



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

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

September 2, 2015

Exemption No. 12723
Regulatory Docket No. FAA-2015-2126

Mr. Robert Augustine
106 Valleyview Drive
Bardstown, KY 40004

Dear Mr. Augustine:

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 June 5, 2015, and August 18, 2015, you petitioned the Federal Aviation Administration (FAA) for an exemption. You requested to operate an unmanned aircraft system (UAS) to conduct aerial photography and videography.

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 Vision 2 +.

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, Mr. Robert Augustine 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, Mr. Robert Augustine 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 Vision 2 + 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

Robert Augustine - Exemption/Rulemaking

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

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ID: FAA-2015-2126-0001

Document Information

Date Posted:

Jun 5, 2015

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Submitter Information

Submitter Name:

Robert Augustine

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106 Valleyview

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Bardstown

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United States

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40004

Comments

0

Comments Received ^{*}

Docket Information

This document is contained in
[FAA-2015-2126](#)

Related Dockets:

None

Related RINs:

None

Related Documents:

Content

To Whom It May Concern:

I request exemption for the purpose of commercial Aerial Photography/Videography.

I am a 15 year veteran of photography. I have trained and flown as a hobbyist with the DJI Phantom 2 Plus quad-copter for several months and always maintain safe practices, line of sight flying, proper maintenance and repair checklists.

My primary commercial use would be photography/videography for real estate photography, home inspections, and general landscape photography and videography.

The use of my UAV is less costly and safer than the full size high-wing type private aircraft I have had to use (pay for flight) in the past for similar projects. The cost to consumer is much less, and has the added value that I use my images to help promote our community.

Safety and consideration to the public safety and privacy are my key priorities. I will maintain the same priorities of safety I use as a hobbyist: I will fly only during the day, will be within my own line of sight, or within the line of sight of a spotter. In addition, my aircraft will be at or below 200 feet in altitude and not within a 5 mile proximity of airports.

I fly only over public areas (unless otherwise prohibited such as Federal Parks) and private areas in which I have been given specific permission.

My flights would consist of using a DJI Phantom Vision 2 Plus Quadcopter. The aircraft I use has several safety features, including "return to home" and GPS guidance. I follow all pre-flight preparations including calibrating the compass and setting the GPS "home point."

I have attached the DJI Phantom 2 Plus Manual which I have

read and adhere. This manual further outlines the fail-safe and safety features of the exact quad-copter that I operate as well as any additional specs.

Respectfully submitted,

Robert Augustine

Attachments (1)

Robert Augustine - Phantom2 Vision Plus User Manual v1.1.1

View Attachment:



None

* This count refers to the total comment/submissions received on this *document*, as of 11:59 PM yesterday. Note: Agencies review all submissions, however some agencies may choose to redact, or withhold, certain submissions (or portions thereof) such as those containing private or proprietary information, inappropriate language, or duplicate/near duplicate examples of a mass-mail campaign. This can result in discrepancies between this count and those displayed when conducting searches on the Public Submission document type. For specific information about an agency's public submission policy, refer to its website or the Federal Register document.

Submitted by:

Robert Augustine

106 Valleyview Drive

Bardstown, KY 40004

502-507-0128

robertcraighaugustine@gmail.com

Ms. Robeson:

This is in response to a letter you sent me dated June 24, 2015 (copy enclosed). Please consider this an addendum to my previous petition. Feel free to contact me with any questions.

Respectfully,



Robert Augustine

Robert Augustine, Public Docket: FAA-2015-2126

Petition:

I request an exemption from TITLE 14 OF THE CODE OF FEDERAL REGULATIONS SECTIONS 61.113 (a) and (b); 91.7 (a); 91.119 (c); 91.121; 91.151 (a); 91.405 (a); 91.407 (a) (1); 91.409 (a) (1) and (2); 91.417 (a) and (b)

The Extent Of Relief Being Sought:

1. Extent of Relief that I'm seeking regarding Section 61.113 (a) and (b) Private Pilot Privileges and Limitations Relief from Section 61.113 (a) and (b) is requested to allow a Pilot in Command holding a current Private Pilots Certificate to operate the DJI Phantom Vision 2+. The pilot will maintain Visual Line of Sight with the UAV at all times. All operations conducted will be incidental to my business. This UAV is not able to carry passengers.

2. Extent of Relief I seek in regards to Section 91.7(a) Civil Aircraft Airworthiness Relief from Section 91.7(a) is requested to allow Robert Augustine to determine airworthiness of the Phantom Vision 2+.. As part of this determination the following will be adhered to:

- a. Prior to the UAV's flight the PIC will inspect the UAV to ensure it is in a condition that will be conducive for a safe flight. The ground control station will be included in the above inspection.
- b. I will follow the DJI Phantom Vision 2+'s aircraft/component, maintenance, overhaul, replacement, inspection and life limit requirements.
- c. I will comply with all DJI manufacturer's Safety Bulletins.

3. Extent of Relief that Robert Augustine seeks in regards to Section 91.119 Minimum Safe Altitudes General relief from 91.119 is requested to allow me to operate the UAV at altitudes not to exceed 400' AGL over private property (with permission) or public property (when legal and permissible) at a distance at or greater than 5NM from the nearest airport as depicted on current Aeronautical Charts. Robert Augustine also wishes to be granted exemption to operate at an altitude not greater than 50' AGL (below tree level) between 1NM and 5NM from the nearest airport as depicted on current Aeronautical Charts.

(a) I will have accumulated and logged, in a manner consistent with 14 CFR 61.51(b), a minimum of 25 hours of total time as a UAS rotorcraft pilot including at least 10 hours logged as a UAS pilot with a multi-rotor UAS.

(b) I am and will remain familiar with and able to manually institute the UAV's Return to Home (RTH) feature. This feature aborts a flight operation and automatically returns the UAS to a predetermined GPS safe point.

(c) I will not operate over private property without first finding a suitable alternate landing spot on the property.

(d) I will abort the flight in the event of unpredicted obstacles or emergencies in accordance with the operating documents.

4. Extent of Relief that I seek in regards to Section 91.121 Altimeter Settings Relief from 91.121 is requested because the Phantom Vision 2+ utilizes electronic GPS with a barometric sensor. In order to maintain an equal level of safety that 91.121 requires, the PIC of Robert Augustine's UAV will abort the flight in the events that the UAV loses communications with the GPS signal.

5. Extent of Relief that Robert Augustine seeks in regards to Section 91.151(b) Fuel Requirements for Flight in VFR Conditions Relief from 91.151(b) is requested to the extent that allows me to operate the Phantom up to a point (considering wind and forecast weather conditions) that there is enough power to fly at normal cruising speed to the intended landing point and land the UA with 25% battery power remaining.

6. Extent of Relief that I seek in regards to Sections 91.405(a), 91.407(a)(1), 91.409(a)(1), and (a)(2), 91.417(a) and (b) These are all associated a with Airworthiness certificate Relief from 91.405(a), 91.407(a)(1), and (a)(2), And 91.417(a) and (b) is requested to the extent that allows me to operate the Quad-Copter as necessary. These sections are all related to airworthiness certificates of aircraft. There is not currently an airworthiness certificate for small UAS's. I would comply in full to any conditions and limitations that the Administrator would place in order to receive an approved Grant of Exemption.

Public Interest:

Aerial videography for real estate marketing has been around for a long time through manned fixed wing aircraft and helicopters, but for small business owners, it's expense has been cost-prohibitive. Granting this exemption to me would allow me to provide this service at a much lower cost. My UAV will pose no threat to the public given its small size and lack of combustible fuel when compared to manned aircraft. The operation of my UAS will minimize ecological damage and promote economic growth by providing information to companies looking to relocate or build in the Central KY area. Furthermore, the cost prohibitive nature of hiring traditional aircraft for be prohibitive for small budget film makers and local businessses and Chamber's of Commerce. Using "b-roll" shots from an aerial advantage will promote my community, its landmarks, attractions, and talent.

Conclusion:

As set forth herein, Robert Augustine seeks an exemption pursuant to 14 C.F.R. §11.61 and Section 333 of the FAA Modernization and Reform Act of 2012 (FMRA), which will permit safe operation of the DJI Phantom 2 Vision+ Quadcopter commercially. The Administrator will be assisting small business by granting this petition. In accordance with the FAA Modernization and Reform Act of 2012, I respectfully request that the FAA Administrator grants this petition for exemption from TITLE 14 OF THE CODE OF FEDERAL REGULATIONS SECTIONS 61.113 (a) and (b); 91.7 (a); 91.119 (c); 91.121; 91.151 (a); 91.405 (a); 91.407 (a) (1); 91.409 (a) (1) and (2); 91.417 (a) and (b)

Robert Augustine, Public Docket: FAA-2015-2126



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

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

June 24, 2015

Mr. Robert Augustine
106 Valleyview
Bardstown, KY 40004

Dear Mr. Augustine:

This letter is to inform you that we are unable to process your request for an exemption from Title 14, Code of Federal Regulations (14 CFR). It explains why we can not process your request and what you should do in the next 30 days.

Why We Can Not Process Your Request

We entered your June 5, exemption request into the public docket (No. FAA-2015-2126), but we are unable to process your request any further. The information you sent does not comply with the requirements of § 11.81 (copy enclosed). For us to consider the request any further, you must send us all of the following:

- The specific section or sections of 14 CFR from which you seek relief, the extent of the relief you seek, and the reason you seek relief.
- The reasons why granting the request would be in the public interest; that is, how it would benefit the public as a whole.
- Any additional information, views, or arguments available to support your request.

What You Should Do

If you want us to process your request any further, you must send the information described earlier to reach us within 30 days. Please note that § 11.63(d) requires you to send your petition for exemption at least 120 days before the proposed effective date of the exemption.

If We Do Not Hear From You

If we do not hear from you within 30 days, we will close the docket without notifying you further. If you have any questions or require additional time, you may call (202) 267-9677.

Sincerely,

A handwritten signature in black ink, appearing to read "Brenda Robeson". The signature is fluid and cursive, with the first name "Brenda" being more prominent than the last name "Robeson".

Brenda Robeson
Program Analyst, Airmen and
Airspace Rules Division

Enclosure

ELECTRONIC CODE OF FEDERAL REGULATIONS

e-CFR Data is current as of March 2, 2015

Title 14 → Chapter I → Subchapter B → Part 11 → Subpart A → §11.81

Title 14: Aeronautics and Space
PART 11—GENERAL RULEMAKING PROCEDURES
Subpart A—Rulemaking Procedures

§11.81 What information must I include in my petition for an exemption?

You must include the following information in your petition for an exemption and submit it to FAA as soon as you know you need an exemption.

- (a) Your name and mailing address and, if you wish, other contact information such as a fax number, telephone number, or e-mail address;
- (b) The specific section or sections of 14 CFR from which you seek an exemption;
- (c) The extent of relief you seek, and the reason you seek the relief;
- (d) The reasons why granting your request would be in the public interest; that is, how it would benefit the public as a whole;
- (e) The reasons why granting the exemption would not adversely affect safety, or how the exemption would provide a level of safety at least equal to that provided by the rule from which you seek the exemption;
- (f) A summary we can publish in the FEDERAL REGISTER, stating:
 - (1) The rule from which you seek the exemption; and
 - (2) A brief description of the nature of the exemption you seek;
- (g) Any additional information, views or arguments available to support your request; and
- (h) If you want to exercise the privileges of your exemption outside the United States, the reason why you need to do so.

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