

UNITED STATES OF AMERICA  
FEDERAL AVIATION ADMINISTRATION  
WASHINGTON D.C.

In the matter of the petition of the

DEPARTMENT OF THE ARMY

For an exemption from the provisions  
23495  
Of sections 91.73(a) and (b)  
of the Federal Aviation Regulations.  
Aircraft Lights

Regulatory Docket No.

AMENDED GRANT OF EXEMPTION

On March 26, 1984, the Federal Aviation Administration (FAA) granted an exemption from Section 91.73(a) and (b) of the Federal Aviation Regulations (FAR) to the Department of the Army to conduct certain night flight military training operations without lighted aircraft position lights. By letter dated September 23, 1985, US Army Air Traffic Control Activity, Aeronautical Services Office, Cameron Station, Alexandria, Virginia, petitioned the FAA for an amended exemption in order to conduct operation on a continuing basis. This petition was granted on June 26, 1986, by issuance of Exemption No. 3946A. During a subsequent review of Exemption No. 3946A, the FAA identified as unnecessary a conditional provision which required 24-hour advance issuance of a notice to airmen (NOTAM).

FAR Section 91.73 provides, in pertinent part, that during periods of darkness no person may:

(a) operate an aircraft unless it has lighted position lights; or

(b) park or move an aircraft in, or in dangerous proximity to, a night flight operations area of an airport unless the aircraft –

(1) is clearly illuminated;

(2) has lighted position lights; or

(3) is in an area which is marked by obstruction lights.

The FAA finds that the petitioner's current night flight operations have been safely conducted without lighted aircraft position lights under the current exemption. The FAA continues to believe that an equivalent level of safety can be accomplished by limiting the herein authorized activity to helicopters; by confining the operations to defined areas of low

traffic density; by employing dedicated surveillance during operations; and by advertising the petitioner's activities and operating areas to other users.

The FAA further finds that an additional condition contained in the existing exemption, a requirement for a current NOTAM on exempted operations, is unnecessary, and unnecessarily limits the petitioner's flexibility in scheduling and conducting such operations. The benefits derived from issuing a NOTAM are believed to be insignificant in consideration of the other provisions which must be accomplished in order for exempted operations to be conducted. These provisions include conducting operations in training areas, which are well advertised, clear of designated airspace areas and airports, and only in areas of low traffic density. Additionally, the FAA believes safety is adequately assured with such provisions as dedicated safety observers or escort aircraft, in combination with the other provisions of the exemption, and that, therefore, elimination of a NOTAM provision will not adversely impact safety.

In consideration of the foregoing, I find that an amended grant of exemption which does not require the issuance of a NOTAM is in the public interest. Accordingly, pursuant to the authority contained in Section 307(e) of the Federal Aviation Act of 1958, as amended, which has been delegated to me under Section 11.53 of the FAR, the Department of the Army is hereby granted an exemption from the provisions of Sections 91.73(a) and (b) of the regulations in order to conduct night flight military training operations without lighted aircraft position lights, subject to the following conditions and limitations:

1. This exemption is limited to night vision flight training in U.S. Army tactical helicopters.

2. Safety Observers.

a. An airborne training operation:

(1) may be conducted in a flight of two or more helicopters with a dedicated observer on duty aboard each helicopter. The flight shall be conducted in such a manner as to enable the observers collectively to survey fully about the entire flight for nonparticipating aircraft; or

(2) shall be escorted by a properly lighted aircraft serving as an observation platform dedicated to surveillance for nonparticipating aircraft.

b. Traffic notifications from the observer to the training flight shall be timely commensurate with the position and speed of the observed nonparticipating traffic.

c. When nonparticipating traffic is relevant, the pilot of each training flight aircraft shall light that aircraft's position lights and keep them lighted until the traffic is no longer relevant.

3. Airborne operations may not be conducted above 200 feet above the surface and must be contained within a prescribed and publicized area that –

- a. is simply defined, e.g. the radius area of a point or location;
  - b. is established in an area of low traffic density;
  - c. is not within 5 miles of any public use airport;
  - d. does not infringe upon FAA-designated airspace areas; e.g. control zones and airport traffic areas; and
  - e. has been coordinated with the appropriate FAA Region's Air Traffic Division and Flight Standards Division Offices.
4. Notwithstanding paragraph 3 above, each operation must be conducted in accordance with Section 91.79, Minimum safe altitudes; - general.
5. The holder shall advertise each approved training area to operators at all airports within 50 miles of the area for 60 days preceding its initial use.
6. Ground (airport/staging area) operations in noncompliance with FAR Section 91.73(b) may be conducted at locations where only the holder's aircraft involved in night vision flight training are operating and suitable alternative measures for collision avoidance are instituted.
7. The holder shall establish procedures for collision avoidance among its aircraft operating pursuant to this exemption, including observer aircraft.
8. Each pilot who will conduct operations under this exemption must be thoroughly familiar with its provisions.

This exemption is effective immediately and remains in force until December 31, 1991, unless sooner superseded or rescinded by the Administrator or his representative.

JOHN R. RYAN  
Director, Air Traffic  
Operations Service

Issued in Washington, D.C. on August 11, 1988  
Extension granted on 18 October, 1991, Exemption No. 3946C  
Extension granted on 22 November, 1996, Exemption No. 3946E  
Extension granted on date unknown, Exemption No. 3946F