



WORKING PAPER

**DANGEROUS GOODS PANEL (DGP)
WORKING GROUP MEETING (DGP-WG/19)**

Montréal, 1 to 5 April 2019

Agenda Item 2: Managing air-specific safety risks and identifying anomalies

2.1: Develop proposals, if necessary, for amendments to Annex 18 — *The Safe Transport of Dangerous Goods by Air*

2.2: Develop proposals, if necessary, for amendments to the *Technical Instructions for the Safe Transport of Dangerous Goods by Air* (Doc 9284) for incorporation in the 2021-2022 Edition

Agenda Item 8: Coordination with other panels

8.1: Flight Operations Panels (FLTOSP)

CONSIDERATION OF PERSONS CARRIED ON A CARGO AIRCRAFT

(Presented by D. Brennan)

SUMMARY

This working paper seeks the views of the DGP-WG on a possible revision to the definition of “passenger aircraft” to provide operational flexibility to operators of cargo aircraft on the carriage of persons not currently permitted on a cargo aircraft under the definition in Annex 18 and the Technical Instructions.

Action by the DGP-WG: The DGP-WG is invited to consider if there should be a review of the definition of “passenger aircraft” to provide additional flexibility for operators on persons that can be on board an aircraft that is carrying cargo aircraft only dangerous goods.

1. INTRODUCTION

1.1 Annex 18 and the Technical Instructions include definitions for “cargo aircraft” and “passenger aircraft”. These definitions are then applied to determine which persons can be carried on an aircraft carrying cargo aircraft only dangerous goods, and if persons other than those permitted are carried the aircraft is now by definition a “passenger aircraft” and CAO dangerous goods are not permitted.

1.2 The definition of passenger aircraft in Annex 18 and the Technical Instructions is as follows:

Passenger aircraft. An aircraft that carries any person other than a crew member, an operator's employee in an official capacity, an authorized representative of an appropriate national authority or a person accompanying a consignment or other cargo.

1.3 This definition has remained almost unchanged since Annex 18 was first published effective January 1983. The only change since that time was the addition of the words "...or other cargo" at the end of the definition, which was adopted in the second edition of the Annex effective 1989.

1.4 Notwithstanding the restriction on the carriage of persons on an aircraft carrying CAO dangerous goods as set out in the Technical Instructions, many all-cargo operators routinely permit the carriage of grooms and security officers on freighter aircraft for the purposes of positioning to / from a destination on which animals or valuable cargo are carried.

1.5 One reason for this appears to be the provisions set out in the United States Code of Federal Regulations, Title 14, Part 121, specifically §121.583, "Carriage of persons without complying with the passenger-carrying provisions of this part". The full text of §121.583 is provided in the appendix to this working paper.

1.6 While the appendix shows the wording from the United States Federal Aviation Regulations (FAR), many States adopt the United States FAR into their national aviation regulations and then apply those provisions to operators under their control.

1.7 The International Air Transport Association (IATA) has recently been approached by several member all-cargo operators where persons outside of those permitted by the definition of passenger aircraft are being carried on aircraft carrying CAO dangerous goods. These operators have questioned the disconnect between the provisions in the Technical Instructions and those in FAR §121.583, or national equivalent, as they have been applying the provisions of FAR §121.583 to their freighter operation, in some cases for over 40 years, without any safety concerns.

1.8 The concern expressed by these operators is that to strictly apply the definition of "passenger aircraft" in the Technical Instructions would remove the ability to carry persons such as grooms and security officers on an aircraft carrying CAO dangerous goods for the purposes of positioning to / from a flight where they will accompany a consignment or other cargo. There is also the difference between the definition in the Technical Instructions where the company employee can only be carried when "on official business", whereas FAR §121.583 simply refers to "a company employee". The difference in wording is that under the FAR provisions' employees can travel for personal reasons not associated with "an official capacity".

1.9 For these operators there would be a very significant financial and operational impact to strictly apply the Technical Instructions provisions, which based on their operational experience and safety risk assessment, is not justified.

1.10 In looking at the wording in FAR §121.583, it provides significant detail in terms of the actions that operators must undertake to be able to carry these persons, such as the requirement for the full pre-flight emergency briefing. In discussions with a number of these operators, they have instituted requirements beyond those in FAR §121.583 such as a requirement that each of these persons must have completed the applicable emergency procedures training for the aircraft type and the operators have conducted a full safety risk assessment to address the carriage of such persons.

1.11 Based on these considerations, it is believed that there is value in reviewing of the definition of “passenger aircraft” as set out in Annex 18 and the Technical Instructions. Given that many of the provisions in FAR §121.583 do not have direct relevance to the provisions of Part 7 of the Technical Instructions, it is believed that this issue should also be brought to the attention of the Flight Operations Panel for their consideration.

2. ACTION BY THE DGP-WG

2.1 The DGP-WG is invited to consider if there is merit in reviewing the current definition and application of “passenger aircraft” to provide additional flexibility for all-cargo operators on the persons that may be permitted on board an aircraft carrying CAO dangerous goods.

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APPENDIX

United States Federal Aviation Regulations (FAR)

§121.583 Carriage of persons without compliance with the passenger-carrying requirements of this part.

- (a) When authorized by the certificate holder, the following persons, but no others, may be carried aboard an airplane without complying with the passenger-carrying airplane requirements in §§121.309(f), 121.310, 121.391, 121.571, and 121.587; the passenger-carrying operation requirements in part 117 and §§121.157(c) and 121.291; the requirements pertaining to passengers in §§121.285, 121.313(f), 121.317, 121.547, and 121.573; and the information disclosure requirements in §121.311(k):
 - (1) A crewmember.
 - (2) A company employee.
 - (3) An FAA air carrier inspector, a DOD commercial air carrier evaluator, or an authorized representative of the National Transportation Safety Board, who is performing official duties.
 - (4) A person necessary for—
 - (i) The safety of the flight;
 - (ii) The safe handling of animals;
 - (iii) The safe handling of hazardous materials whose carriage is governed by regulations in 49 CFR part 175;
 - (iv) The security of valuable or confidential cargo;
 - (v) The preservation of fragile or perishable cargo;
 - (vi) Experiments on, or testing of, cargo containers or cargo handling devices;
 - (vii) The operation of special equipment for loading or unloading cargo; and
 - (viii) The loading or unloading of outsize cargo.
 - (5) A person described in paragraph (a)(4) of this section, when traveling to or from his assignment.
 - (6) A person performing duty as an honor guard accompanying a shipment made by or under the authority of the United States.

- (7) A military courier, military route supervisor, military cargo contract coordinator, or a flight crewmember of another military cargo contract air carrier or commercial operator, carried by a military cargo contract air carrier or commercial operator in operations under a military cargo contract, if that carriage is specifically authorized by the appropriate armed forces.
- (8) A dependent of an employee of the certificate holder when traveling with the employee on company business to or from outlying stations not served by adequate regular passenger flights.
- (b) No certificate holder may operate an airplane carrying a person covered by paragraph (a) of this section unless—
 - (1) Each person has unobstructed access from his seat to the pilot compartment or to a regular or emergency exit;
 - (2) The pilot in command has a means of notifying each person when smoking is prohibited and when safety belts must be fastened; and
 - (3) The airplane has an approved seat with an approved safety belt for each person. The seat must be located so that the occupant is not in any position to interfere with the flight crewmembers performing their duties.
- (c) Before each takeoff, each certificate holder operating an airplane carrying persons covered by paragraph (a) of this section shall ensure that all such persons have been orally briefed by the appropriate crewmember on—
 - (1) Smoking;
 - (2) The use of seat belts;
 - (3) The location and operation of emergency exits;
 - (4) The use of oxygen and emergency oxygen equipment; and
 - (5) For extended overwater operations, the location of life rafts, and the location and operation of life preservers including a demonstration of the method of donning and inflating a life preserver.
- (d) Each certificate holder operating an airplane carrying persons covered by paragraph (a) of this section shall incorporate procedures for the safe carriage of such persons into the certificate holder's operations manual.
- (e) The pilot in command may authorize a person covered by paragraph (a) of this section to be admitted to the crew compartment of the airplane.

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