

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 this policy regarding its classification approval of Display Aerial Shells with Attachments, which describes acceptable criteria for these types of fireworks. PHMSA previously evaluated and approved these devices; however, PHMSA has not previously published guidance regarding the approval of these types of fireworks. This clarification will help fireworks manufacturers and their U.S. designated agents who file applications on their behalf to provide accurate applications to PHMSA for approval, which will minimize the delay in processing these applications while sustaining the current level of safety.

**II. Background**

PHMSA's OHMS, Approvals and Permits Division, receives approval applications for various types of fireworks, including Division 1.3G Display Aerial Shells with Attachments. Division 1.3G fireworks applications may be approved in accordance with subpart C of part 173 of the Hazardous Materials Regulations (HMR, 49 CFR parts 171–180). Division 1.3G fireworks applicants have the option for obtaining an EX classification approval without prior testing by a DOT-approved explosive test laboratory, provided that the firework device is manufactured in accordance with the APA Standard 87–1 and passes a thermal stability test as required by § 173.64(a)(1) and (2). The APA Standard 87–1 currently does not specifically address Display Aerial Shells with Attachments; however, it does provide the requirements for display shells.

Display Aerial Shells with Attachments that conform to the acceptable criteria described in this guidance and all applicable requirements in the APA Standard 87–1 (i.e., chemical compositions and shell diameter sizes), may be submitted to PHMSA for approval.

**III. Guidelines for Display Aerial Shells With Attachments**

PHMSA considers Display Aerial Shells with Attachments to be cylindrical or spherical cartridges containing pyrotechnic compositions with attached external components. An attachment is a component that contains pyrotechnic composition that is attached to the outside of a Display Aerial Shell, and may be ignited by its

own independent fuse. Display Aerial Shells with Attachments range from 2 inches (50mm) to 10 inches (250mm) in exterior diameter and are classed as UN0335, Fireworks, Division 1.3G.

To be accepted for review and consideration, PHMSA expects Display Aerial Shells with Attachments to be designed so that they (1) remain attached to the display aerial shell, (2) do not leak pyrotechnic composition during transportation, and (3) are constructed of sturdy materials, such as (but not limited to) plastic, Kraft paper, or cardboard (this does not apply to tails). Designs must meet the requirements of 40 CFR 173.56(b) or 173.64, the requirements in the APA Standard 87–1, and must pass a thermal stability test as required by § 173.64(a)(2).

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

**William S. Schoonover,**

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

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**DEPARTMENT OF TRANSPORTATION**

**Pipeline and Hazardous Materials Safety Administration**

**49 CFR Part 173**

**[Docket No. PHMSA–2013–0205; Notice No. 14–4]**

**Clarification on Fireworks Policy Regarding Display Mines**

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

**ACTION:** Clarification.

**SUMMARY:** This document clarifies PHMSA's policy regarding applications for classification approval of Display Mines provided they conform to the acceptable criteria described in this guidance, and otherwise comply with the APA Standard 87–1 requirements.

**DATES:** September 24, 2014.

**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 this policy regarding its classification approval of Display

Mines, which describes acceptable criteria for these types of fireworks. PHMSA previously evaluated and approved these devices; however, PHMSA has not previously published guidance regarding the approval of these types of fireworks. This clarification will help fireworks manufacturers and their U.S. designated agents that file applications on their behalf, to provide accurate applications to PHMSA for approval, which will minimize the delay in processing these applications, while sustaining the current level of safety.

**II. Background**

PHMSA's OHMS, Approvals and Permits Division, receives approval applications for various types of fireworks, including Division 1.3G Display Mines. Division 1.3G fireworks applications may be approved in accordance with subpart C of part 173 of the Hazardous Materials Regulations (HMR, 49 CFR parts 171–180). Division 1.3G fireworks applicants have the option for obtaining an EX classification approval without prior testing by a DOT-approved explosive test laboratory, provided that the firework device is manufactured in accordance with the APA Standard 87–1 and passes a thermal stability test as required by § 173.64(a)(1) and (2). The APA Standard 87–1 currently does not specifically address Display Mines; however, it does provide the requirements for display shells.

Display Mines that conform to the acceptable criteria described in this guidance, and all applicable requirements in the APA Standard 87–1, (e.g., chemical compositions and shell diameter sizes), may be submitted to PHMSA for approval classification.

**III. Guidelines for Display Mines**

PHMSA considers a Display Mine to be a cylindrical or spherical cartridge that contains a propelling charge and does not contain a primary burst charge or a main delay fuse. Internal effects (e.g. cassettes or small display shells) are permitted to contain a burst charge and an internal delay fuse. The internal effects are launched from a tube by the propelling charge. Display Mines range from 2 inches (50mm) to 10 inches (250mm) in exterior diameter and are classed as UN0335, Fireworks, Division 1.3G.

To be accepted for review and consideration, PHMSA expects Display Mines to be designed so that they (1) will not leak pyrotechnic composition during transportation in accordance with § 173.54(c); and (2) are constructed of sturdy materials, such as (but not

limited to) plastic, Kraft paper, or cardboard. Designs must meet the requirements of 49 CFR 173.56(b) or 173.64, the APA Standard 87-1 and must pass a thermal stability test as required by § 173.64(a)(2).

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

**William S. Schoonover,**

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

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 593

[Docket No. NHTSA-2014-0099]

#### List of Nonconforming Vehicles Decided To Be Eligible for Importation

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This document revises the list of vehicles not originally manufactured to conform to the Federal Motor Vehicle Safety Standards (FMVSS) that NHTSA has decided to be eligible for importation. This list is published in an appendix to the agency's regulations that prescribe procedures for import eligibility decisions. The list has been revised to add all vehicles that NHTSA has decided to be eligible for importation since October 1, 2013, and to remove all previously listed vehicles that are now more than 25 years old and need no longer comply with all applicable FMVSS to be lawfully imported. NHTSA is required by statute to publish this list annually in the **Federal Register**.

**DATES:** The revised list of import eligible vehicles is effective on September 24, 2014.

**FOR FURTHER INFORMATION CONTACT:** George Stevens, Office of Vehicle Safety Compliance, NHTSA, (202) 366-5308.

**SUPPLEMENTARY INFORMATION:** Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being

readily altered to conform to all applicable FMVSS. Where there is no substantially similar U.S.-certified motor vehicle, 49 U.S.C. 30141(a)(1)(B) permits a nonconforming motor vehicle to be admitted into the United States if its safety features comply with, or are capable of being altered to comply with, all applicable FMVSS based on destructive test data or such other evidence as the Secretary of Transportation decides to be adequate.

Under 49 U.S.C. 30141(a)(1), import eligibility decisions may be made "on the initiative of the Secretary of Transportation or on petition of a manufacturer or importer registered under [49 U.S.C. 30141(c)]." The Secretary's authority to make these decisions has been delegated to NHTSA. The agency publishes notices of eligibility decisions as they are made.

Under 49 U.S.C. 30141(b)(2), a list of all vehicles for which import eligibility decisions have been made must be published annually in the **Federal Register**. On October 1, 1996, NHTSA added the list as an appendix to 49 CFR Part 593, the regulations that establish procedures for import eligibility decisions (61 FR 51242). As described in the notice, NHTSA took that action to ensure that the list is more widely disseminated to government personnel who oversee vehicle imports and to interested members of the public. See 61 FR 51242-43. In the notice, NHTSA expressed its intention to annually revise the list as published in the appendix to include any additional vehicles decided by the agency to be eligible for importation since the list was last published. See 61 FR 51243. The agency stated that issuance of the document announcing these revisions will fulfill the annual publication requirements of 49 U.S.C. 30141(b)(2). *Ibid.*

#### Regulatory Analyses and Notice

##### A. Executive Order 12866, Regulatory Planning and Review

Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), provides for making determinations about whether a regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Executive Order defines a "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affects in a material way the economy, a sector of the economy, productivity, competition, jobs, the

environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. This rule will not have any of these effects and was not reviewed under Executive Order 12866. It is not significant within the meaning of the DOT Regulatory Policies and Procedures. The effect of this rule is not to impose new requirements. Instead it provides a summary compilation of decisions on import eligibility that have already been made and does not involve new decisions. This rule will not impose any additional burden on any person. Accordingly, the agency believes that the preparation of a regulatory evaluation is not warranted for this rule.

##### B. Environmental Impacts

We have not conducted an evaluation of the impacts of this rule under the National Environmental Policy Act. This rule does not impose any change that would result in any impacts to the quality of the human environment. Accordingly, no environmental assessment is required.

##### C. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, we have considered the impacts of this rule on small entities (5 U.S.C. Sec. 601 et seq.). I certify that this rule will not have a significant economic impact upon a substantial number of small entities within the context of the Regulatory Flexibility Act. The following is our statement providing the factual basis for the certification (5 U.S.C. Sec. 605(b)). This rule will not have any significant economic impact on a substantial number of small businesses because the rule merely furnishes information by revising the list in the Code of Federal Regulations of vehicles for which import eligibility decisions have previously been made. Accordingly, we have not prepared a Final Regulatory Flexibility Analysis.

##### D. Executive Order 13132, Federalism

Executive Order 13132 requires NHTSA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism