

1500) require Federal agencies to consider the consequences of Federal actions and prepare a detailed statement on actions that significantly affect the quality of the human environment.

The purpose of this rulemaking is to amend the Department's existing enforcement procedures to (1) to clarify the Department's position with respect to perishable hazardous material, by amending the opening of packages provision; (2) provide notice of enforcement measures to affected parties; and (3) address appropriate equipment for inspectors. Because this final rule addresses Congressional mandates, we have limited latitude in defining alternative courses of action. The option of taking no action would be both inconsistent with Congress' direction and undesirable from the standpoint of safety and enforcement.

PHMSA sought comment on the environmental assessment in the NPRM. PHMSA did not receive any comments regarding the environmental assessment contained in that rulemaking. This action has been thoroughly reviewed by PHMSA. Given that the inspection and enforcement procedures in this final rule will not change the current inspection procedures for DOT, but will provide transparency into our existing operations and procedures, PHMSA concludes that the rule will not result in significant environmental impacts.

#### J. Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) which may be viewed at: <http://www.gpo.gov/fdsys/pkg/FR-2000-04-11/pdf/00-8505.pdf>.

#### List of Subjects in 49 CFR Part 109

Equipment, Inspections and investigations.

#### The Final Rule

In consideration of the foregoing, part 109 of chapter I, subtitle B of title 49 of the Code of Federal Regulations is amended as follows:

### PART 109—DEPARTMENT OF TRANSPORTATION HAZARDOUS MATERIALS PROCEDURAL REGULATIONS FOR OPENING OF PACKAGES, FOR EMERGENCY ORDERS, AND FOR EMERGENCY RECALLS

■ 1. The authority citation for part 109 is revised to read as follows:

**Authority:** 49 U.S.C. 5101–5128, 44701; Pub. L. 101–410 Sec. 4 (28 U.S.C. 2461 note); Pub. L. 104–121 Secs. 212–213; Pub. L. 104–134 Sec. 31001; 49 CFR 1.81, 1.97.

■ 2. In § 109.5, paragraph (a) introductory text is revised, and paragraph (b) is added to read as follows:

#### § 109.5 Opening of packages.

(a) *In general.* Except as provided in paragraph (b):

\* \* \* \* \*

(b) *Perishable hazardous material.* To ensure the expeditious transportation of a package containing a perishable hazardous material, an agent will utilize appropriate alternatives before exercising an authority under paragraph (a) of this section.

■ 3. Add § 109.16 to subpart B as follows:

#### § 109.16 Notification of enforcement measures.

In addition to complying with the notification requirements in § 109.7 of this part, an agent, after exercising an authority under this Subpart, will immediately take reasonable measures to notify the offeror and the person in possession of the package, providing the reason for the action being taken, the results of any preliminary investigation including apparent violations of subchapter C of this chapter, and any further action that may be warranted.

■ 4. Add subpart D, consisting of § 109.25, to read as follows:

### Subpart D—Equipment

#### § 109.25 Equipment.

When an agent exercises an authority under subpart B of this part, the agent shall use the appropriate safety, handling, and other equipment authorized by his or her operating administration's equipment requirements for hazardous material inspectors and investigators.

Issued in Washington, DC, on September 26, 2013 under authority delegated in 49 CFR 1.97.

**Timothy P. Butters,**

*Deputy Administrator, Pipeline and Hazardous Materials Safety Administration.*

[FR Doc. 2013–23894 Filed 10–1–13; 8:45 am]

**BILLING CODE 4910–60–P**

### DEPARTMENT OF TRANSPORTATION

#### Pipeline and Hazardous Materials Safety Administration

#### 49 CFR Part 173

[Docket No. PHMSA–2013–0205; Notice No. 13–14]

#### Clarification on Fireworks Policy Regarding Approvals or Certifications for Firework Series

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

**ACTION:** Clarification.

**SUMMARY:** This notice clarifies PHMSA's policy regarding applications for firework device series. PHMSA has required separate applications for each individual firework device. Often one firework device has identical hazardous properties to another firework device that is intended to produce a similar result in a firework display. These similar firework devices are considered part of a series of firework devices. In this document, we are clarifying our policy to accept certain fireworks series applications.

**DATES:** October 2, 2013.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ryan Paquet, Director, Approvals and Permits Division, Office of Hazardous Materials Safety, (202) 366–4512, PHMSA, 1200 New Jersey Avenue SE., Washington, DC 20590.

#### SUPPLEMENTARY INFORMATION:

#### I. Introduction

In this notice, PHMSA's Office of Hazardous Materials Safety (OHMS) is issuing its policy regarding firework device series applications, which details the categories of fireworks for which PHMSA firework series applications may be permitted, and the criteria necessary to be considered a firework series. PHMSA believes that by issuing fireworks approvals or certifications to firework device series, the application backlog will be reduced, the current level of safety will be sustained, and firework series will reach the market faster.

**II. Background**

The transportation of fireworks in Division 1.3 or 1.4 requires a classification approval issued by PHMSA, commonly referred to as an EX number, or in the case of Division 1.4G consumer fireworks, a classification certification may be issued by a fireworks certification agency (FCA).<sup>1</sup> The EX or FC number is a unique identifier that indicates the device has been classed and authorized for transportation in the U.S., and is specific to a particular device as specified in 49 CFR 173.64 or 173.65, and the American Pyrotechnic Association (APA) Standard 87-1, Version 2001 (IBR, see 49 CFR 171.7).

Often manufacturers create one firework that has comparable hazardous properties and chemical compositions to another firework that is intended to produce a similar result in a firework display. These similar fireworks are considered part of a firework series. For example, five display shells are all eight inches in diameter and all contain the same pyrotechnic powder weight, but each display shell produces a different

pattern. The hazardous properties of these fireworks are identical, but currently each firework must have a separate application. This current policy creates added paperwork for both the manufacturers and PHMSA, results in delays in processing applications, and consequently, creates delays in shipping the fireworks.

Following a review of the current policy, PHMSA is revising its policy with respect to firework series approval or certification applications. Specifically, PHMSA will accept firework series applications that comply with the basic requirements of the APA Standard 87-1, and the conditions specified in this policy.

**III. Category of Devices Allowed in Series Applications**

The categories of firework series applications will be limited to the following devices:

- Cone Fountain
- Cylindrical Fountain
- Illuminating Torch
- Mine and Shell
- Missile with Fin-type Rocket
- Roman Candle

- Sky Rocket/Bottle Rocket
- Toy Smoke Device
- Wire Sparkler/Dipped Sparkler
- Display Aerial Shell (Fireworks, UN0335, 1.3G)

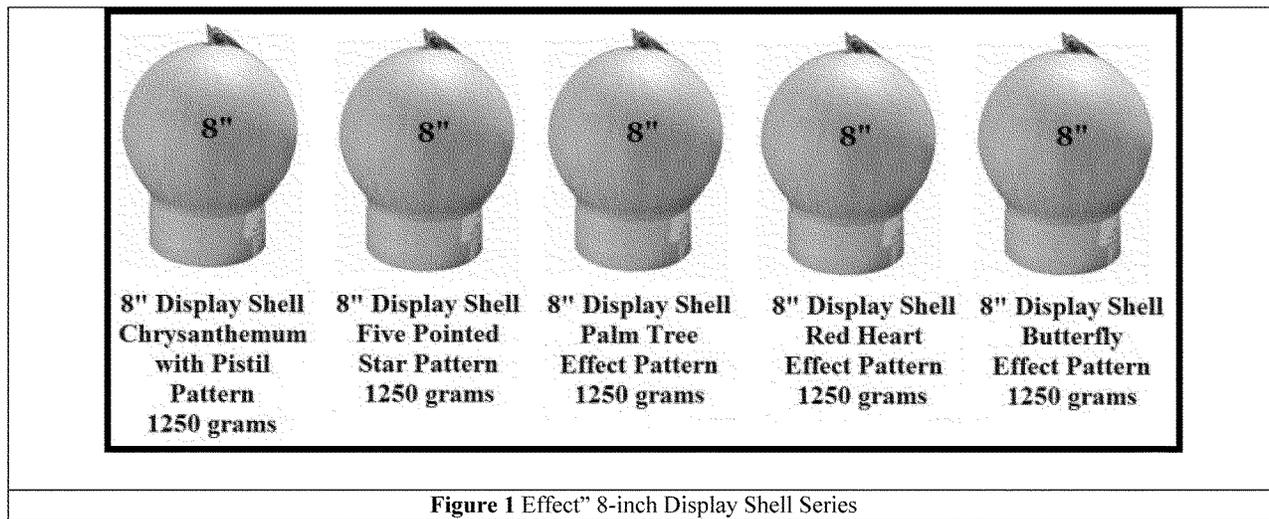
**IV. General Requirements**

PHMSA will accept firework series applications that comply with the basic requirements of the APA Standard 87-1, Version 2001 (IBR, see 49 CFR 171.7) and for all series applications the following apply:

(1) Series applications for PHMSA approval or FCA certification will be limited to one category of device and one hazard classification, e.g., Cone Fountain, Division 1.4G;

(2) There are two types of series applications: "Effect Series" and "Dimensional Series." The combination of an "Effect Series" and a "Dimensional Series" is prohibited; and

(3) The thermal stability test must be performed on all combinations of the components (chemical mixtures) used together in the device, or on each "Finished Product" covered under the application.



**Figure 1** Effect 8-inch Display Shell Series

**V. Effect Series**

For all effect series applications the following apply:

(1) Devices must be the same size and have the same maximum pyrotechnic

powder weight (Figure 1—"Effect" 8-inch Display Shell Series).

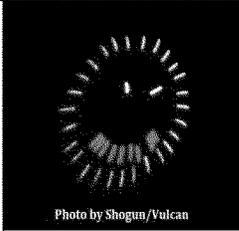
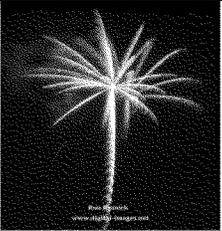
(2) Display shell diameter, tube diameter, the number of tubes in a device, and tube separation distances cannot change.

(3) A series may cover an assortment of different combinations of effects and patterns. A pattern is the design created by the effects. (Examples: Figures 2 through 6).

<sup>1</sup> Manufacturers of Division 1.4G consumer fireworks have the option of applying to a DOT-approved fireworks certification agency (FCA) instead of applying to PHMSA. The fireworks still must conform to the requirements in the APA

Standard 87-1, and pass a thermal stability test. Instead of applying to PHMSA, the manufacturer may apply in writing to an FCA with the information required in APA Standard 87-1. After reviewing the application, the FCA will notify the

manufacturer, in writing, if the fireworks have been classed, certified, and assigned an FC number, or if the application is denied (see 49 CFR 173.65).

				
<b>Figure 2</b> Chrysanthemum Pistil Pattern	<b>Figure 3</b> Smiley Face Pattern	<b>Figure 4</b> Palm Tree Pattern	<b>Figure 5</b> Heart Pattern	<b>Figure 6</b> Butterfly Pattern

(4) If devices contain single or multiple reports/salutes, the size, weight and number of reports/salutes must remain constant.

(5) The application must provide the following:

(i) A detailed table for each device that indicates the breakdown of all pyrotechnic composition names and weights;

(ii) A list of all effect combinations used in the application; and

(iii) Diagrams of each device that identifies all components and dimensions.

**VI. Dimensional Series**

For all dimensional series applications the following apply:

(1) Devices may increase in dimensional size and in total pyrotechnic composition weight. Change to the device size is limited to one of the following:

- (i) Increasing the shell diameter (Example: Figure 7);
- (ii) Increasing the tube diameter; or
- (iii) Increasing the number of tubes in the device.

(2) Effect(s) must remain constant throughout the series.

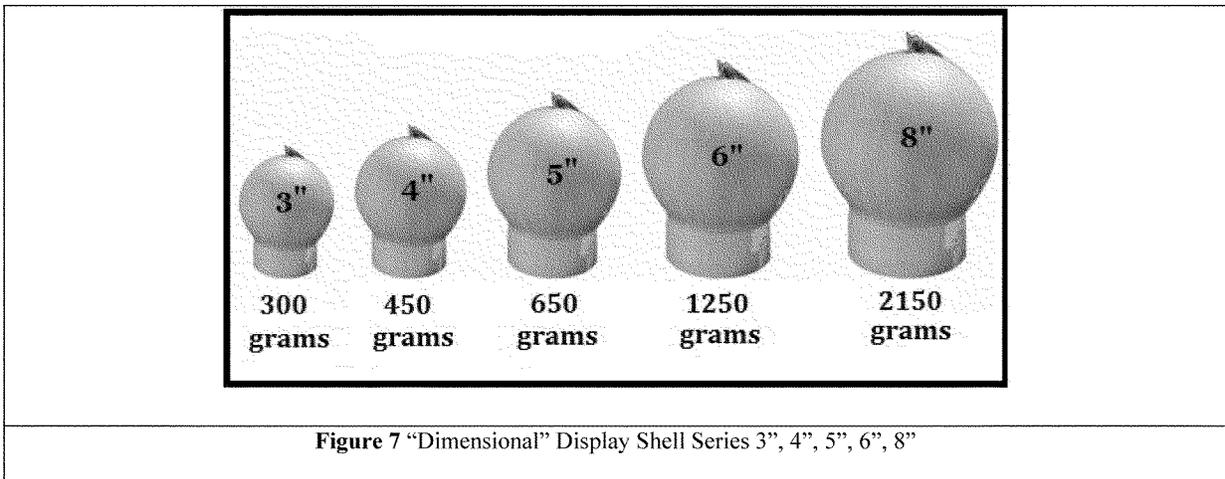
(3) Tube separation distance must not change.

(4) If devices in the series contain single or multiple reports/salutes, all of the devices must include reports/salutes. However, the size, weight, and number of reports/salutes may vary.

(5) The application must provide the following:

(i) A detailed table of the different sizes that indicates the breakdown of all pyrotechnic composition names and weights; and

(ii) A diagram of the largest device in the series that details all components and dimensions.



Issued in Washington, DC, under authority delegated in 49 CFR 1.97.

Magdy El-Sibaie,

*Associate Administrator for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.*

[FR Doc. 2013-24082 Filed 10-1-13; 8:45 am]

BILLING CODE 4910-60-P

## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

#### 49 CFR Part 173

[Docket No. PHMSA-2013-0206; Notice No. 13-15]

#### Clarification on Fireworks Policy Regarding Approvals or Certifications for Specialty Fireworks Devices

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

**ACTION:** Clarification.

**SUMMARY:** This document clarifies PHMSA's policy regarding applications for specialty fireworks devices. Specialty fireworks devices are fireworks devices in various shapes that produce multiple effects, simultaneously. In this document, we are establishing our policy regarding specialty fireworks devices.

**DATES:** October 2, 2013.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ryan Paquet, Director, Approvals and Permits Division, Office of Hazardous Materials Safety, (202) 366-4512, PHMSA, 1200 New Jersey Avenue SE., Washington, DC 20590.

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

In this document, PHMSA's Office of Hazardous Materials Safety (OHMS) is issuing its policy regarding specialty fireworks devices, which sets forth the requirements for approval or certification applications for "Specialty Fireworks Devices" classified as Division 1.4G, consumer fireworks. This notice of our policy clarifies what is considered a "Specialty Fireworks Device" for fireworks manufacturers or their U.S. designated agents to enable them to accurately apply for PHMSA approval or Fireworks Certification Agency (FCA) certification<sup>1</sup> and

<sup>1</sup> Manufacturers of Division 1.4G, consumer fireworks have the option of applying to a DOT-approved fireworks certification agency (FCA) instead of applying to PHMSA. The fireworks still must conform to the requirements in the APA Standard 87-1, and pass a thermal stability test. Instead of applying to PHMSA, the manufacturer

minimize the delay in processing applications for these devices.

##### II. Background

PHMSA's OHMS, Approvals and Permits Division often receives approval applications for Division 1.4G, consumer fireworks that are in the shape of an animal or a small vehicle that produce multiple effects. In this notice, we are providing guidance for PHMSA-approval or FCA-certification of specialty fireworks devices.

##### III. General Requirements

Specialty fireworks devices<sup>2</sup> may include tanks, small fire trucks, cars, boats, animals, and other similarly shaped devices that produce multiple effects (whistles, lights, sparks, noises, etc.) simultaneously.<sup>3</sup> Specialty fireworks devices, which are classified as UN0336, consumer fireworks, of Division 1.4G, must comply with the requirements of 49 CFR 173.56(b), 173.64 or 173.65, the APA Standard 87-1 and the requirements below.

Specialty fireworks devices:

1. Must be ground based with or without movement;
2. May contain non-sequential fusing;
3. May not exceed 10 fiberboard or plastic tubes per device;
4. May not contain more than 2 grams of pyrotechnic composition per tube, and not more than 20 grams pyrotechnic composition in the finished device;
5. Have reports that do not contain more than 50 mg of explosive composition per report;
6. Must not contain aerial components and tubes with internal shells, which are prohibited; and
7. Must not be combined with other firework devices.

Issued in Washington, DC, under authority delegated in 49 CFR 1.97.

Magdy El-Sibaie,

*Associate Administrator for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.*

[FR Doc. 2013-24092 Filed 10-1-13; 8:45 am]

BILLING CODE 4910-60-P

may apply in writing to an FCA with the information required in the APA Standard 87-1. After reviewing the application, the FCA will notify the manufacturer, in writing, if the fireworks have been classed, certified, and assigned an FC number, or if the application is denied (see 49 CFR 173.65).

<sup>2</sup> An example of a specialty fireworks device is a fire truck with 10 tubes, 2 grams per tube, for a total pyrotechnic weight of 20 grams.

<sup>3</sup> This policy only applies to UN0336, Fireworks, 1.4G, and does not apply to novelty fireworks devices. Requirements for novelty fireworks devices are found in the APA Standard 87-1, Section 3.2.

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[Docket No. FWS-R4-ES-2012-0068]

RIN 1018-AY19

#### Endangered and Threatened Wildlife and Plants; Threatened Species Status for Spring Pygmy Sunfish

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), determine threatened species status under the Endangered Species Act of 1973 (Act), as amended, for the spring pygmy sunfish (*Elassoma alabamae*), which is found in Limestone County, Alabama. The effect of this regulation is to add this species to the List of Endangered and Threatened Wildlife and implement the Federal protections provided by the Act for this species.

**DATES:** This rule is effective December 2, 2013.

**ADDRESSES:** This final rule is available on the Internet at <http://www.regulations.gov> and at the Mississippi Ecological Services Field Office site. Comments and materials received, as well as supporting documentation used in the preparation of this rule, are available for public inspection at <http://www.regulations.gov>. All of the comments, materials, and documentation that we considered in this rulemaking are available by appointment, during normal business hours at: U.S. Fish and Wildlife Service, Mississippi Field Office, 6578 Dogwood View Parkway, Jackson, MS 39213; telephone 601-321-1122; facsimile (601-965-4340).

**FOR FURTHER INFORMATION CONTACT:** Stephen Ricks, Field Supervisor, U.S. Fish and Wildlife Service, Mississippi Ecological Services Field Office (see **ADDRESSES** section). If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800-877-8339.

#### SUPPLEMENTARY INFORMATION:

##### Executive Summary

*Why we need to publish a rule.* Under the Endangered Species Act (Act), a species warrants protection through listing if it is endangered or threatened throughout all or a significant portion of its range. Listing a species as an endangered or threatened species can only be completed by issuing a rule.