



U.S. Department of Transportation  
**Pipeline and Hazardous Materials  
Safety Administration**

1200 New Jersey Ave, S.E.  
Washington, D.C. 20590

SEP 29 2009

Captain John H. Prater  
President  
Airline Pilot Association, International  
1625 Massachusetts Ave., NW  
Washington DC, 20036

Dear Captain Prater:

Thank you for your August 20 letter expressing concern regarding the transport of lithium batteries on board cargo aircraft. Let me assure you that I share your aviation safety concerns. Reducing the potential for fire aboard an aircraft is my highest priority. We are committing significant resources to ensure lithium battery shipments are transported safely and without incident. This is a high priority for the Department of Transportation.

As you know, PHMSA and the Federal Aviation Administration are developing a rulemaking proposal to comprehensively address the safe transportation of lithium cells and batteries in cargo. We believe that the proposed rulemaking will achieve the objectives of a safer aviation environment without imposing a ban. This rulemaking project represents another step in our continuing process to ensure the safe transport of lithium batteries and builds on regulations published in August 2007 and January 2009. The rulemaking is intended to strengthen the current regulatory framework by imposing more effective safeguards, including design testing, packaging, and hazard communication measures for various types and sizes of lithium batteries in specific transportation contexts. Several of the proposals are in response to recommendations issued by the National Transportation Safety Board. We expect to publish a notice of proposed rulemaking (NPRM) this Fall and plan to work as expeditiously as possible to develop and implement final regulations. You may view the docket for this rulemaking in the federal rulemaking portal <http://www.regulations.gov/> by typing "PHMSA-2009-0095" in the box above the search button.

In addition to our rulemaking initiatives we have increased our enforcement and outreach efforts. The incidents that you reference in your letter appear to be a combination of non-compliant and undeclared hazardous materials shipments. Non-compliance and undeclared hazardous materials shipments are both serious safety problems that must be addressed through consistent enforcement, easily understood requirements, and public education. PHMSA and FAA have an aggressive outreach and an enhanced enforcement campaign targeted at lithium battery shippers and carriers. We plan to issue a safety advisory in response to the recent incidents. Enhanced outreach and enforcement can highlight the importance of complying with the regulations and the consequences that result from non-compliance. PHMSA and FAA will also engage international governments through the International Civil Aviation Organization (ICAO) Dangerous Goods Panel to focus on a global approach to enhancing the safe transportation of

lithium batteries by enhancing and simplifying regulations, using aggressive enforcement actions and cooperative outreach initiatives.

Regarding your interest in an interim ban, PHMSA and FAA have determined that the preferred outcome is a strong and easily understood regulation such as the one in process. It makes most sense to put our staff resources into expediting the draft NPRM toward a final rule—the goal being a NPRM this fall and a final rule to follow. If it should appear that this is not achievable, we will reconsider our views on a ban or other interim measures.

Thank you again for your letter; it will be placed in the rulemaking docket. I look forward to working with you to assure the continued safety of hazardous materials transported on board both passenger and cargo-only aircraft. If I can provide further information or assistance, please feel free to call me.

Sincerely,

A handwritten signature in cursive script that reads "Cindy Douglass". The signature is written in black ink and is positioned above the typed name and title.

Cynthia Douglass  
Acting Deputy Administrator