

## Aviation Group Client Update

Date: March 8, 2013

Contact: Lisa A. Harig  
Washington DC Office  
[lharg@mklawdc.com](mailto:lharg@mklawdc.com)  
+1 703 247 5487

Lindsay W. McGuire  
Jericho NY Office  
[lmcguire@mklawnyc.com](mailto:lmcguire@mklawnyc.com)  
+1 516 364 1095

### PHMSA ISSUES FINAL RULE ON AMENDMENTS TO THE HMR

Yesterday, the Pipeline and Hazardous Materials Safety Administration (PHMSA) issued a [final rule](#) amending the Hazardous Materials Regulations (HMR) to in response to various petitions for rulemaking from stakeholders. Last May, PHMSA issued a [notice of proposed rulemaking](#) seeking comments from the public on the proposed amendments. PHMSA is adopting the following amendments to update, clarify, or provide relief from miscellaneous regulatory requirements:

- Revise § 178.3 to clearly indicate that a manufacturer or third-party laboratory mark may not be used when continued certification of a packaging is conducted by someone other than the original manufacturer or third-party testing laboratory, unless specifically authorized by the original manufacturer or third-party testing laboratory;
- Revise §§ 178.601(l), 178.801(l), and 178.955(i) to relax the record retention requirements for packaging test reports and provide a chart to clearly identify the recordkeeping requirements;
- Revise the Hazardous Materials Table (HMT; 49 CFR § 172.101) by removing the listing for “NA1203, Gasohol, gasoline mixed with ethyl alcohol, with not more than 10% alcohol”; and removing reference to gasohol in §§ 172.336(c)(4) and 172.336(c)(5);
- Revise § 172.101 to refer to § 173.151 to harmonize internationally and provide a limited quantity exception for Division 4.1, Self-reactive solids and Self-reactive liquids, Types B through F;
- Allow smokeless powder classed as a Division 1.4C material to be reclassified as a Division 4.1 material to relax the regulatory requirements for these materials without compromising safety; and
- Allow the Dangerous Cargo Manifest (DCM) to be in locations designated by the master of the vessel besides “on or near the vessel’s bridge” while the vessel is in a United States port to ensure that the DCM is readily available to communicate to emergency responders and enforcement personnel the presence and nature of the hazardous materials on board a vessel.

PHMSA did not adopt a proposal to incorporate by reference in § 171.7 ASTM D4976-06, Standard Specification for Polyethylene Plastics Molding and Extrusion Materials, and to revise §§ 178.509(b)(1) and 178.707(c)(3) to include a reference to ASTM D4976-06. The petitions underlying this proposal were withdrawn by comment because they may have increased the regulatory burden.

The final rule is effective **May 6, 2013**. The voluntary compliance date is **March 7, 2013**. Please contact our office for additional information or for assistance complying with the amendments.

\* \* \* \* \*

McBreen & Kopko’s Aviation Group represents air carriers, fixed base operators (FBOs), airport managers, aviation service providers, and business aircraft owners and operators on a wide range of aviation issues including regulatory matters, commercial transactions, aircraft finance matters, and bankruptcy and creditors’ rights.