations by institutional employees and contractors will be reported in accordance with applicable policies and law.
- 1.9. Operation of a UAS in violation of this Policy, or institutional implementing policies, may result in disciplinary action consistent with Board of Regents and institutional policies.

## **FORMS / APPENDICES:**

Appendix A (FAA News — June 21, 2016)None

## **SOURCE:**

BOR March-April 2015; BOR March 2017; BOR August 2018; October 2023 (Clerical); BOR April 2025.