

DOT Seeks to Ease Retailer Burdens Associated with Returning Consumer Products Containing Hazardous Materials

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On July 5, the Department of Transportation's (DOT) Pipeline and Hazardous Materials Safety Administration (PHMSA) issued an advance notice of proposed rulemaking (ANPRM) that initiates a plan to study ways to reduce the regulatory burdens on retailers who ship consumer products containing hazardous materials through what the agency calls the "reverse logistics" supply chain (*i.e.*, backward in the distribution chain). Reverse logistics shipments are most likely to be initiated when products are returned for recycling or disposal, returned due to a recall or damage, or returned under warranty. The retailer in turn sends such products to the supplier or manufacturer for handling.

PHMSA is using the ANPRM to seek public comments on the universe of reverse logistics shipments, both regarding current handling and recommendations for future regulation. The ANPRM poses a multitude of questions about the type, size, quantity, frequency, and other aspects of businesses' reverse logistics shipments, including shipper training, packaging, hazardous materials segregation, the use of third-party carriers, and the proper role for manufacturers. Comments responding to the ANPRM are due October 3, 2012.

PHMSA's ultimate goal is to publish a proposed rule designed to simplify the regulations for reverse logistics shipments and provide a means for regulatory compliance that maintains transportation safety.

Used lead-acid batteries collected by retailers and then picked up by manufacturers for delivery to a recycler are discussed at length in the ANPRM. Indeed, the ANPRM responds, in part, to a petition from the battery industry, and it suggests that DOT likely will use a reverse logistics rule as a means of clarifying that certain used battery shipments are exempt from full hazmat regulation.