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Reverse Logistics/Transportation: United States Pipeline and Hazardous Materials Safety Administration Adopts Final Rule

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The United States Pipeline and Hazardous Materials Safety Administration (“PHMSA”) adopted a final rule which contains regulatory amendments applicable to the reverse logistics shipments of certain hazardous materials by highway transportation.

PHMSA states that the final rule revises the Hazardous Materials Regulations (“HMR”) to include a definition of “reverse logistics” and provides appropriate provisions for hazardous materials within the scope of this definition.

The final rule is part of the United States Department of Transportation’s Retrospective Regulatory Review, whose objective is to improve the HMR. The review of the reverse logistics process determined that current regulations could better account for what is a distinct and limited segment of the supply chain associated with the return of shipment of consumer items containing hazardous materials from the retail store for return to its manufacturer, supplier or distribution facility. The final rule is intended to clarify, streamline, and allow for flexibility in regulatory requirements with regards to reverse logistics.

The preamble cites investigative activities conducted by PHMSA field operations staff which identified a need to consider regulatory amendments to specifically address the “unique issues encountered by this distinct and limited segment of the supply chain.” Characterized as unique problems that can occur during the reverse logistics of hazmat are:

- The lack of knowledge regarding the risks of transferring certain products
- The lack of hazmat training by employees at a retail store
- The difficulty of applying hazmat regulations to reverse logistics shipments
- The different packaging(s) other than the original packaging being used to ship the material
- The potential for hazmat to be subjective to Environmental Protection Agency (EPA) waste manifest rules
- The inclusion of items once classified as consumer commodities that no longer meet the “consumer commodity” definition

The federal agency also notes:

In order to reduce undeclared, misdeclared, or improperly packaged hazmat from being offered and transported in commerce, we are amending the HMR to better address the reverse logistics supply chain. Specifically, we are seeking to ensure retail employers properly identify hazardous materials in the

reverse logistics chain and ensure that their employees have clear instructions to safely offer such shipments. Even when intended for ground transportation, the complex transportation network in the U.S. means that these shipments could inadvertently enter into air transportation – a mode of transportation where clear hazard communications is essential. Clear and correct hazard communication allows air carriers to manage the risk in their system by either rejecting, or properly accepting, handling, and segregating hazardous materials. The PHMSA believes that the reverse logistics of hazmat will continue to rise with the increased consumption of goods in a growing economy. By adopting, in part, petitions P-1528 and P-1561, the PHMSA is seeking to account for the distinct challenges associated with this issue.

By way of “Executive Summary,” the final rule is described as creating a:

... a new section (§ 173.157) in the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) with provisions specific to reverse logistics (e.g., returning shipments from retail stores to a product’s manufacturer, supplier, or distribution facility) by highway transportation. The PHMSA believes that the requirements adopted in this final rule will benefit retail operators by establishing a regulatory framework targeted to a distinct and limited segment of the supply chain that is associated with retail stores. In this rule, the PHMSA codifies a definition for the “reverse logistics” of hazardous materials as “the process of offering for transport or transporting by motor vehicle goods from a retail store for return to its manufacturer, supplier, or distribution facility for the purpose of capturing value (e.g., to receive manufacturer’s credit), recall, replacement, recycling, or similar reason.” The PHMSA is also addressing the reverse logistics transportation of used automobile batteries to recycling centers. This change to the HMR will address the concerns of stakeholders pertaining to the consolidation of shipments of lead-acid batteries for recycling.

[Click here to download a copy of the final rule.](#)