

[Docket HM-128; Amdt. No. 108-27]

PART 103—TRANSPORTATION OF DANGEROUS ARTICLES AND MAGNETIZED MATERIALS**Carriage of Certain Hazardous Materials on Cargo-Only Aircraft as Only Means of Transportation**

The purpose of these amendments to 14 CFR Part 103 is to authorize certain materials, the air transportation of which is otherwise prohibited or restricted, to be transported by cargo-only aircraft subject to special handling and operational controls when other means of transport are not practicable.

On October 1, 1975, the Materials Transportation Bureau published a notice of proposed rulemaking on this subject (40 FR 45197) inviting public comments and announcing a public hearing for October 23, 1975, in Washington, D.C. All comments received have been given due consideration.

As a result of comments received, the following changes which the Bureau believes compatible with the basic proposal have been made in the proposed amendments in addition to language changes for clarification:

1. The introductory clause in § 103.33 is reworded to (1) make that section equally applicable to small aircraft and helicopters operating in remote areas of the United States outside Alaska as well as within Alaska, and (2) include other flammable liquids, such as alcohol, used as fuel.

2. In the table in § 103.37(a), the entry pertaining to electric blasting caps (more than 1000) Class A explosives is revised to allow them to be carried on the same aircraft with non-hazardous cargo if they are packaged in IME 22 cap containers.

3. In the table in § 103.37(a), the entry pertaining to electric blasting caps (1000 or less) is revised to allow them to be carried in IME 22 or MC 201 cap containers on the same aircraft with other hazardous cargo, except Class A or Class B explosives.

4. In the table in § 103.37(a), the entry pertaining to high explosives Class A is revised to allow them to also be carried on the same aircraft with certain other commercial blasting agents which are similar to high explosives, are difficult to initiate, and are presently authorized for carriage aboard cargo-only aircraft.

5. In § 103.37(b) (2) requiring advance permission from airports where hazardous materials covered by new § 103.37 are to be loaded or unloaded or where the aircraft is to land enroute, a new provision is added in recognition of the possibility of the aircraft being diverted to an alternate airport.

6. In § 103.37(b) (6), the written instructions to be provided to the pilot of a cargo-only aircraft scheduled to carry any of the special hazardous materials shipments authorized by these amendments are modified to include the name of the airport official[s] who have granted the required approval for the use of his airport facilities.

7. The proposed prohibition in § 103.37 (c) (4) (ii) against smoking and flame or spark producing devices within 50 feet of aircraft loading or unloading flammable or combustible liquid bulk tanks is transferred to paragraph (b) (9) of that section so as to make the prohibition applicable to all loadings and unloadings of hazardous materials covered by new § 103.37.

The Bureau has not adopted a number of other recommendations for the reasons stated:

1. It was recommended that electric blasting caps in IME 22 or MC 201 cap containers be allowed to accompany any other hazardous or non-hazardous cargo. As stated above, the proposed amendment has been modified to allow Class A shipments (1000 or more) with other non-hazardous materials and Class C shipments (less than 1000) with hazardous materials exclusive of Class A or B explosives as well as with non-hazardous cargoes.

The Bureau is considering a broad review and possible revision of the regulations pertaining to the classification and packaging of blasting caps for all modes of transportation. Until that effort is completed, the Bureau is not prepared to issue a regulation that would authorize large quantities of blasting caps (i.e., Class A) to be transported in the same aircraft with other hazardous materials such as flammable liquids, corrosive liquids, or oxidizing materials. The Bureau's primary concern in this regard is the possible adverse interaction that could occur even considering the high integrity of the IME 22 container system.

2. It was also recommended that Class A high explosives be allowed to accompany non-hazardous materials. The Bureau believes that shipments of these explosives should be made on an exclusive basis receiving the full attention of the loading, off-loading, and airborne cargo handling personnel, the only exception being those closely related materials which have been added to the high explosives entry in the § 103.37(a) table. These materials, as pointed out by several commentors, are also used in blasting operations and are generally handled and treated with the same consideration as high explosives. Any further relaxations in this regard can only be considered and the related circumstances evaluated on a case-by-case basis.

In consideration of the foregoing, 14 CFR Part 103 is amended as follows:

1. In § 103.19, paragraphs (a) and (c) are revised to read as follows:

§ 103.19 Quantity limitations.

(a) Except as provided in § 103.31(b) in the case of a small, single pilot, cargo-means of transportation are not available or impracticable, no person may only aircraft being used when other carry more than 150 pounds net weight of nonflammable compressed gas in any inaccessible cargo pit or bin on any aircraft.

(c) Except as provided in § 103.31(b) in the case of a small, single pilot, cargo-only aircraft being used when other means of transportation are not available or impracticable, no person may carry more than 50 pounds of any article that is subject to this part (other than an article specified in paragraph (a) or (b) of this section and magnetized materials) in any inaccessible cargo pit or bin of any aircraft.

2. Section 103.31(b) is revised to read as follows:

§ 103.31 Cargo location.

(b) Except in the case of a small, single pilot aircraft being used where other means of transportation are not available or impracticable, each person carrying materials acceptable only for cargo aircraft shall carry those articles in a location accessible to a crewmember in flight. When materials acceptable for cargo-only aircraft are carried on a small, single pilot, cargo-only aircraft being used where other means of transportation are not available or impracticable, they may be carried in a location that is not accessible to the pilot, subject to the following conditions:

(1) No person other than the pilot, an FAA inspector, the shipper or consignee of the material or a representative of the shipper or consignee so designated in writing, or a person necessary for handling the material may be carried on the aircraft.

(2) The pilot must be provided with written instructions on characteristics and proper handling of the material.

(3) Whenever a change of pilots occurs while the material is on board, the new pilot must be briefed under a hand-to-hand signature service provided by the operator of the aircraft.

3. In § 103.33 the heading and the introductory clause preceding paragraph (a) are revised; paragraph (c) (3) is added to read as follows:

§ 103.33 Transportation of flammable liquid fuels in small, passenger-carrying aircraft.

A small aircraft or helicopter operated entirely within the State of Alaska or into a remote area elsewhere in the United States may carry, in other than scheduled passenger operations, not more than 20 gallons of flammable liquid fuels—

(c) * * *
(3) DOT Specification 17E containers of not more than 5 gallons capacity.

4. A new section 103.37 is added to read as follows:

§ 103.37 Cargo-only aircraft; only means of transportation.

(a) Notwithstanding § 103.9(a) (1) and (2), when means of transportation other than air are not available or are impracticable, hazardous materials listed in the following table may be carried on a cargo-only aircraft subject to the conditions stated in the table and in paragraph (b) and, when appropriate, paragraph (c) of this section:

Mat. Trans. Bureau

Material description	Class	Conditions
Electric blasting caps (more than 1000).	Class A explosives	Permitted only when no other cargo is aboard the aircraft. However, if the electric blasting caps are packed in an IME 22 container (see 49 CFR 171.7(d)(9)) they may be transported in the same aircraft with materials that are not classed as hazardous materials.
Electric blasting caps (1000 or less).	Class C explosives	Permitted only when no other cargo is aboard the aircraft. However, if the electric blasting caps are packed in a DOT MC 301 container (49 CFR 178.318) or an IME 22 container (see 49 CFR 171.7(d)(9)) they may be transported in the same aircraft with materials other than Class A or Class B explosives.
Gasoline	Flammable liquid	Permitted in metal drums having rated capacities of 55 gal or less. May not be transported in the same aircraft with materials classed as Class A, B, or C explosives, corrosive materials or oxidizing materials. Permitted in installed metal tanks each having a capacity of more than 110 gal subject to the conditions specified in paragraph (c) of this section.
High explosives	Class A explosives	Limited to explosives to be used for blasting. Permitted only when no other cargo is aboard the aircraft or when being transported in the same aircraft with an authorized shipment of any one or more of the following materials to be used for blasting: Nitro carbo nitrate. Cordeau detonant fuse. Propellant explosive (solid) Class B [water gels only]. Propellant explosive (liquid) Class B [water gels only].
Oil, n.o.s.; petroleum oil; or petroleum oil, n.o.s.	Flammable liquid	Permitted in metal drums having rated capacities of 55 gal or less. May not be transported in the same aircraft with materials classed as Class A, B, or C explosives, corrosive materials or oxidizing materials. Permitted in installed metal tanks each having a capacity of more than 110 gal subject to the conditions specified in paragraph (c) of this section.
Combustible liquid, n.o.s.	Combustible liquid	Permitted in installed metal tanks each having a capacity of more than 110 gal subject to the conditions specified in paragraph (c) of this section.

(b) The following conditions apply to the carriage of hazardous materials performed under the authority of this section:

(1) No person other than a required flight crewmember, an FAA inspector, the shipper or consignee of the material or a representative of the shipper or consignee so designated in writing, or a person necessary for handling the material may be carried on the aircraft.

(2) The operator of the aircraft must have advance permission from the owner or operator of each manned airport where the material is to be loaded or unloaded or where the aircraft is to land while the material is on board. When the destination is changed after departure because of weather or other unforeseen circumstances, permission from the owner or operator of the alternate airport should be obtained as soon as practicable before landing.

(3) At any airport where the airport owner or operator or authorized representative thereof has designated a location for loading or unloading the material concerned, the material may not be loaded or unloaded at any other location.

(4) If the material concerned can create destructive forces or have lethal or injurious effects over an appreciable area as a result of an accident involving the aircraft or the material, the loading and unloading of the aircraft and its operation in takeoff, en route, and in landing must be conducted at a safe distance from heavily populated areas and from any place of human abode or assembly.

(5) If the aircraft is being operated by a holder of a certificate issued under Part 121, Part 127, or Part 135 of this title, operations must be conducted in accordance with conditions and limitations specified in the certificate holder's operations specifications or operations manual accepted by the FAA. If the aircraft is being operated under Part 91 of this title, operations must be conducted in accordance with an operations plan accepted and acknowledged in writing by the operator's FAA District Office.

(6) Each pilot of the aircraft must be provided written instructions stating the conditions and limitations of the operation being conducted and the name of the airport official[s] granting the advance permission required by the first sentence of subparagraph (2) of this paragraph.

(7) The aircraft and the loading arrangement to be used must be approved for safe carriage of the particular materials concerned by the FAA District Office holding the operator's certificate and charged with overall inspection of its operations, or the appropriate FAA District Office serving the place where the material is to be loaded.

(8) When Class A explosives are carried under the authority of this section, the operator of the aircraft shall obtain route approval from the FAA inspector in the operator's FAA District Office.

(9) During loading and unloading, no person may smoke, carry a lighted cigarette, cigar, or pipe, or operate any device capable of causing an open flame or spark within 50 feet of the aircraft.

(c) The following additional conditions apply to the carriage of flammable liquids and combustible liquids in metal tanks each having a capacity of more than 110 gallons under the authority of this section:

(1) The tanks and their associated piping and equipment and the installations thereof must have been approved under a supplemental type certificate.

(2) In the case of an aircraft being operated by a certificate holder, the operator shall list the aircraft and the supplemental type certificate approval information in its operating specifications. If the aircraft is being operated by other than a certificate holder, a copy of the supplemental type certificate must be carried on board the aircraft.

(3) The crew of the aircraft must be thoroughly briefed on the operation of the particular bulk tank system being used.

(4) During loading and unloading and thereafter until any remaining fumes within the aircraft are dissipated:

(i) Only those electrically operated bulk tank shutoff valves that have been approved under a supplemental type certificate may be electrically operated.

(ii) No engine or electrical equipment, avionic equipment, or auxiliary power units may be operated, except position lights in the steady position and equipment required by approved loading or unloading procedures, as set forth in the operator's operations manual, or for operators that are not certificate holders, as set forth in a written statement.

(iii) No person may fill a container, other than an approved bulk tank, with a flammable or combustible liquid or discharge a flammable or combustible liquid from a container, other than an approved bulk tank, while that container is inside or within 50 feet of the aircraft.

(iv) When filling an approved bulk tank by hose from inside the aircraft, the doors and hatches must be fully open to insure proper ventilation.

(v) Static ground wires must be connected between the storage tank or fueler and the aircraft, and between the aircraft and a positive ground device.

Since these amendments relieve restrictions and do not impose any new duties or obligations, they are being made effective in less than 30 days after publication in the FEDERAL REGISTER.

(49 U.S.C. 1472(h)(1), 49 CFR 1.53(h).)

Effective date: These amendments are effective on December 11, 1975.

Issued in Washington, D.C., on December 11, 1975.

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Correction

In FR Doc. 75-33834 appearing at page 58284 in the issue of Tuesday, December 16, 1975, make the following correction: On page 58285, § 103.19(a), the fifth line should have appeared immediately after the second line.
