



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

OCT 26 2006

400 Seventh Street, S.W.
Washington, D.C. 20590

Mr. Matt Payne
Hazardous Materials Program Manager
Ameriflight, Inc.
4700 Empire Avenue
Hanger #1
Burbank, CA 91505

Ref. No.: 06-0212

Dear Mr. Payne:

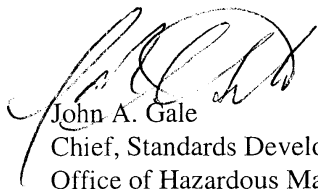
This is in response to your September 12, 2006 letter requesting clarification of the quantity limitations and cargo location requirements under § 175.75 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask if the exception § 175.75(e)(4) may be used by small aircraft that require a two-pilot crew or carry persons other than those listed in (e)(4)(i), such as a first officer or a jumpseat passenger.

On March 22, 2006 we published a final rule under Docket HM-228 entitled "Hazardous Materials: Revision of Requirements for Carriage by Aircraft," which became effective on October 1, 2006. The rulemaking added a new § 175.75(e)(4) which originated from previous § 175.85(c)(3) (see HMR revised as of October 1, 2005). Under the requirements redesignated as § 175.75(e)(4), packages of hazardous materials are eligible for exceptions from accessibility requirements in §§ 175.75(c) and (d) if they are carried on small, single pilot, cargo aircraft and meet the provisions of paragraphs (e)(4)(i)-(iii).

You ask if it is acceptable for an aircraft to include two pilots, first officer, or jumpseat passenger and still take advantage of the exception in § 175.75(e)(4). The answer is no. Paragraph (e)(4)(i) clearly states that the aircraft may not carry any person other than the pilot, an FAA inspector, the shipper or consignee of the material, a representative of the shipper or consignee so designated in writing, or a person necessary for handling the material. Therefore, you may not use the exception in § 175.75(e)(4) when the aircraft carries an additional pilot, first officer, or jumpseat passenger.

I hope this information is helpful. Please contact us if you require additional assistance.

Sincerely,



John A. Gale
Chief, Standards Development
Office of Hazardous Materials Standards



060212

175.75(e)(4)

AMERIFLIGHT

Supko
§175.75(e)(4)
Aircraft
06-0212

September 12, 2006

Mr. Edward Mazzullo
Director, Office of Hazardous Materials Standards
U.S. DOT/RSPA (DHM-10)
400 7th Street S.W.
Washington, DC 20590-0001

Dear Mr. Mazzullo:

I am requesting clarification to a recent change in 49CFR175.75(e)(4). At question is the intent/definition of "small, single pilot cargo aircraft". Did the framers intend to exclude small aircraft (within the DOT definition of "small aircraft," to wit, payload less than 18,000 lb) that require a two pilot crew (Learjets and Brasilias, in our case)?

Additionally, exceptions in paragraph (e)(4)(i) allow FAA inspectors or individuals assigned to handle the cargo to ride along. If Ameriflight elects to assign a first officer to an airplane that does not otherwise require a first officer, can CAO HazMat be carried in an inaccessible location in that airplane? Would Ameriflight employee pilots jumpseating to a duty assignment, other company employees jumpseating to a duty assignment [allowed by FAR 135.85(a)], or another airline's pilot jumpseating per Exemption 8396 be allowed to ride on single pilot aircraft if CAO materials are carried?

In either case I do not see a safety compromise by allowing the "non-required" or "required" first officer – or the other airline's jumpseating pilot, or our employee traveling on company business – aboard. Their lives are certainly no more (or less) precious than those of the FAA Inspector or the cargo courier, and the supernumerary personnel can make an actively positive contribution to safety by monitoring odors coming from the cargo compartment, looking out the window for other traffic, etc.

Thank you for your attention to this matter, I look forward to your response.

Sincerely,



Matt Payne
Hazardous Materials Program Manager

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