

**NEWS IN BRIEF**

**CPSC's MOHOROVIC ADDRESSES GENERAL MEETING.** Newly appointed CPSC Commissioner Joe Mohorovic addressed the industry during the AFSL General Membership Meeting on October 9, 2014. **Page 1.**

**COMMISSIONER ROBINSON MEETS WITH FIREWORKS INDUSTRY IN CHINA.** CPSC Commissioner Marietta Robinson met with AFSL and the fireworks industry in Liuyang, China in November 2014. **Page 1.**

**AFSL RECEIVES FCA APPROVAL FOR ISSUING FC NUMBERS.** AFSL has received approval from PHMSA as an FCA to issue FC numbers and is seeking input from members as to whether the service is needed before committing additional resources launch the program. **Page 5.**

**RESIDUAL BURN STANDARD ESTABLISHED FOR MULTIPLE TUBE AERIAL DEVICES.** Effective June 1, 2015, all multiple tube mine and shell devices must meet a new provision that prohibits residual burning after the devices function. **Page 3.**

**RECORD TESTING VOLUME FOR 2014.** AFSL tested a record 7.86 million cases of consumer fireworks in 2014. Display fireworks testing volume also improved. **Page 4.**

**GENERAL COUNSEL'S CORNER. UPDATE ON CPSC ACTIVITIES.** AFSL's General Counsel Quin Dodd provides an update of recent activities/events at the CPSC. **Page 5.**

## CPSC COMMISSIONER MOHOROVIC ADDRESSES AFSL MEMBERSHIP

Newly appointed CPSC Commissioner Joe Mohorovic addressed the fireworks industry at the AFSL General Membership Meeting on October 9, 2014. One of the key points in his remarks was his intent to focus on resolving the long-standing issue of establishing an objective test from determining when break charges in aerial devices are overloaded.

Commissioner Mohorovic acknowledged

his familiarity with the fireworks industry and AFSL from his earlier position at CPSC as Chief of



CPSC Commissioner Mohorovic addressing the industry during the AFSL General Membership Meeting.

Staff to Chairman Hal Stratton from 2002 to

2007. As many will recall, Chairman Stratton initiated the Advance Notice of Proposed Rulemaking with the intent of reviewing the fireworks regulations and determining where changes were needed. One plan under consideration was adopting or relying on some of the AFSL Standards. This effort stalled within the agency after Stratton's departure.

According to Commis-

*(Continued on page 3, column 2)*

## COMMISSIONER ROBINSON MEETS WITH INDUSTRY IN CHINA

CPSC Commissioner Marietta Robinson traveled to Liuyang, China in November 2014 to meet with the fireworks industry and to review the AFSL testing program. She toured a fireworks factory and witnessed fireworks testing being conducted by the AFSL testing team.

Robinson also addressed approximately 200 industry representa-

tives during an AFSL-hosted seminar in Liuyang, Hunan. She discussed some of her concerns about the compliance and safety of fireworks, including the disturbing increase in fireworks-related injuries in the past year.

In her remarks, Commissioner Robinson presented a well researched and engaging history of the manufac-

ture of fireworks in China, then concluded that "Although thousands of years have passed, we face many of the same challenges today—trying to ensure that the places that these fireworks are manufactured do not burn down and that those handling the fireworks do so with care and follow warnings and instructions on the products."

*(Continued on Page 2, Column 1)*

## ROBINSON MEETS WITH CHINA FIREWORKS INDUSTRY

(Continued from page 1)

She also reviewed recent injury data associated with fireworks,



Commissioner Robinson addressing Fireworks Industry in Liuyang.

noting that in 2013, an estimated 11,400 injuries were reported, and that CPSC has reports of 94 fireworks-related deaths between 2000 and 2013. “We can work together—the CPSC and AFSL—to reduce injuries and deaths by making fireworks safer through better mandatory and voluntary standards.”, she said.

Citing recent CPSC enforcement activities, Robinson reported that CPSC tested 239 fireworks products in 2014 and found that 77, or 32.2 percent, were violative products. Thirty one percent of the violations related to fuses, 26 percent related to an overloaded report, 17 percent related to a label-



Alan Zoldan, Heather Bramble (CPSC), Mike Collar, Commissioner Robinson, John Rogers, Mr. Fu (Liuyang government) and Thomas Chan.

ing requirement, and 26 percent were other violations not identified in the report. “I am hopeful that as

an industry you will work together with each other, the AFSL and the CPSC to figure out the best way to solve the problem associated with violative fireworks.”

Robinson stated she had met with the CPSC technical staff to discuss a new test procedure for evaluating break charges in aerial devices. “The new test takes place in a test ‘cage’ with the fireworks shell being exploded within a mortar tube. A carefully placed sensor measures the pressure from the exploding shell.” While noting that there is still some

more work to be done on the test, she stated “We are hoping very much that AFSL will assist us in assessing this new test by doing a ‘pilot’ program to gather critical data on the test and see if it is workable or needs to be tweaked.” “This is exactly the kind of collaboration that is necessary between the CPSC and your industry, to ensure the bigger goal of consumer product safety.” “However, I must remind and caution everyone, until the mandatory standard is officially revised, manufacturers must use the current testing requirements for their imports to the U.S. And if the CPSC becomes aware of noncompliant products after they have been imported, ... the CPSC will enforce its current mandatory standards.”

Ms. Robinson was accompanied on the trip by her Chief of Staff, Heather Bramble, who is also an attorney. During their tour of the fireworks factory, they observed the assembly of reloadable tube aerial shell devices, and briefly watched the powder loading process for the insert tubes. The delegation also visited a testing site where AFSL technicians were conducting

official testing of reloadable shell samples. They also reviewed the test kit technicians use is performing all field tests. The Commissioner concluded her two-day tour with a visit to the AFSL China Operations Office where she discussed several issues of concern to AFSL. Included was further discussion of resolution of the break charge test and the idea that CPSC



Commissioner Robinson and Heather Bramble watch assembly of reloadable shells at factory.

should adopt some of the most significant AFSL Standards, including a prohibition on fine metal powders in break charges.

AFSL participants in the meetings included AFSL President Mike Collar, who also addressed the industry during the seminar; Alan Zoldan and Thomas Chan, Directors; John Rogers, and AFSL Staff Jeili Tan, William Zhou, and Tony Gong.



Commissioner Robinson and AFSL Members watch powder weighing test by AFSL Technicians.

**NOTE: In December, Commissioner Robinson introduced a motion to add to the CSPC Operating Plan a project for an overall review of the fireworks Regulations. See Page 5, Counsel’s Corner.**

## RESIDUAL BURN STANDARD ADOPTED FOR AERIAL DEVICES

Effective June 1, 2015, multiple tube mine and shell devices must meet a new requirement that prohibits them from continuing to burn or reigniting once the function is completed. AFSL will test for compliance with the new requirement by using a Thermal Detector device to measure the internal temperature of the spent casing thirty minutes after the device completes functioning. If the internal temperature of the casing exceeds 250°F degrees when tested, or if the device re-ignites within the 30 minute waiting period, the tested Lot will fail.

In addition, multiple tube aerial devices subject to the requirement must bear a special caution label on the top surface of the device that reads: ***“WARNING: MAY REIGNITE. SOAK WITH WATER AFTER USE”***. The requirements were approved by the Standards Committee and the Board in October 2014. All multiple tube devices submitted for testing on or after June 1, 2015 will be tested for the new requirement.

This requirement mirrors a requirement for multiple tube fountains implemented in August 2014. Both are intended to address the potential risk of fires resulting from re-ignition of devices that are improperly disposed of, such as in trash cans, or that might otherwise re-ignite after use. While specific incidents, including one death, have been reported from re-ignition of fountain casings, both AFSL and CPSC have reported re-ignitions in mine and shell devices during testing as well. For further details on the requirements, please refer to the AFSL Standard for Comets, Mines and Shells, available in the AFSL Standards posted on both the English and Chinese versions of the AFSL Website: [www.afsl.org](http://www.afsl.org).

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## MOHOROVIC ADDRESSES MEMBERS (Continued from page 1)

sioner Mohorovic, “... the only tangible result of the 2006 rulemaking has been some progress in a new CPSC test method to measure whether aerial fireworks devices are ‘intended to produce an audible effect.’” “As the CPSC staff have recognized, and as is clear to nearly everyone who has examined the issue, the current CPSC ‘ear test’ is far too subjective ... and far too variable due to environmental and other factors to be a reliable and repeatable test, especially when serious enforcement decisions are being made based on that test.”

He went on to say “I promise to do what I can to breathe new life into this overall regulatory activity by the CPSC, with particular emphasis on once and for all adopting an objective, repeatable and FAIR audible effects test method for aerial devices. After all, doing so is not only fair to you ....but having objective test methods for this and all CPSC mandatory standards is clearly in the best interests of consumers since it will more reliably guide the manufacture and importation of consumer fireworks into the U.S.”

Commissioner Mohorovic expressed concern about recent increases in fireworks-related injuries, describing it as a “significant and disturbing increase from 2012 to 2013 in injuries and deaths from several categories of consumer fireworks”. He stated that injuries increased from 8,700 in 2012 to 11,400 in 2013. “By any measure this is an alarming increase and belies an overall trend during the last two decades—about the time in fact that the AFSL program really took off—of decreasing numbers of injuries even as consumption of fireworks in the U.S. increased.”

He reported that while many of the more serious injuries involved the use of illegal fireworks and/or legal fireworks used in a clearly unsafe manner, others did not. “In any case, as we all know misuse of fireworks is to some degree foreseeable, and we should all of us continue to try via performance standards, adequate warnings, and ... education, to prevent such misuse of fireworks by consumers.”

Mr. Mohorovic also reported that during a recent CPSC Compliance enforcement program review



John Rogers, Commissioner Mohorovic, Quin Dodd, and Tad Trout.

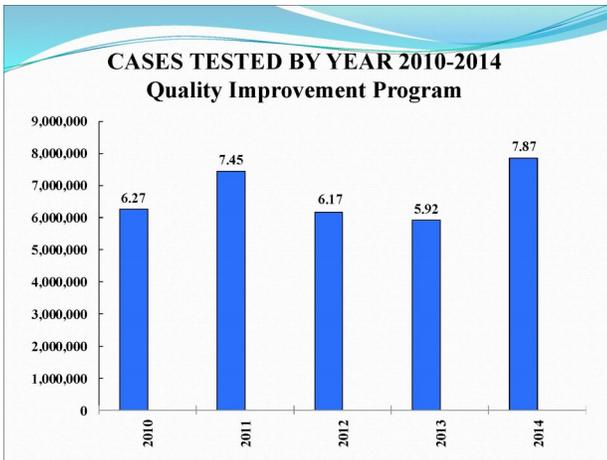
fully a third of fireworks tested were noncompliant in some way with CPSC (and therefore AFSL) standards. Two of the most common violations found were fuse burn times and the audible effect test indicating overloaded composition of aerial devices. He strongly encouraged the industry to work with AFSL and CPSC to correct these problems.

Commissioner Mohorovic’s remarks and appearance at the General Membership meeting were well-received by the members and his willingness to work with the industry to try to resolve outstanding issues, especially the break charge issue was welcome news. Following the meeting, he spent a good deal of time mingling with industry members and responding to their questions.

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## TESTING VOLUME REACHES RECORD IN 2014

AFSL tested a record 7.86 million cases of fireworks under the consumer fireworks testing program in 2014, exceeding the previous record of 7.4 million cases tested in 2011. In addition, the compliance rate reached 93%, which matches the previous high.



AFSL had projected a testing volume of 6.4 million cases at the beginning of 2014. While some of the unexpected increase results from the addition of new members to the program, the main reason for the increase is a robust selling season in 2014. The 4<sup>th</sup> of July holiday fell on a Friday last year, creating a three-day holiday weekend, which always boosts sales. Further, there were no unexpected bad weather patterns, which can dramatically reduce the number of sales.

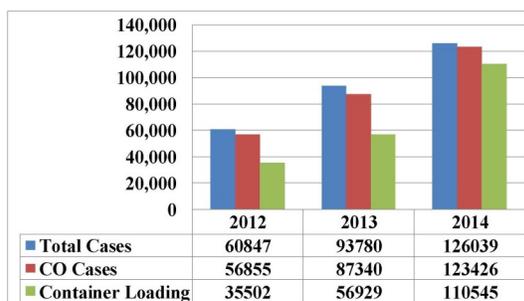
With sales being high, U.S. importers depleted inventories and in some cases, are struggled to restock in anticipation of a success-

ful 2015 season, given the Saturday 4<sup>th</sup> of July this year. Several events outside the normal challenges the industry faces have contributed to the difficulties of getting merchandise. For example, the China government ordered a one month shut-down during the month of August 2014 in an effort to avoid accidents due to extreme heat. Further, the China government halted all production of fireworks following a factory explosion that killed more than 13 people in September 2014. Factories were required to undergo safety inspections before being given the go ahead to resume

production.

The number of cases tested under the display program also increased in 2014. While shipments

DISPLAY FIREWORKS TEST SUMMARY  
JANUARY – DECEMBER 2012, 2013 AND 2014



submitted for testing continue to lag behind expected levels, AFSL is hopeful that more importers will have shipments certified in 2015 in order to maintain the program.

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## AFSL HONORS “SHEKOU SIX” IN 25-YEAR CELEBRATION

Joel Anderson, Founder and Director Emeritus of AFSL, paid special tribute to a group known as the “Shekou Six” who are credited with laying the foundation for AFSL 25 years ago in Shekou, China. The group, organized by Mr. Anderson, traveled to China in July 1988 to help the factories evaluate their products for compliance with the CPSC regulations. More than 1000 products from factories throughout China were tested during the ten-day exercise.

It was also during that trip that the concept of setting up a permanent organization to educate the China industry on U.S. fireworks requirements and to develop new standards to assure the highest level of safety of fire-



The “Shekou Six”: Chi-Kay Cheung, John Conkling, Jerry Bostocky, AFSL Founder Joel Anderson, Alan Zoldan and John Rogers.

works, was established. Mr. Anderson then set up a corporation in March 1989, and persuaded other companies to join the program. He used the occasion of the 25th Anniversary to present special achievement awards to the Shekou Six members during the October 9, 2014 AFSL General Membership Meeting in Miami, FL. AFSL also hosted a reception for members that evening to celebrate the occasion.

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## COUNSEL'S CORNER

AFSL GENERAL COUNSEL, Quin Dodd



Since the October 2014 General Member Meeting in Miami, there have been several developments at the CPSC of which AFSL members should be aware:

**CPSC FY '15 Operating Plan.** In mid-December, the CPSC voted to approve its plan for allocating staff resources under its fiscal year 2015 budget (which runs through September 30, 2015). Responding to the long-standing issue of determining compliance with CPSC's "audible effects" standard (16 CFR 1500.17(a)(3)) and the agency's "ear test" used to determine compliance with that standard, AFSL worked with several CPSC commissioners to obtain additional agency resources to resolve this inherently subjective test method.

Specifically, AFSL and Commissioner Joe Mohorovic advocated for additional staff resources to finalize the so-called "blast cage" test method, intended to replace the agency's ear test method. AFSL was hopeful that this new method, which sought to measure the pressure created by break charges, would replace the more subjective surrogate measurement of the "sound" break charges produce.

Unfortunately, a majority of the Commission voted to shelve continued development of this new test

method, and directed CPSC staff to instead propose regulatory options to the Commission by the end of the fiscal year on this and other needed updates to all CPSC mandatory fireworks standards. However, AFSL was encouraged by a number of commissioner comments praising AFSL and its testing program, and by what appears to be a renewed commitment by the agency to modernize all of its fireworks standards. AFSL will continue to work closely with the CPSC toward that end.

**"Trusted Trader" Pilot Program Funded.** Also as part of the CPSC FY '15 Op Plan, the Commission approved the allocation of staff resources to begin a Trusted Trader pilot program, whereby importers who meet certain criteria would be given "green lane" (streamlined import inspection) status by Customs and Border Patrol (CBP) and the CPSC. AFSL will continue to closely follow this encouraging initiative and will report on noteworthy developments.

**Record New CPSC Civil Penalties.** Late in 2014 and early 2015, a number of unusually high civil penalty settlements were announced between the CPSC and companies that the agency alleged failed to timely report product safety hazards, including a record \$4.3 million for mini-bikes/go-carts with leaking gas caps. In addition, all recent CPSC penalty settlements have included "internal compliance program" provisions, whereby companies have agreed to fully report violative or hazardous products, both internally and to the CPSC.

I look forward to seeing all of you in Las Vegas, and would be happy to discuss these or other issues with you and to address issues of particular interest to you in future "Counsel's Corner" articles. I may be reached at: [afslhq@afsl.org](mailto:afslhq@afsl.org).

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## AFSL SEEKS INPUT ON VOLUME FOR FC APPROVALS

On October 8, 2014, AFSL was notified by DOT that its application to become a Fireworks Certification Agency (FCA) was approved. This will allow AFSL to set up a program for issuing FC numbers in lieu of EX numbers issued by PHMSA. AFSL submitted an application to become an FCA on March 31, 2014.

The program approved by PHMSA for allowing PHMSA-approved private laboratories and companies to issue Fireworks Certification (FC) numbers in lieu of EX numbers issued by PHMSA, is expected to expedite the approval process for fireworks by significantly reducing the wait time for companies applying for EX numbers to PHMSA. Companies will still have the option to submit applications for EX numbers to PHMSA, for which there still is not charge. All approved FCA's are expected to charge a fee ranging from \$150 to \$300 for each FC number issued. Six companies have been approved by PHMSA to issue FC numbers to fireworks manufacturers.

AFSL is in the process of developing a program and procedures for accepting applications from members; however, this will require an initial investment for the development of a database to process and track numbers issued by AFSL, as well as the addition of an additional staff person to assist in processing applications. To avoid unneeded expenditure of resources, AFSL is asking members for an estimate of the number of applications expected. Members are requested to complete and return the response form enclosed with this newsletter to AFSL to assist in determining if AFSL should continue developing the FCA program.

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AFSL WELCOMES THE FOLLOWING NEW MEMBERS:  
(April 2014 — January 2015)

CONSUMER FIREWORKS IMPORTER PARTICIPANTS

- 1 Big's Fireworks LLC, Edgewood, TX
- 2 Lucky Dragon Fireworks, Dearborn, MI

CONSUMER FIREWORKS SHIPPER PARTICIPANTS

- 1 Changsha Fortune Fireworks Trading Co., Ltd.
- 2 Gate Import and Export Trade of Liuyang Co., Ltd.
- 3 Liuyang Goldenkey Trade Co., Ltd.
- 4 Liuyang Mei-Mei Fireworks Trading Co., Ltd.
- 5 Pyro Pro Co., Ltd.
- 6 Sunlight China Products Ltd.

DISPLAY FIREWORKS SHIPPER PARTICIPANT

- 1 Liuyang Goldenkey Trade Co., Ltd.



February 16, 2015 — AFSL Board of Directors Meeting, Las Vegas, NV  
 February 19, 2015 — Consumer Fireworks Seminar in Las Vegas, NV

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