



U.S. Department
of Transportation
**Federal Aviation
Administration**

800 Independence Ave., S.W.
Washington, D.C. 20591

July 27, 2015

Exemption No. 12169
Regulatory Docket No. FAA-2015-1697

Mr. Zachary T. Lesinski
Avwatch Inc.
246 South Meadow Road
Plymouth, MA 02644

Dear Mr. Lesinski:

This letter is to inform you that we have granted your request for exemption. It transmits our decision, explains its basis, and gives you the conditions and limitations of the exemption, including the date it ends.

By letter dated April 21, 2015, you petitioned the Federal Aviation Administration (FAA) on behalf of Avwatch Inc. (hereinafter petitioner or operator) for an exemption. The petitioner requested to operate an unmanned aircraft system (UAS) to conduct aerial data collection.

See Appendix A for the petition submitted to the FAA describing the proposed operations and the regulations that the petitioner seeks an exemption.

The FAA has determined that good cause exists for not publishing a summary of the petition in the Federal Register because the requested exemption would not set a precedent, and any delay in acting on this petition would be detrimental to the petitioner.

Airworthiness Certification

The UAS proposed by the petitioner is a DJI Phantom 2 Vision.

In accordance with the statutory criteria provided in Section 333 of Public Law 112-95 in reference to 49 U.S.C. § 44704, and in consideration of the size, weight, speed, and limited operating area associated with the aircraft and its operation, the Secretary of Transportation has determined that this aircraft meets the conditions of Section 333. Therefore, the FAA finds that relief from 14 CFR part 21, *Certification procedures for products and parts*,

Subpart H—Airworthiness Certificates, and any associated noise certification and testing requirements of part 36, is not necessary.

The Basis for Our Decision

You have requested to use a UAS for aerial data collection¹. The FAA has issued grants of exemption in circumstances similar in all material respects to those presented in your petition. In Grants of Exemption Nos. 11062 to Astraeus Aerial (*see* Docket No. FAA–2014–0352), 11109 to Clayco, Inc. (*see* Docket No. FAA–2014–0507), 11112 to VDOS Global, LLC (*see* Docket No. FAA–2014–0382), and 11213 to Aeryon Labs, Inc. (*see* Docket No. FAA–2014–0642), the FAA found that the enhanced safety achieved using an unmanned aircraft (UA) with the specifications described by the petitioner and carrying no passengers or crew, rather than a manned aircraft of significantly greater proportions, carrying crew in addition to flammable fuel, gives the FAA good cause to find that the UAS operation enabled by this exemption is in the public interest.

Having reviewed your reasons for requesting an exemption, I find that—

- They are similar in all material respects to relief previously requested in Grant of Exemption Nos. 11062, 11109, 11112, and 11213;
- The reasons stated by the FAA for granting Exemption Nos. 11062, 11109, 11112, and 11213 also apply to the situation you present; and
- A grant of exemption is in the public interest.

Our Decision

In consideration of the foregoing, I find that a grant of exemption is in the public interest. Therefore, pursuant to the authority contained in 49 U.S.C. 106(f), 40113, and 44701, delegated to me by the Administrator, Avwatch Inc. is granted an exemption from 14 CFR §§ 61.23(a) and (c), 61.101(e)(4) and (5), 61.113(a), 61.315(a), 91.7(a), 91.119(c), 91.121, 91.151(a)(1), 91.405(a), 91.407(a)(1), 91.409(a)(1) and (2), and 91.417(a) and (b), to the extent necessary to allow the petitioner to operate a UAS to perform aerial data collection. This exemption is subject to the conditions and limitations listed below.

Conditions and Limitations

In this grant of exemption, Avwatch Inc. is hereafter referred to as the operator.

¹ Aerial data collection includes any remote sensing and measuring by an instrument(s) aboard the UA. Examples include imagery (photography, video, infrared, etc.), electronic measurement (precision surveying, RF analysis, etc.), chemical measurement (particulate measurement, etc.), or any other gathering of data by instruments aboard the UA.

Failure to comply with any of the conditions and limitations of this grant of exemption will be grounds for the immediate suspension or rescission of this exemption.

1. Operations authorized by this grant of exemption are limited to the DJI Phantom 2 Vision when weighing less than 55 pounds including payload. Proposed operations of any other aircraft will require a new petition or a petition to amend this exemption.
2. Operations for the purpose of closed-set motion picture and television filming are not permitted.
3. The UA may not be operated at a speed exceeding 87 knots (100 miles per hour). The exemption holder may use either groundspeed or calibrated airspeed to determine compliance with the 87 knot speed restriction. In no case will the UA be operated at airspeeds greater than the maximum UA operating airspeed recommended by the aircraft manufacturer.
4. The UA must be operated at an altitude of no more than 400 feet above ground level (AGL). Altitude must be reported in feet AGL.
5. The UA must be operated within visual line of sight (VLOS) of the PIC at all times. This requires the PIC to be able to use human vision unaided by any device other than corrective lenses, as specified on the PIC's FAA-issued airman medical certificate or U.S. driver's license.
6. All operations must utilize a visual observer (VO). The UA must be operated within the visual line of sight (VLOS) of the PIC and VO at all times. The VO may be used to satisfy the VLOS requirement as long as the PIC always maintains VLOS capability. The VO and PIC must be able to communicate verbally at all times; electronic messaging or texting is not permitted during flight operations. The PIC must be designated before the flight and cannot transfer his or her designation for the duration of the flight. The PIC must ensure that the VO can perform the duties required of the VO.
7. This exemption and all documents needed to operate the UAS and conduct its operations in accordance with the conditions and limitations stated in this grant of exemption, are hereinafter referred to as the operating documents. The operating documents must be accessible during UAS operations and made available to the Administrator upon request. If a discrepancy exists between the conditions and limitations in this exemption and the procedures outlined in the operating documents, the conditions and limitations herein take precedence and must be followed. Otherwise, the operator must follow the procedures as outlined in its operating documents. The operator may update or revise its operating documents. It is the operator's responsibility to track such revisions and present updated and revised documents to the Administrator or any law enforcement official upon request. The

operator must also present updated and revised documents if it petitions for extension or amendment to this grant of exemption. If the operator determines that any update or revision would affect the basis upon which the FAA granted this exemption, then the operator must petition for an amendment to its grant of exemption. The FAA's UAS Integration Office (AFS-80) may be contacted if questions arise regarding updates or revisions to the operating documents.

8. Any UAS that has undergone maintenance or alterations that affect the UAS operation or flight characteristics, e.g., replacement of a flight critical component, must undergo a functional test flight prior to conducting further operations under this exemption. Functional test flights may only be conducted by a PIC with a VO and must remain at least 500 feet from other people. The functional test flight must be conducted in such a manner so as to not pose an undue hazard to persons and property.
9. The operator is responsible for maintaining and inspecting the UAS to ensure that it is in a condition for safe operation.
10. Prior to each flight, the PIC must conduct a pre-flight inspection and determine the UAS is in a condition for safe flight. The pre-flight inspection must account for all potential discrepancies, e.g., inoperable components, items, or equipment. If the inspection reveals a condition that affects the safe operation of the UAS, the aircraft is prohibited from operating until the necessary maintenance has been performed and the UAS is found to be in a condition for safe flight.
11. The operator must follow the UAS manufacturer's maintenance, overhaul, replacement, inspection, and life limit requirements for the aircraft and aircraft components.
12. Each UAS operated under this exemption must comply with all manufacturer safety bulletins.
13. Under this grant of exemption, a PIC must hold either an airline transport, commercial, private, recreational, or sport pilot certificate. The PIC must also hold a current FAA airman medical certificate or a valid U.S. driver's license issued by a state, the District of Columbia, Puerto Rico, a territory, a possession, or the Federal government. The PIC must also meet the flight review requirements specified in 14 CFR § 61.56 in an aircraft in which the PIC is rated on his or her pilot certificate.
14. The operator may not permit any PIC to operate unless the PIC demonstrates the ability to safely operate the UAS in a manner consistent with how the UAS will be operated under this exemption, including evasive and emergency maneuvers and maintaining appropriate distances from persons, vessels, vehicles and structures. PIC qualification flight hours and currency must be logged in a manner consistent with 14 CFR § 61.51(b). Flights for the purposes of training the operator's PICs and VOs

(training, proficiency, and experience-building) and determining the PIC's ability to safely operate the UAS in a manner consistent with how the UAS will be operated under this exemption are permitted under the terms of this exemption. However, training operations may only be conducted during dedicated training sessions. During training, proficiency, and experience-building flights, all persons not essential for flight operations are considered nonparticipants, and the PIC must operate the UA with appropriate distance from nonparticipants in accordance with 14 CFR § 91.119.

15. UAS operations may not be conducted during night, as defined in 14 CFR § 1.1. All operations must be conducted under visual meteorological conditions (VMC). Flights under special visual flight rules (SVFR) are not authorized.
16. The UA may not operate within 5 nautical miles of an airport reference point (ARP) as denoted in the current FAA Airport/Facility Directory (AFD) or for airports not denoted with an ARP, the center of the airport symbol as denoted on the current FAA-published aeronautical chart, unless a letter of agreement with that airport's management is obtained or otherwise permitted by a COA issued to the exemption holder. The letter of agreement with the airport management must be made available to the Administrator or any law enforcement official upon request.
17. The UA may not be operated less than 500 feet below or less than 2,000 feet horizontally from a cloud or when visibility is less than 3 statute miles from the PIC.
18. If the UAS loses communications or loses its GPS signal, the UA must return to a pre-determined location within the private or controlled-access property.
19. The PIC must abort the flight in the event of unpredicted obstacles or emergencies.
20. The PIC is prohibited from beginning a flight unless (considering wind and forecast weather conditions) there is enough available power for the UA to conduct the intended operation and to operate after that for at least five minutes or with the reserve power recommended by the manufacturer if greater.
21. Air Traffic Organization (ATO) Certificate of Waiver or Authorization (COA). All operations shall be conducted in accordance with an ATO-issued COA. The exemption holder may apply for a new or amended COA if it intends to conduct operations that cannot be conducted under the terms of the attached COA.
22. All aircraft operated in accordance with this exemption must be identified by serial number, registered in accordance with 14 CFR part 47, and have identification (N-Number) markings in accordance with 14 CFR part 45, Subpart C. Markings must be as large as practicable.

23. Documents used by the operator to ensure the safe operation and flight of the UAS and any documents required under 14 CFR §§ 91.9 and 91.203 must be available to the PIC at the Ground Control Station of the UAS any time the aircraft is operating. These documents must be made available to the Administrator or any law enforcement official upon request.
24. The UA must remain clear and give way to all manned aviation operations and activities at all times.
25. The UAS may not be operated by the PIC from any moving device or vehicle.
26. All Flight operations must be conducted at least 500 feet from all nonparticipating persons, vessels, vehicles, and structures unless:
 - a. Barriers or structures are present that sufficiently protect nonparticipating persons from the UA and/or debris in the event of an accident. The operator must ensure that nonparticipating persons remain under such protection. If a situation arises where nonparticipating persons leave such protection and are within 500 feet of the UA, flight operations must cease immediately in a manner ensuring the safety of nonparticipating persons; and
 - b. The owner/controller of any vessels, vehicles or structures has granted permission for operating closer to those objects and the PIC has made a safety assessment of the risk of operating closer to those objects and determined that it does not present an undue hazard.

The PIC, VO, operator trainees or essential persons are not considered nonparticipating persons under this exemption.

27. All operations shall be conducted over private or controlled-access property with permission from the property owner/controller or authorized representative. Permission from property owner/controller or authorized representative will be obtained for each flight to be conducted.
28. Any incident, accident, or flight operation that transgresses the lateral or vertical boundaries of the operational area as defined by the applicable COA must be reported to the FAA's UAS Integration Office (AFS-80) within 24 hours. Accidents must be reported to the National Transportation Safety Board (NTSB) per instructions contained on the NTSB Web site: www.nts.gov.

If this exemption permits operations for the purpose of closed-set motion picture and television filming and production, the following additional conditions and limitations apply.

29. The operator must have a motion picture and television operations manual (MPTOM) as documented in this grant of exemption.

30. At least 3 days before aerial filming, the operator of the UAS affected by this exemption must submit a written Plan of Activities to the local Flight Standards District Office (FSDO) with jurisdiction over the area of proposed filming. The 3-day notification may be waived with the concurrence of the FSDO. The plan of activities must include at least the following:
- a. Dates and times for all flights;
 - b. Name and phone number of the operator for the UAS aerial filming conducted under this grant of exemption;
 - c. Name and phone number of the person responsible for the on-scene operation of the UAS;
 - d. Make, model, and serial or N-Number of UAS to be used;
 - e. Name and certificate number of UAS PICs involved in the aerial filming;
 - f. A statement that the operator has obtained permission from property owners and/or local officials to conduct the filming production event; the list of those who gave permission must be made available to the inspector upon request;
 - g. Signature of exemption holder or representative; and
 - h. A description of the flight activity, including maps or diagrams of any area, city, town, county, and/or state over which filming will be conducted and the altitudes essential to accomplish the operation.
31. Flight operations may be conducted closer than 500 feet from participating persons consenting to be involved and necessary for the filming production, as specified in the exemption holder's MPTOM.

Unless otherwise specified in this grant of exemption, the UAS, the UAS PIC, and the UAS operations must comply with all applicable parts of 14 CFR including, but not limited to, parts 45, 47, 61, and 91.

This exemption terminates on July 31, 2017, unless sooner superseded or rescinded.

Sincerely,

/s/

John S. Duncan

Director, Flight Standards Service

Enclosures

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, DC

Regulatory Docket No. _____

**IN THE MATTER OF THE PETITION FOR EXEMPTION OF:
AVWATCH INC.
FOR AN EXEMPTION SEEKING RELIEF FROM THE REQUIREMENTS OF
TITLE 14 OF THE CODE OF FEDERAL REGULATIONS
SECTIONS 61.113(a) & (b), 91.7(a), 91.121, 91.151(b), 91.405(a), 91.407(a)(1), 91.409(a)(1) & (a)(2),
AND 91.417(a) & (b) CONCERNING COMMERCIAL OPERATION OF THE DJI PHANTOM 2
VISION UNMANNED AIRCRAFT SYSTEM
PURSUANT TO SECTION 333 OF
THE FAA MODERNIZATION AND REFORM ACT OF 2012 (PUBLIC LAW 112-95)**

Submitted on April 21st 2015
Zachary T. Lesinski
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Gate 6 Building S-2
Plymouth MA, 02644

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GLOSSARY OF ABBREVIATIONS

AGL	Above Ground Level
AOI	Area of Interest
ATC	Air Traffic Control
ATO	Air Traffic Organization
C.F.R.	Code of Federal Regulations
COA	Certificate of Authorization
FAA	Federal Aviation Administration
FAR	Federal Aviation Regulation
FCC	Federal Communications Commission
GCS	Ground Control Station
GPS	Global Positioning System
NAS	National Airspace System
NOTAM	Notice to Airmen
OEM	Original Equipment Manufacturer
PIC	Pilot In Command
RTH	Return To Home
Section 333	FAA Modernization and Reform Act of 2012 (FMRA) Section 333
UA	Unmanned Aircraft
UAS	Unmanned Aircraft System
VFR	Visual Flight Rules
VLOS	Visual Line of Sight

VMC	Visual Meteorological Conditions
VO	Visual Observer
VTOL	Vertical Takeoff and Landing

SUMMARY

Avwatch Inc. seeks exemption from the requirements of 14 C.F.R §§ 61.113(a) & (b), 91.7(a), 91.121, 91.151(b), 91.405(a), 91.407(a)(1), 91.409(a)(1) & (a)(2), and 91.417(a) & (b), to operate an Unmanned Aircraft System pursuant to Section 333 of the FAA Modernization and Reform Act of 2012 (FMRA). This exemption will permit Avwatch Inc. to operate an Unmanned Aircraft System (UAS) for the commercial purpose of conducting aerial acquisitions within the National Airspace System (NAS).

INTRODUCTION AND INTERESTS OF THE PETITIONER

Avwatch Inc. (hereinafter referred to as “Avwatch”) is a Service-Disabled Veteran Owned Small Business (SDVOSB) that delivers aerial reconnaissance, Real-Time Full Motion Video (FMV), and airborne networking services to government and commercial clients. Avwatch is headquartered in Plymouth, Massachusetts.

BACKGROUND

Unmanned Aircraft System: Phantom 2 Vision UAS

Avwatch seeks an exemption to operate the DJI Phantom 2 Vision UAS (Phantom 2 Vision UAS) for compensation or hire within the NAS. The Phantom 2 Vision UAS is comprised of a vertical takeoff and landing (VTOL) Unmanned Aircraft (UA) and a transportable Ground Control Station (GCS). The Phantom 2 Vision UA has a maximum gross weight of approximately 5.5 pounds; measures approximately 12 inches in length, 12 inches in width, and 7 inches in height; and has maximum speed of approximately 30 knots. The Phantom 2 Vision UA is equipped with four rotors, each being driven by a Lithium Polymer battery powered electric motor.

The Phantom 2 Vision UA that will be operated by Avwatch will be registered in accordance with 49 U.S.C. 44103, *Registration of Aircraft*, as well as 14 C.F.R Part 47, *Aircraft Registration*, and marked in accordance with 14 C.F.R. Part 45, *Identification and Registration Marking*.

BASIS FOR PETITION

Petitioner, Avwatch Inc., by and through undersigned counsel, pursuant to the provisions of the Federal Aviation Regulations (14 C.F.R. § 11.61) and the FAA Modernization and Reform Act of 2012, Section 333, *Special Rules for Certain Unmanned Aircraft Systems*, hereby petitions the Administrator to operate the Phantom 2 Vision UAS within the National Airspace System (NAS), and for an exemption from the requirements of 14 C.F.R §§ 61.113(a)&(b), 91.7(a), 91.121, 91.151(b), 91.405(a), 91.407(a)(1), 91.409(a)(1) & (a)(2), and 91.417(a)&(b).

In consideration of the size, weight, speed, and limited operating area associated with the unmanned aircraft and its operation, Avwatch's operation of the Phantom 2 Vision UAS meets the conditions of FMRA Section 333 and therefore, will not require an airworthiness certificate in accordance with 14 C.F.R. Part 21, Subpart H.

Accordingly, Avwatch requests relief from Sections 91.405(a), 91.407(a)(1), 91.409(a)(1) & (a)(2), and 91.417(a) & (b), as these sections set forth requirements for maintenance that only apply to aircraft with an airworthiness certificate.

Avwatch submits that the requested relief is proper since an equivalent level of safety will be ensured. All maintenance, alterations, or preventive maintenance of the Phantom 2 Vision UAS performed by Avwatch will be in accordance with the methods, techniques, and practices prescribed in the operating documents (i.e., the Phantom 2 Vision User Manual, the Phantom 2 Vision Quick Start Guide, the Phantom 2 Vision Checklists, the Smart Flight Battery Safety Guidelines and the Phantom Pilot Training Guide). Furthermore, only the Original Equipment Manufacturer (OEM) or qualified OEM maintainers will perform higher level inspections and maintenance per the operating documents and OEM standards. Avwatch will document and maintain all maintenance records for the Phantom 2 Vision UAS.

Relief from certain requirements of Section 61.113(a) and (b), entitled *Private pilot privileges and limitations: Pilot in command*, is requested by Avwatch to the extent necessary to allow the proposed UAS flight operations to be conducted by a Pilot in Command (PIC) holding a private pilot certificate, as well as an airman medical certificate, and who has demonstrated, by meeting minimum flight-hour and currency requirements, that the PIC is able to safely operate the Phantom 2 Vision UAS in a manner consistent with this exemption, including evasive and emergency maneuvers and maintaining appropriate distances from people, vessels, vehicles and structures.

Avwatch seeks relief from Section 91.7(a), entitled *Civil aircraft airworthiness*, because the Phantom 2 Vision UAS does not require an airworthiness certificate in accordance with 14 C.F.R. Part 21, Subpart H. As such, Avwatch submits that it will ensure that the Phantom 2 Vision UAS is in an airworthy condition, prior to every flight, by determining that the UAS is in compliance with the operating documents (i.e., the Phantom 2 Vision User Manual, the Phantom 2 Vision Quick Start Guide, the Phantom 2 Vision Checklists, the Smart Flight Battery Safety Guidelines and the Phantom Pilot Training Guide), and that the aircraft is in a condition for safe flight.

Avwatch also seeks an exemption from the requirements of Section 91.121, entitled *Altimeter Settings*, because the altitude reporting equipment of the Phantom 2 Vision UAS is set to zero feet above ground level (AGL), rather than local barometric pressure or field altitude, before each flight. The altitude information of

the Phantom 2 Vision UA is provided to the PIC via a barometric pressure sensor, Global Positioning System (GPS) equipment, and a radio communications telemetry data link, which downlinks from the UA to the GCS for active monitoring of the flight path. A level of safety equivalent to Section 91.121 will be ensured as the altitude of the Phantom 2 Vision UA will be reported to air traffic control (ATC) in feet AGL, and Avwatch will operate the Phantom 2 Vision UA within visual line of sight, at or below 400 feet AGL.

Additionally, Avwatch seeks an exemption from the requirements of Section 91.151(b), entitled *Fuel requirements for flight in VFR conditions*. Avwatch submits that safety will not be affected by operation of the Phantom 2 Vision UA during daylight hours in visual meteorological conditions (VMC) under visual flight rules (VFR), with enough battery power to fly for a total duration of 20 minutes to the first point of intended landing and, assuming normal cruising speed, to fly after that for at least five minutes (i.e., 20 percent battery power remaining).

In accordance with 14 C.F.R. § 11.81, Avwatch provides the following information in support of its petition for exemption:

A. Name And Address Of The Petitioner.

The name and address of the Petitioner is:

Avwatch Inc.
246 South Meadow Rd
Gate 6 Building S-2
Plymouth MA, 02644

The point of contact for this Petition and specific contact information is as follows:

Zachary T. Lesinski
Tel: (508) 280-4252
246 South Meadow Rd
Gate 6 Building S-2
Plymouth MA, 02644

Email: ztl@avwatch.us

B. The Specific Sections Of 14 C.F.R. From Which Avwatch Seeks Exemption.

1. Avwatch Seeks Exemption From The Requirements Of Section 61.113(a) And (b).

Section 61.113, entitled *Private pilot privileges and limitations: Pilot in command*,

subsections (a) and (b) prescribe the following, in relevant part:

(a) No person who holds a private pilot certificate may act as a pilot in command (PIC) of an aircraft that is carrying passengers or property for compensation or hire; nor may that person, for compensation or hire, act as PIC of an aircraft.

(b) A private pilot may, for compensation or hire, act as PIC of an aircraft in connection with any business or employment if—

(1) The flight is only incidental to that business or employment; and

(2) The aircraft does not carry passengers or property for compensation or hire.

2. Avwatch Seeks Exemption From The Requirements Of Section 91.7(a).

Section 91.7, entitled *Civil aircraft airworthiness*, subsection (a), states the following:

(a) No person may operate a civil aircraft unless it is in an airworthy condition.

3. Avwatch Seeks Exemption From The Requirements Of Section 91.121.

Section 91.121, entitled *Altitude settings*, subsection (a), states the following, in part:

(a) Each person operating an aircraft shall maintain the cruising altitude or flight level of that aircraft, as the case may be, by reference to an altimeter that is set, when operating--

(1) Below 18,000 feet MSL, to--

(i) The current reported altimeter setting of a station along the route and within 100 nautical miles of the aircraft;

(ii) If there is no station within the area prescribed in paragraph (a)(1)(i) of this section, the current reported altimeter setting of an appropriate available station; or

(iii) In the case of an aircraft not equipped with a radio, the elevation of the departure airport or an appropriate altimeter setting available before departure;

4. Avwatch Seeks Exemption From The Requirements Of Section 91.151(b).

Section 91.151, entitled *Fuel requirements for flight in VFR conditions*, subsection (b),

states the following:

(b) No person may begin a flight in a rotorcraft under VFR conditions unless (considering wind and forecast weather conditions) there is enough fuel to fly to the first point of intended landing and, assuming normal cruising speed, to fly after that for at least 20 minutes.

5. Avwatch Seeks Exemption From The Requirement Of Section 91.405(a).

Section 91.405, entitled *Maintenance required*, subsection (a), states the following:

Each owner or operator of an aircraft—

(a) Shall have that aircraft inspected as prescribed in subpart E of this part and shall between required inspections, except as provided in paragraph (c) of this section, have discrepancies repaired as prescribed in part 43 of this chapter[.]

6. Avwatch Seeks Exemption From The Requirements Of Section 91.407(a)(1).

Section 91.407, entitled *Operation after maintenance, preventive maintenance,*

rebuilding, or alteration, subsection (a)(1), states the following:

(a) No person may operate any aircraft that has undergone maintenance, preventive maintenance, rebuilding, or alteration unless--

(1) It has been approved for return to service by a person authorized under § 43.7 of this chapter[.]

7. Avwatch Seeks Exemption From The Requirements Of Sections 91.409(a)(1) And 91.409(a)(2).

Section 91.409, entitled *Inspections*, subsection (a), states the following:

(a) Except as provided in paragraph (c) of this section, no person may operate an aircraft unless, within the preceding 12 calendar months, it has had --

(1)An annual inspection in accordance with part 43 of this chapter and has been approved for return to service by a person authorized by § 43.7 of this chapter; or

(2)An inspection for the issuance of an airworthiness certificate in accordance with part 21 of this chapter.

8. Avwatch Seeks Exemption From The Requirements Of Sections 91.417(a) And 91.417(b).

Section 91.417, entitled *Maintenance records*, subsections (a) and (b), state the

following:

(a)Except for work performed in accordance with §§ 91.411 and 91.413, each registered owner or operator shall keep the following records for the periods specified in paragraph

(b)of this section:

(1)Records of the maintenance, preventive maintenance, and alteration and records of the 100-hour, annual, progressive, and other required or approved inspections, as appropriate, for each aircraft

(including the airframe) and each engine, propeller, rotor, and appliance of an aircraft. The records must include--

- (i) A description (or reference to data acceptable to the Administrator) of the work performed; and
- (ii) The date of completion of the work performed; and
- (iii) The signature, and certificate number of the person approving the aircraft for return to service.

(2) Records containing the following information:

- (i) The total time in service of the airframe, each engine, each propeller, and each rotor.
- (ii) The current status of life-limited parts of each airframe, engine, propeller, rotor, and appliance.
- (iii) The time since last overhaul of all items installed on the aircraft which are required to be overhauled on a specified time basis.
- (iv) The current inspection status of the aircraft, including the time since the last inspection required by the inspection program under which the aircraft and its appliances are maintained.
- (v) The current status of applicable airworthiness directives (AD) and safety directives including, for each, the method of compliance, the AD or safety directive number and revision date. If the AD or safety directive involves recurring action, the time and date when the next action is required.
- (vi) Copies of the forms prescribed by § 43.9(d) of this chapter for each major alteration to the airframe and currently installed engines, rotors, propellers, and appliances.

(b) The owner or operator shall retain the following records for the periods prescribed:

(1) The records specified in paragraph (a)(1) of this section shall be retained until the work is repeated or superseded by other work or for 1 year after the work is performed.

(2) The records specified in paragraph (a)(2) of this section shall be retained and transferred with the aircraft at the time the aircraft is sold.

(3) A list of defects furnished to a registered owner or operator under § 43.11 of this chapter shall be retained until the defects are repaired and the aircraft is approved for return to service.

C. The Extent Of Relief Avwatch Seeks And The Reason Avwatch Seeks The Relief.

1. Extent of Relief Avwatch Seeks And The Reason Avwatch Seeks Relief From Section 61.113(a) And (b).

Relief from Section 61.113(a) and (b) entitled *Private pilot privileges and limitations: Pilot in command*, is requested to the extent necessary to allow a PIC holding a private pilot certificate, as well as an airman medical certificate, and who has met certain flight-hour and currency requirements, to conduct the proposed UAS flight operations for compensation or hire.

This relief is requested since the limitations set forth in Section 61.113(a) and (b) state that a private pilot may, for compensation or hire, act as PIC of an aircraft in connection with any business or employment if: (1) The flight is only incidental to that business or employment; and

(2) The aircraft does not carry passengers or property for compensation or hire.

As set forth more fully below, Avwatch submits that an equivalent level of safety will be maintained because no PIC will be allowed to operate the Phantom 2 Vision UAS unless that PIC has met certain flight-hour and currency requirements, demonstrating that the PIC is able to safely operate the Phantom 2 Vision UAS in a manner consistent with the operations specifications as set forth herein, including evasive and emergency maneuvers, as well as maintaining appropriate distances from people, vessels, vehicles and structures.

Further, Avwatch submits that all flights of the Phantom 2 Vision UAS, conducted by the PIC pursuant to the grant of this Petition: (1) will be incidental to Avwatch's business; and (2) will not carry passengers or property for compensation or hire.

2. Extent of Relief Avwatch Seeks And The Reason Avwatch Seeks Relief From Section 91.7(a).

Relief from Section 91.7(a) entitled *Civil aircraft airworthiness*, is requested to the extent required to allow Avwatch to determine that the Phantom 2 Vision UAS is in an airworthy condition prior to every flight by ensuring that the UAS is in compliance with the operating documents (i.e., the Phantom 2 Vision User Manual, the Phantom 2 Vision Quick Start Guide, the Phantom 2 Vision Checklists, the Smart Flight Battery Safety Guidelines and the Phantom Pilot Training Guide).

Avwatch seeks the requested relief because the Phantom 2 Vision UAS does not require an airworthiness certificate in accordance with 14 C.F.R. Part 21, Subpart H. Therefore, Avwatch will ensure that the Phantom 2 Vision UAS is in an airworthy condition based upon its compliance with the operating documents prior to every flight, and further, determine the aircraft is in a condition for safe flight, as stated in the conditions and limitations below.

3. Extent of Relief Avwatch Seeks And The Reason Avwatch Seeks Relief From Section 91.121.

Relief from Section 91.121, entitled *Altimeter settings*, may be required to allow flight operations of the Phantom 2 Vision UAS, because the Phantom 2 Vision UA's altitude reporting equipment may be set on the ground to zero feet AGL, rather than local barometric pressure or field altitude, before each flight. The Phantom 2 Vision UAS utilizes a barometric pressure sensor, GPS equipment, and a radio communications telemetry data link to downlink altitude information from the UA to the PIC at the ground control station (GCS).

Considering the limited altitude of the proposed operations, relief from 14 C.F.R. § 91.121 is sought to the extent necessary to comply with the applicable conditions and limitations stated below. As more fully set forth herein, a level of safety equivalent to Section 91.121 will be ensured as the altitude of the Phantom 2 Vision UA will be reported to air traffic control (ATC) in feet above ground level (AGL), and Avwatch will operate the Phantom 2 Vision UA within visual line of sight, at or below 400 feet AGL.

4. Extent Of Relief Avwatch Seeks And The Reason Avwatch Seeks Relief From Section 91.151(b).

Relief from Section 91.151(b) entitled *Fuel requirements for flight in VFR conditions*, is requested to the extent required to allow flights of the battery powered Phantom 2 Vision UA during daylight hours in visual meteorological conditions (VMC), under visual flight rules (VFR) for a total duration of 20 minutes to the first point of intended landing and, assuming normal cruising speed, to fly after that for at least five minutes (i.e., 20 percent battery power remaining). Avwatch seeks the requested relief because without an exemption from Section 91.151(b), the flight time duration of the battery powered Phantom 2 Vision UA will severely constrain the practicality of any aerial acquisition and research flight operations that Avwatch proposes to conduct pursuant to this Petition.

Significantly, as set forth below, the technical specifications of the Phantom 2 Vision UAS, the Phantom 2 Vision UAS operating documents, and Avwatch's proposed operating limitations, ensure that Avwatch will safely operate the battery powered Phantom 2 Vision UA during daylight hours in visual meteorological conditions (VMC) under visual flight rules (VFR), with enough battery power to fly for a total

duration of 20 minutes to the first point of intended landing and, assuming normal cruising speed, to fly after that for at least five minutes (i.e., 20 percent battery power remaining).

5. Extent Of Relief Avwatch Seeks And The Reason Avwatch Seeks Relief From Sections 91.405(a), 91.407(a)(1), 91.409(a)(1) & (a)(2), And 91.417(a) & (b).

Since Sections 91.405(a), 91.407(a)(1), 91.409(a)(1) & (a)(2), and 91.417(a) & (b) only apply to aircraft with an airworthiness certificate, Avwatch requests relief from these Sections because the Phantom 2 Vision UAS does not require an airworthiness certificate. As set forth more fully below, the Phantom 2 Vision UAS meets the conditions of Section 333 of the FMRA for operation without an airworthiness certificate.

All maintenance, alterations, or preventive maintenance on the UAS of the Phantom 2 Vision UAS performed by Avwatch will be in accordance with the methods, techniques, and practices prescribed in the operating documents (i.e., the Phantom 2 Vision User Manual, the Phantom 2 Vision Quick Start Guide, the Phantom 2 Vision Checklists, the Smart Flight Battery Safety Guidelines and the Phantom Pilot Training Guide). Furthermore, only the Original Equipment Manufacturer (OEM) or qualified OEM maintainers will perform higher level inspections and maintenance per the operating documents and OEM standards. Avwatch will document and maintain all maintenance records for the Phantom 2 Vision UAS.

D. The Reasons Why Granting Avwatch's Request Would Be In The Public Interest; That Is, How It Would Benefit The Public As A Whole.

Granting the present Petition will further the public interest by allowing Avwatch to safely, efficiently, and economically perform aerial acquisitions and research within the NAS, commercially, in support of government entities, agriculture, scientific studies, and aviation industry. Additionally, use of the Phantom 2 Vision UAS will decrease congestion of the NAS, reduce pollution, and provide significant benefits to the economy. Notably, the benefits of Avwatch's proposed operation of the Phantom 2 Vision UAS will be realized without implicating any privacy issues.

1. The Public Will Benefit From The Aerial Acquisition And Research Performed.

Avwatch submits this Petition to commercially operate the Phantom 2 Vision UAS and perform aerial acquisitions within the NAS, in support of government entities, agriculture, scientific studies, and aviation

industries. The Phantom 2 Vision UAS will provide safe, efficient, and economical aerial acquisition and research operations to further each of these fields, all of which are critical to the well-being of the general public.

The specific operations that Avwatch will perform with the Phantom 2 Vision UAS demonstrate how the requested exemption will directly benefit the above-referenced industries and the public. In the railroad, oil, and gas industries, the Phantom 2 Vision UAS will be used to: aid in facility inspections; survey and plan new worksites; survey of damage cause by storms, natural disasters, and accidents; and perform right of way analysis. The Phantom 2 Vision UAS may also further environmental management by mapping deforestation and surveying point source pollution.

2. The Public Will Benefit From Decreased Congestion Of The NAS.

The Phantom 2 Vision UA is battery powered and serves as a safe, efficient, and economical alternative to the manned aircraft traditionally utilized to obtain aerial imagery. By reducing the amount of manned aircraft needed to perform aerial acquisitions, an exemption allowing the use of a Phantom 2 Vision UAS would reduce the amount of manned aircraft in the NAS, reduce noise and air pollution, and increase the safety of life and property in the air and on the ground.

Furthermore, by reducing the number of manned aircraft operating in the NAS, congestion around airports caused by arriving and departing aircraft will be reduced. The Phantom 2 Vision UA does not require an airport to takeoff or land. Likewise, a reduction of manned aircraft conducting aerial survey missions would result in fewer aircraft that must be handled by air traffic control during the ground, takeoff, departure, arrival, and landing phases of flight operations.

3. The Public Will Benefit From The Safety And Efficiency Of The Phantom 2 Vision UAS.

Conducting aerial acquisitions with the Phantom 2 Vision UAS, instead of manned aircraft, will greatly benefit the public by drastically reducing the levels of air and noise pollution generated during traditional aerial survey flight operations. By using battery power and electric motors, the Phantom 2 Vision UAS produces no air pollution, and is the most viable environmentally conscious alternative to the cabin class, six cylinder internal combustion twin engine aircraft that are typically utilized for aerial acquisitions, and burn approximately 20-30 gallons per hour of leaded aviation fuel. The Phantom 2 Vision UA, while reducing the carbon footprint of aerial acquisitions, also reduces noise pollution, as the UA is propelled by battery powered electric motors, rather than an internal combustion engine.

By using the Phantom 2 Vision UAS to perform aerial acquisitions, the substantial risk to life and property in the air and on the ground, which is usually associated with traditional manned aircraft flight operations, will be substantially reduced or completely eliminated. Aside from the lack of flight crew members located onboard the aircraft, the Phantom 2 Vision UA (weighing approximately 5.5 pounds at its maximum gross weight; measuring approximately 14 inches diagonally; and carrying no fuel on board), has less physical potential for collateral damage to life and property on the ground, and in the air, compared to the manned aircraft that typically conduct aerial acquisitions (weighing approximately 6,500 pounds with a wingspan of approximately 40 feet, a length of 34 feet, and a fuel capacity of 180 gallons).

4. Performing Aerial Acquisition Operations With The Phantom 2 Vision UAS Will Benefit The Economy.

In addition to being safe and efficient, the Phantom 2 Vision UAS is also an economical alternative to using manned aircraft to conduct aerial acquisitions. As such, operation of the Phantom 2 Vision UAS will allow United States based companies, like Avwatch , to remain competitive and contribute to growth of the U.S. economy. Specifically, with the rising cost of aviation fuel and the Environmental Protection Agency (“EPA”) regulatory actions phasing out leaded aviation fuels, U.S. owned and operated companies must adopt new and alternative technology in order to remain competitive. Operating the battery powered Phantom 2

Vision UAS is one such technology that not only allows companies greater operational flexibility compared to manned aircraft, but provides such flexibility without the high operational cost of a traditional manned aircraft.

By operating the Phantom 2 Vision UAS, companies such as Avwatch , can remain competitive and profitable, and therefore, provide greater job stability to employees and contractors, which will ultimately contribute to growth of the U.S. economy. Improved financial performance of U.S. companies, through commercial use of the Phantom 2 Vision UAS, provides a stable workforce that increases consumer spending; improves local, state, and federal tax revenues; and allows companies to invest in research and development in order to remain competitive both in the United States and abroad.

5. There Are No Privacy Issues.

Similar to the manned aerial acquisition flight operations that have been conducted for decades, Avwatch's proposed operation of the Phantom 2 Vision UAS will not implicate any privacy issues. Specifically, the Phantom 2 Vision UAS will only be operated pursuant to the specific conditions and limitations set forth herein, and in accordance with the Federal Aviation Regulations, including the minimum altitude requirements of 14 C.F.R. § 91.119. Most significantly, the Phantom 2 Vision UA will not be operated closer than 500 feet to any person, vessel, vehicle, or structure, which is not directly involved in the operation.

E. The Reasons Why Granting The Exemption Would Not Adversely Affect Safety, Or How The Exemption Would Provide A Level Of Safety At Least Equal To That Provided By The Rule From Which Avwatch Seeks Exemption.

1. Reasons Why The Phantom 2 Vision UAS Meets The Conditions Of The FAA Modernization and Reform Act of 2012 (FMRA) Section 333.

In consideration of the size, weight, speed, and limited operating area associated with the unmanned aircraft and its operation, Avwatch's operation of the Phantom 2 Vision UAS meets the conditions of FMRA Section 333, and will not require an airworthiness certificate in accordance with 14 C.F.R. Part 21, Subpart H. Section 333 provides authority for a UAS to operate without airworthiness certification and sets forth requirements for considering whether a UAS will create a hazard to users of the NAS or the public, or otherwise pose a threat to national security. Specifically, FMRA Section 333 states the following, in part:

(a) In General.--Notwithstanding any other requirement of this subtitle, and not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall determine if certain unmanned aircraft

systems may operate safely in the national airspace system before completion of the plan and rulemaking required by section 332 of this Act or the guidance required by section 334 of this Act.

(b)Assessment of Unmanned Aircraft Systems.--In making the determination under subsection (a), the Secretary shall determine, at a minimum--

(1)which types of unmanned aircraft systems, if any, as a result of their size, weight, speed, operational capability, proximity to airports and populated areas, and operation within visual line of sight do not create a hazard to users of the national airspace system or the public or pose a threat to national security; and

(2)whether a certificate of waiver, certificate of authorization, or airworthiness certification under section 44704 of title 49, United States Code, is required for the operation of unmanned aircraft systems identified under paragraph (1).

(c)Requirements for Safe Operation.--If the Secretary determines under this section that certain unmanned aircraft systems may operate safely in the national airspace system, the Secretary shall establish requirements for the safe operation of such aircraft systems in the national airspace system.

In seeking this exemption, Avwatch submits that the Phantom 2 Vision UAS can operate safely in the NAS pursuant to FMRA Section 333, as demonstrated by: (a) the characteristics of the Phantom 2 Vision UAS; (b) the pilot certification requirement; and (c) the specific operating limitations.

a. The Specifications Of The Phantom 2 Vision UAS Demonstrate Its Safe Characteristics.

The Phantom 2 Vision UAS does not create a hazard to users of the NAS or the public, or otherwise pose a threat to national security considering its size, weight, speed, and operational capability.

i. Technical Specifications Of The Phantom 2 Vision UAS.

The technical specifications of the Phantom 2 Vision UAS are set forth at page 70 of the Phantom 2 Vision User Manual, attached hereto as Exhibit A. Exhibit A contains proprietary information and is to be held in a separate file pursuant to 14 C.F.R. § 11.35(b)1.

ii. The Phantom 2 Vision UAS Autonomous Flight And Navigation Modes Enable The UAS To Remain Within A Defined Operational Area.

The Phantom 2 Vision UAS may be operated in both semi and fully autonomous flight modes. The Phantom 2 Vision UAS autonomous features include the following: a GPS Position and Altitude Hold when the GCS controls are released to their neutral positions; a Return To Home (RTH) function; and Flight Limits (i.e, pre-set limitations that restrict the distance and height of the UAS flight operations).

A complete description of the autonomous modes of the Phantom 2 Vision UAS is provided at pages 32 through 41 of the Phantom 2 Vision User Manual, attached hereto as Exhibit A. Exhibit A contains proprietary information and is to be held in a separate file pursuant to 14 C.F.R. § 11.35(b).

iii. The Phantom 2 Vision UAS Is Designed For Automatic Return To Home Point Or Auto-Land In The Event Of Loss Of The Control Link Or Navigation.

A complete description of the Failsafe Functions of the Phantom 2 Vision UAS is set forth at pages 32 through 41 of the Phantom 2 Vision User Manual, attached hereto as Exhibit A. Exhibit A contains proprietary information and is to be held in a separate file pursuant to 14 C.F.R. § 11.35(b).

iv. The Phantom 2 Vision GCS And Its Operation.

A complete description of the operation and specifications of the Phantom 2 Vision GCS and its software is provided at pages 7 through 17 and pages 42 through 65 of the Phantom 2 Vision User Manual. The Phantom 2 Vision UAS is compliant with all Federal Communications Commission (FCC) requirements, and the radio frequency spectrum used for operation and control of the UA is set forth at page 70 of the Phantom 2 Vision UAS User Manual. A copy of the Phantom 2 Vision User Manual, which contains proprietary information, is attached hereto as Exhibit A, and is to be held in a separate file pursuant to 14 C.F.R. § 11.35(b).

b. Flight Operations Of The Phantom 2 Vision UAS Are Limited To The Line Of Sight Of A Certificated Pilot in Command With A Safety Observer.

Avwatch will only utilize certificated pilots who possess a current and valid FAA issued airman medical certificate to act as a pilot in command (PIC) of the Phantom 2 Vision UAS. Additionally, a safety observer will assist all pilots during flight operations.

c. Flights Of The Phantom 2 Vision UAS Will Be Conducted Pursuant To Specific Operating Limitations.

In seeking this exemption, Avwatch proposes to commercially operate the Phantom 2 Vision UAS for the special purpose of conducting aerial acquisitions within the NAS, pursuant to the following specific operating limitations:

1. Operations authorized by this grant of exemption are limited to the following aircraft described in the operating documents, which is a quad-rotor aircraft weighing less than 6 pounds at maximum gross weight: DJI Phantom 2 Vision Unmanned Aircraft System. Proposed operations of any other aircraft will require a new petition or a petition to amend this grant.
2. UAS operations under this exemption will be limited to conducting operations for the purpose of aerial acquisitions.
3. The UA may not be flown at an indicated airspeed exceeding 30 knots.
4. The UA must be operated at an altitude of no more than 400 feet above ground level (AGL), as indicated by the procedures specified in the operating documents. All altitudes reported to ATC must be in feet AGL.
5. The UA must be operated within visual line of sight (VLOS) of the PIC at all times. This requires the PIC to be able to use human vision unaided by any device other than corrective lenses, as specified on the PIC's FAA-issued airman medical certificate.
6. The use of first person view (FPV) by the PIC or visual observer (VO) is not permitted.
7. All operations must utilize a visual observer (VO). The VO may be used to satisfy the VLOS requirement as long as the PIC always maintains VLOS capability. The VO and PIC must be able to communicate verbally at all times. Electronic messaging or texting is not permitted during flight operations. The PIC must be designated before the flight and cannot transfer his or her designation for the duration of the flight. The PIC must ensure that the VO can perform the functions prescribed in the operating documents.
8. The VO must not perform any other duties beyond assisting the PIC with seeing and avoiding other air traffic and other ground based obstacles/obstructions and is not permitted to operate the camera or other instruments.
9. The operating documents and the grant of exemption must be accessible during UAS operations and made available to the Administrator upon request. If a discrepancy exists between the conditions and limitations contained in the grant of exemption and the procedures outlined in the operating documents, the conditions and limitations contained in the grant of exemption take precedence and must be followed. Otherwise, the operator must follow the procedures as outlined in its operating documents. The operator may update or revise its operating documents. It is the operator's responsibility to track such revisions and present updated and revised documents to the Administrator upon request. The operator must also present updated and revised documents if it petitions for extension or amendment to the grant of exemption. If the operator determines that any update or revision would affect the basis upon which the FAA granted the exemption, then the operator must petition for amendment to the grant of exemption. The FAA's UAS Integration Office (AFS-80) may be contacted if questions arise regarding updates or revisions to the operating documents.
10. Prior to each flight the PIC must inspect the UAS to ensure it is in a condition for safe flight. If the inspection reveals a condition that affects the safe operation of the UAS, the aircraft is prohibited from operating until the necessary maintenance has been performed and the UAS is found to be in a condition for

safe flight. The Ground Control Station must be included in the preflight inspection. All maintenance and alterations must be properly documented in the aircraft records.

11. Any UAS that has undergone maintenance or alterations that affect the UAS operation or flight characteristics, e.g. replacement of a flight critical component, must undergo a functional test flight. The PIC who conducts the functional test flight must make an entry in the aircraft records.

12. The pre-flight inspection must account for all potential discrepancies, e.g. inoperable components, items, or equipment, not already covered in the relevant sections of the operating documents.

13. The operator must follow the UAS manufacturer's aircraft/component, maintenance, overhaul, replacement, inspection, and life limit requirements.

14. The operator must carry out its maintenance, inspections, and record keeping requirements, in accordance with the operating documents. Maintenance, inspection, alterations, and status of replacement/overhaul component parts must be noted in the aircraft records, including total time in service, description of work accomplished, and the signature of the authorized person returning the UAS to service.

15. Each UAS operated under this exemption must comply with all manufacturer Safety Bulletins.

16. The authorized person must make an entry in the aircraft record of the corrective action taken against discrepancies discovered between inspections.

17. The PIC must possess at least a private pilot certificate and at least a current third- class medical certificate. The PIC must also meet the flight review requirements specified in 14 C.F.R. § 61.56 in an aircraft in which the PIC is rated on his or her pilot certificate.

18. The operator may not permit any PIC to operate unless the PIC meets the operator's qualification criteria and demonstrates the ability to safely operate the UAS in a manner consistent with how the UAS will be operated under the exemption, including evasive and emergency maneuvers and maintaining appropriate distances from persons, vessels, vehicles and structures. PIC qualification flight hours must be logged in a manner consistent with 14 C.F.R. § 61.51(b). The VO is also required to complete the operator's training requirements. A record of training must be documented and made available upon request by the Administrator. Flights for the purposes of training the operator's PICs and VOs (training, proficiency, and experience-building), are permitted under the terms of the exemption. However, training operations may only be conducted during dedicated training sessions. During training, proficiency, and experience-building flights, all persons not essential for flight operations are considered nonparticipants, and the PIC must operate the UA with appropriate distance from nonparticipants in accordance with 14 C.F.R. § 91.119.

19. UAS operations may not be conducted during night, as defined in 14 C.F.R. § 1.1. All operations must be conducted under visual meteorological conditions (VMC). Flights under special visual flight rules (SVFR) are not authorized.

20. The UA may not operate within 5 nautical miles of an airport reference point as denoted on a current FAA-published aeronautical chart unless a letter of agreement with that airport's management is obtained, and the operation is conducted in accordance with a NOTAM as required by the operator's COA. The letter of agreement with the airport management must be made available to the Administrator upon request.

21. The UA may not be operated less than 500 feet below or less than 2,000 feet horizontally from a cloud or when visibility is less than 3 statute miles from the PIC.

22. If the UA loses communications or loses its GPS signal, it must return to a pre- determined location within the planned operating area and land or be recovered in accordance with the operating documents.
23. The PIC must abort the flight in the event of unpredicted obstacles or emergencies in accordance with the operating documents.
24. The PIC is prohibited from beginning a flight unless (considering wind and forecast weather conditions) there is enough power to fly at normal cruising speed to the intended landing point and land the UA with 20% battery power remaining.
25. The operator must obtain an Air Traffic Organization (ATO) issued Certificate of Waiver or Authorization (COA) prior to conducting any operations under the grant of exemption. This COA will also require the operator to request a Notice to Airmen (NOTAM) not more than 72 hours in advance, but not less than 48 hours prior to the operation. All operations shall be conducted in accordance with airspace requirements in the ATO issued COA including class of airspace, altitude level and potential transponder requirements.
26. All aircraft operated in accordance with the exemption must be identified by serial number, registered in accordance with 14 C.F.R. part 47, and have identification (N- Number) markings in accordance with 14 C.F.R. part 45, Subpart C. Markings must be as large as practicable.
27. Before conducting operations, the radio frequency spectrum used for operation and control of the UA must comply with the Federal Communications Commission (FCC) or other appropriate government oversight agency requirements.
28. The documents required under 14 C.F.R. 91.9 and 91.203 must be available to the PIC at the Ground Control Station of the UAS any time the UAS is operating. These documents must be made available to the Administrator or any law enforcement official upon request.
29. The UA must remain clear and yield the right of way to all manned aviation operations and activities at all times.
30. The UAS may not be operated by the PIC from any moving device or vehicle.
31. The UA may not be operated over congested or densely populated areas.
32. Flight operations must be conducted at least 500 feet from all nonparticipating persons (persons other than the PIC, VO, operator trainees or essential persons), vessels, vehicles, and structures unless:
- a. Barriers or structures are present that sufficiently protect nonparticipating persons from the UA and/or debris in the event of an accident. The operator must ensure that nonparticipating persons remain under such protection. If a situation arises where nonparticipating persons leave such protection and are within 500 feet of the UA, flight operations must cease immediately and/or;
 - b. The aircraft is operated near vessels, vehicles or structures where the owner/controller of such vessels, vehicles or structures has granted permission and the PIC has made a safety assessment of the risk of operating closer to those objects and determined that it does not present an undue hazard, and;
 - c. Operations nearer to the PIC, VO, operator trainees or essential persons do not present an undue hazard to those persons per § 91.119(a).

33. All operations shall be conducted over private or controlled-access property with permission from the land owner/controller or authorized representative. Permission from land owner/controller or authorized representative will be obtained for each flight to be conducted.

34. Any incident, accident, or flight operation that transgresses the lateral or vertical boundaries of the operational area as defined by the applicable COA must be reported to the FAA's UAS Integration Office (AFS-80) within 24 hours. Accidents must be reported to the National Transportation Safety Board (NTSB) per instructions contained on the NTSB Web site: www.nts.gov.

2. Reasons Why An Exemption From The Requirements Of Section 61.113(a) And (b) Would Not Adversely Affect Safety.

Avwatch submits that the equivalent level of safety established by Section 61.113(a) and (b) will be maintained because no PIC will be allowed to operate the Phantom 2 Vision UAS unless that PIC has demonstrated, by meeting minimum flight-hour and currency requirements, that the PIC is able to safely operate the Phantom 2 Vision UAS in a manner consistent with the exemption, including evasive and emergency maneuvers and maintaining appropriate distances from people, vessels, vehicles and structures.

Considering Avwatch's proposed area of operations, and the operating limitations set forth-above; the parallel nature of private pilot aeronautical knowledge requirements to those of commercial pilot requirements (*See* Exemption No. 11062); and the airmanship skills necessary to safely operate the Phantom 2 Vision UAS, Avwatch submits that the additional manned airmanship experience of a commercially certificated pilot would not correlate to the airmanship skills necessary for Avwatch's specific proposed flight operations.

The Phantom 2 Vision UAS has been the subject of multiple Grants of Exemption from Section 61.113(a) and (b) (Exemption Nos. 11153, 11157). Additionally, the FAA has previously granted relief from Section 61.113(a) and (b) specific to UAS, in circumstances similar, in all material respects, to those presented herein (e.g. Exemption Nos. 11062, 11063, 11064, 11065, 11066, 11067, 11080, 11109, 11110, 11112, 11136, 11138, 11150, 11153, 11156, 11158, 11159, 11160, 11161, 11170, 11171, 11172).

Avwatch will not allow any PIC to operate the Phantom 2 Vision UAS unless that PIC has demonstrated, by meeting minimum flight-hour requirements or the Phantom 2 Vision UAS training and currency requirements, that the PIC is able to safely operate the Phantom 2 Vision UAS in a manner consistent

with this exemption, including evasive and emergency maneuvers and maintaining appropriate distances from people, vessels, vehicles and structures.

Specifically, the PIC must have accumulated and logged, in a manner consistent with 14 C.F.R. § 61.51(b), 25 hours of total time as a UAS rotorcraft pilot including at least 10 hours logged as a UAS pilot with a multi-rotor UAS (with a minimum of 5 hours of those hours as a UAS pilot operating the same make and model of UAS to be used for operations under the exemption). In addition to the hour requirements, the PIC must accomplish 3 take-offs and landings in the preceding 90 days (for currency purposes). As in Exemption Nos. 11062, 11138, and 11153, prior documented flight experience that was obtained in compliance with applicable regulations will ensure an equivalent level of safety during Avwatch 's proposed operations. The Administrator has held that prior documented flight experience that was obtained in compliance with applicable regulations would ensure safe operations, stating as follows:

In Exemption No. 11062, the FAA required that prior to conducting operations for the purpose of motion picture filming (or similar operations), the PIC must have accumulated and logged, in a manner consistent with 14 CFR 61.51(b), 25 hours of total time as a UAS rotorcraft pilot including at least 10 hours logged as a UAS pilot with a multi-rotorUAS. Prior to operations under Exemption No. 11062, the PIC must also have accumulated and logged a minimum of 5 hours as a UAS pilot operating the same make and model of UAS to be used for operations under the exemption. For clarification, the FAA considers these minimum hour requirements to be inclusive rather than additive; i.e. 5 hours make and model time may be included in the 10 hours of multi-rotor time and the 10 hours may be included in the total 25 hours of UAS rotorcraft time. In addition to the hour requirements, the PIC must accomplish 3 take-offs and landings in the preceding 90 days (for currency purposes). The FAA finds that at a minimum, the flight-hour requirements in Exemption No. 11062 are appropriate to practice and build proficiency in the skills necessary to safely conduct the petitioner's proposed operations. The FAA also finds that prior documented flight experience that was obtained in compliance with applicable regulations would satisfy this requirement. Training, proficiency, and experience-building flights can also be conducted under the grant of exemption to accomplish the required flight time. During training, proficiency, and experience-building flights the PIC is required to operate the UA with appropriate distances in accordance with 14 C.F.R 91.119. Exemption No. 11138 at page 15.

Accordingly, Avwatch will ensure safe operations by not allowing any PIC to operate the Phantom 2 Vision UAS unless that PIC has demonstrated, by meeting minimum flight-hour and currency requirements, that the PIC is able to safely operate the Phantom 2 Vision UAS in a manner consistent with the exemption, including evasive and emergency maneuvers and maintaining appropriate distances from people, vessels, vehicles and structures.

3. Reasons Why An Exemption From The Requirements Of Section 91.7(a) Would Not Adversely Affect Safety.

The equivalent level of safety established by Section 91.7(a) will be maintained because prior to every flight, Avwatch will ensure that the Phantom 2 Vision UAS is in an airworthy condition based upon the Phantom 2 Vision UAS's compliance with its operating documents (i.e., the Phantom 2 Vision User Manual, the Phantom 2 Vision Quick Start Guide, the Phantom 2 Vision Checklists, the Smart Flight Battery Safety Guidelines and the Phantom Pilot Training Guide), and as stated in the conditions and limitations herein.

The Phantom 2 Vision UAS has been the subject of multiple Grants of Exemption from Section 91.7(a) (Exemption Nos. 11153, 11157). Additionally, the FAA has previously granted relief from Section 91.7(a) specific to UAS, in circumstances similar, in all material respects, to those presented herein (e.g. Exemption Nos. 11062, 11063, 11064, 11065, 11066, 11067, 11080, 11109, 11110, 11112, 11136, 11138, 11150, 11153, 11156, 11157, 11158, 11159, 11160, 11161, 11166, 11167, 11170, 11171, 11172).

4. Reasons Why An Exemption From The Requirements Of Section 91.121 Would Not Adversely Affect Safety.

The equivalent level of safety established by Section 91.121 will be maintained because the altitude of the Phantom 2 Vision UA will be reported to air traffic control (ATC) in feet above ground level (AGL), and Avwatch will operate the Phantom 2 Vision UA within visual line of sight, at or below 400 feet AGL. Furthermore, the altitude information of the Phantom 2 UA will be provided to the PIC via a barometric pressure sensor, GPS equipment and a radio communications telemetry data link, which downlinks from the UA to the GCS for active monitoring of the flight path and altitude. Prior to each flight, a zero altitude initiation point is automatically established by the UAS at ground level.

The Phantom 2 Vision UAS was the subject of multiple Grants of Exemption from Section 91.121 (Exemption Nos. 11153, 11157). The FAA has previously granted relief from Section 91.121 specific to UAS, in circumstances similar, in all material respects, to those presented herein (e.g. Exemption Nos. 11062, 11063, 11064, 11065, 11066, 11067, 11080, 11109, 11112, 11136, 11138, 11150, 11153, 11156, 11157, 11158, 11159, 11160, 11161, 11166, 11167, 11170, 11171).

5. Reasons Why An Exemption From The Requirements Of Section 91.151(b) Would Not Adversely Affect Safety.

A grant of this exemption would ensure an equivalent level of safety established by 14 C.F.R. Section 91.151(b) as a result of (1) the technical specifications of the Phantom 2 Vision UAS; (2) the limitations on the proposed flight operations; and (3) the location of the proposed flight operations. Accordingly, Avwatch will ensure that it will safely operate the battery powered Phantom 2 Vision UA during daylight hours in visual meteorological conditions (VMC) under visual flight rules (VFR), with enough battery power to fly for a total duration of 20 minutes to the first point of intended landing and, assuming normal cruising speed, to fly after that for at least five minutes (i.e., 20 percent battery power remaining).

Here, as in Exemption No. 11109, the technical specifications of the Phantom 2 Vision UAS; the limitations on the proposed flight operations; and the location of the proposed operations, will ensure an equivalent level of safety established by 14 C.F.R. Section 91.151(b). Furthermore, safety will be ensured as the Phantom 2 Vision UAS provides audible and visual warnings to the PIC at the GCS when the UA has low battery power remaining.

Significantly, the Phantom 2 Vision UAS has been the subject of multiple Grants of Exemption from Section 91.151 (Exemption Nos. 11153, 11157), and other previous exemptions granted by the FAA concerning Section 91.151 establish that safety is not adversely affected when the technical characteristics and operating limitations of the UAS are considered. Relief has been granted for manned aircraft to operate at less than the minimums prescribed in Section 91.151, including Exemption Nos. 2689, 5745, and 10650. Moreover, the FAA has previously granted relief from Section 91.151 specific to UAS, in circumstances similar, in all material respects, to those presented herein (e.g. Exemption Nos. 8811, 10808, 10673, 11042, 11062, 11063, 11064, 11065, 11066, 11067, 11080, 11109, 11110, 11136, 11138, 11150, 11153, 11156, 11157, 11158, 11159, 11160, 11161, 11166, 11167, 11170, 11171, 11172).

6. Reasons Why An Exemption From The Requirements Of Sections 91.405(a), 91.407(a)(1), 91.409(a)(1) & (a)(2), And 91.417(a) & (b) Would Not Adversely Affect Safety.

In seeking this exemption, Avwatch submits that the equivalent level of safety with regard to the regulatory maintenance and alteration requirements established by Sections 91.405(a), 91.407(a)(1), 91.409(a)(1) & (a)(2), and 91.417(a) & (b) will be met because all maintenance, alterations, or preventive

maintenance of the Phantom 2 Vision UAS performed by Avwatch will be in accordance with the methods, techniques, and practices prescribed in the operating documents (i.e., the Phantom 2 Vision User Manual, the Phantom 2 Vision Quick Start

Guide, the Phantom 2 Vision Checklists, the Smart Flight Battery Safety Guidelines and the Phantom Pilot Training Guide). Furthermore, only the Original Equipment Manufacturer (OEM) or qualified OEM maintainers will perform higher level inspections and maintenance per the operating documents and OEM standards. Avwatch will document and maintain all maintenance records for the Phantom 2 Vision UAS.

Since the Phantom 2 UAS will be inspected as prescribed by the operating documents, Avwatch will maintain the equivalent level of safety established by Sections 91.405(a), 91.409(a)(1), and 91.409(a)(2). The following operating documents are attached hereto, identified as the following Exhibits: (A) the Phantom 2 Vision User Manual; (B) the Phantom 2 Vision Quick Start Guide; (C) the Phantom 2 Vision Checklists; and (D) the Smart Flight Battery Safety Guidelines. The foregoing exhibits contain proprietary information and are to be held in a separate file pursuant to 14 C.F.R. § 11.35(b).

Likewise, the exemption sought will not adversely affect safety because all maintenance, alterations, or preventive maintenance of the Phantom 2 Vision UAS will be performed by Avwatch in accordance with the methods, techniques, and practices prescribed in the operating documents. Only the Original Equipment Manufacturer (OEM) or qualified OEM maintainers will perform higher level inspections and maintenance per the operating documents and OEM standards. Avwatch will document and maintain all maintenance records for the Phantom 2 Vision UAS.

Furthermore, an equivalent level of safety established by Sections 91.407, 91.417(a) and 91.417(b), because Avwatch will document and maintain all of the maintenance records for the Phantom 2 Vision UAS.

The Phantom 2 Vision UAS has been the subject of multiple Grants of Exemption from Sections 91.405(a), 91.407(a)(1) and (a)(2), 91.409(a)(2), and 91.417(a) and (b) (Exemption Nos. 11153, 11157), and

other previous exemptions granted by the FAA concerning these Sections establish that safety is not adversely affected when the technical characteristics and operating limitations of the UAS are considered (e.g. Exemption Nos. 11062, 11063, 11064, 11065, 11066, 11067, 11080, 11109, 11110, 11112, 11136, 11138, 11150, 11153, 11156, 11157, 11158, 11159, 11160, 11161, 11166, 11167, 11170, 11171, 11172).

7.The FAA May Prescribe Any Other Conditions For Safe Operation.

In accordance with Section 333 of the FAA Modernization and Reform Act of 2012 (FMRA) and 14 C.F.R. § 21.16 entitled *Special Conditions*, Avwatch requests that the FAA prescribe special conditions for the intended operation of the Phantom 2 Vision UAS, which contain such safety standards that the Administrator finds necessary to establish a level of safety equivalent to that established by 14 C.F.R. Part 21, Subpart H, and 14 C.F.R §§ 61.113(a) & (b), 91.7 (a), 91.121, 91.151(b), 91.405(a), 91.407(a)(1), 91.409(a)(1) & (a)(2), and 91.417(a) & (b). Such special conditions will permit safe operation of the UA for the limited purpose of conducting aerial acquisitions within the NAS for compensation or hire. FMRA Section 333 sets forth the requirements for considering whether a UAS will create a hazard to users of the NAS or the public, or otherwise pose a threat to national security; and further, provides the authority for such UAS to operate without airworthiness certification in accordance with any requirements that must be established for the safe operation of the UAS in the NAS.

Likewise, the Administrator may prescribe special conditions pursuant to 14 C.F.R.§ 21.16, for operation of the Phantom 2 Vision UAS, since the airworthiness regulations of 14 C.F.R. Part 21 do not contain adequate or appropriate safety standards, due to the novel or unusual design features of the aircraft. Section 21.16, entitled *Special Conditions*, states the following:

If the FAA finds that the airworthiness regulations of this subchapter do not contain adequate or appropriate safety standards for an aircraft, aircraft engine, or propeller because of a novel or unusual design feature of the aircraft, aircraft engine or propeller, he prescribes special conditions and amendments thereto for the product. The special conditions are issued in accordance with Part 11 of this chapter and contain such safety standards for the aircraft, aircraft engine or propeller as the FAA finds necessary to establish a level of safety equivalent to that established in the regulations.

See 14 C.F.R. § 21.16.

Therefore, in accordance with FMRA Section 333 and 14 C.F.R. § 21.16, the FAA may

prescribe special conditions for Avwatch's intended operation of the Phantom 2 Vision UAS, which contain such safety standards that the Administrator finds necessary to establish a level of safety equivalent to that established by 14 C.F.R. Part 21, Subpart H, and 14 C.F.R. Sections 61.113(a) & (b), 91.7(a), 91.121, 91.151(b), 91.405(a), 91.407(a)(1), 91.409(a)(1) & (a)(2), and 91.417(a) & (b).

F. A Summary That Can Be Published In The *Federal Register*, stating: The Rules From Which Avwatch Seeks Exemption:

Avwatch Inc. seeks exemption from the requirements of 14 C.F.R. Sections 61.113(a)&(b), 91.7(a), 91.121, 91.151(b), 91.405(a), 91.407(a)(1), 91.409(a)(1) & (a)(2), and 91.417(a) & (b).

A Brief Description Of The Nature Of The Exemption Avwatch Seeks:

This exemption will permit Avwatch Inc. to commercially operate an Unmanned Aircraft System (UAS) for the purpose of conducting aerial acquisitions within the National Airspace System (NAS).

G. Any Additional Information, Views, Or Arguments Available To Support Avwatch's Request.

This Petition is made pursuant to the FAA Modernization and Reform Act of 2012 (FMRA) Section 333, which directs the Secretary of Transportation to determine if certain UAS may operate safely in the NAS. As such, Avwatch's request for exemption may be granted pursuant to the authority of FMRA Section 333 and 14 C.F.R. Part 11, as set forth above.

FMRA Section 333 sets forth the requirements for considering whether a UAS will create a hazard to users of the NAS or the public, or otherwise pose a threat to national security; and further, provides the authority for such UAS to operate without airworthiness certification.

As discussed in detail above, Avwatch will operate the Phantom 2 Vision UAS safely in the NAS, without creating a hazard to users of the NAS, or the public, or otherwise pose a threat to national security.

CONCLUSION

As set forth herein, Avwatch seeks an exemption pursuant to 14 C.F.R. § 11.61 and Section 333 of the FAA Modernization and Reform Act of 2012 (FMRA), which will permit safe operation of the Phantom 2 Vision UAS commercially, without an airworthiness certificate, for the limited purpose of conducting aerial acquisitions within the National Airspace System (NAS). By granting this Petition, the FAA Administrator will be fulfilling the Congressional mandate of the FAA Modernization and Reform Act of 2012, while also

advancing the interests of the public, by allowing Avwatch to safely, efficiently, and economically operate the Phantom 2 Vision UAS commercially within the NAS.

WHEREFORE, in accordance with the Federal Aviation Regulations and the FAA Modernization and Reform Act of 2012, Section 333, Avwatch respectfully requests that the Administrator grant this Petition for an exemption from the requirements of 14 C.F.R Sections 61.113(a) & (b), 91.7(a), 91.121, 91.151(b), 91.405(a), 91.407(a)(1), 91.409(a)(1) & (a)(2), and 91.417(a) & (b), and permit Avwatch to operate the Phantom 2 Vision UAS commercially for the purpose of conducting aerial acquisitions within the NAS.