



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

Aviation Safety

800 Independence Ave
Washington, DC 20591

Exemption No. 19109
Regulatory Docket No. FAA-2022-0228

Wm. Todd Bufkin
Chief Flight Instructor
Bell Training Academy Inc.
P.O. Box 482
Ft. Worth, TX 76101

Dear Mr. Bufkin:

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

The Basis for the FAA's Decision

By letter dated January 28, 2022 you petitioned the FAA on behalf of Bell Training Academy (Bell) for an exemption from §§ 91.1(a)¹ and 91.205(h)(7) of Title 14, Code of Federal Regulations (14 CFR) to the extent necessary to allow Bell to conduct helicopter Night Vision Goggle (NVG) training operations with radar (radio) altimeters² that are unreliable or not normally functioning due to radio frequency interference caused by the Federal Communications Commission's (FCC) allocation of a portion of the 3.7–3.98 GHz frequency band available for flexible use including 5G cellular applications.

The FAA has issued a grant of exemption in circumstances similar in material respects to those presented in your petition. In Grant of Exemption No. 19094 (copy enclosed), the FAA agreed with the petitioner that a strong public interest in continued, safe NVG training exists for areas identified by FAA Notice to Air Missions (NOTAM) where radio altimeters will be unreliable due to 5G C-Band interference. The FAA also recognized the safety benefits of NVG training presently used by Part 135 helicopter air ambulance (HAA) operators, FAA safety inspectors,

¹ The petitioner petitioned for relief from § 91.1(a); however, the FAA identified that the petitioner intended to request relief from § 91.9(a), consistent with other similar exemptions.

² The petitioner uses the term "radar (radio) altimeter" in the exemption request. For the purposes of this petition for exemption, the FAA will use the term "radio altimeter" unless quoting the petitioner or the regulation itself.

and federal, state, county, and other law enforcement entities to conduct night operations with NVGs.

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

- They are similar in all material respects to relief previously requested in the enclosed Grant of Exemption No. 19094;
- The reasons stated by the FAA for granting the enclosed Grant of Exemption No. 19094 also apply to the situation presented in your petition; and
- A grant of exemption is in the public interest.

The FAA expects the petitioner to modify or replace radio altimeters that are susceptible to 5G C-band interference to eliminate that susceptibility, which will ensure the proper functioning of the equipment and to gain FAA approval to remove the restrictions imposed by AD 2120-23-13 through an Alternative Method of Compliance. Based on these expectations, the FAA determined that two years is an appropriate duration for this exemption as it allows sufficient time for operators to accomplish the foregoing actions.

The FAA's Decision

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

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 Bell Training Academy Inc., an exemption from 14 CFR §§ 91.9(a) and 91.205(h)(7) to the extent necessary to conduct helicopter NVG training for Part 135 HAA operators, FAA safety inspectors, federal, state, county and other law enforcement entities, to include night landings and takeoffs from unimproved or off-airport sites, in areas identified by NOTAM, in which the radio altimeter is unreliable and thus may not be functioning normally due to 5G C-band interference, subject to the conditions and limitations described below.

Conditions and Limitations

1. Bell must receive authorization to use this exemption from their assigned POI in Letter of Authorization (LOA) A005.
2. For helicopter operations using NVGs, including operations to and from off-airport and unimproved landing sites, such operations may be conducted in areas where a NOTAM identifies the radio altimeter as unreliable, provided:
 - a. The aircraft is equipped with a moveable searchlight installed via an FAA-approved installation method, which the pilot must use to assist in determining height above the

- ground and rates of closure. For aircraft not equipped with a moveable searchlight, the operator's NVG operations are limited to established airports listed in the FAA Airport Facility Directory. Prior to conducting flight operations without a moveable searchlight at an established airport listed in the FAA Airport Facility Directory, the pilot must review the information contained in the Airport Facility Directory for airport elevation and obstacle information.
- b. Prior to use for training, the operator must evaluate off-airport or unimproved landing areas during daylight within the 14 days prior to use for suitability and safety for NVG operations.
 - c. Prior to landing, the pilot or another crewmember must establish radio contact with personnel on the ground at the landing site to receive and confirm a description of the landing site. If radio communication cannot be established with personnel on the ground, the pilot must perform a high reconnaissance to assess the landing location.

3. All pilots conducting NVG operations under the provisions of this exemption must receive training on the applicability and use of this exemption prior to serving in an operation under this exemption. Bell must maintain a record of such training and provide it to the FAA upon request.

The Effect of the FAA's Decision

This exemption terminates on May 31, 2024, unless sooner superseded or rescinded.

To request an extension or amendment to this exemption, please submit your request by using the Regulatory Docket No. FAA-2022-0228 (<http://www.regulations.gov>). In addition, you should submit your request for extension or amendment no later than 120 days prior to the expiration listed above, or the date you need the amendment, respectively.

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

Sincerely,

ROBERT
M RUIZ

Digitally signed by
ROBERT M RUIZ
Date: 2022.05.11
08:31:08 -04'00'

Robert M. Ruiz
Acting Deputy Executive Director, Flight Standards Service

Enclosure