

July 17, 2009

By Electronic Submission

U.S. Department of Transportation
Docket Management Facility
West Building Ground Floor, Room W12-140
1200 New Jersey Avenue, SE
Washington, D.C. 20590

Re: Docket FAA-2009-0592 Republic Airline Inc Exemption Request

Dear Sir or Madam,

Republic Airline Inc. (Republic) recently petitioned the Federal Aviation Administration pursuant to 14 CFR Part 11 for an exemption to 14 CFR 121.291(b)(1). The nature of this exemption request was to allow Republic to operate the Embraer ERJ-190 aircraft without conducting a partial evacuation demonstration. In addition to this exemption request Republic also asked the FAA for expedited treatment of the request citing a need to avoid unnecessary burdens and cost to Republic and the FAA and to avoid any delay in operations using the ERJ-190 aircraft.

I find that it is necessary to object both to the request for exemption from the partial evacuation demonstration and also to the need for expedited treatment for this request. This objection is based on the following reasons laid out below.

Republic bases this request on the fact that they operate a total of 71 Embraer ERJ-170/175 aircraft at the present time. Republic has acquired the Embraer ERJ-190 aircraft for use under an air-services agreement flying in the network of Midwest Airlines as Midwest Connect. They plan to operate the first of the ERJ-190 aircraft on the Milwaukee to Los Angeles International Airport route. As stated in their exemption request this is their first operation of the ERJ-190 aircraft.

Republic in their filing points out that 14 CFR 121.291 (b) (1) requires “each certificate holder conducting operations with airplanes with a seating capacity of more than 44 passengers must conduct a partial demonstration of emergency evacuation procedures in accordance with paragraph (c) of this section upon ... Initial introduction of a type and model of airplane into passenger carrying operation.”

Republic also states that they have completed the partial evacuation demonstration for the ERJ-170 during initial certification of the carrier. Republic submits that the underlying purpose of the demonstration required of 121.291 (b)

was satisfied through the partial evacuation demonstration conducted on the ERJ-170 and no incremental benefit or enhanced safety would be achieved by repeating the partial evacuation demonstration on Republic's ERJ-190.

Previous Evacuation Demonstrations

A review of the FAA Flight Standardization Board report of the Embraer ERJ 170/ ERJ 190 yields the following information regarding evacuation demonstrations conducted on the two aircraft types. Both the ERJ-170-100 and ERJ-170-200 models were demonstrated by the manufacturer for a maximum seating capacity of 80 passengers with a minimum 2 Flight Attendants. That same report states "the ERJ-190-100 has successfully been demonstrated under 121.291 for configurations and passenger capacities up to 108 passengers with a minimum of 3 Flight Attendants. Passenger capacity less than or equal to the demonstrated capacity may be authorized. 14 CFR 121.391 addresses the minimum number of flight attendants required for the actual seating capacity. A partial-evacuation for the ERJ-190-100 is required unless the particular certificate holder has previously operated a ERJ-190-100 with the same or similar interior and exit configuration."

Republic points out in their exemption request that while the aircraft is configured with 4 Flight Attendant jumpseat positions, they can't staff the aircraft with only 2 Flight Attendants and forbid the use of the other jumpseat positions. While this is perfectly legal under 121.391 (which allows seating capacity of more than 50 but less than 101 passengers requiring 2 Flight Attendants) the evacuation demonstration of the ERJ-190-100 was conducted with a total of 3 Flight Attendants making completion of the 50 percent in 15 second emergency exit opening easier. In addition this 25 percent increase in passengers from Republic's previous 80 seats to now 100 seats will place additional demands on the Flight Attendants during a real evacuation that has not been demonstrated in the past.

Emergency Exit and Equipment Locations

In the materials that were filed by Republic along with their exemption request were excerpts from their Flight Attendant Manual. These included ERJ-170 and ERJ-190 aircraft diagrams showing emergency exit and equipment locations on both aircraft. The diagrams show minor differences in equipment locations for the forward first aid kit (left side instead of right on the 170) along with a portable oxygen bottle, halon extinguisher (location and number different). In addition the megaphone, enhanced emergency medical kit and automated external defibrillator are located in the forward right of the ERJ-190 while they had been in the aft (left and right) on the ERJ-170. The largest difference that is noted in those diagrams is the location of 2 (one left, one right) overwing Window Exits. These exits are intended as a non-floor level means of egress from the aircraft in the event of an emergency evacuation.

Over-Wing Exits

In all of the materials that were provided by Republic in support of the exemption are their anything at provides information, procedures, or policy in the following:

- Design and operation of Over-wing exits
- Over-wing exit emergency illumination
- Over-wing exit floor path lighting designation
- Secondary or other assignment of over wing exit responsibilities
- Additional information/Briefing card for passengers seating in exit rows
- Flight Attendant briefing of passengers seated in exit rows
- Exit row seating criteria (as required by Ops Spec A022 Approved Exit Seat Program)
- Advantage of exit row during ditching as escape path

While these over wing exits are not listed as an assigned exit responsibility for the forward or aft flight attendant, they still need to be address as an evacuation route and flight attendants must be able and demonstrate proficiency in the operation of ALL exits. This is highlighted in FAA Inspector guidance 8900.1 Volume 3, Chapter 30 Section 3 at 3-2512 (C), “When there is no crewmember assignment to open an exit, the team leader may still require a crewmember (either a flight attendant or a flight deck crewmember) to open these exits; however this should not be part of the timed evacuation demonstration. This is one method of determining that the operator’s training and procedures are adequate for the airplane and are consistent with the intent of 14 CFR 121.291 or 14 CFR 125.189.” Also in that same paragraph the guidance directs “the team leader could establish a time limit for opening these “unassigned” exits.” This points out the importance of being able to demonstrate the ability to operate not only the assigned primary and secondary exit, but all methods of escape from the aircraft and how well the procedures work to accomplish these tasks. Again, from the materials that Republic provided with this filing it would appear there are no illustrations, or procedures of operation of these exits.

In addition the NTSB in the safety study Emergency Evacuation of Commercial Airplanes NTSB/SS/00-01, when talking about Type III Overwing exits states “Trained crewmembers are expected to operate most of the emergency equipment on an airplane, including most floor level exit doors. Overwing exits, on the other hand, are expected to be and will primarily be opened by passengers. Even in airplanes where flight attendants are assigned the responsibility for overwing exits, passengers are likely to make the first attempt to open overwing exit hatches because flight attendants are not physically located near the overwing exits.” In the study the NTSB noted that Type III overwing exits were used in 13 of the 46 evacuations studied. Given the significant percentage of times that these exits provide the escape path for passengers, some training

and demonstration of opening skill by all crewmembers should be required. The particle evacuation demonstration provides the perfect foundation.

Another importance element of the demonstration is to give FAA inspectors that chance to ensure that all emergency equipment is installed on the aircraft in the locations that the operator's manuals indicate they will be placed. And also that these placements meet the 14 CFR 121 standards for correct equipment installation. Given the large amount of safety items that are in new or different quantities and locations on the ERJ-190 aircraft this task cannot be overlooked.

Public Interest and Effect on Safety

In Republic's filing they note that they have successfully demonstrated a partial evacuation during their initial certification as an air carrier. They indicate also that the ERJ-190 is simply a "stretch" version of the ERJ-170. While these are true statements, as pointed out above the seating and flight attendant crew compliment that they propose operating with are significantly different than what the aircraft was certified with. The public should be sure that the operator's procedures allow for successful operation of not only the floor level emergency exits, but also the non-floor level over wing exits which are a new door type from what Republic has operated in the past.

It is the responsibility of the FAA to ensure the traveling public's safety but ensure that Part 121 air carriers operate to the highest standard and do not look to cut corners in the sole interest of economics as Republic has clearly stated in their filing. The FAA interest in safety to the highest standard has come under increasing public and congressional review as demonstrated last month with public hearings in both the houses of Congress. The FAA should carefully consider the appearance that granting this exemption would have to the Chairman of the Aviation Subcommittee in both houses of Congress who expressed grave concern about the FAA's relationship to the airline industry in general and specific lack of apparent oversight of Regional air carrier operations. This need to ensure carriers are conducting the safest operations possible was made clear by FAA notice 8900.82 Special Emphasis Review of Part 121 Air Carrier Fuel Management which is in response to both FAA internal sources and Congressional question.

Expedited Treatment Request

Republic and their legal representation who filed this exemption request have asked the FAA to give this request expedited treatment. This included the request to not hold out a public comment period on the request, and the need to have this exemption in hand by a specific date. I find the reasoning for this expedited treatment to be lacking in the whole other than a passing notice of economic need on the part of the carrier. However, other than passing note that not conducting this demonstration would save Republic and the FAA cash, there

was not additional information on how that cash factors into the demonstration on a safety requirement.

The fact that the FAA determined that skipping the public comment period was not in the best interest of the public I give them great credit. Even though the comment period is short, the intent is well noted. The cases that Republic noted are significantly different than their own for the reasons outlined above. Also Republic has failed to demonstrate how conducting this demonstration would effect their planned in-service date since it would appear that their POI had already determined a need and scheduled a date for this event to take place.

Summary

I would strongly request that the FAA not grant the request for exemption has stated by Republic Airlines for the following reason,

- New type of exit's (over wing) that Republic's crews have not used in the past.
- Relocation of and addition of emergency equipment.
- Lack of operating procedures and pictures of the Over wing exits.
- Operation of the ERJ-190 in a configuration and staffing other than what the aircraft was certified to.
- Requesting an exemption for purely economic reason with out a clear demonstration of same or better level of safety would result by a granting of the exemption.
- Need to hold air carriers in general and Regional air carriers to the highest levels of over sight as mandated by Congress.

Thank you for the opportunity to express my comments on this matter.