



U.S. Department of Transportation

**Pipeline and Hazardous Materials  
Safety Administration**

# **Certification Agency Approvals Standard Operating Procedures**

Version 1.0

June 2011

# Disclaimer

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# Change Control and Documentation

<i>Certification Agency Approvals Standard Operating Procedures</i> <b>Version Number: <u>1.0</u> Effective Date: <u>May 31, 2011</u></b>		
Version	Description of Change	Date
1.0	<p>This document supersedes the PHMSA Standard Operating Procedures for Certification Agency Approval as of March 04, 2010. The previously released Explosives Examination Agency Approvals Standard Operating Procedures - As of August 2010, and the Lighter Testing Agency Standard Operating Procedure - As of September 2010 are incorporated into this document which covers: Designated Approval Agency, Independent Inspection Agency, Packaging Certification Agency, Explosive Examination Agency, and Lighter Testing Agency.</p>	June 2011

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# Section 1. Introduction and Overview

## 1.1 Purpose of the Document

As part of the Pipeline and Hazardous Materials Safety Administration's (PHMSA's) efforts to improve consistency and transparency within the Approvals Program, *Standard Operating Procedures (SOPs) for Certification Agency Approvals* were developed as a reference for staff in the Office of Hazardous Materials Safety (OHMS). This document serves as a companion to the *Approvals Program Standard Operating Procedures* document, which provides a comprehensive description of the Approvals Program. While the *Approvals Program Standard Operating Procedures* document includes a reference to certification agency approvals, this SOP document should serve as the primary reference for OHMS staff when approving and managing certification agencies.

The *Standard Operating Procedures for Certification Agency Approvals* provides clear and detailed procedures covering each of the five types of certification agencies (i.e., Designated Approval, Independent Inspection, Packaging Certification, Explosive Examination, and Lighter Testing). Consequently, this SOP will be used as the primary reference for approving prospective certification agencies, and managing certification agencies with existing approvals.

In addition to issuing approvals to certification agencies, PHMSA grants approvals for a wide array of activities in the hazardous materials industry. These activities may include, but are not limited to, classifying, labeling, manufacturing, testing and transporting hazardous materials safely, under conditions defined in the Hazardous Materials Regulations.

This SOP document should be considered a living document that will be revised and updated periodically to improve operations and ensure that policies and procedures remain aligned to the business needs of OHMS.

Specific questions related to the *Standard Operating Procedures for Certification Agency Approvals* should be addressed to:

Director  
Division of Approvals and Permits  
(202) 366-4511.

## 1.2 Structure of the Document

The remainder of this document includes the following 10 sections and supporting appendices:

- **Introduction and Overview** – Provides an overview of the Certification Agency Approval Category and an introduction to each of the five types of certification agencies
- **Operational Roles and Responsibilities** – Describes the respective roles and responsibilities required to execute processes associated with the Approvals and Permits Program
- **Application Review Process for Certification Agencies** – Describes the processes for receiving, evaluating, and issuing approvals for certification agencies. The Application Review Process section is organized based on three key phases of the process: (1) Completeness Phase; (2) Evaluation Phase; and (3) Disposition Phase
- **Approval Renewal Process** – Describes the purpose and procedural overview for the renewal of an existing approval

- **Approval Modification, Suspension or Termination Process** – Describes the purpose and procedural overview for the modification, suspension, or termination of an approval
- **Approval Reconsideration Process** – Describes the purpose and procedural overview for providing Applicants and Approval Holders the opportunity to request a reevaluation of their denied application or modified, suspended or terminated approval
- **Approval Appeal Process** – Describes the purpose and procedural overview for providing Applicants or Approval Holders the opportunity to appeal PHMSA’s decision to deny its application or modify, suspend, or terminate its approval
- **Minimum Level of Fitness Review Process** – Describes the purpose and procedural overview for conducting a Minimum Level of Fitness Review of an Applicant’s safety record and performance. There are three components of the Minimum Level of Fitness Review process: (1) Tier One Fitness Review Process; (2) Tier Two Fitness Review Process; and (3) Tier Three Fitness Review Process
- **Post-Approval Responsibilities** – Describes the management and oversight responsibilities of the aforementioned staff with respect to certification agency approvals
- **Forms and Documents** – Provides the names and descriptions of types of forms and documents used throughout the Approvals and Permits Program processes
- **Appendices A-C** – Provides supporting SOP documentation

### 1.3 Overview of the Approvals Program

An approval is written consent, including a competent authority approval, from the Associate Administrator for Hazardous Materials Safety (Associate Administrator) or other designated Department official, to perform a function that requires prior consent under the Hazardous Materials Regulations (HMR) (49 CFR Parts 171 through 180).<sup>1</sup>

The Associate Administrator issues approvals for a wide array of activities in the hazardous materials industry. These activities may include, but are not limited to, classifying, labeling, manufacturing, packaging and package design, testing and transporting hazardous materials safely, under conditions defined in the HMR.

The OHMS is responsible for administering and overseeing the Approvals Program. Responsibilities include, but are not limited to:

- Evaluating new approval applications from industry stakeholders including:
  - Conducting Minimum Level of Fitness Reviews to determine Applicant fitness
  - Completing safety evaluations to verify that the activity authorized by the approval meets an acceptable level of safety
  - Issuing approvals and denials
- Modifying, suspending or terminating existing approvals, when necessary
- Managing existing approvals, including:
  - Conducting compliance inspections of existing Approval Holders to ensure they are complying with the conditions of their approvals and the requirements of the HMR
  - Monitoring reporting requirements, when necessary

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<sup>1</sup> 49 CFR Section 107.1

This SOP focuses on the activities associated with administering and overseeing the approvals required for evaluating, modifying, or managing certification agency approvals.

## 1.4 Overview of the Certification Agency Approval Category

A certification agency approval certifies that an Approval Holder is qualified to perform inspections and other functions in accordance with the specifications outlined in the approval and the requirements set out in the HMR.

Within the Certification Agency Approval Category, applications are divided into one of five approval types, based on technical and procedural similarities:

1. Designated Approval Agency
2. Independent Inspection Agency
3. Packaging Certification Agency
4. Explosive Examination Agency
5. Lighter Testing Agency.

The following sections provide a brief overview of each of these approval types.

### 1.4.1 Designated Approval Agency

The Associate Administrator for Hazardous Materials Safety may issue approvals to persons, companies or entities seeking to recommend approval certificates and certifications for UN portable tanks and multiple element gas containers (MEGCs) manufactured in accordance with the requirements of 49 CFR Section 178.273 and 49 CFR Section 178.74. The procedures used by the Associate Administrator to grant designated approval agency approvals are outlined in 49 CFR Part 107 Subpart E.

Persons, companies or entities approved to recommend approval certificates and certifications for UN portable tanks and MEGCs are known as designated approval agencies. In order to be a designated approval agency, a person, company or entity must:

- Supply PHMSA with the name and address of the Applicant, including place of incorporation if a corporation. In addition, if the Applicant is not a resident of the United States, the name and address of a permanent resident of the United States designated in accordance with 49 CFR Section 105.40 to serve as agent for service of process
- Provide PHMSA a copy of the designation from the Competent Authority of that country delegating to the Applicant an approval or designated agency authority for the type of packaging for which a DOT designation is sought<sup>2</sup>
- Give PHMSA a listing, by DOT specification (or special permit) number, or UN designation, of the types of packaging for which approval authority is sought
- Have a personnel qualifications plan listing the qualifications that the Applicant will require of each person to be used in the performance of each packaging approval or certification function

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<sup>2</sup> This pertains to designated approval agencies with principal places of business in countries other than the United States.

- Have testing equipment that it has determined, through appropriate inspection, to be suitable for the purpose
- Provide PHMSA with a statement that the Applicant will perform its functions independent of the manufacturers and owners of the packaging concerned
- Provide PHMSA with a statement that the Applicant will allow the Associate Administrator or his representative to inspect its records and facilities in so far as they relate to the approval or certification of specification packaging and shall cooperate in the conduct of such inspections.

### 1.4.2 Independent Inspection Agency

The Associate Administrator may issue approvals to persons or companies seeking to act as independent inspection agencies. An independent inspection agency is a person, company, or entity who is authorized by OHMS under the provisions of 49 CFR Part 107 Subpart I to perform tests, inspections, verifications, and recommend certifications of DOT specification cylinders or UN/ISO pressure receptacles as required by 49 CFR Parts 178 and 180.

In general, to be approved as an independent inspection agency, a person, company or entity must:

- Not be engaged in the manufacture of cylinders for use in the transportation of hazardous materials, or be directly or indirectly controlled by, or have a financial involvement with, any entity that manufactures cylinders for use in the transportation of hazardous materials, except for providing services as an independent inspector
- Submit to PHMSA appropriate documentation demonstrating qualifications to perform the function for which approval is being sought, as well as a listing of each individual who shall be employed as an inspector to certify inspection and test results and documentation of their respective qualifications
- Submit to PHMSA a list that includes the name and address of each facility where tests and inspections will be performed
- Certify in writing that all functions as an independent inspection agency will be performed independent of the manufacturers and owners of the cylinders
- Submit to PHMSA the name, address, and principal business activity of each person having any direct or indirect ownership interest in the Applicant greater than three percent and any direct or indirect ownership in each subsidiary or division of the Applicant must be submitted as part of the independent inspection agency's application for approval
- Provide any additional information deemed necessary by OHMS to determine the fitness or qualifications of an Applicant as an independent inspection agency. This information must be provided by the Applicant prior to approval being granted.

The Associate Administrator grants approvals to independent inspection agencies to perform three categories of activities:

- **Recommend certification of manufacturing of DOT specification packaging:** The Associate Administrator may issue approvals to independent inspection agencies to inspect and audit manufacturers of DOT packaging for materials including pressure vessels, cylinders, portable tanks, and tank cars tanks
- **Recommend certification of requalification facilities:** The Associate Administrator may issue approvals to independent inspection agencies to inspect and audit requalification facilities. These

facilities may be responsible for performing hydrostatic testing and visual inspection and/or non-destructive examination (NDE) (e.g., ultrasonic determination and acoustic emission examination). Independent inspection agencies granted approval to audit and inspect requalification facilities are divided into two sub-categories:

- *Hydrostatic Testing and Visual Inspection*: Independent inspection agencies inspecting and auditing requalification facilities using hydrostatic testing and visual inspection as described in 49 CFR Part 180
- *Non-Destructive Testing*: Independent inspection agencies inspecting and auditing requalification facilities using non-destructive examination (NDE) in lieu of hydrostatic testing and visual inspection. Currently, all requalification facilities performing NDE are authorized under special permits
- **Recommend certification of repair and rebuild facilities**: The Associate Administrator may issue approvals to independent inspection agencies to inspect and audit repair and rebuild facilities for DOT specification cylinders. Types of DOT cylinders include welded four-series cylinders and three-series cylinders. Repair work includes the rethread of cylinders' internal and external necks.

### 1.4.3 Packaging Certification Agency

The Associate Administrator may issue approvals to persons, companies or entities seeking to test and recommend certification of UN-standard performance oriented packaging in accordance with the requirements of 49 CFR Part 178. The procedures used by the Associate Administrator to grant packaging certification agency approvals are outlined in 49 CFR Part 107 Subpart E.

Persons or companies approved to test and recommend certification of UN packaging are known as packaging certification agencies. To be a packaging certification agency, a person or company must:

- Supply PHMSA with the name and address of the Applicant, including place of incorporation if a corporation. In addition, if the Applicant is not a resident of the United States, the name and address of a permanent resident of the United States designated in accordance with 49 CFR Section 105.40 to serve as agent for service of process
- Provide PHMSA a copy of the designation from the Competent Authority of that country delegating to the Applicant an approval or designated agency authority for the type of packaging for which a DOT designation is sought<sup>3</sup>
- Give PHMSA a listing, by DOT specification (or special permit) number, or UN designation, of the types of packaging for which approval authority is sought
- Have a personnel qualifications plan listing the qualifications that the Applicant will require of each person to be used in the performance of each packaging approval or certification function
- Have testing equipment that it has determined, through personal inspection, to be suitable for the purpose
- Provide PHMSA with a statement that the Applicant will perform its functions independent of the manufacturers and owners of the packaging concerned

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<sup>3</sup> This pertains to packaging certification agencies with principal places of business in countries other than the United States.

- Provide PHMSA with a statement that the Applicant will allow the Associate Administrator or his representative to inspect its records and facilities in so far as they relate to the approval or certification of specification packaging and shall cooperate in the conduct of such inspections.

Approvals for packaging certification agencies issued by PHMSA expire after five years. Packaging certification agencies may renew and request modification of existing approvals.

#### **1.4.4 Explosive Examination Agency**

The Associate Administrator may issue approvals to persons, companies or entities seeking to examine and issue explosive classification recommendations (i.e., recommended shipping description, division, and compatibility group) in accordance with the requirements of the HMR. The procedures used by the Associate Administrator to grant explosive examination agency approvals are outlined in 49 CFR Section 173.56.

Persons or companies approved to issue recommendations for explosive classifications are known as explosive examination agencies. To be an explosive examination agency, a person or company must:

- Have (directly, or through an employee involved in the examination) at least ten years of experience in the testing and evaluation of explosives
- Not be involved in the manufacturing or marketing of explosives
- Not be controlled by, or financially dependent on, any entity that manufactures or markets explosives
- Be a resident of the United States.

Approvals for explosive examination agencies issued by PHMSA expire after five years. Explosive examination agencies may renew existing approvals.

#### **1.4.5 Lighter Testing Agency**

Lighter designs must be examined and successfully tested by a person or company who is authorized by the Associate Administrator to perform such examination and testing under the provisions of 49 CFR Part 107 Subpart E. Consequently, the Associate Administrator approves lighter testing agencies to issue recommendations for persons or agencies to test lighter designs under the authority of 49 CFR Section 107.403.

Persons or agencies approved to test lighter designs are known as lighter testing agencies. To be a lighter testing agency, a person or company must:

- Have the equipment necessary to perform testing required to the level of accuracy required
- Be able to demonstrate, upon request, the knowledge of the testing procedures and requirements of the HMR relative to lighters
- Not manufacture or market lighters
- Not be financially dependent or owned, in whole or in part, by any entity that manufactures or markets lighters
- Be a resident of the United States
- Perform all examinations and testing in accordance with the requirements of the HMR.

## Section 2. Operational Roles and Responsibilities

This section describes the roles required to execute and manage certification agency approvals.

Table 2-1 illustrates where operational roles currently reside within PHMSA. It is important to note that the staff and managers assigned operational roles may delegate their official responsibilities to others involved in executing and managing certification agency approvals.

**Table 2-1: Current Organizational Alignment and Roles**

Organizational Role	Organization	Current Organizational Position
Administrator	Office of the Administrator	Administrator of PHMSA
Associate Administrator	Office of Hazardous Materials Safety	Associate Administrator for Hazardous Materials Safety
Approving Official	Office of Hazardous Materials Safety	Associate Administrator for Hazardous Materials Safety
Transportation Assistant	Division of Approvals and Permits	Transportation Assistant
Project Officer	Division of Approvals and Permits	Transportation Specialist, Senior Transportation Specialist
Senior Technical Officer	Division of Engineering and Research	Director of the Division of Engineering and Research
Technical Officer	Division of Engineering and Research	Chemists, Physical Scientists, and Engineers
Standards Liaison	Division of Standards and Rulemaking	Director of the Division of Standards and Rulemaking
International Standards Liaison	Division of Standards and Rulemaking	International Standards Coordinator
Enforcement Liaison	Field Operations	Director of Field Operations (or designee)
Legal Counsel	Office of Chief Counsel	Chief Counsel or Assistant Chief Counsel of the Hazardous Materials Safety Law Division
OA Coordinating Official	FAA, FMCSA, FRA, USCG	Designated and authorized by the OAs for the purpose of approvals processing
Safety Review Board	PHMSA	Designated by PHMSA
Independent Test Lab	Industry	Designated by PHMSA
Applicant or Approval Holder	Industry	NA

### 2.1 Administrator

The Administrator is the Administrator of PHMSA. The responsibilities of the Administrator in the approvals process include:

- Reviewing and approving significant approval applications, based on criteria as determined by the Administrator

- Granting or denying, in whole or in part, an appeal requested by an Approval Holder or Applicant. The Administrator may delegate this responsibility to another DOT Official
- Participating in discussions to resolve issues among PHMSA staff and OA Coordinating Officials or others, as determined by the Administrator.

## 2.2 Associate Administrator

The Associate Administrator for Hazardous Materials Safety is the Approving Official. The responsibilities of the Associate Administrator in the approvals process include:

- Acting as the Approving Official, or delegating this responsibility to OHMS staff, and overseeing the conduct of this function
- Granting or denying, in whole or in part, a reconsideration requested by an Approval Holder or Applicant. The Associate Administrator may delegate this responsibility to another DOT Official.

## 2.3 Approving Official

Under 49 CFR Section 107.709(c) of the HMR, the Approving Official is responsible for signing approval and denial documents. The Approving Official is also responsible for:

- Determining whether application evaluations are complete and thorough
- Reviewing and approving disposition recommendations
- Approving disposition of approval applications, including rejection letters, denial letters, and approval documents
- Monitoring the volume and status of approval applications, and quality of approvals management
- Resolving process and coordination issues among OAs and other federal agencies
- Approving SOPs and SOP revisions for the Approvals Program
- Making recommendations to the Administrator concerning the disposition of significant approval applications (based on criteria determined by the Administrator)
- Delegating Approving Official responsibility for specific approvals based on criteria related to the operations, transport modes, materials, or other criteria, as appropriate.

## 2.4 Transportation Assistant

Depending on the type of approval, the Transportation Assistant is responsible for receiving the approval applications that are submitted via email, regular mail, or fax. The Transportation Assistant is also responsible for:

- Reviewing the application and then separating the application into two parts. The two parts are the Request, and the Background
- Forwarding the application to a PHMSA designee for data entry.

Note: Once the application is entered into the Approvals IT System, the system generates a tracking number and forwards the file for action to the assigned Project Officer.

## 2.5 Project Officer

The Project Officer is responsible for planning and managing the Approval Review Process for a specific approval application. A Project Officer will be designated for each approval application. The Project Officers are responsible for:

- Providing oversight of the entire application evaluation and disposition processes across PHMSA and the OAs
- Coordinating the Application Completeness Phase of an approval application, which may include:
  - Reviewing the application for completeness and accuracy
  - Verifying that the approval is required or authorized by the HMR including researching the HMR, ICAO TI, and the IMDG Code
- Coordinating the Evaluation Phase of an approval application, which may include (but not necessarily be conducted by the Project Officer):
  - Conducting Applicant Minimum Level of Fitness Review
  - Conducting equivalent level-of-safety evaluation
  - Coordinating with other PHMSA officials such as the Standards Liaison and International Standards Liaison
  - Coordinating with appropriate OA(s)
  - Coordinating with PHMSA legal staff
  - Drafting and/or reviewing approvals.

## 2.6 Senior Technical Officer

The Senior Technical Officer is responsible for:

- Assigning and managing approval applications among appropriate Technical Officers
- Overseeing the technical evaluation of approval application evaluations, which may include:
  - Providing input to evaluation plans
  - Reviewing Technical Officer's evaluation and recommendation
  - Conducting equivalent level-of-safety evaluations
  - Coordinating with the OA's, as needed
  - Providing input and/or reviewing input for approvals.

## 2.7 Technical Officer

The Technical Officer has subject matter expertise in certain aspects of hazardous materials transportation safety. The Technical Officer may be assigned to participate in the review and evaluation of an approval application, if needed. The Technical Officer is responsible for:

- Completing technical evaluations of approval applications, which may include:
  - Conducting equivalent level-of-safety evaluations
  - Participating in on-site inspections of Applicants, as needed

- Coordinating with OAs and others, as needed
- Providing input for approvals.

## 2.8 Standards Liaison

The designated Standards Liaison is responsible for:

- Making recommendations as to whether the operations proposed for the approval should be addressed through rulemaking
- Reviewing evaluation plans as requested by the Project Officer
- Evaluating whether updates to the HMR are needed to accommodate the Approvals Program
- Reviewing approvals and other dispositions as requested by the Project Officer based on the agreed-upon criteria for the Division of Standards and Rulemaking involvement, which could include:
  - Newly issued regulations
  - Requests with far-reaching effects that may be most appropriately handled under rulemaking.

## 2.9 International Standards Liaison

The designated International Standards Liaison is responsible for:

- Reviewing evaluation plans as requested by the Project Officer
- Reviewing approvals and other dispositions as requested by the Project Officer based on agreed-upon criteria for the Division of Standards and Rulemaking involvement.

## 2.10 Enforcement Liaison

The designated Enforcement Liaison is responsible for:

- Performing all Tier Two and Tier Three Minimum Level of Fitness Reviews
- Making recommendations for enhancements, denials, and determinations
- Conducting all on-site inspections of Applicants
- Managing and conducting investigations of Applicants and holders of existing approvals
- Coordination of modal on-site inspections.

## 2.11 Legal Counsel

The Legal Counsel is responsible for:

- Providing legal guidance for policy and procedures that pertain to approvals and other dispositions as requested
- Reviewing and providing input on recommendations for Applicant denial.

## 2.12 Operating Administration Coordinating Official

An Operating Administration (OA) Coordinating Official is designated by the Federal Aviation Administration (FAA), Federal Motor Carrier Safety Administration (FMCSA), Federal Railroad Administration (FRA), and the United States Coast Guard (USCG) as the point of contact for each agency's review of approval applications. If the type of approval being addressed requires coordination, the OA Coordinating Official is responsible for:

- Reviewing approval applications, Applicant Minimum Level of Fitness Reviews, and equivalent level-of-safety evaluations
- Completing technical evaluations of approval applications, which could include:
  - Conducting additional Applicant fitness reviews
  - Conducting equivalent level of safety evaluations
  - Drafting approvals
- Providing concurrence, comments, information, and acknowledgments, as appropriate, to PHMSA in accordance with established coordination schedules and milestones.

## 2.13 Safety Review Board

The Safety Review Board (SRB) is designated by PHMSA to resolve disputes of professional opinion when such disputes cannot be resolved internally among office and/or program staff and management. The SRB is comprised of the chair,<sup>4</sup> legal officer,<sup>5</sup> board members,<sup>6</sup> and senior policy advisor. The board conducts several functions including:

- Resolving issues stemming from differences in professional judgment between or among PHMSA staff members on safety matters, decisions, or actions
- Resolving issues referred to it by any PHMSA employee (but only after internal processes for achieving consensus have been exhausted)
- Referring an issue (at its discretion) to the Deputy Administrator and Administrator for resolution or to the Associate Administrator for consideration of an issue or implementation of an action.

## 2.14 Independent Test Lab

The Independent Test Lab is designated by PHMSA to verify test data conducted by a certification agency approval Applicant during an on-site inspection. The independent test lab is responsible for:

- Receiving test data from PHMSA or from the approval Applicant
- Conducting requested tests
- Providing PHMSA with data findings.

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<sup>4</sup> The Chief Safety Officer or other senior executive designated in writing by the Chief Safety Officer.

<sup>5</sup> The PHMSA Chief Counsel or other senior attorney designated in writing by the PHMSA Chief Counsel.

<sup>6</sup> The Associate Administrator (or a designee) for Pipeline Safety. The Associate Administrator for the program in which the concern has been raised shall not serve on the SRB. In their place, the Administrator will appoint an individual with subject matter expertise.

## 2.15 Applicant or Approval Holder

The Applicant or Approval Holder is a person, company or entity requesting an approval from PHMSA to act as an approved certification approval agency. The Applicant or Approval Holder is responsible for:

- Submitting a complete application for an approval as required under the HMR. Applications that do not meet these requirements may be rejected
- Providing PHMSA with additional information or data if necessary
- Complying with the requirements of an approval when issued
- Allowing PHMSA to conduct on-site inspections if necessary
- Notifying the Approving Official within 20 days of any change in the information submitted in the original application
- Reporting of activity to the Approving Official based on the requirements outlined in the Post-Approval Responsibilities section of this document (Section 9.1)
- Initiating a reconsideration of appeal if necessary.

## Section 3. Application Review Process for Certification Agencies

PHMSA follows a three-phase application review process to evaluate all certification agency approval applications: (1) Completeness Phase; (2) Evaluation Phase; and (3) Disposition Phase. These phases are depicted in Figure 3-1 below:

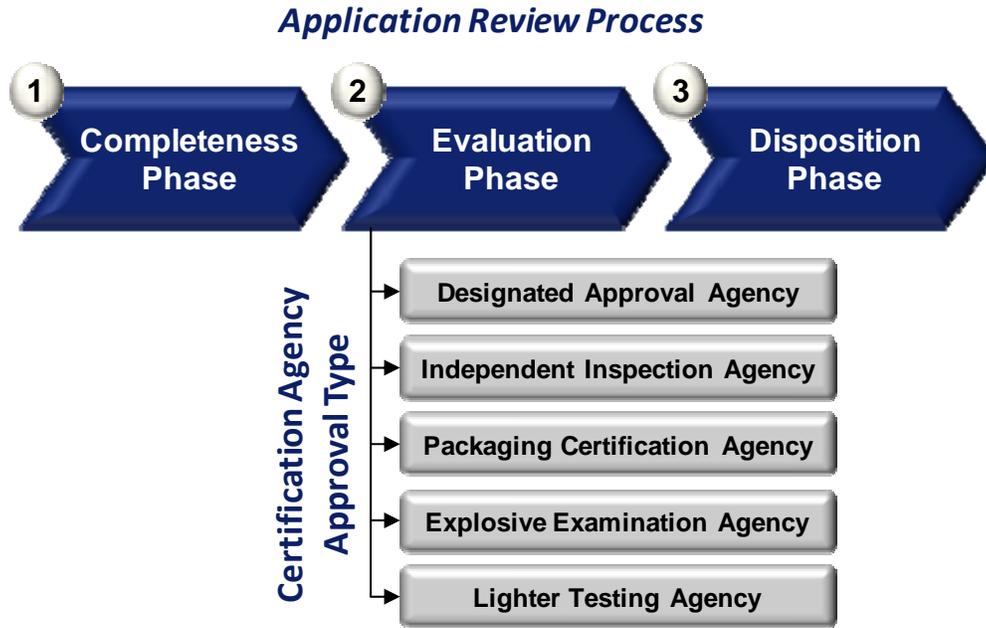


Figure 3-1: Application Review Process

Every certification agency application received by PHMSA follows the same procedures during the Completeness Phase and the Disposition Phase. However, the steps performed during the Evaluation Phase differ for each of the five certification agency types. Additionally, the Certification Agency Completeness Phase differs from the Completeness Phase for other approval types. The *Approvals Program Standard Operating Procedures* provides an in-depth explanation of the procedures required by the Completeness Phase for all other Approval types (i.e., Registration Approval, Classification Approval, Cylinders Approval, General Approval, and Radioactive Materials Certificate of Competent Authority Approval). The following sections describe the three phases of the Application Review Process for certification agencies.

### 3.1 Completeness Phase for Certification Agency Approvals

#### 3.1.1 Purpose

The purpose of the Certification Agency Completeness Phase procedure is to determine if the Applicant submitted the information required under 49 CFR Part 107 for PHMSA to begin the evaluation of the proposed approval.

### 3.1.2 Procedural Overview

An Applicant may submit an application through the online application system available on PHMSA’s website, or by email, mail, or facsimile. Once submitted, the application, regardless of the approval type, is reviewed for completeness.

#### 3.1.2.1 Conduct Completeness Review

If an Applicant submits their application through the online application system, the system automatically reviews the application materials and informs the Applicant if the information is incomplete. The online application system effectively prevents an Applicant from submitting an incomplete application.

If an Applicant mails, emails or faxes an application to PHMSA, the Transportation Assistant reviews the application and separates it into two parts: the Request and the Background. The application is then forwarded to the contractor for data entry and with the instructions on the assignment of the application to a Project Officer. Once the application is entered into the IT Approval system, the system generates a tracking number and forwards the file for action to the assigned Project Officer. The Project Officer conducts an initial completeness review, which consists of ascertaining whether or not the Applicant submitted all requisite information to become an explosive examination agency. If the application is incomplete, Project Officer drafts a Rejection Letter to send to the Applicant. Otherwise, the Project Officer continues to evaluate the application as described in Section 3.2.

### 3.1.3 Procedures

Table 3-1 describes the detailed procedures used to determine if an application is complete. Documents and forms utilized during specific procedures in the table appear in italicized text, and are also described in detail in Section Section 10.

**Table 3-1: Procedures for Application Completeness Review**

#	Description	Narrative	Responsibility
1	Is application submitted online?	The Applicant submits an application for approval through PHMSA’s online application system, or by email, mail, or facsimile. If the Applicant utilizes the electronic submission option, continue to step 2. If the Applicant emails, mails, or faxes the application, skip to step 7.	Applicant
2	Conduct initial completeness review	If the application is submitted online, the Approvals IT System determines whether or not the Applicant has submitted all necessary documents and application materials to become a certification approval agency.  Note: This activity does not constitute a comprehensive review of the Applicant’s qualifications.	Approvals IT System
3	Is application complete?	If the application is complete, skip to step 6.	Approvals IT System
4	Notify Applicant of necessary modifications	The Approvals IT System instructs the Applicant to submit the missing application materials.	Approvals IT System
5	Make necessary modifications	The Applicant submits the missing application materials.	Applicant

#	Description	Narrative	Responsibility
6	Generate folder in the Approvals IT System and assign tracking number	The Approvals IT System creates a folder for the application and assigns it a unique tracking number. Skip to step 15.	Approvals IT System
7	Process application and generate folder in the Approvals IT System	If the application is received by email, mail, or facsimile, the Transportation Assistant reviews the application and separates it into two parts: the Request and the Background. The application is then forwarded to the contractor for data entry and with the instructions on the assignment of the application to a Project Officer. Once the application is entered into the Approvals IT System, the system generates a folder and tracking number and forwards the file for action to the assigned Project Officer.  Note: For IIA approval applications, the Project Officer may be responsible for this step.	Transportation Assistant
8	Conduct initial completeness review	The Project Officer conducts an initial completeness review. The initial completeness review is conducted in accordance with criteria outlined in 49 CFR Part 107.	Project Officer
9	Is application complete?	The Project Officer determines if the Applicant has submitted all necessary documents and application materials. If the application is complete, skip to step 15.  Note: This activity does not constitute a comprehensive review of the Applicant's qualifications.	Project Officer
10	Draft Rejection Letter	If the application is not complete, the Project Officer drafts a Rejection Letter that includes the rationale for rejecting the application and sends it to the Approving Official.	Project Officer
11	Review Rejection Letter	The Approving Official reviews the <i>Rejection Letter</i> .	Approving Official
12	Concurs with rejection decision?	If the Approving Official does not concur, continue to the Dispute Resolution Procedures.	Approving Official
13	Sign Rejection Letter	If the Approving Official agrees with the decision to reject the Applicant, the <i>Rejection Letter</i> is signed.	Approving Official
14	Send Rejection Letter to Applicant	The Approvals IT System automatically sends the <i>Rejection Letter</i> to the Applicant after it is signed by the Approving Official. <End>	Approvals IT System
15	Notify Applicant of receipt of application and post status on PHMSA website	The Approvals IT System notifies the Applicant that PHMSA has received and is in the process of evaluating the application.	Approvals IT System

#	Description	Narrative	Responsibility
16	Notify PHMSA offices of application receipt	The Approvals IT System sends an automatic message to relevant PHMSA offices that the application has been received. Continue to the Evaluation Phase for the appropriate certification agency type.	Approvals IT System

## 3.2 Evaluation Phase

### 3.2.1 Purpose

The purpose of the Evaluation Phase is to determine whether a person, company, or entity seeking to become a certification agency meets all the necessary requirements for one of the following:

- Designated Approval Agency
- Independent Inspection Agency
- Packaging Certification Agency
- Explosive Examination Agency
- Lighter Testing Agency.

### 3.2.2 Procedural Overview

Once an application is deemed complete, and the application is determined to meet the necessary technical requirements, PHMSA performs an on-site fitness inspection of the Applicant to verify that the Applicant is qualified to perform inspections and other functions in accordance with the specifications outlined in the approval and the requirements set out in the HMR.<sup>7</sup> Depending on the outcome of the inspection, PHMSA grants an approval. All certification agencies that PHMSA grants approvals to must submit reports to PHMSA that detail their activities on a monthly, semiannual, or annual basis upon receipt of the approval. Once drafted, the *Approval Document* or *Denial Letter* and remaining application materials are sent to the Approving Official for review. When the Evaluation Phase ends, the application moves into the Disposition Phase.

### 3.2.3 Designated Approval Agency Procedures

Once PHMSA receives a complete approval application, the agency conducts a comprehensive evaluation. The evaluation involves two basic procedures: (1) assessment of the Applicant's capabilities to approve UN portable tanks and MEGCs; and (2) on-site fitness inspection(s).

#### 3.2.3.1 Conduct Preliminary Capability Evaluation

After PHMSA receives a complete application, the Project Officer and the Technical Officer coordinate to evaluate the Applicant's capabilities to approve UN portable tanks and MEGCs. This evaluation varies based on the type of approval being requested, but typically includes assessing the qualifications of personnel who will be observing testing of UN portable tanks and MEGCs; reviewing the test equipment owned by the Applicant; and verifying that the Applicant does not have any improper relationships with manufacturers or marketers of UN portable tanks or MEGCs.

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<sup>7</sup> 49 CFR Section 107.803

**3.2.3.2 Conduct On-Site Fitness Inspection**

Prior to granting an approval, the Enforcement Liaison must conduct an on-site fitness inspection of the Applicant’s facilities. Once PHMSA has evaluated the application and conducted an on-site fitness inspection, the Approving Official makes a decision to approve or deny the Applicant.

**3.2.3.3 Procedures**

Table 3-2 describes the detailed procedures used by PHMSA to evaluate an application from a person, company or entity seeking to become a designated approval agency. Documents and forms utilized during specific procedures in the table appear in italicized text, and are also described in detail in Section Section 10.

**Table 3-2: Designated Approval Agency Evaluation Phase Procedures**

#	Description	Narrative	Responsibility
1	Conduct preliminary capability evaluation	The Technical Officer reviews and evaluates the Applicant’s capabilities based on the information provided in the application.	Technical Officer
2	Does Applicant meet preliminary capability requirements?	The Technical Officer determines whether the application is satisfactory based on the results of their review of the application. If the application is satisfactory, skip to step 10.	Technical Officer
3	Is additional information needed?	The Technical Officer determines if additional information is needed to complete the evaluation of the application per 49 CFR Section 107.709. If no further information is needed, skip to step 10.	Technical Officer
4	Draft information request	The Technical Officer drafts an information request, soliciting the specific information that the Technical Officer needs to complete his/her evaluation of the application.	Technical Officer
5	Review and sign information request	The Approving Official reviews and signs the information request.	Approving Official
6	Send information request to Applicant	The Approvals IT System sends the information request to the Applicant.	Approvals IT System
7	Responds in 30 days?	<p>The Applicant is given 30 days from the day the information request was received to respond. If the Applicant responds within the allotted timeframe, continue to step 8. If the Applicant fails to respond within the allotted timeframe, skip to step 9 to draft a <i>Denial Letter</i>.</p> <p>Note: If the Applicant responds in writing within the 30-day period requesting an additional 30 days within which it will gather the requested information, the Associate Administrator may grant the 30-day extension (49 CFR Section 107.709).</p>	Applicant

#	Description	Narrative	Responsibility
8	Is additional information satisfactory?	The Technical Officer reviews the requested information provided by the Applicant to determine whether the information is sufficient to continue to evaluate the application. If the information is unsatisfactory, continue to step 9 to begin drafting a <i>Denial Letter</i> . If it is satisfactory, skip to step 10.	Technical Officer
9	Draft Denial Letter	If the Applicant fails to respond to the information request within 30 days, or if the Applicant does respond but the information he/she provides is unsatisfactory, the Project Officer drafts a <i>Denial Letter</i> . Skip to step 20.	Project Officer
10	Is on-site fitness inspection required?	If the Technical Officer determines that an on-site fitness inspection should be conducted based on the outcome of the application evaluation, the Technical Officer sends a fitness inspection request to the Enforcement Liaison. If the Technical Officer determines based on the application evaluation that the Applicant does not hold the qualifications to continue with an on-site fitness inspection, skip to step 20 to draft a <i>Denial Letter</i> .	Technical Officer
11	Determine investigator	The Enforcement Liaison decides who in Field Operations will conduct the on-site fitness inspection based on expertise and workload. The Enforcement Liaison coordinates with the relevant staff in Approvals and Permits, and Engineering and Research.	Enforcement Liaison
12	Coordinate on-site fitness inspection logistics with Applicant	The Field Operations investigator designated in step 11 establishes a time to conduct the on-site fitness inspection(s). The investigator communicates with the Applicant to ensure the Applicant is prepared to perform the necessary tests during the inspection.	Enforcement Liaison
13	Draft Fitness Inspection Notification Letter	The investigator drafts a <i>Fitness Inspection Notification Letter</i> that includes: <ul style="list-style-type: none"> <li>• Date, time and location(s) of the on-site fitness inspection(s)</li> <li>• Procedures, equipment and documents to be inspected during the on-site fitness inspection(s)</li> </ul>	Enforcement Liaison
14	Review and concur with Fitness Inspection Notification Letter	The Approving Official reviews and concurs with the <i>Fitness Inspection Notification Letter</i> .	Approving Official
15	Send Applicant Fitness Inspection Notification Letter	The Approvals IT System automatically sends the <i>Fitness Inspection Notification Letter</i> to the Applicant once the Approving Official has concurred.	Approvals IT System

#	Description	Narrative	Responsibility
16	Conduct on-site fitness inspection	The investigator travels to the location(s) where the Applicant is seeking approval and conducts a fitness inspection using the <i>Inspection Form</i> . The inspection should include a review of the tests and other functions the Applicant will be performing under the authority of its approval.	Enforcement Liaison
17	Draft fitness recommendation	The investigator drafts a fitness recommendation which includes a recommendation to approve or deny the Applicant. The investigator then puts this recommendation in the application folder in the Approvals IT System.	Enforcement Liaison
18	Review fitness recommendation	The Technical Officer reviews the fitness recommendation provided by the investigator from Field Operations.	Technical Officer
19	Recommend approval or denial	The Technical Officer provides the Project Officer with a recommendation on whether PHMSA should approve or deny the application.	Technical Officer
20	Draft Approval Document or Denial Letter	The Project Officer drafts an <i>Approval Document</i> or <i>Denial Letter</i> . If the application is being denied, the Project Officer includes justification for why the approval is being denied.	Project Officer
21	Review application materials for accuracy	After drafting the <i>Approval Document</i> or <i>Denial Letter</i> , the Project Officer reviews all application materials for accuracy, checking all the documents for quality and ensuring that all required documents are present in the Approvals IT System.  Note: At the discretion of OHMS, Legal Counsel may be requested to review denials based on regulatory or substantive reasons. See Application Disposition Procedures for details.	Project Officer
22	Send application materials to Approving Official	The Project Officer sends the application materials to the Approving Official via the Approvals IT System. Continue to the Disposition Phase.	Project Officer

### 3.2.4 Independent Inspection Agency Procedures

PHMSA grants approvals to independent inspection agencies performing three types of activities:

- Recommend certification of manufacturing of DOT approved specification packaging
- Recommend certification of requalification facilities, which may include:
  - Hydrostatic and visual inspection facilities
  - Non-destructive testing facilities
- Recommend certification of repair and rebuild facilities.

Once PHMSA receives a complete approval application for one of these activities, the agency conducts a comprehensive evaluation. For Applicants intending to operate outside the United States, the evaluation involves two basic procedures: (1) An assessment of the Applicant’s capabilities to verify testing of cylinders and pressure receptacles; and (2) an on-site fitness inspection of the Applicant’s facility. For Applicants intending to operate solely within the United States, PHMSA may or may not conduct an on-site fitness inspection; however, the agency always evaluates the Applicant’s capabilities.

**3.2.4.1 Conduct Preliminary Capability Evaluation**

After PHMSA receives a complete application, the Project Officer and the Technical Officer coordinate to evaluate the Applicant’s capabilities to verify testing of cylinders and pressure receptacles. This evaluation varies based on the type of approval being requested, but typically includes assessing the qualifications of personnel who will be observing testing of cylinders and pressure receptacles; reviewing the test equipment owned by the Applicant; and verifying that the Applicant does not have any improper relationships with manufacturers or marketers of cylinders and pressure receptacles. If a site visit is required, it will be conducted as part of an on-site fitness inspection.

**3.2.4.2 Conduct On-Site Fitness Inspection**

Applicants intending to operate as independent inspection agencies outside of the United States must receive an on-site fitness inspection from PHMSA prior to receiving an approval. The Project Officer, Technical Officer and Enforcement Liaison are responsible for coordinating the on-site fitness inspection. Once PHMSA has evaluated the application and conducted an on-site fitness inspection, and reviewed verification testing results from an independent laboratory, the Approving Official makes a decision to approve or deny the Applicant.

Applicants intending to operate as independent inspection agencies within the United States may or may not receive an on-site inspection from PHMSA prior to receiving an approval. This decision is left to the discretion of Project Officer in consultation with the Enforcement Liaison and is based upon the Applicant’s capabilities and the nature of the Applicant’s request.

**3.2.4.3 Procedures**

Table 3-3 describes the detailed procedures used by PHMSA to evaluate an application from a person, company or entity seeking to become an independent inspection agency. Documents and forms utilized during specific procedures in the table appear in italicized text, and are also described in detail in Section Section 10.

**Table 3-3: Independent Inspection Agency Evaluation Phase Procedures**

#	Description	Narrative	Responsibility
1	Conduct preliminary capability evaluation	The Project Officer reviews and evaluates the Applicant’s capabilities based on the information provided in the application.  Additionally, the Project Officer confirms that the application includes the information related to the specific type of independent inspection agency approval the Applicant is requesting. Please reference the evaluation criteria for specific information regarding Applicants requesting to certify:	Project Officer

#	Description	Narrative	Responsibility
		<ul style="list-style-type: none"> <li>• Manufacture of DOT specification packaging</li> <li>• Requalification facilities using hydrostatic testing methods</li> <li>• Requalification facilities using non-destructive evaluation</li> <li>• Repair and rebuild facilities</li> </ul> <p>If needed, a Technical Officer is identified to assist with the preliminary capability evaluation.</p>	
2	Does Applicant meet preliminary capability requirements?	The Project Officer determines whether the application is satisfactory based on the results of their review of the application. If the application is satisfactory, skip to step 10.	Project Officer
3	Is additional information needed?	The Project Officer determines if additional information is needed to complete the evaluation of the application per 49 CFR Section 107.709. If no further information is needed, skip to step 10.	Project Officer
4	Draft information request	The Project Officer drafts an information request, soliciting the specific information that the Project Officer needs to complete his/her evaluation of the application.	Project Officer
5	Review and sign information request	The Approving Official reviews and signs the information request.	Approving Official
6	Send information request to Applicant	The Approvals IT System sends the information request to the Applicant.	Approvals IT System
7	Responds in 30 days?	<p>The Applicant is given 30 days from the day the information request was received to respond. If the Applicant responds within the allotted timeframe, continue to step 8. If the Applicant fails to respond within the allotted timeframe, skip to step 9 to draft a <i>Denial Letter</i>.</p> <p>Note: If the Applicant responds in writing within the 30-day period requesting an additional 30 days within which it will gather the requested information, the Associate Administrator may grant the 30-day extension (49 CFR Section 107.709).</p>	Applicant
8	Is additional information satisfactory?	The Project Officer reviews the requested information provided by the Applicant to determine whether the information is sufficient to continue to evaluate the application. If needed, a Technical Officer is identified to assist with the review. If the information is unsatisfactory, continue to step 9 to draft a <i>Denial Letter</i> . If it is satisfactory, skip to step 10.	Project Officer

#	Description	Narrative	Responsibility
9	Draft Denial Letter	If the Applicant fails to respond to the information request within 30 days, or if the Applicant does respond but the information he/she provides is unsatisfactory, the Project Officer drafts a <i>Denial Letter</i> . Skip to step 22.	Project Officer
10	Is on-site fitness inspection required?	If the Project Officer determines that an on-site fitness inspection should be conducted based on the outcome of the application evaluation, the Project Officer sends a fitness inspection request to the Enforcement Liaison. If the Project Officer determines based on the application evaluation that the Applicant does not hold the qualifications to continue with an on-site fitness inspection, skip to step 22 to draft a <i>Denial Letter</i> .	Project Officer
11	Determine investigator	The Enforcement Liaison decides who in Field Operations will conduct the on-site fitness inspection based on expertise and workload. The Enforcement Liaison coordinates with the relevant staff in Approvals and Permits, and Engineering and Research.	Enforcement Liaison
12	Coordinate on-site fitness inspection logistics with Applicant	The Field Operations investigator designated in step 11 establishes a time to conduct the on-site fitness inspection(s). The investigator communicates with the Applicant to ensure the Applicant is prepared to perform the necessary tests during the inspection.	Enforcement Liaison
13	Draft Fitness Inspection Notification Letter	The investigator drafts a <i>Fitness Inspection Notification Letter</i> that includes: <ul style="list-style-type: none"> <li>• Date, time and location(s) of the on-site fitness inspection(s)</li> <li>• Procedures, equipment and documents to be inspected during the on-site fitness inspection(s)</li> <li>• Methods for reimbursing PHMSA allowable expenses</li> </ul>	Enforcement Liaison
14	Review and concur with Fitness Inspection Notification Letter	The Approving Official reviews and concurs with the <i>Fitness Inspection Notification Letter</i> .	Approving Official
15	Send Fitness Inspection Notification Letter to Applicant	The Approvals IT System sends the <i>Fitness Inspection Notification Letter</i> to the Applicant once the Approving Official has concurred.	Approvals IT System
16	Conduct On-Site Fitness Inspection	The investigator travels to the location(s) where the Applicant is seeking approval and conducts a fitness inspection using the <i>Inspection Form</i> . The fitness inspection should include a review of the tests and other functions the Applicant will be performing under the authority of its approval.	Enforcement Liaison

#	Description	Narrative	Responsibility
17	Draft fitness recommendation	The investigator drafts a fitness recommendation which includes a recommendation to approve or deny the Applicant. The investigator then puts this recommendation in the application folder in the Approvals IT System.	Enforcement Liaison
18	Pay inspection expenses	The Applicant reimburses PHMSA for all allowable expenses.  Note: For IIAs operating outside the US or ISO manufacturers in the US, Applicants are required to submit an advanced deposit to the HM-74 Escrow Account once the inspection date is set and communicated. The deposit must be received at least three weeks prior to scheduled departure of the PHMSA investigator(s).	Applicant
19	Process payment from Applicant	Once the Applicant has paid PHMSA for all allowable expenses, the Project Officer processes this payment.	Project Officer
20	Review fitness recommendation	The Project Officer reviews the fitness recommendation provided by the investigator from Field Operations. If needed, a Technical Officer is identified to assist with this review.	Project Officer
21	Recommend approval or denial	The Project Officer makes a recommendation on whether PHMSA should approve or deny the application.	Project Officer
22	Draft Approval Document or Denial Letter	The Project Officer drafts an <i>Approval Document</i> or <i>Denial Letter</i> . If the application is being denied, the Project Officer includes justification for why the approval is being denied.	Project Officer
23	Review application materials for accuracy	After drafting the <i>Approval Document</i> or <i>Denial Letter</i> , the Project Officer reviews all application materials for accuracy, checking all the documents for quality and ensuring that all required documents are present in the Approvals IT System. At this time, the Project Officer also confirms that the Applicant has paid all allowable inspection expenses. If the Applicant has not paid all allowable expenses, the Project Officer refrains from sending the application materials to the Approving Official.  Note: At the discretion of OHMS, Legal Counsel may be requested to review denials based on regulatory or substantive reasons. See Application Disposition Procedures for details.	Project Officer
24	Send application materials to Approving Official	The Project Officer sends the application materials to the Approving Official via the Approvals IT System. Continue to the Disposition Phase.	Project Officer

### 3.2.5 Packaging Certification Agency Procedures

Once PHMSA receives a complete approval application, the agency conducts a comprehensive evaluation that involves two basic procedures: (1) An assessment of the Applicant’s capabilities to test and recommend certification of UN packaging; and (2) an on-site fitness inspection(s) at the Applicant’s facilities.

#### 3.2.5.1 Conduct Preliminary Capability Evaluation

Once PHMSA receives a complete application, the Project Officer and the Technical Officer coordinate to evaluate the Applicant’s capabilities to test and recommend certification of UN packaging. This evaluation includes assessing the qualifications of personnel who will be testing and certifying UN packaging; reviewing the test equipment owned by the Applicant to determine if the equipment is capable and suitable for testing of the designs sought by the Applicant to test and certify; assessing the Applicant’s ability to prepare test reports in accordance with CAA requirements; and verifying that the Applicant does not have any improper relationships with manufacturers or marketers of UN packaging.

#### 3.2.5.2 Conduct On-Site Fitness Inspection

Prior to granting an approval, the Enforcement Liaison, in collaboration with the Project Officer and Technical Officer, must conduct an on-site fitness inspection of the Applicant’s facilities. Once PHMSA has evaluated the application and conducted an on-site fitness inspection, the Approving Official makes a decision to approve or deny the Applicant.

#### 3.2.5.3 Procedures

Table 3-4 describes the detailed procedures used by PHMSA to evaluate an application from a person, company or entity seeking to become a packaging certification agency. Documents and forms utilized during specific procedures in the table appear in italicized text, and are also described in detail in Section Section 10.

**Table 3-4: Packaging Certification Agency Evaluation Phase Procedures**

#	Description	Narrative	Responsibility
1	Conduct preliminary capability evaluation	The Technical Officer reviews and evaluates the Applicant’s capabilities based on the information provided in the application. The Technical Officer may reference the evaluation criteria for assistance in this process.	Technical Officer
2	Does Applicant meet preliminary capability requirements?	The Technical Officer determines whether the application is satisfactory based on the results of their review of the application. If the application is satisfactory, skip to step 10.	Technical Officer
3	Is additional information needed?	The Technical Officer determines if additional information is needed to complete the evaluation of the application per 49 CFR Section 107.709. If no further information is needed, skip to step 10.	Technical Officer
4	Draft information request	The Technical Officer drafts an information request, soliciting the specific information that the Technical	Technical Officer

#	Description	Narrative	Responsibility
		Officer needs to complete his/her evaluation of the application.	
5	Review and sign information request	The Approving Official reviews and signs the information request.	Approving Official
6	Send information request to Applicant	The Approvals IT System sends the information request to the Applicant.	Approvals IT System
7	Responds in 30 days?	<p>The Applicant is given 30 days from the day the information request was received to respond. If the Applicant responds within the allotted timeframe, continue to step 8. If the Applicant fails to respond within the allotted timeframe, skip to step 9 to draft a <i>Denial Letter</i>.</p> <p>Note: If the Applicant responds in writing within the 30-day period requesting an additional 30 days within which it will gather the requested information, the Associate Administrator may grant the 30-day extension (49 CFR Section 107.709).</p>	Applicant
8	Is additional information satisfactory?	The Technical Officer reviews the requested information provided from the Applicant to determine whether the information is sufficient to continue to evaluate the application. If the information is unsatisfactory, continue to step 9 to begin drafting a <i>Denial Letter</i> . If it is satisfactory, skip to step 10.	Technical Officer
9	Draft Denial Letter	If the Applicant fails to respond to the information request within 30 days, or if the Applicant does respond but the information he/she provides is unsatisfactory, the Technical Officer informs the Project Officer, and the Project Officer drafts a <i>Denial Letter</i> . Skip to step 20.	Project Officer
10	Is on-site fitness inspection required?	If the Technical Officer determines that an on-site fitness inspection should be conducted based on the outcome of the application evaluation, the Technical Officer sends a fitness inspection request to the Enforcement Liaison. If the Technical Officer determines based on the application evaluation that the Applicant does not hold the qualifications to continue with an on-site fitness inspection, skip to step 20 to draft a <i>Denial Letter</i> .	Technical Officer
11	Determine investigator	The Enforcement Liaison decides who in Field Operations will conduct the on-site fitness inspection based on expertise and workload. The Enforcement Liaison coordinates with the relevant staff in Approvals and Permits, and Engineering and Research.	Enforcement Liaison

#	Description	Narrative	Responsibility
12	Coordinate on-site fitness inspection logistics with Applicant	The investigator designated in step 11 establishes a time to conduct the on-site fitness inspection(s). The investigator communicates with the Applicant to ensure the Applicant is prepared to perform the necessary tests during the inspection.	Enforcement Liaison
13	Draft Fitness Inspection Notification Letter	The investigator drafts a <i>Fitness Inspection Notification Letter</i> that includes: <ul style="list-style-type: none"> <li>• Date, time and location(s) of the on-site fitness inspection(s)</li> <li>• Procedures, equipment and documents to be inspected during the on-site fitness inspection(s)</li> </ul>	Enforcement Liaison
14	Review and concur with Fitness Inspection Notification Letter	The Approving Official reviews and concurs with the <i>Fitness Inspection Notification Letter</i> .	Approving Official
15	Send Fitness Inspection Notification Letter to Applicant	The Approvals IT System sends the <i>Fitness Inspection Notification Letter</i> to the Applicant once the Approving Official has concurred.	Approvals IT System
16	Conduct on-site fitness inspection	The investigator travels to the location(s) where the Applicant is seeking approval and conducts a fitness inspection using the <i>Inspection Form</i> . The fitness inspection should include a review of the tests and other functions the Applicant will be performing under the authority of its approval.	Enforcement Liaison
17	Draft fitness recommendation	The investigator drafts a fitness recommendation which includes a recommendation to approve or deny the Applicant. The investigator then puts the fitness recommendation in the application folder in the Approvals IT System.	Enforcement Liaison
18	Review fitness recommendation	The Technical Officer reviews the fitness recommendation provided by the investigator from Field Operations.	Technical Officer
19	Recommend approval or denial	The Technical Officer provides the Project Officer with a recommendation on whether PHMSA should approve or deny the application.	Technical Officer
20	Draft Approval Document or Denial Letter	The Project Officer drafts an <i>Approval Document</i> or <i>Denial Letter</i> . If the application is being denied, the Project Officer includes justification for why the approval is being denied.	Project Officer
21	Review application materials for accuracy	After drafting the <i>Approval Document</i> or <i>Denial Letter</i> , the Project Officer reviews all application materials for accuracy, checking all the documents for quality and ensuring that all required documents are present in the Approvals IT System.	Project Officer

#	Description	Narrative	Responsibility
		Note: At the discretion of OHMS, Legal Counsel may be requested to review denials based on regulatory or substantive reasons. See Application Disposition Procedures for details.	
22	Send application materials to Approving Official	The Project Officer sends the application materials to the Approving Official via the Approvals IT System. Continue to the Disposition Phase.	Project Officer

### 3.2.6 Explosive Examination Agency Procedures

Once PHMSA receives a complete approval application, the agency conducts a comprehensive evaluation that involves two procedures: (1) An assessment of the Applicant’s capabilities to test and issue recommendations for explosive classifications; and (2) an on-site fitness inspection of the Applicant’s outdoor test range and related facilities.

#### 3.2.6.1 Conduct Preliminary Capability Evaluation

Once PHMSA receives a complete application, the Project Officer and the Technical Officer coordinate to evaluate the Applicant’s capabilities to test and issue recommendations for explosive classifications. This evaluation includes assessing the qualifications of personnel who will be testing and issuing explosive classification recommendations and are requesting signatory approval; reviewing the list of test equipment owned or contracted for use by the Applicant; and verifying that the Applicant does not have any improper relationships with manufacturers or marketers of explosives which may constitute undue influence.

#### 3.2.6.2 Conduct On-Site Fitness Inspection

Prior to granting an approval, the Enforcement Liaison, in collaboration with the Project Officer and Technical Officer, must conduct an on-site fitness inspection of the Applicant’s outdoor explosives test range and related facilities. Once PHMSA has evaluated the application and conducted an on-site fitness inspection, the Approving Official makes a decision to approve or deny the Applicant. This on-site fitness inspection constitutes the Minimum Level of Fitness Review and compliance inspection for explosive examination agencies.

#### 3.2.6.3 Procedures

Table 3-5 describes the detailed procedures used by PHMSA to evaluate an application from a person, company or entity seeking to become an explosive examination agency. Documents and forms utilized during specific procedures in the table appear in italicized text, and are also described in detail in Section Section 10.

**Table 3-5: Explosive Examination Agency Evaluation Phase Procedures**

#	Description	Narrative	Responsibility
1	Conduct preliminary capability evaluation	The Technical Officer reviews and evaluates the Applicant’s capabilities based on the information provided in the application. The Technical Officer uses the <i>Evaluation Criteria for Third Party Approval for Testing Explosives</i> for this review.	Technical Officer

#	Description	Narrative	Responsibility
2	Does Applicant meet preliminary capability requirements?	The Technical Officer determines whether the application is satisfactory based on the results of their review of the application. If the application is satisfactory, skip to step 10.	Technical Officer
3	Is additional information needed?	The Technical Officer determines if additional information is needed to complete the evaluation of the application per 49 CFR Section 107.709. If no further information is needed, skip to step 10.	Technical Officer
4	Draft information request	If extensive additional information is needed, the Technical Officer asks the Project Officer to draft an information request, soliciting the specific information that the Technical Officer needs to complete his/her evaluation of the application.	Project Officer
5	Review and sign information request	The Approving Official reviews and signs the information request.	Approving Official
6	Send information request to Applicant	The Approvals IT System sends the information request to the Applicant.	Approvals IT System
7	Responds in 30 days?	<p>The Applicant is given 30 days from the day the information request was received to respond. If the Applicant responds within the allotted timeframe, continue to step 8. If the Applicant fails to respond within the allotted timeframe, skip to step 9 to draft a <i>Denial Letter</i>.</p> <p>Note: If the Applicant responds in writing within the 30-day period requesting an additional 30 days within which it will gather the requested information, the Associate Administrator may grant the 30-day extension (49 CFR Section 107.709).</p>	Applicant
8	Is additional information satisfactory?	The Technical Officer reviews the requested information provided by the Applicant to determine whether the information is sufficient to continue to evaluate the application. If the information is unsatisfactory, continue to step 9 to begin drafting a <i>Denial Letter</i> . If it is satisfactory, skip to step 10.	Technical Officer
9	Draft Denial Letter	If the Applicant fails to respond to the information request within 30 days, or if the Applicant does respond but the information he/she provides is unsatisfactory, the Project Officer drafts a <i>Denial Letter</i> . Skip to step 20.	Project Officer
10	Is on-site fitness inspection required?	If the Project Officer determines that an on-site fitness inspection should be conducted based on the outcome of the application evaluation, the Project Officer sends a fitness inspection request to the Enforcement Liaison. If the Project Officer determines	Project Officer

#	Description	Narrative	Responsibility
		based on the application evaluation that the Applicant does not hold the qualifications to continue with an on-site fitness inspection, skip to step 20 to draft a <i>Denial Letter</i> .	
11	Determine investigator	The Enforcement Liaison decides who in Field Operations will conduct the on-site fitness inspection based on expertise and workload. The Enforcement Liaison coordinates with the relevant staff in Approvals and Permits and Engineering and Research, and an investigation team is established.	Enforcement Liaison
12	Coordinate on-site fitness inspection logistics with Applicant	The Field Operations investigator designated in step 11 and other members of the investigation team establish a time to conduct the on-site fitness inspection(s). The investigator communicates with the Applicant to ensure the Applicant is prepared to perform the necessary tests during the inspection.	Enforcement Liaison
13	Draft Fitness Inspection Notification Letter	The investigator drafts a <i>Fitness Inspection Notification Letter</i> that includes: <ul style="list-style-type: none"> <li>• Date, time and location(s) of the on-site fitness inspection(s)</li> <li>• Procedures, equipment and documents to be inspected during the on-site fitness inspection(s)</li> </ul>	Enforcement Liaison
14	Review and concur with Fitness Inspection Notification Letter	The Approving Official reviews and concurs with the <i>Fitness Inspection Notification Letter</i> .	Approving Official
15	Send Fitness Inspection Notification Letter to Applicant	The Approvals IT System automatically sends the <i>Fitness Inspection Notification Letter</i> to the Applicant once the Approving Official has concurred.	Approvals IT System
16	Conduct on-site fitness inspection	The investigation team travels to the location(s) where the Applicant is seeking approval and conducts a fitness inspection using the <i>Inspection Form</i> . The inspection should include a review of the tests and other functions the Applicant will be performing under the authority of its approval.	Enforcement Liaison
17	Draft fitness recommendation	The investigator drafts a fitness recommendation which includes a recommendation to approve or deny the Applicant. The investigator then puts this recommendation in the application folder in the Approvals IT System.	Enforcement Liaison
18	Review fitness recommendation	The Technical Officer reviews the fitness recommendation provided by the investigator from Field Operations.	Technical Officer
19	Recommend approval or denial	The Technical Officer provides the Project Officer with a recommendation on whether PHMSA should approve or deny the application.	Technical Officer

#	Description	Narrative	Responsibility
20	Draft Approval Document or Denial Letter	The Project Officer drafts an <i>Approval Document</i> or <i>Denial Letter</i> . If the application is being denied, the Project Officer includes justification for why the approval is being denied.	Project Officer
21	Review application materials for accuracy	After drafting the <i>Approval Document</i> or <i>Denial Letter</i> , the Project Officer reviews all application materials for accuracy, checking all the documents for quality and ensuring that all required documents are present in the Approvals IT System.  Note: At the discretion of OHMS, Legal Counsel may be requested to review denials based on regulatory or substantive reasons. See Application Disposition Procedures for details.	Project Officer
22	Send application materials to Approving Official	The Project Officer sends the application materials to the Approving Official via the Approvals IT System. Continue to the Disposition Phase.	Project Officer

**3.2.7 Lighter Testing Agency Procedures**

Once PHMSA receives a complete approval application, the agency conducts a comprehensive evaluation that involves two overarching procedures: (1) An assessment of the Applicant’s capabilities to test new lighter designs; and (2) an on-site fitness inspection of the Applicant’s test facilities.

**3.2.7.1 Conduct Preliminary Capability Evaluation**

Once PHMSA receives a complete application, the Project Officer and the Technical Officer coordinate, as appropriate, to evaluate the Applicant’s capabilities to test lighters. This evaluation includes assessing the qualifications of personnel who will be testing new lighter designs; reviewing the test equipment owned by the Applicant; and verifying that the Applicant does not have any improper relationships with manufacturers or marketers of lighters.

**3.2.7.2 Conduct On-Site Fitness Inspection**

Prior to granting an approval, an Enforcement Liaison must conduct an on-site inspection of the Applicant’s test facilities. Once PHMSA has evaluated the application and conducted an on-site inspection, the Approving Official makes a decision to approve or deny the Applicant.

**3.2.7.3 Procedures**

Table 3-6 describes the detailed procedures used by PHMSA to evaluate an application from a person, company or entity seeking to become a lighter testing agency. Documents and forms utilized during specific procedures in the table appear in italicized text, and are also described in detail in Section Section 10.

**Table 3-6: Lighter Testing Agency Evaluation Phase Procedures**

#	Description	Narrative	Responsibility
1	Conduct preliminary capability evaluation	The Project Officer reviews and evaluates the Applicant's capabilities based on the information provided in the application. If needed, a Technical Officer is identified to assist with this evaluation.	Project Officer
2	Does Applicant meet preliminary capability requirements?	The Project Officer determines whether the application is satisfactory based on the results of their review of the application. If the application is satisfactory, skip to step 10.	Project Officer
3	Is additional information needed?	The Project Officer determines if additional information is needed to complete the evaluation of the application per 49 CFR Section 107.709. If no further information is needed, skip to step 10.	Project Officer
4	Draft information request	The Project Officer drafts an information request, soliciting the specific information that the Project Officer needs to complete his/her evaluation of the application.	Project Officer
5	Review and sign information request	The Approving Official reviews and signs the information request.	Approving Official
6	Send information request to Applicant	The Approvals IT System sends the information request to the Applicant.	Approvals IT System
7	Responds in 30 days?	<p>The Applicant is given 30 days from the day the information request was received to respond. If the Applicant responds within the allotted timeframe, continue to step 8. If the Applicant fails to respond within the allotted timeframe, skip to step 9 to draft a <i>Denial Letter</i>.</p> <p>Note: If the Applicant responds in writing within the 30-day period requesting an additional 30 days within which it will gather the requested information, the Associate Administrator may grant the 30-day extension (49 CFR Section 107.709).</p>	Applicant
8	Is additional information satisfactory?	The Project Officer reviews the requested information provided by the Applicant to determine whether the information is sufficient to continue to evaluate the application. If needed, a Technical Officer is identified to assist with the review. If the information is unsatisfactory, continue to step 9 to begin drafting a <i>Denial Letter</i> . If it is satisfactory, skip to step 10.	Project Officer
9	Draft Denial Letter	If the Applicant fails to respond to the information request within 30 days, or if the Applicant does respond but the information he/she provides is unsatisfactory, the Project Officer drafts a <i>Denial Letter</i> . Skip to step 20.	Project Officer

#	Description	Narrative	Responsibility
10	Is on-site fitness inspection required?	If the Project Officer determines that an on-site fitness inspection should be conducted based on the outcome of the application evaluation, the Project Officer sends a fitness inspection request to the Enforcement Liaison. If the Project Officer determines based on the application evaluation that the Applicant does not hold the qualifications to continue with an on-site fitness inspection, skip to step 20 to draft a <i>Denial Letter</i> .	Project Officer
11	Determine investigator	The Enforcement Liaison decides who in Field Operations will conduct the on-site fitness inspection based on expertise and workload. The Enforcement Liaison coordinates this decision with the relevant staff in Approvals and Permits, and Engineering and Research.	Enforcement Liaison
12	Coordinate on-site fitness inspection logistics with Applicant	The Field Operations investigator designated in step 11 and other members of the investigation team establish a time to conduct the on-site fitness inspection(s). The investigator communicates with the Applicant to ensure the Applicant is prepared to perform the necessary tests during the inspection.	Enforcement Liaison
13	Draft Fitness Inspection Notification Letter	The investigator drafts a <i>Fitness Inspection Notification Letter</i> that includes: <ul style="list-style-type: none"> <li>• Date, time and location(s) of the on-site fitness inspection(s)</li> <li>• Procedures, equipment and documents to be inspected during the on-site fitness inspection(s)</li> </ul>	Enforcement Liaison
14	Review and concur with Fitness Inspection Notification Letter	The Approving Official reviews and concurs with the <i>Fitness Inspection Notification Letter</i> .	Approving Official
15	Send Fitness Inspection Notification Letter to Applicant	The Approvals IT System automatically sends the <i>Fitness Inspection Notification Letter</i> to the Applicant once the Approving Official has concurred.	Approvals IT System
16	Conduct on-site fitness inspection	The investigator travels to the location(s) where the Applicant is seeking approval and conducts an inspection using the <i>Lighter Inspection Checklist</i> . The inspection should include a review of the tests and other functions the Applicant will be performing under the authority of its approval.	Enforcement Liaison
17	Draft fitness recommendation	The investigator drafts a fitness recommendation which includes a recommendation to approve or deny the Applicant. The investigator then puts this recommendation in the application folder in the Approvals IT System.	Enforcement Liaison

#	Description	Narrative	Responsibility
18	Review fitness recommendation	The Project Officer reviews the fitness recommendation provided by the investigator from field operations. If needed, a Technical Officer is identified to assist with this review.	Project Officer
19	Recommend approval or denial	The Project Officer makes a recommendation on whether PHMSA should approve or deny the application.	Project Officer
20	Draft Approval Document or Denial Letter	The Project Officer drafts an <i>Approval Document</i> or <i>Denial Letter</i> . If the application is being denied, the Project Officer includes justification for why the approval is being denied.	Project Officer
21	Review application materials for accuracy	<p>After drafting the <i>Approval Document</i> or <i>Denial Letter</i>, the Project Officer reviews all application materials for accuracy, checking all the documents for quality and ensuring that all required documents are present in the Approvals IT System.</p> <p>Note: At the discretion of OHMS, Legal Counsel may be requested to review denials based on regulatory or substantive reasons. See Application Disposition Procedures for details.</p>	Project Officer
22	Send application materials to Approving Official	The Project Officer sends the application materials to the Approving Official via the Approvals IT System. Continue to the Disposition Phase.	Project Officer

### 3.3 Disposition Phase

#### 3.3.1 Purpose

The purpose of this process, which is uniform across all approval types, is to review the recommendation to deny or issue an approval and then inform the Applicant of the decision reached by PHMSA.

#### 3.3.2 Procedural Overview

After a recommendation is made by the Project Officer and an *Approval Document* or a *Denial Letter* is sent to the Approving Official to review, the Approving Official makes a final determination regarding whether to grant the approval. Note that this procedure is standard for all approval types. The application disposition process for proposed approvals involves two basic procedures: (1) Review *Approval Document* or *Denial Letter* and (2) Issue Determination to Applicant.

##### 3.3.2.1 Review Approval Document or Denial Letter

The Approving Official reviews all supporting application materials as well as the *Approval Document* or the *Denial Letter* to make a final decision on whether to grant or deny the approval. The Approving Official will sign off on either the *Approval Document* or the *Denial Letter*. The signed document is then sent to the Applicant and relevant PHMSA offices.

Note: If the approval is denied, the Approving Official may elect to send the *Denial Letter* and supporting justification to Legal Counsel for additional review. Legal Counsel may recommend that a denial is unnecessary, and if so will provide legal justification. If the Approving Official and Legal Counsel do not concur, a meeting can be requested between the Associate Administrator and the Chief Counsel to make the final decision to issue an *Approval Document* or *Denial Letter*.

**3.3.2.2 Issue Determination to Applicant**

If the Applicant is granted an approval, he/she is sent an *Approval Document* and the approval status is updated on the PHMSA website. If the Applicant is denied an approval, he/she is given the opportunity to submit a request for reconsideration and, if necessary, follow that request with a request for an appeal. If the Applicant chooses not to submit a request for reconsideration the denial status is updated on the PHMSA website. If the Applicant is not granted an approval through the reconsideration or the appeals process the denial status is updated on the PHMSA website.

**3.3.3 Procedures**

Table 3-7 describes the detailed procedures used to conduct Disposition Phase activities. Documents and forms utilized during specific procedures in the table appear in italicized text, and are also described in detail in Section Section 10.

**Table 3-7: Procedures for the Application Disposition Phase**

#	Description	Narrative	Responsibility
1	Review Approval Document or Denial Letter	The Approving Official reviews all relevant application materials and the justification for issuing an approval or denial. This review includes verifying that reporting or other compliance requirements for the Applicant are clearly outlined. The Approving Official will coordinate with the Administrator for review of approvals proposed to be issued based on public interest or other significant approvals, as determined by the Administrator. The Approving Official may also request further explanation from the Project Officer or Technical Officer, as necessary.	Approving Official
2	Concurs with recommendation?	If the Approving Official does not agree with the denial or approval issued, continue to the Dispute Resolution Procedures. If the Approving Official agrees with the Project Officer’s decision to issue an approval, skip to step 7. If the Approving Official agrees with the Project Officer’s decision to deny the application and elects to seek Legal Counsel review, continue to step 3.	Approving Official
3	Review Denial Letter	At the discretion of the Approving Official, the Legal Counsel reviews the <i>Denial Letter</i> (i.e., the justification for denial), and provides comments to the Project Officer and affected party.	Legal Counsel

#	Description	Narrative	Responsibility
4	Concurs with denial decision?	Based on the information in the <i>Denial Letter</i> , Legal Counsel either concurs with the decision to deny the application or recommends the Applicant be approved with legal opinion and relevant case law. If Legal Counsel does not alter the decision to deny the application, skip to step 9.	Legal Counsel
5	Document non-concurrence	If Legal Counsel does not concur with the decision to deny the application, he/she documents his/her legal opinion and relevant case law and provides it to the Project Officer.	Legal Counsel
6	Discard Denial Letter and draft Approval Document	If the Project Officer agrees with the legal justification provided by the Legal Counsel, he/she removes the <i>Denial Letter</i> from the Approvals IT System and drafts an <i>Approval Document</i> .	Project Officer
7	Sign Approval Document	If the approval is granted, the Approving Official signs off on the Approval Document.	Approving Official
8	Assign approval expiration date	If appropriate, the Approvals IT System automatically generates an expiration date based on the type of approval being granted.	Approvals IT System
9	Sign Denial Letter	The Approving Official signs off on the <i>Denial Letter</i> .	Approving Official
10	Send Denial Letter	The Approvals IT System automatically sends the signed <i>Denial Letter</i> to the Applicant, all relevant PHMSA Office Liaisons, and all relevant OA Coordinating Officials (if applicable).	Approvals IT System
11	Send Approval Document	The Approvals IT System automatically sends the signed <i>Approval Document</i> to the Applicant, all relevant PHMSA Office Liaisons, and all relevant OA Coordinating Officials (if applicable).	Approvals IT System
12	Change application status on PHMSA website	After the document has been electronically signed, the Approvals IT System will also trigger a change in application status to reflect the decision made on the PHMSA Website. <End>	Approvals IT System

### 3.4 Dispute Resolution around Approval-Related Topics

PHMSA’s OHMS developed procedures to resolve differences of professional judgment on hazardous materials safety issues. These procedures apply to differences in professional judgment involving an approval; denial; rejection; suspension; termination; modification; declaration; interpretation; clarification; order; or similar action that affects the safe transportation of hazardous materials in commerce.

Note that this procedure does not apply to differences in professional judgment involving administrative matters<sup>8</sup> or personnel actions.

Dispute resolution begins with the Director of the Division having differences of professional opinion. It is the responsibility of the Director to provide all sides with an equal opportunity to present their views in an open and fair environment. If consensus cannot be reached, it becomes the responsibility of the Associate Administrator and Deputy Associate Administrator, responsible for the program, to reach a resolution. If consensus still cannot be reached, the issue is elevated to PHMSA's Safety Review Board (SRB) for a final decision.

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<sup>8</sup> Including legal matters, responsibilities, duties, or decisions delegated and required by law as being within the purview of the Office of Chief Counsel (to include but not limited to enforcement actions initiated to address non-compliance within hazardous materials regulatory requirements).

## Section 4. Approval Renewal Process

### 4.1 Purpose

The purpose of the Approval Renewal procedure is to renew existing certification agency approvals in accordance with the requirements of the HMR. The following sections provide an overview of the Approval Renewal Process.

### 4.2 Procedural Overview

Approvals for certification agencies expire after no longer than five years and Approval Holders may request a renewal of their approval from the Approving Official. Applications for renewal should be received by the Approving Official at least 120 days before the expiration of the approval.

Once PHMSA receives an application for renewal of an existing approval, the Project Officer follows procedures outlined in the Application Completeness Review Procedures in Section 3.1. The agency then conducts a brief evaluation that involves two basic procedures: (1) An assessment to determine if a complete evaluation of the application can be conducted prior to the approval expiration date; and (2) A decision on whether to issue an extension of the approval if sufficient time to conduct a full evaluation does not exist.

#### 4.2.1 Conduct Complete Evaluation

If the Applicant submits an application for renewal 120 days before the expiration date of its approval, or if the Project Officer determines there is sufficient time to conduct an evaluation prior to the expiration date of the approval, then the Evaluation Phase Procedures (Section 3.2), are used to evaluate the application for renewal.

#### 4.2.2 Issue Approval Extension

If the Applicant submits an application for renewal within 120 days of the expiration date of its approval, or if the Project Officer determines there is not sufficient time to conduct an evaluation prior to the expiration date of the approval, then the Approving Official may grant an extension of the approval pending a review of all available data on the designated approval agency. Note that PHMSA may decide to deny an extension.

Following the granting of an extension by the Approving Official, the application undergoes a full evaluation as outlined in the Evaluation Phase Procedures (Section 3.2).

### 4.3 Procedures

Table 4-1 describes the detailed procedures used to renew an approval. Documents and forms utilized during specific procedures in the table appear in italicized text, and are also described in detail in Section Section 10.

**Table 4-1: Procedures for Renewal of a Certification Agency Approval**

#	Description	Narrative	Responsibility
1	Submits application renewal	The Applicant submits an application to renew an existing approval.	Applicant

#	Description	Narrative	Responsibility
2	Review Approval Holder's compliance record	The Project Officer reviews the record of the Approval Holder to ensure that they have complied with the terms and conditions of their approval.	Project Officer
3	Complied with Approval?	The Project Officer conducts a review to determine if the Approval Holder has complied with the terms of their approval. If no, complete the Approval Modification, Suspension or Termination Procedures. If yes, continue to step 4.	Project Officer
4	Complete application review	Complete the Completeness Phase procedures and then return to the Approval Renewal Procedures.	Project Officer
5	120 days before expiration?	The Project Officer determines whether the Applicant submitted the application for renewal 120 days prior to the approval expiration date. If no, continue to step 6. If yes, continue to the Evaluation Phase of the Application Review Process.	Project Officer
6	Can process prior to expiration?	The Project Officer confers with the Technical Officer to determine if the application can be evaluated prior to the expiration date of the approval. If yes, continue to the Evaluation Phase of the Application Review Process. If no, continue to step 7.	Project Officer
7	Initiate minimum level of fitness review	See Minimum Level of Fitness Review Process.	Project Officer
8	Is Applicant fit?	Based on the results of the minimum level fitness review, the Project Officer determines whether the Applicant is fit to conduct operations under the approval. If the Applicant is deemed unfit, the application is recommended for denial. If the Applicant is deemed fit, skip to step 12.	Project Officer
9	Draft Denial Letter	If the applicant is deemed unfit, the Project Officer drafts the <i>Denial Letter</i> .	Project Officer
10	Review application material for accuracy	The Project Officer reviews the application materials for accuracy, ensuring all necessary files are in the folder for the Approving Official to review.	Project Officer
11	Send application material to Approving Official	The Project Officer sends the application materials to the Approving Official. Continue to Application Disposition Procedures.	Project Officer
12	Draft Approval Extension Letter	The Project Officer drafts the <i>Approval Extension Letter</i> , informing the Applicant that it may continue to operate under the conditions of its existing approval.	Project Officer
13	Review Approval Extension Letter	The Approving Official reviews the <i>Approval Extension Letter</i> .	Approving Official

#	Description	Narrative	Responsibility
14	Concurs with decision?	If Approving Official does not concur, continue to the Dispute Resolution Procedures to reach concurrence before continuing with the process.	Approving Official
15	Sign Approval Extension Letter	The Approving Official signs the <i>Approval Extension Letter</i> .	Approving Official
16	Send Approval Extension Letter to Applicant	The Approvals IT System sends the <i>Approval Extension Letter</i> to the Applicant. Continue to the Evaluation Phase of the Application Review Process to complete full application evaluation.	Approvals IT System

## Section 5. Approval Modification, Suspension, or Termination Process

### 5.1 Purpose

The purpose of the Approval Modification, Suspension or Termination procedure is to modify, suspend or terminate an approval for an approved certification agency.

### 5.2 Procedural Overview

The Approving Official may modify, suspend or terminate an approval issued to a certification agency under the authority of 49 CFR Section 107.713 for an array of reasons, including:

- The approval represents a risk of significant harm to persons or property
- The approval no longer is needed or no longer would be granted if applied for because of a change in circumstances
- The original application contained inaccurate or incomplete information, and the approval would not have been granted had the application been accurate and complete
- The original application contained deliberately inaccurate or incomplete information
- The holder knowingly has violated the terms of the approval or an applicable requirement of this HMR in a manner demonstrating lack of fitness to conduct the activity for which the approval is required.

The modification, suspension or termination of an approval is initiated by the Approving Official by reviewing the reasons for modifying, suspending or terminating the approval. At the conclusion of this review, the Approving Official either: (1) modifies, suspends or terminates the approval immediately; or (2) issues a *Show Cause Letter* to the Applicant.

#### 5.2.1 Modify, Suspend or Terminate Approval

If the approval represents a significant risk to persons or property, the Approving Official may modify, suspend or terminate the approval immediately by notifying the Approval Holder that their approval is no longer valid.

#### 5.2.2 Issue Show Cause Letter

If the approval represents a significant risk, the Approving Official must notify the Approval Holder of his/her intent to suspend or modify the approval and provide an opportunity for the Approval Holder to show cause why the approval should remain valid. Once the Approval Holder responds, the Approving Official makes a final determination.

### 5.3 Procedures

Table 5-1 describes the detailed procedures used to modify, suspend or terminate an approval. Documents and forms utilized during specific procedures in the table appear in italicized text, and are also described in detail in Section Section 10.

**Table 5-1: Procedures for Modification, Suspension or Termination of a Certification Agency Approval**

#	Description	Narrative	Responsibility
1	Review reasons for modification, suspension, or termination	The Project Officer, and/or the Enforcement Liaison review the approval or special permit and determine if: <ul style="list-style-type: none"> <li>• The approval or special permit represents a risk of significant harm to persons or property</li> <li>• The approval or special permit no longer is needed or no longer would be granted if applied for because of a change in circumstances</li> <li>• The original application contained inaccurate or incomplete information, and the approval or special permit would not have been granted had the application been accurate and complete</li> <li>• The original application contained deliberately inaccurate or incomplete information</li> <li>• The Applicant knowingly has violated the terms of the approval or special permit or an applicable requirement of this HMR in a manner demonstrating lack of fitness to conduct the activity for which the approval or special permit is required</li> </ul>	Project Officer
2	Does significant risk exist?	The Project Officer, Technical Officer, and/or the Enforcement Liaison reach consensus on whether or not the approval or special permit represents a significant risk to persons or property based on review in step 1. If the approval or special permit represents a significant risk, skip to step 15.	Project Officer
3	Recommend modification, suspension, or termination?	The Project Officer and/or the Enforcement Liaison recommend modification, suspension, or termination of the approval or special permit based on review in step 1. If modification, suspension, or termination is not recommended, the process ends. <End>	Project Officer
4	Draft Show Cause Letter	If the approval or special permit is recommended for modification, suspension or termination, the Project Officer, and/or the Enforcement Liaison draft a <i>Show Cause Letter</i> that includes the rationale for suspending or terminating the approval or special permit and sends it to the Approving Official.	Project Officer
5	Review Show Cause Letter	The Approving Official reviews the <i>Show Cause Letter</i> .	Approving Official
6	Concurs with Show Cause Decision?	If the Approving Official does not concur, skip to Dispute Resolution Procedures to reach concurrence before continuing with the process.	Approving Official
7	Review of Show Cause Letter	At the discretion of the Approving Official, the Legal Counsel reviews the <i>Show Cause Letter</i> to verify PHMSA has a sound legal argument for issuing a <i>Show Cause Letter</i> . The Legal Counsel consults with the Approving Official as necessary.	Legal Counsel

#	Description	Narrative	Responsibility
8	Concurs with Show Cause decision?	If the Legal Counsel concurs, skip to step 10.	Legal Counsel
9	Document reasons explaining non-concurrence	The Legal Counsel documents why PHMSA should not issue a <i>Show Cause Letter</i> . <End>	Legal Counsel
10	Sign Show Cause Letter	The Approving Official signs the <i>Show Cause Letter</i> .	Approving Official
11	Send Show Cause Letter to Applicant and OHMS	The Approvals IT System/HMIS sends the <i>Show Cause Letter</i> to the Applicant and OHMS Divisions.	Approvals IT System/HMIS
12	Respond in 30 days?	The Applicant is given 30 days from the day the <i>Show Cause Letter</i> was received to respond. If the Applicant does not respond within the allotted timeframe, skip to step 14.	Applicant
13	Recommend modification, suspension, or termination?	The Project Officer and/or the Enforcement Liaison review the information provided by the Applicant to determine whether to recommend modification, suspension, or termination of the approval or special permit. If it is decided not to recommend modification, suspension, or termination, skip to step 23. If it is decided to recommend modification, suspension, or termination, skip to step 15.	Project Officer
14	Notify Project Officer of non-response	If the Applicant does not respond to the <i>Show Cause Letter</i> within 30 days, then the Approvals IT System/HMIS automatically notifies the Project Officer and/or Enforcement Liaison that the Applicant has failed to respond.	Approvals IT System/HMIS
15	Draft Modification, Suspension, or Termination Letter	If the Project Officer and/or Enforcement Liaison decide if the approval or special permit needs to be modified, suspended, or terminated they draft the <i>Modification, Suspension, or Termination Letter</i> that includes justification for modifying, suspending, or terminating the approval or special permit.	Project Officer
16	Review Modification, Suspension, or Termination Letter	The Approving Official reviews the <i>Modification, Suspension, or Termination Letter</i> .	Approving Official
17	Concurs with Letter?	If the Approving Official does not concur, skip to Dispute Resolution Procedures to reach concurrence before continuing with the process.	Approving Official
18	Review Modification, Suspension, or	At the discretion of the Approving Official, the Legal Counsel reviews the <i>Modification, Suspension, or Termination Letter</i> to verify PHMSA has a sound legal	Legal Counsel

#	Description	Narrative	Responsibility
	Termination Letter	argument for modifying, suspending, or terminating the approval or special permit. The Legal Counsel consults with the Approving Official as necessary.	
19	Concurs with decision?	If the Legal Counsel concurs, skip to step 21.	Legal Counsel
20	Document reasons explaining non-concurrence	If Legal Counsel does not concur with the decision, it documents why PHMSA should not issue a <i>Modification, Suspension, or Termination Letter</i> .	Legal Counsel
21	Sign Modification, Suspension, or Termination Letter	If the Legal Counsel concurs, the Approving Official signs the <i>Modification, Suspension, or Termination Letter</i> .	Approving Official
22	Draft General Correspondence Letter	The Project Officer and/or Enforcement Liaison draft a <i>General Correspondence Letter</i> to inform the Applicant that it may retain its approval or special permit.	Project Officer
23	Review General Correspondence Letter	The Approving Official reviews the <i>General Correspondence Letter</i> .	Approving Official
24	Concurs with decision?	If the Approving Official does not concur, skip to Dispute Resolution Procedures to reach concurrence before continuing with the process.	Approving Official
25	Sign General Correspondence Letter	The Approving Official signs the <i>General Correspondence Letter</i> .	Approving Official
26	Send Letter to Applicant and notify OHMS	The Approvals IT System/HMIS sends the <i>General Correspondence Letter</i> or the <i>Modification, Suspension, or Termination Letter</i> to the Applicant and notifies all relevant OHMS Divisions. <End>	Approvals IT System/HMIS

## Section 6. Approval Reconsideration Process

### 6.1 Purpose

The purpose of the reconsideration process is to allow new Applicants or Approval Holders the opportunity to request that PHMSA reconsider its decision to deny, suspend, or terminate an application or existing approval.

### 6.2 Procedural Overview

Applicants and Approval Holders may petition for reconsideration if an application is denied or an approval is suspended or terminated. If Applicants and Approval Holders choose to submit a request for reconsideration, PHMSA will reevaluate the application or approval taking into consideration the new information provided. As outlined in 49 CFR Section 107.715, requests for reconsideration must:

- Be in writing and filed within 20 days of receipt of the decision
- State in detail any alleged errors of fact and law
- Enclose any additional information needed to support the request to reconsider
- State in detail the modification of the final decision sought.

The reconsideration process involves two basic procedures: (1) Completeness Review; and (2) Evaluation.

#### 6.2.1 Completeness Review

Upon receipt of the petition for reconsideration, the Project Officer reviews the petition to determine whether the reconsideration materials are satisfactory. This review assesses whether the petition meets all of the criteria required by the HMR.

#### 6.2.2 Evaluation

If satisfactory, the petition is evaluated by either a Project Officer or Technical Officer (based on the nature of the approval). Once a decision is made, the responsible party drafts a justification that recommends issuing an *Approval Document* or *Denial Letter*.

### 6.3 Procedures

Table 6-1 describes the detailed procedures used to conduct reconsideration activities. Documents and forms utilized during specific procedures in the table appear in italicized text, and are also described in detail in Section Section 10.

**Table 6-1: Procedures for Reconsideration**

#	Description	Narrative	Responsibility
1	Submit petition for reconsideration	Once denied, modified, suspended or terminated, the Applicant completes and submits a petition for reconsideration.	Applicant
2	Generate folder in IT system and assign tracking	The Project Officer is responsible for creating a new application folder in the Approvals IT System/HMIS for the application and assigns it a unique tracking	Project Officer

#	Description	Narrative	Responsibility
	number	number. Information in the folder includes: <ul style="list-style-type: none"> <li>• Petition for reconsideration</li> <li>• Information from the initial approval or special permit application (original application, safety evaluation, and justification)</li> </ul>	
3	Verify petition materials are satisfactory	The Project Officer determines whether the petition meets the criteria outlined in the HMR and whether the information provided is adequate to conduct an appropriate evaluation. The request must be in writing and filed within 20 days of receipt of the decision, state in detail any alleged errors of fact and law, enclose any additional information needed to support the request to reconsider, and state in detail the modification of the final decision sought. If the information provided is insufficient, PHMSA may reject the petition.	Project Officer
4	Are petition materials satisfactory?	The Project Officer determines whether the petition is satisfactory based on the results of his/her review of the petition in step 3. If the petition is satisfactory, skip to step 11.	Project Officer
5	Draft Rejection Letter	If the petition is not satisfactory, the Project Officer drafts a <i>Rejection Letter</i> that includes the rationale for rejecting the petition and sends it to the Approving Official.	Project Officer
6	Review Rejection Letter	The Approving Official reviews the <i>Rejection Letter</i> .	Approving Official
7	Concurs with decision?	If Approving Official does not concur, go to Dispute Resolution Procedures to reach concurrence before continuing with the process.	Approving Official
8	Sign Rejection Letter	The Approving Official signs the <i>Rejection Letter</i> .	Approving Official
9	Send Rejection Letter to Applicant	The Approvals IT System/HMIS automatically sends the <i>Rejection Letter</i> to the Applicant after it is signed by the Approving Official.	Approvals IT System/HMIS
10	Change status on PHMSA website	After the <i>Rejection Letter</i> is sent to the Applicant, the Approvals IT System/HMIS automatically changes the application status on the PHMSA website, informing the Applicant that his/her application has completed the review process. <End>	Approvals IT System/HMIS
11	Needs technical evaluation?	After reviewing the petition, the Project Officer determines whether a technical evaluation is necessary. If not, skip to step 17.	Project Officer
12	Assign to appropriate specialist	If a technical review is needed, the Senior Technical Officer assigns the evaluation to the appropriate specialist based on expertise and work load.	Senior Technical Officer
13	Conduct technical evaluation	The Technical Officer evaluates the petition to determine whether PHMSA should issue the applicant an approval or special permit.	Technical Officer

#	Description	Narrative	Responsibility
14	Recommend approval or denial	The Technical Officer makes a recommendation on whether PHMSA should approve or deny the request for reconsideration.	Technical Officer
15	Review evaluation and recommendation	The Senior Technical Officer reviews the recommendation and evaluation.	Senior Technical Officer
16	Concurs with decision?	<p>The Senior Technical Officer either agrees with the recommendation for approval or denial of the reconsideration petition, or disagrees with the recommendation made by the Technical Officer.</p> <p>If the Senior Technical Officer agrees with the recommendation, skip to step 18.</p> <p>If the Senior Technical Officer disagrees with the recommendation, go to the Dispute Resolution Procedures to reach concurrence before continuing with the process.</p>	Senior Technical Officer
17	Evaluate petition	If a technical review is unnecessary, the Project Officer reviews the petition for reconsideration. He/she evaluates the newly submitted information to determine whether the information could have reasonably been submitted during the application processing.	Project Officer
18	Recommend approval or denial	Based on his/her evaluation or the Technical Officer's evaluation, the Project Officer recommends either approving (in whole or in part) or denying the request for reconsideration.	Project Officer
19	Is OA concurrence needed?	The Project Officer determines whether the application needs concurrence by the OA Coordinating Official(s). If so, the Project Officer sends the application materials to the appropriate officials via the Approvals IT System/HMIS. If it does not need concurrence, skip to step 27.	Project Officer
20	Review fitness and safety evaluation	The OA Coordinating Official(s) reviews access to the Applicant information including: full application, <i>Application Evaluation Form</i> , supporting documents, historical information including the original approval or special permit application, safety evaluation, and justification will also be provided.	OA Coordinating Official
21	Are provisions necessary?	Based on his/her review, the OA Coordinating Official(s) determines whether provisions need to be added to the approval or special permit. If so, continue to step 22. If not, skip to step 23.	OA Coordinating Official

#	Description	Narrative	Responsibility
22	Provide additional specifications for approval or special permit	The OA Coordinating Official includes any additional restrictions or limitations to the approval he/she finds necessary.	OA Coordinating Official
23	Provide concurrence decision and justification	The OA Coordinating Official documents his/her concurrence decision. If he/she does not concur, then an explanation for this decision is provided.	OA Coordinating Official
24	Review concurrence decision and justification	The Project Officer reviews the OA concurrence decision.	Project Officer
25	Concurs with OA's?	The Project Officer looks to see whether the OA Coordinating Official's recommendation concurs with PHMSA's recommendation. If no, it is sent to the Approving Official for further review and resolution. If yes, skip to step 27.	Project Officer
26	Coordinate and document resolution	If the OA's recommendation does not concur with PHMSA's recommendation, the Approving Official coordinates with the Administrator, as appropriate, on resolution of PHMSA/OA Coordinating Official decisions.	Approving Official
27	Draft Approval/Special Permit Document or Denial Letter	The Project Officer drafts an <i>Approval Document</i> , <i>Special Permit Document</i> or <i>Denial Letter</i> . If the petition for reconsideration is being denied, the Project Officer includes justification for why the approval or special permit is being denied.	Project Officer
28	Review Petition Materials for Accuracy	After drafting the <i>Approval Document</i> , <i>Special Permit Document</i> or <i>Denial Letter</i> , the Project Officer reviews all petition materials for accuracy, checking all the documents for quality and ensuring that all required documents are present in the Approvals IT System/HMIS.	Project Officer
29	Send petition materials to Approving Official	The Project Officer sends the application materials to the Approving Official via the Approvals IT System/HMIS. Go to Disposition Phase.	Project Officer

## Section 7. Approval Appeal Process

### 7.1 Purpose

The purpose of the appeal process is to allow Applicants and Approval Holders who were denied a request for reconsideration, the opportunity to appeal PHMSA's decision and provide new information and receive additional review from the agency.

### 7.2 Procedural Overview

Applicants and Approval Holders may request an appeal if an approval is denied after a petition for reconsideration. If an appeal request is made, PHMSA's Administrator will reevaluate the application or approval taking into consideration the new information provided. As outlined in 49 CFR Section 107.717, the appeal must:

- Be in writing and filed within 30 days of receipt of the Associate Administrator's decision on reconsideration
- State in detail any alleged errors of fact and law
- Enclose any additional information needed to support the appeal
- State in detail the modification of the final decision sought.

The appeal process involves two basic procedures: (1) Completeness Review; and (2) Evaluation

#### 7.2.1 Completeness Review

Upon receipt of the request for appeal, the Administrator (or the Administrator's staff) reviews the request to determine whether the appeal materials are satisfactory. This review assesses whether the request meets all of the criteria required by the HMR.

#### 7.2.2 Evaluation

If satisfactory, the request is evaluated by the Administrator, or a designee appointed by the Administrator. Upon review, the reviewer may require additional information. If such information is necessary, OHMS staff will review the request and provide all necessary information. Once all documents are reviewed, the responsible party decides whether to approve or deny the request for appeal and drafts a justification for issuing an *Approval Document* or *Denial Letter*.

### 7.3 Procedures

Table 7-1 describes the detailed procedures used to conduct appeals activities. Documents and forms utilized during specific procedures in the table appear in italicized text, and are also described in detail in Section Section 10.

**Table 7-1: Procedures for Appeal**

#	Description	Narrative	Responsibility
1	Submit request for appeal	After being denied a request for reconsideration, the Applicant completes and submits a request for appeal to the Administrator in accordance with 49 CFR Section 107.717. The request for appeal must: <ul style="list-style-type: none"> <li>• Be in writing and filed within 30 days of receipt of</li> </ul>	Applicant

#	Description	Narrative	Responsibility
		<p>the Associate Administrator’s decision on reconsideration</p> <ul style="list-style-type: none"> <li>• State in detail any alleged errors of fact and law</li> <li>• Enclose any additional information needed to support the appeal</li> <li>• State in detail the modification of the final decision sought.</li> </ul>	
2	Notification of appeal	The Office of the Administrator, upon receipt of an appeal, forwards the appeal to the Adjudications Counsel in the Office of the Chief Counsel for review, recommendation, and the drafting of a decision. The Administrator’s Office will also notify the Associate Administrator, Office of Hazardous Materials Safety, and the Director, Hazardous Materials Approvals and Permits Division of the appeal request.	Administrator
3	Place request in applicant folder	The Project Officer originally assigned to handle the Petition for Reconsideration places the appeal request into the pre-existing applicant approval or special permit folder. The Project Officer delivers all documents, evidence, and materials used to formulate the original and reconsideration decisions to the Adjudications Counsel for review. The Project Officer assists the Adjudications Counsel with the preparation of the administrative case file and follow-up matters.	Project Officer
4	Establish a Case Docket	The Adjudications Counsel establishes a case docket and materials are placed in the docket.	Legal Counsel
5	Verify the appeal materials are satisfactory	The Adjudications Counsel determines whether the request meets the criteria outlined in the HMR and whether the information provided is adequate to conduct an appropriate evaluation.	Legal Counsel
6	Are appeal materials satisfactory?	If the Adjudications Counsel determines that the request meets the criteria outlined in the HMR and the information provided is adequate to conduct an appropriate evaluation, skip to step 8. If not, continue to step 7.	Legal Counsel
7	Request additional information	The Adjudications Counsel may request additional information from the agency or the Applicant including, but not limited to, additional filings or briefings (written or oral) as needed to obtain a complete history and administrative case file. Any “in person” meeting must include representatives of both agency personnel and the Applicant in accordance with required due process.	Legal Counsel
8	Is interim decision needed?	The Administrator may issue an interim decision, if necessary, to avoid the risk of significant harm to persons or property, declaring the Associate Administrator’s action effective pending a decision on appeal.	Administrator

#	Description	Narrative	Responsibility
9	Issue interim decision	The Approving Official issues an interim decision to avoid the risk of significant harm to persons or property, declaring the Associate Administrator's action effective, pending a decision on appeal.	Administrator
10	Review decision on reconsideration and recommendation	The Adjudication Counsel reviews the completed administrative case file and formulates an initial decision. The Adjudications Counsel will informally meet with the Administrator to discuss the appeal, provide legal guidance, and seek the decision of the Administrator. The Administrator will provide direction to the Adjudications Counsel so that a written decision can be prepared and issued.	Legal Counsel
11	Draft order	The Adjudications Counsel drafts a decision on appeal. The decision may grant or deny the relief requested, in whole or in part.	Legal Counsel
12	Sign order	The Administrator then signs the order and the Adjudications Counsel serves the order in accordance with the rules of service. The decision on appeal is the final administrative action.	Administrator
13	Issue approval or special permit (if necessary)	If the Administrator's decision on appeal directs that an approval or special permit be issued to the Applicant, the Associate Administrator shall issue the approval or special permit consistent with the Administrator's decision. <End>	Associate Administrator

## Section 8. Minimum Level of Fitness Review Process

### 8.1 Purpose

The purpose of the Minimum Level of Fitness Review Process is to determine whether an Applicant is fit to hold an approval.

### 8.2 Procedural Overview

Under 49 CFR Section 107.709(d) PHMSA may only grant an approval on finding that an Applicant is fit to conduct the activity authorized by the approval, or renewal or modification of approval. PHMSA may determine an Applicant's fitness through the information provided in the application, the Applicant's prior compliance history, or other information that is available to the Associate Administrator.

### 8.3 Procedures

PHMSA currently evaluates an Applicant's fitness through a three-tiered Minimum Level of Fitness Review. The Approving Official is responsible for evaluating the Minimum Level of Fitness Review prior to granting an Applicant approval to act as a certification approval agency. The purpose of the Tier Three Minimum Level of Fitness Review process is to conduct an on-site fitness inspection of Applicants who were determined, during the Tier Two Minimum Level of Fitness Review, to be in need of further review. During the Tier Three Minimum Level of Fitness Review process, Applicants will either be determined fit or unfit to hold an approval.

Prospective certification agencies receive an on-site fitness inspection after they submit a complete application. This on-site fitness inspection, which is described in detail in the Application Review Process for Certification Agencies in the Evaluation Phase (Section 3.2), constitutes the Minimum Level of Fitness Review for certification agencies.

## Section 9. Post-Approval Responsibilities

PHMSA is responsible for providing oversight of all five Certification Agency types: Designated Approval, Independent Inspection, Packaging Certification, Explosive Examination, and Lighter Testing. This section identifies and describes the oversight responsibilities PHMSA has with respect to the approvals associated with each of these five Certification Agency types. Management and oversight responsibilities fall into two categories: (1) Reporting; and (2) Compliance Inspections.

### 9.1 Reporting

It is the responsibility of the Approving Official to ensure that Approval Holders adhere to the reporting requirements associated with their approvals. Depending on the nature of the approval, certain Approval Holders must report to PHMSA at regular intervals with data relating to activities conducted under the authority of their approval. Reporting requirements vary across the different certification agency types, and are summarized in Table 9-1.

**Table 9-1: Required Information for Approved Certification Agency Reports**

Certification Agency Type	Report Frequency and Required Information
Designated Approval	<p><u>Report Frequency:</u> Annual reports required</p> <p><u>Required Information:</u></p> <ul style="list-style-type: none"> <li>• The designated approval agency's               <ul style="list-style-type: none"> <li>- Identification code</li> <li>- Name, address, and contact information for each location where services are provided</li> </ul> </li> <li>• Detailed information on the type and quantity of certifications and approvals issued in the previous year</li> <li>• A statement that the certifying inspector's training is still up to date</li> <li>• A statement that the company is still authorized by their own Competent Authority to perform the same certification and that reciprocity with U.S. companies for the same service is still authorized in the applicant's country</li> </ul>
Independent Inspection	<p><u>Report Frequency:</u> Semiannual reports required</p> <p><u>Required Information:</u></p> <ul style="list-style-type: none"> <li>• Part 1: Provides a detailed listing of all the activities the independent inspection agency engaged in during the previous six months with respect to performing tests, inspections, verifications, and certifications of DOT specification cylinders or UN/ISO pressure receptacles. For each relevant action conducted by the independent inspection agency, the report must include:               <ul style="list-style-type: none"> <li>- The date(s), location(s), and name of the authorized experts who witnessed the testing conducted by the approved independent inspection agency</li> <li>- Types of DOT specification cylinders and UN/ISO pressure receptacles tested or inspected</li> <li>- Types of tests and inspections conducted</li> </ul> </li> <li>• Part 2: Provides a list of planned inspections over the next six months for entities seeking to repair, rebuild, or requalify cylinders. The list of planned</li> </ul>

Certification Agency Type	Report Frequency and Required Information
	inspections scheduled by the independent inspection agency must include: <ul style="list-style-type: none"> <li>- The name of the entity seeking inspection</li> <li>- The date(s) and location(s) of each planned inspection, as well as the name of the IIA’s inspector scheduled to conduct the inspection</li> </ul>
Packaging Certification	<u>Report Frequency:</u> Semiannual reports required <u>Required Information:</u> <ul style="list-style-type: none"> <li>• The package certification agency’s:                             <ul style="list-style-type: none"> <li>- Identification code</li> <li>- Name, address, and contact information</li> </ul> </li> <li>• Detailed information on the type and quantity of packaging tested                             <ul style="list-style-type: none"> <li>- The complete UN/DOT certification string of each package tested</li> <li>- Name and physical address of any company for which testing was performed and the date on which testing was completed.</li> </ul> </li> </ul>
Explosive Examination	<u>Report Frequency:</u> Annual reports required <u>Required Information:</u> <ul style="list-style-type: none"> <li>• <b>Annual Report of Activity:</b> The annual report of activity provides a detailed listing of all the activities the explosive examination agency engaged in during the previous year with respect to issuing recommended explosive classifications in accordance with the HMR. For each explosive examination conducted by the lab, the report must include:                             <ul style="list-style-type: none"> <li>- The date(s) and location(s) of the tests, and the name(s) of the authorized experts who designed and witnessed the testing</li> <li>- Whether the explosive required a tentative authorization in order for unapproved explosive samples to be sent to the testing site</li> <li>- A summary listing of each revenue source from the previous year as well as the contribution that each revenue source represents, expressed as a percentage of the lab’s total gross income</li> </ul> </li> <li>• <b>Annual Certificate of Compliance:</b> The annual certificate of compliance provides a statement from the lab indicating that it is in compliance with the terms of its approval.</li> </ul>
Lighter Testing	<u>Report Frequency:</u> Monthly reports required <u>Required Information:</u> <ul style="list-style-type: none"> <li>• Testing agency’s:                             <ul style="list-style-type: none"> <li>- Identification number</li> <li>- Certificate number</li> <li>- Name, address, and phone number</li> <li>- E-mail address</li> </ul> </li> <li>• For each lighter design tested in the month of the report:                             <ul style="list-style-type: none"> <li>- Lighter identification</li> <li>- Type of inner packaging (e.g., box, blister, tray, etc.)</li> <li>- Maximum recommended lighters per outer package</li> </ul> </li> </ul>

The Approving Official is responsible for verifying that each approved certification agency submits its reports and certificate of compliance (if applicable) in accordance with the conditions of its approval. If an approved certification agency does not submit its annual, biannual, or monthly report as stipulated

by its approval, then the Approving Official may suspend or terminate the approval as described in Section Section 5.

## 9.2 Compliance Inspections

PHMSA conducts inspections of approved certification agencies to ensure that they are operating in accordance with the conditions of their approvals and the requirements of the HMR. The Approving Official is responsible for ensuring that inspections of all types of certification agencies occur to ensure compliance with the law. The Enforcement Liaison, however, is responsible for conducting enforcement inspections of certification agencies in accordance with the procedures documented in the *Field Operations Manual*.

Note: The Approving Official can recommend an additional fitness review if an approved explosive examination agency's annual report indicates that a single client was responsible for more than 20% of the gross revenue for the examination agency during the reporting period, which may indicate a dependence on the client (49 CFR Sections 107.402(b)(5) and 173.56(b)(1)(ii)).

## Section 10. Forms and Documents

All forms and documents utilized to review approvals should be standardized. Paper forms will be replaced with automated forms where possible and advantageous to PHMSA. The purpose of standardization is to provide clear and consistent information and instructions to Applicants and staff so that the agency will receive and maintain high-quality information in its records.

The following are the types of forms and documents used and issued by PHMSA during the approval process.

### 10.1 Application Completeness Review Form

The Application Completeness Form is prepared and maintained by the Division of Approvals and Permits. Approvals and Permits staff use the form to determine whether information provided by the Applicant is satisfactory to evaluate. Among other information, this form contains:

- Applicant name, address and other identifying information
- Regulatory code for which approval is being requested
- A checklist of items the Applicant must provide to have a satisfactory application.

### 10.2 Approval Document

The Approval Document is prepared and maintained by the Division of Approvals and Permits. Approvals and Permits staff use the document to respond positively to a request for approval or renewal. Among other information, the document contains:

- Name of Approval Holder
- Regulatory authority under which the approval is issued
- Conditions and special provisions attached to the approval
- Signature of the Approving Official
- Certain approval types will contain more specific information (e.g., EX number, expiration date of the approval, date that the Applicant should apply for renewal, identification code and symbol issued by certification agency).

### 10.3 Approval Extension Letter

The Approval Extension Letter is prepared and maintained by the Division of Approvals and Permits. The letter is used by staff in Approvals and Permits to inform an Applicant who has applied for renewal that the expiration date on their existing approval is being extended until PHMSA can process their renewal application. Among other information, the letter contains:

- New expiration date for approval
- Signature of Approving Official.

### 10.4 Approval Modification, Termination or Suspension Letter

The Approval Modification, Termination, or Suspension Letter is prepared and maintained by the Division of Approvals and Permits. The letter is used by OHMS staff to inform an Approval Holder

that PHMSA is modifying, terminating or suspending its approval. Among other information, the letter contains:

- Reasons why PHMSA is either modifying, terminating, or suspending the approval
- Signature of the Approving Official.

## 10.5 Denial Letter

The Denial Letter is prepared and maintained by the Division of Approvals and Permits. Approvals and Permits staff use the letter to inform Applicants and/or Approval Holders that their application for approval, renewal, reconsideration or appeal has been denied. Among other information, the standard letter contains:

- Date and brief description of the approval request
- Reasons for denial of the request
- Signature of the Approving Official.

## 10.6 Evaluation Criteria for Third Party Approval for Testing Explosives

The Evaluation Criteria for Third Party Approval for Testing Explosives is maintained by the Division of Engineering and Research. The document contains criteria for evaluating prospective explosive examination agencies and is used by Engineering and Research staff to aid in the evaluation of an application received by PHMSA. Among other data, the document contains:

- List of personnel qualifications needed by an explosive examination agency
- List of test equipment that must be available to an explosive examination agency
- List of other information that must be provided by the Applicant.

## 10.7 Fitness Evaluation Form

The Fitness Evaluation Form is prepared and maintained by the Division of Approvals and Permits. The form is used by Approvals and Permits staff to conduct Tier One Minimum Level of Fitness Reviews. As mentioned previously, the fitness evaluation process is currently under review and may be modified in the future. Among other information, this form contains:

- Data that indicate whether the Applicant has had a hazardous materials incident in the last five years
- Data that indicate whether the Applicant has received a civil enforcement cases, warning letters, or a combination of the two
- Data that indicate the SAFER rating and out-of-service percentage, if applicable.

## 10.8 Information Request Letter

The Information Request Letter is prepared and maintained by the Division of Approvals and Permits. Approvals and Permits staff use the letter to request additional information from approval Applicants. Among other information, the letter contains:

- Date and brief description of the approval request from the Applicant

- Information requested by PHMSA
- Signature of the Approving Official.

## 10.9 Inspection Form

The Inspection Form is a form prepared and maintained by the Field Operations. It is used to conduct on-site inspections.

## 10.10 Inspection Notification Letter

The Inspection Notification Letter is a form prepared and maintained by Field Operations. This form is used to provide international and certain domestic Applicants with the details surrounding an impending on-site facility inspection. Among other information, the standard letter contains:

- Date, time and location(s) of the on-site facility inspection(s)
- Procedures, equipment and documents to be inspected during the on-site facility inspection
- Methods for reimbursing PHMSA allowable expenses
- Signature.

## 10.11 Lighter Inspection Checklist

The Lighter Inspection Checklist is prepared and maintained by the Approvals and Permits Division. It is used by investigators (designated by the Enforcement Liaison from Field Operations) during on-site fitness inspections of applicants seeking to become lighter testing agencies. Among other data, the checklist includes:

- Facility contact information, general descriptive information, and confirmation of documentation/regulation requirements
- Guidance for the examination and testing of sample lighters
- List of test equipment that must be available to a lighter testing agency
- Confirmation of recordkeeping requirements.

## 10.12 Rejection Letter

The Rejection Letter is a standard letter prepared and maintained by the Division of Approvals and Permits. The letter is used by Approvals and Permits staff to inform Applicants that their application has been rejected. Among other data, the standard letter contains:

- Date and brief description of the approval request from the Applicant
- Reasons why PHMSA rejected the application
- Signature of the Approving Official.

## 10.13 Show Cause Letter

The Show Cause Letter is prepared by the Office of Chief Counsel, in cooperation with the Office of Hazardous Materials Special Permits and Approvals. The letter is used by Approvals and Permits staff to inform an Approval Holder that PHMSA has learned of facts or conduct believed to warrant

modification, suspension or termination of the holder's approval. Among other information, the letter contains:

- Reasons why PHMSA is either seeking to terminate, suspend, or modify the approval
- Signature of the Approving Official.

## Appendix A: Certification Agency Approval Types

Table A-1 presents brief definitions for the different types of Certification Agency Approvals granted by PHMSA.

**Table A-1: Types of Certification Agency Approvals**

Approval	Definition
Designated Approval Agencies	PHMSA issues approvals to act as designated approval agencies. Designated approval agencies issue approval certificates and certifications for UN portable tanks and multiple element gas containers in accordance with the requirements of the HMR. For more information see 49 CFR Section 107.401.
Independent Inspection Agencies	PHMSA issues approvals to act as independent inspection agencies. Independent inspection agencies perform tests, inspections, verifications, and certifications of DOT specification cylinders or UN/ISO pressure receptacles in accordance with the requirements of the HMR. For more information, see 49 CFR Section 107.803.
Package Certification Agencies	PHMSA issues approvals to act as packaging certification agencies. Packaging certification agencies test and recommend certification of UN-standard performance oriented packaging in accordance with the requirements of the HMR. For more information, see 49 CFR Section 107.401.
Explosive Examination Agencies	PHMSA authorizes laboratories to perform explosive classification evaluations and provide a classification recommendation on the basis of an approval issued to the laboratory. Explosive test laboratories examine and test explosives and issue classification recommendations to PHMSA (i.e., recommended shipping description, division, and compatibility group) in accordance with the requirements of the HMR. For more information, see 49 CFR Section 173.56.
Lighter Testing Agencies	PHMSA issues approvals to act as lighter testing agencies. Lighter testing agencies examine and test new lighter designs in accordance with the requirements of the HMR. For more information, see 49 CFR Section 173.308.

## Appendix B: Definitions

- **Administrator:** The Administrator, Pipeline and Hazardous Materials Safety Administration.
- **American Pyrotechnics Standard 87-1:** Industry standard developed by the American Pyrotechnics Association (APA) that outlines the types of products that can be approved by PHMSA as fireworks.
- **Approval:** Written consent, including a competent authority approval, from the Associate Administrator or other designated Department official, to perform a function that requires prior consent under subchapter C of this chapter (49 CFR Parts 171 through 180).<sup>9</sup>
- **Associate Administrator:** The Associate Administrator for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.
- **Competent Authority:** A national agency that is responsible, under its national law, for the control or regulation of some aspect of hazardous materials (dangerous goods) transportation. Another term for Competent Authority is “Appropriate authority” which is used in the International Civil Aviation Organization’s (ICAO) Technical Instructions for the Safe Transport of Dangerous Goods by Air. The Associate Administrator is the United States Competent Authority for purposes of 49 CFR Part 107.<sup>10</sup>
- **Competent Authority Approval:** An approval by the competent authority that is required under an international standard (for example, the ICAO Technical Instructions for the Safe Transport of Dangerous Goods by Air and the International Maritime Dangerous Goods Code). Any of the following may be considered a competent authority approval if it satisfies the requirement of an international standard: (1) A specific regulation in subchapter A or C of this chapter. (2) A special permit or approval issued under subchapter A or C of this chapter. (3) A separate document issued to one or more persons by the Associate Administrator.<sup>11</sup>
- **Cylinder:** A pressure vessel designed for pressure higher than 40 psia and having a circular cross section. It does not include a portable tank, multi-unit tank car tank, cargo tank or tank car.
- **EX Number:** A number preceded by the prefix “EX”, assigned by the Associate Administrator, to an item that has been evaluated under the provisions of 49 CFR Section 173.56.
- **Equivalent Level of Safety:** An approvals application must demonstrate that the proposed activity will achieve a level of safety that is at least equal to that required by the regulation, or if the regulations do not establish a level of safety, is consistent with the public interest and adequately will protect against the risk of life and property inherent in the transportation of hazardous materials in commerce.<sup>12</sup>
- **Federal Hazardous Materials Transportation Law:** 49 U.S.C. 5101 *et seq.*
- **Fuel Cell:** An electrochemical device that converts the energy of the chemical reaction between a fuel, such as hydrogen or hydrogen rich gases, alcohols, or hydrocarbons, and an oxidant, such as air or oxygen, to direct current (d.c.) power, heat, and other reaction products.

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<sup>9</sup> 49 CFR Section 105.5

<sup>10</sup> 49 CFR Section 105.5

<sup>11</sup> 49 CFR Section 105.5

<sup>12</sup> 49 CFR Section 107.709(d)

- **Hazard Class:** The category of hazard assigned to a hazardous material under the definitional criteria of 49 CFR Part 173 and the provisions of the 49 CFR Section 172.101 table.
- **Hazardous Material:** A substance or material that the Secretary of Transportation has determined is capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and has designated as hazardous under section 5103 of Federal Hazardous Materials Transportation Law (49 U.S.C. 5103). The term includes hazardous substances, hazardous wastes, marine pollutants, elevated temperature materials, materials designated as hazardous in the Hazardous Materials Table (see 49 CFR Section 172.101), and materials that meet the defining criteria for hazard classes and divisions in 49 CFR Part 173 of Subchapter C of this chapter.<sup>13</sup>
- **Hazardous Materials Regulations:** The regulations at 49 CFR Parts 171 through 180.<sup>14</sup>
- **IAEA:** International Atomic Energy Agency.
- **ICAO:** International Civil Aviation Organization.
- **IMO:** International Maritime Organization.
- **Jerrican:** A metal or plastic packaging of rectangular or polygonal cross-section.
- **Lighter:** A mechanically operated flame-producing device employing an ignition device and containing a Class 3 or a Division 2.1 material. For design, capacity, and filling density requirements for lighters containing a Division 2.1 material, see 49 CFR Section 173.308.
- **Minimum Level of Fitness:** An Applicant is assessed to determine if they are fit to conduct the activity authorized by the approval, or renewal or modification of approval. This assessment may be based on information in the application, prior compliance history of the Applicant, and other information available to the Associate Administrator.<sup>15</sup>
- **Multiple Element Gas Container:** An assembly of UN cylinders, tubes, or bundles of cylinders interconnected by a manifold and assembled within a framework. The term includes all service equipment and structural equipment necessary for the transport of gases.
- **Oxygen Generator (Chemical):** A device containing chemicals that upon activation release oxygen as a product of chemical reaction.
- **Package:** A packaging plus its contents. For radioactive materials, see 49 CFR Section 173.403.
- **Packaging:** A receptacle and any other components or materials necessary for the receptacle to perform its containment function in conformance with the minimum packing requirements of this subchapter. For radioactive materials packaging, see 49 CFR Section 173.403 of this subchapter.
- **Portable Tank:** A bulk packaging (except a cylinder having a water capacity of 1000 pounds or less) designed primarily to be loaded onto, or on, or temporarily attached to a transport vehicle or ship and equipped with skids, mountings, or accessories to facilitate handling of the tank by mechanical means. It does not include a cargo tank, tank car, multi-unit tank car tank, or trailer carrying 3AX, 3AAX, or 3T cylinders.

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<sup>13</sup> 49 CFR Section 105.5

<sup>14</sup> 49 CFR Section 105.5

<sup>15</sup> 49 CFR Section 107.709(d)

- **UN Cylinder:** A transportable pressure receptacle with a water capacity not exceeding 150 L that has been marked and certified as conforming to the applicable requirements in part 178 of this subchapter.
- **UN Portable Tank:** An intermodal tank having a capacity of more than 450 liters (118.9 gallons). It includes a shell fitted with service equipment and structural equipment, including stabilizing members external to the shell and skids, mountings or accessories to facilitate mechanical handling. A UN portable tank must be capable of being filled and discharged without the removal of its structural equipment and must be capable of being lifted when full. Cargo tanks, rail tank car tanks, non-metallic tanks, non-specification tanks, bulk bins, and IBCs and packaging made to cylinder specifications are not UN portable tanks.
- **UN Pressure Receptacle:** A UN cylinder or tube.

## Appendix C: Information Technology Resources

PHMSA uses several information systems as resources to help manage the Approvals Program. Table C-1 lists the IT resources currently used by PHMSA and its fellow OAs. These systems support specific functions, including document management and fitness reviews of approval Applicants.

**Table C-1: Information Technology Resources**

Application	Description
Approvals IT System	The Approvals IT System is a web-based application that maintains and provides access to information on the Approvals Program. The application serves as a document management system for processing approval applications and oversight of active approvals. Staff at PHMSA and the other OAs have access to the system and use it to collaborate when evaluating approval applications.
ISYS	ISYS is an application that functions as a search tool for the Approvals IT System. Users can search for existing approvals or other documents using keywords.
Hazmat Intelligence Portal (HIP)	HIP is a web-based application that allows the OAs to collaborate on hazardous materials-related data. HIP seeks to support government hazardous materials professionals by providing enforcement and other information on companies involved in the hazardous materials industry. The system is currently under development.
Safety and Fitness Electronic Records System (SAFER)	SAFER is an FMCSA web-based system that offers motor carrier company safety data to government and industry professionals, as well as the public. Users can search FMCSA databases, register for a US DOT number, pay fines online, order company safety profiles, challenge FMCSA data using the DataQs system, access the Hazardous Material Route registry, obtain national crash and out-of-service rates for hazardous materials permit registrations, get printable registration forms, and find information about other FMCSA Information Systems.