



DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 107, 171, 172, and 173

[Docket No. PHMSA-2025-0105 (HM-268Q)]

RIN 2137-AG19

Hazardous Materials: Allowing Fireworks Certification Agencies (FCAs) to Approve Professional Fireworks

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule expands the authority of a Fireworks Certification Agency (FCA) to obtain the ability to approve fireworks constructed to certain requirements.

These amendments will streamline PHMSA's fireworks approval process and provide the industry with improved regulatory flexibility.

DATES: This final rule is effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

The incorporation by reference of certain publications listed in this rule is approved by the Director of the Federal Register as of **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Eugenio Cardez, Standards and Rulemaking Division, Pipeline and Hazardous Materials Safety Administration (PHMSA), 1200 New Jersey Avenue S.E., Washington, D.C. 20590, 202-366-8553, eugenio.cardez@dot.gov.

I. PHMSA Action

A. What action is PHMSA taking in this Final Rule?

PHMSA is expanding the authority of an FCA to obtain the ability to approve fireworks constructed to the requirements of APA 87-1A *Standard for the Construction, Classification, Approval, and Transportation of Consumer Fireworks* to include those fireworks constructed to meet the requirements of APA 87-1B, *Standard for the Construction, Classification, Approval, and Transportation of Display Fireworks*, and APA 87-1C, *Standard for the Construction, Classification, Approval, and Transportation of Entertainment Industry and Technical (EI&T) Pyrotechnics*. To accommodate the expansion of fireworks approvals under all three APA 87-1 standards, PHMSA is amending the following provisions in the Hazardous Materials Regulations (HMR; 49 CFR Parts 171 to 180):

- 49 CFR part 107: PHMSA is revising the references to include all three APA 87-1 standards.
- 49 CFR part 171: PHMSA is revising the definition for “FC number” and adding a reference to § 173.65 to the APA publications in § 171.7(f).
- 49 CFR part 172: PHMSA is revising Special Provision 200 to state that fireworks, pyrotechnic devices, or fuses may be certified for transportation by a DOT-approved FCA in accordance with the provisions of 49 CFR 173.65. PHMSA is revising three proper shipping name entries in the Hazardous Material Table (HMT) to reference the revised Special Provision 200. PHMSA is making conforming amendments to 49 CFR 172.320.
- 49 CFR part 173: PHMSA is revising 49 CFR 173.64 to reference provisions applicable to FCAs and revising 49 CFR 173.65 to retitle the provision and facilitate the approval of professional fireworks by FCAs.

B. Does this action apply to me?

Effective 30 days after publication of this final rule, FCAs subject to 49 CFR 107.402 will have the ability to obtain the authority to approve fireworks constructed to the APA 87-1B and APA 87-1C standards in addition to the currently authorized APA 87-1A standard. Currently, FCAs only have the authority to certify fireworks constructed to the APA 87-1A standard. After the effective date of this final rule, FCAs may also seek approval from PHMSA to certify fireworks constructed to the APA 87-1B and APA 87-1C standards.

C. Why is PHMSA taking this action?

PHMSA is taking this action in response to commenter feedback to provide fireworks manufacturers the flexibility to choose between either paying FCAs for expedited review and certification or relying on PHMSA's free—but sometimes longer—approval process. These amendments streamline PHMSA's fireworks approval process and provide the industry with greater regulatory flexibility. PHMSA finds these revisions will not have any adverse impact on safety.

II. Summary of Comments Received in Response to the Notice of Proposed Rulemaking

PHMSA published a notice of proposed rulemaking (NPRM), cited as *HM-268Q*, to gather feedback on expanding an FCA's authority to approve fireworks constructed to the APA 87-1B and APA 87-1C standards.¹ Please refer to the NPRM for background and discussion of the proposed change.

The following table alphabetically lists commenters to the NPRM:

Commenter Name	Docket No.
American Pyrotechnics Association	PHMSA-2025-0105-0003
Council on Safe Transportation of Hazardous Articles, Inc. (COSTHA)	PHMSA-2025-0105-0010
Dangerous Goods Advisory Council (DGAC)	PHMSA-2025-0105-0012

¹ 90 FR 28534 (Jul. 1, 2025).

National Fireworks Association	PHMSA-2025-0105-0009
Next FX, Inc	PHMSA-2025-0105-0008
Phantom Fireworks Companies	PHMSA-2025-0105-0013
Precocious Pyrotechnics Inc	PHMSA-2025-0105-0005
Pyrotechnique by Grucci Inc.	PHMSA-2025-0105-0004
Pyrotek Special Effects Inc.	PHMSA-2025-0105-0002
Ralph Santore & Sons, Inc.	PHMSA-2025-0105-0011
Tassilo Baur	PHMSA-2025-0105-0014
Tian Cheng Pyrotechnics Laboratory	PHMSA-2025-0105-0007

All commenters supported allowing FCAs to approve fireworks constructed to the APA 87-1B and APA 87-1C standards. However, some commenters had additional questions or concerns regarding this expansion.

First, Phantom Fireworks Companies conditioned its support on PHMSA “withdraw[ing] all existing UN0336 1.4G Professional Use approvals, eliminat[ing] the classification altogether and begin[ning] an earnest enforcement effort against the sale of overloaded illegal explosives disguised as 1.4G consumer fireworks and the sale of UN0336 1.4G Professional Use products in consumer fireworks showrooms and stores.” PHMSA acknowledges Phantom Fireworks Companies’ concerns and clarifies here in the preamble that PHMSA currently does not authorize FCAs to issue approvals classifying articles as “UN0336, Fireworks, 1.4G” [for professional use only]. Nonetheless, based on this comment, PHMSA will further revise 49 CFR 173.65 in this final rule by adding a new paragraph (a)(5) that will explicitly state that FCAs are not authorized to issue approvals under APA 87-1C classifying articles as “UN0336, Fireworks, 1.4G” [for professional use only]. Lastly, PHMSA will potentially address this issue in a future rulemaking. PHMSA has received a petition for rulemaking requesting that the HMR be updated to incorporate by reference (IBR) the 2024 version of the APA 87-1C standard, which eliminates the “UN0336, Fireworks, 1.4G” [for professional use only] classification altogether.²

² American Pyrotechnics Association (APA) Petition for Rulemaking (P-1802) (Apr. 23, 2025), available at: <https://www.regulations.gov/docket/PHMSA-2025-0045>.

Second, PHMSA received comments from Tian Cheng Pyrotechnics Laboratory requesting that PHMSA establish a special communication channel for FCAs that approve 1.3G fireworks to receive technical advice from PHMSA. PHMSA acknowledges Tian Cheng Pyrotechnics Laboratory's comments and always welcomes direct contact with the FCAs on any issue they are encountering. PHMSA also holds yearly meetings to address concerns from authorized FCAs and will continue to do so in order to provide further technical support for the approval of fireworks and related devices constructed to the APA 87-1B and APA 87-1C standards.

Separately, PHMSA notes the NPRM inadvertently proposed to revise the HMT entry for "UN0430, Articles, pyrotechnic" (to include revised Special Provision 200) instead of revising the HMT entry "UN0101, Fuse, non-detonating." In this final rule, PHMSA is correcting this error by amending the UN0101 HMT entry. PHMSA further notes that the proposed changes to 49 CFR 107.402 are being revised to address the inadvertent inclusion of UN0101 as part of the APA 87-1C standard. UN0101 is associated with the APA 87-1B standard, not the APA 87-1C standard. Lastly, PHMSA is clarifying the manufacturer certification requirement in 49 CFR 173.64(a)(3) for duplicate FCA applications to apply to all APA standards, not only APA 87-1A.

For these reasons, PHMSA is publishing this final rule to allow FCAs to approve fireworks constructed to the APA 87-1B and APA 87-1C standards. PHMSA finds these revisions will not have any adverse impact on safety.

III. Incorporation by Reference Discussion under 1 CFR Part 51

According to the Office of Management and Budget (OMB), Circular A-119, *"Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities,"* government agencies must use voluntary consensus standards wherever practical in the development of regulations.

PHMSA currently incorporates by reference into the HMR all or parts of numerous standards and specifications developed and published by standard development organizations (SDO). In general, SDOs accredited as voluntary consensus standards bodies develop, establish, or coordinate technical standards using agreed-upon procedures and update and revise their published standards every two to five years to reflect modern technology and best technical practices. The National Technology Transfer and Advancement Act of 1995 (NTTAA; Pub. L. 104-113) directs Federal agencies to use standards developed by voluntary consensus standards bodies in lieu of government-written standards whenever possible. The OMB issued Circular A-119, Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities, to implement section 12(d) of the NTTAA relative to the utilization of consensus technical standards by Federal agencies.³ This circular provides guidance for agencies participating in voluntary consensus standards bodies and describes procedures for satisfying the reporting requirements in the NTTAA.

PHMSA is responsible for determining which standards currently referenced in the HMR should be updated, revised, or removed, and which standards should be added to the HMR, under the NTTAA and OMB Circular A-119. Revisions to materials incorporated by reference in the HMR are handled via the rulemaking process, which allows for the public and regulated entities to provide input. During the rulemaking process, PHMSA must also obtain approval from the Office of the Federal Register to incorporate by reference any new materials. The Office of the Federal Register issued a rulemaking that revised 1 CFR 51.5 to require that an agency detail in the preamble of a rulemaking the ways the materials it proposes to incorporate by reference are reasonably

³ 81 FR 4673 (Jan. 27, 2016).

available to interested parties, or how the agency worked to make those materials reasonably available to interested parties.⁴

In this final rule, PHMSA is adding a reference to § 173.65 to the already incorporated by reference APA publications in § 171.7(f)(2) and (3) titled “APA 87-1B: Standard for the Construction, Classification, Approval, and Transportation of Display Fireworks” and “APA 87-1C: Standard for the Construction, Classification, Approval, and Transportation of Entertainment Industry and Technical (EI&T) Pyrotechnics.” The APA offers these standards for free on their website at <https://www.americanpyro.com/>.

IV. Regulatory Analysis and Notices

A. Legal Authority

This final rule is published under the authority of the Secretary of Transportation as set forth in the Federal Hazardous Materials Transportation Laws (49 U.S.C. § 5101 *et seq.*) and delegated to the PHMSA Administrator pursuant to 49 CFR 1.97.

B. Executive Order 12866; Regulatory Planning and Review

Executive Order (E.O.) 12866 (*Regulatory Planning and Review*), as implemented by 49 CFR Part 5, subpart B, requires agencies to regulate in the “most cost-effective manner,” to make a “reasoned determination that the benefits of the intended regulation justify its costs,” and to develop regulations that “impose the least burden on society.”⁵ In arriving at those conclusions, E.O. 12866 requires that agencies should consider “both quantifiable measures . . . and qualitative measures of costs and benefits that are difficult to quantify” and “maximize net benefits . . . unless a statute requires another regulatory approach.” E.O. 12866 also requires that “agencies should assess all costs and benefits of available regulatory alternatives, including the alternative

⁴ See “Incorporation by Reference,” 79 FR 66267, 66278 (Nov. 7, 2014).

⁵ 58 FR 51735 (Oct. 4, 1993); 91 FR 22431 (Apr. 27, 2026); DOT Order 2100.7 (*Ensuring Reliance Upon Sound Economic Analysis in Department of Transportation Policies, Programs, and Activities*); see also DOT Order 2100.6B (*Policies and Procedures for Rulemakings*).

of not regulating.” Pursuant to 49 CFR Part 5, subpart B, PHMSA and other Operating Administrations must generally choose the “least costly regulatory alternative that achieves the relevant objectives” unless required by law or compelling safety need. In addition, 49 CFR Part 5, subpart B specifies that regulations should generally “not be issued unless their benefits are expected to exceed their costs.”

E.O. 12866 and 49 CFR Part 5, subpart B also require that PHMSA submit “significant regulatory actions” to the Office of Information and Regulatory Affairs (OIRA) within the Executive Office of the President’s Office of Management and Budget (OMB) for review. This final rule is not a significant regulatory action pursuant to E.O. 12866 and has not been designated as a “major rule” as defined by the Congressional Review Act (5 U.S.C. § 801 *et seq.*).

PHMSA has complied with the requirements in E.O. 12866 as implemented by 49 CFR Part 5, subpart B and determined that this final rule will result in cost savings by providing industry with more options for the expedited processing of display and technical fireworks. PHMSA finds those cost savings will also result in reduced costs for the public to whom those entities may generally transfer a portion of their compliance costs.

C. Executive Orders 14192 and 14219

PHMSA has determined that this final rule is an E.O. 14192 (*Unleashing Prosperity Through Deregulation*) deregulatory action.⁶ PHMSA finds the total costs of the final rule on the regulated community will be less than zero. This final rule does not implicate any of the factors identified in section 2(a) of E.O. 14219 (*Ensuring Lawful Governance*) indicative of a regulation that is “unlawful . . . [or] that undermine[s] the national interest.”⁷

⁶ 90 FR 9065 (Feb. 6, 2025).

⁷ 90 FR 10583 (Feb. 25, 2025).

D. Energy-Related Executive Orders 13211, 14154, and 14156

PHMSA has analyzed this final rule in accordance with the principles and criteria contained in E.O. 14156 (*Declaring a National Energy Emergency*) and E.O. 14154 (*Unleashing American Energy*). The President has declared a national emergency to address America's inadequate energy development production, transportation, refining, and generation capacity, and asserted a Federal policy to unleash American energy by ensuring access to abundant supplies of reliable, affordable energy from, *inter alia*, the removal of "undue burden[s]" on the identification, development, or use of domestic energy resources. PHMSA finds this final rule to be consistent with E.O. 14156 and E.O. 14154 because it will not hinder or unduly burden the transportation or production of energy or energy-related products.

In addition, this final rule is not a "significant energy action" under E.O. 13211 (*Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*), which requires Federal agencies to prepare a Statement of Energy Effects for any "significant energy action."⁸ Because this final rule is not a significant action under E.O. 12866, it will not have a significant adverse effect on supply, distribution, or energy use; accordingly, OIRA has not designated this final rule as a significant energy action.

E. Executive Order 13132: Federalism

PHMSA analyzed this final rule in accordance with the principles and criteria contained in E.O. 13132 (*Federalism*) and the Presidential Memorandum (*Preemption*) published in the *Federal Register* on May 22, 2009.⁹ E.O. 13132 requires agencies to assure meaningful and timely input by State and local officials in the development of regulatory policies that may have "substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of

⁸ 66 FR 28355 (May 22, 2001).

⁹ 64 FR 43255 (Aug. 10, 1999); 74 FR 24693 (May 22, 2009).

power and responsibilities among the various levels of government.” The Federal Hazardous Materials Transportation Laws contain an express preemption provision at 49 U.S.C. § 5125(b) that preempts State, local, and Tribal requirements on certain covered subjects, unless the non-Federal requirements are “substantively the same” as the Federal requirements, including the following:

- (1) The designation, description, and classification of hazardous material;
- (2) The packing, repacking, handling, labeling, marking, and placarding of hazardous material;
- (3) The preparation, execution, and use of shipping documents related to hazardous material and requirements related to the number, contents, and placement of those documents;
- (4) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material; and
- (5) The design, manufacture, fabrication, inspection, marking, maintenance, recondition, repair, or testing of a packaging or container represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce.

This final rule addresses items covered in Paragraph (1) above and would preempt State, local, and Tribal requirements not meeting the “substantively the same” standard. Though the final rule may (when finalized) operate to preempt some State requirements, it would not impose any regulation that has substantial direct effects on the States, the relationship between the National Government and the States, or the distribution of power and responsibilities among the various levels of government. The preemptive effect of the regulatory amendments in this final rule is limited to the minimum level necessary to achieve the objectives of the Federal Hazardous Materials Transportation laws. Therefore, the consultation and funding requirements of E.O. 13132 do not apply.

F. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. § 601 *et seq.*) requires Federal agencies to conduct a Final Regulatory Flexibility Analysis (FRFA) for a final rule that has been subject to notice-and-comment rulemaking under the APA unless the agency head certifies that the final rule will not have a significant economic impact on a substantial number of small entities. E.O. 13272 (*Proper Consideration of Small Entities in Agency Rulemaking*) obliges agencies to establish procedures promoting compliance with the Regulatory Flexibility Act.¹⁰ DOT posts information on a dedicated webpage to help small businesses understand and navigate Federal regulatory processes.¹¹ PHMSA developed this final rule in accordance with E.O. 13272 and DOT implementing guidance to ensure compliance with the Regulatory Flexibility Act. The final rule will reduce burdens. Therefore, PHMSA certifies the final rule does not have a significant impact on a substantial number of small entities.

G. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act (UMRA, 2 U.S.C. § 1501 *et seq.*) requires agencies to assess the effects of Federal regulatory actions on State, local, and Tribal governments, and the private sector. For any proposed or final rule that includes a Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate of \$100 million or more (in 1996 dollars) in any given year, the agency must prepare, among other things, a written statement that qualitatively and quantitatively assesses the costs and benefits of the Federal mandate.

¹⁰ 67 FR 53461 (Aug. 16, 2002).

¹¹ DOT, *Rulemaking Requirements Related to Small Entities* (last accessed Sept 3, 2024), available at: <https://www.transportation.gov/regulations/rulemaking-requirements-concerning-small-entities>.

This final rule does not impose unfunded mandates under UMRA because it does not result in costs of \$100 million or more (in 1996 dollars) per year for either State, local, or Tribal governments, or to the private sector.

H. National Environmental Policy Act

PHMSA has analyzed this rule pursuant to the National Environmental Policy Act (NEPA; 42 U.S.C. § 4321 *et seq.*) and determined it is categorically excluded under 23 CFR 771.117(c)(20), which applies to the promulgation of rules, regulations, and directives. Under Section 9 of DOT Order 5610.1D, PHMSA may apply a categorical exclusion (CE) established in another Operating Administration's procedures. PHMSA followed the requirements outlined in DOT Order 5610.1D to apply the Federal Highway Administration's CE to this deregulatory action. PHMSA has determined no unusual circumstances are present under 23 CFR 771.117(b). PHMSA's Categorical Exclusion Determination memo for this action is available on PHMSA's website.¹²

I. Executive Order 13175

PHMSA analyzed this final rule according to the principles and criteria in E.O. 13175 (*Consultation and Coordination with Indian Tribal Governments*) and DOT Order 5301.1A (*Department of Transportation Tribal Consultation Policies and Procedures*).¹³ E.O. 13175 requires agencies to assure meaningful and timely input from Tribal government representatives in the development of rules that significantly or uniquely affect Tribal communities by imposing "substantial direct compliance costs" or "substantial direct effects" on such communities or the relationship or distribution of power between the Federal Government and Tribes.

¹² DOT, PHMSA, *Implementing Procedures* (Aug. 28, 2025), <https://www.phmsa.dot.gov/planning-and-analytics/environmental-analysis-and-compliance/implementing-procedures>.

¹³ 65 FR 67249 (Nov. 9, 2000).

PHMSA assessed the impact of the final rule and determined that it would not significantly or uniquely affect Tribal communities or Indian Tribal governments. The rulemaking's regulatory amendments have a broad, national scope; therefore, this final rule will not significantly or uniquely affect Tribal communities, much less impose substantial compliance costs on Tribal governments or mandate Tribal action. For these reasons, PHMSA has concluded that the funding and consultation requirements of E.O. 13175 and DOT Order 5301.1A do not apply.

J. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. § 3501 *et seq.*) and its implementing regulations at 5 CFR 1320.8(d) requires that PHMSA provide interested members of the public and affected agencies with an opportunity to comment on information collection and recordkeeping requests. This rulemaking will not create, amend, or rescind any existing information collections.

K. Executive Order 13609 and International Trade Analysis

E.O. 13609 (*Promoting International Regulatory Cooperation*) requires agencies to consider whether the impacts associated with significant variations between domestic and international regulatory approaches are unnecessary or may impair the ability of American business to export and compete internationally.¹⁴ In meeting shared challenges involving health, safety, labor, security, environmental, and other issues, international regulatory cooperation can identify approaches that are at least as protective as those that are or would be adopted in the absence of such cooperation. International regulatory cooperation can also reduce, eliminate, or prevent unnecessary differences in regulatory requirements.

¹⁴ 77 FR 26413 (May 4, 2012).

Similarly, the Trade Agreements Act of 1979 (Pub. L. No. 96-39), as amended by the Uruguay Round Agreements Act (Pub. L. No. 103-465), prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. For purposes of these requirements, Federal agencies may participate in the establishment of international standards, so long as the standards have a legitimate domestic objective, such as providing for safety, and do not operate to exclude imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

PHMSA engages with international standards setting bodies to protect the safety of the American public. PHMSA has assessed the effects of the final rule and has determined that its regulatory amendments will not cause unnecessary obstacles to foreign trade.

L. Cybersecurity and Executive Order 14028

E.O. 14028 (*Improving the Nation's Cybersecurity*) directed the Federal Government to improve its efforts to identify, to deter, and to respond to “persistent and increasingly sophisticated malicious cyber campaigns.”¹⁵ PHMSA has considered the effects of the final rule and has determined that its regulatory amendments will not materially affect the cybersecurity risk profile for affected entities.

M. Privacy Act Statement

In accordance with 5 U.S.C. § 553(c), DOT solicits comments from the public to inform its rulemaking process better. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at

¹⁵ 86 FR 26633 (May 17, 2021).

<http://www.dot.gov/privacy>. DOT's complete Privacy Act Statement in the *Federal Register* published on April 11, 2000, or on DOT's website at <http://www.dot.gov/privacy>.

List of Subjects

49 CFR Part 107

Administrative practice and procedure, Hazardous materials transportation, Penalties, Reporting and recordkeeping requirements.

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

49 CFR Part 172

Education, Hazardous materials transportation, Hazardous waste, Labeling, Markings, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Incorporation by reference, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements.

In consideration of the foregoing, PHMSA amends 49 CFR Chapter I as follows:

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

1. The authority citation for part 107 continues to read as follows:

Authority: 49 U.S.C. 5101-5128, 44701; Pub. L. No. 101-410 Section 4; Pub. L. No. 104-121 Sections 212-213; Pub. L. No. 104-134 Section 31001; Pub. L. No. 114-74 Section 701 (28 U.S.C. 2461 note); 49 CFR 1.81 and 1.97; 33 U.S.C. 1321.

2. In § 107.402, revise paragraph (d) to read as follows:

§ 107.402 Application for designation as a certification agency.

* * * * *

(d) *Fireworks Certification Agency*. A person must apply to, and be approved by, the Associate Administrator to act as a Fireworks Certification Agency before reviewing and certifying Division 1.4G consumer fireworks (UN0336) for compliance with the APA 87-1A standard, excluding appendices II through VI, or Division 1.3G display fireworks and fuses (UN0101 or UN0335) for compliance with the APA 87-1B standard, or Division 1.4G entertainment industry and technical pyrotechnics (UN0431) for compliance with the APA 87-1C standard, as specified in part 173 of this chapter. APA 87-1A, B, and C (the APA 87-1 standards) are incorporated by reference for use in part 173 of this chapter (see § 171.7 of this chapter for availability).

(1) *Fireworks Certification Agency applicant requirements*. The Fireworks Certification Agency applicant must—

(i) Be a U.S. resident, or for a non-U.S. resident, have a designated U.S. agent representative as specified in § 105.40 of this subchapter;

(ii) Employ personnel with work experience in manufacturing or testing of fireworks or explosives; or a combination of work experience in manufacturing or testing of fireworks or explosives and a degree in the physical sciences or engineering from an accredited university;

(iii) Have the ability to:

(A) Review design drawings, and applications to certify that they are in accordance with APA 87-1A, APA 87-1B, or APA 87-1C; and

(B) Verify that the applicant has certified the thermal stability test procedures and results.

(iv) Must be independent of and not owned by any fireworks, pyrotechnic devices, or fuses manufacturer, distributor, import or export company, or proprietorship.

(2) *Fireworks Certification Agency application submittal requirements.* In addition to the requirements of paragraphs (b) and (d)(1) of this section, the Fireworks Certification Agency application must include—

(i) Name, address, and country of each facility where Division 1.3G or 1.4G applications are reviewed and certified;

(ii) Which component of APA 87-1A, APA 87-1B, or APA 87-1C under which they want to be approved to certify.

(iii) A detailed description of the qualifications of each individual the applicant proposes to employ to review, and certify that the requirements specified by part 173 of this chapter and APA 87-1A, APA 87-1B, or APA 87-1C have been met;

(iv) Written operating procedures to be used by the Fireworks Certification Agency to review and certify that a Division 1.3G or 1.4G fireworks, pyrotechnic devices, or fuses application meets the requirements specified in the APA 87-1 standards;

(v) Name, address, and principal business activity of each person having any direct or indirect interest in the applicant greater than three percent and any direct or indirect ownership interest in each subsidiary or division of the applicant; and

(vi) A statement that the applicant will perform its functions independent of the manufacturers, transporters, importers, and owners of the fireworks, pyrotechnic devices, or fuses.

* * * * *

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

3. The authority citation for part 171 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; Pub. L. No. 101–410 section 4; Pub. L. No. 104–134, section 31001; Pub. L. No. 114–74 section 701 (28 U.S.C. 2461 note); 49 CFR 1.81 and 1.97.

4. In § 171.7, revise paragraph (f) to read as follows:

§ 171.7 Reference material.

* * * * *

(f) *American Pyrotechnics Association (APA)*, P.O. Box 30438, Bethesda, MD 20824; (301) 907-8181; *www.americanpyro.com*.

(1) APA 87-1A: Standard for the Construction, Classification, Approval and Transportation of Consumer Fireworks, final draft January 1, 2018 (excluding appendices II through VI), into §§ 173.59; 173.64; 173.65.

(2) APA 87-1B: Standard for the Construction, Classification, Approval, and Transportation of Display Fireworks, final draft January 1, 2018 (excluding appendices II through IV); into §§ 173.64; 173.65.

(3) APA 87-1C: Standard for the Construction, Classification, Approval, and Transportation of Entertainment Industry and Technical (EI&T) Pyrotechnics, final draft January 1, 2018 (excluding appendices II through IV); into §§ 173.64; 173.65.

* * * * *

5. In § 171.8, revise the definition for “FC number” to read as follows:

§ 171.8 Definitions and abbreviations.

* * * * *

FC number means a number preceded by the prefix “FC” assigned by a Fireworks Certification Agency to a firework, pyrotechnic device, or fuse that has been certified under the provisions of § 173.65 of this subchapter.

* * * * *

**PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS,
HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE
INFORMATION, TRAINING REQUIREMENTS, AND SECURITY PLANS**

6. The authority citation for part 172 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.81, 1.96, and 1.97.

7. In § 172.101, the Hazardous Materials Table is amended by revising entries under “[REVISE]” to read as follows:

§ 172.101 Hazardous Materials Table

Symbols (1)	Hazardous materials descriptions and proper shipping names (2)	Hazard class or division (3)	Identification Numbers (4)	PG (5)	Label Codes (6)	Special Provisions (§ 172.102) (7)	(8)			(9)		(10)	
							Packaging (§ 173.***)			Quantity limitations (see §§ 173.27 and 175.75)		Vessel stowage	
							Exceptions (8A)	Non-bulk (8B)	Bulk (8C)	Passenger aircraft/rail (9A)	Cargo aircraft only (9B)	Location (10A)	Other (10B)
	[REVISE]												
*		*		*		*		*		*		*	*
	Articles, pyrotechnic <i>for technical purposes</i>	1.4G	UN0431		1.4G	200, 381	None	62	None	Forbidden	75kg	02	25
*		*		*		*		*		*		*	*
	Fireworks	1.3G	UN0335		1.3G	108, 200	None	62	None	Forbidden	Forbidden	03	25
*		*		*		*		*		*		*	*
	Fuse, non-detonating <i>instantaneous or quickmatch</i>	1.3G	UN0101		1.3G	200	None	62	None	Forbidden	Forbidden	03	25
*		*		*		*		*		*		*	*

* * * *

8. In § 172.102, revise paragraph (c)(1) special provision 200 to read as follows:

§ 172.102 Special provisions.

* * * *

(c) * * *

(1) * * *

200 Fireworks, pyrotechnic devices, or fuses may be certified for transportation by a DOT-approved Fireworks Certification Agency in accordance with the provisions of § 173.65 of this subchapter.

* * * *

9. In § 172.320, revise paragraph (b)(2) to read as follows:

§ 172.320 Explosive hazardous materials.

* * * *

(b) * * *

(2) For fireworks, pyrotechnic devices, or fuses reviewed by a Fireworks Certification Agency approved in accordance with 49 CFR part 107 subpart E and certified in accordance with § 173.65, with the FC number assigned by a DOT-approved Fireworks Certification Agency.

* * * *

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

10. The authority citation for part 173 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.81, 1.96, and 1.97.

11. In § 173.64, revise paragraph (a) introductory text and paragraph (a)(3) to read as follows:

§ 173.64 Exceptions for Division 1.3 and 1.4 fireworks.

(a) *Classification and approval.* Notwithstanding the requirements of § 173.56(b), Division 1.3 and 1.4 fireworks (see § 173.65 for provisions applicable to Fireworks Certification Agencies) may be classed and approved by the Associate Administrator without prior examination and offered for transportation if all of the following conditions are met:

* * * * *

(3) The manufacturer applies in writing to the Associate Administrator following the applicable requirements in APA 87-1A (IBR, see § 171.7 of this subchapter), APA 87-1B (IBR, see § 171.7 of this subchapter), and APA 87-1C (IBR, see § 171.7 of this subchapter) and is notified in writing by the Associate Administrator that the fireworks have been classed, approved, and assigned an EX number. Each application must be complete and include all relevant background data and copies of all applicable drawings, test results, and any other pertinent information on each device for which approval is being requested. The manufacturer must sign the application and certify that the device for which approval is requested conforms to the appropriate APA Standard, that the descriptions and technical information contained in the application are complete and accurate, and that no duplicate application has been submitted to a Fireworks Certification Agency. If the application is denied, the manufacturer will be notified in writing of the reasons for the denial. The Associate Administrator may require that the fireworks be examined by an agency listed in § 173.56(b)(1) of this part.

* * * * *

12. Revise § 173.65 to read as follows:

§ 173.65 Exceptions for Division 1.3G or 1.4G fireworks, pyrotechnic devices, or fuses certification by a Fireworks Certification Agency.

(a) *Applicability.* Notwithstanding the requirements of §§ 173.56(b), 173.56(f), 173.56(i), and 173.64, Division 1.3G or 1.4G fireworks, pyrotechnic devices, or fuses may be offered for transportation provided the following conditions are met:

(1) The fireworks, pyrotechnic devices, or fuses are manufactured in accordance with the applicable requirements in APA 87-1A (IBR, see § 171.7 of this subchapter), APA 87-1B (IBR, see § 171.7 of this subchapter), and APA 87-1C (IBR, see § 171.7 of this subchapter), as appropriate;

(2) The device must pass a thermal stability test. The test must be performed by maintaining the device, or a representative prototype of the device, at a temperature of 75 °C (167 °F) for 48 consecutive hours. When a device contains more than one component, those components that could be in physical contact with each other in the finished device must be placed in contact with each other during the thermal stability test;

(3) The manufacturer of the firework, pyrotechnic device, or fuse applies in writing to a DOT-approved Fireworks Certification Agency, and is notified in writing by the DOT-approved Fireworks Certification Agency that the firework has been:

(i) Certified that it complies with the APA 87-1A, APA 87-1B, and APA 87-1C, as appropriate, and meets the requirements of this section; and

(ii) Assigned an FC number.

(4) The manufacturer's application must be complete and include:

(i) Detailed diagram of the device;

(ii) Complete list of the chemical compositions, formulations and quantities used in the device;

(iii) Results of the thermal stability test; and

(iv) Signed certification declaring that the device for which certification is requested conforms to the APA 87-1A, APA 87-1B, and APA 87-1C, as appropriate, that the descriptions and technical information contained in the application are complete and

accurate, and that no duplicate applications have been submitted to PHMSA. If the application is denied, the Fireworks Certification Agency must notify the manufacturer in writing of the reasons for the denial. As detailed in the DOT-approval issued to the Fireworks Certification Agency, following the issuance of a denial from a Fireworks Certification Agency, a manufacturer may seek reconsideration from the Fireworks Certification Agency, or may appeal the reconsideration decision of the Fireworks Certification Agency to the PHMSA Administrator.

(5) Fireworks Certification Agencies are only permitted to authorize UN0431 Articles, pyrotechnic under APA 87-1C.

(b) *Recordkeeping requirements.* Following the certification of each firework, pyrotechnic device, or fuse as permitted by paragraph (a) of this section, the manufacturer and importer must maintain a paper record or an electronic image of the certificate, demonstrating compliance with this section. Each record must clearly provide the unique identifier assigned to the device and the Fireworks Certification Agency that certified the device. The record must be accessible at or through its principal place of business and be made available, upon request, to an authorized official of a Federal, State, or local government agency at a reasonable time and location. Copies of certification records must be maintained by each importer, manufacturer, or a foreign manufacturer's U.S. agent, for five (5) years after the device is imported. The certification record must be made available to a representative of PHMSA upon request.

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