



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

JUL 09 2018

Chris Silins
Talking Tables
404 Fifth Avenue
3rd Floor
New York, NY 10018

Reference No. 17-0125

Dear Mr. Silins:

This letter is in response to your October 9, 2017, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to marking and labeling requirements for novelty fireworks imported from China.

We have paraphrased and answered your questions as follows:

- Q1. You ask if the HMR permit the use of both the “Novelties, not regulated, except when transported by air” marking and the Division “1.4S” explosive label on the same package.
- A1. The answer is yes. Nothing in the HMR prohibit use of both the “Novelties, not regulated, except when transported by air” marking and the Division “1.4S” explosive label on the same package or overpack. However, this may cause confusion in transportation. You can avoid such confusion by working with your carrier(s) beforehand so they know how to properly handle your shipment.
- Q2. You ask if the HMR permit the material to enter the United States marked and labeled as a Division 1.4S explosive material and then have the packages remarked with the novelty fireworks marking once they have arrived in the United States.
- A2. The answer is yes. If the material is marked and labeled appropriately, the material may enter the United States fully regulated. However, this method would require an EX approval from the Associate Administrator for the international leg of the shipment. Once the material is remarked in accordance with the novelty firework guidance, an EX approval is no longer required.
- Q3. You ask if an EX number is required to ship this material.

A3. See the attached Guidance and Criteria for Fireworks Novelty Devices, which states:

EX approval (EX number) or FC certification letter (FC number) is not required to ship novelty devices into or within the United States when the novelties conform to the guidance described in this document.

Therefore, if the material is shipped in accordance with the Guidance and Criteria for Fireworks Novelty Devices, no EX number will be required. However, if the material does not meet the definition of any of the novelty devices in the guidance document or does not ship according to the document's requirements, then the material will require an EX approval before being shipped to the United States.

I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Glenn Foster". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

T. Glenn Foster
Chief, Regulatory Review and Reinvention
Standards and Rulemaking Division

Wolcott
173.22
Shippers Responsibility
17-0125

Dodd, Alice (PHMSA)

From: Chris Silins <chris@talkingtables.co.uk>
Sent: Monday, October 09, 2017 4:05 AM
To: EXPLO (PHMSA)
Subject: Novelty Fireworks

Hello

I was hoping you could help me with the below or point me in the right direction of who to talk to

We are looking to ship a container of fireworks from China. The products themselves will fall under the 'Novelty fireworks' category and as such wouldn't need approval by DOT or an EX number.

However, this category of goods does not exist in China. The goods have been tested via series 6 testing and meet the requirements to be classed as 1.4S, UN0337 goods. For the goods to leave China they will need to be boxed in cartons stating the goods are 1.4S and sent in a hazardous goods container.

It is my understanding that once they then reach US soil they could be classed as 'Novelty fireworks'. At this point in time however the product would still be labelled as 1.4S hazardous goods. One of the requirements of novelties is for the over pack to state 'NOVELTIES, Not Regulated, except when Transported by Air, when in Conformance with APA Standards 87-1'

- I could add this to the carton print, however the carton would then have the 1.4S hazard logo and the novelty statement. Is this acceptable or would it be classed as being too confusing?

One the product gets to the warehouse it would be possible to relabel the outer packaging to remove the 1.4S logo.

- If the carton being both printed and 1.4S and having the novelty statement on them at the same time is too confusing is it possible to ship the good as 1.4S from the port to the warehouse as 1.4S goods and relabel them. As the goods are classed as 1.4S and will be novelty goods once relabelled at the warehouse do they require EX numbers from the DoT?

I hope this all makes sense but if you need more information please let me know. Also, if you are not the correct department to be asking these questions any advice in who to talk to would be much appreciated

Kind regards

Chris Silins
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0207 627 6767
www.talkingtables.co.uk





Whether it's an afternoon tea with your grandma, an outdoor wedding or a good friend's birthday: our aim is to help you celebrate with fun and laughter, engaging everyone equally.

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GUIDANCE AND CRITERIA FOR FIREWORKS NOVELTY DEVICES

A. **SYNOPSIS:** The U.S. Department of Transportation is providing the following guidance and required provisions for novelty devices listed in the American Pyrotechnics Association Standard 87-1 version 2001 that are not regulated as explosives.

B. **REQUIREMENTS:** Novelty devices (often referred to as novelties) may be transported as not regulated as explosives by surface modes when the novelty devices comply with all the construction, formulation and packaging requirements listed below. An EX approval (EX number) or FC certification letter (FC number) is not required to ship novelty devices into or within the United States when the novelties conform to the guidance described in this document. When novelties are transported by air, they must be classed as UN 3178, Flammable solid, inorganic, n.o.s. (novelties), 4.1, PG II.

Novelties must be manufactured and packaged in accordance with the following:

1. **Snappers:** small, paper-wrapped items containing not more than 1.0 milligram of silver fulminate coated on small bits of sand or gravel. When dropped, the device explodes, producing a small report.

Inner Packaging: must not contain more than 50 snappers with sawdust or other impact-absorbing materials.

2. **Party Poppers:** small devices with paper, cardboard, or plastic exteriors that are actuated by means of friction (e.g. pulling a string or trigger). Upon activation, the device produces a noise effect and releases flame-resistant material (e.g. paper streamers, confetti). Devices may not contain more than 16 milligrams (0.25 grains) of pyrotechnic composition, which is limited to potassium chlorate and red phosphorus.

Inner Packaging: must not contain more than 72 devices.

3. **Toy Smoke Devices:** small devices made of cork, clay, cardboard or plastic tubes containing not more than 5 grams of pyrotechnic composition that produces smoke as the sole effect after activation. Smoke devices must be constructed so that they will neither burst nor produce excessive flame after activation. The chemical composition typically consists of potassium nitrate and sulfur for white smoke and combinations of potassium chlorate, sulfur, sugar, and organic dyes for colored smoke. All mixtures containing potassium chlorate must also contain an equal amount of carbonate or bicarbonate (e.g. calcium carbonate, sodium bicarbonate). No prohibited chemicals are permitted (see Section 3.7 of APA Standard 87 1 for the list of prohibited chemicals).

Inner Packaging: must not contain more than 72 devices.

4. **Snakes and Glow Worms:** pressed pellets of pyrotechnic composition containing not more than 2 grams of composition per device. Upon ignition, snakes and glow worms produce a snake-like ash that expands in length as the device is consumed. The chemical composition typically consists of ammonium perchlorate, nitrated pitch, asphaltum, and carbonaceous materials. No prohibited chemicals are permitted (see Section 3.7 of APA Standard 87 1 for the list of prohibited chemicals).

Inner Packaging: must not contain more than 25 devices.

5. **Sparklers:** devices that consist of a wire or wood dowel coated with not more than 100 grams pyrotechnic composition that produces a shower of sparks upon ignition. Sparklers that contain potassium chlorate or potassium perchlorate may not contain more than 5 grams of chemical composition per device. Sparklers typically use barium nitrate with aluminum and dextrin. No prohibited chemicals are permitted (see Section 3.7 of APA Standard 87 1 for the list of prohibited chemicals).

Inner Packaging: must not contain more than 8 devices.

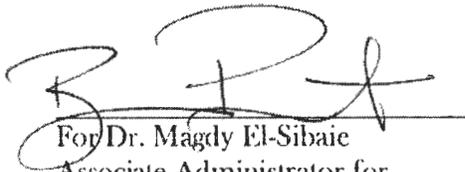
C. **Testing:** All novelty devices must successfully pass a thermal stability test specified in 49 CFR § 173.64(a) (2).

D. **Outer Packaging:** Novelty devices in their inner packaging must be packaged in strong outer packagings. The packages must conform to the requirements of 49 CFR § 173.24. The maximum gross weight of any outer package may not exceed 30 kg (66.2 lbs.).

E. **Marking Requirements:** Each outer package and over pack, if used, containing novelties that conform to the criteria in this document must be plainly marked "NOVELTIES, NOT REGULATED, EXCEPT WHEN TRANSPORTED BY AIR."

F. **Modes of Transportation Authorized:** Motor vehicle, rail freight, cargo vessel, passenger aircraft* and cargo aircraft*

*When novelties are transported by air, they must be classed as UN 3178, Flammable solid, inorganic, n.o.s. (novelties), 4.1, PG II.


For Dr. Magdy El-Sibaie
Associate Administrator for
Hazardous Materials Safety

March 19, 2015
Date