

**BEFORE THE
SUBCOMMITTEE ON RAILROADS, PIPELINES AND
HAZARDOUS MATERIALS
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
UNITED STATES HOUSE OF REPRESENTATIVES
WASHINGTON, D.C.**

**HEARING OF MAY 14, 2009: REAUTHORIZATION OF THE
DEPARTMENT OF TRANSPORTATION'S HAZARDOUS
MATERIALS SAFETY PROGRAM**

**Comments of the
CARGO AIRLINE ASSOCIATION**

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INTRODUCTION

The Cargo Airline Association (CAA) is the nationwide trade organization representing the interests of the all-cargo air carrier industry. Our members¹ operate a global transportation network specializing in the time-definite pick-up and delivery of a variety of goods.² CAA welcomes the opportunity to comment on the reauthorization of the Department of Transportation's Hazardous Materials Safety Program and specifically, on the transport of primary (lithium-metal) and secondary (lithium-ion) batteries by air.

At the outset, it should be noted that the all-cargo industry is 100% committed to safety. As a matter of both public policy and good business practice, safety must continue to play the primary role in assessing the nature of our operations. However, consistent with this commitment, our industry can continue to transport hazardous materials on our aircraft in accordance with existing rules. Indeed, as noted below, the carriage of such commodities is absolutely essential to the shipping community and world commerce generally.

At the same time, we understand the need to engage in a continuing assessment of the carriage of hazardous materials. To this end, before moving forward with any final action, we support more research and data-driven analyses, including an in-depth look at incident history records involving lithium batteries transported as air cargo. We also

¹ All-cargo airline members include: ABX Air, Atlas Air, Capital Cargo, DHL Express, FedEx Express, First Air, Kalitta Air and UPS Airlines.

² The transportation of freight is the only business of CAA members. No passengers are transported and our business is significantly different from other industry members. In turn, because of the unique nature of our business, both security and safety regulations must be applied to the specific issues raised by the all-cargo model. Put somewhat differently, "one size does **not** fit all".

understand PHMSA and the FAA have negotiated an “agreement” to develop a Notice of Proposed Rulemaking (NPRM) on secondary lithium batteries transported on an aircraft. The industry would urge Congress to recommend PHMSA involve the industry on the “front-end” of this process, before formal rulemaking proceedings begin.

A final introductory point involves the nature of air commerce. Because air transportation is, by its nature, a worldwide enterprise, the impact on international commerce and the international standards must be taken into account before moving forward.

DISCUSSION

As we look at today’s economic climate and the future of air commerce, it is important to recognize that the transportation of goods containing either primary or secondary batteries (or both) has become a necessary component of today’s global business world. If any legislative action is taken by this Committee, CAA respectfully urges the Committee to balance the needs of commerce against the safety implications and to apply a risk-based approach to these important issues. We would like to help the Committee and the Pipeline and Hazardous Materials Safety Agency (PHMSA) strike that balance by continuing to provide incident history reporting and to support any further research into specific causal factors of incidents involving primary or secondary lithium batteries.

As a practical matter, there are a multitude of issues in assessing the risks from lithium batteries. For example, the fire danger from a lithium battery which is in-use or being charged may be wholly different from one shipped in the proper packaging and labeling and shipped as cargo. Moreover, lithium metal or primary batteries are shipped from the factory or distribution site in a full state of charge (as they are not considered rechargeable). Lithium-ion or secondary are traditionally shipped from the factory or distribution site in a low state of charge. A full risk analysis must be done considering these differences.

As noted above, the global aspect of our business model cannot be overlooked in this debate. As the Committee is aware, the International Civil Aviation Organization (ICAO) has published myriad Technical Instructions aimed at the safe transport of hazardous materials, including lithium batteries. Neither PHMSA nor the Committee should overlook those international standards and the impact of a unilateral change by the United States. Moreover, U.S. certificated operators should not be placed at an economic disadvantage in shipments abroad by placing on it more strict requirements without any specific proven causal factors.

To put some of the industry's operational realities into context, some of the goods transported by all-cargo carriers include technology equipment and electronics such as computers, cameras, watches and also medical devices such as pacemakers which contain either primary (non-rechargeable) or secondary (rechargeable) lithium batteries, or in some cases both. Some of those goods, including medical devices and other time-

sensitive products, must continue to be shipped by air. Also, company materials (commonly known as COMAT) are transported within a carrier's network in order to support ongoing operations. For example, emergency data recorders or "black boxes" contain lithium batteries and are necessary to ensure the safe operation of flight. In addition, in the event of a mechanical aircraft delay, the necessary repair or replacement parts are sent via COMAT. Because of the operational need of flexibility in being able to carry COMAT, the industry recommends the Committee to exempt COMAT from any changes.

CONCLUSION

In view of all the factors noted above, the Cargo Airline Association urges Congress to obtain all the relevant facts, as to balance any identified risks against the needs of global commerce, before taking any final action in this area. For our part, the Association and its member companies are prepared to work with the relevant government entities to arrive at the correct solution to the lithium battery issue.

Thank you very much.