



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

August 24, 2021

Mr. Robert J. Howell
P.O. Box 34
Munford, AL 36268

Reference No. 21-0041

Dear Mr. Howell:

This letter is in response to your April 19, 2021, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to fireworks approved under previous editions of the American Pyrotechnics Association (APA) Standard 87-1.

We have paraphrased and responded to your questions as follows:

- Q1. On November 25, 2020, the Pipeline and Hazardous Materials Safety Administration (PHMSA) published a final rule in the Federal Register [85 FR 75680] titled “Hazardous Materials: Adoption of Miscellaneous Petitions to Reduce Regulatory Burden” under Docket No. PHMSA-2017-0120 (HM--219C). In this final rule, PHMSA incorporated by reference the January 1, 2018, edition of the APA Standard 87-1 (i.e., APA 87-1A, APA 87-1B, and APA 87-1C), “Standards for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics,” excluding certain appendices. In accordance with the HM-219C final rule, after November 26, 2021, fireworks must be designed and approved under the standards of the 2018 APA standard. You ask whether existing combination devices—that have been previously approved and issued a valid EX or FC number—will remain valid after November 26, 2021.
- A1. The answer is yes. Fireworks with EX or FC numbers that are approved before November 26, 2021, remain valid unless PHMSA takes a formal action to terminate individual or specific groups of approvals.
- Q2. You ask whether crackling strips with valid EX or FC numbers that contain greater than 20 grams but less than 60 grams of total pyrotechnic composition—excluding fuse weight—will remain valid after November 26, 2021.
- A2. Crackling strips approved under § 173.56 will remain valid after November 26, 2021, as crackling strips exceeding 20 grams of composition are not approved as Division 1.4G

explosives by DOT-approved fireworks certification agencies (FCA) and not at all by PHMSA under the 2001 APA Standard.

- Q3. You ask how PHMSA intends to notify industry if fireworks approved under previous editions of the APA Standard 87-1 are to be phased out.
- A3. If PHMSA determines a need to terminate fireworks approvals, industry and the affected companies will be notified, as described in § 107.713, via a “Show Cause” letter and/or a Federal Register action, as appropriate.

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

Sincerely,



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

From: [INFOCNTR \(PHMSA\)](#)
To: [Dodd, Alice \(PHMSA\)](#); [Hazmat Interps](#)
Subject: FW: Letter of Interpretation
Date: Monday, April 19, 2021 12:58:26 PM

21-0041

Good afternoon Alice,

Please see the request for a letter of interpretation below. Please contact our office with any questions.

Best,

Sarah (HMIC)

From: Jay Howell [mailto:Jay.Howell@afsl.org]
Sent: Monday, April 19, 2021 12:42 PM
To: INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>
Cc: Jerry Wingard <jerry.wingard@afsl.org>
Subject: RE: Letter of Interpretation

CAUTION: This email originated from outside of the Department of Transportation (DOT). Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Sarah,

The original letter of interpretation in response to our request should be sent to the following address:

Robert J. Howell
P.O. Box 34
Munford, AL 36268

I can be contacted at 828-280-5532 should you have any questions or require additional information.

A physical copy should be provided to:
American Fireworks Standards Laboratory
5550 Friendship Blvd., Suite 420
Chevy Chase, MD 20815

Digital copies should be provided, via email, to the following:

Jerry Wingard
Jerry.Wingard@afsl.org

John Rogers
afslhq@afsl.org

Jay Howell
Jay.Howell@afsl.org

Your assistance is greatly appreciated.

Best Regards,

Robert (Jay) Howell
Executive Director
American Fireworks Standards Laboratory

From: INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>
Sent: Monday, April 19, 2021 12:24 PM
To: Jerry Wingard <jerry.wingard@afsl.org>
Subject: RE: Letter of Interpretation

Dear Robert,

We have received your request for a written letter of interpretation regarding the hazardous materials regulations (49 CFR Parts 171-180). The hazardous materials regulations are available at the following URL:

<https://www.phmsa.dot.gov/phmsa-regulations>

However, before we can submit your request for processing, please respond to this email with:

- Full Name
- Physical Mailing Address
- Telephone Number

Sincerely,

Sarah, Hazardous Materials Specialist

An e-mail response from this office is considered informal guidance. Formal guidance may be requested in accordance with 49 CFR 105.20. <https://www.phmsa.dot.gov/standards-rulemaking/hazmat/hazardous-materials-information-center>

From: Jerry Wingard [<mailto:jerry.wingard@afsl.org>]

Sent: Monday, April 19, 2021 12:06 PM

To: Dodd, Alice (PHMSA) <Alice.Dodd@dot.gov>; INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>; Jay Howell <Jay.Howell@afsl.org>

Cc: AFSL HQ <afslhq@afsl.org>; Singh, Harpreet (PHMSA) <harpreet.singh@dot.gov>; Maxey, Vallary (PHMSA) <Vallary.Maxey@dot.gov>; Gasser, Neal (PHMSA) <neal.gasser@dot.gov>

Subject: Letter of Interpretation

CAUTION: This email originated from outside of the Department of Transportation (DOT). Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Ms. Alice Dodd,

During our American Fireworks Standards Committee meeting on April 15, 2021 we had several questions pertaining to the new 2018 APA 87-1 A Standards that were recently implemented by PHMSA. As the Committee works to incorporate your new standard into the AFSL Standards, we need your assistance. Below are several issues that were discussed with Members of PHMSA Staff and The Standards Committee. We are respectfully requesting a Letter of Interpretation from PHMSA on these issues.

1. Missiles listed in APA 87-1 A 3.2.3.6 and 3.2.3.7 Line 82 are no longer allowed in new Combination Devices as defined in APA 87-1 A 2.4 General Requirements. Will Combination Devices approved before November 26, 2021, have valid EX and FC Numbers and have Missiles used in the Combination Device, still be allowed to be manufactured and shipped using the assigned EX and FC numbers or will these numbers be withdrawn?
2. Crackling Strips are now allowed to contain up to 60 grams total pyrotechnic composition excluding fuse weight and are allowed to have a finale with up to 10 grams of pyrotechnic composition. Under APA 87-1 A requirements listed in 3.2.2.3 and 3.2.2.4 Line 1 Crackling Strips and Crackling Tubes are only allowed 20 grams of pyrotechnic composition in a finished device with the inner package allowed 72 grams. Will items with greater amounts of pyrotechnic composition that have older, but valid, EX and FC Numbers be allowed to be manufactured and shipped or will these numbers be withdrawn?
3. A few general question. Will items whose requirements or pyrotechnic compositions were revised in the update of the old APA 87-1 to the new APA 7-1 A be allowed to be shipped under their older assigned EX and FC Number? Will these numbers remain valid, and the items remain legal? If the numbers are not to remain valid, when will they be phased out and how will the industry be notified?

As you know, the AFSL Standards include PHMSA and CPSC requirements, along with additional product standards created by AFSL. These standards are used in AFSL Consumer Fireworks testing around the world to ensure fireworks tested and certified by AFSL meet all US requirements. Thanks in advance for your help with this issue.

Best Regards,

AFSL Executive Director
Robert J. Howell