



4910-13

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. FAA-2018-0243]

“Doors-off” and “Open-door” Flight Prohibition: Emergency Restriction/Prohibition Order

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notification of Emergency Order of Prohibition.

SUMMARY: This notification provides Emergency Order of Prohibition No. FAA-2018-0243, issued March 22, 2018 to all operators and pilots of flights for compensation or hire with the doors open or removed in the United States or using aircraft registered in the United States for doors off flights. The Emergency Order prohibits the use of supplemental passenger restraint systems that cannot be released quickly in an emergency in doors off flight operations. It also prohibits passenger-carrying doors off flight operations unless the passengers are at all times properly secured using FAA-approved restraints.

DATES: The Emergency Order of Prohibition is effective March 22, 2018.

FOR FURTHER INFORMATION CONTACT: Jodi Baker, Acting Deputy Director, Office of Safety Standards, Federal Aviation Administration, 800 Independence Avenue, SW, Washington D.C. 20591; telephone: 202-267-3747; e-mail: Jodi.L.Baker@faa.gov.

SUPPLEMENTARY INFORMATION: The full text of Emergency Order of Prohibition No. FAA-2018-0243, issued March 22, 2018 is as follows:

This Emergency Order of Prohibition is issued by the Federal Aviation Administration (FAA) pursuant to 49 U.S.C. 40113(a) and 46105(c). This Order is effective immediately. This

order is issued to all operators and pilots of flights for compensation or hire with the doors open or removed (hereinafter, “doors off flights” or “doors off flight operations”) in the United States or using aircraft registered in the United States for doors off flights. This Order prohibits the use of supplemental passenger restraint systems (as defined below) that cannot be released quickly in an emergency in doors off flight operations. This Order also prohibits passenger-carrying doors off flight operations unless the passengers are at all times properly secured using FAA-approved restraints.

Upon information derived from investigation into a March 11, 2018, helicopter accident on the East River near New York City, New York, the Acting Administrator has found that an emergency exists related to aviation safety and safety in air commerce and requires immediate action. For more detailed information, see “Background/Basis for Order,” below.

SCOPE AND EFFECT OF THIS ORDER

This order applies to all persons (including, but not limited to, pilots) conducting doors off flights for compensation or hire in the United States or using aircraft registered in the United States to conduct such operations. “Operate,” as defined in 14 CFR 1.1, means to “use, cause to use or authorize to use” an aircraft, including the piloting of an aircraft, with or without right of legal control.

Supplemental passenger restraint systems, such as the harness system used by the operator of the helicopter involved in the March 11, 2018, accident, can significantly delay or prevent passengers from exiting the aircraft in an emergency. Effective immediately, the use of supplemental passenger restraint systems in doors off flight operations for compensation or hire is prohibited. The term “supplemental passenger restraint system” means any passenger restraint that is not installed on the aircraft pursuant to an FAA approval, including (but not limited to) restraints

approved through a Type Certificate, Supplemental Type Certificate, or as an approved major alteration using FAA Form 337.

Persons may operate doors off flights for compensation or hire involving supplemental passenger restraint systems if the Acting Administrator has determined that the restraints to be used can be quickly released by a passenger with minimal difficulty and without impeding egress from the aircraft in an emergency. The ability of a passenger to quickly release the restraint with minimal difficulty must be inherent to the supplemental passenger restraint system. A supplemental passenger restraint system must not require the use of a knife to cut the restraint, the use of any other additional tool, or the assistance of any other person. A supplemental passenger restraint also must not require passenger training beyond what would be provided in a pre-flight briefing.

Applications for a determination as to whether a supplemental passenger restraint system can be quickly released by a passenger with minimal difficulty may be submitted to the FAA Aircraft Certification Service, Policy and Innovation Division, Rotorcraft Standards Branch, 10101 Hillwood Parkway, Ft. Worth, Texas 76177, Attention: Jorge Castillo, Manager (email: Jorge.R.Castillo@faa.gov; tel: 817-222-5110). The applicant bears the burden of clearly and convincingly demonstrating that the supplemental passenger restraint system can be quickly released by a passenger with minimal difficulty and without impeding egress from the aircraft in an emergency. In reviewing any such application, the FAA shall consider the design, manufacture, installation, and operation of the supplemental passenger restraint system.

Further, effective immediately, passenger-carrying doors off flight operations for compensation or hire are prohibited unless the passengers are at all times properly using FAA-approved restraints, such as at all times occupying an approved seat or berth and properly secured

with a safety belt and, if installed, a harness; or at all times secured by an FAA-approved supplemental passenger restraint system.

The prohibitions in this Order shall not be construed as authorizing doors off flight operations without supplemental passenger restraint systems. The operator of a doors off flight remains responsible for ensuring the safety of the aircraft and the passengers on board, and otherwise complying with all statutes, regulations, and safety standards concerning the flight.

AUTHORITY AND JURISDICTION

The FAA Administrator is required to promote the safe flight of civil aircraft by, among other things, prescribing minimum standards for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. 49 U.S.C. 44701(a)(5). The FAA Administrator has authority to take necessary and appropriate actions to carry out his aviation safety duties and powers under part A (“Air Commerce and Safety”) of subtitle VII of Title 49 of the United States Code, including conducting investigations, issuing orders, and prescribing regulations, standards, and procedures. 49 U.S.C. 40113(a). When the Administrator determines that an emergency exists related to safety in air commerce and requires immediate action, the Administrator may issue immediately effective orders to meet the emergency. 49 U.S.C. 46105(c).

BACKGROUND/BASIS FOR ORDER

Based on an initial investigation and the reliable and credible evidence presently available, the Acting Administrator finds that:

On March 11, 2018, civil aircraft N350LH, an Airbus Helicopters AS350B2 helicopter, was operated “doors off” on a flight in the vicinity of New York City, New York. All passengers on the flight wore harness systems that allowed the passengers to move securely within the

helicopter and sit in the door sill while airborne. The harness systems were provided by the operator to ensure passengers did not fall out of the helicopter while moving around. Along with the supplemental passenger restraint systems, the operator provided knives to be used to cut through the restraints if necessary, and informed the passengers of the purpose of the knives.

During the flight, the aircraft experienced a loss of power, resulting in the aircraft impacting the East River. The aircraft subsequently rolled over, and all of the passengers perished. The supplemental passenger restraint systems worn by the passengers, while intended as a safety measure when the aircraft was in flight, may have prevented the passengers' quick egress from the aircraft.

While the fatalities on March 11, 2018, involved an aircraft impacting the water, passengers could face a similar hazard in other emergency situations, such as an aircraft fire on the ground.

Under 49 U.S.C. 46105(c) the Acting Administrator has determined that an emergency exists related to safety in air commerce. This determination is based on the threat to passenger safety presented by the use of supplemental passenger restraint systems not approved by the FAA, which may prevent a passenger from exiting the aircraft quickly in an emergency. Accordingly, this Order is effective immediately.

DURATION

This Order remains in effect until the issuance of an applicable FAA order rescinding or modifying this Order. The Administrator will issue a rescission order when there is a change in an applicable statute or federal regulation that supersedes the requirements of this Order, or the Administrator otherwise determines that the prohibitions prescribed above are no longer necessary to address an emergency in air safety or air commerce.

While this Order remains in effect, the FAA intends to initiate a rulemaking that addresses operations using supplemental passenger restraint systems that have not been approved by the FAA.

CONSEQUENCES OF FAILURE TO COMPLY WITH THIS ORDER

Any person failing to comply with this Order is subject to a civil penalty for each flight on which they are found to be in violation. *See* 49 U.S.C. 46302(a). Small business concerns and individuals (other than persons serving as an airman) are subject to a civil penalty of up to \$13,066 per flight. *See* 49 U.S.C. 46301(a)(5)(A)(ii); 14 CFR 13.301. Other entities are subject to a civil penalty of up to \$32,666 per flight. *See* 49 U.S.C. 46301(a)(1)(B); 14 CFR 13.301. A person serving as an airman on a flight operated in violation of this Order is subject to a civil penalty of up to \$1,437 per flight or a certificate action, up to and including revocation. *See* 49 U.S.C. 46301(a)(1)(B), 44709(b)(1)(A); 14 CFR 13.301. An air carrier or commercial operator violating this Order is subject to certificate action, up to and including revocation. *See id.* Air tour operators and other persons are subject to the rescission of any FAA-issued waiver or letter of authorization. Any person failing to comply with this Order may be subject to a cease and desist order or a civil action in a United States district court to ensure compliance. *See* 49 U.S.C. 44103(a), 46106.

RIGHT TO REVIEW

Pursuant to 49 U.S.C. 46110(a), a person with a substantial interest in this order “may apply for review of the order by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States in the circuit in which the person resides or has its principal place of business.” The petition must be filed within 60 days after the date of this order. 49 U.S.C. 46110(a).

EMERGENCY CONTACT OFFICIAL

Direct any questions concerning this Emergency Order of Prohibition, to Jodi Baker, Acting Deputy Director, Office of Safety Standards, Federal Aviation Administration, 800 Independence Avenue, SW, Washington D.C. 20591 (email: Jodi.L.Baker@faa.gov; Tel: 202-267-3747).

Issued in Washington, DC on March 22, 2018.

Daniel K. Elwell,
Acting Administrator.

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