



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

October 27, 2021

Mr. Steve Houser
President
National Fireworks Association
8224 NW Bradford Court
Kansas City, MO 64151

Reference No. 21-0053

Dear Mr. Houser:

This letter is in response to your inquiry received by this Office on May 18, 2021, requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the marking requirements for EX-numbers on packages containing consumer fireworks. Specifically, you ask whether the HMR require the marking of EX-numbers on a finished consumer firework device or on the packaging if the device is too small to accommodate the marking.

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 Burdens” under Docket No. PHMSA-2017-0120 (HM-219C). In this final rule, PHMSA incorporated by reference the January 1, 2018, edition of the American Pyrotechnics Association (APA) Standard 87-1 A, B, C, “Standard 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.

The HMR do not directly specify where an EX-number must be marked on a finished consumer fireworks device or its packaging, as described in your scenario. However, as provided by § 173.64(a)(1), after November 26, 2021 fireworks must be manufactured in accordance with the requirements in APA Standard 87-1A, 87-1B, or 87-1C (as applicable), which are incorporated by reference in § 171.7.

Furthermore, under the January 1, 2018, edition of APA Standard 87-1A, section 2.4, finished consumer fireworks must be marked with the EX- (or FC) number on the device itself or the device's packaging if the device is too small.

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

Sincerely,

A handwritten signature in blue ink that reads "T. Glenn Foster". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

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

Pollack

21-0053

From: [Pollack, Arthur \(PHMSA\)](#)
To: [Hillman, Kenetha CTR \(PHMSA\)](#); [Dodd, Alice \(PHMSA\)](#)
Cc: [Foster, Glenn \(PHMSA\)](#)
Subject: FW: Interpretation Request from NFA regarding revised APA 87-1 A,B,C
Date: Tuesday, May 18, 2021 8:26:36 AM
Importance: High

Hi Kenetha/Alice, did we ever get this request for interp (below)? Vallary Maxey asked me the status of it yesterday and I could not find it in FMP. I'm thinking they didn't send it to you/HMIC asking for it to be logged in as in interp and just forwarded it to Shane on a Friday afternoon and it wasn't clear they expected an interp. Since it is a firework issue that I am familiar with I don't mind if its assigned to me. -Arthur

From: Maxey, Vallary (PHMSA)
Sent: Monday, May 17, 2021 1:52 PM
To: Pollack, Arthur (PHMSA) <arthur.pollack@dot.gov>
Cc: Singh, Harpreet (PHMSA) <harpreet.singh@dot.gov>; Gasser, Neal (PHMSA) <neal.gasser@dot.gov>; Maxey, Vallary (PHMSA) <Vallary.Maxey@dot.gov>
Subject: FW: Interpretation Request from NFA regarding revised APA 87-1 A,B,C
Importance: High

FYI

From: Steve Houser [<mailto:shouser@nationalfireworks.com>]
Sent: Friday, February 19, 2021 3:00 PM
To: Kelley, Shane (PHMSA) <shane.kelley@dot.gov>
Cc: Maxey, Vallary (PHMSA) <Vallary.Maxey@dot.gov>; Singh, Harpreet (PHMSA) <harpreet.singh@dot.gov>; Gasser, Neal (PHMSA) <neal.gasser@dot.gov>; Bob Kellner <bkellner@kellfire.com>
Subject: Interpretation Request from NFA regarding revised APA 87-1 A,B,C
Importance: High

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Mr. Kelley:

In follow up to a team meets conference held on 1/25/21 between myself as President and Bob Kellner, Treasurer representing the National Fireworks Association (NFA) and Vallary Maxey, Harpreet Singh and Neal Gasser representing PHMSA/DOT the NFA ,on behalf of our members, is requesting some clarification regarding the finished firework device. Specifically where it requires the EX number to be on the device, or on the package if the device is too small.

After discussions with members of the NFA over the past weeks it has become necessary, for illustrative purposes, to include photos of example items in this discussion. Since the number of and file size of the photos is approximately 24MB I was wondering if this would clear your email system or if I need to arrange another method of getting these to you along with our

specific questions relating to the interpretation request(s) we and our members have.

Please advise and thank you in advance for your assistance.

Sincerely,

Steve Houser

President

National Fireworks Association