

FEDEX PILOTS ASSOCIATION

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TSA-02-11604-26

Via FedEx Overnight, tracking number 816693062952

Docket Management System
U.S. Department of Transportation
400 Seventh Street, SW
Room PL-401
Washington, D.C. 20590-0001

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OF TRANSPORTATION
DOCKETS
APR 22 AM 10:17

Subject: Docket No. TSA-2002-11604, Security Programs for Aircraft 12,500 Pounds or More

April 22, 2002

Dear Sir or Madam:

The FEDEX PILOTS ASSOCIATION (FPA), which represents over 4,200 pilots who fly domestic and international routes throughout North America, Asia, Europe, the Middle East, Central and South America, and other regions of the world, endorses and incorporates by reference the comments submitted by the Air Line Pilots Association, International (ALPA) to this docket. FPA has reviewed the aforementioned final rule, and respectfully submits the following additional comments.

31544.1, Applicability. FPA endorses the concept of total inclusion for all cargo carriers specified in the final rule: "It applies to operations conducted in an aircraft with a maximum certificated takeoff weight of 12,500 pounds or more; in scheduled or charter service; carrying passengers or cargo or both; and not presently required to have a full program or partial security program." (Analysis of Amendments, Twelve-Five Security Program)

In addition, FPA will oppose any attempt by FedEx Express to exempt their operations from the applicability of this rule. Further, FPA does not agree that any cargo carrier who falls under the Twelve-Five Security Program should be exempt from mandatory participation in airport operator-sponsored exercises of the airport contingency plan. FPA recommends revision of the final rule to mandate participation of all Part 121 cargo carriers, including supplemental carriers, in such exercises, regardless of their geographic location on an airport, or the scope of their operations.

\$1544.101, Adoption and Implementation. FPA is opposed to our carrier's applying "cut and paste" interpretations of the regulations, and seeks uniform adoption and implementation of the passenger industry standards for passenger and cargo screening. For example, cargo screening should be uniform throughout our transportation system. Cargo carriers frequently comply with "known shipper" requirements when delivering freight to the passenger carriers during interline operations. Under the new security regulations, cargo in passenger operations will require scanning for explosives. Cargo pilots, their families, their fellow employees who ride on the aircraft, and our nation's economic engine depend on the security of our air freight service, and such reliance demands that cargo screening regulations apply equally to both passenger and cargo operators alike.

Known shipper protocols are not fail-safe. All one needs to circumvent this security system is to obtain the bona fide account number of a current cargo customer, as was demonstrated last Fall by a perpetrator acting against over 500 Planned Parenthood clinics across the nation. Therefore, FPA advocates the installation and implementation of bomb-sniffing and biochemical detection systems in all cargo facilities immediately.

51544.230, Fingerprint-Based Criminal History Records Checks (CHRC). Flightcrew Members.

Although FPA understands the underlying reasoning for Congress requiring that all persons having access to aircraft that could endanger others undergo a CHRC, FPA would like to point out that none of the perpetrators of the September 11, 2001, terrorist attacks were U.S.-employed airline pilots. Indeed, should one or more airline pilots be identified as a person(s) with a criminal history, there appears to be no safeguard in place to protect his employment even after such an individual has demonstrated an exemplary work history. In addition, none of the perpetrators of 9/11 would have been detected by using a CHRC. There is no evidence that such checks will prevent air piracy or terrorism. In summary, the flightcrews are not the problem, nor are they the enemy. Therefore, we recommend revision of the rule to permit an independent review board to assess each CHRC report which reveals a criminal history, the facts and circumstances surrounding each case, and make enforceable rulings on that individual's continued access to secure areas. Such regulations should not deny employees of due process by permitting carriers to terminate their employment after an extended period of competent and safe operation of aircraft.

Furthermore, the current rules governing designation of SIDA requirements fall on the airport operator. FPA believes that all air carriers, regardless of their location on the field, should fall under the same SIDA requirements as passenger terminals. Currently, SIDA requirements for FedEx Express apply only to those areas where our operations are contiguous with passenger terminals, and the airport operator designates our ramps to be in the SIDA. In fact, exempting cargo operations from the SIDA totally negates the extensive and costly security protections that are being attempted, because any terrorist can, with minimal effort, bypass the SIDA security measures by gaining entry through the exempt side of the airport. This creates a back-door entry directly to the supposedly secure passenger side, not to mention the direct threat to cargo aircraft and operations. Terrorists will be looking for the weakest link in our airport security system, and mandating less stringent security requirements for our cargo operators is an open invitation to attack.

51544.237, Flight Deck Privileges. FPA believes that restricting access to the cockpit is a cornerstone to our nation's air defense. As such, the following language in the analysis of the amendments falls short of our security goals: "The increased security measures for access to the flight deck provide additional protection by limiting the opportunity for an individual to endanger the flightcrew members and thereby endanger the flight. . ." Such security measures, instead of "limiting the opportunity," should prevent the opportunity for an individual to endanger the flightcrew members, thereby endangering the flight.

In addition, "Section 1544.237, Flight deck privileges," of the final rule simply states: "For each aircraft that has a door to the flight deck, each aircraft operator must restrict access to the flight deck as provided in its security program."

This language falls short of preventing air terrorism, since it does not define how a carrier goes about restricting access, nor does it specify hardware, policies and procedures, or mandated methodologies to accomplish that goal. It appears to be purposely vague so as to permit interpretation by each air carrier. It also does not require carriers to install doors on those aircraft that are currently flying without them.

FPA believes that preventing access to the cockpit requires not only an identification verification protocol, but also identification authentication protocols. Simple employment verification is not enough to prevent a tragedy, as anyone can obtain a pilot seniority list and counterfeit credentials in order to conceal his true identity and gain unlawful access to the cockpit. FPA suggests that the final rule be modified to include an internationally accessible electronic database with smart card technology that contains biometric information on a person seeking access to the cockpit of cargo aircraft. In our cargo operation, the cockpit door is frequently opened and left unlocked while a crewmember takes physiological breaks in the lavatory and galley. FPA advocates the need for "double-door" installations in, and retrofits to, our existing and future fleet aircraft, so that the flightcrew does not come in direct contact with passengers or stowaways.

Most importantly, the law must not be vague as it relates to a captain's authority to deny boarding or to deplane any individual for any reason. No pilot-in-command should be forced to carry any person, other than those very few individuals specified by law who have been properly identified and authenticated, if he or she feels that person presents a security or safety **risk** to the aircraft, crew, passengers, cargo, or the nation. No employer should be able to intimidate its pilots by threatening or implying discipline, up to and including termination, for refusal to carry an individual. In our cargo operation, we are especially vulnerable to attack by virtue of the fact we carry no air marshal or cabin crews to assist in defending the cockpit.

Carriage of Emergency Equipment in Alaska. Although FPA endorses the arming of pilots in Alaska operations in order to prevent wildlife from posing serious threat to individuals in the event of a forced landing in remote regions, our organization also believes that other predatory animals exist in our world today, necessitating carriage of lethal weapons by airline pilots in both passenger and cargo operations alike. It is inconceivable that our national policy permits protection against grizzly bears, but denies our pilots lethal protection against terrorists.

FPA appreciates the opportunity to submit comments on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'D Webb', written in a cursive style.

Capt. David Webb
President. FEDEX PILOTS ASSOCIATION