



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

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

September 4, 2015

Exemption No. 12765  
Regulatory Docket No. FAA –2015 –2581

Mr. Vincent A. Flanagan  
7170 Holly Avenue  
Cocoa, FL 32927

Dear Mr. Flanagan:

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 posted to the public docket on June 30, 2015, you petitioned the Federal Aviation Administration (FAA) for an exemption. You requested to operate an unmanned aircraft system (UAS) to conduct aerial videography, photography, research, surveys, mapping, and inspections.

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 3.

The petitioner requested relief from 14 CFR part 21, *Certification procedures for products and parts, Subpart H—Airworthiness Certificates*. 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 the requested 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 collection<sup>1</sup>. 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, Mr. Vincent A. Flanagan 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, Mr. Vincent A. Flanagan is hereafter referred to as the operator.

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<sup>1</sup> 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 3 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](http://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 September 30, 2017, unless sooner superseded or rescinded.

Sincerely,

/s/

John S. Duncan  
Director, Flight Standards Service

Enclosures

Supplement for previously submitted request.

Tracking number: **1jz-8j98-dzbr**

Vincent A. Flanagan petitions the Federal Aviation Administration (FAA) for an exemption from part 21, subpart H; and Sections 45.23(b), 61.113(a) and (b), 91.7(a), 91.9(b)(2), 91.103(b), 91.109, 91.119, 91.121, 91.151(a), 91.203(a)and(b), 91.207(a)(2) and (b),91.319(a)(1) 91.405(a)(b), 91.407(a)(1), 91.409(a)(1)(2), and 91.417(a) and (b), 91.9(c) of Title 14, Code of Federal Regulations (14 CFR).

The proposed exemption would allow Vincent Flanagan to operate the PHANTOM 3 quad-copter (drone) unmanned aircraft system (UAS) to conduct aerial videography and cinematography as part of existing environmental spill response for the purpose of acquiring before and after pictures/video of the clean-up. The Phantom 3 will also be used for gaining an aerial perspective for customers and providing market research, aerial surveys, mapping, inspections and general videography/cinematography.

#### **Background:**

I have over 10 years of flying remote control aircraft as a hobbyist without incident. I've been involved in the Aerospace industry for over 20 years. I was active duty Air Force, worked on the Space Shuttle Program with United Space Alliance for NASA and with DynCorp on The Department of State INL/A contract as Site and Aviation Maintenance Manager. I also have an FAA Airframe and Power plant (A&P) certificate and will be able to maintain the airworthiness of the aircraft. I'm also keenly aware of the need to stay away from air traffic.

#### **Public Interest:**

The Unmanned Aerial System (UAS) described herein is smaller, lighter and more maneuverable than conventional aircraft running on combustible fuel, operates at lower altitudes with no people on board and will thereby reduce current risk levels, enhance safety and diminish the likelihood of death or serious bodily injury. With a small payload and maximum flight time of only 23 minutes, this offers little or no risk to national security. The UAS will also be zero air pollution as it fully electric. The electric motors are relatively quiet and nearly silent above 100 feet.

### **THE UNMANNED Aerial System (UAS)**

#### **DJI Phantom 3 Professional**

- Professional grade
- Under 3 pounds takeoff weight
- 4 brushless motors
- 23 minute flight time
- Smart Battery technology
- DJI - Flight Controller with GPS and GLONAS
  - Provides Fail Safe features that allow the aircraft to return to the launch point and land automatically in the event the command and control signal is lost or the battery has reached a pre-determined threshold. If battery reaches a critical level, the aircraft will descend and land at the current location. Control of the aircraft is maintained during descent to allow the PIC to guide it to a safe landing.



- Contains a database of airports and restricted airspace and automatically prevents operation in these areas
- Electronically limited maximum altitude of 394 feet.
- DJI lightbridge Video Downlink Transmitter.
- DJI iOSD - On Screen Display of Telemetry. The iOSD superimposes telemetry data on the video downlink to provide the pilot with heading, speed, height, distance, altitude, GPS information, and current battery voltage as well as indicating proximity to airports and restricted airspace. Direction back to launch point is also indicated.
- The aircraft is equipped with DJI vision position system that aids the aircraft in staying in a steady position under 3 meters altitude should GPS/GLONAS signal be lost.

## **OPERATIONAL PARAMETERS**

- The UAS will weigh less than 3 pounds fully loaded.
- Flights will be operated within visual line of sight of a pilot.
- Maximum total flight time for each operational flight will be 23 minutes. Flights will be terminated at 20% battery power reserve should that occur prior to the 23 minute limit.
- Flights will be operated at an altitude of no more than 400 feet (122 meters) AGL. Unless a specific COA is obtained, the limit will be according to the “blanket” COA of 200 feet (61 meters).
- PIC will comply with AMA flying fields and rules and will be used to accumulate flying time and practice.
- Aircraft will be maintained by an FAA certified A&P mechanic in accordance with manufactures standards.
- Written and/or oral permission will be obtained from the property owner.
- Pilot and observer will be able to communicate by voice at all times during the operation. Communication may be assisted by VHF or UHF radio or cellular device when necessary. Text communications are not allowed.
- The UAS will only be operated during daytime hours in VFR weather conditions.
- Operations may not be conducted aboard a moving device or vehicle.
- Operation near airports will be conducted according to the “blanket” COA unless another COA is obtained.
- 5 nautical miles (NM) from an airport having an operational control tower; or
- 3 NM from an airport with a published instrument flight procedure, but not an operational tower; or
- 2 NM from an airport without a published instrument flight procedure or an operational tower; or
- 2 NM from a heliport with a published instrument flight procedure
- Maximum speed 35 mph
- Altitude will be electronically limited to 394 feet
- Landing will occur at or before 20% battery life is reached.

### **PRE-FLIGHT Checklist and Operation**

1. The Phantom 3 will be inspected by A&P certificate mechanic before and after each flight.
2. Weather conditions are suitable for VFR flight and wind is 18 mph or less.
3. A map of the local area will be reviewed prior to any flight to double check for any local obstacles or restrictions.
4. FAA B4UFLY smartphone application will be reviewed before flight (when it becomes available)
5. The aircraft will be flown in a safe manner at all times.
6. All batteries on the aircraft and transmitter will be fully charged before takeoff.
7. GPS/GLONAS acquisition and calibration will be performed before flight.
8. The "Return Home" point will be set on the aircraft.
9. DJI No fly Zone software will be installed.
10. All Manufacturer guidelines will be followed.
11. Verify camera equipment.
12. Turn on radio control transmitters and video equipment.
13. Connect the UAS main battery. Check for radio connection with RC transmitters and video downlink.
14. Announce your intention to take off by announcing "Take Off".

Sincerely,

Vincent A. Flanagan, MBA

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