



National Transportation Safety Board

Washington, D.C. 20594

Office of the Chairman

MAR 8 2000

Honorable Kelley S. Coyner
Administrator
Research and Special Programs Administration
Washington, D.C. 20590

Dear Ms. Coyner:

Thank you for the Research and Special Programs Administration's (RSPA) September 27, 1999, response to the National Transportation Safety Board's Safety Recommendation A-96-30.

Safety Recommendation A-96-30 asked RSPA, in cooperation with the Federal Aviation Administration (FAA), to prohibit the transportation of oxidizers and oxidizing materials (for example, nitric acid) in cargo compartments that do not have fire or smoke detection systems.

On August 19, 1999, RSPA published a final rule in the *Federal Register* [64 FR 45388; Docket HM-224A]. This final rule prohibits the carriage of oxidizers on aircraft in inaccessible cargo compartments that do not have fire or smoke detection and fire suppression systems. Although this action appears to meet the intent of the safety recommendation, the Safety Board is concerned about oxidizing materials not covered by the final rule. Safety Recommendation A-96-30 included the prohibition of oxidizing materials (for example, nitric acid) not classified as a division 5.1 "Oxidizer." However, the final rule only affects the transportation of division 5.1 materials. On October 17, 1997, in comments submitted to RSPA in response to Supplemental Notice of Proposed Rulemaking, Docket No. HM-224A (which was part of the regulatory development process for the August 19, 1999, final rule), the Board noted concerns on oxidizing materials not classified as an oxidizer. The Safety Board's concerns included the following:

- Nitric acid. Less than concentrated or fuming nitric acid is permitted on cargo-only aircraft.
- Dicumyl peroxide. The preamble of the final rule indicates that organic peroxides are outside the context of this rulemaking. However, organic peroxides are a subgroup within Class 5 "Oxidizing Substances."
- Oxidizers shipped as consumer commodities, ORM-D. The preamble indicates that these oxidizers will not be prohibited because RSPA believes that these oxidizers are of a form and quantity that will not pose an unacceptable risk to the safety of an aircraft, even in cargo compartments that lack a fire and smoke detection system.



Although the preamble to the final rule notes the Safety Board's concerns with regard to oxidizing materials and indicates that RSPA does not believe that the exceptions in the rule represent a safety hazard, no analysis is presented to justify this belief.

The August 19, 1999, final rule also provides exceptions to the prohibition of cylinders containing compressed oxygen, subject to new packaging and stowage requirements and limits on the number of cylinders. The rule requires oxygen cylinders to be placed in an overpack meeting the performance criteria in Air Transport Association Specification 300 before transporting these cylinders in cargo compartments that do not have fire or smoke detection systems. The preamble of the final rule discusses testing performed that indicates that the overpacks provide sufficient thermal protection to these cylinders to delay the opening of their pressure relief devices for at least 1 hour. The rule fails to justify the significance of this 1 hour time period as it relates to a cargo compartment that does not have fire or smoke detection systems.

Pending issuance of a regulation that prohibits carrying oxidizing materials (like the types described above) in cargo compartments of aircraft that do not have fire and smoke detection systems and carrying of compressed oxygen cylinders in cargo compartments of aircraft that do not have fire and smoke detection systems, or a justification that 1 hour is a suitable period of thermal protection for oxygen cylinders, Safety Recommendation A-96-30 is classified "Open—Acceptable Action."

Sincerely,


Jim Hall
Chairman

cc: Honorable Jane Garvey, Administrator
Federal Aviation Administration

Mr. Robert Clarke, Safety and Health Team Leader
Office of Transportation Policy Development