

# The FAA Grants Drone Operators Five Regulatory Exemptions

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On December 10, the FAA announced that it had granted a total of five regulatory exemptions for unmanned aircraft systems, otherwise known as drones, to four companies that want to fly drones for aerial surveying, construction site monitoring, and oil rig flare stack operations. The FAA approved one regulatory exemption each for Trimble Navigation Limited, VDOS Global LLC, and Clayco, Inc., and two for Woolpert, Inc.

Regulatory exemptions are important to startup commercial drone operations because they permit the commercial drone operator to operate without enduring the long and cumbersome process of obtaining a certificate of airworthiness. The FAA exempts the commercial drone operator from this requirement because it believes the contemplated drone operations pose no threat to national airspace or security.

Section 333 of the FAA Modernization and Reform Act of 2012, "Special Rules for Certain Unmanned Aircraft Systems," permits the FAA to support grants of exemption based on the commercial operator's application package. It lets the FAA authorize safe civil operations in the national airspace system (NAS) by granting the Secretary of Transportation the authority to determine whether airworthiness certification is required for a drone to operate. Section 333 authorizes the Secretary of Transportation to determine if certain drones, because of their size, weight, speed, operational capability, proximity to airports and populated areas, and contemplated operation within visual sight, create no hazard to users of the NAS, the public, or to national security.

The five recently-granted exemptions also exempt the four commercial operators from regulations regarding general flight rules, pilot certificate requirements, manuals, and maintenance and equipment mandates. In granting the exemptions, the FAA required the commercial operators to follow certain conditions and limitations to ensure the safe operation of drones in the NAS. The FAA's grant of exemption permits the commercial drone operator to operate as authorized without following certain rules and regulations required of the typical aircraft operator.

For example, in the Clayco petition, the FAA exempted Clayco, Inc. from:

- Section 45.23(b), which requires, in part, that an aircraft have a registration number and certain markings not less than 2 inches nor more than 6 inches high, containing the words "limited," "restricted," "light-sport," "experimental," or "provisional," as applicable;
- Section 61.113(a), which provides that no person with a private pilot certificate may operate an aircraft as pilot in command for compensation or hire;
- Section 91.7(a), which provides that no person may operate an aircraft unless it is in airworthy condition, meaning that it complies with its airworthiness certificate; and,
- Section 91.103, which mandates that all pilots in command familiarize themselves with all available information concerning that flight.

These are just some of the many regulations that the FAA exempts a commercial drone operator from when it grants an exemption sought under a petition for exemption that is properly documented and supported. Based on Clayco's petition, the FAA's grant of exemption permits Clayco to conduct commercial drone operations for aerial imaging purposes, provided it complies with 32 conditions. The full grant of exemption may be found in this decision, but in summary, the 32 conditions require Clayco, Inc., to, among other things, fly its drone at an airspeed not exceeding 43.4 knots, at an altitude of no more than 400 feet above ground level, at all times within visual sight of the pilot in command of the drone, with a visual observer,

and provided it conducts an inspection before each flight.

The FAA's grant of five exemptions to four commercial drone operators comes on the heels of its first grant of six similar exemptions on September 25, 2014. As of December 10, the FAA has received 167 exemption requests from commercial entities, leaving approximately 156 remaining for the FAA's consideration. With Section 333 authority to grant exemptions, the FAA's approval process will continue, opening up a new era of flight operations and a host of new and unforeseen legal issues for commercial drone operators.

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