



WORKING PAPER

DANGEROUS GOODS PANEL (DGP)

TWENTY-THIRD MEETING

Montréal, 11 to 21 October 2011

Agenda Item 3: Development of recommendations for amendments to the *Supplement to the Technical Instructions for the Safe Transport of Dangerous Goods by Air* (Doc 9284SU) for incorporation in the 2013-2014 Edition

EXEMPTIONS AND APPROVALS GUIDANCE FOR STATES

(Presented by J. McLaughlin)

SUMMARY

This paper proposes additional guidance for States in carrying out their responsibilities when issuing exemptions and approvals.

Action by the DGP: The DGP is encouraged to convene a working group at DGP/23 to develop guidance for States in issuing exemptions and approvals. This material in the appendix to this working paper is offered as a basis for discussion as the panel considers enhancing the existing guidance provided in the Supplement.

1. INTRODUCTION

1.1 At the DGP Working Group of the Whole Meeting in The Hague (DGP-WG/08, 3 to 7 November 2008) (DGP/22-WP/2, paragraph 3.1.1 refers), the results of the Universal Safety Oversight Audit Programme (USOAP) were presented. One notable and safety-critical deficiency was that many States lacked an established process for processing, evaluating, and issuing exemptions and approvals in accordance with the Technical Instructions. Since DGP-WG/08, several States have requested technical assistance from States with experience in evaluating requests for exemptions and approvals and assessing their technical merit and safety equivalency.

1.2 Several papers have since been offered in an effort to better assist States in developing their oversight responsibilities with respect to exemptions and approvals. The Secretary suggested that to comprehensively address the informational needs of all States and to reconcile the approach of many papers already written on this topic, the incorporation of robust guidance material within the Supplement

to the Technical Instructions may be appropriate. Given the complexity and safety implications inherent in issuing exemptions and approvals, this appears to be the best approach.

1.3 This paper is offered with the intent to address the needs articulated by the DGP in past meetings. Specifically, the material presented in this paper is intended to provide States with additional guidance for evaluating and issuing exemptions and approvals. For the panel's consideration, the following are included in the appendices for consideration:

- a) guidance relative to the issuing of exemptions and approvals in a question and answer format; and
- b) specific information relevant to approvals.

1.4 No guidance provided should be considered a substitute for qualified dangerous goods experts and engineers to meaningfully evaluate applications for exemptions and approvals.

APPENDIX

GUIDANCE FOR PROCESSING EXEMPTIONS AND APPROVALS FOR THE SAFE TRANSPORT OF DANGEROUS GOODS BY AIR FOR INCLUSION IN THE SUPPLEMENT TO THE TECHNICAL INSTRUCTIONS

A. General Guidance

The Technical Instructions on the Safe Transport of Dangerous Goods by Air provide requirements to safely transport dangerous goods by air. These requirements often exceed the requirements of other modes of transport commensurate with the unique and sensitive nature of air transport.

Part 1 of the Technical Instructions provides for the issuance of approvals and exemptions in certain instances as described in 1;1.1.2. States which issue an exemption or approval should have a review process in place and exercise the appropriate technical competency to conduct a thorough evaluation and impose the necessary safety measures to ensure that the conditions of the exemption or approval issued provide an equivalent level of safety to the requirements of the Technical Instructions .

Who must obtain an exemption or approval?

The responsibility for obtaining an exemption may rest with the operator or with the shipper depending on the nature of the request and on State procedures.

When may States grant exemptions or approvals from the provisions of the Technical Instructions ?

Approvals should be issued where specifically provided for in the Technical Instructions. Exemptions may be granted in cases of extreme urgency, or when other forms of transport are inappropriate, or full compliance with the prescribed requirements is contrary to public interest.

What are the responsibilities of the requestor?

It is the responsibility of the requestor to identify the specific requirements of the Technical Instructions from which relief is sought, and ensure that supporting information is provided which demonstrates that the proposed transport provisions equal or exceed the level of safety provided by the Technical Instructions.

What is an equivalent level of safety?

It is important for States to ensure that an equivalent level of safety is maintained in the issuance of any exemption or approval. An equivalent level of safety is maintained when compensating measures ensure the overall level of safety equals by that of the Technical Instructions. An equivalent level of safety evaluation will consider:

- The applicable requirements from which relief is sought;
- The compensating modifications, limitations, restrictions or equipment imposed;
- How these modifications provide an equivalent level of safety to the requirements of the Technical Instructions.

Can forbidden dangerous goods ever be transported?

Some dangerous goods are specifically designated as 'forbidden' and may not be offered for transportation by air. The provisions of the Technical Instructions and this Supplement should be followed if there is a need to transport these substances.

What packaging standards should be considered?

Where an entry in Table S-3-1 has a number in parenthesis after the word "Forbidden", this refers to a packing instruction which contains the method of packing that should be specified when issuing an exemption. As far as possible, appropriate packing instruction numbers are indicated in columns 9 to 12 of Table S-3-1 and the associated detailed requirements appear in Part S-4, where these are additional to those given in the Technical Instructions.

What quantity limitations should be considered?

The suggested maximum quantity limitations to be permitted are indicated in Table S-3-2 or S-3-3 for some classes and divisions.

May an approval be granted to authorize the transport of a forbidden explosive?

Explosives transported in excess of their authorized quantities and forbidden explosives should only be transported under the provisions of an exemption.

B. CONSIDERATIONS FOR EXEMPTIONS AND APPROVALS

It is recognized that competent authorities may have varying formats for issuing exemptions and approvals. The following information is suggested for consideration by States when issuing such documents:

- A synopsis the exemption or approval's scope and purpose. This should include the reason the exemption or approval is necessary.
- The authority under which the exemption or approval is issued. For an exemption, Part 1, Chapter 1, paragraph 1.1.2 should be cited. For an approval, the specific approval citation within the Technical Instructions should be listed. The issuing State's national legislation or authority may also be listed.
- A description of the dangerous goods authorized. At a minimum this information should include the UN number, proper shipping name, class, subsidiary risk, and packing group.
- Specific provisions on how the dangerous goods must be prepared for shipment under the exemption/approval authorization. These provisions should demonstrate that an equivalent level of safety has been determined.
- The conditions of transport for example authorized packaging, quantities, and any additional hazard communication elements that may apply.
- Any special conditions that may apply such as whether persons other than the grantee may re-offer the dangerous goods for subsequent transportation.
- Any limitations that may apply for example whether the approval is limited to a single instance, to a specific operator, or any other limitations that may apply.
- Whether transport by passenger and/or cargo aircraft is authorized.
- Any special reporting requirements relevant to the reporting of any incident associated with the exemption or approval.

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