



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

Aviation Safety

800 Independence Ave  
Washington, DC 20591

February 6, 2020

Exemption No. 18471  
Regulatory Docket No. FAA-2006-25092

Mr. Mark Spurlock  
Physical Security Specialist  
& Federal Aviation Manager  
U.S. Department of Energy - Savannah River Site  
P.O. Box A  
Aiken, SC 29802-0900

Dear Mr. Spurlock:

This letter is to inform you that the Federal Aviation Administration (FAA) has granted your request for exemption. It transmits the FAA's decision, explains its basis, and gives you the conditions and limitations of the exemption, including the date it ends.

#### **The Basis for the FAA's Decision**

By letter posted to the Federal Docket on November 29, 2019, you petitioned the FAA on behalf of the U.S. Department of Energy (DOE) for an exemption from § 91.209(a)(1) and (b) of Title 14, Code of Federal Regulations (14 CFR) to allow Centerra-SRS (C-SRS), a contractor for the DOE, to operate two DOE-owned BK-117 helicopters at night without exterior aircraft lighting, using night vision goggles (NVG) at altitudes between 300 and 500 feet above ground level (AGL) on exercises and actual security response missions to protect critical national security assets at the DOE's Savannah River Site (SRS).

The FAA has issued a grant of exemption in circumstances similar in material respects to those presented in your petition. In Grant of Exemption Nos. 6048 and 8775 (copies enclosed), the FAA found that exercises and actual security response missions to protect critical national security assets were in the public interest.

Having reviewed your reasons for requesting an exemption, I find that—

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- They are similar in all material respects to relief previously requested in the enclosed Grant of Exemption Nos. 6048 and 8775;
- The reasons stated by the FAA for granting the enclosed Grant of Exemption Nos. 6048 and 8775 also apply to the situation you present; and
- For the reasons stated by the FAA in the enclosed Grant of Exemption Nos. 6048 and 8775, a grant of exemption to DOE is in the public interest.

### **The FAA's Decision**

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 DOE.

Under the authority contained in 49 U.S.C. §§ 106(f), 40113, and 44701, which the FAA Administrator has delegated to me, I hereby grant DOE an exemption from 14 CFR § 91.209(a)(1) and (b) to the extent necessary for C-SRS to operate two BK-117 helicopters at night without exterior aircraft lighting, utilizing NVG at altitudes between 300 and 500 feet AGL on exercises and actual security response missions to protect critical national security assets at DOE's SRS, subject to the conditions and limitations described below.

### **Conditions and Limitations**

1. Operations under this exemption must be conducted in accordance with a letter of agreement between DOE or DOE's representative and the affected FAA air traffic control (ATC) facilities.
2. Operations under this exemption are only authorized to the extent necessary for the DOE's aircraft to obtain positive identification of and maintain visual contact with a suspect aircraft or vehicle.
3. When operating under this exemption, the pilot must ensure that a dedicated observer, in addition to the pilot, is on board the DOE's aircraft. That observer's sole responsibility must be to assist the pilot in seeing and avoiding other traffic. When use of a dedicated observer in the DOE's aircraft is not possible because of aircraft configuration, a dedicated spotter aircraft with a qualified observer on board may be used to assist the pilot of the DOE's aircraft in seeing and avoiding other aircraft. Spotter aircraft must maintain two-way radio communications with the DOE's aircraft to provide the pilot of the DOE's aircraft with advisories regarding the relative positions of other aircraft in the area. Spotter aircraft must be operated for the sole purpose of detecting other aircraft in

the vicinity and advising the pilot of the DOE's aircraft of potential collision hazards and must not be engaged in the security response operation.

4. Only the DOE's aircraft engaged in security response operations are authorized to be operated without lighted position and anticollision lights. Any other aircraft used by the DOE as spotter aircraft must be operated in accordance with § 91.209(a) and (b). The pilot of the DOE's aircraft engaged in security response operations must operate the aircraft's position and anticollision lights to the maximum extent practicable and may only operate the aircraft without lights when necessary to avoid detection by elements engaged in illegal activities.
5. The pilot of the DOE's aircraft must establish and maintain two-way radio communication with the appropriate ATC facility having jurisdiction over the affected airspace and must be receiving ATC advisory service from that facility.
6. The DOE and C-SRS must ensure all pilots and crewmembers who will conduct airborne law enforcement operations are thoroughly briefed and have a complete understanding of the conditions and limitations of this exemption.
7. The DOE and C-SRS must ensure all aircraft used to conduct operations under this exemption are equipped with a Mode C transponder and that the transponder is operated on the appropriate code or as assigned by ATC.
8. The provisions of this exemption only apply in the airspace within which the DOE and C-SRS have the authority to exercise security response jurisdiction.
9. For operations under contract where DOE and C-SRS determine that the operation qualifies for public aircraft status and will be conducted as a public aircraft operation under the terms of the United States Code §§ 40102(a)(41) and 40125, DOE should provide C-SRS with a declaration of public aircraft status pursuant to current FAA policy (see FAA Advisory Circular 00-1.1A, Public Aircraft Operations). C-SRS should submit a copy of any declaration received to its Flights Standards District Office to ensure that the FAA has notice of the public aircraft operations being conducted under the contract and this exemption.
10. This exemption is not valid for operations outside of the United States.

If you request an extension to this exemption, please submit your request by using the Regulatory Docket No. FAA-2006-25092 (<http://www.regulations.gov>). In addition, you should submit your request no later than 120 days prior to the exemption's expiration date listed below.

If you require an amendment to this exemption, please submit your request no later than 120 days prior to the date you need the amendment using the process indicated above.

Any extension or amendment request must meet the requirements of § 11.81 of 14 CFR.

This exemption terminates on February 28, 2022, unless sooner superseded or rescinded.

Sincerely,

/s/

Robert C. Carty  
Deputy Executive Director,  
Flight Standards Service

Enclosure[s]