BEFORE THE
UNITED STATES DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF CHIEF COUNSEL

In the Matter of: **Sunshine Pyrotechnics Company Ltd.,** **Respondent.**	**PHMSA Case No. 11-0254-SE-SO** **Docket No. PHMSA-2013-0273**

ORDER OF THE CHIEF COUNSEL

By a Superseding Notice of Probable Violation (Notice) issued on September 5, 2012, the Office of Chief Counsel, Pipeline and Hazardous Materials Safety Administration (PHMSA), proposed to assess Sunshine Pyrotechnics Company Ltd. (Respondent) a civil penalty under the provisions of 49 C.F.R. §§ 107.307 and 107.311. In the Notice, PHMSA alleged that Respondent had committed one violation of the Hazardous Materials Regulations (HMR), 49 C.F.R. parts 171-180, and proposed a total civil penalty of $50,000.

Respondent submitted a November 14, 2012 written response to the Notice and further information in letters dated May 20, 2013, and November 22, 2013, as well as numerous emails from its counsel. Because PHMSA and Respondent have not been able to reach a compromise, this case is before me for a determination.

Background and Jurisdiction

On December 9, 2010, the U.S. Coast Guard Sector Long Beach, California, advised an investigator from PHMSA's Office of Hazardous Materials Safety Field Operations of concerns about three shipping containers which had arrived at the Port of Long Beach. (Inspection/ Investigation Report 11418008 [I/I Report], pages 1 & 3)[1] The next day, Dave Rasmussen of Hale Fireworks, LLC sent PHMSA's investigator an email with copies of "the AFSL [American Fireworks Standards Laboratory] test reports for all products held for DOT inspection" and "the invoices and packing lists for the 3 containers, as well as the Certificates of Compliance generated by AFSL." (I/I Report, page 5; Exhibit 14) In this email, Mr. Rasmussen explained that:

[1] A copy of PHMSA's I/I Report was provided to Respondent with the Notice. References to "Exhibits" are to the Exhibits to the I/I Report,.

> when I was in China in mid-October of this year, I met with Sunshine Pyrotechnics and asked if they knew of any leftover product from the summer season. Sunshine responded that they knew of some that would be heavily discounted by the factory. Hale's is always interested in discounted product, provided it is CPSC compliant and can pass testing standards. When I asked how much product, I was told between 10-20 containers. Sunshine said they could review the test reports and assign their EX numbers to the items, re-label the cartons, and ship. To get the ball rolling, Hale's wired Sunshine Pyrotechnics $100,000 while I was in China.

Three invoices dated November 11, 2010, reflect Respondent's sale to Hale Fireworks of a total of 3,326 cartons described as "UN0336, 1.4G, Consumer Fireworks, Made in China," to be shipped on the vessel Cosco Malaysia under bill of lading number HYUS28540, in shipping containers with the serial numbers TCNU9855677, TRLU6865800, and CBHU8320785. (Exhibit 2, pages 2-6) The corresponding bill of lading describes the shipment of 3,326 cartons of "UN0336, Fireworks, 1.4G, PGII" from Liuyang, Hunan, China to Kansas City, Kansas on or about November 12, 2010; in containers with these same three serial numbers; to be shipped between Shanghai and Long Beach on the vessel Cosco Malaysia. (Exhibit 2, page 1)

From the Port of Long Beach, the three containers were taken to PCC Logistics, Carson, California. At that location, PHMSA's investigator inspected the containers during the period between December 17, 2010, and January 17, 2011, pursuant to 49 U.S.C. § 5121 and 49 C.F.R. § 107.305, in coordination with representatives of the Coast Guard and the Consumer Product Safety Commission. (I/I Report, pages 1 & 3) During this inspection, PHMSA's investigator observed and photographed fiberboard boxes to which Division 1.4G hazard warning labels were affixed and which were marked, in part, with EX (explosive) approval numbers, "Fireworks, UN0336," and "Made in China." (Exhibit 3) The product names and codes and the EX approval numbers marked on the boxes photographed by PHMSA's investigator corresponded with 15 of the 28 different firework items listed on the invoices. (*Compare id.* and Exhibit 2)

Based on this information, I find that Respondent offered for transportation in commerce fireworks described as 1.4G explosive hazardous materials. Therefore, Respondent is subject to the requirements of the HMR issued by PHMSA under authority delegated by the Secretary of Transportation acting pursuant to Federal hazardous material transportation law. *See* 49 U.S.C. § 5103(b); 49 C.F.R. §§ 1.97(b), 107.301.

Discussion of Violation

The HMR provide, generally, that"[e]ach person who performs a function covered by [the HMR] must perform that function in accordance with [the HMR], and a "person shall class and describe the hazardous material in accordance with parts 172 and 173 of [the HMR]." 49 C.F.R. §§ 171.2(a), 173.22(a)(1). More specifically, the HMR provide that an explosive, including a firework, "that has not been approved in accordance with § 173.56" is a forbidden material and may not be offered for transportation in commerce or transported in commerce. 49 C.F.R. §§ 173.21(b), 173.51(a), and 173.54(a). A "new explosive" includes "an explosive

produced by a person who . . . [h]as not previously produced that explosive." 49 C.F.R. § 173.56(a)(1).[2]

During the inspection at PCC Logistics, PHMSA's investigator noted that most of the boxes were marked with the "Grand Patriot Trade Mark," which is a brand sold by Garrett's Worldwide Enterprises, LLC (GWE), and product names and codes appeared to be associated with GWE. (I/I Report, page 3) The investigator also observed that the EX approval numbers were "printed on a piece of brown colored tape and placed on the end of the box," over top of any EX approval number which might have been marked directly on the box. (*Id.*, *see also* Exhibit 3) From the total of 28 different product names and codes listed on the invoices, PHMSA's investigator selected "a representative sample of five items" to compare with the information in PHMSA's records. This research indicated that the EX approval numbers marked on the boxes "did not match the products being shipped in various ways," and that the owner of "GWE had applied for his own approval of these firework devices in the past and they were not approved and have since been withdrawn." (I/I Report, page 4)[3] For these five firework items, PHMSA's investigator described specific differences in "tube count, total powder weight, and effects" between the information in (1) the applications for which EX approval numbers were issued to Respondent and (2) GWE's applications for the specific product names and codes listed on the invoices and marked on the boxes. (I/I Report, pages 4 & 5)[4]

In response to the Notice, Respondent's counsel acknowledges that these five firework items were "originally intended" for GWE, which "never took delivery," and that Respondent "had arranged with Hale Fireworks, LLC ('Hale') to accept the products (provided they all had valid EX#s). The EX# on the boxes was supplied by Sunshine only after contacting the manufacturer and determining that a similar product had been manufactured for Sunshine." Respondent's counsel notes that firework items with these five product names and codes have been approved by PHMSA for manufacture by other companies in China, and asserts that "the

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[2] "Division 1.3 and 1.4 fireworks may be classed and approved by [PHMSA] without prior examination" when (1) the "fireworks are manufactured in accordance with the applicable requirements in APA [American Pyrotechnics Association] Standard 97-1"; (2) a "thermal stability test is conducted," which may be performed by the manufacturer; and (3) the "manufacturer applies in writing to [PHMSA] following the applicable requirements in APA Standard 87-1, and is notified in writing by [PHMSA] that the fireworks have been classed, approved, and assigned an EX-number." 49 C.F.R. § 173.56(j). *See also* § 173.65 (adopted at 78 Fed. Reg. 42457, 42477-78 (July 16, 2013)), which now allows the manufacturer to apply to a DOT-approved Fireworks Certification Agency for certification that a 1.4G consumer firework complies with APA Standard 87-1.

[3] In letters asking to withdraw its applications for approval of numerous different firework items, including these five representative samples, GWE stated that it "does not manufacture any fireworks [and] will no longer be requesting EX-Approvals. Rather, GWE has now begun allowing our manufacturers to request their own approvals," consistent with PHMSA's December 17, 2010 notice of the "intent to only accept fireworks approval applications from, and issue fireworks approvals to, fireworks manufacturers." 75 Fed. Reg. 79085, 79086; *see also* 76 Fed. Reg. 38053 (June 29, 2011).

[4] PHMSA's investigator compared the following application forms for:
Respondent's 500g Aerial Series 30 (Exhibit 4) with GPC5038, Brain Storm (Exhibit 5)
Respondent's 200g Fountain Series F (Exhibit 6) with LPF1024, De Ja Vu (Exhibit 7)
Respondent's 200g Aerial Series 19A (Exhibit 8) with GPC2023, Mighty Mo (Exhibit 9)
Respondent's Single Breaker 2 (Exhibit 10) with GPAS0019, Assorted Artillery Shell (Exhibit 11)
Respondent's 200g Aerial Series 96 (Exhibits 12) with GPC2024, Mighty Cobra (Exhibit 13).

specifics relating to [these companies'] current application[s], such as weight, composition, design and effect, is maintained confidentially by PHMSA and well beyond Sunshine's reach and knowledge." At the same time, the "comparison of the information available to Sunshine indicates that the fireworks application submitted by GWE and, separately, Sunshine, are also similar in material respects" so that these five firework items "are properly represented" by the EX approvals issued to Respondent, which Respondent listed on the invoices and marked on the boxes.[5]

These arguments overlook the clear evidence that the manufacturer of the fireworks for which EX approval numbers had been issued to Respondent was different from the manufacturer of the fireworks intended for GWE. In its own applications, Respondent identified "Qingtai Fireworks Manufactory, Pingqiao Village, Jingang Town, Liuyang, Hunan, China" as the manufacturer of its fireworks. (Exhibits 4, 6, 8, 10 & 12) In contrast, each of GWE's applications indicated that the fireworks would be manufactured by "Garrett's Worldwide Enterprises, LLC Factory, No. 24, First Block, Balyl District, Beizhengnei Road, Liuyang, Hunan, China." (Exhibits 5, 7, 9, 11 & 13) This means that, in addition to the differences noted by PHMSA's investigator, each of the fireworks shipped by Respondent was made by a person who had "not previously produced that explosive," *i.e.*, the fireworks for which an EX approval had been issued to Respondent. As a "new explosive," each of these fireworks was required to have its own EX approval, which they did not have.

This evidence is sufficient to find that Respondent offered for transportation in commerce fireworks described as 1.4G explosive hazardous materials, which had not been classed and approved for transportation by PHMSA's Associate Administrator for Hazardous Materials Safety, in violation of 49 C.F.R. §§ 171.2(a), 173.22, 173.52(a), 173.54, and 173.56.

Discussion of Penalties

PHMSA proposed a total civil penalty of $50,000, calculated in Addendum A of the Notice as "$10,000 for each of the five design types described and documented" in the I/I Report. At the time of the violation, PHMSA's Penalty Guidelines set forth at Appendix A to 49 C.F.R. part 107, subpart D, contained a "baseline penalty" of $5,000 to $10,000 for offering for transportation unapproved "Div. 1.3 and 1.4 fireworks meeting the chemistry requirements (quantity and type) of APA Standard 87-1." In the Notice, PHMSA stated that it considered "the unresponsiveness of Respondent, the lack of corrective action, the apparent pattern of willful noncompliance indicated by Mr. Dave Rasmussen's December 10, 2010 email to PHMSA's investigator, and the large number of illegal fireworks offered for transportation" as "aggravating factors" which justified deviating from its ordinary practice of "applying a single penalty for multiple counts or days of violation" based upon "the baseline penalty for a single violation, increased by 25% for each additional violation."[6]

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[5] The similarities between the fireworks shipped by Respondent, which were "originally intended" for GWE, and items for which other manufacturers subsequently obtained approvals are considered with respect to determining an appropriate penalty, as discussed below.

[6] Presumably, that approach would have produced a total proposed penalty of $20,000 ($10,000 + $2,500 x 4 additional firework items), rather than $77,500 ($10,000 + $2,500 x 27 additional firework items). The higher total amount would have exceeded the maximum possible civil penalty of $55,000 per violation at the time of the

On behalf of his client, Respondent's counsel has stated that Respondent has taken corrective actions and "aggressively reviewed its practices and procedures" and "will not agree to accept for shipment to the US products from manufacturers that were not produced for and on behalf of one of Sunshine's active customers." He also stated that this violation was:

> an isolated, one-time, occurrence" in that Respondent "was offering aid and assistance to a Chinese manufacturer encountering a pressing problem regarding unpaid product," and that PHMSA has "misconstrued" any "lack of knowledge and notice . . . as unresponsiveness. It appears that the delivery of the initial notice of probable violation was never successfully completed. . . . When PHMSA subsequently served a superseding notice upon Sunshine's designated agent, it was immediately forwarded to Sunshine's attorney who, in turn promptly entered an appearance.

According to Respondent's counsel, the company also "lacks ability to pay a fine of any significance," but "declines to offer copies of financial records for review, due to the fact that the cost to professionally translate its financial records is currently beyond its meager budget."

More recently, in a November 22, 2013 letter, Respondent's General Manager summarized the company's corrective measures, including hiring "a full time Quality Control person to check all of our export products with correct Ex numbers" so that "shipping documents should match the actual products performance and composition." It addition, its "existing staff will work full time on the EX application and related works during our low season time, i.e. June, July, August and September" to "apply EX numbers for the products [which] don't have [them] at the moment, checking the validity and the expiry date of the EX numbers," and also "[w]orking together with AFSL to ensure that all EX numbers are correct and match." Finally, Respondent stated it would print "EX numbers on the both sides of the master carton of each product to avoid careless mistake and easy checking."

Normally, the baseline penalty amounts in PHMSA's Penalty Guidelines in effect at the time of the violation will apply, because PHMSA follows the principles in the *ex post facto* clauses of the U.S. Constitution and does not use any later version of these guidelines containing an increased baseline penalty amount.[7] However, in the unusual situation where the guideline penalty amounts are reduced for a particular violation – reflecting a judgment that the violation is less serious than previously considered – it is appropriate to follow the guidelines in effect at the time that the penalty is actually assessed. On October 2, 2013, PHMSA revised its Penalty Guidelines to provide separate baseline penalty amounts for offering for transportation unapproved Division 1.3 and Division 1.4 fireworks which meet the chemistry requirements of

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shipment in late 2010. *See* 49 C.F.R. §§ 107.329, 171.1, as amended at 74 Fed. Reg. 68701, 68702 (Dec. 29, 2009). It is assumed that the "aggravating factors" mentioned in the Notice also were considered to justify using the high end of the $5,000-$10,000 range in the Penalty Guidelines.

[7] *See Miller* v. *Florida*, 482 U.S. 423 (1987) (A law is *ex post facto* when it is "more onerous than the prior law," quoting from *Dobbert* v. *Florida*, 432 U.S. 282, 291 [1977].) In *Miller*, the Supreme Court held that the version of Florida's sentencing guidelines in effect at the time crimes were committed must apply, rather than the revised guidelines law in effect at the time of sentencing in which the defendant's crime was changed to a "higher statutory degree" carrying a longer "presumptive sentence." *Id.* at 427.

APA Standard 87-1, so that the Penalty Guidelines currently specify baseline penalties of (78 Fed. Reg. 60726, 60738):

- $5,000 for an unapproved Division 1.4 firework "meeting the chemistry requirements of APA Standard 87-1," and

- $3,000 for an unapproved Division 1.4 firework "that minimally deviates from an approved design in a manner that does not impact safety."

PHMSA further explained (*id.* at 60744) that:

> PHMSA will generally consider multiple shipments . . . to be multiple occurrences, and each shipment . . . may constitute a separate violation, PHMSA, however, will exercise its discretion in each case to determine the appropriateness of combining into a single violation what could otherwise be alleged as separate violations and applying a single penalty for multiple counts or days of a violation, increased by 25 percent for each additional instance . . . For example, PHMSA may treat a single shipment containing three items or packages that violate the same regulatory provision as a single violation and apply a single baseline penalty with a 50 percent increase for the two additional items or packages . . .
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> When aggravating circumstances exist for a particular violation, PHMSA may handle multiple violations of a single regulatory violation separately, each meriting a separate baseline or increase the civil penalty by 25 percent for each additional instance. Aggravating factors may include increased safety risk, continued violation after receiving notice, or separate and distinct acts. For example, if the multiple occurrences each require their own distinct action, then PHMSA may count each violation separately (e.g., failure to obtain approvals for separate fireworks devices).

In his report, PHMSA's investigator explained the differences he found between the chemistry and design of the fireworks to which Respondent's EX approvals actually applied and his "representative sample of five items" in the shipment by Respondent. With respect to four of these items, the investigator summarized significant differences in the total powder weight and, for three of the four, the number of tubes.

Under all the circumstances present in this case, I consider that it is appropriate to use the revised baseline penalty amounts in PHMSA's October 2, 2013 final rule, and that the failure to obtain an approval for each of these five items is a sufficient "aggravating factor" to apply a full baseline penalty for each of the five items. Otherwise, Respondent has provided sufficient rebuttal to the matters cited as aggravating factors in the Notice. This approach produces a total baseline penalty of $23,000, based upon the sum of the $5,000 baseline penalty for each of the four items which differed in total powder weight and (in three cases) tube count – De Ja Vu,

Mighty Mo, Assorted Artillery Shell, and Mighty Cobra – plus the $3,000 baseline penalty for "Brain Storm," which differed only in the color effects.[8]

I remain troubled by Respondent's failure to provide any documentation to show that it has actually taken the actions it describes to assure that, in the future, it will ship only approved fireworks to the United States, as well as by its refusal to provide even a summary balance sheet. The recent letter from its General Manager demonstrates enough proficiency in English to prepare some basic documentation of the practices it represents it has put into effect to prevent future violations of the HMR. Also a "professional translation" of a simplified balance sheet is not necessary, but Respondent should be able to provide the English language equivalents of its asset and liability accounts – and PHMSA is capable of converting foreign currency into dollars.

Separately, as Respondent's attorney notes, PHMSA has subsequently issued EX approval numbers to other manufacturers for fireworks with the same product names and codes as the five representative firework items evaluated by PHMSA's investigator. A summary comparison indicates that the number of tubes and powder weight of the approved fireworks are virtually the the same as those for which GWE applied for an approval. In this manner, it appears that an underlying circumstance of the violation in this case – GWE's inability to obtain approvals for numerous firework items which now can be manufactured under approvals issued to other companies – has been resolved. Together with PHMSA's present policy of issuing EX approvals only to the manufacturer of a firework, and the fact that Respondent's prior applications indicate that it is not a manufacturer of fireworks, the likelihood of future violations by Respondent should be reduced, if not eliminated. I consider that reduction of the total penalty by $2,300 (10%) is appropriate under these circumstances.

Findings

Based on all the facts discussed above, I find that Respondent committed one violation of the HMR when it offered for transportation in commerce fireworks described as 1.4G explosive hazardous materials, which had not been classed and approved for transportation by PHMSA's Associate Administrator for Hazardous Materials Safety, in violation of 49 C.F.R. §§ 171.2(a), 173.22, 173.52(a), 173.54, and 173.56.

In reaching this conclusion, I have reviewed the Inspection/Investigation Report and accompanying exhibits, including the exit briefing, Respondent's written responses to the exit briefing, Notice, and further correspondence, and I find that substantial evidence supports these findings.

Conclusion

Under the authority of 49 U.S.C. § 5123 and 49 C.F.R. §§ 107.317 and 107.329, I hereby assess Respondent a total civil penalty of $20,700. In assessing this civil penalty, I have taken into account the following statutory criteria (49 U.S.C. § 5123(c) and 49 C.F.R § 107.331):

[8] Differences in the colors of the "effects produced" do not appear to be significant. PHMSA's Engineering and Research Division has advised that one color may burn hotter or cooler than another, but this should not affect the overall hazard of a firework whose chemistry is not otherwise changed.

(1) The nature, circumstances, extent, and gravity of the violation;
(2) Respondent's degree of culpability and lack of prior violations;
(3) Respondent's size;
(4) Respondent's ability to pay a penalty and the effect of a penalty on its ability to continue to do business; and
(5) Other matters as justice may require.

Payment and Appeal

Respondent must either (1) pay the civil penalty within thirty (30) days of the date of this Order or (2) appeal this Order to PHMSA's Administrator within twenty (20) days of the date that the Order is received by Respondent. Instructions for payment or appeal are set forth in Addendum A.

3/21/2014
Date

Vanessa L. Allen Sutherland
Chief Counsel

CERTIFIED MAIL

Appeal Information

If Respondent chooses to appeal, Respondent must:

(1) File a written appeal within twenty (20) days of receiving this Order. A submission is considered "filed" with PHMSA on the date it is received by PHMSA;

(2) Address the appeal to the Administrator, Pipeline and Hazardous Materials Safety Administration, c/o Office of Chief Counsel, 1200 New Jersey Ave., SE, PHC – East Building 2nd Floor, Washington, DC 20590; and

(3) State with particularity in the appeal (a) the findings in the Order that are challenged, and (b) all arguments for setting aside any of the findings in the Order or reducing the penalty assessed in the Order.

The appeal must include all relevant information and documentation. PHMSA will not consider any arguments or information not submitted in or with the written appeal.

PHMSA will regard as untimely, and will not consider, any appeal that is received after the twenty (20) day period. PHMSA recommends the use of fax (202-366-7041) or an overnight service. An appeal received by PHMSA more than twenty (20) days after receipt of the Order by Respondent will not be considered and will not toll the deadline for payment of the civil penalty assessed in the Order.

Payment of Civil Penalty

The U.S. Department of Transportation's Federal Aviation Administration (FAA) is authorized to receive and process payments of civil penalties assessed by PHMSA. Respondent must pay the civil penalty by wire transfer.

Detailed instructions for sending a wire transfer through the Federal Reserve Communications System (Fedwire) to the account of the U.S. Treasury are set forth below. Please direct questions concerning wire transfers to:

Financial Operations Division (AMZ-341)
Federal Aviation Administration
Mike Monroney Aeronautical Center
P.O. Box 269039
Oklahoma City, OK 73125
Telephone (405) 954-8893

Interest and Administrative Charges

If Respondent pays the civil penalty by the due date, no interest will be charged. If Respondent does not pay by that date, the FAA's Financial Operations Division will start collection activities and may assess interest, a late-payment penalty, and

administrative charges under 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 49 C.F.R. § 89.23.

The rate of interest is determined under the above authorities. Interest accrues from the date of this Order. A late-payment penalty of six percent (6%) per year applies to any portion of the debt that is more than 90 days past due. The late-payment penalty is calculated from the date Respondent receives the Order.

Treasury Department Collection

FAA's Financial Operations Division may also refer this debt and associated charges to the U.S. Department of Treasury for collection. The Department of the Treasury may offset these amounts against any payment due Respondent. 31 C.F.R. § 901.3.

Under the Debt Collection Act (see 31 U.S.C. § 3716(a)), a debtor has certain procedural rights prior to an offset. You, as the debtor, have the right to be notified of: (1) the nature and amount of the debt; (2) the agency's intention to collect the debt by offset; (3) the right to inspect and copy the agency records pertaining to the debt; (4) the right to request a review within the agency of the indebtedness and (5) the right to enter into a written agreement with the agency to repay the debt. This Order constitutes written notification of these procedural rights.

INSTRUCTIONS FOR ELECTRONIC FUNDS TRANSFER TO PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION

1. RECEIVER'S ABA NO. 021030004	2. TYPE SUBTYPE (provided by sending bank)
3. SENDING BANK ARB NO. (provided by sending bank)	4. SENDING BANK REF NO. (provided by sending bank)
5. AMOUNT	6. SENDING BANK NAME (provided by sending bank)
7. RECEIVER NAME: TREAS NYC	8. PRODUCT CODE (Normally CTR, or sending bank)
9. BENEFICIAL (BNF) – AGENCY LOCATION CODE BNF=/ALC-69-14-0001	10. REASONS FOR PAYMENT *Example:* PHMSA Payment for Case #/Ticket

INSTRUCTIONS: You, as sender of the wire transfer, must provide the sending bank with the information for Block (1), (5), (7), (9), and (10). The information provided in blocks (1), (7), and (9) are constant and remain the same for all wire transfers to the Pipeline and Hazardous Materials Safety Administration, Department of Transportation.

Block #1 - RECEIVER ABA NO. - "021030004". Ensure the sending bank enters this nine digit identification number; it represents the routing symbol for the U.S. Treasury at the Federal Reserve Bank in New York.

Block #5 - AMOUNT - You as the sender provide the amount of the transfer. Please be sure the transfer amount is punctuated with commas and a decimal point.
EXAMPLE: $10,000.00

Block #7 - RECEIVER NAME- "TREAS NYC." Ensure the sending bank enters this abbreviation, it must be used for all wire transfer to the Treasury Department.

Block #9 - BENEFICIAL - AGENCY LOCATION CODE - "BNF=/ALC-69-14-0001 Ensure the sending bank enters this information. This is the Agency Location Code for Pipeline and Hazardous Materials Safety Administration, Department of Transportation.

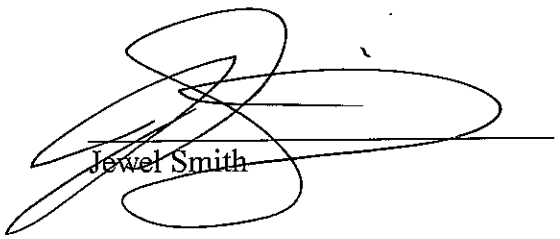
Block #10 - REASON FOR PAYMENT – "AC-Payment for PHMSA Case#/To ensure your wire transfer is credited properly, enter the case number/ticket number or Pipeline Assessment number."

Note: - A wire transfer must comply with the format and instructions or the Department cannot accept the wire transfer. You, as the sender, can assist this process by notifying, at the time you send the wire transfer, the General Accounting Division at (405) 954-8893.

CERTIFICATE OF SERVICE

This is to certify that on March 31, 2014 the undersigned served in the following manner the designated copies of this Order with attached addendum to each party listed below:

Donald E. Creadore, Esq. The Creadore Law Firm P.C. 305 Broadway – Fourteenth Floor New York, NY 10007	Original Decision Certified Mail
John P. Heneghan Director, Southern Region Office of Hazardous Materials Safety Field Operations	One Copy Electronic Mail
U.S. DOT Dockets, M-30 U.S. Department of Transportation West Building Ground Floor, Room W12-14 1200 New Jersey Ave., SE Washington D.C. 20590	One Copy Personal Delivery
Adam Horsley, Attorney Office of Chief Counsel	One Copy (without enclosures) Electronic Mail
Joseph Solomey Assistant Chief Counsel for Hazardous Materials Safety Law	One Copy (without enclosures) Electronic Mail



Jewel Smith