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COMMENTS ON PROPOSED REGULATIONS REGARDING
HAZARDOUS MATERIALS TRAINING REQUIREMENTS
Docket No. FAA-2003-15085 --45

DEPT. OF TRANSPORTATION
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2003 SEP -5 P 3:01

The Conference on Safe Transportation of Hazardous Articles (“COSTHA”) hereby provides comments to the Notice of Proposed Rulemaking published in this proceeding. 68 *Federal Register* 24180 (May 8, 2003).

COSTHA is a not-for-profit organization representing manufacturers, shippers, distributors, carriers, freight forwarders, trainers, packing manufacturers and others associated with the hazardous materials transportation industry. In addition to promoting regulatory compliance and safety in hazardous materials transportation, COSTHA also provides training services and support for its member companies in complying with the requirements for transporting hazardous materials by all modes, including air.

In addition, COSTHA has a number of member companies that themselves provide training services for shippers, carriers and others involved in the transportation of hazardous materials by air and other modes. Since many COSTHA members are directly involved with the offering for transport and transport of a wide variety of hazardous materials by aircraft, COSTHA has a direct interest in this rulemaking.

The following is a current list of COSTHA member companies that are nationally and internationally recognized as providing hazmat training:

Bureau of Dangerous Goods, LTD.
Cranbury, NJ

CHEMTREC Center
Arlington, VA

Dangerous Goods Council Inc.
York, PA

DG Supplies, Inc.
Cranbury, NJ

DGI Training Center
Amelia Island, FL

Geneva Research Ltd.
Geneva, IL

GSI Computer Services, Inc.
Branson, MO

HazardousMaterials.com
Louisville, CO

HAZMAT Seminars
Oak Ridge, TN

HazMat Skills
Oak Ridge, TN

ICC The Compliance Center Inc.
Niagara Falls, NY

J.J. Keller & Associates, Inc.
Neenah, WI

Labelmaster
Chicago, IL

Lion Technology Inc.
Lafayette, NJ

Optimal Assistans
Sweden

SAF-T-PAK, Inc.
Edmonton, AB

Safety Specialists Inc.
Charlotte, NC

ShipMate, Inc.
Torrance, CA

Watkins, S. C. Duke
Gold Canyon, AZ

COSTHA requests that the proposed regulations be amended in two ways. First, in addition to certifying that persons covered under the proposed rules have approved training programs in place, the Federal Aviation Administration (“FAA”) should also assess, monitor and certify professional schools that would be authorized to provide hazardous materials (“hazmat”) training. Second, the regulations should state that, in lieu of developing an in-house training program, carriers (both will-carry and will-not-carry), repair stations, and any other person affected by the regulations would be in compliance by completing a training program offered by a FAA-certified hazmat training company.

Many professional hazmat training schools provide exactly the kind of training the FAA is proposing in this rulemaking. They remain current on all issues relating to hazardous materials recognition, handling, labeling, and recordkeeping. They provide interactive training and testing that permit instructors to answer questions and review items with students who do not adequately demonstrate comprehension. In short, they offer a professional alternative for exactly the type of training the FAA is proposing in its hazmat training curriculum. Proposed Appendix N to Part 121, subpart Y and Part 135, Subpart K.

Currently, the FAA has no standards for or oversight over hazmat training schools. Such schools generally follow the Technical Instructions for the Safe Transport of Dangerous Goods by Air established by the International Civil Aviation Organization (“ICAO”), and the existing FAA regulations and Advisory Circulars. The only organization that provides some oversight for training school standards is the International Air Transport Association (“IATA”). While some training companies seek and purchase IATA’s endorsement, other reputable schools

choose not to do so. Those schools choosing not to purchase IATA's endorsement are at a disadvantage because some shippers, forwarders, and carriers including those covered under this proposed rulemaking may be under the misapprehension that IATA's endorsement is required for HAZMAT training schools.

There is established precedent for FAA certification of training schools. The FAA currently certifies aviation training centers under 14 C.F.R. Part 142. Like the certification for flight schools, the FAA could also ensure that hazmat training schools develop and maintain course requirements that follow the FAA's core curriculum for hazmat training. The FAA would also be able to inspect hazmat training schools to ensure compliance, and reject, suspend or revoke a certification for noncompliance. The FAA currently has no authority to do so.

Certifying such training companies and permitting persons covered under the rule to use them in lieu of creating in-house training programs provides several significant benefits. First, the proposed training regulations will result in significant costs and extra burdens on both carriers and repair stations, including possibly hiring permanent, professional trainers able to provide hazmat training, and increased paperwork and recordkeeping. Because hazmat training is required every year, these costs will be recurring. Permitting carriers and repair stations to use FAA-certified training centers will reduce these costs while encouraging an industry of professional hazmat trainers experienced in providing effective quality training to meet the established FAA standard. The cost savings are especially significant to will-not-carry carriers and single pilot operations under Part 135, Subpart K.

The FAA estimates that the cost of compliance with these new training regulations will be \$107.5 million over the next ten years. 68 *Federal Register* at 24819. COSTHA's proposal could substantially reduce this compliance cost by eliminating the need for each of the regulated

entities to develop individual training programs that are unnecessarily duplicative. While we are unsure of the exact number of individual private corporate aviation entities that may be affected by the proposed rule, the availability of FAA certified training schools would ensure that cost-effective resources would be available to meet the demand

Second, the quality of instruction will be significantly enhanced if the FAA reviews and certifies the practices of independent training companies. Persons who choose to employ a training school instead of developing an in-house program would have the benefit of learning from hazmat training professionals with proven teaching skills, whose sole function is to provide thorough training on up-to-the-minute hazmat materials, regulations, and practices. They would be assured, through the FAA certification of the training school, that the instruction provided fully addresses compliance with all applicable FAA regulations. The aviation industry as a whole would benefit, and public safety enhanced, because there would be increased consistency in hazmat training. In addition, situations that one carrier has faced in recognizing or handling hazardous materials and discussed during training could be assimilated in the training schools and passed on to other carriers. Consistency in training and the sharing of information would lead to a far more knowledgeable, and thus safer, workforce.

Finally, the FAA's oversight of hazmat training would be more efficient and effective by having to review and certify an undetermined but far more manageable number of programs used by training schools instead of the programs used by thousands of carriers, repair stations, and single pilot operations. Once a training school is certified by the FAA, the agency need only receive a certification from the carrier, repair station or single pilot operator that it has undergone the required instruction from a certified school. Verification that the carrier completed the training, if needed, could easily be obtained from the training company. The certification of

training centers would also remove the confusion among some carriers that they can only use IATA-endorsed programs. FAA certification would make it explicit that persons covered by the rule would be authorized to use only FAA-certified programs in lieu of creating an in-house program.

The FAA's oversight of single pilot operations in particular would be made easier and more effective if those operations are permitted to receive training at a FAA-certified hazmat training school. The proposed regulations do not require single pilot operations to establish a training program of their own, but those operations must "be able to demonstrate compliance" with the rule in some as yet undefined way. 68 *Federal Register* at 24817. Single pilot operator compliance would be a simple matter for the operator to accomplish and for the FAA to verify if the operator were to successfully complete a training course provided by a training school which had already been certified by the FAA.

In addition, COSTHA proposes that the FAA should certify "electronic instructors" with on-line programs available real time via the Internet. In meeting the FAA requirements for a classroom instructor the "electronic instructor" would be immediately available via Instant Message (IM), E-mail, or phone. The web based "electronic instructor" would be much more cost effective than on-site or off-site group training. The employee being trained would be able to start and stop the training at his or her convenience. If the student fails a particular module, the student would be given the opportunity to review and retake any module and test that presented problems.

COSTHA also asserts that it will be difficult for many companies to meet the FAA requirements in a timely manner unless they have immediate access to an affordable training program. On-line training would save an immense amount of money for both the FAA and the

companies taking the training. On-line training could also be easily accredited by the FAA since it is always available 24-hours a day for review at any time.

On-line/interactive training could easily meet the FAA recordkeeping requirements since the training would be consolidated in one location for many companies and could be readily reviewed by the FAA. On-line web training is already widely used by many universities and companies and should be accepted by the FAA as a valid form of training.

In sum, COSTHA believes that its suggested amendments to the proposed regulations would provide a far less restrictive, far less costly, and far more effective method of ensuring compliance with hazmat training regulations.

Respectfully submitted,



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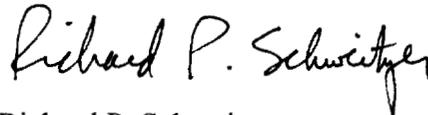
Re: Docket No. FAA-2003-15085; Notice No. 03-08

Dear Sir or Madam:

Enclosed for filing are two copies of the comments of the Conference on Safe Transportation of Hazardous Articles, Inc. in the above docket regarding hazardous materials training requirements.

In addition, please file stamp the third enclosed copy of COSTHA's comments and return them with the courier.

Sincerely,



Richard P. Schweitzer