

## ***Advocacy Recommends That PHMSA Consider the Impact of its Proposed Lithium Batteries Rule on Small Businesses***

On March 12, 2010, the U.S. Small Business Administration's (SBA) Office of Advocacy (Advocacy) submitted comments to the Pipeline and Hazardous Materials Safety Administration (PHMSA) on PHMSA's *Proposed Lithium Batteries Rule*. [75 Fed. Reg. 1302 (January 11, 2010)].

PHMSA's proposed rule would remove the exception under the hazardous materials regulations for the air transport of small lithium batteries and products that contain them, such as consumer, medical, and electronic devices in widespread use throughout society. PHMSA is concerned that lithium batteries could create a fire hazard during transport if they are improperly packaged, stored, or handled. Hence, PHMSA seeks to regulate them as full Class 9 hazardous materials.

A complete copy of Advocacy's letter to FAA is available at: [www.sba.gov/advo/laws/comments/](http://www.sba.gov/advo/laws/comments/).

- Small business representatives support several aspects of the proposed rule that harmonize U.S. regulations with United Nations (UN) and International Civil Aviation Organization (ICAO) standards, including adopting common definitions for lithium metal and lithium ion batteries, using watt hours to measure lithium ion batteries, and referencing the current U.N. Manual on Tests and Criteria for design type testing.
- Small business representatives oppose PHMSA's proposal to remove the exception for small lithium batteries under the hazardous materials regulations, and they oppose changing the retesting criteria for design changes because it would deviate from international standards.
- Small business representatives are concerned that PHMSA's analysis omits a number of regulated entities and significantly understates costs. For example, small business representatives stated that the proposal would impede the air transportation of goods, require significant supply chain modifications, drive up shipping costs, and put U.S. firms at a competitive disadvantage over their foreign counterparts.
- Advocacy appreciates the important safety implications associated with the proposed rule, and recommends that PHMSA further assess the impact of the proposal on small businesses and consider alternatives that would meet the agency's objectives in a less burdensome way.

For more information about the proposed rule, please visit Advocacy's Web page at [www.sba.gov/advo](http://www.sba.gov/advo) or contact Bruce Lundegren, Assistant Chief Counsel, at (202) 205-6144 (or [bruce.lundegren@sba.gov](mailto:bruce.lundegren@sba.gov)).