



[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No.: FAA-2019-0200]

**Operators of Boeing Company Model 737-8 and Boeing Company Model 737-9 Airplanes:
Emergency Order of Prohibition**

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notification of Emergency Order of Prohibition.

SUMMARY: This Emergency Order of Prohibition is issued by the Federal Aviation Administration (FAA). Effective March 13, 2019, this Order prohibits the operation of Boeing Company Model 737-8 and Boeing Company Model 737-9 airplanes by U.S. certificated operators. This Order also prohibits the operation of Boeing Company Model 737-8 and Boeing Company Model 737-9 series airplanes in the territory of the United States. Airplanes covered by this Order, if in flight at the time this Order is issued, may proceed to and complete their soonest planned landing, but may not again takeoff.

DATES: The Emergency Order of Prohibition is effective March 13, 2019.

FOR FURTHER INFORMATION CONTACT: John Piccola, Federal Aviation Administration, Aircraft Certification Service, System Oversight Division, AIR-800, 2200 South 216th Street, Des Moines, WA 98198 (Email: john.piccola@faa.gov; Tel: 206-231-3595).

SUPPLEMENTARY INFORMATION: The full text of the Emergency Order of Prohibition issued March 13, 2019 is set forth below:

Emergency Order of Prohibition

This Emergency Order of Prohibition is issued by the Federal Aviation Administration (FAA) pursuant to 49 U.S.C. 40113(a) and 46105(c). Effective immediately, this Order prohibits the operation of Boeing Company Model 737-8 and Boeing Company Model 737-9 airplanes by U.S. certificated operators. This Order also prohibits the operation of Boeing Company Model 737-8 and Boeing Company Model 737-9 series airplanes in the territory of the United States. Airplanes covered by this Order, if in flight at the time this Order is issued, may proceed to and complete their soonest planned landing, but may not again takeoff.

Authority

The FAA Administrator promotes 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 is authorized 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).

Scope and Effect

This Order applies to all persons operating the Boeing Company Model 737-8 and Boeing Company Model 737-9 airplanes in the territory of the United States, and to U.S. certificated operators conducting flights with Boeing Company Model 737-8 and Boeing

Company Model 737-9 airplanes. These airplanes are hereinafter referred to as the Boeing 737 MAX series airplanes.

This Order is effective immediately. This Order prohibits the operation of Boeing 737 MAX series airplanes by U.S. certificated operators. This Order also prohibits the operation of Boeing 737 MAX series airplanes in the territory of the United States. Boeing 737 MAX series airplanes covered by this Order, if in flight at the time this Order is issued, may proceed to and complete their soonest planned landing, but may not again takeoff. Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199, including to allow non-passenger carrying flights, as needed, for purposes of flight to a base for storage, production flight testing, repairs, alterations, or maintenance. Experimental airworthiness certificates may be issued in accordance with 14 CFR 21.191 to support certification of design changes.

This Order remains in effect until the issuance of an applicable FAA order rescinding or modifying this Order. The Administrator will rescind or modify this Order, as appropriate, if the Administrator determines that the prohibitions prescribed herein are no longer necessary to address an emergency related to safety in air commerce.

Basis for Order

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

1. On October 29, 2018, a Boeing Company Model 737-8 operated by Lion Air as flight JT610 crashed after taking off from Soekarno-Hatta Airport in Jakarta, Indonesia. Flight JT610 departed from Jakarta with an intended destination of Pangkal Pinang, Indonesia. It departed Jakarta at 6:20 a.m. (local time), and crashed into the Java Sea approximately 13 minutes later. One hundred and eighty-four passengers and five crewmembers were on board. There were no

survivors. An Indonesian-led investigation into the cause of this accident is ongoing, supported by the National Transportation Safety Board (NTSB), FAA, and Boeing.

2. On March 10, 2019, Ethiopian Airlines flight ET302, also a Boeing Company Model 737-8, crashed at 8:44 a.m. (local time), six minutes after takeoff. The flight departed from Bole International Airport in Addis Ababa, Ethiopia with an intended destination of Nairobi, Kenya. The accident site is near Bishoftu, Ethiopia. One hundred and forty-nine passengers and eight crewmembers were on board. None survived. An Ethiopian-led investigation into the cause of this accident is ongoing, supported by the NTSB, FAA, and Boeing.

3. The Boeing Company Model 737-8 and the Boeing Company Model 737-9 comprise the Boeing 737 MAX series, sharing nearly identical design features. The Boeing 737 MAX series airplanes are narrow-body airplanes with two high-bypass turbofan engines. The Boeing 737 MAX series airplanes are used for passenger carrying operations and are equipped with new CFM LEAP-1B engines and larger cockpit displays.

Under 49 U.S.C. 46105(c), the Acting Administrator has determined that an emergency exists related to safety in air commerce. On March 13, 2019, the investigation of the ET302 crash developed new information from the wreckage concerning the aircraft's configuration just after takeoff that, taken together with newly refined data from satellite-based tracking of the aircraft's flight path, indicates some similarities between the ET302 and JT610 accidents that warrant further investigation of the possibility of a shared cause for the two incidents that needs to be better understood and addressed. Accordingly, the Acting Administrator is ordering all Boeing 737 MAX airplanes to be grounded pending further investigation.

This Order is effective immediately. While this Order remains in effect, the FAA intends to initiate a proceeding, as appropriate, to address the factors that contributed to the two previously discussed accidents involving Boeing 737 MAX series airplanes.

Consequences of Failure to Comply With This Order

Any person who fails to comply with this Order is subject to a civil penalty for each flight found not to comply. Small business concerns and individuals (other than persons serving as an airman) are subject to a civil penalty of up to \$13,333 per flight. *See* 49 U.S.C. 46301(a)(5)(A)(ii), 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 \$1,466 per flight or a certificate action, up to and including revocation. *See* 49 U.S.C. 46301(a)(1)(B) and 44709(b)(1)(A), 14 CFR 13.301. An air carrier violating this Order is subject to certificate action, up to and including revocation. *See id.* 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) and 46106.

Right of 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 for 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 John Piccola, Federal Aviation Administration, Aircraft Certification Service, System Oversight Division,

AIR-800, 2200 South 216th Street, Des Moines, WA 98198 (email: john.piccola@faa.gov; Tel: 206-231-3595).

Issued in Washington, DC on March 13, 2019.

Daniel K. Elwell,

Acting Administrator.

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