

URGENT TOPICS – January 1, 2005

US DOT (RSPA) Interim Final Rule on Lithium Batteries

✈ On Dec. 15, 2004, US Department of Transportation (DOT) Research and Special Programs Administration (RSPA) issued an interim final rule, Docket No. RSPA-04-19886 (HM-224E), imposing a limited prohibition on offering for transportation and transportation of primary (non-rechargeable) lithium batteries and cells as cargo aboard passenger aircraft and equipment containing or packed with large primary lithium batteries. The effective date of this interim final rule is December 29, 2004.

✈ This rule applies to both foreign and domestic passenger aircraft entering, leaving, or operating in the United States and to persons offering primary lithium batteries and cells for transportation as cargo on any passenger aircraft.

This prohibition does not affect the carriage of lithium batteries or devices containing lithium batteries that are transported in a passenger's luggage for personal use. In addition, this rule does not apply to shipments of equipment that contains or is packed with small primary lithium batteries or to the shipment of secondary (rechargeable) lithium batteries (e.g., lithium ion batteries).

✈ RSPA is amending the Hazardous Material Regulations to require that, when offered for transport as cargo, shipments of primary lithium batteries and cells that are excepted from classification as a Class 9 (miscellaneous) hazardous material must be marked to indicate that they are forbidden for transport aboard passenger aircraft.

✈ Because this interim final rule addresses an immediate public safety risk, it is impracticable and contrary to the public interest to precede it with a notice of proposed rulemaking and an opportunity for public comment. RSPA and FAA also plan on holding a public meeting on this rulemaking before the end of the comment period. The details of the public meeting, including time and location, will be set forth in a future Federal Register notice.

✈ The effective date of these amendments is December 29, 2004.

✈ Comments must be received by February 14, 2005.