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6 NATIONAL FIRE PROTECTION ASSOCIATION
STANDARDS COUNCIL MEETING

7

Agenda Item No. 12-10-12

8 Appeal from J. Heckman,
American Pyrotechnics Association

9

October 29, 2012

10 1:01 p.m.

11 El Dorado Hotel & Spa
309 West San Francisco

12 Santa Fe, New Mexico 87501

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21 REPORTED BY:

Tanya M. Nims, CCR #168
22 New Mexico Depo
Professional Court Reporters
23 1100 Second Street, NW
Albuquerque, New Mexico 87102
24 Phone: (505) 244-3376
Fax: (505) 299-3376
25 E-Mail: setadepo@nmdepo.com

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A P P E A R A N C E S

Standards Council:

James T. Pauley, Chairman
Amy Cronin, Secretary
Linda J. Fuller, Recording Secretary
Kerry M. Bell, Principal
Donald P. Bliss, Principal
Randall K. Bradley, Principal
J.C. Harrington, Principal
Roland J. Huggins, Principal
A.M. Fred Leber, Principal
Danny L. McDaniel, Principal
James A. Milke, Principal
Daniel J. O'Connor, Principal
Richard P. Owen, Principal
John A. Rickard, Principal
Michael D. Snyder, Principal

Also Present:

Maureen Brodoff, Esquire
Michael Wixted

John A. Conkling
Michael Ingram
William E. Koffel

Jerald E. Farley
Tad Trout

I N D E X

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1 MR. PAULEY: Thank you, Everybody. I'll call
2 this hearing to order. My name is Jim Pauley, chairman of
3 the Standards Council. I'd like to welcome everybody here
4 today. We're dealing with Agenda Item No. 12-10-12. This
5 is the appeal from J. Heckman of the American Pyrotechnics
6 Association.
7 In a moment I'm going to ask the members of the
8 Standards Council to introduce themselves; then I'll ask
9 our guests and the appellants in the room to introduce
10 themselves for the record.
11 I do remind everyone that a record of today's
12 hearing is being made. I would ask that you preface your
13 remarks with your name so that we can ensure that we
14 attribute those comments appropriately on the record.
15 So as I mentioned, my name is Jim Pauley,
16 chairman of the council.
17 And, Amy, we'll start with you and just go around
18 the room.
19 MS. CRONIN: Amy Cronin, NFPA Standards Council
20 secretary.
21 MR. WIXTED: Michael Wixted, NFPA Standards
22 Council staff.
23 MS. FULLER: Linda Fuller, recording secretary.
24 MR. OWEN: Richard Owen, member of council.
25 MR. BRADLEY: Randall Bradley, member of council.

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1 MR. RICKARD: John Rickard, member of council.
2 MR. LEBER: Fred Leber, member of council.
3 MR. HARRINGTON: J.C. Harrington, member of
4 council.
5 MR. O'CONNOR: Dan O'Connor, member of council.
6 And for the record, I am recusing myself on this agenda
7 item; and I will not participate as a member of the
8 Standards Council in the hearing, deliberations, or voting
9 on this matter.
10 MR. MCDANIEL: Danny McDaniel, member of
11 council.
12 MR. BELL: Kerry Bell, member of council.
13 MR. HUGGINS: Roland Huggins, member of council.
14 MR. MILKE: Jim Milke, member of council.
15 MR. BLISS: Donald Bliss, member of council.
16 MR. SNYDER: Michael Snyder, member of council.
17 MS. BRODOFF: Maureen Brodoff, NFPA staff and
18 legal counsel for the Standards Council.
19 MR. PAULEY: Bill, if you want.
20 MR. KOFFEL: William Koffel, Koffel Associates,
21 consultant to the American Pyrotechnics Association.
22 MR. INGRAM: Mike Ingram, American Pyrotechnics
23 Association and president of Fireworks Over America.
24 MR. CONKLING: John Conkling, a consultant to
25 American Pyrotechnics Association.

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1 MR. PAULEY: Gentlemen.
2 MR. FARLEY: Jerry Farley. I'm a consultant with
3 American Promotional Events and a member of the Technical
4 Committee on Pyrotechnics.
5 MR. TROUT: Tad Trout, TNT Fireworks. I'm also a
6 member of the Technical Committee on Pyrotechnics.
7 MR. PAULEY: Thanks, Everybody. We'll flow
8 through this hearing that -- Gentlemen, are all three of
9 you going to speak?
10 MR. INGRAM: Yes.
11 MR. CONKLING: Yes.
12 MR. PAULEY: Okay. So basically you have -- I
13 don't have anybody speaking on the opposite side of the
14 appeal, correct?
15 Gentlemen, you're all just observing? Is that --
16 MR. FARLEY: We are here for them.
17 MR. PAULEY: Okay. Gentlemen, you'll have about
18 10 minutes to present what you would like for the
19 council. I would note that the council does have all of
20 the information that you sent in in the written record,
21 and the council members have looked at that.
22 So, you know, any new items that you want to
23 present or items that you'd like to specifically highlight
24 out of what you had, I'll give you about 10 minutes to do
25 that. We'll then go into a time to take questions from

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1 any of the members of the Standards Council.
2 When that is complete, we'll go back to you for
3 five minutes of any closing that you want to do, and we'll
4 close the hearing off from there.
5 So, again, I'll remind everybody to preface your
6 remarks with your name so that we attribute that
7 appropriately. And be sure to speak up so that we can --
8 our stenographer can make sure that she's not having to
9 lean over the table to hear us.
10 So, Gentlemen, whichever one of you would like to
11 start.
12 MR. KOFFEL: Thank you, Mr. Chairman. As I
13 stated earlier, my name is Bill Koffel. I'm a consultant
14 to APA, and we would like to thank the council for the
15 opportunity to discuss our appeal relative to the
16 directions that were included in the decision in
17 August 9th to release NFPA 1124.
18 As you know, the original concept that we
19 addressed in our appeal was the time frame. And
20 subsequent to that, we've also indicated a consideration
21 of the test protocol to be used to provide the large-scale
22 testing to determine the sprinkler design criteria.
23 So with that, Mike.
24 MR. INGRAM: Good afternoon. My name is Mike
25 Ingram, and I'm president of Fireworks Over America and

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1 affiliated companies. Our companies import wholesale and
2 retail consumer fireworks, and we've done so for over the
3 past 35 years.
4 Additionally, I'm a board member of the American
5 Pyrotechnics Association and have been a member of the APA
6 co-committee and co-chairman of the committee since its
7 inception. And, again, I want to thank all of you on the
8 Standards Council for allowing me the opportunity to
9 address you here today.
10 As all of you are aware, you directed the
11 Technical Committee on Pyrotechnics in a letter dated
12 August 16th, 2012 to process a TIA incorporating
13 provisions derived from data from full-scale fire tests
14 for sprinkler design criteria, or process a TIA to limit
15 the threshold of all permanent consumer fireworks retail
16 sales facilities to below 3,000 square feet for new
17 buildings and 7500 square feet for existing buildings.
18 You gave the technical committee until August
19 2013 to complete one of the two options that I just
20 stated. As you know, upon receipt of the Standards
21 Council's decision, your decision, the American
22 Pyrotechnics Association filed a notice of intent to file
23 a petition regarding the Standards Council decision.
24 The APA did not challenge the issuance of a NFPA
25 1124 2013 addition -- or rather the direction for further

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1 processing that were included in the Standards Council
2 decision.
3 And I want to address the first option directed
4 by the Standards Council today to process a TIA
5 incorporating the provisions derived from data based on a
6 full-scale fire test for sprinkler system design
7 criteria.
8 You directed the Technical Committee on
9 Pyrotechnics to complete a full-scale fire test by no
10 later than the August 2013 Standards Council meeting. The
11 August 2013 deadline was and is impossible for us to
12 meet.
13 Immediately following the Standards Council's
14 August 16th, 2012 letter, the APA set up a conference,
15 hosted by Kathleen Almand, the executive director of the
16 Fire Protection Research Foundation.
17 Aon Fire Protection Engineering and other
18 interested parties participated in the conference call,
19 including insurance company representatives and major
20 fireworks industry representatives.
21 Based on the input from Aon and from the
22 fireworks industry, it was determined that to conduct a
23 test program would take between 69 and 76 weeks from the
24 time that the research foundation authorized the project
25 to proceed until the TIA is ready for processing by the

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1 Standards Council.
2 The APA has provided you all with written
3 documentations on how the time frame was arrived at. It
4 should also be noted that the Fire Protection Research
5 Foundation and Aon projected the cost of conducting the
6 full-scale fire test, excluding product, which is another
7 major cost, would be in excess of $800,000.
8 Furthermore, the insurance company
9 representatives on the conference call, which represent
10 insurance carriers for nearly 100 percent of the fireworks
11 industry, stated on the conference call and have again
12 stated in writing -- which you all should be in receipt
13 of -- that any additional or further fire testing was and
14 is unnecessary and unwarranted.
15 The insurance agency to date has refused -- or
16 industry has refused to financially participate in any
17 manner in fire testing. The research foundation to date
18 has been able to unable to raise any money for fire test
19 at all.
20 And, in fact, no one but the fireworks industry
21 has been willing to commit or help in any way in the
22 funding of the fire test. Recognizing the fact that in
23 the middle of the worst economy since The Depression and
24 with the 4th of July this past year falling on a
25 Wednesday -- which if you're in the fireworks industry,

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1 you know that Wednesday is by far the worst day of the
2 week for the 4th of July to follow on because everybody's
3 got to work on Tuesday.
4 They've got the 4th off and then they go back to
5 work on Thursday -- and then further, the fact that the
6 devastating impact of this year's severe drought has had
7 on the fireworks industry, it is in fact a miracle that
8 our small industry, which is largely comprised of family
9 businesses, is willing or able to raise any money for any
10 type of fire testing.
11 Although additional fire testing at this time
12 will impose an undue hardship on the fireworks industry, I
13 am here today to propose that the Standards Council allow
14 under the supervision of the Technical Committee on
15 Pyrotechnics and the Fire Protection Research Foundation
16 standard commodity classification testing.
17 The test in all probability will be conducted by
18 and at Southwest Research Institute. The APA member
19 companies will furnish all the requested technical
20 expertise, furnish all the necessary fireworks to conduct
21 the test, and be responsible for all cost associated with
22 the test.
23 We are still requesting the extension of time to
24 conduct the test. However, we feel reasonably confident
25 that we can conduct and conclude the test ahead of our

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1 projected schedule.
2 As all of you know, the Technical Committee on
3 Pyrotechnics has worked hard to meet the nine conditions
4 imposed by the NFPA and the Standards Council. You also
5 know we have met eight of the nine conditions to NFPA's
6 satisfaction.
7 And while we consider that we have met the
8 criteria for fire test with the Southwest Research
9 Institute test, we realize that you, the Standards
10 Council, makes the final determination; and we will do our
11 best to abide by them.
12 But I'm asking today for you to please grant us
13 the time to complete our requested commodity testing.
14 In closing, I want to state that NFPA 1124 2013
15 in our opinion is an excellent document. For the
16 documents like safety issues alone, the 2013 addition
17 should be retained in its entirety.
18 For the Standards Council to revise the scope of
19 NFPA 1124 to exclude the storage and retail sale of
20 consumer fireworks and, in fact, delete Chapter 6 and 7
21 would in our opinion be a severe disservice to both the
22 fire service regulators and the personnel throughout the
23 United States, as well as the public, which I think we're
24 all here -- know that we are here to protect. That's our
25 ultimate goal.

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And so in closing, again, I'd like to thank you for the opportunity of allowing me to speak before you today. Thank you.

MR. PAULEY: Thank you. Mr. Conkling, are you --

MR. CONKLING: I'll be very brief.

MR. PAULEY: Please.

MR. CONKLING: I've sent my written comments in, which express most of my views. I did want to emphasize that the industry did fire testing on consumer fireworks I believe it was three years ago and spent $250,000-plus at Southwest Research on a series of 12 tests of consumer fireworks in retail sales settings.

The conclusion -- NFPA, by the way, received the full report on this testing, about a 4-foot stack of documentation, all the data from the fire test temperatures, gas product analysis, a complete report was submitted to NFPA.

There were a series of 12 tests. 2,000 pounds of product, greater than that, per test to 10 tons of fireworks were burned up in the course of this testing. The summary by Southwest Research, the methods in NFPA 1124 2013 worked.

The fires were harder to start, slower to develop, and the sprinklers that we used when deployed controlled the fire. So there is value in 1124 and the

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1 chapters on both the storage and the retail sale.
2 We would urge you for fire safety not to remove
3 those chapters. They work. Thank you.
4 MR. KOFFEL: Bill Koffel, consultant to APA.
5 Just a few concluding comments and then we would welcome
6 your questions. When I first saw the decision and the
7 time frame, I was confident that there would be a problem
8 meeting that time frame.
9 I didn't know exactly what time frame we needed
10 at the time, but I did not think it would happen in 12
11 months. On August 29th during a conference call conducted
12 by the research foundation to obtain funding for the
13 project, the Aon consultant indicated that the project
14 would have to start September 1st.
15 And that was assuming that the TIA could be
16 processed in four weeks. And I said that's probably a
17 little ambitious. Six weeks is aggressive. And it became
18 very apparent at that time that the time frame would not
19 be able to be met.
20 I asked through the foundation and were provided
21 with the time frame that the researchers felt, that Aon
22 felt was necessary to do the research part of it, the
23 analysis part of it, and the testing part of it.
24 And we took their time frame. And APA then added
25 time frame to obtain product, have product shipped, repair

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1 product and so forth. And that's how we came up with the
2 time frame that was provided to you.
3 Subsequent to that, the first week of August, the
4 APA code committee met. And with the -- as was previously
5 indicated, with the lack of sources for funding coming
6 forward, I think it was very apparent to that committee
7 that that test protocol was not going to be able to move
8 forward.
9 You heard $800,000. That's absent product.
10 We're estimating that project is probably close to
11 $1.5 million. And the industry has pledged product and
12 some money, but nobody else has really come forward with
13 the financial resources to support the project.
14 Anticipating that that was the issue, I presented
15 at the committee an alternative. And that alternative is
16 standard commodity testing. We've been in contact with
17 two labs now.
18 And, you know, there are -- at least one lab has
19 said, yes, they can move forward. Another lab has said
20 they would like to take a look at the RFP when it's
21 available.
22 We think this is a realistic opportunity to get
23 the testing done that's necessary to determine the
24 sprinkler design criteria at far less expense than what
25 the research foundation test protocol would be.

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1 And we are asking that the same time line be --
2 that the time line be extended, primarily because we want
3 the opportunity to go back to the sprinkler system
4 discharge criteria committee and to review with them the
5 test protocol.
6 And while we don't expect the committee to
7 approve it, we would like to be able to receive their
8 input. I think it would be inappropriate, maybe shall I
9 say, for NFPA technical committee to approve a test
10 protocol.
11 But certainly we would want their input so that
12 we could then proceed with the testing. And the next
13 scheduled meeting of that committee is in July. And we
14 would be prepared to make our presentation at the July
15 meeting and commence with the testing shortly thereafter
16 once we've received their input.
17 So, again, thank you for the opportunity for the
18 appeal.
19 MR. PAULEY: Thank you. With that, I will open
20 it up to questions from members of the Standards Council.
21 MR. HARRINGTON: J.C. Harrington, member of
22 council. As part of what was submitted to us, there's a
23 detailed schedule that's been included that you've
24 referred to, the schedule of the 69-plus weeks I guess for
25 the full-scale fire testing approach.

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I think you made a comment that for the commodity classification testing approach, it could be done likely in less than that. But have you worked out a schedule similar to this detailed one for the commodity classification approach that would show pretty tightly how many weeks you do anticipate it will take?

MR. INGRAM: Not as yet, no.

MR. KOFFEL: Bill Koffel. Just to follow up on that. Again, I think the restriction is a meeting with the sprinkler discharge criteria committee. We can have all the preliminary work done prior to that meeting, the identifying the product to be tested.

So the analysis can be done prior to that. Any details we may have in the test protocol that need to be worked out can be worked out. And as I said, I think we can be prepared to test within weeks after that date.

MR. HARRINGTON: Can I just ask a follow-up question.

J.C. Harrington, member of the council. So taking aside the issue of this July meeting that's scheduled with the discharge folks next year, taking that aside or even if there was an ability to have a session earlier on than that with the discharge folks, again, similar to the way you've laid out the steps from your perspective as to how long it would take to do things, any

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1 estimate what that throughput schedule would be?
2 Assuming that the meeting that's out there in
3 July wasn't a sticking issue that was holding you up, I
4 guess is what I'm saying.
5 MR. KOFFEL: Bill Koffel, consultant to APA. As
6 you look at the timetable that was established for the
7 research foundation, notice that there are two substantial
8 blocks of time.
9 One is a 10-to-12 week period of time to get the
10 product for the calorimeter testing and then a 24-week
11 period of time to get product for the full-scale testing.
12 That in and of itself, one of those time periods would go
13 away with the commodity testing.
14 Because there would be -- once the analysis is
15 done to determine what product is tested, we could
16 commence ordering the product and test the patient that
17 the protocol we've established would be accepted by the
18 discharge criteria committee.
19 Now, if they don't accept it, they don't accept
20 the classification of products to be tested, then that
21 time line can slip out further. I have looked at that.
22 MR. HARRINGTON: Thank you.
23 MR. MILKE: Jim Milke, member of council. How
24 soon would you be ready to make a presentation to the
25 sprinkler discharge committee if they could be organized

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1 to have a meeting sooner, as in next week or whatever time
2 frame?
3 MR. KOFFEL: Dr. John would probably doing some
4 of the chemical analysis, so he might be best prepared to
5 say when he could have the chemical analysis prepared for
6 us.
7 MR. CONKLING: We could have a product plan
8 certainly by Thanksgiving. I have an appointment
9 scheduled during the Thanksgiving week with Southwest
10 Research, their commodity specialist who's going to be in
11 the Maryland area, where I'm from.
12 And if I seem a bit on edge, we have a visitor
13 this last day or two that's coming through.
14 I think following that Thanksgiving meeting and
15 getting, you know, very clear details on the testing, we
16 could be certainly by the end of December I think very
17 close to ready to go.
18 MR. KOFFEL: To follow up on that. So if that
19 analysis could be ready for the committee and the
20 committee were to meet, let's say, in January or early
21 February, at that point in time we would not yet have
22 product in the U.S. to be tested.
23 So let me take from the timetable we submitted
24 before, conservatively maybe another 24 weeks at the most
25 to get the product after that meeting, that we could

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1 probably be doing testing in the summer of next year.
2 And, again, I think we can come close to the
3 August time frame if the committee met ahead of time. My
4 concern is that I would want a meeting that the committee
5 would be engaged in and that we would be comfortable that
6 all parties would be participating.
7 And that once they undertook the testing program,
8 there would not be other members who didn't participate,
9 let's say, in the special meeting of the committee that
10 might be coming back and saying, "Well, you didn't do this
11 and that."
12 MR. INGRAM: And another consideration -- Mike
13 Ingram, Fireworks Over America, American Pyrotechnics
14 Association -- we want everyone to sign off on the actual
15 product mix, instead of allowing us to voluntarily pick
16 the mix which we think was correct the first time we
17 picked it and it was based on the amount of product sold
18 per the 12 categories of fireworks that are brought in --
19 you know, that are allowed for sale in the United States.
20 But we want everybody to sign off on that. In
21 other words, if we pick the mix, we're probably going to
22 pick the exact same mix because that's what we truly
23 believe to be the mix.
24 But we don't want anybody to second-guess us and
25 say, "Well, that's fine; but you probably should have had

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1 more of this or more of that."
2 So we want to have agreement with everybody that
3 the fireworks that we are actually testing are whatever
4 everybody agrees should be tested. We'll test any
5 fireworks that you want us to test, but we just need to
6 know what the rules are.
7 MR. CONKLING: John Conkling, American
8 Pyrotechnics consultant. The final part of that challenge
9 is to identify the product, collect the product; but then
10 we must in turn check every product in our collection for
11 the testing to make sure that fuse covers meet the fuse
12 cover standard.
13 And that will take a period of time in the
14 testing. And we want to be absolutely certain that
15 everything that we are going to use in this testing is in
16 full compliance with the current requirements in 1124.
17 And that will take several weeks to perform.
18 MR. INGRAM: Once that is done, we've got to send
19 representatives to China to make sure the factories
20 understand the type of product we want to cover the fuses,
21 et cetera. And we've got to make sure they can produce
22 that.
23 MR. PAULEY: Jim Pauley, chairman of the council.
24 Mr. Ingram, in your opening comments that you read,
25 towards the end as you proposed this idea of doing

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1 commodity testing, you indicated under the -- and I won't
2 use probably the exact word -- but you said under the
3 guidance of NFPA 1124 committee and the Fire Protection
4 Research Foundation.
5 Can you clarify for me in what you're proposing
6 what role the research foundation would play.
7 MR. INGRAM: Well, that would be up to the
8 direction of the Standards Council and the Fire Protection
9 Research Foundation. We want these tests to be completely
10 open. We want to do these tests just one more time. And
11 we want to satisfy everybody involved.
12 So if that requires the Fire Protection Research
13 Foundation participating, we are more than welcome to have
14 them participate. We would just like to hopefully
15 complete these tests, whatever tests we're required to do,
16 one final time and have everybody in complete agreement.
17 MS. BRODOFF: Maureen Brodoff. Hasn't the
18 research foundation already participated and provided its
19 view of what the appropriate testing should be?
20 I guess I'm having a hard time understanding why
21 apart from cost considerations that test plan has become
22 inadequate in the period since 2009, or whenever it was
23 first proposed, and October 23rd, when you informed the
24 council that you were considering something other than
25 that test plan.

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1 MR. INGRAM: Well, I don't know if that plan was
2 proposed in 2009 or not. But the basic fact and the
3 bottom line is -- I'm just going to level with all of
4 you.
5 The consumer fireworks industry does not have the
6 money to do the test that had been proposed, which is
7 going to run approximately a million and a half dollars.
8 And so we aren't going to come here today and lie to you.
9 We don't have the money.
10 So we are proposing these alternate tests which
11 we feel are more than satisfactory and to my
12 understanding -- I'll let Dr. John and Bill speak to that
13 because they are much more knowledgeable than I am -- the
14 standard commodity testing is the same type of testing
15 allowed for other commodities.
16 So that's what we're proposing as an
17 alternative.
18 MS. BRODOFF: Just a follow-up. The standard
19 commodity testing was -- what evidence or what analysis
20 has there been done to demonstrate that standard commodity
21 testing is appropriate in the case of consumer fireworks?
22 Which I think the research foundation in detail
23 explained what I think is pretty obvious, that it's not a
24 standard commodity and it has explosives and other
25 potentials that are not present in the typical commodity

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1 that's just tested according to the standard commodity
2 classification testing.
3 So I guess how is the Standards Council supposed
4 to accept this proposal when it's not at all obvious that
5 it has any validity to it and it's kind of late in the
6 day?
7 MR. CONKLING: John Conkling. Our initial
8 discussions with Southwest Research, which I was at
9 Southwest last Friday and met with people there, and then
10 I had this further meeting planned with their commodity
11 specialist in several weeks.
12 They are I would say confident that the testing
13 can be done on the product and they will be able to get
14 meaningful results. The question has been they contain
15 oxidizer, the fireworks compositions themselves, but they
16 also contain fuel.
17 And we believe that the excess fuel that is also
18 present in the containers and the packaging will bring the
19 oxygen -- the oxidizer percentage down to a point where
20 its packaged product is not going to significantly bias or
21 tilt the results of the test.
22 I am beyond my level with expertise in pay grade
23 talking about commodity testing because I'm still learning
24 about it. But they seem to be confident we could overcome
25 the issue of the oxygen content of the product and we can

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1 overcome the issue of any spread of the fire material with
2 some type of containing material.
3 MS. BRODOFF: Are they preparing to put that in
4 writing and also explain why the research foundation test
5 report is overkill or not appropriate in some way?
6 MR. CONKLING: I will need to further discuss
7 that when I meet with their specialist in several weeks.
8 MS. BRODOFF: You haven't discussed it with them?
9 MR. CONKLING: I have discussed it with their --
10 his supervisor, who seemed comfortable that they could
11 overcome. I have not yet met with the commodity
12 specialist himself because he was not in town when I was
13 down there.
14 But I will be -- I have a meeting scheduled with
15 him in the next several weeks. And we will have that.
16 And if that sort of a letter would be of -- or opinion
17 would be of interest to the council, we can certainly
18 approach Southwest and obtain that letter.
19 MR. PAULEY: Mr. Koffel, do you have a comment on
20 Ms. Brodoff's question?
21 MR. KOFFEL: Yes. Actually, combining both your
22 question, Mr. Chairman, and Ms. Brodoff's question.
23 During the APA codes committee meeting, there
24 were two situations we thought we might reach out to the
25 research foundation to help us. One might be the quantity

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1 and types of product to be part of this testing.
2 And as was previously indicated, we want
3 everybody to accept that. The research foundation has
4 collected data, and they may be able to assist us in
5 determining the type of products to be included in the
6 large-scale test and the commodity test.
7 Secondly, as has been alluded to, there is some
8 concern -- and I've had conversation with Southwest on
9 this as well -- with regard to the presence of an oxidizer
10 in this product.
11 We are not testing oxidizers per se, but there is
12 an oxidizer that is present. And that may impact the
13 calorimeter measurements. And Southwest has advised me I
14 believe in an e-mail, but I know at least verbally, that
15 they feel we can overcome that.
16 To the extent that there needs to be any
17 modification to the standard test protocol to address
18 that, I would see us reaching out to the research
19 foundation as a resource for that.
20 If we can simply run either the UL or the FM or
21 the Swedish protocol without any modification, I'm not
22 convinced the research foundation really is necessary to
23 oversee that test since we're using a standardized test to
24 do that.
25 MR. PAULEY: Any follow-up on that, Ms. Brodoff?

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1 Or do you have a question?
2 MS. BRODOFF: It's kind of a follow-up.
3 MR. PAULEY: If you would, please.
4 MS. BRODOFF: I guess I'm having a hard time
5 understanding why or under what circumstances the research
6 foundation would assist in proposing a different test plan
7 from the one that they have already proposed?
8 MR. KOFFEL: Bill Koffel, consultant to APA.
9 Some of the concerns that the industry has aside from just
10 cost of the research foundation test protocol have been
11 documented during the development of that report.
12 There are things in this test protocol that go
13 beyond any other commodity type testing or classification
14 that I'm aware of. For example, the testing actually
15 occurs in a room built specifically to kind of replicate a
16 retail sales establishment.
17 Most sprinkler commodity classification testing
18 is not conducted in that type of environment. The testing
19 is for a particular sprinkler type, which we raised a
20 concern with because that sprinkler is not likely to be
21 the one that we're going to find in retail
22 establishments.
23 And there is a reference to tenability, which
24 other than a residential sprinkler, tenability is not
25 typically a criteria relative to determining the design

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1 density for the sprinkler system.
2 These issues have all been raised with the
3 research foundation. They are aware of the concerns.
4 My personal feeling -- I can't say it's the
5 industry's perspective -- is if somebody came forward with
6 funding for this project, then that's a way to go. We're
7 not saying it's wrong, but we think there's another
8 alternative.
9 And there's an alternative that is far less
10 expensive that will treat the product in a very similar
11 way that any other product that has been tested and
12 determine design criteria.
13 MR. PAULEY: Mr. Bell.
14 MR. BELL: Kerry Bell, member of council. Switch
15 gears back to the timing issue a little bit. Bear with
16 me. This is a little bit of a long question here.
17 But there's a note to page 3 of your
18 September 24th, 2012 letter which indicates that you may
19 need additional time above the 76 weeks that you laid out
20 there because you want to run this testing on the fuse
21 covers that meet the new standard that's been recently
22 published.
23 Going back to a meeting, a hearing the Standards
24 Council had back in October of 2010, we were provided with
25 a draft of this standard, which was dated February 2009,

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1 which essentially based on what I can tell is the same
2 requirements that ended up being published.
3 There was essentially very little technical
4 change, if any, between the February 2009 draft and what
5 was published. And there was actually drafts before that,
6 which I think were quite similar.
7 My question is these requirements have been
8 around now for nearly four years or more. Hasn't the
9 industry latched onto the requirements? I mean, don't
10 they make products right now that comply with these
11 requirements?
12 MR. KOFFEL: Bill Koffel, again, representing
13 APA. The standard has existed in a draft form for that
14 time period, but it was just processed at the last annual
15 conference of NFPA. And others can speak more
16 specifically.
17 But I doubt that a manufacturer has produced
18 anything to that standard not knowing exactly what that
19 standard was and not having a requirement to do it.
20 MR. CONKLING: Products are coming in with fuse
21 covers. Do they meet the standard? They haven't been
22 tested to my knowledge to see. Our industry testing
23 program, the last meeting that we are going to begin
24 testing fuse covers as part of our -- the China testing
25 program, so.

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1 MR. BELL: Just a follow-up question on that.
2 Kerry Bell, member of council. So I fully understand the
3 fact that this standard was just recently published, the
4 formal document. But my thought is these requirements
5 have been around for a long time.
6 They went through the first and the second phase
7 of the process. There was really no technical change to
8 it. It's just surprising to me that there wouldn't have
9 been some action taken, at least some testing done, by
10 members of the industry to see how they fall within that
11 standard.
12 That's surprising. And I'm just surprised that
13 you don't have products out there that have been tested
14 per that document. The question --
15 MR. CONKLING: Well, I can't say they haven't
16 been tested. I have not participated and I'm not aware of
17 the industry's testing program looking at them, but I --
18 some of the covers look very good.
19 I'm sure many of them would pass the testing.
20 But since it hadn't been adopted and wasn't official and
21 not part of any requirement by state law, we have not been
22 as the industry testing for it.
23 MR. PAULEY: Mr. Bell.
24 MR. BELL: Another question related to timing.
25 The report from the Fire Protection Research Foundation

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was issued looks like in September of 2011. I'm sure drafts of that were available prior to that.

So for over a year now there -- basically, can you clarify what's transpired over the year. I'm just asking why hasn't there been some initiative to do at least some testing between September 2011 and --

MR. CONKLING: Testing of what?

MR. BELL: Testing per the plan that's laid out by the Fire Protection Research Foundation. It's been over a year.

MR. KOFFEL: Bill Koffel. I'll attempt to answer that. I think the bottom line is that there has been approximately 12 months of attempt to raise funds for the project.

And aside from the industry pledging to provide the product to the foundation and providing some financial support, there hasn't been enough financial support for the foundation or anybody else to see that this project could move forward and come to any reasonable point where we would have data to work with.

MR. INGRAM: And, additionally, you can't piecemeal these tests. In other words, you've got to either -- you need to either do the test basically either close to or in their entirety or not do them at all.

It can't be a piecemeal basis. And as I stated

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1 earlier, we need to know the product mix to everybody's
2 satisfaction. Otherwise, we've just thrown our money
3 away, whatever type of test we go with.
4 MR. CONKLING: John Conkling. One further
5 comment. We were given nine challenges, and I believe it
6 was this group who created the nine challenges to the
7 committee on pyrotechnics.
8 We spent a lot of time as a committee and as
9 subcommittees addressing the nine challenges. I believe
10 we successfully met eight of those challenges. We had
11 proposals on the table for No. 9, the sprinkler
12 committee. That was the one that we could not come to
13 consensus on.
14 But there was an enormous amount of time that
15 could have been spent putting the test together. But we
16 are all volunteers and we had a limited amount of time.
17 But I felt we did an outstanding job as a technical
18 committee addressing your concerns.
19 And we came up with the one item that we're still
20 here discussing.
21 MR. PAULEY: Mr. Harrington.
22 MR. HARRINGTON: J.C. Harrington, council member.
23 Question for Mr. Conkling. When you were speaking earlier
24 in your introductory remarks, you talked about the testing
25 that was done two or three years ago, the $250,000 worth

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1 of fire testing program.
2 And just curious if there's anything from that
3 testing that was done, either observations or the
4 conclusions from that testing program, that would help you
5 substantiate or show that the commodity classification
6 testing that you want to do now is appropriate, anything
7 that was demonstrated or was learned from that that would
8 justify the appropriateness of the follow-on testing that
9 you are now suggesting for the fireworks.
10 MR. CONKLING: Excellent question. And when I
11 meet with my commodity classification expert in two weeks,
12 I will definitely --
13 MR. HARRINGTON: But at this point nothing that
14 comes to mind?
15 MR. CONKLING: We have not connected those two.
16 But there may well be something there that would be
17 useful. And we'll make a note on that.
18 MR. KOFFEL: If I can expand on that answer. I
19 do think we've had had some benefit in the sense that in
20 reaching out to Southwest they did say that based upon
21 their experience with the past test procedure they felt
22 that the commodity test program would work.
23 And the other thing that we learned from that
24 test program was clearly the benefit of the fuse covers in
25 terms of slowing down fire growth and fire development.

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1 So we do think the commodity testing will work based upon
2 that testing program.
3 MR. CONKLING: It's John Conkling. One other
4 point. We also learned in the tests with and without
5 sprinklers -- we ran tests with and without the 1124
6 measures in place. When we used the standard industrial
7 sprinkler in those tests, the temperatures were -- at
8 ceiling were a thousand degrees less.
9 We saw some positive data come out of the
10 sprinkler testing we did. I'm not a sprinkler person, but
11 I think there's a wealth of data in there that -- you
12 know, as I've said we turned it over to NFPA for their
13 study; and I don't know what has happened to it. But
14 there is data out there.
15 MR. PAULEY: Mr. Huggins.
16 MR. HUGGINS: Roland Huggins, council member. On
17 this testing, going back to the time line that you said
18 was run I think you said three years ago, which would make
19 it about 2009, what date did you submit that to 13?
20 What date were you told it was inadequate?
21 Ballpark?
22 MR. CONKLING: I'm sorry. What --
23 MR. HUGGINS: At what date -- you ran the test in
24 2009?
25 MR. CONKLING: Yes.

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1 MR. HUGGINS: What was the date that you
2 submitted that to the 13 committee and about what was the
3 date that they told you that it was an inadequate test?
4 MR. KOFFEL: Bill Koffel. I'll try to answer,
5 but there may be another gentleman that can answer
6 better. I don't think it was ever formally submitted to
7 the sprinkler discharge criteria committee. That was a
8 task group that was working on it, and I believe there was
9 feedback from the task group.
10 You will also see that the research foundation
11 report does address that test protocol and identifies some
12 concerns about the quantity of product that was on the
13 gondola that they felt the shelves should have more
14 product on it than what was there.
15 So there were some concerns raised primarily by
16 the task group that was looking into that issue. And we
17 do have a member of the task group.
18 I don't know, Jerry, if you can add anything to
19 that.
20 MR. FARLEY: Jerry Farley. I was the chair of
21 the technical committee on the pyrotechnics subcommittee
22 that interacted with the NFPA 13 committee. I think
23 Mr. Koffel is pretty much accurate.
24 There isn't -- all the documents were not
25 submitted, but most of them were, because we didn't give

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them all the raw data. But they had the reports and everything. The raw data would be stacks (indicating).

MR. PAULEY: Mr. Huggins, follow-up.

MR. HUGGINS: Same item. You're missing the point of the question. I agree it was a task group that it went to for development. That makes sense to me.

I'm looking for the dateline, you know, about when the test was run, about when it was submitted to the task group, and about when you were told that the test in their opinion was inadequate.

So it's dateline, you know, I'm looking for.

MR. KOFFEL: The meeting that I recall attending, which was at the point in time when there was some transition and we were starting to become involved in this, was the preROP meeting for the current addition of NFPA 13.

I don't know the exact date of that, Roland. I'll say that's probably 2010 time frame, maybe. It was in Quincy. I know where we were. But I can't tell you exactly when it was.

MR. HUGGINS: Thank you.

MR. PAULEY: Ms. Brodoff.

MS. BRODOFF: Just to be clear. You've not presented today, you're not purporting to other than this oral statement that was made by some supervisor at SWRA

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1 that they are confident that these tests will perform what
2 they need to perform.
3 You're not proposing any commodity testing plan
4 with documentation showing that it will provide an
5 adequate alternative to the more expensive research
6 foundation plan?
7 In other words, there's nothing we can see in the
8 record now that would validate the test you're now
9 proposing to run; is that correct?
10 MR. CONKLING: You've totally lost me now.
11 MS. BRODOFF: Is there anything in the record now
12 that you have presented --
13 MR. CONKLING: What record that --
14 MS. BRODOFF: The record that you're presenting
15 before the council in the written record, let's say --
16 MR. HARRINGTON: That was basically my question.
17 Oh, I'm sorry to interrupt.
18 MS. BRODOFF: Is there anything in the record
19 that validates, that actually proposes the exact test you
20 plan to run, since Mr. Koffel indicated you may have to
21 tweak the commodity test?
22 Is there anything in the record that shows this
23 testing proposed to do has been validated to demonstrate,
24 to provide the data necessary for the standards developers
25 to make adequate provisions within 1124?

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MR. CONKLING: To my knowledge, there's nothing in the record today. But we should --

MS. BRODOFF: Let me say something. You made some statements and I want to know that they are backed up now in the record.

MR. CONKLING: I was very clear that I have a meeting during the week of Thanksgiving with a Southwest Research expert to talk about it. That's what we have at this point. We have not had a --

MS. BRODOFF: So there is nothing. You were reasonably clear, but I just being a lawyer want to make it perfectly clear.

MR. CONKLING: I want to make it crystal clear that as of Thanksgiving week we will have a much better idea of the commodity testing and its possibility of leading to a successful outcome.

MR. KOFFEL: But I would add to that in response to the question that if you look at the two e-mails from Southwest, I think they clearly demonstrate that they believe this methodology, this approach has validity moving forward.

At one point in time, I raised a question -- because originally they proposed to reference UL 2335. And I raised a question after having talked with some folks about that.

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1 And if you look at the second e-mail from
2 Southwest, they said, you know, "It doesn't really matter
3 whether we want to call it's the FM, the UL, or the
4 Swedish procedure. Essentially, they are all the same."
5 And we can move forward.
6 Now, again, I think we've said there may be some
7 modification to the test protocol that may be necessary
8 due to the presence of an oxidizer. We recognize that.
9 And to the extent that we need to do that, that
10 may be an opportunity for us to reach out to the research
11 foundation to gain from the research they've been doing on
12 testing oxidizers to help with any modification in that
13 regard.
14 But I do think, you know, short of specifically
15 answering the -- asking the question can we move forward
16 with testing to the FM, the UL, or the Swedish test
17 protocol, I think clearly the record shows that they feel
18 that concept is valid.
19 And one of the e-mails even says if you want to
20 you could conceivably do one test at the end, which would
21 be a full-scale room test, to further validate that the
22 testing that has previously been done will work in the
23 real world.
24 But they say but that would be a lot less
25 expensive than what was proposed with the research

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1 foundation. And that's in the second e-mail, I believe.
2 MS. BRODOFF: What page is that?
3 MR. KOFFEL: I don't have your page numbers.
4 MS. BRODOFF: Oh, sorry.
5 MR. KOFFEL: It's a file that I referenced as a
6 second e-mail from Southwest Research Institute. It's an
7 e-mail dated October 17 from Jason.
8 And he indicated that -- and this is the last
9 paragraph -- "I do still think it would be a good idea to
10 plan and perform one to two full-scale tests as opposed to
11 the 10 that were described in the test plan so that you
12 can justify some real link between this type of test setup
13 and real fire scenario, but that may be a budgetary
14 decision."
15 MR. PAULEY: Any additional questions from
16 members of the council? Seeing none, Gentlemen, I'll give
17 you maybe five minutes to wrap up anything, any final
18 comments that you would like to make.
19 MR. KOFFEL: Bill Koffel, Koffel Associates,
20 consultant to APA. I guess I'll just put all the cards on
21 the table, and I think this is where the code committee
22 was. We don't see anybody or enough people coming forward
23 to finance the research foundation test protocol.
24 We believe there is another test procedure out
25 there that is used to classify commodities on a regular

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1 basis. We think it can be used. Yes, we recognize it may
2 need some modification; yes, we realize there still needs
3 to be some work in determining the specific quantity and
4 mix of material to be tested.
5 But if we're going to answer the question in the
6 next 12 months or 18 months with regard to sprinkler
7 design criteria for retail sales and warehousing of
8 consumer fireworks, this is probably our best chance.
9 And what I heard at the code committee and
10 Mr. Ingram can confirm is that the industry without
11 additional financial resources has committed to funding
12 this project to moving it forward.
13 MR. INGRAM: Mike Ingram, Fireworks Over America
14 and the American Pyrotechnics Association. And I'm
15 co-chairman of the APA code committee. So we've obviously
16 discussed all this in detail for not only this year, but
17 for years and years.
18 And the bottom line is, as Bill said, it's a lot
19 of it has to do with the APA and the American fireworks
20 industry not having the million and a half dollars to
21 conduct these full-scale fire tests.
22 But we feel that the test we proposed, the
23 standard commodities classification, will more than
24 justify what is necessary for our test requirements. And,
25 again, as I stated earlier, we've met eight of the nine

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1 requirements that you all stated that we need to meet and
2 have been approved.
3 If you would have been at the actual, the
4 original Southwest test, you would have seen that we had a
5 hard time even igniting the product when we did these
6 tests. Once the product was ignited, the sprinkler
7 systems -- once the fire even got going, when the
8 sprinkler system came on, they put the product out
9 immediately.
10 We are really -- we feel that if you had been at
11 the Southwest test, you would have seen that when the
12 safety measures with the fuse protection and the various
13 manner in which we divide up the product to keep -- to
14 retard a fire, you would have seen the test we conducted
15 were in our opinion more than adequate.
16 And we just hope, again as I stated earlier, that
17 you will give serious consideration to letting us proceed
18 and not removing Chapter 6 and 7 from the NFPA 1124.
19 Thank you.
20 MR. CONKLING: I'm a 32-year member of the
21 committee on pyrotechnics. And this new addition of 1124
22 is a remarkable document. It should be out there in the
23 fire service community.
24 And please, please, please, give it a good
25 thought before you take any action and take those chapters

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1 out. They are going to save lives. Thank you.
2 MR. KOFFEL: One final comment. I just got
3 permission to do this, but I can't disclose -- well, I can
4 disclose the information that there is proprietary test
5 data that has already used commodity classification that
6 was test-program sponsored by a particular retailer.
7 So the test program has been done. We are just
8 not able as an industry to share that information with
9 anybody at this time because it is proprietary by that
10 retailer.
11 MR. PAULEY: With that, I will bring this hearing
12 to a close. Gentlemen, I want to thank all of you for
13 being here today and for your time and participation in
14 the NFPA code-making process.
15 I would remind everyone that a decision of the
16 Standards Council will be issued in writing by Ms. Cronin
17 as secretary of the Standards Council. No member of the
18 council nor any member of the NFPA staff is permitted or
19 will convey any information about that decision.
20 The written decision will be what stands as the
21 final decision of the council. With that, I will call
22 this meeting adjourned.
23 And, Gentlemen, thanks again. Appreciate your
24 time.
25 (The hearing adjourned at 1:55 p.m.)

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1 NATIONAL FIRE PROTECTION ASSOCIATION
STANDARDS COUNCIL MEETING
2
Agenda Item No. 12-10-12
3 Appeal from J. Heckman,
American Pyrotechnics Association
4
October 29, 2012
5 El Dorado Hotel & Spa
309 West San Francisco
6 Santa Fe, New Mexico 87501
7
REPORTER'S CERTIFICATE
8
9 I, TANYA M. NIMS, RPR, NM CCR #168, DO HEREBY
10 CERTIFY that on October 29, 2012, the hearing in the
11 above-referenced matter was taken before me and that I did
12 report in stenographic shorthand the hearing set forth
13 herein, and the foregoing pages are a true and correct
14 transcription to the best of my ability.
15 I FURTHER CERTIFY that I am neither employed
16 by nor related to nor contracted with (unless excepted by
17 the rules) any of the parties or attorneys in this matter,
18 and that I have no interest whatsoever in the final
19 disposition of this matter.
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