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Transportation/Hazardous Materials: U.S. Pipeline and Hazardous Materials Safety Administration Interpretive Letter Addressing Verification of Shipping Papers

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The United States Pipeline and Hazardous Materials Safety Administration (“PHMSA”) addressed in an August 17th interpretive letter the application of the federal Hazardous Materials Regulations (“HMR”) to motor carrier and driver responsibilities under § 177.817. See Reference No. 26-0043.

PHMSA was responding to a March 16th email from Troy Berube, stating in part:

... Specifically, in the context of a motor carrier assigning drivers the responsibility of verifying “correctness” of shipping papers, you ask if this is within the scope of “acceptance” requirements associated with receiving a shipping paper prepared in accordance with the HMR.

PHMSA states that it is the carrier’s responsibility to determine how they will comply with § 177.817(a). This provision states that a person may not accept or transport hazardous material by highway unless that person has received a shipping paper prepared in accordance with Part 172 of the HMR.

The HMR is noted to not define “acceptance” responsibilities in this context. The responsibility for accurately classifying and describing hazardous materials is an offeror responsibility (see §§ 172.204 and 173.22). Therefore, PHMSA states that while a motor carrier may not transport hazardous materials unless it is accompanied by a shipping paper prepared in accordance with Part 172 of the HMR, the carrier may rely on the information provided by the offeror (or a prior carrier). However, it further states that such reliance stands unless the carrier knows or a reasonable person, acting in the circumstances and exercising reasonable care, would have knowledge that the information is incorrect (§ 171.2(f)).

§ 177.817(e) is also cited which is stated to outline driver responsibilities regarding the presence, placement, and accessibility of shipping papers during transportation. Motor carriers are stated to be tasked with ensuring each hazmat employee, including drivers involved in transportation, receives training specific to the functions for which the employee is responsible (see § 172.704(a)(2)). Therefore, because drivers are trained in these specific functions, PHMSA states that they are expected to exercise reasonable care by reviewing the shipping paper to ensure apparent regulatory requirements are met (such as the visible presence of the basic description).

A copy of the interpretive letter can be found [here](#).

