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Subject: Comments to NPRM 98-12; Docket No. 29318

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October 22, 1998
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To whom it may concern;

Reference: Docket No. 29318; Notice No. 98-12

A review of the referenced Notice was conducted within The Boeing Company and resulted in comments collected in the attached file. These comments are offered for consideration for incorporation in the Final Rule.

<<NPRM 98-12 Cmnts.doc>>

Boeing appreciates the opportunity to work together with the FAA by reviewing and commenting on proposed rulemaking. If there are any questions or if we can be of further help, please contact Howard Kurihara as noted below.

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NPRM 98-12 “Prohibition on the Transportation of Devices Designed as Chemical Oxygen Generators as Cargo in Aircraft”

14 CFR, Part 91 – GENERAL OPERATING AND FLIGHT RULES

Subpart A - General

91.1 " Applicability "

Section 91.1 (c)

No comment.

14 CFR, Part 91 -- GENERAL OPERATING AND FLIGHT RULES

Subpart A - General

91.20 " Prohibitions on the carriage of **devices** designed as chemical oxygen **generators** ”

Section ~~91.20(a)(b)(1)(2)(3)(c)(d)(1)(2)(3)~~:

(a) - Boeing concurs with the proposed draft except the inclusion of (d) (3) in the definition. It does not seem appropriate to further inhibit the manufacturer of chemical oxygen generators **from** shipping components of oxygen generators, i.e., “newly manufactured but not yet charged with chemicals”, when they are, in fact., of no risk. (This may **not**, however, be of great concern to the chemical oxygen generator manufacturers, since it is very possible, none may ship components by air. This input must come from the manufacturers of chemical oxygen generators, themselves, to evaluate the burden, if there is any.)

(b) - Boeing concurs, in principle, to the proposed ruling except for limiting the applicability to “unexpired” chemical oxygen generators. It would seem appropriate that local discharge of chemical oxygen generators would alleviate the need to ship chemical oxygen generators that have exceeded their “expiration date”. However, since some of the chemical oxygen generators are believed to contain small amounts of materials deemed “hazardous”, discharge and disposal is perceived as a **difficulty**. In most instances, however, need to ship either discharged or generators past their expiration date, could be done in a mode other than by air, with very few instances where this could not be the case, under the FAA jurisdiction. In this regard, The Boeing Company must be sensitive to our Airline Customers who may face this situation. In these instances, where shipment of “expired” chemical oxygen generators is necessary, it would seem appropriate to allow such shipment if the generators were prepared for shipment, packaged, marked and shipped in accordance with the RSPA requirements as well as labeled and loaded in accordance with the appropriate **HMRs**. This then, concurs with the proposed exception for domestic all-cargo operations, however, limiting the exception to only those chemical oxygen generators that have **not** past

91.20(b)(cont.)

their “expiration date” does not seem necessary nor appropriate, if all other precautions for proper packaging, marking and shipping are taken. Allowing both expired and non-expired generators to be transported in the same method will simplify the shipping procedures and personnel training. This will also help the operators comply with the new rule by consolidating the number of options. Simplicity is key in helping the operators handle chemical oxygen generators. An expired chemical oxygen generator is no more hazardous than one that is not expired. Allowing the aircraft operators to ship expired generators via the same method stated above will allow the operator more flexibility in moving expired generators with no decrease in safety.

Also, it would seem, there may be some specific instances where an exception to this may be appropriate, and this type shipping may be the only economical method of transport (where currently no other operation exists). In this circumstance, it may be appropriate to **define** an exception, dependent upon, if the chemical oxygen generators are prepared for shipment, packaged and **marked** properly (per the RSPA Special Provision 60, etc.), and they are labeled and loaded per the appropriate HMR, to allow them to be shipped in cargo compartments on aircraft not equipped with **smoke/fire** detection systems, and/or fire suppression systems. This should be, however, only under necessary circumstances, not a general mode of shipping.

(c) - Boeing concurs with the proposed section with the request for the following consideration. It would also seem necessary and appropriate, for some provisions for an airline/operator to ship, as cargo, complete assemblies containing chemical oxygen generators. This would be a common occurrence for a new airplane delivery flight, which often includes alternate interior arrangement kits, or parts and assemblies required to convert a delivery configuration to an alternate arrangement. Though the alternate may or may not be a “certified alternate” or parts and assemblies required to support a Supplemental Type Certificate, the components would generally be those required as spares or to provide type design of some interior arrangement or alternate, etc.. However, it is not totally clear if the provision in (c) includes the carriage, as cargo, the types of assemblies containing chemical oxygen generators, for the purpose described in this paragraph. If this provision does not address this situation, it would appear appropriate to **define** some provision.

14 CFR, Part 119 – **CERTIFICATION: AIR CARRIERS AND COMMERCIAL OPERATORS**
Subpart A - General

119.3 " Definitions "

119.3(cont.)

Section 119.3 (c)

No comment.

**14 CFR, Part 121 – OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND
SUPPLEMENTAL OPERATIONS**

Subpart A - General

121.1 " Applicability "

Section 121.1 (g)

No comment.

**14 CFR, Part 121 – OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND
SUPPLEMENTAL OPERATIONS**

Subpart T - Flight Operations

121.540 " Prohibitions on the carriage of devices designed as chemical oxygen generators "

Section 121.540(a)(b)(1)(2)(3)(c)(d)(1)(2)(3):

(See Boeing comment for section 9 1.20, in corresponding order for 121.540)

**14 CFR, Part 125 -- CERTIFICATION AND OPERATIONS: AIRPLANES HAVING A
SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A
MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE**

Subpart A - General

125.1 " Applicability "

Section 125.1 (d)

No comment.

**14 CFR, Part 125 -- CERTIFICATION AND OPERATIONS: AIRPLANES HAVING A
SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A
MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE**

Subpart J - Flight Operations

125.335 " Prohibitions on the carriage of devices designed as chemical oxygen generators "

Section 125.335(a)(b)(1)(2)(3)(c)(d)(1)(2)(3):

(See Boeing comment for section 91.20, in corresponding order for 125.335)

**14 CFR, Part 135 – OPERATING REQUIREMENTS: COMMUTER AND ON-DEMAND
OPERATIONS**

Subpart A - General

Part 135 (cont.)

135.1 " Applicability "

Section 135.1 (e)

No comment.

**14 CFR, Part 135 - OPERATING REQUIREMENTS: COMMUTER AND ON-DEMAND
OPERATIONS**

Subpart B - Flight Operations

135.88 " Prohibitions on the carriage of devices designed as chemical oxygen **generators** "

Section ~~135.88(a)(b)(1)(2)(3)(c)(d)(1)(2)(3)~~:

(See Boeing comment for section 9 1.20, in corresponding order for 135.88)