



**WORKING PAPER**

**DANGEROUS GOODS PANEL (DGP)  
WORKING GROUP MEETING (DGP-WG/24)**

**Montreal, 21 to 25 October 2024**

**Agenda Item 3: Facilitating safe transport of dangerous goods by air (Ref: REC-A-DGS-2027)**

**TRANSPORT OF ILLICIT SUBSTANCES UNDER CHAIN OF CUSTODY BY LAW  
ENFORCEMENT AGENCIES**

(Presented by S. Bitossi)

**SUMMARY**

This working paper proposes amendments to the provisions concerning passengers and crew in Part 8 and the addition of a new special provisions in Part 3 of the Technical Instructions to allow for the carriage of illicit substances under chain of custody by law enforcement agencies.

Action by the DGP-WG is in paragraph 2.

**1. INTRODUCTION**

1.1 This working paper is a continuation of discussions at the twenty-ninth meeting of the DGP (DGP/29, 13 to 17 November 2023) on challenges addressing requests from law enforcement agencies to transport illicit substances that might be classified as dangerous goods (see paragraph 11.4 of the DGP/29 report).

1.2 The Civil Aviation Safety Authority (CASA) of Australia has received many requests (through the air operators and/or direct from law enforcement agencies (LEAs)) for the transport of illicit substances, under the chain of custody, by LEA officers for the purposes of specialized laboratory testing or as evidence for prosecution (substance confirmed).

1.3 Illicit substances are predominantly of Division 6.1 and include illegal drugs (such as cannabis, opiates, and certain types of stimulants), pharmaceutical drugs (such as analgesics (pain killers) and anaesthetic agents (Fentanyl) or veterinary anaesthetic agents (Carfentanil) when used for non-medical purposes, and other substances used inappropriately (such as inhalants).

1.4 Below is a list of illicit substances that the CASA has received applications for a State exemption in recent year:

#	UN number	Proper shipping name	Chemical/other name	Hazard division	Quantity
1	UN 2811	Toxic solid, organic, n.o.s.	<ul style="list-style-type: none"> <li>— Methamphetamine hydrochloride (“Ice” or “Crystal Meth”)</li> <li>— Cocaine hydrochloride (Cocaine)</li> <li>— (+/-) -3,4 Methylendioxyamphetamine hydrochloride (MDMA or Ecstasy)</li> <li>— Fentanyl (hydrochloride)</li> </ul>	6.1	37g 105g 210g
2	UN 2810	Toxic liquid, organic, n.o.s	—Methamphetamine dissolved in water	6.1	200ml (40 x 5ml vials)
3	UN 1544	Alkaloids, solid, n.o.s. or Alkaloid salts, solid, n.o.s.	<ul style="list-style-type: none"> <li>— Cocaine hydrochloride (Cocaine)</li> <li>— Heroin</li> </ul>	6.1	140g
4	UN 3249	Medicine, solid, toxic, n.o.s.	— Methamphetamine hydrochloride	6.1	
5	UN 1230	Methanol solution	— Carfentanil	3 (6.1)	

1.5 Maintaining the chain of custody with respect to evidence is the most critical part of evidence documentation as this is to assure the courts of law that any evidence presented in a case is authentic, remains untampered with and is the same evidence that was seized at the scene of the crime. As part of the chain of custody, LEA officers require evidence to remain in their presence during transport, which in turn, ensures that the integrity of the evidence cannot be refuted in a court of law. To achieve a proper chain of custody, the substances must be kept in the possession of the LEA officer and therefore transported in the cabin of the aircraft on flights as part of their carry-on baggage allowance.

1.6 The alternative option requires an LEA officer to escort the evidence airside (accompanied by a representative of the operator) so that they may witness the loading/unloading of the package carried as cargo. This is problematic as once the evidence leaves the possession of the LEA officer, it should be signed over to an authorised person as part of the continuity of the chain, otherwise the integrity of the evidence could be questioned in court. Additionally, upon arrival, the LEA officer must be present for the opening of the hold which is difficult to achieve when an aircraft utilizes an aerobridge to offload passengers and the ground handling staff may not necessarily be aware of the situation (for security reasons).

1.7 There are also legal obstacles which can prevent illicit substances from being in the possession of persons who are not legally authorized to carry them. Many States have laws (often entitled “Misuse of Drugs Act” or “Controlled Substances Act”) which makes it illegal for illicit substances to be in the possession of baggage handlers, or under the control of pilots, or anyone who does not have the legal authority or delegation to have possession of them. In cases where laws prevent this, the LEA officers are not legally allowed to surrender the evidence (i.e. drugs) to the baggage hold, even if it is technically possible under their supervision.

1.8 Each State has its own requirements with respect to the standard of the testing of illicit substances required to achieve a successful prosecution. Some States do not recognize testing conducted in laboratories from another country, and as such, request that the illicit substances be transported back to

the country of origin to be tested in preparation for prosecution. This presents many problems with respect to the classification of illicit substances, which in many cases, may have been manufactured in 'backyard' or make-shift laboratories, and not manufactured to any medical standard.

1.9 Currently, there are no provisions within the Technical Instructions or its Supplement that easily facilitate the transport of illicit substances by law-enforcement agencies within the cabin of an aircraft other than by way of issuing State exemptions. State exemptions require the approval of the State of Origin, State of the Operator, State of Destination, State of Transit and the States of Overflight, which is problematic for several reasons, particularly for a country like Australia, where a technical stop is required in most instances and many countries are overflown in the course of an international journey. Taking into consideration the security of the packages carried, and the time and effort required to ensure safe passage, the requirement for the LEA and/or operator to gain multiple exemptions from other States, is often unachievable.

1.10 In light of the information presented, this working paper proposes to develop a new special provision that could facilitate the carriage of illicit substances as part of the passenger provisions for an LEA officer when travelling for official duty (see Appendix B to this working paper). The approach taken is similar to and consistent with that of Special Provision A106 (chemical samples carried by authorized person of the Organization for the Prohibition of Chemical Weapons (OPCW)).

1.11 The new special provision would require an amendment to Table 8-2: Provisions for instruments carried by OPCW and government agencies, to include an entry for dangerous goods carried on board by LEA officers in the course of official duties (see Appendix C to this working paper).

1.12 When developing the new special provision, a review of the requirements for transporting UN 3315 — **Chemical sample, toxic** was conducted, including the packaging standards within Packing Instruction 623 of the Supplement. It is envisaged that the packaging requirements of Packing Instruction 623 are appropriate for the various types of illicit substances; however, it is envisaged that the final outer package (with markings and labelling) would be further hidden by an additional layer required for concealment of the package in the cabin (such as a hard "pelican" type case or carry-on sized luggage suitcase) that could be locked and used to conceal the nature of the package.

1.13 Additionally, the quantities of the illicit substances (that are being requested for transport back to the State in which they originated) are quite variable, ranging from grams or millilitres up to several kilograms per flight. In some instances, the illicit substances have been discovered concealed within items that cannot be extracted without destruction of the evidence and therefore must be transported in situ. Weight restrictions in relation to stowage in overhead cabin compartments is a consideration.

1.14 As such, the additional requirements and quantity limitations for the transport of samples as per section of Part 2; Introductory Chapter, paragraph 5 of the Technical Instructions was also considered. Combination packagings are addressed under the requirements of Packing Instruction 623 in the Supplement, and additional wording has been added to the new special provision to align with Part 2;0.5.3 and limit the quantity per package so that it does not exceed 2.5 kgs (net mass).

1.15 An amendment to Table 8-2: Provisions for instruments carried by OPCW and government agencies is proposed in order to connect the special provision to the passenger provisions. A proposed amendment to the name of Table 8-2 has been suggested as the new item in this table is not contained within an instrument.

1.16 Consequential amendments to add the new special provision to the entry for UN 3315 in Table 3-1: Dangerous Goods List in the Technical Instructions and Table S-3-1: Supplementary Dangerous Goods List in the Supplement was also required (see Appendices A and D respectively).

## 2. ACTION BY THE DGP-WG

2.1 The DGP-WG is invited to:

- a) review the proposed amendments to the Technical Instructions as shown in Appendices A, B and C to this working paper and consider these amendments for incorporation into the 2027–2028 Edition; and
  - b) review the proposed amendments to the Supplement to the Technical Instructions as shown in Appendix D to this working paper and consider these amendments for incorporation into the 2027–2028 edition.
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APPENDIX A

PROPOSED AMENDMENT TO TABLE 3-1 IN PART 3, CHAPTER 2 OF THE TECHNICAL INSTRUCTIONS

Part 3

DANGEROUS GOODS LIST,  
SPECIAL PROVISIONS AND  
LIMITED AND EXCEPTED QUANTITIES

...

Chapter 2

ARRANGEMENT OF THE  
DANGEROUS GOODS LIST (TABLE 3-1)

Table 3-1. Dangerous Goods List

Name	UN No.	Class or division	Subsidiary hazard	Labels	State variations	Special provisions	UN packing group	Excepted quantity	Passenger and cargo aircraft		Cargo aircraft only	
									Packing instruction	Max. net quantity per package	Packing instruction	Max. net quantity per package
1	2	3	4		6	7	8	9	10	11	12	13

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Chemical sample, toxic	3315	6.1				A106 <u>A2XX</u>	I			FORBIDDEN		FORBIDDEN
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APPENDIX B

PROPOSED AMENDMENT TO TABLE 3-2 IN PART 3, CHAPTER 3 OF THE TECHNICAL INSTRUCTIONS

Part 3

DANGEROUS GOODS LIST,  
SPECIAL PROVISIONS AND  
LIMITED AND EXCEPTED QUANTITIES

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Chapter 3

SPECIAL PROVISIONS

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Table 3-2. Special provisions

TIs UN

A2XX

This entry may only be used for transport of samples of illicit substances and chemicals seized by law enforcement agencies for analysis or evidentiary purposes.

The samples may be transported in the cabin of a passenger aircraft providing that prior approval has been granted by the appropriate authority of the State of Origin and the State of Operator and providing the samples comply with the requirements shown against the entry for UN 3315 — **Chemical sample, toxic** in Table S-3-1 of the Supplement, with exception of the quantity limitations.

The substance is assumed to meet the criteria of Packing Group I for Division 6.1. Subsidiary hazard labelling is not required. Samples are permitted in quantities with a net mass not exceeding 2.5 kg per package.

A copy of the document of approval showing the quantity limitations and the packing requirements must accompany the consignment.

Note.— The transport of substances under this description must be in accordance with chain of custody and security procedures specified by the law enforcement agency.

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APPENDIX C

PROPOSED AMENDMENT TO PART 8 OF THE TECHNICAL INSTRUCTIONS

Part 8

PROVISIONS CONCERNING  
PASSENGERS AND CREW

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1.1 DANGEROUS GOODS CARRIED BY PASSENGERS AND CREW

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1.1.8 The Organization for the Prohibition of Chemical Weapons (OPCW) and government or law enforcement agencies listed in Table 8-2 may carry the dangerous goods or instruments containing dangerous goods in accordance with Table 8-2.

1.1.9 Except for the reporting provisions of 7;4.4 and 7;4.5, the provisions of these Instructions do not apply to the dangerous goods permitted in accordance with Table 8-2 when those dangerous goods are:

- a) carried by staff members of the OPCW on official travel or government agencies or officers of law enforcement agencies listed in Table 8 2 on official travel;
- b) contained in baggage that has been separated from its owner during transit (for example, mishandled baggage such as lost baggage or improperly routed baggage); or
- c) contained within items of excess baggage sent as cargo as permitted by 1;1.1.5.1 h).

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Table 8-2. Provisions for dangerous goods or instruments containing dangerous goods carried by OPCW and government agencies

<i>Dangerous goods</i>	<i>Location</i>		<i>Approval of the operator(s) is required</i>	<i>Restrictions</i>
	<i>Checked baggage</i>	<i>Carry-on baggage</i>		
1) Instruments containing radioactive material (i.e. chemical agent monitor (CAM) and/or rapid alarm and identification device monitor (RAID-M))	Yes	Yes	Yes	a) the instruments must not exceed the activity limits specified in Table 2-14 of these Instructions; b) must be securely packed; and c) must be carried by staff members of the Organization for the Prohibition of Chemical Weapons (OPCW) on official travel.
2) A mercurial barometer or mercurial thermometer	No	Yes	Yes	a) must be carried by a representative of a government weather bureau or similar official agency; b) must be packed in a strong outer packaging, having a sealed inner liner or a bag of strong leakproof and puncture-resistant material impervious to mercury, which will prevent the escape of mercury from the package irrespective of its position; and c) the pilot-in-command must be informed of the barometer or thermometer.

	<i>Location</i>		<i>Approval of the operator(s) is required</i>	<i>Restrictions</i>
	<i>Checked baggage</i>	<i>Carry-on baggage</i>		
<i>Dangerous goods</i>				
3) <u>Chemical samples for carriage by Law Enforcement Agencies under chain of command</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	a) <u>must be carried by a representative of a government law enforcement agency;</u> b) <u>the package must meet the requirements of Special Provision A2XX;</u> c) <u>a copy of the State of Origin and State of Operator approval must be carried by the accompanying law enforcement officer; and,</u> d) <u>the pilot-in-command must be informed of the carriage of the samples.</u>

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APPENDIX D

PROPOSED AMENDMENT TO PART S-3 OF THE SUPPLEMENT TO THE TECHNICAL INSTRUCTIONS

Part S-3

DANGEROUS GOODS LIST,  
SPECIAL PROVISIONS AND QUANTITY LIMITATIONS

(ADDITIONAL INFORMATION  
FOR PART 3 OF THE  
TECHNICAL INSTRUCTIONS)

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Chapter 4

SUPPLEMENTARY DANGEROUS GOODS LIST

Classes 3 to 9

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Name	UN No.	Class or division	Subsidiary hazard	Labels	State variations	Special provisions	UN packing group	Excepted quantity	Passenger and cargo aircraft		Cargo aircraft only	
									Packing instruction	Max. net quantity per package	Packing instruction	Max. net quantity per package
1	2	3	4		6	7	8	9	10	11	12	13

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Chemical sample, toxic	3315	6.1		Toxic		A106 <u>A2XX</u>	I			FORBIDDEN		FORBIDDEN
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