

DEPT. OF TRANSPORTATION
DOCKETS

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November 25, 2008

Docket Operations
United States Department of Transportation
West Building, Ground Floor
1200 New Jersey Avenue, SE
Room W12-140
Washington, DC 20590-0001

RE: Docket No. PHMSA-2005-22356

Dear Sir or Madam:

FedEx Express is the world's largest express transportation company and transports more dangerous goods shipments than any other air carrier. FedEx Express offers a wide range of express services for the time-definite transportation of documents, packages and freight throughout the world, using an extensive fleet of aircraft and vehicles and leading-edge information technologies. FedEx Express has over 140,000 employees, provides its service to approximately 220 countries and territories and has revenues in excess of \$21 billion. FedEx Express uses approximately 671 dedicated aircraft worldwide and approximately 42,000 vehicles. Our vehicles in the United States travel over 2.7 million miles per day. Our average daily package volume is 3.3 million. FedEx Express submits the following comments in response to the Pipeline and Hazardous Materials Safety Administration's (PHMSA) Notice of Proposed Rulemaking (NPRM) Docket PHMSA-2005-22356 regarding enhanced enforcement authority procedures.

FedEx Express hereby adopts and incorporates by reference the comments each filed by the American Trucking Associations, Inc. ("ATA") and the Council on the Safe Transportation of Hazardous Articles (COSTHA) as though fully set forth herein. FedEx Express strongly concurs with the comments filed by our associations in the transportation industry. In addition, FedEx Express unequivocally shares those groups' serious concerns regarding this NPRM and its implications.

Additionally, FedEx Express wishes to make its position very clear on some of PHMSA's proposed procedures in this NPRM. If a Department of Transportation (DOT) approved federal inspector takes a package out of the stream of commerce for further examination, then, from that point forward, the DOT must assume any and all responsibility for the package. This includes any and all liability concerning the package or its contents. Further, as a time definite express transportation company, FedEx Express insists timely notification

be made to the shipper and recipient of any delay caused by such an examination. For safety purposes, FedEx Express employees cannot be expected to open or close packages an inspector believes may contain undeclared hazardous materials. The possible risk of exposure to our employees here would require additional training and or personal protective equipment they likely do not have given the regular assigned duties and related training. DOT must perform and be responsible for any and all such functions. Should any injuries result from or are associated with opening the package, it is only equitable and appropriate for such liability to be shouldered by the DOT. Finally, in opening and then re-closing a package, the DOT must assume all shipper responsibilities for doing so as well as any other shipper responsibilities for properly placing or offering the package back into the stream of commerce. As stated above, FedEx Express is an express transportation company - a "transporter" with different and specific regulatory responsibilities from those of a "shipper." The DOT should not endanger, erode nor blur these longstanding and important safety regulatory distinctions and roles.

FedEx Express appreciates the opportunity to comment on this NPRM. If you should have any questions concerning these comments, please contact me or David Littlejohn, Corporate Safety Advisor, at (901) 434-9567.

Think Safety, Act Safety, Be Safe



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