

BEFORE THE
FEDERAL AVIATION ADMINISTRATION
WASHINGTON D. C.

Petition of:

American Airlines, Inc.
OPERATING CERTIFICATE AALA 025A

For the exemption of certain requirements of
14 CFR §121.1005(a)

PETITION OF AMERICAN AIRLINES, INC
FOR AN EXEMPTION
October 12, 2021

In accordance with the provisions of 14CFR Part 11, Subpart A, American Airlines, Inc. (Certificate Number AALA 025A) petitions on behalf of itself, for relief from the requirements of 14CFR 121.1005(a) allowing for the substitution of hazardous materials training programs meeting the requirements of International Civil Aviation Organization's (ICAO) Technical Instructions on the Safe Transport of Dangerous Goods (ICAO IT) for FAA-Approved initial or recurrent hazardous materials training program.

Section of CFR Affected

§ 121.1005(a) Hazardous Materials training required.

(a) Training requirement. Except as provided in paragraphs (b), (c) and (f) of this section, no certificate holder may use any crewmember or person to perform any of the job functions or direct supervisory responsibilities, and no person may perform any of the job functions or direct supervisory responsibilities, specified in §121.1001(a) unless that person has satisfactorily completed the certificate holder's FAA-approved initial or recurrent hazardous materials training program within the past 24 months.

Purpose

The purpose of this application is to allow the substitution of international training standards as specified in Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO TI) for FAA-approved initial or recurrent hazardous materials training programs, as required in 14CFR Part §121.1005(a).

Regulatory Basis

Training requirements for hazardous materials are located in multiple sections of the Code of Federal Regulations. For Part 121 certificate holders, hazardous materials training is contained in 14CFR Part 121 Subpart Z. This Subpart requires in pertinent part:

1. That persons or crewmembers or persons directly supervising any of the job functions listed in 121.1001(a), must be trained in accordance with 14CFR Part 121 Appendix O and are trained to comply with all applicable parts of 49CFR Parts 171 – 180.
2. No certificate holder may use any crewmember or person to perform any of the job functions or direct supervisory responsibilities specified in 121.1001(a) unless that person has satisfactorily completed the certificate holder's FAA-approved initial or recurrent hazardous materials training program within 24 months.

Additionally, 49 CFR Part 172 Subpart H, Training; prescribes the requirements for training hazmat employees. Under §172.704(a)(2)(ii):

Function-specific training.

*(ii) **As an alternative** to function-specific training on the requirements of this subchapter, training relating to the requirements of the ICAO Technical Instructions and the IMDG Code may be provided to the extent such training addresses functions authorized by [Subpart C of Part 171 of this subchapter](#).*

The original regulatory language in §172.704(a)(2)(ii) was published in the Federal register on May 15, 1992 (FR 57 20952) by the Research and Special Programs Administration. The original language contained in the final rule allows for the substitution of ICAO Technical Instructions. The original language below was obtained from Federal Register documents.

§ 172.704 Training requirements.

(a) Hazmat employee training shall include the following:

(2) Function-specific training.

(ii) Training conducted by hazmat employers, as necessary, to comply with, and when subject to, the requirements of the ICAO Technical Instructions or the IMDG Code, as

*authorized in §§171.11 and 171.12 of this subchapter, respectively, may be used, when appropriate, to the extent they serve **as a substitute** for the requirements of this section.*

On January 22, 1993 (FR 58 5799-5858) the language in §172.704(a)(2)(ii) was changed to clarify the acceptability of function-specific training under the ICAO Technical Instructions and the IMDG Code. That original language below was also obtained from Federal Register documents.

§172,704 Training requirements.

(a) Hazmat employee training shall include the following:

(2) Function-specific training.

*(ii) **As an alternative** to function specific training on the requirements of this subchapter, training relating to the requirements of the ICAO Technical Instructions and the IMDG Code may be provided to the extent such training addresses functions authorized by §§ 171.11 and 171.12 of this subchapter.*

Adding the phrase, “**as an alternative**” to function-specific training and removing the phrase, “**as a substitute**” has created confusion as to the intent of the language in the regulation. Using the phrase, “**as a substitute**” can be interpreted to mean that training in accordance ICAO Technical Instructions may be used in lieu of the requirements of 49 CFR Part 172 Subpart H to the extent such training address the functions in §§ 171.11 and 171.12 of this subchapter.

In 2007, the Department of Transportation, Pipeline and Hazardous Materials Safety Administration added 49CFR Part 171 Subpart C to the regulatory body. In 2008, an administrative change was made to §172.704(a)(2)(ii) to read from “§§ 171.11 and 171.12” to read “authorized by Subpart C of Part 171 of this subchapter” in order to be consistent with revisions adopted in the final rule issued under Docket No. PHMSA–2005– 24131 (HM–215F, 72 FR 25162, 3/5/07).

This change resulted in the current language for §172.704(a)(2)(ii) below.

(a) Hazmat employee training must include the following:

(2) **Function-specific training.**

(ii) As an alternative to function-specific training on the requirements of this subchapter, training relating to the requirements of the ICAO Technical Instructions and the IMDG Code may be provided to the extent such training addresses functions authorized by [Subpart C of Part 171 of this subchapter](#).

The result of this regulatory review is to show that the language in §172.704(a)(2)(ii) has remained relatively consistent except for the change from “as a substitute” to “as an alternative” and a regulatory update for the addition of 49CFR Part 171 Subpart C.

Nature and Extent of Relief

The purpose of PHMSA and the FAA rulemaking is clearly to harmonize United States regulations and standards with the International Civil Aviation Organizations Technical Instructions for Safe Transport of Dangerous Goods by Air (ICAO TI), the International Maritime Dangerous Goods Code (IMDG Code), and Transport Canada’s Transportation of Dangerous Goods Regulations (Transport Canada TDG Regulations).

However, Part 121 certificate holders, operating at international locations, are unable to take advantage of this harmonization based on the language in §121.1005(a). This regulation requires that hazardous materials training be in accordance with the certificate holder’s FAA-approved initial or recurrent hazardous materials training. This regulation has been interpreted by FAA Safety Inspectors to mean that ICAO TI training cannot be substituted for FAA-approved hazardous material training. This interpretation is in conflict with the original language in the Federal Register relating to §172.704(a)(2)(ii).

The language in the original version of 49CFR Part 172.704(a)(2)(ii), which used the phrase “as a substitute” versus the current language of “as an alternative” appears to be open to multiple interpretations. An argument for allowing Part 121 certificate holders to substitute ICAO TI hazardous materials training, as equivalent to training in accordance with the FAA-approved initial or recurrent training program, is compelling.

Equivalency of ICAO TI and FAA approved HazMat Training and Safety

In the final rule creating 49CFR Part 171 Subpart C, 171.22 was published authorizing the use of International Transport Standards and Regulations. The FAA provides guidance on its public website for Federal Aviation Regulations for Air transport (FAR), Hazardous Materials Regulations (HMR), and International Air Transport Association Dangerous Goods Regulations (IATA DGR). <https://www.faa.gov/hazmat/resources/regulations/> which states the following:

*“The International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air ([ICAO TI](#)) provides regulatory information for international transportation of dangerous goods by air. **The ICAO TI is permitted for use in the United States as alternative to HMR;** However, certain US requirements found in Table A-1 of the ICAO TI and Title 49 Part 171, Subpart C, still apply.”*

Here again, the phrase “as an alternative” is used and is identical to the language in §172.704(a)(2)(ii). Inserting the phrase, “as a substitute” into the language above conveys identical regulatory intent. Whether hazardous material training is conducted to ICAO TI regulatory standards or FAA regulatory standards or PHMSA regulatory standards, it is the same standard. This was the intent of the numerous final rules adding 49CFR Part 171 Subpart C, 49CFR Part 172 Subpart H, and 14CFR Part 121 Subpart Z. The intent of federal agencies, through rule making and publishing numerous final rules, is to harmonize the regulatory standards and ensure that any training conducted in accordance with PHMSA, ICAO TIs, IMDG Code or Transport Canada TDG regulations, is equivalent to training conducted in compliance with 49CFR Part 171 – 180. Therefore, training approved by regulatory entities utilizing ICAO

TIs, 49CFR or 14CFR, all meet the same standards of training and safety. A review of each Subpart provides an informative picture of the regulatory framework and the connection between each Subpart.

14CFR Part 121 Subpart Z, Hazardous Material Training Programs references 49 CFR Parts 171 through 180 in §121.1003(a)(3).

49CFR Part 171 Subpart C, Authorization and Requirements for the Use of International Transport Standards and Regulations references 49CFR Part 172 Subpart H in 171.22(g)(2).

49CFR Part 172 Subpart H, Training Requirements references back to 49CFR Part 171 Subpart C in §172.704(a)(2)(ii).

Therefore, substitution of ICAO TIs in lieu of FAA-Approved hazardous material training is acceptable based on the connections between all three Subparts and the original language used in 49CFR §172.704(a)(2)(ii) assuming that “as a substitute” is equivalent to “as an alternative”.

Reasons for Use Outside the United States

Reviewing each final rule solidifies the interpretation that the ICAO TIs provide an equivalent level of safety and regulatory compliance consistent with FAA and PHMSA regulations. This petition for exemption attempts to provide a path allowing the use of international standards for training at international locations that require ICAO TIs, allowing Part 121 certificate holders the ability to take advantage of existing training conducted under ICAO TI standards.

Public Interest

American Airlines believes granting this exemption is in the public interest in that it removes the requirement to operate at international locations under two separate but equal training requirements. Allowing the substitution of ICAO TIs for FAA-approved training programs will reduce the need to duplicate hazardous materials training at foreign locations, reduce operating costs, and improve the efficiency of Part 121 certificate holder’s dangerous goods transportation by air.

Summary of Petition

American Airlines, Inc. respectfully petitions for an exemption from 14CFR 121.1005(a), allowing for the substitution of hazardous material training programs meeting the requirements of International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air ([ICAO TI](#)) in lieu of FAA-Approved hazardous materials training programs at foreign locations, where ICAO TIs are the regulatory standard and required by the appropriate foreign regulatory body.

Captain John P. Dudley
Managing Director Flight Operations

John.P.Dudley@aa.com
Office 682-278-6883

American Airlines, Inc.
4601 Highway 360 MD 843
Fort Worth, Texas 76155