

United States Senate
WASHINGTON, DC 20510

February 16, 2024

The Honorable Michael Whitaker
Administrator
Federal Aviation Administration
800 Independence Avenue, SW
Washington, DC 20591

Dear Administrator Whitaker,

As you know, special purpose operations conducted by restricted category aircraft are critical to life and safety, homeland security, and economic stability. In western states especially, these helicopters fulfill an essential role in combatting catastrophic wildfires in unreachable wilderness, safeguarding lives, property, and vital ecosystems. In powerline operations, they contribute to the reliability of electrical infrastructure, reducing the risk of outages, and enhancing overall safety. Long-line logging and construction conducted by external heavy load operators facilitate essential tasks that are impractical or impossible with other means. The versatility of these aircraft for missions underscores their significance. Furthermore, these activities are conducted, in large part, by small-to-medium sized businesses. Unfortunately, guidance from the Federal Aviation Administration (FAA) has made it nearly impossible to continue to run these businesses smoothly.

Section 14 CFR section 91.313(e)¹ outlines limitations on operating restricted category aircraft without a Certificate of Waiver (CoW) from the FAA. Prior to 2016, operators simply filed an application² for relief from § 91.313(e) to authorize operations for the purpose of repositioning, maintenance, and refueling, but appropriately excluding special purpose operations from those densely populated areas, congested airways, and busy airports under the CoW.

In 2016 a policy change without industry input or discernible justification led *some* operators to improperly expand the use of such a general CoW to conduct special purpose operations in restricted areas. Recognizing the unintended consequences from the 2016 policy changes, the FAA again revised guidance without industry input or discernible justification.

The latest directive used by FAA aviation safety inspectors (ASIs) only allows CoWs for operations in the restricted areas for safety or time-critical operations; otherwise, a forty-five day advanced notice is required. As a result, the policy exposes restricted category aircraft operations, particularly for fueling during ferry or repositioning flights to and from home bases and critical operations, to potential legal enforcement actions. This requires operators to wait for what could be classified as an emergency, or continuously submit applications for each flight

¹ That section of the regulations prohibits operations of restricted category aircraft (1) over a densely populated area; (2) in a congested airway; or (3) near a busy airport where passenger transport operations are conducted.

² Filed a Form [7711-2 Application for Certificate of Waiver or Authorization](#) with their certificate holding office (CHDO).

that even contemplates using any area prohibited by § 91.313(e) just to get to a principal place of operation, fire, or jobsite.

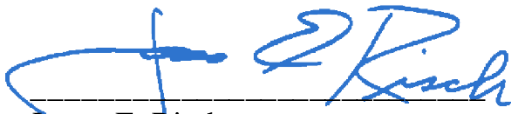
The 45-day notice is extremely impractical for both the agency and the industry. Emergencies are unpredictable by nature, and most non-special purpose operations are subject to changing weather and other conditions. The new guidance also requires a case-by-case risk-based assessment based on aircraft routes, altitudes, and runways, information which is rarely available 45 days in advance for repositioning requirements or needs.

Despite a year of collaboration between the Helicopter Association International (HAI) and the FAA, the agency's latest communication claims a Safety Review Board process is required, which could take another twelve to eighteen (12-18) months.


To ensure prompt relief without compromising safety, the FAA must make an interim modification to Order 8900.1³, along with a parallel amendment to the CoW guidance to allow greater flexibility for operators in times of emergency, like wildfire. The FAA must collaborate with Congress and industry representatives to refine the details of these proposed policy changes, thus preventing unintended consequences seen in previous iterations. We urge you to engage relevant FAA personnel in conducting consultations with Members of Congress and/or their staff, as well as pertinent industry stakeholders.

Your action on this issue is crucial. It will alleviate unnecessary challenges to critical operations and ensure their continued efficiency. We appreciate your prompt attention to this matter and your commitment to addressing it.

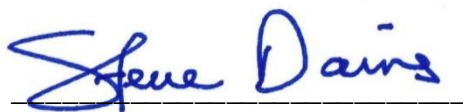
Sincerely,




James E. Risch
United States Senator




Mike Crapo
United States Senator



Steve Daines
United States Senator



Cynthia M. Lummis
United States Senator



John Barrasso, M.D.
United States Senator

³ Specifically, Chapter 3, Section 3, specifically 3-3-3-11 Procedures C. Review FAA Form 7711-2.