

**SUBJECT 17**

**Re:** Item (Rule) 540 — Hazardous Materials

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**Proponent:** Freight Classification Development Council

**Proposed Classification Provisions**

**It is proposed to amend Item 540, Hazardous Materials, to read as follows:**

**ITEM 540****HAZARDOUS MATERIALS**

**Secs. 1-3.** No Change.

**Sec. 4. Empty Shipping Packages Containing Hazardous Material Residue:** Empty shipping packages containing the residue of hazardous material regulated by the U.S. Department of Transportation will be classified as the package itself only when: 1) neither the material name, identification number, hazard warning label(s) or placard(s), and any other markings indicating that the material is hazardous have been removed, obliterated or securely covered, nor the shipment meets the requirements of 49 CFR §172.303 for markings and 49 CFR §172.401 (d) for labels; and 2) they are excepted from the hazardous materials regulations, per 49 CFR §173.29. Otherwise, the package will be classified as the hazardous material contained therein.

**Sec. 5.** No Change

**Notes A-E—**No Change.

**Analysis and Conclusion**

Based on a review of Item 540, Sec. 4 by a Transportation Specialist at Pipeline and Hazardous Materials Safety Administration (PHMSA), the current provisions are not in line with the requirements set forth in Title 49 of the Code of Federal Regulations (49 CFR).

According to PHMSA, when dealing with residue contained in empty shipping packages, 49 CFR §173.29 states that the package must be treated as if it were full, and that includes hazardous materials shipping papers, labels, markings and placards. There are scenarios where labels and markings may be left on empty shipping packages without residue, which are in 49 CFR §172.303 for markings and 49 CFR §172.401 for labels.

Therefore, based on the information provided, this proposal would amend the requirements in Item 540, Sec. 4 to ensure compliance with the hazardous materials regulations in 49 CFR.