

environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This rulemaking does not involve human health or environmental effects.

#### *K. Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, for purposes of 5 U.S.C. 804(3).

This rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

#### **List of Subjects in 48 CFR Part 1552**

Environmental protection,  
Government procurement.

Dated: November 18, 2011.

**John R. Bashista,**

*Director, Office of Acquisition Management.*

Therefore, 48 CFR Chapter 1552 is amended as set forth below:

#### **PART 1552—DESCRIBING AGENCY NEEDS**

- 1. The authority citation for part 1552 continues to read as follows:

**Authority:** 5 U.S.C. 301; Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); and 41 U.S.C. 418b.

- 2. Revise 1552.211–79 to read as follows:

#### **1552.211–79 Compliance With EPA Policies for Information Resources Management.**

As prescribed in 1511.011–79, insert the following clause:

Compliance with EPA Policies for Information Resources Management

(a) *Definition.* Information Resources Management (IRM) is defined as any planning, budgeting, organizing, directing, training, promoting, controlling, and managing activities associated with the burden, collection, creation, use and dissemination of information. IRM includes both information itself and the management of information and related resources such as personnel, equipment, funds, and technology. Examples of these services include but are not limited to the following:

- (1) The acquisition, creation, or modification of a computer program or

automated data base for delivery to EPA or use by EPA or contractors operating EPA programs.

(2) The analysis of requirements for, study of the feasibility of, evaluation of alternatives for, or design and development of a computer program or automated data base for use by EPA or contractors operating EPA programs.

(3) Services that provide EPA personnel access to or use of computer or word processing equipment, software, or related services.

(4) Services that provide EPA personnel access to or use of: Data communications; electronic messaging services or capabilities; electronic bulletin boards, or other forms of electronic information dissemination; electronic record-keeping; or any other automated information services.

(b) *General.* The Contractor shall perform any IRM-related work under this contract in accordance with the IRM policies, standards, and procedures set forth on the Office of Environmental Information policy Web site. Upon receipt of a work request (*i.e.* delivery order, task order, or work assignment), the Contractor shall check this listing of directives. The applicable directives for performance of the work request are those in effect on the date of issuance of the work request. The 2100 Series (2100–2199) of the Agency's Directive System contains the majority of the Agency's IRM policies, standards, and procedures.

(c) *Section 508 requirements.* Contract deliverables are required to be compliant with Section 508 requirements. The Environmental Protection Agency policy for 508 compliance can be found on the Agency's Directive System identified in section (d) of this clause under policy number CIO 2130.0, Accessible Electronic and Information Technology. Additional information on Section 508 including EPA's 508 policy can be found at [www.epa.gov/accessibility](http://www.epa.gov/accessibility).

(d) *Electronic access.* A complete listing, including full text, of documents included in the 2100 Series of the Agency's Directive System is maintained on the EPA Public Access Server on the Internet at <http://epa.gov/docs/irm poli8/>.

[FR Doc. 2011–33844 Filed 1–4–12; 8:45 am]

**BILLING CODE P**

## **DEPARTMENT OF TRANSPORTATION**

### **Pipeline and Hazardous Materials Safety Administration**

#### **49 CFR Part 173**

[Docket No. PHMSA–2011–0315; Notice No. 11–13]

#### **Clarification and Further Guidance on the Fireworks Approvals Policy**

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

**ACTION:** Clarification.

**SUMMARY:** This clarification provides further guidance on PHMSA's policy that it will only accept fireworks approvals applications from fireworks manufacturers or their designated agents and grant approvals only to manufacturers of fireworks devices. This clarification and additional guidance follows the issuance of Docket No. PHMSA–2010–0353; Notice 10–9, published on June 29, 2011.

**DATES:** The policy clarification discussed in this document is effective January 5, 2012.

**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**

This document provides clarification and further guidance on PHMSA's Office of Hazardous Materials Safety (OHMS), Clarification of the Fireworks Approval Policy published on June 29, 2011 (76 FR 38053). Specifically, this document provides clarification and additional guidance on how we intend to implement our policy with respect to: (1) EX classification approvals with expiration dates; (2) applications from non-manufacturers that seek to add new item names to existing EX classification approvals; and (3) applications from non-manufacturers that were denied prior to June 29, 2011.

In addition to addressing questions as to how we intend to implement our earlier policy clarification, this document clarifies our policy regarding the transfer of EX classification approvals.

##### **II. Background**

The transportation of an explosive (fireworks device) requires an EX classification approval issued by PHMSA, commonly referred to as an EX number. The EX number is a unique

identifier that indicates the device has been classed and approved for transportation in the U.S., and is specific to a particular device as specified in 49 CFR 173.56(j) and the American Pyrotechnic Association (APA) Standard 87-1.

PHMSA understands that it is a common industry practice for fireworks devices produced by one manufacturer to be marketed and sold under different trade names. Further, in the past, each retailer, importer or distributor, in addition to the manufacturer, applied for and received an EX classification approval for the identical fireworks device. This practice resulted in PHMSA processing multiple applications and issuing multiple approvals for the same fireworks device. This redundant and burdensome process did not promote the safe transportation of explosives (fireworks devices); instead, it impeded the conduct of business for both the fireworks industry and PHMSA.

On June 29, 2011, we issued a clarification of our policy to issue fireworks classification approvals only to fireworks manufacturers, and accept fireworks classification applications only from fireworks manufacturers or their U.S. designated agents. This policy clarification was intended to restate the requirements of the Hazardous Materials Regulations (HMR), enhance safety by ensuring accountability of manufacturing, and reducing the number of duplicate applications and EX classification approvals being issued for identical fireworks devices.

Since the policy clarification was issued, we have received questions about how we intend to implement it with respect to: (1) EX classification approvals with expiration dates; (2) applications from non-manufacturers that seek to add new item names to existing EX classification approvals; and (3) applications from non-manufacturers that were denied prior to June 29, 2011.

We have also received questions about our policy regarding the transfer of EX classification approvals, which was not addressed in the prior clarification notice.

To address these questions regarding our fireworks approvals policy, we are providing the following clarification and additional guidance.

### III. EX Classification Approvals With Expiration Dates

After June 29, 2011, only a manufacturer that holds a valid EX classification approval may reapply to have the EX number renewed. Regardless of who originally applied for the approval, to renew the EX

classification approval, the manufacturer or its designated agent must be the entity who submits an application for renewal and all supporting documentation to *fireworks@dot.gov*. The manufacturer must sign and certify that the device for which the approval is requested conforms to the APA Standard 87-1, and the descriptions and technical information contained in the application are complete and accurate in accordance with § 173.56(j)(3).

All EX approvals with expiration dates held by non-manufacturers will expire as follows: Fireworks EX approvals expiring January 1, 2012 through December 31, 2012 will expire two years from the date indicated in the approval. For example, a fireworks EX approval expiring on January 1, 2012 will be extended until January 1, 2014. A revised EX classification approval will be automatically sent to the approval holder on record with the new expiration date. After December 31, 2014, the manufacturer or its designated agent must submit the application for renewal and all supporting documentation to *fireworks@dot.gov*. The manufacturer must sign and certify that the device for which the approval is requested conforms to the APA Standard 87-1, and the descriptions and technical information contained in the application are complete and accurate in accordance with § 173.56(j)(3).

Fireworks EX classification approvals expiring January 1, 2013 through December 31, 2015 will expire on the date noted in the EX approval and will not be extended. The manufacturer or its designated agent must submit an application for renewal and all supporting documentation to *fireworks@dot.gov*. The manufacturer must sign and certify that the device for which the approval is requested conforms to the APA Standard 87-1, and the descriptions and technical information contained in the application are complete and accurate in accordance with § 173.56(j)(3). For example, a fireworks EX Approval expiring on March 22, 2014 will expire on March 22, 2014.

All fireworks EX approvals with expiration dates will expire by the end of 2015.

### IV. Requests To Add Additional Item Names to Existing EX Classification Approvals

We often receive applications to add fireworks device item names to an existing EX classification approval. Only a manufacturer or its designated agent may submit a request after June

29, 2011 to add an additional item name to an existing EX approval.

If anyone other than the manufacturer or its designated agent holds an existing EX classification approval and it is desired to add additional items to that approval, then the manufacturer or its designated agent must submit the EX classification approval as a new application.

### V. Firework Applications Denied Before June 29, 2011

Firework applications resubmitted after June 29, 2011 by any person, company or entity other than the manufacturer or its designated agent that were previously denied will not be accepted unless those applications are submitted by the manufacturer or its designated agent as the applicant. The manufacturer must sign and certify that the device for which the approval is requested conforms to the APA Standard 87-1, and the descriptions and technical information contained in the application are complete and accurate in accordance with § 173.56(j)(3).

### VI. Non-Transferability of EX Approvals

EX approvals are non-transferrable, and therefore, may not be sold or transferred. Accordingly, EX approvals cannot be acquired in connection with any sale of assets, sale of business, acquisition or merger. PHMSA may find a company in violation of the HMR should a manufacturer attempt to use an EX approval issued by PHMSA to another company for manufacturing of the device. The manufacturer or its designated agent must submit an application for a new approval. The manufacturer must sign and certify that the device for which the approval is requested conforms to the APA Standard 87-1, and the descriptions and technical information contained in the application are complete and accurate in accordance with § 173.56(j)(3). If approved, PHMSA will issue a new EX approval to the manufacturer specified in the application.

### Summary

PHMSA's Office of Hazardous Materials Safety (OHMS), Approvals Office will continue to issue approvals only to fireworks manufacturers and accept applications only from manufacturers or their designated agents. Consistent with this policy, we will only reissue EX classification approvals with expiration dates that have been submitted by the manufacturer or its designated agent. If the manufacturer was not the original applicant, the manufacturer or its

designated agent must submit the application as a new application. However, we will provide an extended expiration date of two years for EX classification approvals that expire through December 31, 2012.

Additionally, we will only accept applications that seek to add new item names to existing EX classification approvals from the manufacturer or its designated agent. If the manufacturer was not the original applicant, the application must be submitted by the manufacturer or its designated agent as a new application. Further, applications from non-manufacturers that were denied prior to June 29, 2011 must be resubmitted by the manufacturer.

Finally, EX approvals are non-transferable, and therefore may not be sold or transferred.

Issued in Washington, DC, on December 30, 2011.

**Magdy El-Sibaie,**

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

[FR Doc. 2011-33853 Filed 1-4-12; 8:45 am]

**BILLING CODE 4910-60-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[Docket No. FWS-R9-IA-2010-0056; FF09A30000 123 FXGO16710900000R4]

RIN 1018-AX29

#### Endangered and Threatened Wildlife and Plants; Removal of the Regulation That Excludes U.S. Captive-Bred Scimitar-Horned Oryx, Addax, and Dama Gazelle From Certain Prohibitions

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

**ACTION:** Final rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), are revising the regulations that implement the Endangered Species Act of 1973, as amended (Act), by removing the exclusion of U.S. captive-bred live wildlife and sport-hunted trophies of three endangered antelopes—scimitar-horned oryx, addax, and dama gazelle—from the prohibition of certain activities, such as take and export, under the Act. This change to the regulations is in response to a court order that found that the rule for these three species violated section 10(c) of the Act. These three antelope species remain listed as endangered under the

Act, and a person will need to qualify for an exemption or obtain an authorization under the current statutory and regulatory requirements to conduct any prohibited activities.

**DATES:** This rule becomes effective on April 4, 2012. An extended effective date is being provided to facilitate in outreach to the affected communities. Several major industry events are occurring in the beginning of 2012 where Service attendance will provide greater communication on the impacts of this rule and will ensure greater compliance by the affected communities. In addition, an extended effective date will allow the affected community to either legally sell their specimens, if they choose to divest themselves of these species, or to apply for authorization or permits to continue carrying out previously approved activities.

**ADDRESSES:** You may obtain information about permits or other authorizations to carry out otherwise prohibited activities by contacting the U.S. Fish and Wildlife Service, Division of Management Authority, Branch of Permits, 4401 N. Fairfax Drive, Room 212, Arlington, VA 22203; telephone: (703) 358-2104 or (toll free) (800) 358-2104; facsimile: (703) 358-2281; email: [managementauthority@fws.gov](mailto:managementauthority@fws.gov); Web site: <http://www.fws.gov/international/index.html>.

#### FOR FURTHER INFORMATION CONTACT:

Robert R. Gabel, Chief, Division of Management Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Suite 212, Arlington, VA 22203; telephone 703-358-2093; fax 703-358-2280. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800-877-8339.

#### SUPPLEMENTARY INFORMATION:

##### Background

On September 2, 2005 (70 FR 52319), the Service determined that the scimitar-horned oryx (*Oryx dammah*), addax (*Addax nasomaculatus*), and dama gazelle (*Gazella dama*) were endangered throughout their ranges under the Act (16 U.S.C. 1531 *et seq.*). The numbers of these species of antelopes in the wild have declined drastically in the deserts of North Africa over the past 50 years. The causes of decline are habitat loss (desertification, permanent human settlement, and competition with domestic livestock), regional military activity, and uncontrolled killing. With the exception of reintroduced animals, no sightings of the scimitar-horned oryx have been reported since the late 1980s. Remnant

populations of the addax may still exist in remote desert areas, but probably fewer than 600 occur in the wild. Only small numbers of dama gazelle are estimated to occur in the species' historical range, with recent estimates of fewer than 700 in the wild. Captive-breeding programs operated by zoos and private ranches have increased the number of these antelopes, while genetically managing their herds and providing founder stock necessary for reintroduction. The Sahelo-Saharan Interest Group (SSIG) of the United Nations Environment Program estimated that there are 4,000–5,000 scimitar-horned oryx, 1,500 addax, and 750 dama gazelle in captivity worldwide, many of which are held in the United States. Based on a 2010 census of its members, the Exotic Wildlife Association (EWA) estimates there are 11,032 scimitar-horned oryx, 5,112 addax, and 894 dama gazelle on EWA member ranches.

On September 2, 2005 (the same date that we listed the three antelopes as endangered), the Service also published a new regulation (70 FR 52310) at 50 CFR 17.21(h) to govern certain activities with U.S. captive-bred animals of these three species. For live antelopes, including embryos and gametes, and sport-hunted trophies of these three species, the regulation authorized certain otherwise prohibited activities where the purpose of the activity is associated with the management of the species in a manner that contributed to increasing or sustaining captive numbers or to potential reintroduction to range countries. These activities include take; export or re-import; delivery, receipt, carrying, transport or shipment in interstate or foreign commerce in the course of a commercial activity; and sale or offer for sale in interstate or foreign commerce.

The promulgation of the regulation at 50 CFR 17.21(h) was challenged as violating section 10 of the Act and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) in the United States District Court for the District of Columbia (see *Friends of Animals, et al., v. Ken Salazar, Secretary of the Interior and Rebecca Ann Cary, et al., v. Rowan Gould, Acting Director, Fish and Wildlife Service, et al., 626 F. Supp. 2d 102* (D.D.C. 2009)). The Court found that the rule for the three antelope species violated section 10(c) of the Act by not providing the public an opportunity to comment on activities being carried out with these three antelope species. On June 22, 2009, the Court remanded the rule to the Service for action consistent with its opinion.