

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS
SAFETY ADMINISTRATION**

**COMMENTS OF THE
NATIONAL FUNERAL DIRECTORS ASSOCIATION
ON
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
PROPOSED AMENDMENTS TO THE HAZARDOUS MATERIALS
REGULATIONS ON THE TRANSPORTATION OF LITHIUM CELLS
AND BATTERIES**

[DOCKET NO. PHMSA – 2009 – 0095 (HM – 224F)]

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The National Funeral Directors Association (“NFDA”) is submitting comments to the above referenced proposed Amendments to the Hazardous Materials Regulations [DOCKET NO. PHMSA – 2009 – 0095 (HM – 224F)] on behalf of its fifty state association members, 19,000 funeral director members, and 10,200 funeral home members.

There are nearly 22,000 funeral homes in the United States. Approximately 90% of the funeral homes are small family-owned businesses. NFDA is the largest funeral service association in the United States and serves as the national representative of funeral service.

According to the U.S. Transportation Security Administration, approximately 100,000 deceased human bodies per year are transported by passenger air carriers from the place of death back to a home town for funeral and burial services. Although exactly how many of these remains contain pacemakers and defibrillators powered by lithium batteries is not known, it can be estimated that the number is approximately 1,000 per year. Since over 2 million Americans have pacemakers or defibrillators, and the overall U.S. population is 300 million, statistically 1 out of 150 Americans have these implanted devices. Of course, since the elderly make up both a significant percentage of those with implanted medical devices and those who die in any given year, it is safe to assume that at least 1 out of every 100 of the 100,000 human remains being transported by passenger air carrier have an implanted device. Therefore, at least 1,000 sets of human remains with pacemakers or defibrillators powered by lithium batteries are transported by passenger air carrier each year in the United States.

After researching this issue, NFDA was unable to uncover any report of an implanted medical device powered by lithium batteries causing a fire. There was no suggestion in any of the medical literature that pacemakers or defibrillators that are implanted in living human beings or deceased human remains pose any fire threat whatsoever. In the FAA Report on the cargo and passenger air incidents involving batteries causing smoke, fire, extreme heat or explosion from March 20, 1991 through March

2, 2010, not one of the 110 incidents involved implanted pacemakers, defibrillators or other medical devices.

Currently, 49 CFR §175.10(a)(3) exempts implanted medical devices in humans from the regulations restricting hazardous materials on passenger aircraft. That exemption provides as follows:

“(3) Implanted medical devices in humans or animals that contain hazardous materials, such as a heart pacemaker containing Class 7 (radioactive) material or lithium batteries; and radiopharmaceuticals that have been injected or ingested.”

NFDA would request that 49 CFR §175.10(a)(3) be amended to insert the words “living or deceased” before the word “humans” in the first sentence of the exemption. This addition would make clear that implanted medical devices in a deceased human body being transported by an air carrier would fall under the exemption currently available for living humans. Without this exemption, it could be argued that funeral homes would be compelled to surgically remove pacemakers and defibrillators from human remains prior to shipment by passenger air carriers. This would involve unnecessary expense and, more importantly, needless emotional distress to families of decedents with these implanted devices. To avoid these unnecessary surgical procedures and the expense and mental anguish which could result therefrom, NFDA requests the Pipeline and Hazardous Materials Safety Administration to make the minor amendment to 49 CFR § 175.10(a)(3) as requested above.

Respectfully submitted,
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