

**CHAPTER 69A-50
SPARKLER REGISTRATION AND TESTING**

69A-50.001	Scope
69A-50.005	Registration Requirements
69A-50.011	Scope
69A-50.013	Definitions
69A-50.015	Submission Procedures
69A-50.017	Procedures for Approved Products
69A-50.019	Procedures for Rejected Products

69A-50.001 Scope.

The provisions of this part shall apply to those individuals wishing to become registered as a manufacturer, distributor, wholesaler, retailer, or seasonal retailer of sparklers in this state pursuant to the provisions of Chapter 791, F.S.

Rulemaking Authority 624.308(1) FS. Law Implemented 791.01, 791.015, 791.02, 791.04 FS. History—New 6-1-88, Formerly 4A-50.001.

69A-50.005 Registration Requirements.

(1) Persons wishing to engage in the manufacture, distribution, wholesale, retail, or seasonal retail of sparklers in this state shall be registered with the State Fire Marshal as required by Section 791.015, F.S. Processing of applications for certificates of registration is subject to the provisions of Chapter 120, F.S., including Section 120.60, F.S.

(2) Persons wishing to register shall do so on forms provided by the State Fire Marshal. Forms may be obtained from the Regulatory Licensing Section, Bureau of Fire Prevention, 200 East Gaines Street, Tallahassee, FL 32399-0300.

(3) Each registration form shall be accompanied by the applicable fee which is hereby set as being equal to the maximums established in Section 791.015, F.S.

(4) The applicant for a Certificate of Registration shall provide all information requested as prescribed in Section 791.015, F.S.

(5) Upon satisfactory completion of the application, a Certificate of Registration will be issued.

(6) Registration numbers shall become effective when an applicant actually receives the certificate. Registration numbers will not be given by telephone.

(7) Registration certificates issued for retailers will be issued to a specific location and will not be transferable. The certificate number will identify the specific location.

(8) Each retailer or seasonal retailer shall keep, at every location where sparklers are sold, a copy of an invoice or other evidence of purchase from the manufacturer, distributor, or wholesaler, which states the registration certificate number for the particular manufacturer, distributor, or wholesaler and the specific items covered on the invoice. At a minimum, the invoice shall describe the items by brand name, size and manufacturer, or place of manufacture, as printed on the item.

(9) Renewals. Each certificate shall expire on January 31 of each year. Forms may be obtained from the Regulatory Licensing Section, Bureau of Fire Prevention as described in subsection (2), above.

(10) Validity of Certificates of Registration.

(a) Certificates are valid from the issue date shown on the certificate until the expiration date shown on the certificate.

(b) No person shall engage in any activity for which registration under Chapter 791, F.S., is required, unless such person has in his possession a certificate issued under the provisions of Chapter 791, F.S., and this rule chapter.

Rulemaking Authority 624.308(1), 791.015(4) FS. Law Implemented 791.01, 791.015, 791.02, 791.04 FS. History—New 6-1-88, Amended 7-29-90, 10-2-93, Formerly 4A-50.005.

69A-50.011 Scope.

The provisions of this part shall apply to those persons submitting items for testing to determine whether those items conform to the definition of “sparkler” in Chapter 791, F.S., and may therefore be included on the list of approved sparklers distributed by the State Fire Marshal on February 1 of each year.

Rulemaking Authority 624.308(1), 791.013(1) FS. Law Implemented 791.01, 791.015, 791.02, 791.04 FS. History—New 6-1-88, Amended 10-20-93,

Formerly 4A-50.011.

69A-50.013 Definitions.

(1) The definitions in this rule apply to the testing and approval of sparklers as set out in Section 791.013, F.S., and the rules adopted pursuant thereto.

(2) “Emits” means to throw off or to give off or out (as light).

(3) “Sparks” means small particles of a burning substance thrown out by a body in combustion or remaining when combustion is nearly completed. “Sparks” do not include small particles of other substances such as ball bearings.

(4) “Detonate” means to explode with sudden violence. Upon ignition, an explosive compound decomposes very rapidly resulting in a rapid release of heat and large quantities of high-pressure gases.

(5) “Explode” means to undergo a rapid chemical or nuclear reaction with the production of noise, heat, and violent expansion of gases.

(6) “Hand-held” means that the device includes a part which is intended by the manufacturer to be held in the hand of the consumer during the time the device is emitting a shower of sparks.

(7) “Ground-based” means that the device includes a part or feature of its design which is intended by the manufacturer to be stuck in or placed on the ground so that the device will remain stationary in or move along on the ground after ignition and during the time the device is emitting a shower of sparks. “Ground-based” does not mean suspended in the air above the ground by the use of any device not an integral part of the device offered for testing.

(8) “Propel itself through the air” means that the device itself shall not, either in whole or in part, move from the hand of the consumer or into the air from the place where it was stuck in or placed on the ground after ignition or during the time the device is emitting a shower of sparks.

(9) “Chemical compound which produces sparks upon burning” means a chemical compound which is not an explosive compound and which burns but does not detonate or explode and which produces sparks upon burning.

Rulemaking Authority 624.308(1), 791.013 FS. Law Implemented 791.01, 791.015, 791.02, 791.04 FS. History—New 6-1-88, Amended 7-19-01, Formerly 4A-50.013.

69A-50.015 Submission Procedures.

(1) The submission procedures outlined in this rule apply to those persons submitting product samples to the division for testing to determine whether those products meet the definition of sparklers as set out in subsection 791.01(8), F.S. Products to be sold as sparklers shall be tested and approved by the division before they are legal for sale. It is not necessary for each person wishing to sell a particular item to submit that item personally. Rather, it is only necessary that the particular item be submitted by someone for testing. Processing of the submitted product samples is subject to the provisions of Chapter 120, F.S., including Section 120.60, F.S.

(2) Five (5) samples of each product shall be submitted for testing. The State Fire Marshal, however, reserves the right to request additional samples up to a maximum of ten (10), if needed, to determine whether the product conforms to the standards set forth in Section 791.01, F.S. Samples shall be accompanied by Form DFS-K3-362 <http://www.flrules.org/Gateway/reference.asp?No=Ref-05903>, entitled “Request for Sparkler Analysis,” revised 9/15, which is hereby adopted and incorporated by reference. Copies of Form DFS-K3-362 are available from the Bureau of Fire and Arson Investigations, 200 East Gaines Street, Tallahassee, Florida 32399-0300. The “Request for Sparkler Analysis” form shall be accurately completed. The form shall be accompanied by a letter of approval issued by the United States Department of Transportation with an identifying “Ex” number on the product and a chemical composition laboratory report issued in compliance with 49 CFR Parts 100-177, October 1, 2014 Edition, which is hereby adopted and incorporated by reference, and available from the internet at <http://www.gpo.gov/fdsys/pkg/CFR-2014-title49-vol2/pdf/CFR-2014-title49-vol2.pdf>.

(3) Samples of products submitted for analysis shall be sent prepaid to: Bureau of Forensic Fire and Explosives Analysis, 38 Academy Drive, Havana, Florida 32333.

(a) Each shipping container shall include an accurately completed Form DFS-K3-362, as incorporated in subsection 69A-50.015(2), F.A.C., listing each sample product within the container. Each sample listed on the Form DFS-K3-362 shall contain the name of the sample product as printed on the product.

(b) A chemical composition laboratory report issued in compliance with 49 CFR Parts 100-177, current edition adopted in subsection 69A-50.015(2), F.A.C., and a letter of approval issued by the United States Department of Transportation with an

identifying “Ex” number shall be attached to Form DFS-K3-362 for each sample product in the shipping container.

(c) Each shipping container of sample products submitted for analysis shall be properly labeled on the exterior of the shipping container with the sender’s name, company, certificate of registration number, and return address.

(4) In order for products to be considered for approval, samples must be received by the division by September 1 of the year immediately preceding the year in which the submitter wishes the product to be sold. If September 1 falls on a Saturday, Sunday or a legal holiday, submissions will be considered timely if they are received by 5:00 p.m. on the next day which is not a Saturday, Sunday, or a legal holiday.

(5) A shipping container of sample products shall be returned to the sender post-collect or freight-collect and will not be tested for approval if any of the following occur:

(a) Form DFS-K3-362 is not accurately completed for each sample product submitted in a shipping container.

(b) A chemical composition laboratory report issued in compliance with 49 CFR Parts 100-177, 1992 current edition adopted in subsection 69A-50.015(2), F.A.C., and a letter of approval issued by the United States Department of Transportation with an identifying “Ex” number does not accompany Form DFS-K3-362 for each sample product in the shipping container.

(c) Any submissions for which mailing or freight or any other shipping charges are due.

(d) Any submissions shipped to its office in Tallahassee or any division office other than the laboratory in Havana.

(e) Any samples received after the September 1 deadline.

(6) The division shall dispose of any samples which remain after testing. Any person wishing to have untested samples returned shall make arrangements with the laboratory in Havana. The division will not pay for samples to be returned.

Rulemaking Authority 624.308(1), 791.013(1), (3) FS. Law Implemented 791.01, 791.013, 791.015, 791.02, 791.04 FS. History—New 6-1-88, Amended 7-29-90, 10-20-93, Formerly 4A-50.015, Amended 10-28-15.

69A-50.017 Procedures for Approved Products.

(1) The division shall complete its testing of all properly submitted samples and shall determine which products are approved no later than February 1 of each year. All such approved sparklers shall be legal for sale in this state from February 1 until January 31 of the following year.

(2) The division shall publish the list of approved sparklers in The Florida Administrative Register, stating the dates between which the products are legal for sale.

(3) The division shall distribute copies of the list of approved sparklers to all sheriffs and police chiefs in Florida and shall make the list available to the public. Anyone wishing a copy of the list shall contact Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0300.

(4) Products must be tested and approved for sale. Products approved for sale in one year will be assumed to be approved for sale succeeding years. It shall be the responsibility of the manufacturer, distributor or wholesaler engaged in the business of selling approved sparklers to determine if a product they are marketing is of the same quality, content, construction and labeling as a product approved by the State Fire Marshal. The division shall perform random checks of sparkler products offered for sale to determine if products being marketed are the same as those products submitted to, and approved by, the State Fire Marshal.

(5) Prior to December 1 of each year the State Fire Marshal will forward a list of approved products to each individual or firm who has submitted products for review. A submitter shall advise the State Fire Marshal of any change in the quality, content, labeling or construction of any sparkler previously approved and shall resubmit such product for retesting and approval. Such submission shall comply with Rule 69A-50.015, F.A.C.

(6) If the State Fire Marshal determines that a sparkler product or any other firework is being marketed contrary to the provisions of Sections 791.013(2) or 791.02(1), F.S., the State Fire Marshal shall refer the case to the appropriate state attorney.

(7) The list of approved sparklers issued by the division includes only sparklers, as defined in Section 791.01(8), F.S., for sale in this state. The list does not include any of the items described in Section 791.01(4)(c), F.S., nor will any of those items be tested.

Rulemaking Authority 624.308(1), 791.013 FS. Law Implemented 791.01, 791.013, 791.015, 791.02, 791.04 FS. History—New 6-1-88, Amended 10-20-93, Formerly 4A-50.017.

69A-50.019 Procedures for Rejected Products.

Persons who have submitted products which have been rejected for failure to comply with the definition of “sparkler” in Section 791.01(8), F.S., shall be notified by the division of such rejection. The notification of rejection shall refer to the definition of

“sparkler” in Section 791.01(8), F.S., shall describe the item rejected by reference to its description on the “Request for Sparkler Analysis” form; and shall notify the person submitting the rejected item of his rights and obligations under Chapter 120, F.S.

Rulemaking Authority 624.308(1), 791.013 FS. Law Implemented 791.01, 791.013, 791.015, 791.02, 791.04 FS. History—New 6-1-88, Formerly 4A-50.019.