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United States Senate

COMMITTEE ON COMMERCE, SCIENCE,  
AND TRANSPORTATION

WASHINGTON, DC 20510-6125

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March 7, 2025

The Honorable Pete Hegseth  
Secretary  
U.S. Department of Defense  
1400 Defense Pentagon  
Washington, DC 20301

Dear Secretary Hegseth:

I am concerned that the Department of Defense (DoD) is improperly using a limited exemption to routinely operate helicopters in the National Capital Region without a critical safety feature activated.

In 2010, the Federal Aviation Administration (“FAA”) under the Obama Administration issued a final rule to require all aircraft equipped with Automatic Dependent Surveillance-Broadcast (“ADS-B”) Out to operate in “transmit mode” at all times.<sup>1</sup>

But in 2019, shortly before that rule went into effect, the FAA under the Trump Administration modified the rule—without public notice and comment—to create an exemption from the ADS-B Out requirement for “sensitive operations conducted by Federal, State and local government entities in matters of national defense, homeland security, intelligence and law enforcement.”<sup>2</sup>

The FAA at the time cautioned that “FAA anticipates that non-transmission of ADS-B out will not be routinely used by agencies that have been granted this relief.”<sup>3</sup>

My concern is that the Trump rule grants DoD the sole discretion to determine whether a flight is a “sensitive government mission” qualifying for the exemption. For instance, the interim final rule states that “FAA will defer to each agency regarding whether a mission falls under this exemption.”<sup>4</sup> And that “each agency will establish its own policies and conduct its own assessment to determine whether the mission should be excepted from the transmitting requirement.”<sup>5</sup>

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<sup>1</sup> <https://www.federalregister.gov/documents/2010/05/28/2010-12645/automatic-dependent-surveillance-broadcast-ads-b-out-performance-requirements-to-support-air-traffic>. See 14 CFR 91.225(f) (2010).

<sup>2</sup> <https://www.federalregister.gov/documents/2019/07/18/2019-15248/revision-to-automatic-dependent-surveillance-broadcast-ads-b-out-equipment-and-use-requirements>. See 14 CFR 91.225(f) (2019).

<sup>3</sup> *Id.* (emphasis added).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

In light of information made public after the horrific in-air collision on January 29, 2025 that killed 67 people, I am concerned that DoD has gone far beyond the letter and spirit of this regulatory exemption, despite the potential impact on aviation safety.

Specifically, a June 8, 2023, DoD letter states that in the National Capital Region, “the Army Aviation Brigade at Fort Belvoir and Marine Helicopter Squadron One execute 100 percent of their missions with the ADS-B off.”<sup>6</sup>

Tragically, the National Transportation Safety Board has confirmed that the Black Hawk helicopter involved in the January 29, 2025 collision was operating without ADS-B Out transmitting during a routine check ride.<sup>7</sup>

It is not credible to assert that each of the several thousand helicopter flights operated annually in the National Capital Region is sufficiently sensitive to merit a blanket exemption to operate without a critical safety feature like ADS-B Out activated.<sup>8</sup> In fact, my office has received reports of Army and Air Force aircraft operating without ADS-B Out for honorary funeral flyovers at Arlington Cemetery, and as part of a recruiting event at Howard University.<sup>9</sup>

I would appreciate your answer to the following questions:

- How does DoD’s June 8, 2023, statement that “the Army Aviation Brigade at Fort Belvoir and Marine Helicopter Squadron One execute 100 percent of their missions with the ADS-B off” square with the FAA’s expectation that non-transmission of ADS-B should be non-routine, as explained in the interim final rule issued in 2019?
- Since the interim final rule was made effective on July 18, 2019, is DoD aware of any seemingly routine operations in the National Capital Region, such as honorary flyovers and recruiting events, that have been considered a “sensitive government mission” or otherwise been operated without ADS-B Out activated?
- What assessment, audits, or operating procedures does DoD use to ensure that only truly “sensitive government missions” are utilizing the ADS-B Out exemption? Please also provide a copy of the DoD policies that determine whether a mission should be excepted from the transmitting requirement.
- Since the interim final rule was made effective on July 18, 2019, what percentage of military helicopters operating in the National Capital Region or the Washington D.C. Metropolitan Area Special Flight Rules area have been (i) equipped with ADS-B Out and (ii) operated with ADS-B Out in transmit mode?

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<sup>6</sup> <https://norton.house.gov/sites/evo-subsites/norton.house.gov/files/evo-media-document/2023%20Letter%20from%20Joint%20Chiefs%20re%20Helicopter%20transponders.pdf>

<sup>7</sup> See <https://www.youtube.com/watch?v=rbJVFLPcbGo> at 19:04 (“The helicopter was equipped with, and capable of transmitting, ADS-B Out. We don’t know why it wasn’t transmitting.”).

<sup>8</sup> According to the Government Accountability Office, the military operated approximately 11,000 military flights each year in the National Capital Region between 2017 and 2019. See [www.gao.gov/assets/gao-21-200.pdf](http://www.gao.gov/assets/gao-21-200.pdf).

<sup>9</sup> See <https://copterspotter2023.mystrikingly.com/#reports>.

Thank you for your prompt attention to these questions.

Sincerely,

A handwritten signature in blue ink, reading "Maria Cantwell". The signature is written in a cursive, flowing style with a large initial "M" and a long, sweeping underline.

Maria Cantwell  
Ranking Member