

# United States Senate

WASHINGTON, DC 20510

September 5, 2019

The Honorable Steve Dickson  
Administrator  
Federal Aviation Administration  
800 Independence Ave., S.W.  
Washington, DC 20591

Dear Administrator Dickson:

We write to request that the Federal Aviation Administration (FAA) initiate a rulemaking to enhance the safety of certain doors-off helicopter operations and close the regulatory loophole that allows operators to evade safety rules that restrict certain air tour flights over New York.

On March 11, 2018, a doors-off aerial photography flight operated by Liberty Helicopters on behalf of FlyNYON tragically crashed into the East River in New York City, killing five passengers on board. The crash raised serious concerns about the safety of certain doors-off helicopter flights for compensation or hire.

In response to this accident, the FAA issued an Emergency Order prohibiting the use of supplemental passenger restraint systems in doors-off flight operations if they cannot be released quickly in an emergency. The FAA also initiated a rulemaking to permanently ban these types of restraint systems. In addition, the National Transportation Safety Board initiated an investigation, and the Department of Transportation Inspector General began an audit of the FAA's process for review, approval, and oversight of supplemental restraints.

While we applaud these actions, we remain concerned that certain helicopter operators continue to exploit a loophole in FAA regulations that may pose increased risks to passengers. While the operator of the March 11, 2018 flight was authorized to conduct operations under FAA's less-stringent Part 91 regulations, it appears that the flight was conducted under an exception specified in FAA regulation §119.1(e)(4)(iii) for "aerial work operations – aerial photography or survey" to evade local New York City rules that restrict certain air tour flights. Under FAA regulations, however, the aerial photography exception does not apply if the primary purpose of a flight is sightseeing.

As these doors-off helicopters flights are marketed and sold to consumers equipped with smartphones—and not professional photographers with specialized training—common sense suggests that they should be considered air tours for sightseeing under FAA regulations. Allowing operators to falsely characterize flights as an "aerial photography work" to evade local flight rules raises serious safety concerns and is simply unacceptable. While the FAA has not made a final determination, it has stated there were indications that the exception did not apply to the March 11, 2018 flight.

Accordingly, we request that the FAA close this regulatory loophole and initiate a rulemaking to determine what additional rules may be needed beyond applicable aircraft operating and airworthiness requirements to enhance of the safety of doors-off helicopter flights for compensation or hire.

Thank you for your attention to this important matter.

Sincerely,



Charles E. Schumer  
U.S. Senator



Robert Menendez  
U.S. Senator