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Aviation Group Client Update

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PHMSA PROPOSES QUANTITY LIMITS FOR PORTABLE ELECTRONIC MEDICAL DEVICES CARRIED BY PASSENGERS, CREWMEMBERS, AND AIR OPERATORS.

The Pipeline and Hazardous Materials Safety Administration (PHMSA) has issued a notice of proposed rulemaking on [Hazardous Materials: Notification of the Pilot-in-Command and Response to Air Related Petitions for Rulemaking](#). All comments regarding this NPRM must be received by **February 3, 2017**.

PHMSA proposes quantity limits for portable electronic medical devices carried by passengers, crewmembers, and air operators in an effort to harmonize the Hazardous Materials Regulations (HMR) with the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods (ICAO TI).

Phillips Healthcare petitioned PHMSA to increase the quantity limits applicable to the transportation of portable medical electronic devices (e.g., automated external defibrillators (AED); nebulizers; continuous positive airway pressure (CPAP) devices containing lithium metal batteries; and spare batteries) carried on aircraft by passengers and crewmembers. The HMR, as it currently stands, limits all lithium metal batteries carried on an aircraft by passengers or crew for personal use to a lithium content of not more than 2 grams per battery. The ICAO TI allow portable medical electronic devices containing lithium metal batteries and spare batteries for these devices to contain up to 8 grams of lithium content per battery to be carried by passengers with the approval of the operator.

Phillips Healthcare, as support for its petition, asserts that an increase in air travel and the aged population leads to an assumption that there will be an increase in older passengers or passengers with illness and the current HMR requirements prohibit many people who need to travel with their portable medical electronic devices from doing so because the lithium content exceeds the amount allowed. Phillips Healthcare requested that PHMSA increase the quantity limits for portable medical electronic devices containing lithium metal batteries and spare batteries in order to make the HMR requirements consistent with section 828 of the "FAA Modernization and Reform Act of 2012" which prohibits the Secretary of Transportation from issuing or enforcing any regulation or other requirement regarding the air transportation of lithium cells or batteries if the requirement is more stringent than the requirements of the ICAO TI. Phillips Healthcare also requested that portable medical electronic devices with increased lithium contents be authorized for transport by passengers or crew members without the approval of the operator.

PHMSA agrees with Phillips Healthcare on the issue of making the requirements regarding portable medical electronic devices with lithium batteries consistent with the intent of section 828 of the FAA Modernization and Reform Act. However, PHMSA will not propose to remove the operator approval provision in the HMR requirements because under the ICAO TI, approval of the operator is required for lithium metal battery powered portable medical electronic devices and their spare batteries exceeding 2 grams of lithium content but not exceeding 8 grams of lithium content.

Thus, PHMSA proposes to amend and align HMR provisions with those in the ICAO TI by authorizing passengers and crewmembers to carry on board an aircraft lithium metal battery-powered portable medical electronic devices and two spare batteries for those devices exceeding 2 grams of lithium content per battery, but not exceeding 8 grams of lithium content per battery, with the approval of the operator. PHMSA considers operator approval to be an important safety provision, especially in the context of large lithium metal batteries otherwise forbidden for transportation in carry-on or checked baggage. Consistent with the ICAO TI and the current HMR prohibitions, spare lithium batteries of any type and for any application continue to be prohibited from checked baggage.

If you have any questions or would like further information, please contact Shelley Ewalt.

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