



**U.S. DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION**

**Aviation Rulemaking Committee Charter**

Effective Date: 4/30/13

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**SUBJECT: Passenger Notification of Hazardous Materials Regulations**

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1. **PURPOSE.** This charter creates the Aviation Rulemaking Committee (ARC) for Passenger Notification of Hazardous Materials Regulations according to the Administrator's authority under Title 49 of the United States Code (49 U.S.C.) 106(p)(5). This charter also outlines the committee's organization, responsibilities, and tasks.
2. **BACKGROUND.** Provisions to "ensure passengers are provided with information about forbidden items of dangerous goods in baggage when purchasing tickets or checking in electronically" were first considered by the International Civil Aviation Organization's Dangerous Goods Panel (ICAO DGP) in a May 2009 Working Group of the Whole. At DGP/22, the Expert from the United Kingdom submitted DGP/22-WP/23, *Electronic Check-in and Ticket Purchase* for the Panel to consider. The paper noted that currently:

Part 7;5.1.1 of the ICAO Technical Instructions requires passengers to be warned prior to and during the check-in process of dangerous goods which are forbidden in baggage. This text has remained largely untouched for many years, reflecting the scenario whereby passengers may purchase paper tickets and check-in or collect tickets at an airport, although the text has been slightly changed to reflect ticketless passengers, in that information which previously had to be with a ticket may now be provided "in another manner". This other manner has generally come to be accepted as via the Internet (although other methods now exist) and it is suggested that reference to "tickets" is almost redundant, it being more important to ensure information is received prior to check-in, however it is provided.

DGP/22-WP/23 clarified that the intent of new provisions would be for passengers to be presented with information online without having to click on a link. The paper maintained existing notification provisions and recommended that 3<sup>rd</sup> party entities (e.g. travel agents) also utilize acknowledgement provisions (ICAO TI Part 8;1.1.3-4).

The DGP agreed to the proposal and established a transition phase where the adopted provisions would not become effective until 2013. This action was the basis of a US DOT harmonization rulemaking in HM-215K (76 FR 3308). In November 2012, an Advisory Notice (77 FR 69926) announcing DOT's intent to delay the effective date of Part 175.25 passenger notification provisions was published. In January 2013, regulations were formally amended to delay the effective date passenger notification provisions incorporated under HM-215K (78 FR 1101) until January 1, 2015.

The request to delay implementation came from air carriers concerned about FAA's expectations for implementation. The Office of Hazardous Materials Safety believes the delay, in addition to developing a means of acceptable compliance, may allow for a more

effective and consistent message to be used across the airline industry. This ARC will be the forum to initially develop a clear and effective approach to implementing Part 175.25 requirements.

- 3. OBJECTIVES AND TASKS OF THE ARC.** The Passenger Notification of Hazardous Materials Regulations Advisory Rulemaking Committee will develop recommendations for an Advisory Circular to establish an acceptable means of compliance with passenger notification requirements in the US Hazardous Materials Regulations as contained in 49 CFR 175.25. Both the FAA Office of Hazardous Materials Safety and the airline industry believe that compliance burdens can be minimized and safety promotion can be enhanced if the resulting Advisory Circular establishes a clear and consistent message that industry is able to deploy. No regulatory amendments will be considered as part of this ARC. However, the recommendations of this ARC will form the basis for an FAA Advisory Circular and the recommendations should address the following:

- a. Develop recommendations on the hazardous materials information to be conveyed to passengers at the point of airline ticket purchase and at check-in.
- b. Develop recommendations on the format of the hazardous material information to be conveyed to passengers. Multiple formats may be proposed taking into account the various ways the ticket purchase and check-in may occur (e.g. internet, telephone, third party, etc.) and the different business arrangements that may exist (e.g. third party sales and ticketing, code sharing, and group purchases).

**Recommendation Report.** The ARC shall make recommendations on the hazardous materials information to be conveyed to passengers at the point of airline ticket purchase and at check-in, and the format for which the information would be conveyed.

The ARC will submit a report detailing recommendations for establishing an acceptable means of compliance with passenger notification requirements in the US Hazardous Materials Regulations no later than November 1, 2013.

**4. ARC PROCEDURES.**

- a. The ARC advises and provides written recommendations to the Assistant Administrator for Security and Hazardous Materials Safety and acts solely in an advisory capacity. Once the ARC recommendations are delivered to the Assistant Administrator for Security and Hazardous Materials Safety, it is within his/her discretion to determine when and how the report of the ARC is released to the public.
- b. The ARC may propose additional tasks as necessary to the Assistant Administrator for Security and Hazardous Materials Safety for approval.
- c. The Industry Co-Chairs of the ARC send the recommendation report to both the Assistant Administrator for Security and Hazardous Materials Safety and the Director of the Office of Rulemaking.



- d. The ARC may reconvene following the submission of its recommendations for the purposes of providing advice and assistance to the FAA, at the discretion of the Assistant Administrator for Security and Hazardous Materials Safety.

**5. ARC ORGANIZATION, MEMBERSHIP, AND ADMINISTRATION.** The FAA will set up a committee of members of the aviation community. Members will be selected based on their familiarity with regulatory compliance of hazardous materials regulations. Membership will be balanced in viewpoints, interests, and knowledge of the committee's objectives and scope. ARC membership is limited to promote discussion. Active participation and commitment by members will be essential to achieve the ARC's tasking. Attendance is essential for continued membership on the committee. When necessary, the ARC may set up specialized work groups that include at least one ARC member and invited subject matter experts from industry and government. This ARC will consist of about 15 members, representing the following:

- Airlines for America
- Air Line Pilots Association
- Coalition of Airline Pilots Associations
- Association of Flight Attendants
- National Air Carrier Association
- Regional Airline Association
- The Council on Safe Transportation of Hazardous Articles
- Interactive Travel Services Association
- Pipeline and Hazardous Materials Safety Administration

The FAA will identify the number of ARC participants that each organization may select to participate. The Assistant Administrator for Security and Hazardous Materials Safety will then request that each organization name its representative(s).

The Assistant Administrator for Security and Hazardous Materials Safety is the sponsor of the ARC and will select the Industry Co-Chairs from the membership of the ARC and the FAA Co-Chair. The FAA participation and support will come from all affected lines-of-business.

- a. The ARC sponsor is the Assistant Administrator for Security and Hazardous Materials Safety who:
  1. Appoints members or organizations to the ARC, at the manager's sole discretion;
  2. Receives all ARC recommendations and reports;
  3. Selects industry and FAA members; and
  4. Provides administrative support for the ARC, through the Office of Hazardous Materials Safety.
- b. Once appointed, the Industry Co-chairs will:
  1. Coordinate required committee and subcommittee (if any) meetings in order to meet the ARC's objectives and timelines;
  2. Provide notification to all ARC members of the time and place for each meeting;

3. Ensure meeting agendas are established and provided to the committee members in a timely manner;
  4. Keep meeting minutes;
  5. Perform other responsibilities as required to ensure the ARC's objectives are met; and
  6. Provide status updates in writing to the Assistant Administrator for Security and Hazardous Materials Safety at intervals as specified by the ARC sponsor.
6. **COST AND COMPENSATION.** The estimated cost to the Federal Government for the Passenger Notification of Hazardous Materials Regulations ARC is approximately \$2,500 annually. All travel costs for government employees will be the responsibility of the government employee's organization. Non-government representatives, including the Industry Co-Chairs, serve without government compensation and bear all costs related to their participation on the committee.
7. **PUBLIC PARTICIPATION.** ARC meetings are not open to the public. Persons or organizations outside the ARC who wish to attend a meeting must get approval in advance of the meeting from either the Industry Co-Chairs or the FAA Co-Chair.
8. **AVAILABILITY OF RECORDS.** Consistent with the Freedom of Information Act, Title 5, U.S.C., section 552, records, reports, agendas, working papers, and other documents that are made available to or prepared for or by the committee will be available for public inspection and copying at the FAA Office of Security and Hazardous Materials Safety (ADG), 800 Independence Ave., SW, Washington, DC 20591. Fees will be charged for information furnished to the public according to the fee schedule published in Title 49 of the Code of Federal Regulations, Part 7.
- You can find this charter on the FAA Web Site at:  
<http://www.faa.gov/about/committees/rulemaking/>.
9. **DISTRIBUTION.** This charter is distributed to director-level management in the Office of the Assistant Administrator for Security and Hazardous Materials Safety, the Office of the Associate Administrator for Aviation Safety, the Office of Aviation Policy and Plans, and the Office of Rulemaking.
10. **EFFECTIVE DATE AND DURATION.** This ARC is effective upon issuance of this charter. The ARC will remain in existence for 24 months, unless sooner suspended, terminated or extended by the Administrator.

The effective date of this charter is April 30, 2013.



Michael P. Huerta  
Administrator

10–07 and 31–10–08, both dated November 25, 2009, of Chapter 31, Indicating/Recording Systems in RUAG Aerospace Services GmbH Dornier 228 Airplane Maintenance Manual, TM–AMM–228–00014–080184, Revision 3, October 30, 2012.

(2) If any chafed or damaged wires are found during any inspection required in paragraph (f)(1) of this AD, before further flight, repair the affected wire(s) and assure correct installation of the wiring in the flight deck overhead panels by reattaching or replacing the wire tie attachment holders and securing any loose wires to the wire tie attachment holders with plastic wire ties following subjects 31–10–07 and 31–10–08, both dated November 25, 2009, of Chapter 31, Indicating/Recording Systems in RUAG Aerospace Services GmbH Dornier 228 Airplane Maintenance Manual, TM–AMM–228–00014–080184, Revision 3, October 30, 2012.

(3) To comply with the actions of this AD, you may insert a copy of this AD or a copy of the required actions of this AD into the airworthiness limitations section of the FAA-approved maintenance program (e.g., maintenance manual). This action may be done by an owner/operator (pilot) holding at least a private pilot certificate and must be entered into the airplane records showing compliance with this AD in accordance with 14 CFR 43.9 (a)(1)(4) and 14 CFR 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.173 or 135.439.

#### (g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; fax: (816) 329–4090; email: [karl.schletzbaum@faa.gov](mailto:karl.schletzbaum@faa.gov). Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product*: For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

#### (h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2013–0244, dated October 4, 2013, for related information. You may examine the MCAI on the Internet at <http://www.regulations.gov> by searching for and locating it in Docket No. FAA–2013–1056. For service information related to this AD, contact RUAG Aerospace Services GmbH, Dornier 228 Customer Support, P.O. Box 1253, 82231 Wessling, Germany;

telephone: +49 (0) 8153–30 2220; fax: +49 (0) 8153–30 4258; email: [custsupport.dornier228@ruag.com](mailto:custsupport.dornier228@ruag.com); Internet: [http://www.ruag.com/en/Aviation/Aviation\\_Home](http://www.ruag.com/en/Aviation/Aviation_Home). You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on February 25, 2014.

**Steven W. Thompson,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2014–04699 Filed 3–3–14; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 175

[Docket No. FAA–2014–0131]

#### Notice of Availability of Proposed Advisory Circular for Passenger Notification Hazardous Materials Regulations

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** In April 2013, the FAA Administrator chartered an Aviation Rulemaking Committee to develop recommendations that would establish an acceptable and effective means for air carriers to notify passengers of hazardous materials regulations. In November 2013, that Aviation Rulemaking Committee published a report containing its recommendations, as well as a proposed Advisory Circular with one or more means for air carriers to comply with passenger notification regulations. The FAA invites public comment on the Aviation Rulemaking Committee's recommended guidance.

**DATES:** Comments must be received by April 3, 2014.

**ADDRESSES:** Send comments identified by docket number FAA–2014–0131 using any of the following methods:

- *Federal eRulemaking Portal*: Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.
- *Mail*: Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier*: Take comments to Docket Operations in

Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax*: Fax comments to Docket Operations at 202–493–2251.

*Privacy*: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

*Docket*: Background documents or comments received may be read at <http://www.regulations.gov> at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

Richard Bornhorst or Kenneth Miller, International and Domestic Standards Division, Office of Hazardous Materials Safety, Federal Aviation Administration, 470 L'Enfant Plaza SW., Washington, DC 20024; telephone (202) 385–4906, or (202) 385–4916.

#### SUPPLEMENTARY INFORMATION:

##### Background

In April 2013, the FAA Administrator chartered an Aviation Rulemaking Committee (ARC) to develop recommendations that would establish an acceptable and effective means for air carriers to notify passengers of hazardous materials regulations. The ARC's charter can be viewed online at: [http://www.faa.gov/regulations\\_policies/rulemaking/committees/documents/media/PassengerNotificationofHazardousMaterialsRegulations.ARC.Cht.04302013.pdf](http://www.faa.gov/regulations_policies/rulemaking/committees/documents/media/PassengerNotificationofHazardousMaterialsRegulations.ARC.Cht.04302013.pdf).

In November 2013, the ARC submitted a report containing its recommendations, as well as an Advisory Circular (AC) proposing one or more means for air carriers to comply with passenger notification requirements under Title 49, Code of Federal Regulations (49 CFR) part 175. The FAA invites public comment on the ARC's recommended guidance, which can be found in the docket.

#### Comments Invited

As noted in the ARC's report, the ARC was comprised of experts representing air carriers, pilots, flight attendants, the



travel industry, as well as the FAA and Pipeline and Hazardous Materials Safety Administration. The ARC now seeks input from the general public and is particularly interested in feedback from entities subject to passenger notification regulations prescribed by U.S. Hazardous Materials (49 CFR 175.25). We note that operators transporting passengers in commerce under 14 CFR parts 135 and 91 are subject to the noted 49 CFR regulation, and it is important that a final AC provide a clear, acceptable, and effective means for these operators to communicate hazardous materials regulations to their passengers.

The ARC will review all comments received and consider them in its final recommendation to the FAA.

Issued in Washington, DC, on February 26, 2014.

**Christopher Glasow,**  
*Director, Office of Hazardous Materials Safety.*

[FR Doc. 2014-04739 Filed 3-3-14; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 15

[Docket No. FDA-2013-N-0745]

#### Action Plan for the Collection, Analysis, and Availability of Demographic Subgroup Data in Applications for Approval of Food and Drug Administration-Regulated Medical Products; Notice of Public Hearing; Request for Comments

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notification of public hearing; request for comments.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing a public hearing to obtain input on the issues and challenges associated with the collection, analysis, and availability of demographic subgroup data in applications for approval of FDA-regulated human medical products.

**DATES:** The public hearing will be held on April 1, 2014, from 9 a.m. to 3 p.m. Submit electronic or written requests to make oral presentations at the hearing by March 21, 2014. Electronic or written comments will be accepted after the hearing until May 16, 2014.

**ADDRESSES:** The public hearing will be held at FDA's White Oak Campus, 10903 New Hampshire Ave., Bldg. 31,

Conference Center, the Great Room (Rm. 1503A), Silver Spring, MD 20993.

Entrance for the public hearing participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For parking and security information, please refer to <http://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm>.

Submit electronic comments to <http://www.regulations.gov>. Submit written comments to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the corresponding docket number for the public meeting as follows: "Docket No. FDA-2013-N-0745, Action Plan for the Collection, Analysis, and Availability of Demographic Subgroup Data in Applications for Approval of FDA-Regulated Human Medical Products, Public Hearing."

#### FOR FURTHER INFORMATION CONTACT:

Brenda Evelyn, Office of the Commissioner, Office of Minority Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 2303, Silver Spring, MD 20993 240-402-4201, email: [FDASIA907@fda.hhs.gov](mailto:FDASIA907@fda.hhs.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

In section 907 of the Food and Drug Administration Safety and Innovation Act (FDASIA) (Pub. L. 112-144), the U.S. Congress directed FDA to produce a report that addressed the extent to which clinical trial participation and the inclusion of safety and effectiveness data by demographic subgroups, including sex, age, race, and ethnicity, is included in applications submitted to FDA. Specifically, Congress asked FDA to consider four key topic areas: (1) A description of existing tools to ensure submission of demographic information along with how information about differences in safety and effectiveness of medical products according to demographic subgroup is made available to health care providers, researchers, and patients; (2) an analysis of the extent to which demographic data subset analyses are presented in applications; (3) an analysis of demographic subgroup representation in clinical trials submitted to FDA in support of product applications; and (4) an analysis of the extent to which a summary of product safety and effectiveness data by demographic subgroup is made available to the public

in product labeling or on FDA's Web site.

To comply with that request, in August 2013, FDA published a report "Collection, Analysis, and Availability of Demographic Subgroup Data for FDA-Approved Medical Products."<sup>1</sup> The report describes the Agency's evaluation of 72 applications approved during 2011 for new molecular entity drug products, original biologics, and class III devices (premarket approval).

Regarding collection of data, although there was variation by product area, the evaluation found FDA's statutory and regulatory requirements, guidances, policies, and procedures generally informed sponsors about including tabulations of the demographic data on clinical trial participants and demographic subset analyses in their medical product applications.

Similarly, tools (e.g., application review templates and FDA standard operating policies and procedures) guide regulatory review staff in the assessment of marketing applications to ensure that demographic data and subset analyses are included in the information FDA uses in its review and approval processes.

However, the extent to which demographic subset data were analyzed varied across medical product types (drugs, biologics, and devices). Applications for drugs and biologics uniformly addressed subset analyses by sex, race, and age—that is, the applications mentioned demographic subsets in some way. The report noted that FDA's new drug application regulations (21 CFR part 314; specifically § 314.50) call for demographic analysis in all applications in the integrated summaries of safety and effectiveness. Guidance and standard operating procedures for drugs and biologics also emphasize the importance of such analyses. There are no regulations requiring demographic analysis for device applications. Nonetheless, the majority of the device applications contained a subset analysis for age and sex, with a lower percentage of applications containing a subset analysis for race and ethnicity. Inclusion did not necessarily mean that the data on patient subgroups was sufficient for meaningful analysis or to detect relevant subgroup effects.

The report stated that all biologics, drugs, and the majority of the medical

<sup>1</sup> FDA, "Collection, Analysis, and Availability of Demographic Subgroup Data for FDA-Approved Medical Products," August 2012, available at <http://www.fda.gov/downloads/regulatoryinformation/legislation/federalfooddrugandcosmeticact/fdcact/significantamendmentstothehdca/fdasia/ucm365544.pdf>.

**Passenger Notification of Hazardous Materials Regulations  
Aviation Rulemaking Committee (ARC) Membership  
Recommendations to the FAA Assistant Administrator of the Office of  
Security and Hazardous Materials Safety**

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**Recommendations on 49 CFR 175.25 Notification at Air Passenger Facilities of  
Hazardous Materials Restrictions**

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**November 1, 2013**

## **Executive Summary**

In order to obtain stakeholder recommendations for improving passenger awareness of hazardous materials restrictions, the FAA Administrator chartered the Passenger Notification of Hazardous Materials Regulations Aviation Rulemaking Committee (ARC) in April 2013. The recommendations of the Passenger Notification of Hazardous Materials Regulations ARC are based on regulations promulgated by the Pipeline and Hazardous Materials Safety Administration (PHMSA). These regulations require the air operator to provide notification to passengers on hazardous materials restrictions at the time of ticket purchase and during check-in. These regulations are found in Title 49 Code of Federal Regulations (CFR) 175.25 and recent amendments and will become effective on January 1, 2015.

The Passenger Notification of Hazardous Materials Regulations ARC was chartered to assist the Federal Aviation Administration (FAA) to develop an Advisory Circular (AC) that contains recommendations to the aviation industry on an acceptable means of compliance with passenger notification requirements as contained in 49 CFR 175.25, *Notification at air passenger facilities of hazardous materials restrictions*.

## **Objectives of the ARC**

As noted above, this ARC was tasked to develop recommendations for a draft AC in order to establish an acceptable means of compliance with passenger notification requirements in 49 CFR 175.25. In addition, the charter contained specific tasking as follows:

- Develop recommendations on the hazardous materials information to be conveyed to passengers at the point of airline ticket purchase and check-in; and
- Develop recommendations on the format of the hazardous materials information to be conveyed to passengers. Multiple formats may be proposed taking into account the various ways the ticket purchase and check-in may occur (e.g. internet, telephone, third party, etc.) and the different business arrangements that may exist (e.g. third party sales and ticketing, code sharing and group purchases).

## **ARC Structure and Methodology**

Participation on the ARC was by invitation only and the FAA identified individuals with hazardous materials aviation expertise with an interest in aviation safety. The members included representatives from the following organizations:

- Airlines for America (A4A)
- Air Line Pilots Association, International (ALPA)
- Coalition of Airline Pilots Associations (CAPA)
- Council on the Safe Transportation of Hazardous Articles (COSTHA)
- Association of Flight Attendants (AFA)
- National Air Carrier Association (NACA)
- Regional Airline Association (RAA)



- The Travel Technology Association (TTA), formerly known as Interactive Travel Services Association (ITSA)
- American Society of Travel Agents (ASTA)
- Pipeline and Hazardous Materials Safety Administration (PHMSA)
- Federal Aviation Administration (FAA)

The ARC was co-chaired by experts from COSTHA and A4A and the majority of the meetings were held in-person at A4A facilities. The ARC held monthly 2-day meetings for a total of six (6) meetings. The ARC also held various interim conference calls.

The ARC determined that safety promotion can be enhanced by developing one comprehensive AC. A comprehensive AC that serves as a single standard for industry would foster consistency across all air operators with respect to the passenger notification and, thus, would improve the effectiveness of passenger notifications. On this basis, the ARC devoted most of the meeting time to developing the draft AC.

In addition to the tasks outlined in the charter, the ARC identified a need to include various clarifications and to address issues related to compliance with 49 CFR 175.25 that were raised in a September 14, 2011 COSTHA request for interpretation and left open in a June 27, 2012 PHMSA response (see Appendix 1). The PHMSA response contained clarifications and/or open issues on the following topics:

- Notification of all passengers (ticketed and non-ticketed, revenue and non-revenue);
- Arrangements between aircraft operators and third party travel organizations;
- Passenger notification via telephone;
- Arrangements during re-accommodation situation;
- Notification of passengers in bulk purchase, charter flight, or similar situations;
- Conveying hazardous materials safety information, including the information provided in 49 CFR 175.25(a)(1) and (2);
- Arrangements between foreign and domestic air carriers; and
- Arrangements between aircraft operators and third party organizations.

The ARC did discuss the regulatory construction of 49 CFR 175.25 in the context of developing the background section of the draft AC and discussed how the regulatory language could be improved in the future but did not incorporate these improvements in the draft AC. For the purposes of this ARC, the regulations contained in 49 CFR 175.25 were treated as static (i.e. will not change). Nonetheless, there are various issues highlighted in this report that make compliance difficult for air operators from a process and/or cost perspective.

### **Outcome of the ARC**

The ARC developed a draft AC on passenger notification of hazardous materials regulations (Appendix 2) in order to address charter tasks and issues identified in the PHMSA interpretation letter. The ARC reached consensus on the majority of the draft AC. In some instances, general consensus was reached and, in such cases, majority and minority positions on certain items are noted in this report.

## **AC Layout and Recommendations**

The draft AC is broken down into four (4) parts and information and recommendations are provided throughout the AC as follows:

### **Part A (Introduction)**

1. *Subject* – Title of the ARC used as subject line “Passenger Notification of Hazardous Materials Regulations”.
2. *Background* – This section summarizes the regulatory history of passenger notification provisions. Although it was noted by many members of the ARC including the FAA co-chair that an AC is by nature non-mandatory, the majority of the group felt that it was necessary to include a statement indicating that use of the AC is encouraged but not mandatory.
3. *Purpose* – This section contains basic information on the purpose of the AC. It includes clarifications that use of the AC by air operators will constitute one means of compliance with 49 CFR 175.25 of the Hazardous Materials Regulations (HMR; 49 CFR 171-180) and Part 8 of the International Civil Aviation Organization’s *Technical Instructions for the Safe Transport of Dangerous Goods by Air* (ICAO TI) and that other approaches may also be used for compliance.
4. *Audience* – The ARC agreed to limit the scope of the AC to Part 121 and Part 135 operators with a view that the guidance presented in the AC should provide a general means of compliance that would capture the majority of passenger travel. Although this AC was not developed with Part 125 operations in mind, the ARC recommends that this AC be used by Part 125 operations as guidance.
5. *Applicability* – The applicability of the AC was limited to Part 121 and Part 135 operators. Part 129 operators were excluded on the basis that the FAA wanted the AC to focus on domestic operations. Nonetheless, Part 129 operators are subject to Part 8 of the ICAO TI and may use this AC as guidance. Part 91 operators were also excluded because they are generally prohibited from for hire operations under FAA regulations.
6. *How to use this AC* – This section contains basic information on how to use the AC. A clarification was added to this section indicating that an operator may choose to use all of the guidance in the AC or just part of it as applicable to their operations. For example, some operators do not sell passenger tickets via telephone and, therefore, the guidance on passenger notification at the time of ticket purchase by telephone would not apply.
7. *Regulatory References* – This section contains information on regulatory material referenced in the AC.

8. *Related Material* – This section contains information on industry publications referenced in the AC.
9. *Definitions* – This section contains various definitions used throughout the AC. Some of the definitions were developed based on definitions found in 14 CFR, 49 CFR, International Air Transport Association (IATA) documents, etc. Other definitions were created to simplify use of the AC or to clarify the applicability of various sections of the AC.

The ARC discussed at length whether or not to include a “ticket seller” definition and if so how to define the term. An observation was made that 49 CFR 175.25 applies to aircraft operators only and the term “ticket seller” should not need to be defined since it might be self-explanatory. Use of the “ticket agent” definition from the Aviation Code was also considered; however, the ARC was of the view that this definition was too broad and, therefore, should not be used. The ARC agreed to define “ticket seller” in a narrow way by focusing on just the ticket selling function since ticket purchase triggers the passenger notification requirement.

The ARC also discussed the need to include a definition of barter tickets and it was concluded that no such definition is required for the purposes of the AC. As described by one member of the ARC, a barter ticket (or card) is issued to authorized organizations with whom the air operator has a contract for an exchange of goods and/or services. Essentially the barter ticket (or card) acts like a credit card and this option would not affect the need to notify the passenger of hazardous materials restrictions since such travelers will go through the ticket purchase and/or check-in process along with everyone else.

10. *Basic Regulatory Requirements* – This section contains, in tabular form, the basic regulatory requirements for passenger notification as contained in 49 CFR 175.25.

#### Part B (Implementation Guidance for Part 121 Operators)

11. *Part 121 Operations* – This section contains a basic description of Part 121 operations including a breakdown of the various methods that may be used for ticket purchase and check-in. For the purposes of this AC, passenger transactions are categorized as either “assisted” or “unassisted” based upon whether or not a live person assists in the transaction.

The ARC reached a general consensus that “assisted” transactions are costly and afford the operator (and ticket sellers) little opportunity to provide detailed hazardous materials information to the passenger and, therefore, shorter messages and alternate delivery methods are proposed for those transactions. Conversely, for “unassisted” transactions more detailed hazardous materials information may be given to the passenger. The majority of the ARC was of the view that lengthy messages to passengers during assisted transactions may significantly increase the cost of each transaction.

The ARC discussed carry-on baggage that ends up becoming gate checked. Often passengers will have oxygen bottles and lithium batteries in their carry-on baggage. Oxygen bottles are allowed through TSA security check points when carried by passengers with disabilities (14



CFR 382); however, passengers need to be aware that while it is acceptable to bring oxygen to the gate, it is not acceptable to carry-on or gate check oxygen. All passengers with disabilities who need oxygen for medical reasons should contact the operator to make arrangements for supplied oxygen during the flight or, alternatively, they may carry on board an FAA approved Portable Oxygen Concentrator (POC). Similarly, spare lithium batteries may be in carry-on baggage; however, when a gate check is required the batteries must be removed from the baggage. On this basis, the ARC recommends including information on oxygen and lithium batteries in gate checked baggage as part of the passenger notification message. The information should also include a clear statement that certain lithium batteries installed in equipment are acceptable in gate checked baggage per operator policy.

It is recommended that for the purposes of this AC gate checked baggage should be treated the same as checked baggage.

It is recommended that when group travel is involved only the person acting on behalf of the group is required to receive and acknowledge the hazardous materials information; however, the person acting on behalf of the group is strongly encouraged to pass the information along to all members of the group.

The ARC discussed code share operations and it was recognized that both marketing and operating carriers would fall under ICAO TI or the HMR. Code share ticketed passengers would receive their hazardous materials notification by the ticketing entity as they too would fall under ICAO TI or the HMR. Furthermore, the code share disclosure regulations for ticketless travel (14 CFR 257) require the notification to be provided no later than when the passenger checks in at the airport for the first flight in their itinerary. As long as the passenger receives the notification once during the journey, this should satisfy the notification requirement. On this basis, the ARC recommends not including detailed recommendations on code share operations and contract arrangements between air operators and third party ticket sellers. It is the responsibility of each air operator to ensure that a notification is given to each passenger and an acknowledgement is obtained from each passenger, and contract arrangements may vary.

The ARC also discussed how to handle Rule 240, irregular operations and re-accommodation. Through discussions, it was decided that irregular operations need not be addressed in the AC as all ticketed passengers should have already received their notification at time of ticketing and during the check-in process. Passengers who have experienced any of the above situations and who have been re-accommodated to another airline would also be covered regardless of being a domestic or international carrier as they would either fall under the ICAO TI or the HMR.

It is recommended that all airline employees working with passengers and/or their baggage be provided basic annual training on the carriage of permitted and forbidden hazardous materials, including training on the regulations contained in 49 CFR 175.10 and 49 CFR 175.25. Consideration should be given to providing exceptions from the passenger notification requirements for trained airline employees flying as passengers on their company's aircraft.

12. *Types of Passenger Notification Elements* – This section contains recommendations on basic elements of a passenger notification. Each notification may include information on categories of forbidden hazardous materials, specific examples of forbidden hazardous materials, and basic information on civil and/or criminal penalties for non-compliance.
13. *Applicability of Passenger Notification* – This section outlines in a table format the applicability of the hazardous materials passenger notification requirements. The applicability of these requirements depends on whether or not a passenger is ticketed or generates revenue for the airline. Based on the PHMSA response, the ARC was of the view that 49 CFR 175.25 only applies to ticketed passengers; however, hazardous materials information should be provided to all passengers and supernumeraries. The ARC was also of the view that airline employees should have more in-depth training on the hazardous materials restrictions on an annual basis. As mentioned previously, completion of more in-depth training could be a substitute for providing the hazardous materials information to non-ticketed, non-revenue passengers and supernumeraries every time they travel. An issue was raised during discussions that certain airlines call themselves “ticketless” and could interpret this table to mean that 49 CFR 175.25 does not apply to their operations. In order to address this issue, the ARC agreed to specifically exclude ticketless airlines from the definition for non-ticketed revenue passengers so that it is clear such operations would be required to comply with 49 CFR 175.25 to the extent practicable.

The majority of the ARC agreed to add two clarifying notes to this section in order to address situations in which ticket purchase and check-in occur in a single transaction and where the first check-in transaction triggers subsequent check-in (i.e. automatic check-in) for all flights of a multi-flight itinerary. There was full consensus within the ARC to add clarifications to address these issues; however, with respect to automatic check-in, concerns were raised that a single itinerary could be as long as 12 months or 331 days (based on how operators’ systems are programmed now) and that such a gap in passenger notification undermines the intent of 49 CFR 175.25. Through discussions, general consensus was reached to add a time limit, but no clear decision could be made on what time limit would be appropriate. The ARC suggested five (5) up to a maximum of thirty (30) days would be appropriate based on the traveling patterns of frequent business travelers. For itineraries over the determined time period utilizing an automatic check-in process, the hazardous materials information would need to be resent to the passenger in an additional message prior to travel (e.g. a travel reminder message). On this basis, the ARC reached consensus that a time limit duration to be determined based on a policy decision from the FAA and PHMSA, should be added.

14. *Indication of Understanding Hazardous Materials Information* – This section contains recommendations on what would be considered an appropriate indication of understanding for the purposes of 49 CFR 175.25 and also contains information on the applicability of the passenger acknowledgement requirements in a table format. The method used to obtain an indication of understanding from the passenger will vary depending on how the ticket-purchase and check-in processes occur.

In general, for internet based transactions a button that requires a “click” to agree and proceed is sufficient. Certain members of the ARC were of the view that the passenger's acknowledgement of understanding should be independent of the passenger's acceptance of the general terms and conditions for ticket purchase, i.e., that the passenger should be required to "check a box" indicating understanding of the restrictions on hazardous materials in baggage, in addition to clicking the "accept" button to acknowledge other issues and complete the ticket purchase. However, the majority of the ARC agreed that one acknowledgment of understanding would suffice, including when such acknowledgment applies to general terms and conditions and understanding of the hazardous materials restrictions. The ARC incorporated details in the AC to clarify the hazardous materials information should be presented in a manner that ensures it will be seen by the passenger.

For assisted transactions, the ARC recommends obtaining a verbal response or a signature (written or digital) from the passenger in order to confirm passenger understanding. For other unassisted check-in transactions, either a signature or button that requires a “click” to agree and proceed is sufficient to confirm passenger understanding.

For systems that allow a single check-in (e.g. automatic check-in) for a multi-flight itinerary, it was the view of the ARC that only one indication of understanding from the passenger is required.

The table clarifying applicability of the passenger acknowledgement requirements was constructed in a similar fashion as the table for the previous section.

15. *Notification at Time of Ticket Purchase* – This section contains ARC recommendations on providing hazardous materials information to passengers and obtaining an indication of understanding during the ticket-purchase process.

For mobile devices (e.g. hand held), the ARC recommends using a short and concise message to notify passengers of the hazardous materials restrictions. It is recommended that a minimum of three examples of forbidden items should be included in the message. However, it is recommended that some flexibility be given to allow air operators the option to select appropriate examples based on their experience with passenger requests, common higher risk instances of non-compliance, and itineraries. For example, a commonly confiscated item in Alaska is bear spray and Alaskan operators may wish to highlight this forbidden item in their messages to passengers. It is recognized that it would be impossible to include all hazardous materials restrictions in a short message and on this basis it is also recommended that operators provide a link to a source of more detailed information (one source would be the FAA’s website for passenger-related hazardous materials information). A majority of the ARC agreed that such an approach was appropriate given that this transaction is just the first touch point at which the passenger will receive hazardous materials information.

For ticket purchase in person, by telephone, or e-mail/internet messaging, the ARC developed a script that a representative of the air operator could follow in order to complete the transaction. For such transactions, a majority of the ARC agreed that a shorter message



to passengers was also appropriate citing the same rationale given for mobile devices above. Furthermore, it is recommended that the message be given in the form of a question such that an indication of understanding from the passenger could be obtained in the form of a simple verbal “yes”. Should the passenger say “no” then the operator could provide more detailed hazardous materials information to the passenger verbally, with the ticket receipt, or by directing the passenger to a source of information. The ARC also prepared a similar script for an automated transaction by telephone; however, a slightly longer message including examples could be used. Again, a majority of the ARC agreed that such an approach was appropriate given that this transaction is just the first touch point at which the passenger will receive hazardous materials information.

For ticket purchase via the internet or via a kiosk, the ARC was in full agreement that more hazardous materials information should be given to the passenger as compared to transactions via mobile device or for assisted transactions (i.e. in person, by telephone, or by e-mail/internet messaging). The ARC recommends using a standalone notification that prominently displays information on hazardous materials restrictions to the passenger. A majority of the ARC also recommends allowing air operators to include the hazardous materials information in the terms and conditions that a passenger would have to “agree” to prior to completion of the ticket purchase process. Certain members of the ARC raised concerns that allowing the hazardous materials information to be included in the terms and conditions may not meet the intent of the regulation and, furthermore, the information should not be provided via a voluntary link because it is likely that the passenger will not click the link to read the information. The ARC reached general consensus that it should be permissible for air operators to include the hazardous materials information in terms and conditions, provided that the information is prominently displayed, and to provide such information via a link, so long as the passenger must click the link prior to completing the ticket purchase; in all cases, the passenger must be required to indicate agreement.

The ARC prepared a recommended message (text) that could be used by all operators to convey basic information on hazardous materials restrictions to passengers. The message should include various examples of forbidden categories of hazardous materials (including examples within such categories) and should highlight lithium batteries to the greatest extent practicable. The ARC also recommends the use of pictograms to convey hazardous materials information to passengers since it is required in accordance with the ICAO TI. A majority of the ARC was of the view that specific pictogram examples should not be included in the AC and that air operators should have flexibility to choose how pictograms are displayed. Furthermore, a majority of the ARC was of the view that pictogram examples could be developed at a later stage and promulgated by the FAA and PHMSA through their websites. This approach would allow for more consistent and recognizable pictograms by passengers.

16. *Notification at Time of Check-in* – This section contains ARC recommendations on providing hazardous materials information to passengers and obtaining an indication of understanding during the check-in process.

For mobile devices (e.g. hand held), the ARC recommends use of the same passenger notification message for both the ticket purchase process and the check-in process.

For check-in by telephone or e-mail/internet messaging, the ARC agreed that such an option is not available and, therefore, no guidance is offered. The in-person passenger notification at the time of check-in can be satisfied with signage at the counter.

For check-in via the internet or via a kiosk, the ARC recommends use of the same passenger notification message and pictograms for both the ticket purchase process and the check-in process.

For other unassisted check-in methods such as for bag drop service or remote check-in use of a cruise line kiosk, the ARC recommends providing hazardous materials information to passengers and obtaining acknowledgement during the service enrollment process or through a kiosk using a standard message.

17. *Display of Notices (Signage)* – This section contains ARC recommendations on signage including use of electronic signage. Based on the PHMSA response, the specific wording of the signage as given in 49 CFR 175.25(a) is not required. On this basis, the ARC drafted alternate signage wording for the AC in order to improve the effectiveness of the message and to be consistent with the other passenger notification messages that will be used during the ticket purchase and check-in processes. The ARC also recommends encouraging all air operators to utilize electronic signage when possible. Furthermore, it is recommended that electronic signage can be used in lieu of physical signage and that when such an approach is used the hazardous materials information may be cycled at an appropriate interval that ensures passenger visibility.

#### Part C (Implementation Guidance For Part 135 Operations)

18. *Part 135 Operations* – This section contains a basic description of Part 135 operations including a breakdown of the various methods that may be used for ticket purchase and check-in. In general, Part 135 operations are unique and traditional methods of ticket purchase and check-in may not be used. Passengers may not have tickets and they may not board aircraft at airports. Such passengers should still receive a passenger notification of hazardous materials restrictions and provide an indication of understanding through alternate methods such as at the time of booking the flight, verbally, through signage, through a contractual service agreement, or another method approved by the operator.
19. *Display of Notices (Signage)* – Most Part 135 operators do not issue tickets, check baggage, or maintain aircraft boarding areas and, as such, the signage requirements of 49 CFR 175.25(a) are not directly applicable. Nonetheless, passenger awareness of the hazardous materials restrictions can be achieved through alternate methods such as at the time of booking the flight, verbally, through signage, through a contractual service agreement, or another method approved by the operator. All owned or leased aircraft boarding areas will display signage. Recommendations for electronic signage were also added to this section to encourage use by all air operators (including Part 135 operators) even though there may be some cases where display of signage (physical or electronic) is not possible.

## Part D (References)

20. *Sources of information* – This section contains information on common sources of detailed information on hazardous materials that are permitted and forbidden to be carried in passenger baggage. Known government sites are listed but the list should not be construed as being exhaustive. In addition, air operators are encouraged to develop detailed website content since it is likely that a passenger will first stop there for more information on hazardous materials restrictions.

## **Other Recommendations (Not Part of the Advisory Circular)**

### *Frequent Flyer Programs ('opt-out' similar to known traveler)*

The ARC recommends consideration of an allowance for passengers who are part of a frequent flyer program to opt out of the passenger notification and required indication of understanding for each assisted ticket purchase transaction (i.e. in person, by telephone, or by e-mail/internet messaging) provided those passengers are required to provide an annual indication of understanding of the hazardous materials restrictions. Several members of the ARC believe some level of annual familiarization training on hazardous materials passenger restrictions is appropriate. The passenger notification regulations (49 CFR 175.25) were written based on the principle that a passenger should receive and acknowledge hazardous materials information each and every time the passenger goes through the ticket purchase and check-in processes. Frequent (business) travelers will receive this information so many times that it is reasonable to assume that most are fully aware of the hazardous materials restrictions.

### *Ticket purchase via Telephone with the Assistance of an Airline Representative*

Under the ICAO TI, an indication of understanding from passengers must only be obtained when the ticket purchase process is completed via the internet (i.e. mobile device, website, or kiosk). The ICAO TI does not contain an explicit requirement to obtain an indication of understanding from the passenger when the ticket purchase process is conducted via telephone. Simplified messages for assisted transactions have been included in the draft AC; however, obtaining an indication of understanding may present problems in completing the transaction. Air operators generally want to limit the amount of time a passenger spends on the telephone with a reservations agent and, therefore, very limited information can be conveyed in such short transactions. If the passenger has detailed questions on hazardous materials restrictions, the reservation agent can try to answer questions but from a practical perspective it would be better to direct the passenger to more information via a website or to provide the information with the ticket receipt and/or confirmation e-mail.

Airline members of the ARC provided data on the potential financial impact directly related to an increase in the length of telephone 'talk' time. They noted that every additional second of talk time during a passenger transaction adds significant costs. The ARC considered this impact when formulating the recommendations, including suggested script.

### *Full Harmonization with the ICAO TI*



The passenger notification requirements in the HMR and the ICAO TI are not fully harmonized. Furthermore, the passenger exceptions in 49 CFR 175.10 and Part 8 of the ICAO TI are not harmonized, not just with respect to the content but also with respect to structure and presentation (e.g. a table versus a list). The ARC recommends consideration of developing one standard for passenger notification requirements and passenger exceptions in order to increase consistency and ease of use of the regulations. Some members of the ARC believe this lack of harmonization dramatically increases cost without demonstrating a significant safety benefit.

#### Recordkeeping

One member of the ARC raised a question during discussions about whether air operators and ticket sellers would be required to keep a record of each passenger transaction to confirm compliance. Since recordkeeping requirements are not included (or explicitly stated) in 49 CFR 175.25, all ARC members were of the view that recordkeeping is not required.

#### Training and Effective Dates

The ARC recommends familiarization training for all relevant enforcement officials and airline personnel on use of this AC or any equivalent method of complying with 49 CFR 175.25. The AC should include a reasonable effective date taking into account the need for training and reprogramming air operator systems and processes.

#### Scope of Applicability of the Requirements

The ARC recommends that guidance be provided concerning the applicability (or non-applicability) of the requirements in 49 CFR 175.25(b) and (c) to (i) foreign air carriers and (ii) ticket purchase and/or check-in outside the United States.



U.S. Department  
of Transportation

Pipeline and Hazardous  
Materials Safety  
Administration

JUN 27 2012

1200 New Jersey Avenue, SE  
Washington, D.C. 20590

Mr. Tom Ferguson, PG, CHMM, DGSA  
Technical Consultant  
Council on the Safe Transportation of Hazardous Articles, Inc.  
7803 Hill House Court  
Fairfax Station, VA 22039

Ref. No. 11-0228

Dear Mr. Ferguson:

This responds to your request for clarification of certain responsibilities under Part 175 of the Hazardous Materials Regulations (HMR; Parts 171-180). In your letter, you ask a series of questions related to operational, implementation, and logistical matters of the recently adopted provisions in § 175.25 of the HMR. I apologize for the delay in responding to your request and any inconvenience it may have caused. Your questions are paraphrased and answered as follows:

- Q1. Section 175.25(b)—Ticket Purchase: Is the intent of amendments to this section adopted in the January 19, 2011 final rule (76 FR 3308; PHMSA-2009-0126 (HM-215K)) to require a carrier to provide the permitted and forbidden text or pictorials by Jan 1, 2012 and the passenger acknowledgement provisions by Jan 1, 2013?
- A1. While §175.25(b) took effect January 1, 2012, the passenger acknowledgement portion of the rule is scheduled to take effect January 1, 2013.
- Q2. Is Ticket Purchase defined anywhere in the regulations within or beyond the HMR? Not all passengers are issued tickets. For example, does this section apply to non-revenue or employee travel?
- A2. As defined in 14 CFR 241.03 and for the purpose of this response, a non-revenue passenger means a person traveling free or under token charges, except those expressly named in the definition of revenue passenger; a person traveling at a fare or discount available only to employees or authorized persons of air carriers or their agents or only for travel on the business of the carriers; and an infant who does not occupy a seat.

Section 175.25(b) notification requirements apply to ticketed passengers only. However, non-revenue passengers, airline employees traveling as passengers onboard, and other non-ticketed passengers remain subject to requirements of the HMR, and actions by non-ticketed passengers can affect the safety of an air carrier's operation. While § 175.25 does not define specific notification requirements for non-ticketed passengers, the Pipeline and Hazardous Materials Safety Administration (PHMSA) and

the Federal Aviation Administration (FAA) solicit input on best practices for notification of all passengers (ticketed and non-ticketed) for inclusion in a future FAA advisory circular.

- Q3. Do the requirements of § 175.25 apply to third party travel sites operated by travel agents and online travel retailers (Orbitz, Expedia, Travelocity, etc.)? If so, is it the responsibility of the carrier or the travel agent/retailer to provide the required passenger notification? The International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions), at Part 8:1.1.3, states "Any organization or enterprise other than an operator (such as a travel agent)... should provide passengers with information about the types of dangerous goods..." Thus, it appears the ICAO Technical Instructions places the responsibility to notify passengers in these situations on the third party provider, and not the carrier.
- A3. The requirements of § 175.25 apply to the aircraft operator. The aircraft operator is responsible for ensuring that passengers receive the notifications required by § 175.25, regardless of whether the ticket is purchased directly from the aircraft operator or via a third party source. The aircraft operator can meet its obligations by relying on the notifications provided to the passenger by a third party, but the aircraft operator is ultimately responsible for compliance with the rule. PHMSA and FAA solicit input on best practice arrangements between aircraft operators and third party travel organizations for inclusion in a future FAA advisory circular on passenger notification.
- Q4. In a situation where a customer purchases a ticket over the phone (e.g., by calling a reservation center), what constitutes compliance with the rule? Do PHMSA and FAA expect a verbal reading of § 175.25(a)(1) and (2), or would a simplified statement that guides them to additional information (i.e., carrier website) suffice?
- A4. A simplified statement may be acceptable, and may actually be the preferred means of compliance. PHMSA and FAA solicit input on best practices for passenger notification via telephone for inclusion in a future FAA advisory circular.
- Q5. Is dual acknowledgement (at the time of ticket purchase – paragraph (b), and time of check-in – paragraph (c)) intentional? If a passenger acknowledges at the time of ticket purchase, could a record of that acknowledgement also be used to meet the acknowledgement in section § 175.25(c)?
- A5. The dual acknowledgement during ticket purchase and check-in is intentional and required for compliance.
- Q6. In a Rule 240 scenario where a passenger is re-accommodated on another carrier due to canceled flights or other reasons, would a third check-in acknowledgement be required?
- A6. Although an aircraft operator may meet its obligations by relying on notifications provided to the passenger by a third party, the aircraft operator is ultimately responsible for compliance with the rule. PHMSA and FAA solicit input on best practice

arrangements during re-accommodation situations for inclusion in a future FAA advisory circular on passenger notification.

- Q7. In a bulk purchase or charter situation, would a single individual responding on behalf of their party be acceptable for compliance with § 175.25(b) and (c)? Would such an acknowledgement be acceptable for military charters as well?
- A7. Both § 175.25(b) and (c) allow for acknowledgement by a person acting on the passenger's behalf. While this allows for acknowledgement by a single individual, PHMSA and FAA solicit input on best practices for notification of passengers in bulk purchase, charter flight, or similar situations for inclusion in a future FAA advisory circular.
- Q8. Is the actual language in § 175.25(a)(1) and (2) required in all cases? If so, how does a carrier provide notice of additional materials forbidden beyond those covered in the general language? The ICAO Technical Instructions do not require specific language but instead require the carrier to develop their own language and format.
- A8. The information provided in § 175.25(a)(1) and (2) is required, but the specific wording used in the HMR is not required. Further, no part of § 175.25 is intended to prevent aircraft operators or other individuals from providing additional information to passengers regarding the safe transport of hazardous materials. PHMSA and FAA solicit input on best practices for conveying hazardous materials safety information, including the information provided in § 175.25(a)(1) and (2), for inclusion in a future FAA advisory circular on passenger notification.
- Q9. This rule applies to 14 CFR 129 foreign carriers that operate from the U.S. Currently, there are 14 types of hazmat listed in the ICAO Technical Instructions, at 8;1.1, as "permitted with the approval of the operator." Thus, there may be considerable differences between each U.S. and foreign airline as to what is "permitted or forbidden" by each operator. Note that the ICAO Technical Instructions, at 8;1.1.3 and 8;1.1.4, do not require the types "permitted" either - only the types of hazmat "forbidden" needs to be communicated. If a passenger checks-in with a foreign carrier and then transfers to a domestic carrier, does the original check in notification satisfy the passenger notification for the domestic leg as well?
- A9. The aircraft operator may meet their obligations by relying on notifications provided to the passenger by a third party, but the aircraft operator is ultimately responsible for compliance with the rule. PHMSA and FAA solicit input on best practice arrangements between foreign and domestic air carriers for inclusion in a future FAA advisory circular on passenger notification.
- Q10. In the case of remote check-in and boarding, where the passenger checks in at a remote location and checks baggage as well, such as a resort, cruise line, or military charter situations, does the carrier have the responsibility to notify the passenger, or is the resort, cruise line, or military branch responsible for notification? Under these

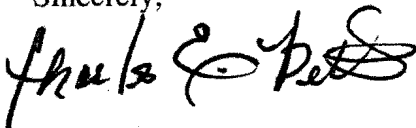
scenarios, a non-carrier operation performs the check-in function. Therefore, the carrier has limited or no contact with the passenger during the check-in process. An example would include a military charter originating from a U.S. military installation.

- A10. The requirements of § 175.25 apply to the aircraft operator. The aircraft operator is responsible for ensuring that passengers receive the notifications required by § 175.25, regardless of whether the passenger checks-in directly with the aircraft operator or via a third party source. Although the aircraft operator may meet its obligations by relying on notifications provided to the passenger by a third party, but the aircraft operator is ultimately responsible for compliance with the rule. PHMSA and FAA solicit input on best practice arrangements between aircraft operators and third party organizations for inclusion in a future FAA advisory circular on passenger notification.
- Q11. Lithium batteries have received a significant amount of attention by regulatory and enforcement entities over the last 5 years. Much of this attention is due to incidents involving such batteries, including incidents occurring in passenger baggage. Yet, the current language in § 175.25 does not mention lithium batteries. Is it acceptable for a carrier to develop independent language that conveys the intent of the language in § 175.25(a)(1) and (2) but varies in content to address recent incidents or trends? May this language be used as an alternative to the language contained in § 175.25(a)? We strongly believe the restrictive language indicated in § 175.25 is ineffective in communicating hazardous material dangers and restrictions in passenger baggage to the traveling public.
- A11. The information provided in § 175.25(a)(1) and (2) is required, but the specific wording used in the HMR is not. Further, no part of § 175.25 is intended to prevent aircraft operators or other individuals from providing additional information to passengers regarding the safe transport of hazardous materials. The FAA fully supports inclusion of information regarding lithium battery hazards in passenger notifications. PHMSA and FAA solicit input on best practices for conveying hazardous materials safety information, including the information provided in § 175.25(a)(1) and (2), for inclusion in a future FAA advisory circular on passenger notification.

This response was coordinated with FAA. Additionally, PHMSA and FAA will co-sponsor a public meeting on this issue in the very near future. We will announce the location, date and time of the meeting in the *Federal Register* once details are finalized.

I trust this satisfies your concerns. Please contact us if we can be of further assistance.

Sincerely,



Charles E. Betts  
Director, Standards and Rulemaking Division



**COUNCIL ON SAFE TRANSPORTATION  
OF HAZARDOUS ARTICLES, INC.**

Stevens  
§ 175.25  
Air/ICAO  
11-0228

September 14, 2011

**President**  
**Robert Heinrich**  
Novartis Pharmaceuticals  
Robert.Heinrich@novartis.com

**First Vice President**  
**Donald Bossov**  
Diversey, Inc.  
donald.bossov@diversey.com

**Second Vice President/Treasurer**  
**John D'Aloia**  
Mary Kay, Inc.  
john.daloia@mkcorp.com

**Secretary**  
**Jeanne Zmich**  
Labelmaster  
JEANNEZ@alc-net.com

**Executive Committee Member**  
**Richard Lattimer**  
Eli Lilly and Company  
R.Lattimer@lilly.com

**Board of Directors**

**Les Adolph**  
American Airlines  
Les.Adolph@aa.com

**Sean Broderick**  
Procter & Gamble Distributing LLC  
Broderick.sp@pg.com

**David Evans**  
Purolator Courier Ltd.  
devans2@purolator.com

**Amy Fischesser**  
Sun Chemical Corporation  
amy.fischesser@na.sunchem.com

**James Jahnke**  
Merck and Co  
james.jahnke@merck.com

**Dave Madsen**  
Autoliv, Inc.  
Dave.Madsen@autoliv.com

**Rich Moskowitz**  
American Trucking Associations, Inc.  
rmoskowitz@trucking.org

**Christopher Palabrica, CPM, CHMM**  
Mays Chemical Co.  
chrisp@mayschem.com

**Dan Wieten**  
Toyota Motor Sales, USA, Inc.  
dan\_wieten@toyota.com

**General Counsel**  
Richard Schweitzer, PLLC

Ms. Janet McLaughlin  
Office of Security and Hazardous Materials Safety  
Federal Aviation Administration  
800 Independence Ave, SW  
Suite 300, Room 315  
Washington, DC 20591

Mr. Michael Stevens  
Standards and Rulemaking Division  
Pipeline and Hazardous Materials Safety Division  
East Building  
1200 New Jersey Avenue, S.E.  
Washington, DC 20590

Dear Ms. McLaughlin and Mr. Stevens,

The Council on Safe Transportation of Hazardous Articles (COSTHA) requests clarification regarding implementation of the new passenger signage requirements adopted in Docket PHMSA-2009-0126 (HM-215K). Specifically, we have a number of practical implementation questions our members have identified related to the new language of §175.25.

COSTHA is a not-for-profit organization representing manufacturers, shippers, distributors, carriers, freight forwarders, trainers, packaging manufacturers and others associated with the hazardous materials transportation industry. In addition to promoting regulatory compliance and safety in hazardous materials transportation, COSTHA assists its members and the public in evaluating the practicality and efficacy of laws, rules and regulations for the safe transportation and distribution of hazardous materials. Included within our membership is the Air Carrier Roundtable, a group of seventeen (17) passenger and cargo air carriers.

In HM-215K, PHMSA adopted significant changes to the requirements of passenger signage in §175.25. These modifications were made as harmonization to the 2011-2012 International Civil Aviation Organization Technical Instructions on the Safe Transportation of Dangerous Goods By Air (ICAO TI). The result is an increase in the number of times a passenger has the opportunity to receive notices about hazardous materials in baggage, and the penalties associated with failing to comply with the hazardous material requirements. §175.25 remains different from the ICAO TI in several areas including

**The Council on Safe Transportation of Hazardous Articles, Inc.**

7803 Hill House Court Fairfax Station, VA 22039 Phone: 703/451-4031 Fax: 703/451-4207  
mail@costha.com www.costha.com



the specified language contained in §175.25(a)(1) and (2). The ICAO TI does not mandate the actual language, only the requirement to notify. Therefore carriers subject to the US Hazardous Material Regulations (HMR) encounter greater challenges implementing the new requirements than carriers who follow the ICAO TI only. Further, when US carriers operate in foreign locations, airport authorities often control the ticketing and gate areas, limiting the ability for carriers to place signage at all.

COSTHA supports the concept of putting this information in areas most likely utilized by passengers during the ticket purchase/check-in process. However, technology has changed dramatically in the last 10 years. The ticket purchase, ticket issuing, and check-in processes do not resemble the practices of the past. Thus changes to the signage and passenger notification requirements are not as easily implemented as simply "changing the airport signage". Carriers have faced numerous obstacles in maintaining signage as airport authorities continually remove or modify permanent signage, leaving the carrier in a potentially non-compliant situation. Third party or online ticket sales have increased, further reducing the carriers' ability to reach the passenger directly before they arrive at the airport. And remote or mobile check-in limits the amount of time the passenger actually spends at a ticket counter or carrier help desk. The modified language in §175.25 may provide opportunities to reach passengers more efficiently given these changes to procedures. But it also creates additional obstacles.

The COSTHA Air Carrier Roundtable has identified a number of questions which have been asked by carrier marketing, sales, technology, and compliance personnel. These questions are not meant to be an indication of unwillingness to comply with the intent of §175.25. But given the history of enforcement regarding airport signage, COSTHA would like these questions formally answered so that our members may fully understand their obligations and responsibilities with regards to hazardous material signage and notification.

1. §175.25(b)- Ticket Purchase: Is the intent of this section of the rule to have Carriers provide the permitted and forbidden text or pictorials by Jan 1, 2012 with the Passenger acknowledgement portion of the rule by Jan 1, 2013?
2. Is Ticket Purchase defined anywhere in the regulations within or beyond the HMR? Not all passengers are issued tickets. For example, does this section apply to Non-Revenue or employee travel?
3. Do the requirements of §175.25 apply to third party travel sites such as Travel Agents and online travel retailers (Orbitz, Expedia, Travelocity, etc.)? If so, is it the responsibility of the carrier or the travel agent/retailer to provide the required notification? The ICAO TI Part 8:1.1.3 states "Any organization or enterprise other than an operator (such as a travel agent)... should provide passengers with information about the types of dangerous goods...". Thus it appears ICAO puts the responsibility to notify in these cases on the third party provider, not the carrier.
4. In a situation where a Customer purchases a ticket over the phone (by calling a Reservation Center), what would constitute compliance with the rule? Does PHMSA/FAA expect a reading of §175.25(a)(1) and (2), or would a simplified statement and guiding them to additional information (i.e. Carrier website) suffice?
5. Is the dual acknowledgement (at the time of ticket purchase – paragraph (b), and time of check-in – paragraph (c)) intentional? If a Passenger makes the acknowledgement at

**The Council on Safe Transportation of Hazardous Articles, Inc.**

7803 Hill House Court, Fairfax Station, VA 22039 703/451-4031 FAX: 703/451-4207  
mail@costha.com www.costha.com

the time of ticket purchase, could record of that acknowledgement be used to meet the acknowledgement in section §175.25(c)?

6. In a Rule 240 scenario where a Passenger is re-accommodated on another Carrier due to canceled flights or other reasons, would a third check-in acknowledgement be required?
7. In bulk purchase and/or charter situation, would a single individual responding on behalf of their party be acceptable for compliance with §175.25(b) and (c)? Would such an acknowledgement be acceptable for military charters as well?
8. Is the actual language in §175.25(a)(1) and (2) required in all cases? If so, how does a carrier provide notice of additional materials forbidden beyond those covered in the general language? The ICAO TI does not require specific language but instead requires the carrier to develop their own language and format.
9. This rule applies to Part 129 foreign carriers that operate from the US. Currently there are 14 types of hazmat listed in ICAO TI 8;1.1 as permitted "with the approval of the operator." Thus there may be considerable differences between each US and foreign airline as to what is "permitted or forbidden" on each operator. Note that ICAO TI 8;1.1.3 and 8;1.1.4 do not require the types "permitted" either - only the types of hazmat "forbidden" need be communicated. If a passenger checks in with a foreign carrier and then transfers to a domestic carrier, does the original check in notification cover the passenger for the domestic leg as well?
10. In the case of remote check-in and boarding where the passenger checks in at a remote location and checks baggage as well, such as resort, cruise line, or military charter situations, does the carrier have the responsibility to notify the passenger, or does the resort, cruise line, or military branch have the notification responsibility? In these cases, a non-carrier operation performs the check-in function. Therefore, the carrier has limited or no contact with the passenger during the check-in process. An example would include a military charter originating from a US Military base.
11. Lithium batteries have received significant attention by both regulatory and enforcement officials over the last 5 years. Much of this attention is due to incidents involving such batteries, including incidents in passenger baggage. Yet the current language does not make mention of lithium batteries at all. Is it acceptable for a carrier to develop independent language that conveys the intent of the language in §175.25(a)(1) and (2) but varies in content to address recent incidents or trends? May this language be used as an alternate to the language contained in §175.25(a)? We strongly believe the restrictive language indicated in §175.25 is ineffective in communicating hazardous material dangers and restrictions in passenger baggage to the traveling public.

Many of the questions are very detailed and point to related regulations within the air carrier industry. If you need clarification on any of these questions, please do not hesitate to ask.

**The Council on Safe Transportation of Hazardous Articles, Inc.**

7803 Hill House Court, Fairfax Station, VA 22039 703/451-4031 FAX: 703/451-4207  
mail@costha.com www.costha.com

These questions address technology concerns, and technology modifications take time to implement. Given the January 2012 implementation deadline for part of the new rule, carriers have a limited amount of time to implement these new requirements. COSTHA appreciates your timely review and response on these questions.

Best Regards,

A handwritten signature in black ink, appearing to read "Tom Ferguson", followed by a long horizontal line.

Tom Ferguson  
Technical Consultant

**Passenger Notification of Hazardous Materials  
Regulations Aviation Rulemaking Committee (ARC)  
Membership RECOMMENDATIONS to the FAA for an  
Advisory Circular (AC)**

**Subject: Passenger Notification of Hazardous Materials Regulations**

Effective Date: 1 January, 2015

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## **A. INTRODUCTION**

### **1. SUBJECT**

Passenger Notification of Hazardous Materials Regulations

### **2. BACKGROUND**

U.S. Hazardous Materials Regulations (HMRs; Title 49 Code of Federal Regulations (CFR) Parts 171-180) apply to the offering, acceptance, and transportation of hazardous materials in commerce by aircraft to, from, or within the United States. This includes the performance, attempted performance, or required performance of any function addressed in the HMRs. See 49 CFR 175.1(b). Air passengers are explicitly subject to the HMR. See 49 CFR 175.1(b)(2).

Notwithstanding these requirements, hazardous materials incidents associated with passenger baggage can occur when uninformed passengers pack hazardous materials in non-compliance with the HMRs. In particular, lithium batteries have been involved in a number of passenger incidents in recent years that could have been prevented through compliance with the HMRs.

Since 1980, the Department of Transportation (DOT) has required operators to prominently display notices of requirements applicable to the carriage of hazardous materials aboard aircraft as well as potential penalties for non-compliance. Such signage continues to be required where operators issue tickets, check baggage, and maintain boarding areas. See 49 CFR 175.25(a). The International Civil Aviation Organization's (ICAO) Dangerous Goods Panel and the DOT recognize that large numbers of passengers are now purchasing tickets electronically (e.g. online, mobile device, and kiosk) versus more traditional methods. Therefore, while the need to inform passengers of HMR restrictions (to achieve compliance) and penalties (to deter non-compliance) remains, additional methods of communication are required.

DOT has issued rules requiring passenger notification and acknowledgement of applicable requirements during remote ticketing and check-in. As described in this Advisory Circular (AC), remote methods can include internet, telephone, mobile device, airport kiosk and any other modes of purchase and check-in. Use of this Advisory Circular is encouraged but not mandatory.

### **3. PURPOSE.**

The purpose of this AC is to improve messaging from the aviation industry to the traveling public, in order to increase airline passenger awareness of and compliance with hazardous materials regulations. This circular contains industry guidance and best practices for providing consistent messages to passengers on hazardous materials prohibitions and allowances at the point of ticket purchase and check-in. This circular also contains industry guidance and best practices for ensuring that passengers understand the hazardous materials prohibitions and allowances in the form of an "affirmative" passenger acknowledgement.

Use of the guidance and best practices contained within this AC will foster compliance with Title 49 CFR 175.25 and Part 8 of the ICAO Technical Instructions on the Safe Transport of Dangerous Goods by Air (ICAO TI). However, this AC provides a general approach for compliance with 49 CFR 175.25; other, equivalent approaches may also be used to achieve compliance.

#### **4. AUDIENCE**

The audience for this AC is air operators, fractional ownership program managers, and their employees or representatives responsible for passenger notification requirements, including ticketing, check-in, and baggage acceptance for operations conducted under 14 CFR Parts 121 and 135.

#### **5. APPLICABILITY**

This AC is applicable to all operations subject to the HMR and the passenger notification regulations contained in 49 CFR 175.25. In particular, the AC applies to operations as follows:

- (a) this AC is applicable to operations conducted in accordance with 14 CFR Parts 121 and 135; and
- (b) this AC does not apply to operations conducted in accordance with 14 CFR Part 91 (including subpart K) in that 14 CFR 91.1005(a) prohibits operations for compensation or hire.

#### **6. HOW TO USE THIS AC.**

This AC is divided into two primary sections: a section for 14 CFR Part 121 operations and a section for 14 CFR Part 135 operations. Within each section, guidance is given on how to notify passengers of the hazardous materials restrictions at the time of ticket purchase and at the time of check-in. This guidance is organized based on how passengers commonly purchase their tickets or check-in and on whether or not a passenger is ticketed and/or generates revenue for the air operator. It is recognized that some airline operators may not provide all options for ticket purchase and check-in as, or may provide other options than, those mentioned in this AC. The guidance given in the AC may be used in whole or in part, with the understanding that the air operator is ultimately responsible for regulatory compliance.

For the purposes of this AC, use of the word “telephone” or “phone” refers to assisted transactions (speaking to an individual or automated service) and use of the word “mobile device” refers to an unassisted transaction using a mobile application or electronic transaction.

## **7. REGULATORY REFERENCES.**

- Title 49 CFR Part 175, § 175.25, Notification at air passenger facilities of hazardous materials restrictions.
- ICAO TI; Part 7, Chapter 5, Provisions Concerning Passengers and Crew
- ICAO TI; Part 8, 1.1.2; Dangerous Goods Carried by Passengers or Crew
- Title 14 CFR Part 121, Operating Requirements: Domestic, Flag, and Supplemental Operations
- Title 14 CFR Part 135, Operating Requirements: Commuter and on Demand Operations and Rules Governing Persons on Board Such Aircraft

## **8. RELATED MATERIAL (current editions):**

- International Air Transport Association (IATA) Dangerous Goods Regulations (DGR); Section 2.3; Dangerous Goods Carried by Passengers or Crew
- Airlines for America (A4A); TPM Resolution 30.07

## **9. DEFINITIONS.**

*Note: These definitions are based on regulatory definitions in 14CFR, 49CFR, IATA, ICAO, etc. and have been modified for the purpose of this Advisory Circular only.*

### **(a) Check-in.<sup>1</sup>**

The check-in process involves a boarding entitlement document(s), whether electronic or paper, and those activities necessary to evaluate, inform and prepare passengers to board flight(s).

### **(b) Fixed-base operator (FBO).**

A facility that is maintained to provide services to general aviation aircraft including passenger enplanement, fuel and maintenance, and other essential services.

### **(c) Flight Booking.**

An agreement between a passenger/purchaser and a Part 135 operator for transportation. Purchase includes direct payment to an operator, intermediary agent, or agency.

### **(d) Non-revenue passengers.<sup>2</sup>**

A person traveling free or under token charges, except those expressly named in the definition of revenue passenger; a person traveling at a fare or discount available only to employees or authorized persons of air carriers or their agents or only for travel on the business of the carriers; and an infant who does not occupy a seat.

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<sup>1</sup> IATA/A4A Glossary

<sup>2</sup> 14CFR §217.1

The definition includes but is not limited to airline retirees, discounted travel for travel agents, buddy passes/companion fares, and mechanics traveling on company business, in addition to the following examples of passengers when traveling free or pursuant to token charges including but not limited to:

- (1) Directors, officers, employees, and others authorized by the air carrier operating the aircraft;
- (2) Directors, officers, employees, and others authorized by the air carrier or another carrier traveling pursuant to a pass interchange agreement;
- (3) Travel agents being transported for the purpose of familiarizing themselves with the carrier's services;
- (4) Witnesses and attorneys attending any legal investigation in which the carrier is involved;
- (5) Persons injured in aircraft accidents, and physicians, nurses, and others attending such persons;
- (6) Any persons transported with the object of providing relief in cases of general epidemic, natural disaster, or other catastrophe;
- (7) Law enforcement officials, including any person who has the duty of guarding government officials who are traveling on official business or traveling to or from such duty;
- (8) Guests of an air carrier on an inaugural flight or delivery flight of newly-acquired or renovated aircraft;
- (9) Security guards who have been assigned the duty to guard such aircraft against unlawful seizure, sabotage, or other unlawful interference;
- (10) Safety inspectors of the National Transportation Safety Board or the FAA in their official duties or traveling to or from such duty;
- (11) Postal employees on duty in charge of the mails or traveling to or from such duty;
- (12) Technical representatives of companies that have been engaged in the manufacture, development or testing of a particular type of aircraft or aircraft equipment, when the transportation is provided for the purpose of in-flight observation and subject to applicable FAA regulations;
- (13) Persons engaged in promoting air transportation;
- (14) Air Marshals and other Transportation Security Administration officials acting in their official capacities and while traveling to and from their official duties;
- (15) Other authorized persons, when such transportation is undertaken for promotional purpose;
- (16) Supernumeraries (company employees present in the cabin of aircraft for the purpose of conducting certain passenger service or other non-safety-related activities such as serving beverages, conducting customer relations, or selling tickets, and not listed on the load manifest as either crewmembers or flight attendants.));
- (17) Occupants of ferry flights; and
- (18) Mechanics.

**(e) Non-ticketed Revenue passengers.**

A passenger for whose transportation an air carrier receives commercial remuneration but the passenger is not required to produce a boarding authority or ticket. This includes, but is not limited to, the following types of “non-ticketed” operations:

- (1) Charters;

- (2) Military Charters; and
- (3) Persons who are not employees of the air carrier present on the aircraft to perform certain passenger service or other non-safety-related duties, (e.g. horse handler, medevac medical nurse)

**(f) On-demand operators.**

Air carrier certificate holders who conduct Part 135 operations as on-demand direct air carriers in accordance with Title 14 CFR 119.

**(g) Passenger.**

A person aboard a covered flight segment regardless of whether he or she paid for the transportation, had a reservation, or occupied a seat, except the crew. For the purposes of this AC, passenger includes, but is not limited to, a revenue or non-revenue passenger, a person holding a confirmed reservation, a standby or walkup, a person rerouted from another flight or airline, an infant held upon a person's lap and a person occupying a jump seat. Airline personnel who are on board but not working on that particular flight segment would be considered passengers for the purpose of this AC. (14 CFR 243.3)

**(h) Person acting on passenger's behalf.**

Includes, but is not limited, to anyone designated or authorized by the passenger to conduct ticketing and/or check-in for the passenger (e.g. administrative assistant, family member, friend, charter coordinator, etc.)

**(i) Revenue passengers.**

Persons receiving air transportation from the air carrier for which remuneration is received by the carrier. Air carrier employees or others receiving air transportation against whom token service charges are levied are considered non-revenue passengers. Lap-held infants for whom a token fare is charged but do not occupy their own individual seat are considered non-revenue passengers.

Revenue passengers include, but are not limited to, the following examples:

- (1) Passengers traveling under publicly available tickets including promotional offers (for example two-for-one) or loyalty programs (for example, redemption of frequent flyer points);
- (2) Passengers traveling on vouchers or tickets issued as compensation for denied boarding or in response to consumer complaints or claims;
- (3) Passengers traveling at corporate discounts;
- (4) Passengers traveling on preferential fares (government, seamen, military, youth, student, etc.);
- (5) Passengers traveling on barter tickets; and
- (6) Unaccompanied minors and infants traveling on confirmed-space tickets (occupying a seat).

**(j) Single entity charter.**

A business arrangement between a customer and an air carrier where the entire capacity of the aircraft is purchased for a flight segment or series of flight segments.

**(k) Source of information.**

A referenced government or commercial website, information telephone line, or third party that provides accurate information to passengers on the types of hazardous materials that are permitted and forbidden on aircraft either as carry-on baggage, checked baggage, or on their person. (See Section 21 for example sources of information)

**(l) Ticket Seller.**

An aircraft operator, any person acting on the aircraft operator's behalf, or any other person who sells, offers for sale, or holds itself out as selling air transportation.

**(m) Ticket purchase.**

An airline ticket is a legal record or document confirming the purchase of a seat on an airline flight for a specific date and time; documents may include a paper ticket, electronic ticket, passenger itinerary receipt, purchase invoice, purchase confirmation, boarding document(s), etc. and represent an agreement between a passenger/purchaser and an airline operator for transportation. Purchase includes direct payment to an air operator, intermediary agent or ticket seller, tour operator, ticketing outlet, etc.

## **10. BASIC REGULATORY REQUIREMENTS**

The regulatory requirements for notification to passengers of hazardous materials restrictions and passenger acknowledgement are contained in 49 CFR 175.25 and have been summarized below in a tabular format.

<b>Passenger Notification</b>		
<b>Location</b>	<b>Operation</b>	
	<b>Ticket Purchase</b>	<b>Check-in</b>
<b>Non-Remote</b> (e.g. at the airport with the assistance of an airline representative)	Information on the types of hazardous materials that are forbidden must be conveyed to passengers.	Signage is acceptable
<b>Remote</b> (unassisted; e.g. internet, airport kiosk, off-airport check-in, etc.)	Effective January 1, 2015, passengers must indicate understanding of the hazardous materials restrictions prior to completion of ticket purchase.	Effective January 1, 2015, passengers must indicate understanding of the hazardous materials restrictions prior to completion of check-in.



## **B. IMPLEMENTATION GUIDANCE FOR PART 121 OPERATORS**

### **11. PART 121 OPERATIONS**

Most U.S. passenger airline travel is conducted under Part 121 operations. Passengers typically purchase airline tickets unassisted using an Internet enabled tool (e.g. website, mobile device or kiosk) or assisted through direct interaction, which may include, but is not limited to, in person, telephone and E-mail/internet messaging, with an airline representative or an airline's appointed representative. Passengers typically check-in unassisted using an Internet enabled tool (e.g. website, mobile device, kiosk or RFID chip) or assisted through direct interaction with an airline representative or an airline's appointed representative (e.g. curbside agent, cruise agent or hotel agent). Passengers may check baggage at the counter or at the gate or they may carry baggage into the cabin. Part 121 operators own, lease, and/or maintain air passenger facilities including ticket counters, gates, baggage claim areas, and offices.

#### **(a) Contact with the Passenger**

Passengers will typically complete the ticket purchase and check-in process which may or may not include using the following methods:

##### **(1) Time of Ticket Purchase.**

- Mobile Device (unassisted)
- Telephone (assisted)
- Ticket Counter (assisted)
- E-mail/Internet Message (assisted)
- Internet/Online/Website (unassisted)
  - a. online from airline website
  - b. online from third party website
- Kiosk (unassisted)

##### **(2) Check-in.**

- Mobile Device (unassisted)
- Ticket Counter (assisted)
- Curbside or other (assisted)
- Internet/Online/Website (unassisted)
  - a. online from airline website
  - b. online from third party website
- Kiosk (unassisted)
- Other (unassisted)
  - a. cruise line service
  - b. park and ride service

#### **(b) Methods of Information Delivery**

Operators and other ticket sellers (including travel agencies, third party ticket sellers, corporate travel department(s), and online ticket providers) provide information on

hazardous materials permitted and forbidden for transport during the ticket purchase process. Such information may be provided by:

- Verbal notice
- Written notice through contract / agreement
- Itinerary receipt
- Ticket receipt or email confirmation
- Reference or link to a source of information

**(c) Baggage**

For the purposes of this Advisory Circular, baggage surrendered gate/planeside is considered as checked baggage.

**(d) Group Travel**

In instances where a single person is acting on behalf of a group of passengers in relation to the ticket purchase and check-in processes, that single person is assuming the responsibility of providing hazardous materials restrictions to each passenger traveling, and is responsible for providing the indication of understanding on behalf of the group.

**(e) Code Share Operations**

In the case of code share operations, it is the responsibility of each airline operator to ensure that a notification of hazardous materials restrictions is provided and an acknowledgement is obtained from passengers. This may be achieved through contractual agreements between airline operators. Nonetheless, it may be generally assumed that passengers who have checked-in at a foreign airport or with another operator (foreign or domestic) have received notification of the hazardous materials restrictions and/or provided acknowledgement since most airline operators follow the ICAO TI or the HMRs.

**(f) Airline Employees**

It is recommended that airline employees be provided annual training on the hazardous materials restrictions including the notification and acknowledgement requirements of 49 CFR 175.25 and the passenger exceptions in 49 CFR 175.10.

## **12. TYPES OF PASSENGER NOTIFICATION ELEMENTS.**

The exact text (or dialogue, or pictograms) of the notification used to convey hazardous materials information to passengers is not mandatory. The operator may choose which examples to use based on commonly confiscated items. In addition, it is recommended that emphasis be given to items that have been involved in incidents<sup>3</sup>, such as lithium batteries and oxygen.

In addition, the notification may include information on items that the passenger is permitted to carry on board the aircraft in either checked baggage, carry-on baggage, or on

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<sup>3</sup> 49 CFR 171.15/§171.16/§175.31

their person. For example, items such as small quantities of medicinal and toilet articles and lithium batteries and spares, as well as the conditions for carriage of these items, may be included in the notification.

The passenger notification may include the following elements:

**(a) Categories of hazardous materials that are generally forbidden for carriage;**

- (1) Flammable substances
- (2) Explosives
- (3) Oxidizers
- (4) Poisons
- (5) Compressed gases
- (6) Corrosives
- (7) Radioactive materials
- (8) Other items such as lithium batteries, boxes displaying hazmat markings, etc.

**(b) Examples of hazardous materials forbidden for carriage; and**

- (1) Lithium batteries (e.g. spares in checked baggage, batteries over a certain size)
- (2) Aerosols
- (3) Spray starch
- (4) Fireworks
- (5) Liquid fuels (e.g. gasoline, butane, lighter fluid)
- (6) Liquid oxygen
- (7) Torch lighters
- (8) Strike anywhere matches
- (9) Pesticides
- (10) Oxygen bottles or cylinders - compressed oxygen for use on flight that is not provided by the air operator.

**(c) Penalties for violations.**

- (1) Civil (penalty amounts may be included, i.e. minimum \$250USD/violation, average \$1000/violation, or maximum \$250,000); and/or
- (2) Criminal (up to 5 years imprisonment).

*Note: Information on penalties for violations is only required to be placed on airport signage and is optional for all other passenger notifications.*

### **13. APPLICABILITY OF PASSENGER NOTIFICATION**

Passenger notification of hazardous materials restrictions should be built into the general process for ticket purchase and check-in. Passenger notification prior to ticket purchase and check-in is not explicitly required for non-ticketed passengers; however, it is recommended that these passengers be provided hazardous materials information or directed to a source of information at the time their travel arrangements are made. The passenger notification requirements may differ depending on whether or not (i) the Part 121 operator issues a ticket

or boarding pass to the passenger or (ii) the passenger is revenue or non-revenue. The following table shows when notification may or may not be required:

<b>Passenger Notification</b>				
<b>Boarding Access</b>	<b>Passenger Type</b>			
	<b>Revenue</b>		<b>Non-Revenue</b>	
	<b>Ticket purchase</b>	<b>Check-in</b>	<b>Ticket purchase</b>	<b>Check-in</b>
<b>Ticketed</b>	Required	Required <sup>1</sup>	Recommended	Recommended <sup>1</sup>
<b>Non-Ticketed<sup>2</sup></b>	Recommended Hazardous materials information be provided, during booking, or when travel arrangements are made via contract or agreement.	Recommended <sup>1</sup>	Recommended, <sup>3</sup> Hazardous materials information be provided, during booking, or when travel arrangements are made via contract or agreement.	Recommended <sup>1,3</sup>

<sup>1</sup>Signage may satisfy this requirement.

<sup>2</sup>Charter operations and carriage of supernumeraries are considered to be non-ticketed.

<sup>3</sup>Airline employees may be allowed to complete a training course on hazardous materials passenger restrictions and provide an annual acknowledgement.

*Note: When a ticket purchase and check-in occurs in a single transaction, hazardous materials notification and passenger acknowledgement are required at least once prior to the completion of the transaction (e.g. passenger purchases ticket on same day as travel).*

*Note: In instances where a single check-in transaction triggers one or more subsequent check-in transactions as part of a single itinerary, one indication of understanding of hazardous materials restrictions will suffice only if the itinerary is completed within [TBD] days (e.g. same day travel or automated check-in etc.).*

#### **14. INDICATION OF UNDERSTANDING HAZARDOUS MATERIALS RESTRICTIONS.**

Information regarding the hazardous materials restrictions for checked or carry-on baggage must be provided to the passenger or a person acting on the passenger's behalf during the ticket purchase and check-in process. Before the passenger can proceed with ticket purchase or check-in, the passenger must acknowledge understanding of the hazardous material restrictions.

Options for indication of understanding the restrictions could include:

- For internet, mobile device, or kiosk, a button that requires a “click” to agree and proceed;
- For assisted transactions via phone, e-mail, or ticket counter, an affirmative response from the passenger such as a verbal “I agree”, “I acknowledge”, or “I understand” or a signature; or
- For other unassisted check-in, a signature (e.g. baggage drop service) or a button that requires a “click” to agree and proceed.

Systems that allow a single check-in process (e.g., automatic check-in) for a multi-flight itinerary require acknowledgement during the initial check-in process only (before first flight on a ticketed itinerary).

In addition, the method of passenger acknowledgement may differ depending on whether or not (i) the Part 121 operator issues a ticket or boarding pass to the passenger or (ii) the passenger is a revenue or non-revenue passenger. The following table shows when an acknowledgement may or may not be required:

<b>Passenger Acknowledgement</b>				
<b>Boarding Access</b>	<b>Passenger Type</b>			
	<b>Revenue</b>		<b>Non-Revenue</b>	
	<b>Ticket purchase</b>	<b>Check-in</b>	<b>Ticket purchase</b>	<b>Check-in</b>
<b>Ticketed</b>	Required	Required	Required	Required
<b>Non-Ticketed<sup>2</sup></b>	Recommended	Recommended	Recommended <sup>1</sup>	Recommended <sup>1</sup>

<sup>1</sup> Airline employees may be allowed to complete a training course on hazardous materials passenger restrictions and provide an annual acknowledgement.

<sup>2</sup> Charter operations and carriage of supernumeraries are considered to be non-ticketed.

## **15. NOTIFICATION AT TIME OF TICKET PURCHASE**

The passenger or the person acting on the passenger’s behalf must indicate understanding of the restrictions on hazardous materials in baggage or on their person prior to the completion of the ticket purchase process.

### **(a) Mobile device**

#### **(1) Recommended mobile device message:**

*“Hazardous Materials like aerosols (e.g., spray starch), lithium batteries, torch lighters, liquid fuels (e.g., gasoline), and fireworks may be forbidden in your baggage or on your person. Penalties may apply if you carry forbidden items.”*

(2) Alternate mobile device message:

*“Federal law forbids the carriage of certain hazardous materials, like aerosols, fireworks, and flammable liquids, aboard the aircraft. If you do not understand these restrictions, contact your airline or go to [a source of information].”*

For mobile device messages, other examples of forbidden items may be used. At a minimum it is recommended that at least three examples or categories be given. See section 12 for other recommended examples and categories.

It is recommended that the passenger be provided additional information upon request. This could be a link to a source of information or instructions to contact their airline representative.

For example:

*“If you don’t understand these restrictions, go to [a source of information].” or*

*“If you don’t understand these restrictions, contact [your airline].”*

**(b) In Person, by Telephone, or E-mail/Internet Messaging (assisted)**

Prior to ticketing, information on hazardous materials restrictions such as the options below must be provided by a reservation agent and/or an automated service message announcement. If an automated message is utilized, the message must be heard in its entirety and an active selection made.

(1) Recommended (assisted) message:

*“Do you understand that Federal law prohibits the carriage of certain hazardous materials aboard aircraft in your luggage or on your person and could result in a fine?”*

If “yes”: Ticket purchase may be completed.

If “no”: The ticket seller may choose to verbally answer any questions, or information can be sent with the ticket or ticket receipt, or the passenger or a person acting on the passenger’s behalf can be referred to a source of information. The ticket seller must receive a positive acknowledgement of understanding before the ticket purchase may be completed. As examples, the following additional messages may be used to solicit a “yes” at the time of ticket purchase:

*“With your ticket receipt (or confirmation) we will send you information on hazardous materials that are forbidden on aircraft. At check-in you will be required to acknowledge understanding of these restrictions. Do you agree to read the information prior to packing your bags and checking-in at the airport?”*

or

*“To learn more about prohibited items go to [a source of information]. At check-in you will be required to acknowledge understanding of hazardous materials restrictions. Do you*



*agree to consult [a source of information] prior to packing your bags and checking-in at the airport?”*

**(2) Recommended automated (program assisted) message:**

*“Do you understand that Federal law forbids the carriage of certain hazardous materials, like aerosols, fireworks, and flammable liquids, aboard the aircraft? If you understand these restrictions, press or say 1. If you do not understand, press or say 2.”*

If “1” is selected: Ticket Purchase may be completed.

If “2” is selected: The automated system can provide more detailed automated information, refer the passenger or a person acting on the passenger’s behalf to a source of information, or direct the passenger or a person acting on the passenger’s behalf to a live person. Ticket purchase through the automated system must not be completed until the passenger or a person acting on the passenger’s behalf acknowledges understanding.

**(c) Online via website or at an airport kiosk**

Prior to ticketing, information on hazardous materials restrictions must be provided and the passenger, or a person acting on the passenger’s behalf, must give an indication of understanding.

A stand-alone notification that displays the hazardous materials restrictions either through text or pictorial form may be used. Alternatively, the notification may be part of the general terms and conditions that are displayed before the ticket is purchased; however, information on hazardous materials restrictions should be prominently displayed.

**(1) Recommended online or kiosk message (text):**

*“Some everyday products, like aerosol spray starch, can be dangerous when transported on the aircraft in carry-on and/or checked baggage. Changes in temperature or pressure can cause some items to leak, generate toxic fumes or start a fire. Carriage of prohibited items may result in fines or in certain cases imprisonment. Please ensure there are no forbidden hazardous materials in your baggage like:*

- *Some Lithium batteries (e.g. spares in checked baggage, batteries over a certain size)*
- *Explosives / Fireworks*
- *Strike anywhere matches/ Lighter fluid*
- *Compressed gases / Aerosols*
- *Oxygen bottles/ Liquid oxygen*
- *Flammable liquids*
- *Pesticides/ Poison*
- *Corrosive material*

*There are special exceptions for small quantities (up to 70 ounces total) of medicinal and toilet articles carried in your luggage, spare lithium batteries for most consumer electronic devices in carry-on baggage, and certain smoking materials carried on your person.*

*Certain items are required to be carried with you onboard the aircraft. For example, spare lithium batteries for portable electronic devices and cigarette lighters must be removed from checked or gate-checked baggage and carried onboard the aircraft.*

*Traveling with medical oxygen, liquid oxygen, mobility aids and other assistive devices may require airline pre-approval or be restricted from carriage entirely. Passengers requiring these items should contact the airline operator for information on use of such devices.”*

(2) Recommended online or kiosk message (pictorial):

Pictorial examples should include items commonly carried by passengers and could be specific to the airline operation. Pictorial examples could include hazard labels and common commodities for each hazard class. Examples of common items by hazard include:

- Spare or loose lithium batteries
- Explosives / Fireworks
- Strike anywhere matches/ Lighter fluid
- Compressed gases / Aerosols
- Oxygen bottles/ Liquid oxygen
- Flammable liquids
- Pesticides/ Poison
- Corrosive material

Note: Use of pictorial format is preferred, and it is allowed by ICAO Technical Instructions (See Section 7, Regulatory References).

## **16. NOTIFICATION AT TIME OF CHECK-IN:**

The passenger or the person acting on the passenger’s behalf must indicate understanding of the restrictions on hazardous materials in baggage or on their person prior to the completion of the check-in process.

**(a) Mobile device**

(1) Recommended mobile device message:

*“Hazardous Materials like aerosols (e.g. spray starch), lithium batteries, torch lighters, liquid fuels (e.g. gasoline), and fireworks may be forbidden in your baggage or on your person. Penalties may apply if you carry forbidden items.”*

(2) Alternate mobile device message:

*“Federal law forbids the carriage of certain hazardous materials, like aerosols, fireworks, and flammable liquids, aboard the aircraft. If you do not understand these restrictions, contact your airline or go to [a source of information].”*

For mobile device messages other examples of forbidden items may be used. At a minimum it is recommended that at least three examples or categories be given. See section 12 for other recommended examples and categories.

It is recommended that the passenger be provided additional information upon request. This could be a link to a source of information or instructions to contact their airline representative.

For example:

*“If you don’t understand these restrictions go to [a source of information].” or  
“If you don’t understand these restrictions contact [your airline].”*

**(b) In Person, by Telephone, or E-mail/Internet messaging (assisted)**

In person (assisted) passenger notification at check-in may be completed through signage (electronic or otherwise), provided it is legible and prominently displayed.

Check-in by telephone or electronic communication with the assistance of a representative or automated service is not an option offered by operators and therefore no guidance is offered.

**(c) Online via website or at an airport kiosk**

Prior to check-in, information on hazardous materials restrictions must be provided and the passenger must give an indication of understanding.

A stand-alone notification that displays the hazardous materials restrictions to the passenger either through text or pictorial form may be used. Alternatively, the notification may be part of the general terms and conditions that are displayed before the ticket is purchased; however, information on hazardous materials restrictions should be prominently displayed.

**(1) Recommended online or kiosk message (text):**

*“Some everyday products, like aerosol spray starch, can be dangerous when transported on the aircraft in carry-on and/or checked baggage. Changes in temperature or pressure can cause some items to leak, generate toxic fumes or start a fire. Carriage of prohibited items may result in fines or in certain cases imprisonment. Please ensure there are no forbidden hazardous materials in your baggage such as:*

- *Some Lithium batteries (e.g. spares in checked baggage, batteries over a certain size)*
- *Explosives / Fireworks*
- *Strike anywhere matches/ Lighter fluid*
- *Compressed gases / Aerosols*
- *Oxygen bottles/ Liquid oxygen*
- *Flammable liquids*
- *Pesticides/ Poison*
- *Corrosive material*

*There are special exceptions for small quantities (up to 70 ounces total) of medicinal and toilet articles carried in your luggage, spare lithium batteries for most consumer electronic devices in carry-on baggage, and certain smoking materials carried on your person.*

*Certain items are required to be carried with you onboard the aircraft. For example, spare lithium batteries for portable electronic devices and cigarette lighters must be removed from checked or gate-checked baggage and carried onboard the aircraft.*

*Traveling with medical oxygen, liquid oxygen, mobility aids and other assistive devices may require airline pre-approval or be restricted from carriage entirely. Passengers requiring these items should contact the airline operator for information on use of such devices.”*

(2) Recommended online or kiosk message (pictorial):

Pictorial examples should include items commonly carried by passengers and could be specific to the airline operation. Pictorial examples could include hazard labels and common commodities for each hazard class. Examples of common items by hazard include:

- Spare or loose lithium batteries
- Explosives / Fireworks
- Strike anywhere matches/ Lighter fluid
- Compressed gases / Aerosols
- Oxygen bottles/ Liquid oxygen
- Flammable liquids
- Pesticides/ Poison
- Corrosive material

Note: Use of pictorial format is preferred, and is required by ICAO Technical Instructions (See Section 7, Regulatory References).

**(d) Other unassisted** (e.g. cruise line distributes boarding authority/boarding pass and retrieves baggage for delivery to airline or screening area)

In order to utilize the remote unassisted check-in option, the passenger or individual acting on their behalf must be provided the hazardous materials restrictions and indication of understanding (e.g. a signature or electronic acknowledgement) must be obtained, either during the enrollment process (e.g. sign up for check-in/baggage transfer service) or through other means of understanding.

Recommended contract of service message (text):

*“Some everyday products, like aerosol spray starch, can be dangerous when transported on the aircraft in carry-on and/or checked baggage. Changes in temperature or pressure can cause some items to leak, generate toxic fumes or start a fire. Carriage of prohibited items may result in fines or in certain cases imprisonment. Please ensure there are no forbidden hazardous materials in your baggage such as:*

- *Some Lithium batteries (e.g. spares in checked baggage, batteries over a certain size)*
- *Explosives / Fireworks*
- *Strike anywhere matches/ Lighter fluid*
- *Compressed gases / Aerosols*
- *Oxygen bottles/ Liquid oxygen*
- *Flammable liquids*
- *Pesticides/ Poison*
- *Corrosive material*

*There are special exceptions for small quantities (up to 70 ounces total) of medicinal and toilet articles carried in your luggage, spare lithium batteries in carry-on baggage and certain smoking materials carried on your person.*

*Certain items are required to be carried with you onboard the aircraft. Spare lithium batteries and cigarette lighters must be removed from checked or gate-checked baggage and carried onboard the aircraft.*

*Traveling with medical oxygen, liquid oxygen, mobility aids and other assistive devices may require airline pre-approval or be restricted from carriage entirely. Passengers requiring these items should contact the airline operator for information on use of such devices.”*

## **17. DISPLAY OF NOTICES (SIGNAGE)**

The notification provided in 49 CFR 175.25(a)(1) and (2) is required, but the specific wording used in the HMR is not required. Each notice must be legible, and be prominently displayed so it can be seen by passengers in locations where the aircraft operator issues tickets, checks baggage, and maintains aircraft boarding areas.

### **(a) Alternate signage message:**

*“Some everyday products, like aerosol spray starch, can be dangerous when transported on the aircraft in carry-on and/or checked baggage. Changes in temperature or pressure can cause some items to leak, generate toxic fumes or start a fire. Carriage of prohibited items may result in fines or in certain cases imprisonment. Please ensure there are no forbidden hazardous materials in your baggage such as:*

- *Some Lithium batteries (e.g. spares in checked baggage, batteries over a certain size)*
- *Explosives / Fireworks*
- *Strike anywhere matches/ Lighter fluid*
- *Compressed gases / Aerosols*
- *Oxygen bottles/ Liquid oxygen*
- *Flammable liquids*
- *Pesticides/ Poison*
- *Corrosive material*

*There are special exceptions for small quantities (up to 70 ounces total) of medicinal and toilet articles carried in your luggage, spare lithium batteries in carry-on baggage and certain smoking materials carried on your person.”*

**(b) Electronic signage**

Recognizing the advances in technology and electronic communication, it is recommended the hazardous materials restrictions be incorporated into electronic displays when possible. Electronic signage may be used in lieu of physical signage. When electronic displays are used, the hazardous materials information may be cycled at an appropriate interval that ensures passenger visibility.

**C. IMPLEMENTATION GUIDANCE FOR PART 135 OPERATORS**

**18. PART 135 OPERATIONS**

Unlike Part 121 operations, Part 135 on-demand operators do not typically issue tickets, check baggage, or maintain aircraft boarding areas. In most cases, passengers arrange for transportation via a flight booking process and the business arrangement is documented by a flight confirmation document between the operator and the lead passenger. Passengers do not check baggage in the conventional sense; baggage is placed in the aircraft baggage compartment during the boarding process. Finally, Part 135 operators do not normally maintain aircraft boarding areas, except possibly at their principal base of operations and in some cases board directly from their vehicles. Most passenger enplanements occur at fixed-base operator (FBO) facilities which are not usually owned, leased, or otherwise under the control of the Part 135 operator.

When tickets or formal check-in processes are not utilized, Part 135 operators may notify passengers of the restrictions contained in the HMR using the following alternate methods:

- Notification at time of flight booking (includes verbal or electronic means);
- Contract or other written agreement established with the operator;
- Verbal notification or signage to passengers available at time of boarding; or
- Other means established by the operator.

**19. DISPLAY OF NOTICES (SIGNAGE)**

**(a) General**

Part 135 on-demand operators do not typically issue tickets, check baggage, or maintain aircraft boarding areas. These operators typically provide single entity charters, where one person has purchased the entire seating capacity of the aircraft for the flight. Part 135 operators enplane passengers at fixed-base operator (FBO) facilities or private use facilities where the Part 135 operator does not exert control.

Passenger enplanement areas owned or leased by the Part 135 operator will display the signage as required by 49 CFR 175.25(a).

When display of signage is not practicable, alternate methods of passenger notification may be used as follows:

- Contract or agreement established with operator;
- Passenger newsletter or similar communication;
- Verbal notification at time of baggage acceptance from each passenger; or
- Other means established by the operator.

**(c) Electronic signage**

Recognizing the advances in technology and electronic communication, it is recommended the hazardous materials restrictions be incorporated into electronic displays when possible. Electronic signage may be used in lieu of physical signage. When electronic displays are used, the hazardous materials information may be cycled at an appropriate interval that ensures passenger visibility.

## **D. REFERENCES**

### **20. SOURCES OF INFORMATION**

DOT/PHMSA/FAA/TSA

<http://safetravel.dot.gov/>

TSA

<http://www.tsa.gov/traveler-information/prohibited-items>

FAA

<http://www.faa.gov/go/hazmatsafety>

PHMSA Hazardous Materials Information Center

(800) HMR49-22 or (800) 467-4922

Airline Operator and/or Commercial Websites

An operator of passenger aircraft should have information on hazardous materials permitted and forbidden for transport in accordance with the HMR. This information should be made available prior to the check-in process on their websites or via another source of information.

If the passenger is referred to an airline's website or a commercial website for more information, it is recommended that the website contain comprehensive, updated information consistent with the content of the regulations and/or government websites.



**Passenger Notification of Hazardous Materials  
Regulations Aviation Rulemaking Committee (ARC)  
Membership RECOMMENDATIONS to the FAA for an  
Advisory Circular (AC)**

**Subject: Passenger Notification of Hazardous Materials Regulations**

Effective Date: 1 January, 2015

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## **A. INTRODUCTION**

### **1. SUBJECT**

Passenger Notification of Hazardous Materials Regulations

### **2. BACKGROUND**

U.S. Hazardous Materials Regulations (HMRs; Title 49 Code of Federal Regulations (CFR) Parts 171-180) apply to the offering, acceptance, and transportation of hazardous materials in commerce by aircraft to, from, or within the United States. This includes the performance, attempted performance, or required performance of any function addressed in the HMRs. See 49 CFR 175.1(b). Air passengers are explicitly subject to the HMR. See 49 CFR 175.1(b)(2).

Notwithstanding these requirements, hazardous materials incidents associated with passenger baggage can occur when uninformed passengers pack hazardous materials in non-compliance with the HMRs. In particular, lithium batteries have been involved in a number of passenger incidents in recent years that could have been prevented through compliance with the HMRs.

Since 1980, the Department of Transportation (DOT) has required operators to prominently display notices of requirements applicable to the carriage of hazardous materials aboard aircraft as well as potential penalties for non-compliance. Such signage continues to be required where operators issue tickets, check baggage, and maintain boarding areas. See 49 CFR 175.25(a). The International Civil Aviation Organization's (ICAO) Dangerous Goods Panel and the DOT recognize that large numbers of passengers are now purchasing tickets electronically (e.g. online, mobile device, and kiosk) versus more traditional methods. Therefore, while the need to inform passengers of HMR restrictions (to achieve compliance) and penalties (to deter non-compliance) remains, additional methods of communication are required.

DOT has issued rules requiring passenger notification and acknowledgement of applicable requirements during remote ticketing and check-in. As described in this Advisory Circular (AC), remote methods can include internet, telephone, mobile device, airport kiosk and any other modes of purchase and check-in. Use of this Advisory Circular is encouraged but not mandatory.

### **3. PURPOSE.**

The purpose of this AC is to improve messaging from the aviation industry to the traveling public, in order to increase airline passenger awareness of and compliance with hazardous materials regulations. This circular contains industry guidance and best practices for providing consistent messages to passengers on hazardous materials prohibitions and allowances at the point of ticket purchase and check-in. This circular also contains industry guidance and best practices for ensuring that passengers understand the hazardous materials prohibitions and allowances in the form of an "affirmative" passenger acknowledgement.

Use of ~~the applicable~~ the guidance and best practices contained within this AC will ~~foster~~ constitute compliance with Title 49 CFR 175.25 and Part 8 of the ICAO Technical Instructions on the Safe Transport of Dangerous Goods by Air (ICAO TI). While ~~However,~~ this AC provides ~~a~~ general approaches for compliance with 49 CFR 175.25; other, equivalent approaches may also be used to achieve compliance.

#### 4. AUDIENCE

The audience for this AC is air operators, fractional ownership program managers, and their employees or representatives responsible for passenger notification requirements, including ticketing, check-in, and baggage acceptance for operations conducted under 14 CFR Parts 121 and 135.

#### 5. APPLICABILITY

This AC is applicable to all operations subject to the HMR and the passenger notification regulations contained in 49 CFR 175.25. In particular, the AC applies to operations as follows:

- (a) this AC is applicable to operations conducted in accordance with 14 CFR Parts 121 and 135; and
- (b) this AC does not apply to operations conducted in accordance with 14 CFR Part 91 (including subpart K) in that 14 CFR 91.1005(a) prohibits operations for compensation or hire.

#### 6. HOW TO USE THIS AC.

This AC is divided into two primary sections: a section for 14 CFR Part 121 and Part 135 scheduled operations and a section for 14 CFR Part 135 on-demand operations. Within each section, guidance is given on how to notify passengers of the hazardous materials restrictions at the time of ticket purchase and at the time of check-in. This guidance is organized based on how passengers commonly purchase their tickets or check-in and on whether or not a passenger is ticketed and/or generates revenue for the air operator. It is recognized that some airline operators may not provide all options for ticket purchase and check-in as, or may provide other options than, those mentioned in this AC. The guidance given in the AC may be used in whole or in part, with the understanding that the air operator is ultimately responsible for regulatory compliance.

For the purposes of this AC, use of the word “telephone” or “phone” refers to assisted transactions (speaking to an individual or automated service) and use of the word “mobile device” refers to an unassisted transaction using a mobile application or electronic transaction.

## 7. REGULATORY REFERENCES.

- Title 49 CFR Part 175, § 175.25, Notification at air passenger facilities of hazardous materials restrictions.
- ICAO TI; Part 7, Chapter 5, Provisions Concerning Passengers and Crew
- ICAO TI; Part 8, 1.1.2; Dangerous Goods Carried by Passengers or Crew
- Title 14 CFR Part 121, Operating Requirements: Domestic, Flag, and Supplemental Operations
- Title 14 CFR Part 135, Operating Requirements: Commuter and on Demand Operations and Rules Governing Persons on Board Such Aircraft

## 8. RELATED MATERIAL (current editions):

- International Air Transport Association (IATA) Dangerous Goods Regulations (DGR); Section 2.3; Dangerous Goods Carried by Passengers or Crew
- Airlines for America (A4A); TPM Resolution 30.07

## 9. DEFINITIONS.

*Note: These definitions are based on regulatory definitions in 14CFR, 49CFR, IATA, ICAO, etc. and have been modified for the purpose of this Advisory Circular only.*

### (a) Check-in.<sup>1</sup>

The check-in process involves a boarding entitlement document(s), whether electronic or paper, and those activities necessary to evaluate, inform and prepare passengers to board flight(s).

### (b) Fixed-base operator (FBO).

A facility that is maintained to provide services to general aviation aircraft including passenger enplanement, fuel and maintenance, and other essential services.

### (c) Flight Booking.

An agreement between a passenger/purchaser and a Part 135 operator for transportation. Purchase includes direct payment to an operator, intermediary agent, or agency.

### (d) Non-revenue passengers.<sup>2</sup>

A person traveling free or under token charges, except those expressly named in the definition of revenue passenger; a person traveling at a fare or discount available only to employees or authorized persons of air carriers or their agents or only for travel on the business of the carriers; and an infant who does not occupy a seat.

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<sup>1</sup> IATA/A4A Glossary

<sup>2</sup> 14CFR §217.1

The definition includes but is not limited to airline retirees, discounted travel for travel agents, buddy passes/companion fares, and mechanics traveling on company business, in addition to the following examples of passengers when traveling free or pursuant to token charges including but not limited to:

- (1) Directors, officers, employees, and others authorized by the air carrier operating the aircraft;
- (2) Directors, officers, employees, and others authorized by the air carrier or another carrier traveling pursuant to a pass interchange agreement;
- (3) Travel agents being transported for the purpose of familiarizing themselves with the carrier's services;
- (4) Witnesses and attorneys attending any legal investigation in which the carrier is involved;
- (5) Persons injured in aircraft accidents, and physicians, nurses, and others attending such persons;
- (6) Any persons transported with the object of providing relief in cases of general epidemic, natural disaster, or other catastrophe;
- (7) Law enforcement officials, including any person who has the duty of guarding government officials who are traveling on official business or traveling to or from such duty;
- (8) Guests of an air carrier on an inaugural flight or delivery flight of newly-acquired or renovated aircraft;
- (9) Security guards who have been assigned the duty to guard such aircraft against unlawful seizure, sabotage, or other unlawful interference;
- (10) Safety inspectors of the National Transportation Safety Board or the FAA in their official duties or traveling to or from such duty;
- (11) Postal employees on duty in charge of the mails or traveling to or from such duty;
- (12) Technical representatives of companies that have been engaged in the manufacture, development or testing of a particular type of aircraft or aircraft equipment, when the transportation is provided for the purpose of in-flight observation and subject to applicable FAA regulations;
- (13) Persons engaged in promoting air transportation;
- (14) Air Marshals and other Transportation Security Administration officials acting in their official capacities and while traveling to and from their official duties;
- (15) Other authorized persons, when such transportation is undertaken for promotional purpose;
- (16) Supernumeraries (company employees present in the cabin of aircraft for the purpose of conducting certain passenger service or other non-safety-related activities such as serving beverages, conducting customer relations, or selling tickets, and not listed on the load manifest as either crewmembers or flight attendants.));
- (17) Occupants of ferry flights; and
- (18) Mechanics.

**(e) Non-ticketed Revenue passengers.**

A passenger for whose transportation an air carrier receives commercial remuneration but the passenger is not required to produce a boarding authority or ticket. This includes, but is not limited to, the following types of “non-ticketed” operations:

- (1) Charters;

- (2) Military Charters; and
- (3) Persons who are not employees of the air carrier present on the aircraft to perform certain passenger service or other non-safety-related duties, (e.g. horse handler, medevac medical nurse)

**(f) On-demand operators.**

Air carrier certificate holders who conduct Part 135 operations as on-demand direct air carriers in accordance with Title 14 CFR 119.

**(g) Passenger.**

A person aboard a covered flight segment regardless of whether he or she paid for the transportation, had a reservation, or occupied a seat, except the crew. For the purposes of this AC, passenger includes, but is not limited to, a revenue or non-revenue passenger, a person holding a confirmed reservation, a standby or walkup, a person rerouted from another flight or airline, an infant held upon a person's lap and a person occupying a jump seat. Airline personnel who are on board but not working on that particular flight segment would be considered passengers for the purpose of this AC. (14 CFR 243.3)

**(h) Person acting on passenger's behalf.**

Includes, but is not limited, to anyone designated or authorized by the passenger(s) to conduct ticketing and/or check-in for the passenger(s) (e.g. administrative assistant, family member, friend, charter coordinator, [group leader](#), etc.)

**(i) Revenue passengers.**

Persons receiving air transportation from the air carrier for which remuneration is received by the carrier. Air carrier employees or others receiving air transportation against whom token service charges are levied are considered non-revenue passengers. Lap-held infants for whom a token fare is charged but do not occupy their own individual seat are considered non-revenue passengers.

Revenue passengers include, but are not limited to, the following examples:

- (1) Passengers traveling under publicly available tickets including promotional offers (for example two-for-one) or loyalty programs (for example, redemption of frequent flyer points);
- (2) Passengers traveling on vouchers or tickets issued as compensation for denied boarding or in response to consumer complaints or claims;
- (3) Passengers traveling at corporate discounts;
- (4) Passengers traveling on preferential fares (government, seamen, military, youth, student, etc.);
- (5) Passengers traveling on barter tickets; and
- (6) Unaccompanied minors and infants traveling on confirmed-space tickets (occupying a seat).



(j) Scheduled flight operations.

Transport service operated over routes pursuant to published flight schedules.

(k) Single entity charter.

A business arrangement between a customer and an air carrier where the entire capacity of the aircraft is purchased for a flight segment or series of flight segments.

(l) Source of information.

A referenced government or commercial website, information telephone line, or third party that provides accurate information to passengers on the types of hazardous materials that are permitted and forbidden on aircraft either as carry-on baggage, checked baggage, or on their person. (See Section 21 for example sources of information)

(m) Ticket Seller.

An aircraft operator, any person acting on the aircraft operator's behalf, or any other person who sells, offers for sale, or holds itself out as selling air transportation.

(n) Ticket purchase.

An airline ticket is a legal record or document confirming the purchase of a seat on an airline flight for a specific date and time; documents may include a paper ticket, electronic ticket, passenger itinerary receipt, purchase invoice, purchase confirmation, boarding document(s), etc. and represent an agreement between a passenger/purchaser and an airline operator for transportation. Purchase includes direct payment to an air operator, intermediary agent or ticket seller, tour operator, ticketing outlet, etc.

## 10. BASIC REGULATORY REQUIREMENTS

The regulatory requirements for notification to passengers of hazardous materials restrictions and passenger acknowledgement are contained in 49 CFR 175.25 and have been summarized below in a tabular format.

Passenger Notification		
Location	Operation	
	Ticket Purchase	Check-in
<b>Non-Remote</b> (e.g. at the airport with the assistance of an airline representative)	Information on the types of hazardous materials that are forbidden must be conveyed to passengers.	Signage is acceptable
<b>Remote</b> (unassisted; e.g. internet, airport kiosk, off-airport check-in, etc.)	Effective January 1, 2015, passengers must indicate understanding of the hazardous materials	Effective January 1, 2015, passengers must indicate understanding of the hazardous materials restrictions prior to

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	restrictions prior to completion of ticket purchase.	completion of check-in.
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**B. IMPLEMENTATION GUIDANCE FOR SCHEDULED OPERATIONS UNDER PART 121 and PART 135-OPERATORS**

**11. PART 121 SCHEDULED FLIGHT OPERATIONS**

Most U.S. passenger airline travel is conducted under Part 121 scheduled flight operations. Passengers typically purchase airline tickets unassisted using an Internet enabled tool (e.g. website, mobile device or kiosk) or assisted through direct interaction, which may include, but is not limited to, in person, telephone and E-mail/internet messaging, with an airline representative or an airline's appointed representative. Passengers typically check-in unassisted using an Internet enabled tool (e.g. website, mobile device, kiosk or RFID chip) or assisted through direct interaction with an airline representative or an airline's appointed representative (e.g. curbside agent, cruise agent or hotel agent). Passengers may check baggage at the counter or at the gate or they may carry baggage into the cabin. ~~Part 121 operators own, lease, and/or maintain air passenger facilities including ticket counters, gates, baggage claim areas, and offices.~~

**(a) Contact with the Passenger**

Passengers will typically complete the ticket purchase and check-in process which may or may not include using the following methods:

**(1) Time of Ticket Purchase.**

- Mobile Device (unassisted)
- Telephone (assisted)
- Ticket Counter (assisted)
- E-mail/Internet Message (assisted)
- Internet/Online/Website (unassisted)
  - a. online from airline website
  - b. online from third party website
- Kiosk (unassisted)

**(2) Check-in.**

- Mobile Device (unassisted)
- Ticket Counter (assisted)
- Curbside or other (assisted)
- Internet/Online/Website (unassisted)
  - a. online from airline website
  - b. online from third party website
- Kiosk (unassisted)
- Other (unassisted)
  - a. cruise line service
  - b. park and ride service

## **(b) Methods of Information Delivery**

Operators and other ticket sellers (including travel agencies, third party ticket sellers, corporate travel department(s), and online ticket providers) provide information on hazardous materials permitted and forbidden for transport during the ticket purchase process. Such information may be provided by:

- Verbal notice
- Written notice through contract / agreement
- Itinerary receipt
- Ticket receipt or email confirmation
- Reference or link to a source of information

## **(c) Baggage**

For the purposes of this Advisory Circular, baggage surrendered gate/planeside is considered as checked baggage.

## **(d) Group Travel**

In instances where a single person ([purchaser](#)) is acting on behalf of a group of passengers in relation to the ticket purchase ~~and check-in processes~~, that single person ~~should is\_~~ [provide assuming the responsibility of providing information on the](#) hazardous materials restrictions to each passenger traveling. ~~The purchaser will provide an , and is responsible for providing the~~ indication of understanding on behalf of the group.

[In instances where a single person is acting on behalf of a group of passengers in relation to the check-in process that single person should provide information on the hazardous materials restrictions to each passenger traveling. The individual will provide an indication of understanding on behalf of the group.](#)

## **(e) Code Share Operations**

In the case of code share operations, it is the responsibility of each airline operator to ensure that a notification of hazardous materials restrictions is provided and an acknowledgement is obtained from passengers. This may be achieved through contractual agreements between airline operators. Nonetheless, it may be generally assumed that passengers who have checked-in at a foreign airport or with another operator (foreign or domestic) have received notification of the hazardous materials restrictions and/or provided acknowledgement since most airline operators follow the ICAO TI or the HMRs.

## **(f) Airline Employees**

It is recommended that airline employees be provided annual training on the hazardous materials restrictions including the notification and acknowledgement requirements of 49 CFR 175.25 and the passenger exceptions in 49 CFR 175.10.

## **12. TYPES OF PASSENGER NOTIFICATION ELEMENTS.**

The exact text (or dialogue, or pictograms) of the notification used to convey hazardous materials information to passengers is not mandatory. The operator may choose which examples to use based on commonly confiscated items. In addition, it is recommended that emphasis be given to items that have been involved in incidents<sup>3</sup>, such as lithium batteries and oxygen.

In addition, the notification may include information on items that the passenger is permitted to carry on board the aircraft in either checked baggage, carry-on baggage, or on their person. For example, items such as small quantities of medicinal and toilet articles and lithium batteries and spares, as well as the conditions for carriage of these items, may be included in the notification.

The passenger notification may include the following elements:

**(a) Categories of hazardous materials that are generally forbidden for carriage;**

- (1) Flammable substances
- (2) Explosives
- (3) Oxidizers
- (4) Poisons
- (5) Compressed gases
- (6) Corrosives
- (7) Radioactive materials
- (8) Other items such as lithium batteries, boxes displaying hazmat markings, etc.

**(b) Examples of hazardous materials forbidden for carriage; and**

- (1) Lithium batteries (e.g. spares in checked baggage, batteries over a certain size)
- (2) Aerosols
- (3) Spray starch
- (4) Fireworks
- (5) Liquid fuels (e.g. gasoline, butane, lighter fluid)
- (6) Liquid oxygen
- (7) Torch lighters
- (8) Strike anywhere matches
- (9) Pesticides
- (10) Oxygen bottles or cylinders - compressed oxygen for use on flight that is not provided by the air operator.

**(c) Penalties for violations.**

- (1) Civil (penalty amounts may be included, i.e. minimum \$250USD/violation, average \$1000/violation, or maximum \$250,000); and/or
- (2) Criminal (up to 5 years imprisonment).

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<sup>3</sup> 49 CFR 171.15/§171.16/§175.31

*Note: Information on penalties for violations is only required to be placed on airport signage and is optional for all other passenger notifications.*

### 13. APPLICABILITY OF PASSENGER NOTIFICATION

Passenger notification of hazardous materials restrictions should be built into the general process for ticket purchase and check-in. Passenger notification prior to ticket purchase and check-in is not explicitly required for non-ticketed passengers; however, it is recommended that these passengers be provided hazardous materials information or directed to a source of information at the time their travel arrangements are made. The passenger notification requirements may differ depending on whether or not (i) the ~~Part 121~~ operator issues a ticket or boarding pass to the passenger or (ii) the passenger is revenue or non-revenue. The following table shows when notification may or may not be required:

Passenger Notification				
Boarding Access	Passenger Type			
	Revenue		Non-Revenue	
	Ticket purchase	Check-in	Ticket purchase	Check-in
Ticketed	Required	Required <sup>1</sup>	Recommended	Recommended <sup>1</sup>
Non-Ticketed <sup>2</sup>	Recommended Hazardous materials information be provided, during booking, or when travel arrangements are made via contract or agreement.	Recommended <sup>1</sup>	Recommended, <sup>3</sup> Hazardous materials information be provided, during booking, or when travel arrangements are made via contract or agreement.	Recommended <sup>1,3</sup>

<sup>1</sup>Signage may satisfy this requirement.

<sup>2</sup>Charter operations and carriage of supernumeraries are considered to be non-ticketed.

<sup>3</sup>Airline employees may be allowed to complete a training course on hazardous materials passenger restrictions and provide an annual acknowledgement.

*Note: When a ticket purchase and check-in occurs in a single transaction, hazardous materials notification and passenger acknowledgement are required at least once prior to the completion of the transaction (e.g. passenger purchases ticket on same day as travel).*

*Note: In instances where a single check-in transaction triggers one or more subsequent check-in transactions as part of a single itinerary, one indication of understanding of hazardous materials restrictions will suffice only if the itinerary is completed within [TBD] days (e.g. same day travel or automated check-in etc.).*

### 14. INDICATION OF UNDERSTANDING HAZARDOUS MATERIALS RESTRICTIONS.

Information regarding the hazardous materials restrictions for checked or carry-on baggage must be provided to the passenger or a person acting on the passenger's behalf during the

ticket purchase and check-in process. Before the passenger can proceed with ticket purchase or check-in, the passenger must acknowledge understanding of the hazardous material restrictions.

Options for indication of understanding the restrictions could include:

- For internet, mobile device, or kiosk, a button that requires a “click” to agree and proceed;
- For assisted transactions via phone, e-mail, or ticket counter, an affirmative response from the passenger such as a verbal “I agree”, “I acknowledge”, or “I understand” or a signature; or
- For other unassisted check-in, a signature (e.g. baggage drop service) or a button that requires a “click” to agree and proceed.

Systems that allow a single check-in process (e.g., automatic check-in) for a multi-flight itinerary require acknowledgement during the initial check-in process only (before first flight on a ticketed itinerary).

In addition, the method of passenger acknowledgement may differ depending on whether or not (i) the [Part 121](#) operator issues a ticket or boarding pass to the passenger or (ii) the passenger is a revenue or non-revenue passenger. The following table shows when an acknowledgement may or may not be required:

Passenger Acknowledgement				
Boarding Access	Passenger Type			
	Revenue		Non-Revenue	
	Ticket purchase	Check-in	Ticket purchase	Check-in
<b>Ticketed</b>	Required	Required	Required	Required
<b>Non-Ticketed<sup>2</sup></b>	Recommended	Recommended	Recommended <sup>1</sup>	Recommended <sup>1</sup>

<sup>1</sup> Airline employees may be allowed to complete a training course on hazardous materials passenger restrictions and provide an annual acknowledgement.

<sup>2</sup> Charter operations and carriage of supernumeraries are considered to be non-ticketed.

## 15. NOTIFICATION AT TIME OF TICKET PURCHASE

The passenger or the person acting on the passenger’s behalf must indicate understanding of the restrictions on hazardous materials in baggage or on their person prior to the completion of the ticket purchase process.

### (a) Mobile device

#### (1) Recommended mobile device message:

*“Hazardous Materials like aerosols (e.g., spray starch), lithium batteries, torch lighters, liquid fuels (e.g., gasoline), and fireworks may be forbidden in your baggage or on your person. Penalties may apply if you carry forbidden items.”*

(2) Alternate mobile device message:

*“Federal law forbids the carriage of certain hazardous materials, like aerosols, fireworks, and flammable liquids, aboard the aircraft. If you do not understand these restrictions, contact your airline or go to [a source of information].”*

For mobile device messages, other examples of forbidden items may be used. At a minimum it is recommended that at least three examples or categories be given. See section 12 for other recommended examples and categories.

It is recommended that the passenger be provided additional information upon request. This could be a link to a source of information or instructions to contact their airline representative.

For example:

*“If you don’t understand these restrictions, go to [a source of information].” or*

*“If you don’t understand these restrictions, contact [your airline].”*

**(b) In Person, by Telephone, or E-mail/Internet Messaging (assisted)**

Prior to ticketing, information on hazardous materials restrictions such as the options below must be provided by a reservation agent and/or an automated service message announcement. If an automated message is utilized, the message must be heard in its entirety and an active selection made.

(1) Recommended (assisted) message:

*“Do you understand that Federal law prohibits the carriage of certain hazardous materials aboard aircraft in your luggage or on your person and could result in a fine?”*

If “yes”: Ticket purchase may be completed.

If “no”: The ticket seller may choose to verbally answer any questions, or information can be sent with the ticket or ticket receipt, or the passenger or a person acting on the passenger’s behalf can be referred to a source of information. The ticket seller must receive a positive acknowledgement of understanding before the ticket purchase may be completed. As examples, the following additional messages may be used to solicit a “yes” at the time of ticket purchase:

*“With your ticket receipt (or confirmation) we will send you information on hazardous materials that are forbidden on aircraft. At check-in you will be required to acknowledge understanding of these restrictions. Do you agree to read the information prior to packing your bags and checking-in at the airport?”*

or

*“To learn more about prohibited items go to [a source of information]. At check-in you will be required to acknowledge understanding of hazardous materials restrictions. Do you*



*agree to consult [a source of information] prior to packing your bags and checking-in at the airport?”*

(2) Recommended automated (program assisted) message:

*“Do you understand that Federal law forbids the carriage of certain hazardous materials, like aerosols, fireworks, and flammable liquids, aboard the aircraft? If you understand these restrictions, press or say 1. If you do not understand, press or say 2.”*

If “1” is selected: Ticket Purchase may be completed.

If “2” is selected: The automated system can provide more detailed automated information, refer the passenger or a person acting on the passenger’s behalf to a source of information, or direct the passenger or a person acting on the passenger’s behalf to a live person. Ticket purchase through the automated system must not be completed until the passenger or a person acting on the passenger’s behalf acknowledges understanding.

(c) **Online via website or at an airport kiosk**

Prior to ticketing, information on hazardous materials restrictions must be provided and the passenger, or a person acting on the passenger’s behalf, must give an indication of understanding.

A stand-alone notification that displays the hazardous materials restrictions either through text or pictorial form may be used. Alternatively, the notification may be part of the general terms and conditions that are displayed before the ticket is purchased; however, information on hazardous materials restrictions should be prominently displayed.

(1) Recommended online or kiosk message (text):

*“Some everyday products, like aerosol spray starch, can be dangerous when transported on the aircraft in carry-on and/or checked baggage. Changes in temperature or pressure can cause some items to leak, generate toxic fumes or start a fire. Carriage of prohibited items may result in fines or in certain cases imprisonment. Please ensure there are no forbidden hazardous materials in your baggage like:*

- *Some Lithium batteries (e.g. spares in checked baggage, batteries over a certain size)*
- *Explosives / Fireworks*
- *Strike anywhere matches/ Lighter fluid*
- *Compressed gases / Aerosols*
- *Oxygen bottles/ Liquid oxygen*
- *Flammable liquids*
- *Pesticides/ Poison*
- *Corrosive material*

*There are special exceptions for small quantities (up to 70 ounces total) of medicinal and toilet articles carried in your luggage, spare lithium batteries for most consumer electronic devices in carry-on baggage, and certain smoking materials carried on your person.*

*Baggage may contain items that are required to be carried with you onboard the aircraft. For example, spare lithium batteries for portable electronic devices and cigarette lighters must be removed from checked or gate-checked baggage and carried onboard the aircraft.*

*Traveling with medical oxygen, liquid oxygen, mobility aids and other assistive devices may require airline pre-approval or be restricted from carriage entirely. Passengers requiring these items should contact the airline operator for information on use of such devices.”*

(2) Recommended online or kiosk message (pictorial):

Pictorial examples should include items commonly carried by passengers and could be specific to the airline operation. Pictorial examples could include hazard labels and common commodities for each hazard class. Examples of common items by hazard include:

- Spare or loose lithium batteries
- Explosives / Fireworks
- Strike anywhere matches/ Lighter fluid
- Compressed gases / Aerosols
- Oxygen bottles/ Liquid oxygen
- Flammable liquids
- Pesticides/ Poison
- Corrosive material

Note: Use of pictorial format is preferred, and it is allowed by ICAO Technical Instructions (See Section 7, Regulatory References).

## 16. NOTIFICATION AT TIME OF CHECK-IN:

The passenger or the person acting on the passenger’s behalf must indicate understanding of the restrictions on hazardous materials in baggage or on their person prior to the completion of the check-in process.

(a) **Mobile device**

(1) Recommended mobile device message:

*“Hazardous Materials like aerosols (e.g. spray starch), lithium batteries, torch lighters, liquid fuels (e.g. gasoline), and fireworks may be forbidden in your baggage or on your person. Penalties may apply if you carry forbidden items.”*

(2) Alternate mobile device message:

*“Federal law forbids the carriage of certain hazardous materials, like aerosols, fireworks, and flammable liquids, aboard the aircraft. If you do not understand these restrictions, contact your airline or go to [a source of information].”*

For mobile device messages other examples of forbidden items may be used. At a minimum it is recommended that at least three examples or categories be given. See section 12 for other recommended examples and categories.

It is recommended that the passenger be provided additional information upon request. This could be a link to a source of information or instructions to contact their airline representative.

For example:

*“If you don’t understand these restrictions go to [a source of information].” or*

*“If you don’t understand these restrictions contact [your airline].”*

**(b) In Person, by Telephone, or E-mail/Internet messaging (assisted)**

In person (assisted) passenger notification at check-in may be completed through signage (electronic or otherwise), provided it is legible and prominently displayed.

Check-in by telephone or electronic communication with the assistance of a representative or automated service is not an option offered by operators and therefore no guidance is offered.

**(c) Online via website or at an airport kiosk**

Prior to check-in, information on hazardous materials restrictions must be provided and the passenger must give an indication of understanding.

A stand-alone notification that displays the hazardous materials restrictions to the passenger either through text or pictorial form may be used. Alternatively, the notification may be part of the general terms and conditions that are displayed before the ticket is purchased; however, information on hazardous materials restrictions should be prominently displayed.

**(1) Recommended online or kiosk message (text):**

*“Some everyday products, like aerosol spray starch, can be dangerous when transported on the aircraft in carry-on and/or checked baggage. Changes in temperature or pressure can cause some items to leak, generate toxic fumes or start a fire. Carriage of prohibited items may result in fines or in certain cases imprisonment. Please ensure there are no forbidden hazardous materials in your baggage such as:*

- *Some Lithium batteries (e.g. spares in checked baggage, batteries over a certain size)*
- *Explosives / Fireworks*
- *Strike anywhere matches/ Lighter fluid*
- *Compressed gases / Aerosols*
- *Oxygen bottles/ Liquid oxygen*
- *Flammable liquids*
- *Pesticides/ Poison*
- *Corrosive material*

*There are special exceptions for small quantities (up to 70 ounces total) of medicinal and toilet articles carried in your luggage, spare lithium batteries for most consumer electronic devices in carry-on baggage, and certain smoking materials carried on your person.*

*Baggage may contain items that are required to be carried with you onboard the aircraft. For example, spare lithium batteries for portable electronic devices and cigarette lighters must be removed from checked or gate-checked baggage and carried onboard the aircraft.*

*Traveling with medical oxygen, liquid oxygen, mobility aids and other assistive devices may require airline pre-approval or be restricted from carriage entirely. Passengers requiring these items should contact the airline operator for information on use of such devices.”*

(2) Recommended online or kiosk message (pictorial):

Pictorial examples should include items commonly carried by passengers and could be specific to the airline operation. Pictorial examples could include hazard labels and common commodities for each hazard class. Examples of common items by hazard include:

- Spare or loose lithium batteries
- Explosives / Fireworks
- Strike anywhere matches/ Lighter fluid
- Compressed gases / Aerosols
- Oxygen bottles/ Liquid oxygen
- Flammable liquids
- Pesticides/ Poison
- Corrosive material

Note: Use of pictorial format is preferred, and is required by ICAO Technical Instructions (See Section 7, Regulatory References).

(d) **Other unassisted** (e.g. cruise line distributes boarding authority/boarding pass and retrieves baggage for delivery to airline or screening area)

In order to utilize the remote unassisted check-in option, the passenger or individual acting on their behalf must be provided the hazardous materials restrictions and indication of understanding (e.g. a signature or electronic acknowledgement) must be obtained, either during the enrollment process (e.g. sign up for check-in/baggage transfer service) or through other means of understanding.

Recommended contract of service message (text):

*“Some everyday products, like aerosol spray starch, can be dangerous when transported on the aircraft in carry-on baggage. Changes in temperature or pressure can cause some items to leak, generate toxic fumes or start a fire. Carriage of prohibited items may result in fines or in certain cases imprisonment. Please ensure there are no forbidden hazardous materials in your baggage such as:*

- *Some Lithium batteries (e.g. spares in checked baggage, batteries over a certain size)*
- *Explosives / Fireworks*
- *Strike anywhere matches/ Lighter fluid*
- *Compressed gases / Aerosols*
- *Oxygen bottles/ Liquid oxygen*
- *Flammable liquids*
- *Pesticides/ Poison*
- *Corrosive material*

*There are special exceptions for small quantities (up to 70 ounces total) of medicinal and toilet articles carried in your luggage, spare lithium batteries in carry-on baggage and certain smoking materials carried on your person.*

*Baggage may contain items that are required to be carried with you onboard the aircraft. Spare lithium batteries and cigarette lighters must be removed from checked or gate-checked baggage and carried onboard the aircraft.*

*Traveling with medical oxygen, liquid oxygen, mobility aids and other assistive devices may require airline pre-approval or be restricted from carriage entirely. Passengers requiring these items should contact the airline operator for information on use of such devices.”*

## **17. DISPLAY OF NOTICES (SIGNAGE)**

The notification provided in 49 CFR 175.25(a)(1) and (2) is required, but the specific wording used in the HMR is not required. Each notice must be legible, and be prominently displayed so it can be seen by passengers in locations where the aircraft operator issues tickets, checks baggage, and maintains aircraft boarding areas.

### **(a) Alternate signage message:**

*“Some everyday products, like aerosol spray starch, can be dangerous when transported on the aircraft in carry-on and/or checked baggage. Changes in temperature or pressure can cause some items to leak, generate toxic fumes or start a fire. Carriage of prohibited items may result in fines or in certain cases imprisonment. Please ensure there are no forbidden hazardous materials in your baggage such as:*

- *Some Lithium batteries (e.g. spares in checked baggage, batteries over a certain size)*
- *Explosives / Fireworks*
- *Strike anywhere matches/ Lighter fluid*
- *Compressed gases / Aerosols*
- *Oxygen bottles/ Liquid oxygen*
- *Flammable liquids*
- *Pesticides/ Poison*
- *Corrosive material*

*There are special exceptions for small quantities (up to 70 ounces total) of medicinal and toilet articles carried in your luggage, spare lithium batteries in carry-on baggage and certain smoking materials carried on your person.”*

**(b) Electronic signage**

Recognizing the advances in technology and electronic communication, it is recommended the hazardous materials restrictions be incorporated into electronic displays when possible. Electronic signage may be used in lieu of physical signage. When electronic displays are used, the hazardous materials information may be cycled at an appropriate interval that ensures passenger visibility.

**C. IMPLEMENTATION GUIDANCE FOR PART 135 ON-DEMAND OPERATORS**

**18. PART 135 ON-DEMAND OPERATIONS**

~~Unlike Part 121 operations,~~ Part 135 on-demand operators do not typically issue tickets, check baggage, or maintain aircraft boarding areas. In most cases, passengers arrange for transportation via a flight booking process and the business arrangement is documented by a flight confirmation document ~~between the operator and the lead passenger.~~ Passengers do not check baggage in the conventional sense; baggage is placed in the aircraft baggage compartment during the boarding process. ~~Finally, Part 135 operators do not maintain aircraft boarding areas, except possibly at their principal base of operations and in some cases board directly from their vehicles. Most passenger enplanements occur at fixed base operator (FBO) facilities which are not usually owned, leased, or otherwise under the control of the Part 135 operator.~~

When tickets ~~are not issued~~ or formal check-in processes are not utilized, Part 135 on-demand operators ~~should may~~ notify passengers of the restrictions contained in the HMR using one or more of the following alternate methods:

- Notification at time of flight booking (includes verbal or electronic means);
- Contract or other written agreement established with the operator;
- Verbal notification or signage to passengers available at time of boarding; or
- Other means established by the operator.

**19. DISPLAY OF NOTICES (SIGNAGE)**

**(a) General**

Part 135 on-demand operators do not typically issue tickets, check baggage, or maintain aircraft boarding areas. These operators typically provide single entity charters, where one person has purchased the entire seating capacity of the aircraft for the flight. ~~Part 135 operators enplane passengers at fixed base operator (FBO) facilities or private use facilities where the Part 135 operator does not exert control.~~

Passenger enplanement areas owned or leased by the Part 135 operator will display the signage as required by 49 CFR 175.25(a).

When display of signage is not practicable, alternate methods of passenger notification may be used as follows:

- Contract or agreement established with operator;
- Passenger newsletter or similar communication;
- Verbal notification at time of baggage acceptance from each passenger; or
- Other means established by the operator.

**(c) Electronic signage**

Recognizing the advances in technology and electronic communication, it is recommended the hazardous materials restrictions be incorporated into electronic displays when possible. Electronic signage may be used in lieu of physical signage. When electronic displays are used, the hazardous materials information may be cycled at an appropriate interval that ensures passenger visibility.

## **D. REFERENCES**

### **20. SOURCES OF INFORMATION**

DOT/PHMSA/FAA/TSA

<http://safetravel.dot.gov/>

TSA

<http://www.tsa.gov/traveler-information/prohibited-items>

FAA

<http://www.faa.gov/go/hazmatsafety>

PHMSA Hazardous Materials Information Center

(800) HMR49-22 or (800) 467-4922

Airline Operator and/or Commercial Websites

An operator of passenger aircraft should have information on hazardous materials permitted and forbidden for transport in accordance with the HMR. This information should be made available prior to the check-in process on their websites or via another source of information.

If the passenger is referred to an airline's website or a commercial website for more information, it is recommended that the website contain comprehensive, updated information consistent with the content of the regulations and/or government websites.



10–07 and 31–10–08, both dated November 25, 2009, of Chapter 31, Indicating/Recording Systems in RUAG Aerospace Services GmbH Dornier 228 Airplane Maintenance Manual, TM–AMM–228–00014–080184, Revision 3, October 30, 2012.

(2) If any chafed or damaged wires are found during any inspection required in paragraph (f)(1) of this AD, before further flight, repair the affected wire(s) and assure correct installation of the wiring in the flight deck overhead panels by reattaching or replacing the wire tie attachment holders and securing any loose wires to the wire tie attachment holders with plastic wire ties following subjects 31–10–07 and 31–10–08, both dated November 25, 2009, of Chapter 31, Indicating/Recording Systems in RUAG Aerospace Services GmbH Dornier 228 Airplane Maintenance Manual, TM–AMM–228–00014–080184, Revision 3, October 30, 2012.

(3) To comply with the actions of this AD, you may insert a copy of this AD or a copy of the required actions of this AD into the airworthiness limitations section of the FAA-approved maintenance program (e.g., maintenance manual). This action may be done by an owner/operator (pilot) holding at least a private pilot certificate and must be entered into the airplane records showing compliance with this AD in accordance with 14 CFR 43.9 (a)(1)(4) and 14 CFR 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.173 or 135.439.

#### (g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; fax: (816) 329–4090; email: [karl.schletzbaum@faa.gov](mailto:karl.schletzbaum@faa.gov). Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product*: For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

#### (h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2013–0244, dated October 4, 2013, for related information. You may examine the MCAI on the Internet at <http://www.regulations.gov> by searching for and locating it in Docket No. FAA–2013–1056. For service information related to this AD, contact RUAG Aerospace Services GmbH, Dornier 228 Customer Support, P.O. Box 1253, 82231 Wessling, Germany;

telephone: +49 (0) 8153–30 2220; fax: +49 (0) 8153–30 4258; email: [custsupport.dornier228@ruag.com](mailto:custsupport.dornier228@ruag.com); Internet: [http://www.ruag.com/en/Aviation/Aviation\\_Home](http://www.ruag.com/en/Aviation/Aviation_Home). You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on February 25, 2014.

**Steven W. Thompson,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2014–04699 Filed 3–3–14; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 175

[Docket No. FAA–2014–0131]

#### Notice of Availability of Proposed Advisory Circular for Passenger Notification Hazardous Materials Regulations

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** In April 2013, the FAA Administrator chartered an Aviation Rulemaking Committee to develop recommendations that would establish an acceptable and effective means for air carriers to notify passengers of hazardous materials regulations. In November 2013, that Aviation Rulemaking Committee published a report containing its recommendations, as well as a proposed Advisory Circular with one or more means for air carriers to comply with passenger notification regulations. The FAA invites public comment on the Aviation Rulemaking Committee's recommended guidance.

**DATES:** Comments must be received by April 3, 2014.

**ADDRESSES:** Send comments identified by docket number FAA–2014–0131 using any of the following methods:

- *Federal eRulemaking Portal*: Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.
- *Mail*: Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier*: Take comments to Docket Operations in

Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax*: Fax comments to Docket Operations at 202–493–2251.

*Privacy*: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

*Docket*: Background documents or comments received may be read at <http://www.regulations.gov> at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

Richard Bornhorst or Kenneth Miller, International and Domestic Standards Division, Office of Hazardous Materials Safety, Federal Aviation Administration, 470 L'Enfant Plaza SW., Washington, DC 20024; telephone (202) 385–4906, or (202) 385–4916.

#### SUPPLEMENTARY INFORMATION:

##### Background

In April 2013, the FAA Administrator chartered an Aviation Rulemaking Committee (ARC) to develop recommendations that would establish an acceptable and effective means for air carriers to notify passengers of hazardous materials regulations. The ARC's charter can be viewed online at: [http://www.faa.gov/regulations\\_policies/rulemaking/committees/documents/media/PassengerNotificationofHazardousMaterialsRegulations.ARC.Cht.04302013.pdf](http://www.faa.gov/regulations_policies/rulemaking/committees/documents/media/PassengerNotificationofHazardousMaterialsRegulations.ARC.Cht.04302013.pdf).

In November 2013, the ARC submitted a report containing its recommendations, as well as an Advisory Circular (AC) proposing one or more means for air carriers to comply with passenger notification requirements under Title 49, Code of Federal Regulations (49 CFR) part 175. The FAA invites public comment on the ARC's recommended guidance, which can be found in the docket.

##### Comments Invited

As noted in the ARC's report, the ARC was comprised of experts representing air carriers, pilots, flight attendants, the

travel industry, as well as the FAA and Pipeline and Hazardous Materials Safety Administration. The ARC now seeks input from the general public and is particularly interested in feedback from entities subject to passenger notification regulations prescribed by U.S. Hazardous Materials (49 CFR 175.25). We note that operators transporting passengers in commerce under 14 CFR parts 135 and 91 are subject to the noted 49 CFR regulation, and it is important that a final AC provide a clear, acceptable, and effective means for these operators to communicate hazardous materials regulations to their passengers.

The ARC will review all comments received and consider them in its final recommendation to the FAA.

Issued in Washington, DC, on February 26, 2014.

**Christopher Glasow,**  
*Director, Office of Hazardous Materials Safety.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 15

[Docket No. FDA-2013-N-0745]

#### Action Plan for the Collection, Analysis, and Availability of Demographic Subgroup Data in Applications for Approval of Food and Drug Administration-Regulated Medical Products; Notice of Public Hearing; Request for Comments

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notification of public hearing; request for comments.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing a public hearing to obtain input on the issues and challenges associated with the collection, analysis, and availability of demographic subgroup data in applications for approval of FDA-regulated human medical products.

**DATES:** The public hearing will be held on April 1, 2014, from 9 a.m. to 3 p.m. Submit electronic or written requests to make oral presentations at the hearing by March 21, 2014. Electronic or written comments will be accepted after the hearing until May 16, 2014.

**ADDRESSES:** The public hearing will be held at FDA's White Oak Campus, 10903 New Hampshire Ave., Bldg. 31,

Conference Center, the Great Room (Rm. 1503A), Silver Spring, MD 20993.

Entrance for the public hearing participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For parking and security information, please refer to <http://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm>.

Submit electronic comments to <http://www.regulations.gov>. Submit written comments to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the corresponding docket number for the public meeting as follows: "Docket No. FDA-2013-N-0745, Action Plan for the Collection, Analysis, and Availability of Demographic Subgroup Data in Applications for Approval of FDA-Regulated Human Medical Products, Public Hearing."

#### FOR FURTHER INFORMATION CONTACT:

Brenda Evelyn, Office of the Commissioner, Office of Minority Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 2303, Silver Spring, MD 20993 240-402-4201, email: [FDASIA907@fda.hhs.gov](mailto:FDASIA907@fda.hhs.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

In section 907 of the Food and Drug Administration Safety and Innovation Act (FDASIA) (Pub. L. 112-144), the U.S. Congress directed FDA to produce a report that addressed the extent to which clinical trial participation and the inclusion of safety and effectiveness data by demographic subgroups, including sex, age, race, and ethnicity, is included in applications submitted to FDA. Specifically, Congress asked FDA to consider four key topic areas: (1) A description of existing tools to ensure submission of demographic information along with how information about differences in safety and effectiveness of medical products according to demographic subgroup is made available to health care providers, researchers, and patients; (2) an analysis of the extent to which demographic data subset analyses are presented in applications; (3) an analysis of demographic subgroup representation in clinical trials submitted to FDA in support of product applications; and (4) an analysis of the extent to which a summary of product safety and effectiveness data by demographic subgroup is made available to the public

in product labeling or on FDA's Web site.

To comply with that request, in August 2013, FDA published a report "Collection, Analysis, and Availability of Demographic Subgroup Data for FDA-Approved Medical Products."<sup>1</sup> The report describes the Agency's evaluation of 72 applications approved during 2011 for new molecular entity drug products, original biologics, and class III devices (premarket approval).

Regarding collection of data, although there was variation by product area, the evaluation found FDA's statutory and regulatory requirements, guidances, policies, and procedures generally informed sponsors about including tabulations of the demographic data on clinical trial participants and demographic subset analyses in their medical product applications.

Similarly, tools (e.g., application review templates and FDA standard operating policies and procedures) guide regulatory review staff in the assessment of marketing applications to ensure that demographic data and subset analyses are included in the information FDA uses in its review and approval processes.

However, the extent to which demographic subset data were analyzed varied across medical product types (drugs, biologics, and devices). Applications for drugs and biologics uniformly addressed subset analyses by sex, race, and age—that is, the applications mentioned demographic subsets in some way. The report noted that FDA's new drug application regulations (21 CFR part 314; specifically § 314.50) call for demographic analysis in all applications in the integrated summaries of safety and effectiveness. Guidance and standard operating procedures for drugs and biologics also emphasize the importance of such analyses. There are no regulations requiring demographic analysis for device applications. Nonetheless, the majority of the device applications contained a subset analysis for age and sex, with a lower percentage of applications containing a subset analysis for race and ethnicity. Inclusion did not necessarily mean that the data on patient subgroups was sufficient for meaningful analysis or to detect relevant subgroup effects.

The report stated that all biologics, drugs, and the majority of the medical

<sup>1</sup> FDA, "Collection, Analysis, and Availability of Demographic Subgroup Data for FDA-Approved Medical Products," August 2012, available at <http://www.fda.gov/downloads/regulatoryinformation/legislation/federalfooddrugandcosmeticact/fdcact/significantamendmentstotheftdcact/fdasia/ucm365544.pdf>.