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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 173

[Docket No. PHMSA-2013-0205; Notice No. 15-10]

Clarification on Policy for Additional Name Requests Regarding Fireworks

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

ACTION: Clarification.

SUMMARY: The Pipeline and Hazardous Materials Safety Administration's (PHMSA), Office of Hazardous Materials Safety (OHMS), is revising its application-approval procedures for previously approved firework designs and clarifying requirements for assigning Explosives (EX) Approval or Fireworks Certification (FC) numbers. It is not required or necessary for a firework manufacturer, or designated agent, to submit a new EX Approval application each time an additional item name is associated with a firework design type (described under UN0336, UN0335, and UN0431). PHMSA will no longer process additional item name EX Approval applications, effective immediately.

DATES: Effective [Insert date of publication in the Federal Register].

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, S.E., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

I. Background

On July 16, 2013, PHMSA published a final rule under docket HM-257 titled, “*Hazardous Materials: Revision to Fireworks Regulations (RRR)*.” The intent of the final rule was to provide regulatory flexibility in seeking authorization for the transportation of Division 1.4G consumer fireworks (UN0336 Fireworks). The final rule created a new type of DOT-approved certification agency, the Firework Certification Agency (FCA), which serves as an optional alternate approvals agency for fireworks manufacturers or designated U.S. agents to submit approval applications. These approvals issued by FCAs use a “FC” numbering system different from PHMSA’s “EX” system. As mentioned above, the intent of the final rule was to provide regulatory flexibility in the approval process for 1.4G consumer fireworks. PHMSA found that the level of effort required to process that high-volume of Approval applications was not commensurate with the safety benefits required by the APA Standard 87-1 or the Hazardous Materials Regulations (HMR, 49 CFR Parts 171-180).

PHMSA’s Approvals and Permits Division evaluates and approves as many as 1,000 applications annually for devices that are chemically and physically identical. The only variant is the item or device’s name. PHMSA identified an additional area where can streamline and expedite the approval process. Typically, firework manufacturers request a revised EX Approval application each time they add or change the name of a firework. PHMSA has historically accepted each EX Approval application for each approved firework, to include the original diagram and chemical compositions sheets. This process provides no additional safety benefit. As a result, PHMSA will no longer provide these approvals.

By eliminating this redundant process, PHMSA will devote the saved time and resources toward other applications. As a result, we will reduce the wait-time for other Approval applications with more substantial safety benefits.

II. Guidelines for Adding or Changing a Firework Product's Name

In accordance with § 172.320, the EX-number, FC-number, product code or national stock number must be either marked on the package for each Class 1 material contained therein or on the shipping paper in association with the shipping description as described in § 172.202(a). Product codes and national stock numbers must be traceable to the specific EX-number assigned by the Associate Administrator or FC-number assigned by a DOT-approved FCA.

For manufactures of consumer fireworks that wish to revise or update the product name, the HMR do not prohibit the change. In fact, the manufacturer may print, in any format desired, a new item name on any surface of the package. It is a common industry practice to print the EX or FC number on the fireworks device itself. We encourage industry to continue this practice as an additional means of identifying the product.

III. Conclusion

A change to the product name (not the proper shipping name) has no bearing on the safety of the firework, the original classification of the firework, or regulatory compliance. When applying for new fireworks applications, manufacturers may wish to simplify their procedures by using product codes or item numbers in accordance with Appendix D, Note 2 in the American Pyrotechnics Association, Standard 87-1 (December 1, 2001 Edition), [Incorporated By Reference (IBR), see 49 CFR 171.7(f)].

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