



**TESTIMONY BEFORE THE U.S. CONSUMER PRODUCT SAFETY COMMISSION**

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Good afternoon Madam Chairman and Commissioners. Thank you for the opportunity to testify today. I am Julie Heckman, Executive Director of the American Pyrotechnics Association. It is an honor to appear before you to emphasize the association's support of the proposed CPSC consumer fireworks rule.

The American Pyrotechnics Association (APA) is the longest serving and principal safety and trade association for the fireworks industry. In fact, the APA is celebrating its 70<sup>th</sup> Anniversary this year. Our members include regulated and licensed manufacturers, importers, distributors, wholesalers, retailers, suppliers, and professional public display companies. Along with their subsidiaries, APA's over 250 member companies are responsible for 90 percent of the fireworks manufactured, imported, distributed and professionally displayed in the United States. Our mission is to encourage safety in the design and use of all types of legal fireworks, to provide industry information and support to our members, and to promote responsible regulation of the fireworks industry.

After extensive discussion and debate among our Board of Directors, the APA jointly submitted comments with the AFSL in support of the NPR. We did so for two simple reasons: First, the rule will undoubtedly make consumer fireworks safer and prevent injuries, which is APA's primary concern and goal. Second, it would adopt many of the requirements set forth in APA Standard 87-1, the Standard for Construction, Classification, Approval and Transportation of Fireworks, Novelties and Theatrical Pyrotechnics. APA's Standard 87-1 is a consensus standard in which fireworks classifications are assigned based on the weight and type of chemical composition contained for each specific type of device, including specific permissible and restricted chemicals. APA Standard 87-1 has been incorporated into the U.S. Department of Transportation's (DOT) Hazardous Materials Regulations (HMR) for over three decades. Tens of thousands of Explosive Approvals have been issued by PHMSA under APA 87-1 and the vast majority of consumer fireworks Approvals are issued under our Standard. Since the inception of APA Standard 87-1 and its incorporation by reference by DOT, fine mesh metals have been prohibited in consumer fireworks other than for the purpose of producing an audible effect (report) and that composition has been limited to 130 mg.

Madam Chairman, during last year's hearing on the NPR, you expressed some concern that the proposed revisions to APA Standard 87-1 might be inconsistent with the proposed CPSC ban on fine mesh metals in break charges. I can assure you, while the newly revised version of the Standard is still pending formal adoption by DOT, neither APA's Standards Committee, nor PHMSA had any desire to

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modify the language of “burst charge” in any manner that would be inconsistent with the proposed language in CPSC’s NPR. The definition of “burst charge” in the revised Standard states, “any burst charge containing metallic powder (such as magnalium or aluminum) less than 149 microns (100 mesh) in particle size is limited to 130 milligrams. Further, based upon discussions with PHMSA personnel, they intend to adopt the new APA standard and language, consistent with the provisions of the NPR.

It is the strong consensus of the APA Board of Directors that this proposed ban on metals is reasonable, workable and an effective replacement for the current CPSC “no audible effects” standard and test method. It is our understanding from discussions and from testing conducted by the AFSL that, while aerial fireworks with a high percentage of metal powders—certainly those above 5 percent—represent a small minority of such products imported into the U.S., **and** those that do exist, present a real and preventable potential hazard to American consumers. In conjunction with the other existing and proposed new safety requirements for aerial fireworks, the ban on metal powders is as necessary as it feasible to implement.

Our members have been frustrated with the current audible effects standard and it’s implementing test method. The APA Board has reviewed concerns that others in the industry have raised regarding the proposed ban, including alternatives such as the sound decibel level test, and have concluded that limiting metal powders represents the most objective, least variable, least complicated and least costly means of limiting the energetic or explosive effects of such devices. Because fine mesh metal powders have been restricted under APA Standard 87-1 for burst charges during the past 30 years, this is not something new to the factories that produce for export to the U.S. or for U.S importers.

This conclusion is the same as that of the professional and talented CPSC staff, who have been exploring some of these alternative options for years if not decades. Is the XRF testing method perfect? Probably not, but it is a widely adopted and used, and a reasonably reliable test method; one that both the CPSC and third party testing labs have extensive experience with.

For all of these reasons, APA strongly supports final adoption of the NPR by the CPSC, in its entirety, with the modifications that were mentioned previously by Mr. Rogers of the AFSL.

I am grateful for your time and attention today, and for the opportunity to appear before you.