



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, D.C. 20590

JUN 30 2016

Ms. Julie Heckman
Executive Director
American Pyrotechnics Association
7910 Woodmont Ave #1220
Bethesda, MD 20814

Reference No. 16-0057

Dear Ms. Heckman:

This is in response to your April 8, 2016 email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to reverse logistics shipments of fireworks. We have paraphrased and answered your questions as follows:

- Q1. On March 31, 2016 [81 FR 18527], the Pipeline and Hazardous Materials Safety Administration (PHMSA) published the Reverse Logistics final rule under Docket PHMSA-2011-0143 (HM-253). You indicate that PHMSA should have written § 173.157(c)(1) to state that Division 1.4G materials should be offered for transport or transported in accordance with sections §§ 173.56(b)(1), 173.56(f), or 173.65. You believe that adding these sections would more appropriately address all possible approval routes for the classification of 1.4G consumer fireworks rather than the single reference to § 173.56.
- A1. In this final rule, PHMSA intended to allow 1.4G fireworks to be shipped from retail facilities back to distribution centers provided the packaging met the terms of the original approval and the shipment was made by private carrier. Section 173.157(c)(2) permits all Division 1.4G and 1.4S fireworks, "sold in retail facilities" regardless of how the fireworks were originally approved, therefore if the products under §§ 173.56(b)(1), 173.56(f), 173.64 or 173.65 they are permitted under this section. PHMSA may consider adding clarification language in a future rulemaking.
- Q2. You note that § 173.157(c)(2) requires fireworks shipped as reverse logistics to use packaging that meets the terms of the original approval. You ask if Department of Transportation (DOT) 4G fiberboard boxes could be used for these reverse logistics shipments of consumer fireworks.

- A2. As noted in § 173.157(c)(2), the packaging used to ship fireworks as reverse logistics must meet the terms of the original approval. Therefore, if the DOT fiberboard 4G box was listed in the approval or authorized for shipment in the forward logistics of the fireworks, it would also be approved or authorized for the reverse logistics shipments.
- Q3. You note that many of the packagings you use to move fireworks already display an orange 1.4G label and UN 0336 number. You ask if the 1.4G label, the proper shipping name, and the UN number must be removed from the package in order to take advantage of the reverse logistics exception.
- A3. The answer is yes. In order to utilize the reverse logistics exception in § 173.157, shippers must only display the limited quantity or reverse logistics marking, thereby distinguishing between fully regulated shipments of fireworks and reverse logistics shipments.
- Q4. You ask if reverse logistics shipments of fireworks that exceed 1,000 pounds gross weight require placards under § 173.157, as this would trigger the requirement for the driver of the vehicles to possess a commercial driver's license (CDL) with a hazmat endorsement.
- A4. The answer is no. Provided the fireworks shipment meets all the requirements in § 173.157, the reverse logistics shipment would not require placards.
- Q5. You ask if there is a shipping paper requirement for reverse logistics shipments of consumer fireworks under § 173.157.
- A5. The answer is no. Provided the fireworks shipment meets all the requirements in § 173.157, the reverse logistics shipment would not require a shipping paper.
- Q6. You ask if 1.4G fireworks shipped under the reverse logistics section are still considered fireworks under the HMR or if they are considered reverse logistics materials.
- A6. Shipments of consumer fireworks that are eligible for shipment under the reverse logistics section in § 173.157 are fireworks. The exceptions provided in § 173.157 are intended to provide minimum packaging, training, and hazard communication to address the risk posed by hazardous materials that are returned from retail facilities to the manufacturer, supplier, or distribution center.

These requirements do not provide an option to reclassify the material, but are an exception that facilitates the movement of these materials from a retail facility back to the distribution centers.

I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,

A handwritten signature in black ink, reading "T. Glenn Foster". The signature is written in a cursive style with a long, sweeping horizontal line extending to the right.

T. Glenn Foster
Chief, Regulatory Review and Reinvention Branch
Standards and Rulemaking Division

Andrews
Explosives
173.56
16-0057

Dodd, Alice (PHMSA)

From: Andrews, Steven (PHMSA)
Sent: Monday, April 11, 2016 7:19 AM
To: Hazmat Interps
Subject: FW: Reverse Logistics FR re 1.4G Consumer Fireworks
Attachments: RL questions for PHMSA 3-16.doc

Alice/Shante,

Please log this in as a interp and assign it to me. The attachment has the questions that need to be answered.

Thanks
steven

From: Julie Heckman [<mailto:jheckman@americanpyro.com>]
Sent: Friday, April 08, 2016 1:06 PM
To: Andrews, Steven (PHMSA)
Cc: John A. Conkling
Subject: Reverse Logistics FR re 1.4G Consumer Fireworks

Dear Steven,
Thank you so much for returning my phone call regarding the Final Rule on Reverse Logistics.

As we discussed, we believe the reference on pg. 18540 in the Federal Register, under 173.157 (c)(1) should state Division 1.4G materials offered for transport and transported in accordance with sections 173.56(b)(1), 173.56(f), 173.56(j) or 173.65.

This would then more appropriately address all possible approval routes for the classification of a 1.4G Consumer Fireworks rather than the current single reference to 173.56 which pertains to only fireworks approved by a Fireworks Certification Agency (FCA).

Additionally, I have attached several questions that we would appreciate a review and response to in order for us to prepare guidance for the industry for the upcoming 4th of July season as we are certain members will want to take advantage of the Reverse Logistics provisions.

If you require any additional information from the APA in order to address our questions, please feel free to reach out to me or Dr. John Conkling.

Many thanks for your assistance.

Best regards,
Julie

Julie L. Heckman
Executive Director
American Pyrotechnics Association
Ph. (301) 907-8181
Cell(240) 401-4513
Fax(301) 907-9148

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Questions for PHMSA re the Reverse Logistics (RL) regulations:

1. The rule requires that “consumer grade fireworks” be packaged “as required by the approval assigned to those fireworks”. There is a limit of 30 kilograms (66 pounds) of materials per package. A logical packaging choice for the reverse logistics movement of consumer (1.4G) fireworks from a retail facility back to the supplier (by private motor carrier only) would be the DOT-specification 4G fiberboard cartons that were used to ship the products to the sales facility. Assuming that the cartons are in good condition, and sealed with tape comparable to that used for the original shipment, are they permissible to use for RL shipments?

a. These cartons will already have an orange 1.4G label on them, as well as the Fireworks UN0336 marking. If the reverse logistics shipment prominently adds the new marking required by the RL rule as a sticker or tape, does the reverse shipper need to remove the 1.4G label, proper shipping name, and the UN number from the cartons?

b. If the quantity of RL fireworks on the private motor vehicle exceeds 1,000 pounds (gross weight), is placarding of the vehicle required? This would then trigger the requirement for the driver of the vehicle to possess a Commercial Driver’s License (CDL) with a Hazmat endorsement.

c. Are there any requirements pertaining to the shipping papers that are required for RL shipments?

d. For 1.4G fireworks shipments under the RL rules, are the products that are being transported still considered to be fireworks for purposes of transportation, or are they “Reverse Logistics” materials?