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Hazardous Materials/Transportation: U.S. Pipeline and Hazardous Materials Safety Administration October 11th Letter Addressing Issues Associated with Reverse Logistics

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The United States Pipeline and Hazardous Materials Safety Administration ("PHMSA") issued an October 11th letter clarifying the application of the federal Hazardous Materials Regulations ("HMR") to reverse logistics (i.e., return of shipments of certain hazardous materials from retail facilities to manufacturing or distribution facilities).

PHMSA was responding to an August 26th letter from the *Journal of Hazmat Transportation* ("Journal").

The *Journal* asked PHMSA about regulatory language proposed in the HM-253 Notice of Proposed Rulemaking ("NPRM") that was published on August 11, 2014. See 79 Fed. Reg. 46748.

The NPRM is stated to have included proposed language 49 C.F.R. § 173.157 stating:

When transported by motor vehicle and conformance with this section, a hazardous material is not subject to any other requirements of the subchapter besides those set forth and referenced in the section.

The *Journal* in its August 26th letter noted that the previously referenced sentence was not included in the HM-253 final rule published on March 31, 2016. See 81 Fed. Reg. 18527. The *Journal* sought comment on:

...your literal reading of the HM-253 final rule, which is that shipments made by private carriers under § 173.157(c) would be subject to training requirements under Subpart H, Shipping Papers, Labeling, Marketing, and Placarding.

PHMSA in its October 11th response notes agreement that it removed the cited language from the HM-253 final rule. The agency further notes:

...in drafting the final rule, PHMSA determined that separate conditions would be allowed for reversal logistics shipments made by private carrier versus non-private carrier. This modification sought to ensure that reverse logistics shipments made by non-private carrier could not be transported by aircraft. When addressing shipments by non-private carrier, shippers are directed to the limited quantity sections for the applicable hazard class. These limited quantity reverse logistics shipments are then excepted from the

training, labeling and placarding requirements. Therefore, shipments made as reverse logistics limited quantity shipments would only require a limited quantity marking and limited training requirements as outlined in the reverse logistics section.

PHMSA states it intended to include in the final rule the same exceptions for private carriers. However, it agrees that the language is not specifically stated in § 173.157(c). PHMSA states it will “work to clarify this language” in a future rulemaking.

[A copy of the October 11th letter can be downloaded here.](#)