



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

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

September 9, 2015

Exemption No. 12802  
Regulatory Docket No. FAA-2015-2631

Mr. Jon Tull  
CEO  
Ag Tech Enterprises, Inc.  
4580 East Thousand Oaks Boulevard, Suite 300  
Westlake Village, CA 91362

Dear Mr. Tull:

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 June 11, 2015, you petitioned the Federal Aviation Administration (FAA) on behalf of Ag Tech Enterprises, Inc. (hereinafter petitioner or operator) for an exemption. The petitioner requested to operate an unmanned aircraft system (UAS) to conduct aerial surveys and mapping.

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

#### **Airworthiness Certification**

The UAS proposed by the petitioner is a SenseFly eBee.

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, Ag Tech Enterprises 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, Ag Tech Enterprises Inc. 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 SenseFly eBee 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





Jon Tull, CEO  
Ag Tech Enterprises, Inc.  
4580 E. Thousand Oaks Blvd.  
Suite 300  
Westlake Village, CA 91362

June 11, 2015

Unmanned Aircraft Systems Integration Office  
AFS-80  
800 Independence Ave., S.W.  
Washington, D.C. 20591

To Whom It May Concern:

Enclosed please find an exemption application filed on behalf of Ag Tech Enterprises, Inc. under Section 333 of the FAA Modernization and Reform Act of 2012 and 14 C.F.R. Part 11 to allow commercial operations of unmanned aircraft for precision aerial survey.

We here at Ag Tech request that you consider this request for summary grant based up on the company's existing 333 exemption (Exemption No. 11573; Regulatory Docket No. FAA-2015-0351) for use of a similar aircraft, and also based upon the exemptions that have already been granted regarding the make and model of aircraft presently at issue.

Should you or your staff have any questions, please contact the undersigned. Thank you for your time and consideration.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "Jon Tull", written over a light blue horizontal line.

Jon Tull, CEO

Enclosures



June 11, 2015

U.S. Department of Transportation  
Docket Management System  
1200 New Jersey Ave., SE  
Washington, DC 20590

Re: Exemption Request Under Section 333 of the FAA Reform Act and Part 11 of the Federal Aviation Regulations

Dear Madam, Sir,

Pursuant to Section 333 of the FAA Modernization and Reform Act of 2012 (the "Reform Act") and 14 C.F.R. Part 11, Ag Tech Enterprises, Inc. ("Ag Tech") an operator of the eBee Unmanned Aircraft System ("eBee") seeks an exemption from the Federal Aviation Regulations ("FARs") listed below:

- 14 C.F.R. 21
- 14 C.F.R. 45.23
- 14 C.F.R. 45.29
- 14 C.F.R. 61.3
- 14 C.F.R. 61.113(a)&(b)
- 14 C.F.R. 61.133(a)&(b)
- 14 C.F.R. 91.109(a)
- 14 C.F.R. 91.121
- 14 C.F.R. 91.319(a)(1)
- 14 C.F.R. 91.7(b)
- 14 C.F.R. 91.119
- 14 C.F.R. 91.151(a)
- 14 C.F.R. 91.203(a)&(b)
- 14 CFR Subpart E (91.401 - 91.417)

The requested exemption would authorize commercial operations using the eBee for mapping and survey applications. These operations will be subject to strict operating requirements defined in the eBee user manual (Ag Tech requests the FAA treat the eBee training program as proprietary under 14 C.F.R. 11.35(b) and does not include this document in the public docket) and conditions defined in the paragraph 3.

## **1. CHARACTERISTICS OF THE AIRCRAFT**

The eBee is a small (37.8 inches wingspan) and ultra-light (maximum take-off weight of 1.7 pounds) platform made of flexible foam that performs pre-programmed precision aerial mapping missions thanks to the on-board GPS and the related flight management software (eMotion) that allows the operator to plan safely and efficiently a mission in 3D, and then monitor it in real-time. Thanks to the embedded camera, protected by a foam envelope, the eBee takes a collection of high-definition still images that are used later to generate maps and contour lines of the surveyed area.

The four main characteristics of the eBee are:

a. Very light weight

The eBee is so light that the operator can launch it by hand and let it land on almost any surface without requiring a parachute or landing net (belly land). Its low impact energy (38 J in case of a controlled emergency landing) also significantly reduces the risk of hazardous situations. Finally, the wings of the eBee are detachable and made of flexible foam with no sharp or hard edges and almost no internal strengthening structure.

b. Electric-powered

The eBee is electric powered. A brushless engine technology makes it silent and reliable. The propeller is attached with a rubber band to the body of the plane so that it can easily flex away in case of contact with any object.

c. Semi-automatic flight

The artificial intelligence incorporated within the eBee autopilot system continuously analyzes data from the Inertial Measurement Unit and from the onboard GPS and takes care of all the aspects of the flight under the supervision of the operator.

d. Option for Manual control

Additionally, the eBee provides an override capability that allows the operator to take manual actions during the flight (Go to Home, Go Land, Hold and Resume the mission) and also suspend automated operations and take manual control of the aircraft should it become necessary to respond emergent circumstances, thanks to the remote controller provided with the system.

## 2. APPLICATIONS

Ag Tech intends to use the eBee to collect aerial data for use in precision agriculture, allowing Ag Tech to assist customers with crop yield optimization, resource allocation and management, pest control, and risk management. Ag Tech proposes to use a small, lightweight UAV – the eBee – and proprietary cloud-based software to collect, process, and analyze aerial data. In doing so, Ag Tech would occupy a brand new space in a transformative industry by providing high quality and actionable information to users. Ag Tech's use of the eBee would contribute to various social goods, from environmental protection to improved crop yields. In providing this service, Ag Tech would empower researchers and farmers to make better management decisions through software that identifies disease and insects, nutrient deficiencies, and materials for increasing yields with fewer resources.

- Annex B describes applications and reasoning in more detail. Ag Tech requests the FAA treat the eBee training program and Annex B as proprietary under 14 C.F.R. 11.35(b) and not include this document in the public docket.

Operations under the exemption will be subject to strict operating requirements and conditions to ensure at least an equivalent level of safety to currently authorized operations using manned aircraft and under conditions as may be modified by the FAA as required by Section 333.



### 3. APPLICABLE LEGAL STANDARD UNDER SECTION 333

#### a. Airworthiness assessment of the eBee

Ag Tech notes that the airworthiness of the eBee has already been demonstrated for different projects in the United States, involving state/federal agencies or universities (among others the New Mexico State University: <https://newscenter.nmsu.edu/Articles/view/10208/nmsu-uas-flight-test-center-conducts-eb-e-airworthiness-assessment>, and the USACE New Orleans, who coordinated with the Department of Army and the FAA to obtain all authorizations required in order to operate the eBee UAS). Moreover the eBee already received 15 Exemptions from the FAA.

SenseFly also obtained flight approvals for the eBee (delivered by national civil aviation authorities) in many countries, among others:

- Switzerland (flight approval for VLOS operations)
- Canada (flight approval for VLOS operations)
- Australia (flight approval for VLOS operations)
- France (flight approval for Extended-VLOS operations)
- Germany (flight approval for VLOS operations)
- United Kingdom (flight approval for VLOS operations)
- Norway (flight approval for VLOS operations)
- Sweden (flight approval for VLOS operations)
- Denmark (flight approval for VLOS operations)

#### b. Operating requirements

Grant of the exemption to Ag Tech for the eBee will be subject to the following operating conditions:

- 1. Operations authorized by this grant of exemption are limited to the SenseFly eBee 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.

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- 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).

### **3. CONCLUSION**

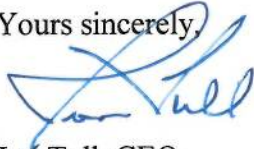
Satisfaction of the criteria provided in Section 333 of the Reform Act of 2012 - size, weight, speed, operating capabilities, proximity to airports and populated areas, and operation within visual line of sight and national security - provide more than adequate justification for the grant of the requested exemptions allowing commercial operation of applicant's UAS for the Purposes outlined herein and are consistent with exemptions already granted.

Ag Tech respectfully submits that because this small, unmanned aerial vehicle – the eBee – will be used in lieu of comparatively hazardous operations now conducted with fixed wing and rotary conventional aircraft, the FAA can have confidence that the operations will achieve at least an equivalent level or greater level of safety. Approval of this exemption would thereby enhance safety and fulfill the Secretary of Transportation's (the FAA Administrator's) responsibilities



under Section 333(c) of the Reform Act to “establish requirement for the safe operation of such aircraft systems in the national airspace system.”

Yours sincerely,



Jon Tull, CEO  
Ag Tech Enterprises, Inc.

## **ANNEX A: EXEMPTION REQUEST AND EQUIVALENT LEVEL OF SAFETY SHOWINGS UNDER APPLICABLE RULES SUBJECT TO EXEMPTION**

Ag Tech requests an exemption from the following regulations as well as any additional regulations that may technically apply to the operation of the eBee:

### **14 C.F.R. Part 21, Subpart H: Airworthiness Certificates 14 C.F.R. § 91.203(a)(1)**

Section 91.203 requires all civil aircraft to have a certificate of airworthiness. Part 21, Subpart H, entitled Airworthiness Certificates, establishes the procedural requirements for the issuance of airworthiness certificates as required by FAR § 91.203(a). Given the size of the eBee, its very light weight (the maximum take-off weight is 1.7 pounds) and the limited operating area associated with its utilization, it is unnecessary to go through the certificate of airworthiness process under Part 21 Subpart H in order to achieve or exceed current safety levels.

Such an exemption meets the requirements of an equivalent level of safety under Part 11 and Section 333 of the Reform Act. The Federal Aviation Act and Section 333 of the Reform Act both authorize the FAA to exempt aircraft from the requirement for an airworthiness certificate, upon consideration of the size, weight, speed, operational capability, and proximity to airports and populated areas of the UAS involved. An analysis of these different criteria demonstrates that the eBee operated without an airworthiness certificate, under the conditions proposed in that exemption, will be at least as safe, or safer, than a conventional aircraft with an airworthiness certificate. A proprietary risk assessment for operations with the eBee, which demonstrates that assertion, is also being submitted to the FAA as part of this application. Ag Tech requests the FAA treat the eBee risk assessment as proprietary under 14 C.F.R. 11.35(b) and not include this document in the public docket.

### **14 C.F.R. § 45.23 & 14 C.F.R. § 45.29: Display of marks; size of marks**

These regulations provide that each aircraft must display “N” and the aircraft’s registration number in letters at least 3 inches high. Additionally, the aircraft must display the word “EXPERIMENTAL” in letters at least 2 inches high near the entrance to the cabin, cockpit, or pilot station.

Given the size of the eBee (wingspan of 37.8 inches), this requirement is impossible to match.

### **14 C.F.R. § 61.3: Requirements for certificates, ratings and authorizations**



#### **14 C.F.R. § 61.113(a) & (b); 61.133(a): Private Pilot Privileges and Limitations; Pilot in Command; Commercial Pilot Privileges and Limitations**

The regulation provides that no person may serve as a required pilot flight crewmember of a civil aircraft of the United States, unless that person:

(1) Has a pilot certificate or special purpose pilot authorization issued under this part in that person's physical possession or readily accessible in the aircraft when exercising the privileges of that pilot certificate or authorization. However, when the aircraft is operated within a foreign country, a pilot license issued by that country may be used.

The regulation provides also that no person that holds a private pilot certificate may act as pilot in command of an aircraft for compensation or hire. Subparagraph (b) allows a private pilot to act as pilot in command of an aircraft in connection with any business or employment if:

- (1) The flight is only incidental to that business or employment;
- (2) The aircraft does not carry passengers or property for compensation or hire.

Given the safety features of the eBee and the fact that the missions are pre-programmed and monitored in real-time with a specific flight management software (eMotion), SenseFly proposes that operators of the eBee should not be required to hold a commercial pilot certification. Instead, operators should be required to:

Have a sport or recreational pilot license (at least) and have successfully passed a manufacturer's training program for the eBee.

#### **14 C.F.R. § 91.7(a): Civil aircraft airworthiness**

This regulation requires that no person may operate a civil aircraft unless it is in airworthy condition. Should the exemption be granted allowing commercial operation of the eBee without an airworthiness certificate, no standard will exist for airworthiness of the eBee. Given the size of the aircraft and the previous airworthiness assessments given to the eBee, among others:

- New Mexico State University: <https://newscenter.nmsu.edu/Articles/view/10208/nmsu-uas-flight-test-center-conducts-ebec-airworthiness-assessment>
- USACE New Orleans, who coordinated with the Department of Army and the FAA to obtain all authorizations required in order to operate the eBee UAS for levee system monitoring, documentation of construction progress, and extensive oblique photography of USACE structures & activities

An equivalent level of safety will be achieved by insuring compliance with the SenseFly manuals prior to each flight.

#### **14 C.F.R. § 91.9: Civil aircraft flight manual, marking, and placard requirements.**

This regulation provides that no person may operate an aircraft unless a current, approved flight manual is in the aircraft. Ag Tech assumes that the intent of this requirement is to ensure that flight manual information is available to the aircrew while operating the aircraft. Ag Tech requests an exemption to this requirement since the aircraft is not only too small to carry documentation, the documentation would not be available to the crew.

The equivalent level of safety will be achieved by keeping a hard copy of the flight manual in the eBee transportation box.

#### **14 C.F.R. § 91.109(a) & 91.319(a): Flight Instruction**

The regulation provides that “No person may operate a civil aircraft that is being used for flight instruction unless that aircraft has fully functioning dual controls.”

Flight instruction will be accomplished through an elaborated training program, using first the simulation mode of the flight management software eMotion. The equivalent level of safety during the training will be achieved by the manufacturer or authorized distributor providing the training and through the use of experienced and qualified operators familiar with the eBee.

#### **14 C.F.R. § 91.119: Minimum Safe Altitudes**

The regulation provides that over sparsely populated areas the aircraft cannot be operated closer than 500 feet to any person, vessel, vehicle, or structure. Since the aircraft will be operating at a maximum of 400 feet AGL, the eBee cannot comply with this requirement.

The equivalent level of safety will be achieved because the eBee will only fly over private property with the permission of the landowner. The operator will define before every flight a working area radius and a flight area ceiling, preventing the eBee to go beyond the flight area. The landowner and the persons who may be on the ground in the flight area will be briefed of the expected route of flight and the associated risks to persons and property on the ground. Due to the small size of the eBee and the material with which the eBee is built, the hazard to persons, vessels, vehicles, and structures is not comparable to manned aircraft and should be considered in granting the exemption.

Moreover, the aircraft will not be operated over congested areas nor over any open-air assembly of persons. The aircraft will be operated at an altitude allowing, if a power unit fails, an emergency landing without undue hazard to persons or property on the surface.

#### **14 C.F.R. 91.121 – Altimeter settings**

This section requires that each person operating an aircraft shall maintain the cruising altitude or flight level of the aircraft, as the case may be, by reference to an altimeter that is set, when operating below 18,000 feet MSL to:

- The current reported altimeter setting of a station along the route and within 100 nautical miles of the aircraft;
- 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;
- 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.

To provide an equivalent level of safety, the eBee autopilot calculates the reference altitude (ground level) with the on-board GPS during the preflight tests. The GPS and barometer data are merged with respect to their respective precisions. The GPS provides reliable information to correct potential barometric bias, while rapid variations in altitude are detected through the

barometer. Hence, barometric bias induced by environmental factors is rejected.

#### **14 C.F.R. § 91.151(a): Fuel Requirements for Flight in VFR Conditions**

The regulation provides that no person may begin a flight in an airplane under day-VFR conditions unless there is enough fuel to fly to the first point of intended landing and to fly after that for at least 30 minutes.

Given the area of operation for the eBee, Ag Tech believes that an equivalent level of safety is already achieved with the specific procedure preventing the eBee to accept a take-off order if the battery level is below a given value. Moreover, SenseFly has integrated “low” and “critical” battery level warnings and implemented a “return to Home” (and “Go Land”) actions in these situations.

#### **14 C.F.R. § 91.203 (a) & (b): Carrying Civil Aircraft Certification and Registration**

This regulation provides as follows:

- No person may operate a civil aircraft unless it has an appropriate and current airworthiness certificate.
- No person may operate a civil aircraft unless the airworthiness certificate required by paragraph (a) of this section or a special flight authorization issued under §91.715 is displayed at the cabin or cockpit entrance so that it is legible to passengers or crew.

The eBee weighs only 1.7 pounds (max take-off weight). As such, there is no ability or place to carry certification and registration documents or to display them on the UAS. In addition, there is no pilot and there are no passengers on board the aircraft.

To obtain an equivalent level of safety and meet the intent of §91.2036, Ag Tech proposes that documents deemed appropriate for this aircraft by the FAA will be co-located with the operator at the ground control station in the eBee box and available for inspection upon request.

#### **14 C.F.R. Subpart E (91.401 - 91.417) - Maintenance, Preventive Maintenance, and Alterations**

The regulation provides that the operator is primarily responsible for maintaining the aircraft in an airworthy condition, including compliance with Parts 39 and 43. Paragraphs 91.407 and 91.409 require that the aircraft be "approved for return to service by a person authorized under 43.7" after maintenance and inspection. Section 91.409(a)(2) requires an annual inspection for the issuance of an airworthiness certificate. Section 91.417(a) requires the owner or operator to keep records showing certain maintenance work that has been accomplished by certificated mechanics, under Part 43, or licensed pilots and records of approval of the aircraft for return to service.

Ag Tech proposes that the maintenance of the eBee will be accomplished by the owner/operator according to the maintenance manual, provided by SenseFly. Ag Tech requests the FAA treat the eBee training program as proprietary under 14 C.F.R. 11.35(b) and not include this document in the public docket.

An equivalent level of safety will be achieved because the eBee is small in size, it is not a complex mechanical device, it will carry no external payload, and it will operate only in restricted predetermined areas. Moreover, the operator is the person most familiar with the aircraft and is

best suited to maintain the aircraft in an airworthy condition and to ensure an equivalent level of safety. Finally, before every flight, the eBee runs automatically a sequence of pre-flight tests to make sure that every sensor and every critical part is running properly. If a problem is detected, the eBee will not be able to be switched-on and a message error is displayed on the main screen of the flight management software. The operator can then refer to the maintenance manual to troubleshoot this issue. Several parts of the eBee are easily interchangeable (propellers, wings), which allows the operator to make sure the wings and propulsion system are always airworthy when a mission is initiated.

#### ANNEX B: eBee AND SENSEFLY DOCUMENTATION, PROPRIETARY DOCUMENT

See confidential email attachment referencing this petition filing and commencement number.