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## DOT Issues Final Rule Improving Safety of Rail Tank Car Transportation of Hazardous Materials

On January 13, 2009, the United States Department of Transportation<sup>1</sup> amended the Hazardous Materials Regulations to improve safety measures for rail transportation of poison inhalation hazard (PIH) materials, including interim design standards for newly manufactured tank cars.<sup>2</sup> The rule requires commodity-specific improvements in safety features and design standards for tank cars built on or after March 16, 2009, pending validation and implementation of a crashworthiness performance standard.

The rule also establishes new interim standards for existing tank cars, including mandates aimed at improving safety measures to enhance the survivability of tank cars during accidents, especially those used to carry commodities such as chlorine and anhydrous ammonia. Tank cars that haul PIH chemicals will be thicker and more resistant to punctures — providing more than double the speed for existing tank cars, making them strong enough to prevent penetration at speeds of 25 mph for side impacts and 30 mph for head-on

collisions. DOT officials believe the rule will increase by 500 percent the amount of energy a tank car must absorb during a train accident before a catastrophic failure occurs. A new 50 mph speed restriction for loaded tank cars transporting PIH materials was also adopted.

Of importance, several aspects of the proposed rulemaking were dropped following comments on the proposed rule. DOT declined to adopt, under certain scenarios, a much lower (30 mph) temporary speed restriction for PIH tank cars not meeting the puncture-resistance standard. Instead, the interim final rule requires rail carriers to analyze the safety and security risks of the routes used to transport high-risk hazardous materials and of alternative routes. Finally, the rule requires railcar owners to prioritize the retirement of pre-1989 non-normalized steel cars when analyzing their fleets while DOT finalizes research and testing to implement more stringent performance standards.

Hunton & Williams' attorneys have extensive knowledge and experience with DOT-regulated industries. We are following these issues closely and are available to answer your questions and concerns, and to assist you in assessing your regulatory issues.

<sup>1</sup> The rule was published by the Pipeline and Hazardous Materials Safety Administration (PHMSA) with the close cooperation of the Federal Railroad Administration (FRA).

<sup>2</sup> 74 Fed. Reg. 1,770 (January 13, 2009).