

**BEFORE THE  
FEDERAL AVIATION ADMINISTRATION  
OFFICE OF CHIEF COUNSEL  
WASHINGTON, D.C.**

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**Hazardous Materials Training**  
**Requirements:**  
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**Docket No. FAA-2003-15085**

**COMMENTS  
OF  
CONTINENTAL AIRLINES, INC.**

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As a commercial air carrier, Continental Airlines provides training for its employee's so they can safely perform their assigned tasks, and we continue to improve our training program each year. While we certainly support increased training and innovative training methods, it appears the proposed rule has missed the mark. It is our belief the proposed rule would require excessive training to groups of employees that would never utilize the training they would be required to receive and in this context conducting this training is a waste of valuable resources. The cost of this proposed program would be prohibitive and the majority of the cost would not add to safety. Some specific issues we have concerns about are listed below:

- In the proposed training matrix (Appendix N), pilots, flight engineers, flight attendants and dispatchers are included in column 5, which requires training in all 13 modules. There should be no requirement for these groups of employees to know many of the items included in column 5. At most they might fall under column 6 – and even that requirement is overkill. As an example, there is no reason for the flight crew to be trained in the areas of Documentation, Acceptance & Handling, Marking & Labeling, Classification or Packaging of a dangerous goods shipment. Moreover, a dispatcher in our company is located at the corporate offices, miles away from the airport and will never see nor come in contact with a

dangerous goods shipment. The training that is recommended for this work group has absolutely no relevance to their job function.

- The proposed rule does not define the often-used word “supervise” or to what level within the organizational structure the proposal extends. The wording “any degree of oversight” is far too broad. The CEO of a corporation has “oversight” over his Vice-Presidents, who have “oversight” over their direct reports, who have “oversight” over their direct reports, who have “oversight” over their direct reports, until you get to the individual who is actually doing the job.
- The three types of training that are required are 1) General Familiarization, 2) Function Specific and 3) Safety training. We agree with this concept and apply it today. Function-specific training should not be required of persons who are not engaged in a dangerous goods function. Even general familiarization and safety training should not be required of every person who may have “any degree of oversight.” For example, the type and degree of training provided to a person who is actually “accepting” a dangerous goods shipment should be far different than the training provided to persons who should be aware of dangerous goods regulations (i.e., pilots); and the training provided to pilots should be different from that provided to dispatchers. In short, training should be equivalent with the level of responsibility. It must be function specific and tailored to the responsibilities of the persons involved. Instead the proposed rule has lumped everything and everyone together.
- As pertains to the relationship between the carrier and a repair station there is a need to define “responsibility”. The NPRM states, “All repair station workers performing or supervising a "transport related function" for a certificate holder, would have to be trained under the certificate holder’s approved training program.” The proposed rule is unclear as to whether every “transport related function” would be included, even those that have no relationship to dangerous goods. Such a program would not only be cost prohibitive, it would be non-productive and it would require persons to be trained on subjects they would never be called upon to utilize.
- The proposed rule does not specify who is responsible for a dangerous goods item that is received from the USPS that has a deficiency. Since the USPS is

going to have stricter rules concerning training of their employees for the acceptance of DG, the carriers should be able to rely on information provided by the USPS.

- There are many specific duties for a Part 135 carrier that do not apply to a Part 121 carrier. For example, there are many Part 135 carriers that will have their flight crews assigned to tasks that the flight crew of a Part 121 carrier do not do (i.e., loading baggage and cargo into the airplane). The duties of a Part 121 carrier and a Part 135 carrier should not be lumped together as has been done in the NPRM.
- The NPRM states that a “hazmat employee” must be given “adequate” training, yet there is no definition of the word “adequate” as used in the proposed rule. As indicated earlier, Continental has an extensive training program, which has been approved by the FAA and been subject to audits and inspections. While we are always interested in up grading and improving our training program, there is nothing in this NPRM which provides us with any evaluation criteria to determine if the program is, in the words of the NPRM, “adequate.”
- The NPRM indicates that to have a training program approved, there would have to be “an interactive session with an instructor who could address any questions or problem areas”. Apart from the fact that this would require additional trainers plus lengthen the amount of time allotted to the training course and substantially increase the cost, we believe this is counter-productive. There are a number of various training programs, which need not be interactive, and others where computerized interactive training would be both effective and appropriate.
- Training requirements at “International” locations are nebulous in the proposed rule. Once again, there is no definition to indicate to what level in the management structure training must extend. The NPRM states, “the provisions...are intended to be broad enough to cover not only those persons directly performing a "transport related function", but also those persons supervising the performance of a "transport related function". Whether a person were officially assigned to perform a function would be irrelevant. This would ensure that the certificate holder identifies and trains each person who could reasonably be foreseen as performing or supervising a "transport related function", whether or not it is part of his or her job

description". The statement "Whether a person were officially assigned to perform a function would be irrelevant" would lead one to believe that everyone in the location would have to be trained by the carrier. This is not realistic and cost prohibitive. For example, there is no reason to train persons who may work in the administrative office or at an off-airport ticketing location on the handling of dangerous goods.

- The recordkeeping as described in the NPRM is in direct opposition to many of the initiatives previously endorsed by the FAA. Many carriers currently have training programs that utilize electronic signatures. The proposal does not stipulate that electronic signatures are acceptable. The NPRM states that training records must be maintained at the current location where the trained person performs or supervises the "transport related function". This would be contrary to procedures currently utilized by companies that maintain a "central recordkeeping system". A requirement for dual or parallel records would neither be cost effective nor reasonable.
- We believe that the cost for this additional and unnecessary training would not add to safety. Moreover, it has been estimated the cost would be in the tens of millions of dollars, which would be impossible for the industry to absorb at this time.

The area of repair station vs. carrier training responsibilities needs extensive clarification. An exemption currently is provided allowing a repair station that services multiple certificate holders to only use the training of one to comply with the ruling. However, the workers at the repair station must be trained in the differences in policy and procedures of the remaining certificate holders. The proposed rule does not discuss the selection process for the certificate holder who provides the full training, nor does the NPRM consider the other carriers will provide their "differences" training?

Considering how the requirements of both 49 CFR and IATA are spelled out, there are virtually no differences when it comes to shipping. For example, a carrier may refer to UN 3365 as "Dangerous Goods in Machinery" while another airline refers to the same UN number as "Dangerous Goods in Apparatus", but that does not need to be included in a training program. The IATA Variations list any significant differences, especially in

the area of hazardous material acceptance. With regard to hazmat packaging for transportation, the shipper is always responsible for proper identification, classification, packing, marking, labeling, and documentation all in accordance with the regulations (either 49 CFR, or IATA).

The terms “supervise” and “oversight” present substantial problems, particularly when applied to the concept of “transport related functions”(TRF). The rule states: “The proposed applicability provisions of 121.801 and 135.501 are intended to be broad enough to cover not only those persons directly performing a TRF, but also those persons supervising the performance of a TRF. Whether a person were officially assigned to perform a function would be *irrelevant*. This would ensure that the certificate holder identifies and trains each person who could reasonably be foreseen as performing or supervising a TRF, whether or not it was part of his or her job description”. We could not disagree more strongly. We submit that job function is extremely relevant. That is the entire purpose of function-specific training. The kind and type of training that a person receives should be keyed to their job function. Otherwise providing training to persons who will have no use and is a waste of limited resources that can and should be used more effectively and efficiently.

The proposed rule likewise provides a broad explanation of supervision. The term “supervise” would be defined to mean more than just being a designated supervisor. It would cover a person who has any degree of oversight over a function addressed by the proposed rule. Within the industry there are people in various job functions that are very involved in “overseeing” the shipment of dangerous goods when it comes to directing Material Specialists to prepare items for transport. There is no discussion within the NPRM nor within the training requirement matrix to address material specialists.

### **Conclusion**

The proposed ruling casts a wide net. It is understandable that the ruling cannot identify every specific job description for every airline. However the proposed rule does little to clarify and justify training requirements for hazmat employees. It becomes difficult to

know who would have the training and how much training they should get. Additionally, the implementation deadline as currently established would be an unreachable goal. Based on the apparent gravity of this issue, and the confusion within the industry over this document, it would be our request that this NPRM be withdrawn. We believe a public hearing should be convened to afford the airlines the opportunity to explain their concerns and perhaps obtain clarity from the FAA on these issues. The cost of non-compliance to safe practices and procedures is too high and cannot be allowed within the realm of the transportation of Dangerous Goods.

Respectfully submitted,

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