



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

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

September 2, 2015

Exemption No. 12711
Regulatory Docket No. FAA-2015-1190

Ms. Desiree Ekstein
OnTheGoVideo.biz
32228 Terra Cotta Street
Lake Elsinore, CA 92530

Dear Ms. Ekstein:

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 letters posted to the public docket on April 24 and August 20, 2015, you petitioned the Federal Aviation Administration (FAA) for an exemption. You requested to operate an unmanned aircraft system (UAS) to conduct aerial surveying, event photography and videography, real estate photography, aerial photography and film making, construction site inspection and monitoring, agriculture, search and rescue, and precision game development.

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 are the DJI Phantom 2 Vision + and DJI Phantom 3.

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, Ms. Desiree Ekstein 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.

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.

Conditions and Limitations

In this grant of exemption, Ms. Desiree Ekstein is hereafter referred to as the operator.

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 + and 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.

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



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This Other document was issued by the **Federal Aviation Administration (FAA)**

For related information, [Open Docket Folder](#)

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ID: FAA-2015-1190-0001

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To: Federal Aviation Administration (FAA)

I am requesting exemption for the commercial use of small sUAV under section 333.

I plan to operate with the proper training and certification required by the FAA. Safety is my first priority. I do not have a private pilot's license, however; I am looking forward to taking the training classes to meet the FAA's requirements. I have a valid California Drivers license and I am a member of AMA (Academy of Aeronautics). I have been flying UAV's for over 3 years. I am experienced with several different styles of UAS, and my skills of flying and filming with an sUAV are exceptional. I would like to be compensated for my talents.

I will provide services to my community and to consumers interested in aerial data capture using the DJI Phantom 2 vision plus. There is much need for these services. There are many remote areas that are unsafe for people to go to that can now be visible from an UAV. I also want to use my abilities for search and rescue and inspections. . The operation would be in a similar nature to the exemption giving to FalconSkyCam, Diane Cook.

The services would include the use of small advanced sUAV for:
Aerial surveying
Event photography/videography
Agricultural proposes
Real estate photography

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Date Posted:
Apr 24, 2015

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Submitter Name:
Desiree Ekstein

Mailing Address:
32228 Terra Cotta St

City:
Lake Elsinore

Country:
United States

State or Province:
CA

ZIP/Postal Code:
92530

Aerial photography and film making
Construction site inspection and monitoring
Search and Rescue
Precision game development

14 CRF Part 21 certification for products and parts, sub part H - Airworthiness Certificates
45.23 (b), 61.113 (a)and (b), 91.7 (a), 91.9 (b)(2), 91.103, 91.109, 91.119, 91.121, 91.151(a), 91.203(a)and (b),
91.205(b), 91.215, 91.405 (a), 91.407 (a)(1), 91.409 (a)(2), 91.417 (a)and(b),
part 91 sub part E of title 14, Code of Federal regulations.

I seek exemption based on the aircraft size, weight, and limited operating area. There will be no persons, pilot or crew on board therefore no risk of incident. The aircraft does not operate on fuel so there will be no fuel spillage. Also, due to the fact that it is an "unmanned aircraft" I do not feel that a private pilots license should be required. My flying experience and knowledge of the puts me at a level of professionalism. I fully expect to take the FAA training courses to obtain the proper certificates once they are established. I have read the FAA overview of small UAS notice of proposed rulemaking related to small UAS NPRM and I agree and fully understand the provisions.

I've included the manuals, preflight check list for the DJI Phantom 2, prop guard installation, and the FAA small UAS NPRM.

Thank you for your time an consideration.

Desiree Ekstein

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*This document is contained in
FAA-2015-1190*

Related Dockets:

None

Related RINs:

None

Related Documents:

None

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07-28-15

Brenda Robeson
Program Analyst, Airmen and
Airspace Rule Division

Dear Ms. Robeson,

Thank you for continuing your consideration for my request for exemption. Here is the additional information that you requested.

1 - Desiree Ekstein's exemption would be in the public interest and be a benefit to the public as a whole for many reasons, environmentally and economically . By using an intelligent battery powered s'UAS with electronic motors it would a safe, efficient and economical alternative to the manned aircraft. Also by using a s'UAV it is an environmentally conscious alternative to the traditional aircraft with an internal combustion engine that would typically be used for aerial photography and videography. Thus **reducing pollution and noise**.

Also, the UAV's operate at a much lower cost. Aerial videography and photography has traditionally been costly and has prohibited many small business owners access to this service. By granting me this exemption I would have the ability to provide the service of videography and photography to the public at a much lower cost.

2 - Reasons why granting my 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 I seek is because of the size, weight, speed and limited operating area of the unmanned aircraft set forth by the FAA. The DJI Phantom Vision 2+ and Dji Phantom 3 Professional weigh less than 55#, carries no flammable fuel, air speed not more than 87 knots. Due to the size of the DJI Phantom UAV's will poses no threat to the public. I have provided information regarding the Phantom UAV's they meet these requirements. I also will abide by the regulations set by Federal Aviation Administration and will not fly over 400' AGL, over private property, and Desiree Ekstein will fly at a distance at or greater than 5NM from the nearest airport.

The Phantom offers additional safety features such as "Return to Home" if the GPS signal is lost (or it can be activated manually). I have also provided additional safety by installing prop guards on the UAV, and the specs sheet was included in my initial request but can be provided it needed again.

For further safety, I plan to operate the UAV DJI Phantom within the line of sight with a visual observer, and while Desiree Ekstein is operating the DJI Phantom it would be with complete respect to privacy issues.

I, Desiree Ekstein, fully plan to operate my s'UAV in accordance with the FAA safe operating guidelines. Also being a female flyer, I intend to be an example to all people especially others in the industry, show proper procedures, and good ethics.

3 - In support for my request for exemption, my exemption is similar to many that have already been granted. For reference, similar in material as #11062, 11109, 1112, 11213. Also, Jake Coon # 12042 was granted exemption for a similar activity on July 15, 2015. Mr. Jacob N. Anderson exemption #12181 granted July 28, 2015. And Martin L. Smith was also granted exemption for similar activities #12197. Ralph J. Apel was granted exemption #11410. All with similar materials that I am seeking exemption for.

I already stated in my original request, that Desiree Ekstein is seeking exemption from 14 CFR Part 21 certification for products and parts, sub part H - Airworthiness Certificates 45.23 (b), 61.113 (a) and (b), 91.7 (a), 91.9 (b)(2), 91.103, 91.109, 91.119, 91.121, 91.151(a), 91.203(a) and (b), 91.205(b), 91.215, 91.405 (a), 91.407 (a)(1), 91.409 (a)(2), 91.417 (a) and (b), part 91 sub part E of title 14, Code of Federal regulations.

Exemption relief from Title 14 Code Of Federal Regulations sections 61.113a & b, private pilot privileges and limitations requesting relief to allow PIC (pilot in command) from holding a current private pilot's license to operate the DJI Phantom. I will operate with an observer, within the visual line of sight. Also, the DJI Phantom vision 2+ and DJI Phantom 3 does not carry passengers.

Desiree Ekstein would like exemption from Section 91.7a Civil Aircraft Airworthiness. I would like to follow the Airworthiness check list stated in the Manual of the DJI Phantom, as well as, visual inspection of the UAV to insure safe flight.

Desiree Ekstein will follow the DJI Phantom Aircraft safety check regarding maintenance, overhaul, replacement, and life limit requirements.

Request exemption from Section 91.119 Minimum Safe Altitudes. Desiree Ekstein will not operate the UAV not more the 400ft AGL and within 5 miles of an airport.

Since my original filing, I have purchased the the DJI Phantom 3 Professional. I would like to extend my exemption to include the use of the Dji Phantom 3 as well. I am including the documentation and the manuals for this s'UAV.

Thank you very much for considering my request for exemption. I am excited and looking forward to hearing back from you.

Desiree EKstein