



DEPARTMENT OF TRANSPORTATION

MATERIALS TRANSPORTATION BUREAU

WASHINGTON, D.C. 20590

15013

Title 49—Transportation

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

PART 172—LIST OF HAZARDOUS MATERIALS

PART 173—SHIPPERS

[Docket No. HM-116; Amdt. Nos. 172-30, 173-95]

Classification of New Explosives and Shipment of Samples of Explosives

The purpose of these amendments to Parts 172 and 173 of the Department of Transportation's Hazardous Materials Regulations is to:

1. Permit the Energy Research and Development Administration (ERDA), formerly a part of the U.S. Atomic Energy Commission, to examine, classify, and approve for its own activities new explosives as being safe for transportation;
2. Restructure and clarify the regulations contained in section 173.86 pertaining to new explosives, and
3. Provide a shipping name for samples of new explosives shipped under section 173.86.

Interested persons have been afforded opportunity to participate in the making of these amendments by coming on a notice of proposed rule making (Notice No. 74-5) published April 4, 1974 (39 FR 12261). All commenters who responded to the proposed change in section 173.86(b) supported authorizing ERDA to classify and approve new explosives made by or under the supervision of ERDA. ERDA operates government-owned laboratories and research facilities which are equivalent in experience and capabilities to the laboratories of the Bureau of Explosives and the Department of Defense for examining and testing explosives. Because of their expertise in this area, this Bureau has included ERDA as an authorized agency for evaluating new explosives.

Several commenters objected to the proposed definition of a "new explosive" in section 173.86(a). They felt the definition was still unclear and submitted suggestions for the definition of a "new explosive." With minor changes, the Bureau adopted the recommendations and has added a more complete definition of a "new explosive."

One commenter objected to the proposed change in section 173.86a(c), that ignition elements be removed from samples of explosives before shipment. The commenter felt the requirement, if interpreted literally, would mean that the wire and bridge wire would have to be removed from electric blasting caps. Though no commenter mentioned it, a literal interpretation would also mean that the fuses would have to be removed

from many types of fireworks. The Bureau agrees that this would be an impractical and unnecessary requirement and has withdrawn that portion of the proposal.

Two commenters stated that it is often necessary to move new, unclassified explosives from plants to laboratories or field test sites for functional evaluations. If the new explosives do not perform as expected, the manufacturer may not pursue their development any further, and the Bureau believes it would be an unnecessary expense to send samples to one of three agencies authorized to approve them if these explosives will not be used commercially and move in transportation. The Bureau, therefore, has added a new paragraph (e) to section 173.86 to allow transport of these unclassified explosives for testing purposes under special conditions.

In consideration of the foregoing and the reasons given in Notice No. 74-5, Parts 172 and 173 of Title 49 CFR are amended as follows:

1. In § 172.5 paragraph (a) is amended as follows:

§ 172.5 List of hazardous materials.

(a) * * *

Article	Classed as	Exemptions and packing (see sec.)	Label required if not exempt	Maximum quantity in 1 outside container by rail express
(Delete)				
Samples of explosives.....	See § 173.86			
Samples, new explosives.....	See § 173.86			
Samples of explosives and explosives articles.....	See § 173.86			
(Add)				
Explosive, new, approval and evaluation.....	See § 173.86			

2. § 173.86 is amended to read as follows:

§ 173.86 New explosives, definitions; approval and notification.

(a) As used in this section, "new explosive" means an explosive compound, mixture or device, produced by a person who:

- (1) Has not previously produced that explosive compound, mixture or device; or

- (2) Has previously produced the explosive compound, mixture or device, but has made a change in the formulation, design, process or production equipment. An explosive compound, mixture or device will not be considered a "new explosive" if an agency listed in paragraph (b) of this section has determined and confirmed in writing to the Office of Hazardous Materials Operations (OHMO) that there are no significant differences in hazard characteristics relative to the explosive compound, mixture or device previously approved.

(b) No person may offer a new explosive for transportation unless it has been examined, classed, and approved by one of the following agencies:

- (1) Bureau of Explosives;

- (2) The U.S. Energy Research and Development Administration (ERDA) for new explosives made by, or under the direction or supervision of ERDA when tested in accordance with the Explosives Hazard Classification Procedures contained in DOD TB 700-2 (May 19, 1967), or

- (3) U.S. Army Material Development and Readiness Command (DRCFS), Naval Sea Systems Command (NAVSEA 04H), or HQUSAF (IGD/SEV) for new explosives made by, or under the direction or supervision of the Department of Defense when tested in accordance with the Explosives Hazard Classification procedures contained in DOD TB 700-2 (May 19, 1967), (NAVORDIMST 8020.3 to 11A-1-47, DSAR 8220.1)

(c) Except as provided in paragraphs (d) and (e) of this section, each person who offers a new explosive for transportation, other than a new DOD explosive covered by a security classification, must file a copy of the approval for the new explosive accompanied by a supporting laboratory report of equivalent data with OHMO before offering the new explosive for transportation.

(d) Notwithstanding paragraph (b) of this section, any person may offer a sample of a new explosive that has not been approved for transportation by railroad, highway, or vessel to a laboratory for examination and approval if:

(1) The new explosive has been assigned a tentative shipping description and class in writing by one of the agencies listed in paragraph (b) of this section;

(2) The sample consists of no more than five pounds of the new explosive;

(3) The new explosive is packaged as required in this part according to the tentative description and class assigned unless otherwise specified in writing by one of the agencies listed in paragraph (b) of this section, and

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

(i) The words "SAMPLE FOR LABORATORY EXAMINATION";

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

(iii) The tentative shipping description.

(e) Notwithstanding paragraph (b) of this section, a manufacturer of a new explosive that has not been examined or approved may transport that new explosive from where it was produced to an explosive testing facility if:

(1) The new explosive is not a forbidden explosive or an initiating explosive according to this subchapter;

(2) If the new explosive is a compound or mixture it must be described as high explosive or high explosive, liquid, as appropriate (other than when contained in a device) and packed, marked, labeled, and described on the shipping paper as required by this subchapter;

(3) If the new explosive is a device it must be assigned a tentative description and class by the owner and packed, marked, labeled, and described on the shipping paper as required by this subchapter;

(4) The new explosive is transported in a motor vehicle operated by the owner of the explosive, and

(5) The new explosive is accompanied by a person, in addition to the driver of the motor vehicle, who is qualified by training and experience to handle the explosive.

Effective May 12, 1976.

AUTHORITY: (18 U.S.C. 834, 49 CFR 1.53 (g)).

Issued in Washington, D.C. on April 5, 1976.

JAMES T. CURTIS, Jr.,

Director,

Materials Transportation Bureau.

[F R Doc. 78-10371 Filed 4-8-76; 8:45 am]

based on its tentative description and class: