



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

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

September 21, 2015

Exemption No. 12926
Regulatory Docket No. FAA-2015-2546

Mr. Corey Huish
7579 Belgian Lion Street
Las Vegas, NV 89193

Dear Mr. Huish:

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

By letter posted to the public docket June 29, 2015, you petitioned the Federal Aviation Administration (FAA) for an exemption. The petitioner requested to operate an unmanned aircraft system (UAS) to conduct real estate photography.

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

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

Airworthiness Certification

The UAS proposed by the petitioner is a DJI Phantom 3.

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

14 CFR part 21, *Certification procedures for products and parts, Subpart H—Airworthiness Certificates*, and any associated noise certification and testing requirements of part 36, is not necessary.

The Basis for Our Decision

You have requested to use a UAS for aerial data 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. Corey Huish is granted an exemption from 14 CFR §§ 61.23(a) and (c), 61.101(e)(4) and (5), 61.113(a), 61.315(a), 91.7(a), 91.119(c), 91.121, 91.151(a)(1), 91.405(a), 91.407(a)(1), 91.409(a)(1) and (2), and 91.417(a) and (b), to the extent necessary to allow the petitioner to operate a UAS to perform aerial data collection. This exemption is subject to the conditions and limitations listed below.

Conditions and Limitations

In this grant of exemption, Mr. Corey Huish is hereafter referred to as the operator.

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

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

1. Operations authorized by this grant of exemption are limited to the DJI Phantom 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

In the matter of the petition for :

Corey Huish

The petitioner requests relief from the following regulations for the purpose of Real Estate Photography.

The petitioner request for an exemption from part 14 CFR part 11 and Section 333 of the FAA Modernization and Reform Act of 2012 (PL 112-95)

The petitioner supports its request with the following information:

Unmanned Aircraft System

The petitioner states that given the size, weight, speed, and limited operating area associated with the aircraft to be utilized by the applicant, an exemption from 14 CFR part 21, Subpart H (Airworthiness Certificates), subject to certain conditions and limitations, is warranted and meets the requirements for an equivalent level of safety under 14 CFR part 11 and Section 333 of the FAA Modernization and Reform Act of 2012 (PL 112-95). The petitioner further states that UAS operated without an airworthiness certificate in the restricted environment and under the conditions and limitations proposed by the petitioner will be at least as safe, or safer, than a conventional aircraft (fixed wing or rotorcraft) operating with an airworthiness certificate issued under 14 CFR part 21, Subpart H and not subject to the proposed conditions and limitations.

The petitioner states that the unmanned aircraft (UA) to be operated under this request is less than 55 lbs. fully loaded, flies at a speed of no more than 50 knots, carries neither a pilot nor passenger, carries no explosive materials or flammable liquid fuels, and operates exclusively within a secured area as set out in the MPTOM. In addition, the petitioner has integrated safety features into the design of the UAS, as described in the petitioner's FOPM, to ensure the safety of persons and property within and surrounding the limited operating area. The petitioner further describes that, in the event the UAS loses communications or its GPS signal, the UA will have the capability to return to a pre-determined location within the Security Perimeter and land. It will also have the capability to abort a flight in the event of unpredicted obstacles or emergencies.

The petitioner states that even though its UAS will have no airworthiness certificate, an exemption may be needed from 14 CFR § 45.23 as the UA will have no entrance to the cabin, cockpit, or pilot station on which the word "experimental" can be placed. Given the size of the UA, the petitioner notes that the two-inch lettering will be impossible. The petitioner asserts that an equivalent level of safety will be provided by having the UA marked with the word "experimental" on the fuselage in compliance with 14 CFR § 45.29(f), in a location where the pilot, observer, and others working with the UA will see the identification.

The petitioner states that the maintenance requirements in the pertinent sections of 14 CFR part 91 are only applicable to aircraft with an airworthiness certificate in accordance with part 43. The petitioner states that its V.3 UAS does not have specific maintenance instructions. The petitioner also states that it intends to follow any manufacturers' recommended instructions and procedures when those procedures exist for certain components of UAS.

UAS Pilot In Command (PIC)

The petitioner asserts that since the UA will not carry a pilot or passengers on board, the proposed operations will not adversely affect safety by requiring the PIC operating the aircraft to have a private pilot's license rather than a commercial pilot's license. In support of its position, the petitioner argues that, since there are no standards for either private or commercial UAS pilot certificates, knowledge of airspace regulations and dexterity in the control and operation of the UAS acquired from actual operation of the aircraft will be the most important factors in establishing an equivalent level of safety. Furthermore, the petitioner explains that, given the restricted and controlled airspace within which operations will take place, the key factors needed by the PIC are knowledge of the airspace within which the "closed-set filming" operation will take place and how that airspace fits into the National Airspace System (NAS). The petitioner also states that it cannot be assumed that a commercial pilot, approved to operate a helicopter or fixed wing aircraft, has the skill or ability to safely operate an unmanned aerial vehicle, operating at 200 feet AGL or lower, within strictly controlled pre-approved airspace.

Additionally, the petitioner states that the aircraft will be operated within a secure environment, which no one will be allowed to enter unless they are part of the production, have been fully briefed of the risks prior to operation of the UAS, and have consented to the risks associated with being in the operating area. Should there be a mishap, the UA being flown pose significantly less of a threat than the helicopters and fixed wing aircraft now being employed because they are a fraction of the size, carry no flammable fuel, and do not carry crew or passengers. This is in stark contrast to conventional aircraft that are flown to the site, carry flammable fuel, carry passengers and crew, and operate in a much larger area.

UAS Operating Parameters

The petitioner states that all flights will be operated within visual line of sight (VLOS) of a pilot and/or observer, and that the UA flights will be limited to a maximum altitude of 200 feet AGL. The petitioner further states that an operator will ensure that only consenting production personnel will be allowed within 100 feet of the UA operation, but this radius may be reduced to 5 feet based upon an equivalent level of safety determination. The petitioner asserts that an equivalent level of safety can be achieved given the size, weight, and speed of the UAS, as well as the location where it is operated. The petitioner states that the UAS will be operated within a safe operating perimeter, the boundaries of which will be determined by production personnel and the UAS PIC based on the site-specific filming activities and speed of the UAS required for the operation,

and coordinated with the jurisdictional FAA FSDO and local government officials as applicable. The petitioner states that only participating and consenting production personnel will be allowed within this perimeter; the petitioner also states their intention to comply with the guidelines outlined in Order 8900.1 V3, C8, S1 with regard to nonparticipating personnel outside the safety perimeter. The petitioner argues that, compared to flight operations with aircraft or rotorcraft weighing far more than its maximum 55 lb. UA, and the lack of flammable fuel, any risk associated with its UAS operations is far less than those with conventional aircraft operating at or below 500 feet AGL.

With respect to preflight actions, the petitioner notes it may need an exemption from 14 CFR § 91.103, because it will not have approved rotorcraft flight manuals. The petitioner asserts that an equivalent level of safety will be achieved by the PIC taking all preflight actions as set forth by the manufacture, including reviewing weather, flight battery requirements, landing and takeoff distances, and aircraft performance data before initiation of flight. Additionally, the petitioner states that a briefing will be conducted prior to each day's filming regarding planned UAS operations, and all personnel who will be performing duties within the boundaries of the safety perimeter will be required to attend.

With respect to the fuel requirements, the petitioner notes that, in order to meet the 30 minute reserve requirements in 14 CFR § 91.151, UAS flights would have to be limited to approximately 10 minutes. The petitioner argues that, given the limitations on the UA's proposed flight area and the location of its proposed operations within a predetermined area, a longer time frame for flight in daylight or night VFR conditions is reasonable. The petitioner believes that an equivalent level of safety can be achieved by limiting flights to 30 minutes or 25% of battery power, whichever occurs first.

The petitioner notes that it may need an exemption from 14 CFR § 91.121, as its UAS may have a GPS altitude read out instead of a barometric altimeter. The petitioner asserts that an equivalent level of safety will be achieved, as outlined by the manufacture. Specifically, the altitude information will be provided to the UAS PIC via a digitally encoded telemetric data feed. Prior to each flight, a zero altitude initiation point will be established and confirmed for accuracy by the PIC.

Public Interest

The petitioner states that, given the small size of the UA involved and the restricted sterile environment within which it will operate, its proposed operation "falls squarely within that zone of safety (an equivalent level of safety) in which Congress envisioned that the FAA must, by exemption, allow commercial operations of UAS to commence immediately." Also due to the size of the UA and the restricted areas in which the UAS will operate, approval of the application presents no national security issue. The petitioner states that, given the clear direction in Section 333, the strong equivalent level of safety surrounding the proposed operations, and the significant public benefit, including enhanced safety, reduction in environmental impacts, and including reduced

emissions associated with allowing UAS for movie and television operations, granting the requested exemptions is in the public interest.

The FAA's analysis is as follows:

Unmanned aircraft system (UAS)

Regarding the petitioner's requested relief from 14 CFR part 21 Certification procedures for products and parts, the FAA finds that, based on the limited size, weight, operating conditions, design safety features, and the imposed conditions and limitations, the petitioner has demonstrated that its operations would not adversely affect safety compared to similar operations conducted with aircraft that have been issued an airworthiness certificate under 14 CFR part 21, Subpart H.

Commercial motion picture and television aerial filming operations with manned aircraft are typically conducted with aircraft holding standard airworthiness certificates issued under part 21, subpart H. These aircraft are normally modified via the Supplemental Type Certificate (STC) process to install cameras and other equipment not included in the original aircraft design.

Manned helicopters conducting motion picture and television aerial filming can weigh 6,000 lbs. or more and are operated by an onboard pilot, in addition to other onboard crewmembers, as necessary. The petitioner's UA will weigh less than 55 lbs. with no onboard pilot or crew. The pilot and crew will be remotely located from the aircraft. The limited weight significantly reduces the potential for harm to participating and nonparticipating individuals or property in the event of an incident or accident. The risk to an onboard pilot and crew during an incident or accident is eliminated with the use of a UA for the aerial filming operation.

Manned aircraft are at risk of fuel spillage and fire in the event of an incident or accident. The UA carries no fuel, and therefore the risk of fire following an incident or accident due to fuel spillage is eliminated.

During motion picture and television aerial filming with manned aircraft under the conditions of an FAA issued Certificate of Waiver, aircraft can be operated in very close proximity to participating persons. The safety of these individuals is maintained through use of an aircraft with standard airworthiness certification under 14 CFR part 21, Subpart H, operation of the aircraft by a qualified and competent pilot, and operating according to limitations necessary to ensure safety. In these situations, the filming subject and production personnel are exposed to risk by virtue of their close proximity to an aircraft in flight. Compared to manned aircraft, the UA being operated by the petitioner reduces the risk to participating persons in close proximity to the aircraft due to the limited size, weight, operating conditions, and design safety features of the UAS.

This exemption does not require an electronic means to monitor and communicate with other aircraft, such as transponders or sense and avoid technology. Rather the FAA is mitigating the risk of these operations by placing limits on altitude, requiring stand-off distance from clouds, permitting daytime operations only, and requiring that the UA be operated within visual line of sight and yield right of way to all other manned operations. Additionally, the exemption provides that the operator will request a NOTAM prior to operations to alert other users of the NAS.

The petitioner's UAS has the capability to operate safely after experiencing certain in-flight failures. The UA is also able to respond to a lost-link event with a pre-coordinated, predictable, automated flight maneuver. With regard to USHPA's concerns about dual control systems, current FAA regulations permit motion picture and television filming operations by manned aircraft that do not require a copilot. Additionally, under this exemption, the FAA requires that the UAS PIC hold a current third class medical certificate. Historically, instances of complete PIC incapacitation are rare. In all other cases other than complete incapacitation, the PIC has the ability to terminate the flight operation or initiate the automated return to home procedure outlined within the FOPM.