

January 16, 2020

The Honorable Stephen Dickson  
Administrator  
Federal Aviation Administration  
Washington, DC 20591

The attached letter from the NTSB Chairman provides information about the NTSB's December 10, 2019, report *Inadvertent Activation of the Fuel Shutoff Lever and Subsequent Ditching, Liberty Helicopters Inc., Operating a FlyNYON Doors-Off Flight, Airbus Helicopters AS350 B2, N350LH, New York, New York, March 11, 2018*, NTSB/AAR-19/04. The details of this accident investigation and the resulting safety recommendations may be found in the attached report, which can also be accessed at <http://www.nts.gov>.

The NTSB is vitally interested in these recommendations because they are designed to prevent accidents and save lives. We would appreciate a response within 90 days of the date of this letter, detailing the actions you have taken or intend to take to implement these recommendations. When replying, please refer to the safety recommendations by number (for example, A-19-24 through 31, -33, and -34). We encourage you to submit your response to [ExecutiveSecretariat@nts.gov](mailto:ExecutiveSecretariat@nts.gov). If your reply exceeds 20 megabytes, including attachments, please e-mail us at the same address for instructions on how to send larger documents. Please do not submit both an electronic copy and a hard copy of the same response.



Executive Secretariat-CRB  
Office of the Managing Director  
National Transportation Safety Board  
490 L'Enfant Plaza SW  
Washington, DC 20594

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Office of the Chairman

# National Transportation Safety Board

Washington, DC 20594

January 16, 2020

The Honorable Stephen Dickson  
Administrator  
Federal Aviation Administration  
Washington, DC 20591

Dear Administrator Dickson:

This letter provides information about the National Transportation Safety Board's (NTSB) December 10, 2019, report, *Inadvertent Activation of the Fuel Shutoff Lever and Subsequent Ditching, Liberty Helicopters Inc., Operating a FlyNYON Doors-Off Flight, Airbus Helicopters AS350 B2, N350LH, New York, New York, March 11, 2018*, NTSB/AAR-19/04. The details of this accident investigation and the resulting safety recommendations may be found in the attached report, which can also be accessed at <http://www.nts.gov>.

As a result of this investigation, we identified the following safety issues:

- Effect of the passenger harness/tether system on the ability of each passenger to rapidly egress from the capsizing helicopter.
- Inadequacy of the review and approval process for supplemental passenger restraint systems that the Federal Aviation Administration (FAA) implemented after the accident.
- Helicopter emergency flotation system design, maintenance, and certification issues.
- Ineffective safety management at both Liberty Helicopters Inc. (Liberty) and NYONair.
- Liberty and NYONair's exploitation of the aerial work/aerial photography exception at 14 *Code of Federal Regulations (CFR)* 119.1(e) to operate FlyNYON flights under 14 *CFR* Part 91 with limited FAA oversight.
- Lack of policy and guidance for FAA inspectors to perform a comprehensive inspection of Part 91 operations conducted under any of the 14 *CFR* 119.1(e) exceptions.
- Lack of protection for the helicopter's fuel shutoff lever from inadvertent activation.
- Need for guidance and procedures for operators to assess and address passenger intoxication.

Accordingly, the NTSB makes the following safety recommendations to the FAA (additional information regarding these recommendations can be found in the noted sections of the report):

- Modify the supplemental passenger restraint system (SPRS) approval process to (1) require letter of authorization (LOA) applicants to specify a need for and the intended use of an SPRS for each aircraft; (2) require the Federal Aviation Administration to evaluate and review, for each specified aircraft, the need for the SPRS on that aircraft for all intended uses; all SPRS design, manufacture, installation, and operational considerations, including, at a minimum, the potential for passengers to become entangled during emergency egress; the adequacy of passenger emergency egress briefings; and the potential for the SPRS to interfere with aircraft controls; and (3) ensure that each LOA lists the specific aircraft on which the holder is authorized to use an SPRS. (A-19-24) (See section 2.3.2.)
- Until you implement the supplemental passenger restraint system (SPRS) approval process as recommended in Safety Recommendation A-19-24, prohibit the use of SPRS for passenger-carrying doors-off operations. (A19-25) (See section 2.3.2.)
- Review the activation system designs of Federal Aviation Administration-approved rotorcraft emergency flotation systems for deficiencies that may preclude their proper deployment, such as a lack of a means to identify high pull forces on manual activation handles or inadequate guidance on the intended use of the activation system, and require corrective actions based on the review findings. (A-19-26) (See section 2.4.3.)
- Revise Miscellaneous Guidance 10 in Advisory Circular (AC) 27 and AC 29 to include design objectives for emergency flotation systems that consider human factors design objectives, such as activation handle pull-force characteristics; provisions for clear, unambiguous, and positive feedback to pilots to indicate that the float system was successfully deployed; and inspections to ensure that an installation of a manual activation system does not preclude a pilot's ability to deploy the floats, as designed, after it has been fielded. (A-19-27) (See section 2.4.3.)
- Require all commercial air tour operators, regardless of their operating rule, to implement a safety management system. (A-19-28) (See section 2.5.2.2.)
- Revise Title 14 *Code of Federal Regulations* 1.1, "General Definitions," to include definitions for the terms "aerial work" and "aerial photography" that specify only business-like, work-related aerial operations, as originally intended. (A-19-29) (See section 2.6.1.)
- Revise Order 8900.1, *Flight Standards Information Management System*, to include guidance for inspectors who oversee Title 14 *Code of Federal Regulations* (CFR) Part 91 operations conducted under any of the 14 CFR 119.1(e) exceptions to identify potential hazards and ensure that

operators are appropriately managing the associated risks. (A-19-30) (See section 2.6.3.)

- Develop and implement national standards within Title 14 *Code of Federal Regulations (CFR)* Part 135, or equivalent regulations, for all air tour operations with powered airplanes and rotorcraft to bring them under one set of standards with operations specifications, and eliminate the exception currently contained in 14 *CFR* 135.1. (A-19-31) (See section 2.6.3.)
- After the actions requested in Safety Recommendation A-19-32 are completed, require owners and operators of existing AS350-series helicopters to incorporate the changes. (A-19-33) (See section 2.7.1; Safety Recommendation A-19-32 is addressed to Airbus Helicopters.)
- Develop guidance on how to identify intoxicated or impaired passengers, and distribute it to operators who carry passengers for hire under Title 14 *Code of Federal Regulations* Part 91 and Part 135. (A-19-34) (See section 2.7.2.)

The NTSB is vitally interested in these recommendations because they are designed to prevent accidents and save lives. We would appreciate a response within 90 days of the date of this letter, detailing the actions you have taken or intend to take to implement these recommendations. When replying, please refer to the safety recommendations by number (Safety Recommendations A-19-24 through -31, -33, and -34). We encourage you to submit your response to [ExecutiveSecretariat@ntsb.gov](mailto:ExecutiveSecretariat@ntsb.gov). If your reply, including attachments, exceeds 20 megabytes, please e-mail us at the same address for instructions. Please do not submit both an electronic copy and a hard copy of the same response.

Sincerely,

[Original Signed]

Robert L. Sumwalt, III  
Chairman

Enclosure

cc: Mr. Matthew Rigsby  
Aircraft Accident Investigator

January 16, 2020

Mr. Bruno Even  
Chief Executive Officer  
Airbus Helicopters  
Aéroport International Marseille Provence  
13725 Marignane Cedex - France

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The attached letter from the NTSB Chairman provides information about the NTSB's December 10, 2019, report *Inadvertent Activation of the Fuel Shutoff Lever and Subsequent Ditching, Liberty Helicopters Inc., Operating a FlyNYON Doors-Off Flight, Airbus Helicopters AS350 B2, N350LH, New York, New York, March 11, 2018, NTSB/AAR-19/04.* The details of this accident investigation and the resulting safety recommendations may be found in the attached report, which can also be accessed at <http://www.nts.gov>. For more information about NTSB and our recommendation process, please see the attached one-page summary.

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## National Transportation Safety Board

Washington, DC 20594

Office of the Chairman

January 16, 2020

Mr. Bruno Even  
Chief Executive Officer  
Airbus Helicopters  
Aéroport International Marseille Provence  
13725 Marignane Cedex - France

Dear Mr. Even:

The National Transportation Safety Board (NTSB) is an independent federal agency charged by Congress with investigating every civil aviation accident in the United States and significant accidents in other modes of transportation—railroad, highway, marine, and pipeline. We determine the probable cause of the accidents and issue safety recommendations aimed at preventing future accidents. In addition, we carry out special studies concerning transportation safety and coordinate the resources of the federal government and other organizations to assist victims and their family members affected by major transportation disasters.

We are providing the following information to urge Airbus Helicopters to act on the safety recommendation in this letter because we believe your organization can help reduce the risk of future accidents. For more information about the NTSB and our recommendation process, please see the attached one-page summary.

This letter also includes information about our December 10, 2019, report, *Inadvertent Activation of the Fuel Shutoff Lever and Subsequent Ditching, Liberty Helicopters Inc., Operating a FlyNYON Doors-Off Flight, Airbus Helicopters AS350 B2, N350LH, New York, New York, March 11, 2018*, NTSB/AAR-19/04. The details of this accident investigation and the resulting safety recommendations may be found in the attached report, which can also be accessed at <http://www.nts.gov>.

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- Effect of the passenger harness/tether system on the ability of each passenger to rapidly egress from the capsizing helicopter.
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- Ineffective safety management at both Liberty Helicopters Inc. (Liberty) and NYONair.
- Liberty and NYONair's exploitation of the aerial work/aerial photography exception at 14 *Code of Federal Regulations (CFR)* 119.1(e) to operate FlyNYON flights under 14 *CFR* Part 91 with limited FAA oversight.
- Lack of policy and guidance for FAA inspectors to perform a comprehensive inspection of Part 91 operations conducted under any of the 14 *CFR* 119.1(e) exceptions.
- Lack of protection for the helicopter's fuel shutoff lever from inadvertent activation.
- Need for guidance and procedures for operators to assess and address passenger intoxication.

Accordingly, the NTSB makes the following safety recommendation to Airbus Helicopters (additional information regarding this recommendation can be found in the noted section of the report):

- Modify the floor-mounted fuel shutoff lever in AS350-series helicopters to protect it from inadvertent activation due to external influences. (A-19-32) (See section 2.7.1.)

The NTSB is vitally interested in this recommendation because it is designed to prevent accidents and save lives. We would appreciate a response within 90 days of the date of this letter, detailing the actions you have taken or intend to take to implement this recommendation. When replying, please refer to the safety recommendation by number (Safety Recommendation A-19-32). We encourage you to submit your response to [ExecutiveSecretariat@ntsb.gov](mailto:ExecutiveSecretariat@ntsb.gov). If your reply, including attachments, exceeds 20 megabytes, please e-mail us at the same address for instructions on how to send larger documents. Please do not submit both an electronic copy and a hard copy of the same response.

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Sincerely,

[Original Signed]

Robert L. Sumwalt, III  
Chairman

Enclosures

cc: Mr. Vincent Lassus  
Technical Adviser

January 16, 2020

Mr. Patrick Ky  
Executive Director  
European Union Aviation Safety Agency  
Postfach 10 12 53  
D-50452 Cologne, Germany

The National Transportation Safety Board (NTSB) is an independent federal agency charged by Congress with investigating every civil aviation accident in the United States and significant accidents in other modes of transportation—railroad, highway, marine, and pipeline. We determine the probable cause of the accidents and issue safety recommendations aimed at preventing future accidents. In addition, we carry out special studies concerning transportation safety and coordinate the resources of the federal government and other organizations to provide assistance to victims and their family members affected by major transportation disasters.

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## National Transportation Safety Board

Washington, DC 20594

January 16, 2020

Mr. Patrick Ky  
Executive Director  
European Union Aviation Safety Agency  
Postfach 10 12 53  
D-50452 Cologne, Germany

Dear Mr. Ky:

The National Transportation Safety Board (NTSB) is an independent federal agency charged by Congress with investigating every civil aviation accident in the United States and significant accidents in other modes of transportation—railroad, highway, marine, and pipeline. We determine the probable cause of the accidents and issue safety recommendations aimed at preventing future accidents. In addition, we carry out special studies concerning transportation safety and coordinate the resources of the federal government and other organizations to assist victims and their family members affected by major transportation disasters.

We are providing the following information to urge the European Union Aviation Safety Agency to act on the safety recommendation in this letter because we believe your organization can help reduce the risk of future accidents. For more information about the NTSB and our recommendation process, please see the attached one-page summary.

This letter also includes information about our December 10, 2019, report, *Inadvertent Activation of the Fuel Shutoff Lever and Subsequent Ditching, Liberty Helicopters Inc., Operating a FlyNYON Doors-Off Flight, Airbus Helicopters AS350 B2, N350LH, New York, New York, March 11, 2018*, NTSB/AAR-19/04. The details of this accident investigation and the resulting safety recommendations may be found in the attached report, which can also be accessed at <http://www.nts.gov>.

As a result of this investigation, we identified the following safety issues:

- Effect of the passenger harness/tether system on the ability of each passenger to rapidly egress from the capsizing helicopter.
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- Lack of policy and guidance for FAA inspectors to perform a comprehensive inspection of Part 91 operations conducted under any of the 14 *CFR* 119.1(e) exceptions.
- Lack of protection for the helicopter's fuel shutoff lever from inadvertent activation.
- Need for guidance and procedures for operators to assess and address passenger intoxication.

Accordingly, the NTSB makes the following safety recommendation to the European Union Aviation Safety Agency (additional information regarding this recommendation can be found in the noted section of the report):

- After the actions requested in Safety Recommendation A-19-32 are completed, require owners and operators of existing AS350-series helicopters to incorporate the changes. (A-19-35) (See section 2.7.1; Safety Recommendation A-19-32 is addressed to Airbus Helicopters.)

The NTSB is vitally interested in this recommendation because it is designed to prevent accidents and save lives. We would appreciate a response within 90 days of the date of this letter, detailing the actions you have taken or intend to take to implement this recommendation. When replying, please refer to the safety recommendation by number (Safety Recommendation A-19-35). We encourage you to submit your response to [ExecutiveSecretariat@ntsb.gov](mailto:ExecutiveSecretariat@ntsb.gov). If your reply, including attachments, exceeds 20 megabytes, please e-mail us at the same address for instructions on how to send larger documents. Please do not submit both an electronic copy and a hard copy of the same response.

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Sincerely,

[Original Signed]

Robert L. Sumwalt, III  
Chairman

Enclosures

cc: Mr. Hannu Melaranta  
Technical Adviser

January 16, 2020

Mr. Chris Vellios  
Chief Operating Officer  
Liberty Helicopters Inc.  
6 East River Bikeway  
New York, New York 10004

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Office of the Chairman

# National Transportation Safety Board

Washington, DC 20594

January 16, 2020

Mr. Chris Vellios  
Chief Operating Officer  
Liberty Helicopters Inc.  
6 East River Bikeway  
New York, New York 10004

Dear Mr. Vellios:

The National Transportation Safety Board (NTSB) is an independent federal agency charged by Congress with investigating every civil aviation accident in the United States and significant accidents in other modes of transportation—railroad, highway, marine, and pipeline. We determine the probable cause of the accidents and issue safety recommendations aimed at preventing future accidents. In addition, we carry out special studies concerning transportation safety and coordinate the resources of the federal government and other organizations to assist victims and their family members affected by major transportation disasters.

We are providing the following information to urge Liberty Helicopters Inc. to act on the safety recommendations in this letter because we believe your organization can help reduce the risk of future accidents. For more information about the NTSB and our recommendation process, please see the attached one-page summary.

This letter also includes information about our December 10, 2019, report, *Inadvertent Activation of the Fuel Shutoff Lever and Subsequent Ditching, Liberty Helicopters Inc., Operating a FlyNYON Doors-Off Flight, Airbus Helicopters AS350 B2, N350LH, New York, New York, March 11, 2018*, NTSB/AAR-19/04. The details of this accident investigation and the resulting safety recommendations may be found in the attached report, which can also be accessed at <http://www.nts.gov>.

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- Lack of protection for the helicopter's fuel shutoff lever from inadvertent activation.
- Need for guidance and procedures for operators to assess and address passenger intoxication.

Accordingly, the NTSB makes the following safety recommendations to Liberty Helicopters Inc. (additional information regarding these recommendations can be found in the noted sections of the report):

- Establish a safety management system. (A-19-36) (See section 2.5.2.2.)
- Train your employees to identify signs of impairment and intoxication in passengers and to deny those passengers boarding, when appropriate. (A-19-37) (See section 2.7.2.)

The NTSB is vitally interested in these recommendations because they are designed to prevent accidents and save lives. We would appreciate a response within 90 days of the date of this letter, detailing the actions you have taken or intend to take to implement these recommendations. When replying, please refer to the safety recommendations by number (Safety Recommendations A-19-36 and -37). We encourage you to submit your response to [ExecutiveSecretariat@ntsb.gov](mailto:ExecutiveSecretariat@ntsb.gov). If your reply, including attachments, exceeds 20 megabytes, please e-mail us at the same address for instructions on how to send larger documents. Please do not submit both an electronic copy and a hard copy of the same response.

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Sincerely,

[Original Signed]

Robert L. Sumwalt, III  
Chairman

Enclosures

Cc: Mr. Paul Tramontana  
Chief Pilot

January 16, 2020

Mr. Patrick Day  
Chief Executive Officer  
NYONair  
78 John Miller Way  
Kearny, New Jersey 07032

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Office of the Chairman

# National Transportation Safety Board

Washington, DC 20594

January 16, 2020

Mr. Patrick Day  
Chief Executive Officer  
NYONair  
78 John Miller Way  
Kearny, New Jersey 07032

Dear Mr. Day:

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We are providing the following information to urge NYONair to act on the safety recommendations in this letter because we believe your organization can help reduce the risk of future accidents. For more information about the NTSB and our recommendation process, please see the attached one-page summary.

This letter also includes information about our December 10, 2019, report, *Inadvertent Activation of the Fuel Shutoff Lever and Subsequent Ditching, Liberty Helicopters Inc., Operating a FlyNYON Doors-Off Flight, Airbus Helicopters AS350 B2, N350LH, New York, New York, March 11, 2018*, NTSB/AAR-19/04. The details of this accident investigation and the resulting safety recommendations may be found in the attached report, which can also be accessed at <http://www.nts.gov>.

As a result of this investigation, we identified the following safety issues:

- Effect of the passenger harness/tether system on the ability of each passenger to rapidly egress from the capsizing helicopter.
- Inadequacy of the review and approval process for supplemental passenger restraint systems that the Federal Aviation Administration (FAA) implemented after the accident.
- Helicopter emergency flotation system design, maintenance, and certification issues.

- Ineffective safety management at both Liberty Helicopters Inc. (Liberty) and NYONair.
- Liberty and NYONair's exploitation of the aerial work/aerial photography exception at 14 *Code of Federal Regulations (CFR)* 119.1(e) to operate FlyNYON flights under 14 *CFR* Part 91 with limited FAA oversight.
- Lack of policy and guidance for FAA inspectors to perform a comprehensive inspection of Part 91 operations conducted under any of the 14 *CFR* 119.1(e) exceptions.
- Lack of protection for the helicopter's fuel shutoff lever from inadvertent activation.
- Need for guidance and procedures for operators to assess and address passenger intoxication.

Accordingly, the NTSB makes the following safety recommendations to NYONair (additional information regarding these recommendations can be found in the noted sections of the report):

- Establish a safety management system. (A-19-38) (See section 2.5.2.2.)
- Train your employees to identify signs of impairment and intoxication in passengers and to deny those passengers boarding, when appropriate. (A-19-39) (See section 2.7.2.)

The NTSB is vitally interested in these recommendations because they are designed to prevent accidents and save lives. We would appreciate a response within 90 days of the date of this letter, detailing the actions you have taken or intend to take to implement these recommendations. When replying, please refer to the safety recommendations by number (Safety Recommendations A-19-38 and -39). We encourage you to submit your response to [ExecutiveSecretariat@ntsb.gov](mailto:ExecutiveSecretariat@ntsb.gov). If your reply, including attachments, exceeds 20 megabytes, please e-mail us at the same address for instructions on how to send larger documents. Please do not submit both an electronic copy and a hard copy of the same response.

All communications regarding safety recommendations are stored by the NTSB and viewable by the public. Please do not send privileged or confidential communications in response to this/these recommendation(s). Responses marked as confidential or privileged (or similar designations) will be considered nonresponsive. In the likely event that your company uses auto-generated and/or preformatted confidentiality statements on letterhead or outgoing e-mails, please include a statement in your letter indicating that the information can be publicly released.

If you have concerns about this protocol, please contact us at [ExecutiveSecretariat@ntsb.gov](mailto:ExecutiveSecretariat@ntsb.gov) or call (202) 314-6290 and ask to be directed to the Safety Recommendations Division.

Sincerely,

[Original Signed]

Robert L. Sumwalt, III  
Chairman

Enclosures

cc: Ms. Jillian O'Brien  
Chief of Staff



# NTSB Recommendations and You

The National Transportation Safety Board (NTSB) is an independent federal agency charged with investigating and determining the probable cause of transportation accidents. We do not make regulations, but we do issue recommendations to organizations such as yours when we discover shortcomings in the transportation system that increase the risk of accidents. **As a result of our investigative activities, we have issued one or more safety recommendations that we believe you can act on to improve transportation safety.**

## Why did the NTSB issue my organization a safety recommendation?

We issue safety recommendations to organizations that can bring about change to reduce the risk of accidents, either through their direct role in the transportation industry, their legislative or regulatory authority, or the significant influence they have among others in the industry. We believe your organization is able to make or influence such changes.

## What does the NTSB expect of safety recommendation recipients?

First and foremost, we encourage you to promptly take the recommended action to improve safety. Because we're eager to see recommendations implemented before more accidents occur, we follow recipient's efforts to implement each recommendation. We ask that you update us any time you achieve a significant milestone in your progress toward implementing the attached recommendation(s), or at least annually. We will provide feedback on your efforts by classifying each recommendation as open or closed, acceptable or unacceptable.<sup>1</sup> Information about your actions associated with your recommendation(s) is available at our [website](#) so that the public can see our combined efforts to improve transportation safety.

<sup>1</sup> For a full description of our safety recommendation classifications, see the [Status Explanation](#) page on our website.

## What should our response to the NTSB include?

Please respond to us within **90 days (30 for urgent recommendations)** explaining the specific actions you have taken or intend to take in response to the safety recommendation(s), and propose a timeline for completion. We understand organizations today are faced with competing priorities and limited resources, which can make implementing our recommendations a challenge. If, for any reason, you are not able to take the recommended action, or if you believe an alternate action would be more appropriate for your organization, please explain why. When you respond, please provide an e-mail address for future communications. We will review your response and provide feedback.

## What if my organization doesn't believe the recommended action is the best way to improve safety?

We base our recommendations on the evidence, facts, and circumstances of the accidents we investigate. Sometimes industry leaders identify ways to attain the same safety objective more efficiently, and we encourage recipients to share their ideas with us. In these cases, we will evaluate the alternate means of achieving the safety objective and provide feedback. We believe safety is a collaborative effort, and we're happy to work with your organization to set goals and make improvements.

## Why does the NTSB expect us to take action, even though our organization wasn't responsible for the accident that resulted in the safety recommendation?

Our goal is to prevent accidents. Often, the factors we identify as causing or contributing to an accident are not unique—they represent common practices or situations that may be accidents waiting to happen. In such instances, we may make recommendations intended to raise the minimum standard for safety throughout the industry.

## How do we contact the NTSB to provide updates or obtain further information?

Please contact us electronically at [correspondence@ntsb.gov](mailto:correspondence@ntsb.gov). If you wish to send us supporting documentation that, with your response, exceeds 10 megabytes, please contact us at the same e-mail address for instructions.

You can also reach our Safety Recommendations staff at **(202) 314-6290** (please ask to be directed to the Safety Recommendations Division).

**NTSB** | National  
Transportation  
Safety Board  
[www.ntsb.gov](http://www.ntsb.gov)

***We look forward to working with you to prevent accidents and save lives!***