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BROAD U.S. HAZMAT AMENDMENTS ISSUED TO HARMONIZE WITH INTERNATIONAL REGULATIONS, CODES AND STANDARDS

Burdensome Employee Training Requirements Set Aside

On May 11, 2020, U.S. DOT PHMSA issued its long-awaited final rule which amends the Hazardous Materials Regulations (HMRs) on issues ranging from lithium batteries to recording the water's temperature in IBC hydrostatic pressure testing. Referred to as "HM 2150" (*the letter "O"*), the amendments are a periodic updating of U.S. regulations to conform or "harmonize" with international regulations, codes and standards.

Here are three changes to PHMSA's regulations that impact RIPA members and on which the association submitted comments:

"Competency Based Training" for hazmat employees (CBT). RIPA joined more than 20 other national trade groups in opposing an onerous new regimen under consideration for hazmat employee training. In its comments, RIPA stated "Current training requirements, which have been in place since 1992, are effective, cost-efficient, and should not be replaced by a complex and, as yet, untried system." RIPA added that "...with each new administrative requirement imposed on employers by a CBT program comes a new enforcement responsibility for PHMSA. In a CBT system, instructors would need to be certified and inspectors would have to examine annual surveys, incident trend data and related materials showing that employers have adequately remedied any insufficiencies." PHMSA set aside the proposal, agreeing that the program had not been tested or implemented by other international bodies that originated the idea.

Recording water temperature in IBC hydrostatic pressure testing. RIPA supported this proposal as both a technical matter for improving test reports and a harmonization with the UN. Also, RIPA concurred with PHMSA's position that "...inclusion of the temperature of the water used for the test will allow for tests that more accurately simulate the original design type testing when such additional testing is performed."

IBC drop test, allowance to use the same sample. PHMSA proposed that "The same IBC or a different IBC of the same design may be used for each drop." RIPA offered for clarity a re-wording: "The same or *another* IBC of the same design *type* may be used..." (emphasis added). In the end, PHMSA stuck with its language but did agree to a clerical correction to make clear that an additional drop applies to IBCs less than 0.45 cubic meters (approximately 119 gallons; 49 CFR 178.810).