

FAA Exemption Rulemaking Section 333

Of The □ FAA Reform Act and Part 11

Prepared by

Brandon Johnson

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100 W. Boston St. Suite #5, Chandler, Arizona 85225
480-648-3669 / Brandon@mtreaz.com

Attention: United States Secretary of Transportation Mr. Anthony R. Foxx □ 1200 New Jersey Ave., SE □ Washington, DC 20590

Re: Exemption Request Section 333 of the FAA Reform Act and Part 11 of the Federal Aviation Regulations from 14 CFR 45.23(b); 14 CFR Part 21; 14 CFR 61.113 (a) & (b); 91.7 (a); 91.9 (b) (2); 91.103 (b); 91.109; 91.119; 91.121; 91.151 (a); 91.203 (a) & (b); 91.409 (a) (2); 91.417 (a) & (b)

Dear Mr. Secretary,

Pursuant to Section 333 of the FAA Modernization and Reform Act of 2012 (the Reform Act) and 14 CFR Part 11, MT Real Estate LLC., an Arizona Limited Liability Corporation, real estate broker, and operator of Small Unmanned Aircraft Systems (“sUASs”) equipped to conduct aerial photography for the education of real estate professionals and real estate marketing purposes, hereby applies for an exemption from the listed Federal Aviation Regulations (“FARs”) to allow commercial operation of its sUASs, so long as such operations are conducted within and under the conditions outlined herein or as may be established by the FAA as required by Section 333.

As described more fully below, the requested exemption would permit the operation of small, unmanned and relatively inexpensive sUAS under controlled conditions in airspace that is 1) limited 2) predetermined and 3) controlled as to access. Approval of this exemption would thereby fulfill the Secretary of Transportation’s (the responsibilities to “...establish requirements for the safe operation of such aircraft systems in the national airspace system.” Section 333 (c) of the Reform Act.

The name and address of the applicant is:

MT Real Estate LLC Attn: Brandon Johnson Phone: 480-648-3669 Email: Brandon@mtreaz.com Address: 100 W. Boston St. Suite #5, Chandler Arizona 85281

Regulations from which the exemption is requested:

14 CFR Part 21

14 CFR 45.23 (b)

14 CFR 61.113 (a) & (b)

14 CFR 91.7 (a)

14 CFR 91.9 (b) (2)

14 CFR 91.103

14 CFR 91.109

14 CFR 91.119

14 CFR 91.121

14 CFR 91.151 (a)

14 CFR 91.203 (a) & (b)

14 CFR 91.405 (a)

14 CFR 407 (a) (1)

14 CFR 409 (a) (2)

14 CFR 417 (a) & (b)

This exemption application is expressly submitted to fulfill Congress' goal in passing Section 333 (a) through (c) of the Reform Act. This directs the Secretary of Transportation to consider whether certain unmanned aircraft systems may operate safely in the national airspace system (NAS) before completion of the rulemaking required under Section 332 of the Reform Act. In making this determination, the Secretary is required to determine which types of UASs do not create a hazard to users of the NAS or the public or pose a threat to national security in light of the following:

- ☐The UAS's size, weight, speed, and operational capability: ☐
- ☐Operation of the UAS in close proximity to airports and populated areas; and ☐
- ☐Operation of the UAS within Visual Line of Sight (VLOS) of the Pilot and Observers. ☐Reform Act §333 (a). Lastly, if the Secretary determines that such vehicles "may operate safely in the national airspace system, the Secretary shall establish requirements for the safe operation of such aircraft in the national airspace system." Id. §333 (c) (emphasis added). ☐The Federal Aviation Act expressly grants the FAA the authority to issue exemptions. This statutory authority by its terms includes exempting civil aircraft, as the term is defined under §40101 of the Act; that includes SUASs, from the requirement that all civil aircraft must have a current airworthiness certificate. The Administrator may grant an exemption from a requirement of a regulation prescribed under subsection (a) or (b) of this section or any sections 44702-44716 of this title if the Administrator finds the exemption in the public interest. 49 U.S.C. §44704; 14 CFR §91.203 (a) (1). ☐

MT Real Estate's UAS(s) are small rotorcraft aircraft, weighing 60oz including sensor payload. They operate their rotorcraft, under normal conditions at a speed of no more than 17 knots, usually 3-5 knots, and have the capability to hover, and move in the vertical and horizontal plane simultaneously. They will manually operate only in Visual Line of Sight and will operate only within the operating parameters as described in the Operating Manual attached as Attachment1.

Adherence to the Operating Manual will insure that the sUAS will "not create a hazard to the national airspace system or the public."

Given the small size and weight of the sUAS involved and the restricted sterile environment within which they will operate, the applicant 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 UASs to commence immediately. Also due to the size of the UASs and the areas in which the relevant sUAS will operate, approval of the application presents no national security issue. Given the clear direction in Section 333 of the Reform Act, the authority contained in the Federal Aviation Act, as amended; the strong equivalent level of safety, surrounding the proposed operations, and significant public benefit, including enhanced safety, reduction in environmental impact, including reduced emissions associated with allowing UASs for educational and marketing operations, (as opposed to full scale aircraft), the granting of the requested exemptions is in the public interest. Accordingly, the applicant respectfully requests that the FAA grant the requested exemption without delay.

AIRCRAFT AND EQUIVALENT LEVEL OF SAFETY

The applicant proposes that the exemption requested herein apply to civil aircraft that have the characteristics and that operate with the limitations listed herein. These limitations provide for at least an equivalent or possibly higher level of safety to operations under the current regulator structure because the proposed operations represent a safety enhancement to the already safe filming operations conducted with conventional aircraft. These limitations and condition to which MT Real Estate agrees to be bound when conducting commercial operations under an FAA issued exemption include:

1. The sUAS will weigh less than 5 lbs.
2. Flights will be operated manually within visual line of sight (VLOS) of the Pilot and aircrew (Spotter / Observer).
3. Maximum total flight time for each operational flight will be 25 minutes. Flights will be terminated at 25% battery power reserve should that occur prior to the 25 minute limit.
4. Flights will be operated at an altitude of no more than 400 feet AGL, though most operations will be conducted within 50 feet of the ground
5. Minimum two (2) man crew for each sUAS operation will consist of the Pilot and Spotter / Observer. In most cases the third aircrew member will serve as the Safety Officer.
6. The sUAS Pilot will be an FAA licensed airman with at

least a private pilot's certificate and third class medical. The Spotter (Observer) will hold at least a third class medical.

7. The sUAS Pilot will serve as Pilot in Command (PIC). If a pilot certificate holder, other than the sUAS Pilot, possesses the necessary PIC qualifications and is also present, that person can also be designated as PIC.
8. The sUAS will only operate within an area as defined in the Manual on pages 21-22. Additionally, the sUAS will only operate under 400ft AGL, and outside a 3 statute mile radius of any airport. The sUAS will never enter any MOA or Restricted Airspace, nor shall it violate any TFR as outlined by the FAA.
9. A pre-flight briefing will be conducted in regard to the planned sUAS operation prior to each day's flying / recording activities. It will be mandatory that all personnel who will be performing duties as "flight crew" be present for this briefing.
10. The Operator will obtain the consent of all persons involved in the filming and ensure that only consenting persons will be allowed within 100 feet of the flight operation, and this radius may be reduced to 30 feet based upon an equivalent level of safety determination.
11. Pilot, and Spotter (Observer) will have been trained in operation of sUAS generally and received up-to-date information on the particular sUAS to be operated as required.
12. Spotter (Observer) and Pilot will at all times be able to communicate by voice or radio.

13. Written and/or oral permission from the relevant property holders will be obtained.
14. If the sUAS loses communications or loses its GPS signal, the UAS will have capability to return to a pre-determined location and land.
15. The sUAS will have the capability to abort a flight in case of unpredicted obstacles or emergencies.

14 CFR Part 21, Subpart H: Airworthiness Certificates

14 CFR §91.203 (a) (1)

Subpart H, entitled Airworthiness Certificates, establishes the procedural requirements for the issuance of airworthiness certificates as required by FAR §91.203 (a) (1). Given the size and limited operating area associated with the aircraft to be utilized by the Applicant, an exemption from Part 21 Subpart H meets the requirements of an equivalent level of safety under Part 11 and Section 333 of the Reform Act. The Federal Aviation Act (49 U.S.C. §44701 (f)) and Section 333 of the Reform Act both authorize the FAA to exempt aircraft from the requirement capability, and proximity to airports and populated areas of the particular UAS. In all cases, an analysis of these criteria demonstrates that the UAS operated without an airworthiness certificate, in the restricted environment and under the conditions proposed will be at least as safe, or safer, than a conventional aircraft (fixed-wing or rotorcraft) operating with an airworthiness certificate without the restrictions and conditions proposed.

The sUAS to be operated hereunder is less than 5 lbs. fully loaded, carries neither a pilot nor passenger, carries no explosive materials or flammable liquid fuels, and operates exclusively within a limited radius area as set out in the pre flight briefing / VLOS operations. Unlike other civil aircraft, operations under this exemption will be tightly controlled and monitored by both the Operator, pursuant to safety requirements, and under the requirements and in compliance with local public safety requirements, to provide security for the area of operation as is now done with conventional aircraft. These safety enhancements, which already apply to civil aircraft operated in connection with video production, provide a greater degree of safety to the

public and property owners than conventional operations conducted with airworthiness certificates issued under 14 C.F.R. Part 21, Subpart H. Lastly, application of these same criteria demonstrates that there is no credible threat to national security posed by the UAS, due to its size, speed of operation, location of operation, lack of explosive materials or flammable liquid fuels, and inability to carry a substantial external load.

14 CFR §45.23 (B): Marking of the Aircraft

The regulation requires:

When marks include only the Roman capital letter “N” and the registration number is displayed on limited, restricted or light-sport category aircraft or experimental or provisionally certificated aircraft, the operator must also display on that aircraft near each entrance to the cabin, cockpit, or pilot station, in letters not less than 2 inches nor more than 6 inches high, the words “limited,” “restricted”, “light-sport,” “experimental,” or “provisional,” as applicable.

Even though the UAS will have no airworthiness certificate, an exemption may be needed as the UAS will have no entrance to the cabin, cockpit or pilot station on which the word “Experimental” can be placed. Given the size of the sUAV, two-inch lettering will be impossible. The word “Experimental” will be placed on the fuselage in compliance with §45.29 (f).

The equivalent level of safety will be provided by having the sUAV marked on its fuselage as required by §45.29 (f) where the Pilot, Spotter (Observer) and others working with the sUAV will see the identification of the UAS as “Experimental.” The FAA has issued the following exemptions to this regulation to Exemptions Nos. 10700,

8738, 10167 and 10167A.

14 CFR §61.113 (a) & (b): Private Pilot Privileges and Limitations - Pilot in Command (PIC)

Sections 61.113 (a) & (b) limit private pilots to non-commercial operations. Because the UAS will not carry a pilot or passengers, the proposed operations can achieve the equivalent level of safety of current operations by requiring the PIC operating the aircraft to have a private pilot's license rather than a commercial pilot's license to operate this small UAS. Unlike a conventional aircraft that carries the pilot and passengers, the sUAS is remotely controlled with no living thing on board. The area of operation is controlled and restricted, and all flights are planned and coordinated in advance as set forth in the Operating Manual. The level of safety provided by the requirements included in the Operating Manual meets that provided by single individual holding a commercial pilot's certificate operating a conventional aircraft. The risks associated with commercial operations contemplated by Part 61 when drafted, that allowing operations of the sUAS as requested with a private pilot as the PIC exceeds the present level of safety achieved by 14 CFR §61.113 (a) & (b).

14 CFR §91.7 (a): Civil Aircraft Airworthiness

The regulation requires that no person may operate a civil aircraft unless it is in airworthy condition. As there will be no airworthiness certificate issued for the aircraft, should this exemption be granted, no FAA regulatory standard will exist for determining airworthiness. Given the size of the aircraft and the requirements contained in the Operating Manual for maintenance and use of safety checks prior to each flight, as set forth in the Operating Manual, an equivalent level of

safety will be provided.

14 CFR §91.9 (b) (2): Civil Aircraft Flight Manual in the Aircraft

Section 91.9 (b) (2) provides: □No person may operate a U.S.-registered civil aircraft ...

(2) For which an Airplane or Rotorcraft Flight Manual is not required by §21.5 of this chapter, unless there is available in the aircraft a current approved Airplane or Rotorcraft Flight Manual, approved manual material, markings, and placards, or any combination thereof.

The sUAS, given its size and configuration has no ability or place to carry such a flight manual on the aircraft, not only because there is no pilot on board, but because there is no room or capacity to carry such an item on the aircraft.

The equivalent level of safety will be maintained by keeping the Operating Manual at the ground control point where the pilot flying the sUAS will have immediate access to it. The FAA has issued the following exemptions to this regulation: Exemption Nos. 8607, 8737, 8738, 9299, 9299A, 9565, 9565B, 10167, 10167A 10602, 32827, and 10700

14 CFR §91.103: Preflight Action

This regulation requires each pilot in command to take certain actions before flight to insure the safety of flight. As FAA approved rotorcraft flight manuals will not be provided for the aircraft an exemption will be needed. An equivalent level of safety will be provided as set forth in the Operating Manual. The PIC will take all actions including reviewing weather, flight battery requirements, landing and takeoff distances and aircraft performance data before initiation of flight.

14 CFR §91.109: Flight Instruction

Section 91.103 provides that no person may operate a civil aircraft (except a manned free balloon) that is being used for flight instruction unless that aircraft has fully functioning dual controls. SUASs and remotely piloted aircraft, by their design do not have fully functional dual controls. Flight control is accomplished through the use of a control box that communicates with the aircraft via radio communications. The FAA has approved exemptions for flight training without fully functional dual controls for a number of aircraft and for flight instruction in experimental aircraft. See Exemptions Nos. 5778K & 9862A. The equivalent level of safety provided by the fact that aircraft will be piloted by a certified private pilot who has previously trained in remote flight areas before attempting flight within filming distance of structures.

14 CFR §91.119: Minimum Safe Altitudes

Section 91.119 establishes safe altitudes for operation of civil aircraft. Section 91.119 (d) allows helicopters to be operated at less than the minimums prescribed, provided the person operating the helicopter complies with any route or altitudes prescribed for helicopters by the FAA. As this exemption is for a sUAS, MT Real Estate requests authority to operate at altitudes up to 400 ft. AGL; an exemption may be needed to allow such operations. As set forth herein, the UAS will never operate at higher than 400 ft. AGL. It will however be operated in a controlled area where buildings and people will not be exposed to operations without their pre-obtained consent.

The equivalent level of safety will be achieved given the size, weight, speed of the UAS as well as location where it is operated. No flight will be taken without the permission of the property owner. Because of the advance notice to the

property owner and participants in the photographic activity, all affected individuals will be aware of the planned flight operations as set forth in the Operating Manual. Compared to flight operations with aircraft or rotorcraft weighing far more than the maximum 5 lbs. proposed herein and the lack of flammable fuel, any risk associated with these operations is far less than those presently presented with conventional aircraft operating at or below 500 ft. AGL. In addition, the low-altitude operations of the sUAS will ensure separation between these small UAS operations and the operations of conventional aircraft that must comply with Section 91.119.

14 CFR §91.121: Altimeter Settings

This regulation requires each person operating an aircraft to maintain cruising altitude by reference to an altimeter that is set "...to the elevation of the departure airport or an appropriate altimeter setting available before departure." As the sUAS will not have a barometric altimeter, but instead a GPS altitude read out, an exemption may be needed. An equivalent level of safety will be achieved by the operator, pursuant to the Operating Manual and Safety Check list, confirming the altitude of the launch site shown on the GPS altitude indicator before flight.

14 CFR §91.151 (a): Fuel Requirements for Flight in VFR Conditions

Section 91.151 (a) prohibits an individual from beginning "a flight in an airplane under VFR conditions unless (considering wind and forecast weather conditions) there is enough fuel to fly to the first point of intended landing, and, assuming normal cruising speed – (1) During the day, to fly after that for at least 30 minutes; or (2) At night, to fly after that for at least 45 minutes."

The battery powering the sUAS provides approximately 25 minutes of powered flight. To meet the 30 minute reserve requirement in 14 CFR §91.151, sUAS flights would be impossible. Given the limitations on the UAS'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.

Applicant believes that an exemption from 14 CFR §91.151 (a) falls within the scope of prior exemptions. See Exemption 10673 (allowing Lockheed Martin Corporation to operate without compliance with FAR 91.151 (a)). Operating the small UAS, in a tightly controlled area where only people and property owners or official representatives who have signed waivers will be allowed, with less than 30 minutes of reserved fuel, does not engender the type of risks that Section 91.151 (a) was intended to alleviate given the size and speed of the small UAS. Additionally, limiting sUAS flights would greatly reduce the utility for which the exemption will be granted.

Applicant believes that an equivalent level of safety can be achieved by limiting flights to 25 minutes or 25% of battery power whichever happens first. This restriction would be more than adequate return the sUAS to its planned landing zone from anywhere in its limited operating area.

Similar exemptions have been granted to other operations, including Exemptions 2689F, 5745, 10673, and 10808.

14 CFR §91.203 (a) and (b): Carrying Civil Aircraft Certification and Registration

The regulation provides in pertinent part:

- (a) Except as provided in §91.715, no person may operate a

civil aircraft unless it has within it the following:

- (1) An appropriate and current airworthiness certificate...
 - (b) No person may operate a civil aircraft unless the airworthiness certificate required by paragraph (b) 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 UAS fully loaded weighs no more than 5 lbs. and is operated without an onboard Pilot. As such, there is no ability or place to carry certification and registration documents or to display them on the sUAS.

An equivalent level of safety will be achieved by keeping these documents at the ground control point where the Pilot flying the sUAS will have immediate access to them, to the extent they are applicable to the sUAS, and should they be issued. The FAA has issued numerous exemptions to this regulation. A representative sample of other exceptions includes Exemption Nos. 9565, 9665, 9789, 9789A, 9797, 9797A, 9816A, and 10700.

14 CFR §91.405 (a); 407 (a) (2); 417 (a) & (b): Maintenance Inspections

These regulations require that an aircraft operator or owner “shall have that aircraft inspected as prescribed in subpart E of this part and shall between required inspections, except as provided in paragraph C of this section, have discrepancies repaired as prescribed in Part 43 of this chapter...,” and others shall inspect or maintain the aircraft in compliance with Part 43.

Given that these section and Part 43 apply only to aircraft with an airworthiness certificate, these sections will not apply

to the applicant. Maintenance will be accomplished by the operator; pursuant to the Operating manual. An equivalent level of safety will be achieved because these small UASs are very limited in size and will carry a small payload and operate only in restricted areas for limited periods of time. If mechanical issues arise the UAS can land immediately and will be operating from no higher than 400 ft. AGL. As provided in the Operating Manual, the PIC (operator) will ensure that the UAS is in working order prior to initiating flight, and perform required maintenance. Moreover, the operator is the person most familiar with the aircraft and best suited to maintain the aircraft in an airworthy condition to provide the equivalent level of safety.

*****Pursuant to 14 CFR Part 11, the following summary is provided for publication in the Federal Register, should it be determined that publication is needed:

Applicant seeks an exemption from the following rules:14 CFR § 21, subpart H; 14 CFR § 45.23 (b); 14 CFR § 61.113 (a) & (b); 91.7 (a); 91.9 (b) (2); 91.103 (b); 91.109; 91.119; 91.121; 91.151 (a); 91.203 (a) & (b); 91.405 (a); 91.407 (a) (1); 91.409 (a) (2) and 91.417 (a) & (b) to operate commercially a small unmanned vehicle (5lbs or less) in Educational and Marketing operations.

Privacy

All flights will occur over private or controlled access property with the property owner's prior consent and knowledge, or over remote public land. Image capture of people will rarely take place, but in the event they are, they will have consented prior to being filmed or otherwise have agreed to be in the area where data collection will take place.

Airborne Image Capture

With regard to airborne filming, MT Real Estate adheres to all FAA regulations. Further MT Real Estate airborne teams operate under the principals of: Safety First, Quality Assurance, Accountability, Reporting, and Training. When approved by the FAA it is MT Real Estate's mandate to treat all sUAS operations the exact same level of professionalism and seriousness as that of conventional aircraft.

Approval of exemptions allowing commercial operations of sUASs in the real estate industry will enhance safety by reducing risk. Conventional filming operations, using turbine or piston powered aircraft present the risks associated with vehicles that weigh in the neighborhood of 2,000lbs.+, carrying large amounts of Jet A or 100LL (90 gallons for the aircraft primarily used by MT Real Estate). Such aircraft must fly to and from photographing location. In contrast, a sUAS weighing fewer than 5lbs and powered by batteries eliminates virtually all of the risk given the substantial reduced mass and lack of combustible fuel carried on board. The sUAS is typically transported to the location via auto or cargo van in a medium sized case and is never flown to set. The sUAS will carry no passengers or crew and, therefore, will not expose them to the risks associated with manned aircraft

The operation of small UASs, weighting less than 5lbs., conducted in the strict conditions outlined above, will provide an equivalent level of safety supporting the grant of the exemptions requested herein, including exempting the applicant from the requirements of Part 21 and allowing commercial operations. These lightweight aircraft operate at slow speeds, close to the ground, and in a sterile environment and, as a result, are far safer than ground than conventional operations conducted with piston helicopters or

fixed wing aircraft operating in relatively close proximity to the ground and people.

The primary market of interest for MT Real Estate utilizing sUASs is the marketing of real property, and the second is the education of real estate professionals.

It is anticipated that the airborne image capture process will be accomplished exclusively in day time VFR environments. To capture the highest quality of resolution the majority of airborne data collections will take place during the 10:00am – 4:00pm window.

Summary

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 sUAS in the real estate industry pursuant to the Operating Manual appended hereto. MT Real Estate is eagerly standing by to support the FAA and sUAS community in its quest to establish proper regulations and protocols for the safe introduction of unmanned aircraft into the national airspace.

Sincerely,

Brandon Johnson
Partner, MT Real Estate
100 W. Boston St. #5, Chandler, Arizona 85225
480-648-3669