

CODE OF FEDERAL REGULATIONS
TITLE 49—TRANSPORTATION
SUBTITLE B—OTHER REGULATIONS RELATING TO TRANSPORTATION
CHAPTER I—RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION, DEPARTMENT OF
TRANSPORTATION
SUBCHAPTER C—HAZARDOUS MATERIALS REGULATIONS
PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS
SUBPART C—DEFINITIONS, CLASSIFICATION AND PACKAGING FOR CLASS 1

Current through October 1, 1996

§ 173. 56 New explosives— definition and procedures for classification and approval.

(a) Definition of new explosive. For the purposes of this subchapter a “new explosive” means an explosive produced by a person who:

(1) Has not previously produced that explosive; or

(2) Has previously produced that explosive but has made a change in the formulation, design or process so as to alter any of the properties of the explosive. An explosive will not be considered a “new explosive” if an agency listed in paragraph (b) of this section has determined, and confirmed in writing to the Associate Administrator for Hazardous Materials Safety, that there are no significant differences in hazard characteristics from the explosive previously approved.

(b) Examination, classing and approval. Except as provided in paragraph (j) of this section, no person may offer a new explosive for transportation unless that person has specified to the examining agency the ranges of composition of ingredients and compounds, showing the intended manufacturing tolerances in the composition of substances or design of articles which will be allowed in that material or device, and unless it has been examined, classed and approved as follows:

(1) A new explosive must be examined and assigned a recommended shipping description, class, and classification code by the Bureau of Explosives (BOE) or the Bureau of Mines, U.S Department of Interior (BOM). The recommendation of class and classification code must be based on the tests and criteria prescribed in ss 173.52, 173.57 and 173.58 of this subchapter. Each person requesting approval of a new explosive must submit a copy of the report of examination and assignment of recommended shipping description, class and classification code to the Associate Administrator for Hazardous Materials Safety for approval and must receive written approval and an EX-number from the Associate Administrator for Hazardous Materials Safety before offering that explosive for transportation.

(2) A new explosive made by or under the direction or supervision of a component of the DOD may be examined, classed, and concurred in by:

(i) U.S. Army Technical Center for Explosives Safety (SMCAC-EST), Naval Sea Systems Command (SEA-9934), or Air Force Safety Agency (SEW), when approved by the Chairman, DOD Explosives Board,

in accordance with the Department of Defense Explosives Hazard Classification Procedures (TB 700-2, dated December 1989); or

(ii) The agencies and procedures specified in paragraph (b)(1) of this section.

(3) A new explosive made by or under the direction or supervision of the Department of Energy (DOE) may be—

(i) Examined by the DOE in accordance with the Explosives Hazard Classification Procedures (TB 700-2, dated December, 1989), and must be classed and approved by DOE; or

(ii) Examined, classed, and approved in accordance with paragraph (b)(1) of this section.

(4) For a material shipped under the description of “ammonium nitrate-fuel oil mixture (ANFO)”, the only test required for classification purposes is the Cap Sensitivity Test (Test Method 5(a), prescribed in the Explosive Test Manual). The test must be performed by an agency listed in paragraph (b)(1), (b)(2), or (b)(3) of this section, the manufacturer, or the shipper. A copy of the test report must be submitted to the Associate Administrator for Hazardous Materials Safety before the material is offered for transportation, and a copy of the test report must be retained by the shipper for as long as that material is shipped. At a minimum, the test report must contain the name and address of the person or organization conducting the test, date of the test, quantitative description of the mixture, including prill size and porosity, and a description of the test results.

(c) Filing DOD or DOE approval report. DOD or DOE must file a copy of each approval, accompanied by supporting laboratory data, with the Associate Administrator for Hazardous Materials Safety and receive acknowledgement in writing before offering the new explosive for transportation, unless the new explosive is:

(1) Being transported under paragraph (d) or (e) of this section; or

(2) Covered by a national security classification currently in effect.

(d) Transportation of explosive samples for examination. Notwithstanding the requirements of paragraph (b) of this section with regard to the transportation of a new explosive that has not been approved, a person may offer a sample of a new explosive for transportation, by railroad, highway, or vessel from the place where it was produced to an agency identified in paragraph (b) of this section, for examination if—

(1) The new explosive has been assigned a tentative shipping description and class in writing by the testing agency;

(2) The new explosive is packaged as required by this part according to the tentative description and class assigned, unless otherwise specified in writing by the testing agency; and,

(3) The package is labeled as required by this subchapter and the following is marked on the package:

(i) The words “SAMPLE FOR LABORATORY EXAMINATION”;

(ii) The net weight of the new explosive; and

(iii) The tentative shipping name and identification number.

(e) Transportation of unapproved explosives for developmental testing. Notwithstanding the requirements of paragraph (b) of this section, the owner of a new explosive that has not been examined or approved may transport that new explosive from the place where it was produced to an explosives testing range if—

(1) It is not a primary (a 1.1A initiating) explosive or a forbidden explosive according to this subchapter;

(2) It is described as a Division 1.1 explosive (substance or article) and is packed, marked, labeled, described on shipping papers and is otherwise offered for transportation in conformance with the requirements of this subchapter applicable to Division 1.1;

(3) It is transported in a motor vehicle operated by the owner of the explosive; and

(4) It is accompanied by a person, in addition to the operator of the motor vehicle, who is qualified by training and experience to handle the explosive.

(f) Notwithstanding the requirements of paragraphs (b) and (d) of this section, the Associate Administrator for Hazardous Materials Safety may approve a new explosive on the basis of an approval issued for the explosive by the competent authority of a foreign government, or when examination of the explosive by the Bureau of Explosives or the Bureau of Mines is impracticable, on the basis of reports of tests conducted by disinterested third parties, or may approve the transportation of an explosives sample for the purpose of examination by the BOE, the BOM, or other government agency.

(g) Notwithstanding the requirements of paragraph (b) of this section, an explosive may be transported under s 171.11, 171.12, 171.12a or 176.11 of this subchapter without the approval of the Associate Administrator for Hazardous Materials Safety if the Associate Administrator for Hazardous Materials Safety has acknowledged, in writing, the acceptability of an approval issued by the competent authority of a foreign government pursuant to the provisions of the UN Recommendations, the ICAO Technical Instructions, the IMDG Code, or other national or international regulations based on the UN Recommendations. In such a case, a copy of the foreign competent authority approval, and a copy of the written acknowledgement of its acceptance must accompany each shipment of that explosive.

(h) The requirements of this section do not apply to cartridges, small arms which are:

(1) Not a forbidden explosive under s 173.54 of this subchapter;

(2) Ammunition for rifle, pistol, or shotgun;

(3) Ammunition with inert projectile or blank ammunition; and

(4) Ammunition not exceeding 50 caliber for rifle or pistol cartridges or 8 gauge for shotgun shells.

Cartridges, small arms meeting the criteria of this paragraph (h) may be assigned a classification code of 1.4S by the manufacturer.

(i) If experience or other data indicate that the hazard of a material or a device containing an explosive composition is greater or less than indicated according to the definition and criteria specified in ss 173.50, 173.56, and 173.58 of this subchapter, the Associate Administrator for Hazardous Materials Safety may, following examination in accordance with paragraph (b) of this section, revise its classification or except the material or device from the requirements of this subchapter.

(j) Fireworks. Notwithstanding the requirements of paragraph (b) of this section, Division 1.3 and 1.4 fireworks may be classed and approved by the Associate Administrator for Hazardous Materials Safety without prior examination and offered for transportation if the following conditions are met:

(1) The fireworks are manufactured in accordance with the applicable requirements in APA Standard 87-1;

(2) A thermal stability test is conducted on the device by the BOE, the BOM, or the manufacturer. The test must be performed by maintaining the device, or a representative prototype of a large device such as a display shell, at a temperature of 75 °C (167 °F) for 48 consecutive hours. When a device contains more than one component, those components which could be in physical contact with each other in the finished device must be placed in contact with each other during the thermal stability test; and

(3) The manufacturer applies in writing to the Associate Administrator for Hazardous Materials Safety following the applicable requirements in APA Standard 87-1, and is notified in writing by the Associate Administrator for Hazardous Materials Safety that the fireworks have been classed, approved, and assigned an EX-number. Each application must be complete, including all relevant background data and copies of all applicable drawings, test results, and any other pertinent information on each device for which approval is being requested. The manufacturer must sign the application and certify that the device

for which approval is requested conforms to APA Standard 87-1 and that the descriptions and technical information contained in the application are complete and accurate. If the application is denied, the manufacturer will be notified in writing of the reasons for the denial. The Associate Administrator for Hazardous Materials Safety may require that the fireworks be examined by an agency listed in paragraph (b)(1) of this section.