



A bold voice for transportation workers

May 11, 2012

VIA ELECTRONIC SUBMISSION

Mr. R. Ryan Posten
Deputy Associate Administrator
Pipeline and Hazardous Materials Safety Administration

**RE: Pipeline and Hazardous Materials Safety Administration
Docket No. PHMSA–2009–0095 (HM-224F)
Hazardous Materials: Transportation of Lithium Batteries
Notice of Proposed Rulemaking (NPRM); request for additional comment**

Dear Mr. Posten:

On behalf of the Transportation Trades Department, AFL-CIO (TTD), I am writing to comment on the Pipeline and Hazardous Materials Safety Administration's (PHMSA) request for additional comment on its January 2010 Notice of Proposed Rulemaking (NPRM) to amend hazardous materials regulations pertaining to the transport of lithium cells and batteries. PHMSA has requested comments on harmonizing regulations with the newly adopted 2013-2014 International Civil Aviation Organization Technical Instructions on the Transport of Dangerous Goods by Air (ICAO Technical Instructions). We appreciate the opportunity to offer additional comments and we want to express our support for the comments filed by the Air Line Pilots Association (ALPA).

Given the numerous accidents and incidents involving the transport of lithium batteries over the past decade, TTD has consistently advocated for better regulation in this area. In 2010, following release of the NPRM, our comments called for strong regulation of lithium batteries to improve safety in the air cargo supply chain. In March 2011, TTD's Executive Committee adopted a policy statement endorsing full regulation of lithium batteries as dangerous goods and calling for, among other things, improved crewmember notification, better labeling, and enhanced packaging standards.

While we continue to support the stronger regulations called for in our original comments and our policy statement, we acknowledge that the Department of Transportation's ability to regulate lithium battery transportation was limited with enactment of the FAA Modernization and Reform Act of 2012 (P.L. 112-95). Given this limitation and the recent improvements made in the ICAO Technical Instructions, we support harmonization and encourage timely adoption of the new

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Edward Wytkind, President / Larry I. Willis, Secretary-Treasurer



standards. When the ICAO provisions go into effect, shipments including more than eight cells or two batteries will require training for the shipper and operator, dangerous goods labeling, acceptance checks, inspection prior to loading and after unloading, and crewmember notification on the dangerous goods form.

We do believe, however, that more must be done to improve lithium battery transportation safety. The new provisions don't place restrictions on the total quantity of lithium batteries nor their location on the aircraft, and they don't address batteries contained in or with equipment. These issues should be addressed in the future to achieve a higher level of safety.

PHMSA requests comment on a number of specific questions and specifically asks what the impact of not harmonizing with the ICAO Technical Instructions would be. Simply put, not harmonizing with the new standards would result in the perpetuation of the current, less safe regulations. PHMSA also asks about ways to reduce the regulatory burden or cost of implementation, and it contemplates delaying the effective date. We believe the current effective date of January 1, 2013 allows sufficient time for shippers and airlines to prepare for the new regulations, and any delay would result in decreased safety.

Transportation labor appreciates the opportunity to provide additional comments on this matter. Though we believe even more can be done to improve lithium battery transportation safety, we support harmonization with the ICAO Technical Instructions. Thank you in advance for your consideration of our views.

Sincerely,

A handwritten signature in black ink, appearing to read 'Edward Wytkind', with a large, stylized flourish at the end.

Edward Wytkind
President