



AIR TRANSPORT ASSOCIATION



Consumer Electronics Retailers Coalition



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June 17, 2011

DELIVERED VIA EMAIL

The Honorable Ray LaHood
Secretary of Transportation
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590-0001

Re: Recent Lithium Battery Incidents and Enforcement of Lithium Battery Transport Regulations

Dear Secretary LaHood:

We respectfully write to urge U.S. action against air shippers of lithium batteries who fail to comply with the existing ICAO Technical Instructions and U.S. hazardous materials regulations.

The failure of some shippers to comply with these requirements has been the root cause of virtually all of reported air cargo transport incidents.

Although the U.S. Department of Transportation (DOT) is recognized as an international leader on air transportation safety issues, we believe there needs to be a more concerted effort to promote international cooperation with respect to enforcing existing lithium battery regulations. The U.S. DOT should be working with its international partners to assure enforcement of existing dangerous goods regulations and develop appropriate outreach materials for shippers. The signatories to this letter strongly support such activity.

The May 18 Federal Aviation Administration (FAA) list of air incidents involving batteries in transportation emphasizes that the focus of FAA attention should be enforcement against non-compliant shippers. The list identifies three recent incidents, each of which was the result of shippers' non-compliance with the ICAO Technical Instructions. This continues the pattern, documented in earlier FAA lists: shippers sending lithium batteries fail to declare them as fully-regulated dangerous goods when required, fail to use proper packaging, and disregard even basic safety precautions.

Indeed, none of the incidents listed by FAA – and no others of which we are aware – were attributable to properly packaged, compliant shipments. Shipments from Asia appear to be a particular concern. But the U.S. DOT does not appear to be increasing enforcement pressures on shippers of improperly packaged lithium batteries or addressing shippers' violations of regulations. The signatories to this letter share with you and all in the U.S. DOT the goal of transport safety and appeal to your office to demonstrate leadership in this area of enforcement and outreach. We also urge the U.S. DOT to prioritize the enforcement of existing regulations before enacting new and overbroad mandates that would penalize legitimate businesses who ship items in full compliance of the regulations as a standard business practice.

We also have significant concerns about the ongoing problems associated with counterfeit lithium batteries and the risks they pose in transportation. We are aware of several battery companies that have worked with Pipeline and Hazardous Materials and Safety Administration (PHMSA), the FBI and U.S. Customs to track down counterfeit manufacturers. However, more work is needed to address this safety issue and prevent these batteries from being transported and reaching the marketplace.

We recognize that international cooperation will be required in such an effort. But we believe, as we have for a long time, that without active, *visible* enforcement efforts on the part of U.S. DOT and its counterparts in other countries, shippers who violate the essential safety regulations will not understand the potential consequences of such illegal actions. Therefore, we urge leadership in two areas: enforcement and outreach in collaboration with competent authorities in countries that originate these shipments of concern; and prominent publicity, also coordinated with overseas counterparts, about the actions taken against shippers for their non-compliance.

We would be glad to meet with you to review these issues, and to discuss ways in which our associations can assist DOT in promoting compliance. Please contact George Kerchner,

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Executive Director of PRBA – The Rechargeable Battery Association, at 202.719.4109 or gkerchner@wileyrein.com, so that a meeting can be arranged.

Thank you.

AdvaMed
Airforwarders Association
Air Transport Association
Cargo Airline Association
Consumer Electronics Association.
Consumer Electronics Retailers Coalition
CTIA – The Wireless Association
Dangerous Goods Advisory Council
Express Association of America
International Air Transport Association

Information Technology Industry Council
National Association of Manufacturers
National Electrical Manufacturers Association
National Retail Federation
PRBA – The Rechargeable Battery Association
Retail Industry Leaders Association
Security Industry Association
U.S. Chamber of Commerce
The International Air Cargo Association