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National Transportation Safety Board

Washington, D.C. 20594

Office of the Chairman

FAA-98-4458-18

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DOCKET SECTION
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U.S. Department of Transportation Dockets
Docket No. FAA-98-293 18
Room Plaza 401
400 Seventh Street, S.W.
Washington, D.C. 20590

Dear Sir:

The National Transportation Safety Board has reviewed the FAA's August 27, 1998 Notice of Proposed Rulemaking (NPRM), Docket No. 29318, *Prohibition on the Transportation of Devices Designed as Chemical Oxygen Generators as Cargo in Aircraft*.

The NPRM proposes banning the transportation of chemical oxygen generators on domestic passenger and cargo aircraft. It excepts generators carried on cargo aircraft that are packaged as approved by the Research and Special Programs Administration (RSPA), located in a Class B or E cargo compartment equipped with a fire/smoke detection system, separated from other cargo, and within the quantity limits specified in the Hazardous Materials Regulations (49 *Code of Federal Regulations* [CFR] Subchapter C).

As mentioned in the preamble to the NPRM, the Safety Board issued Safety Recommendations A-96-27 and -29 as a result of its investigation of the May 11, 1996, accident involving ValuJet flight 592 in the Everglades near Miami, Florida. The recommendations urged the FAA and RSPA to permanently prohibit the transportation of chemical oxygen generators as cargo on board passenger or cargo aircraft when the generators have passed their expiration dates and the chemical core has not been depleted.

On December 30, 1996, RSPA amended Federal regulations (HM-224A) and prohibited the transportation of all chemical oxygen generators as cargo on passenger aircraft. In response, the Safety Board classified its safety recommendations "Open-Acceptable Response." In comments to the RSPA notice and in subsequent letters to the FAA and RSPA, the Board expressed its concern that its recommendations had not been fully addressed because RSPA's final rule did not prohibit the transportation on cargo aircraft of undepleted generators that had passed their expiration dates.

The FAA's NPRM proposes prohibitions that reinforce RSPA's amendment concerning passenger aircraft. In addition, the NPRM proposes prohibiting the transportation on cargo aircraft of undepleted generators that have passed their expiration dates and have undepleted chemical cores. The Safety Board strongly supports this proposal.

The FAA's NPRM also proposes prohibiting the transportation of discharged or spent generators on passenger or cargo aircraft, and the Board supports this proposal. On August 20, 1997, RSPA issued a Supplemental NPRM (HM-224A, Notice No. 97-8) that proposed prohibiting the transportation of discharged or "spent" generators on both passenger and cargo aircraft. In responding to RSPA's NPRM, the Safety Board supported the prohibition and agreed with RSPA's argument that it is difficult to determine whether all of the oxidizing material in a spent generator has been depleted, thereby ensuring that the generator is no longer hazardous.

Finally, the FAA's NPRM proposes prohibiting the transportation of "a device designed as a chemical oxygen generator...that is newly manufactured but not charged with chemicals for the generation of oxygen." As far as the Safety Board knows, the only generators that fit that description are those that are used in awareness training. Nevertheless, even though the FAA's prohibition may restrict the transportation of useful training tools that have never contained oxidizers, the Safety Board supports the prohibition. The Board agrees with the FAA's assessment of possible human error in distinguishing a charged chemical oxygen generator from an uncharged or discharged one.

The Safety Board agrees that it would be helpful if both the FAA and RSPA were to cross-reference each other's regulations concerning devices designated as chemical oxygen generators.

Sincerely,



Jim Hall
Chairman

cc: Dr. Donald R. Trilling
Director
Office of Environment, Energy, and Safety