

[Amdt. 172-123, 55 FR 52593, Dec. 21, 1990, as amended at 56 FR 66255, Dec. 20, 1991; Amdt. 172-151, 62 FR 1228, Jan. 8, 1997; 64 FR 10776, Mar. 5, 1999; 64 FR 51918, Sept. 27, 1999]

**§ 172.400a Exceptions from labeling.**

(a) Notwithstanding the provisions of § 172.400, a label is not required on—

(1) A cylinder, or a Dewar flask conforming to § 173.320 of this subchapter containing a Division 2.1 or Division 2.2 gas that is—

- (i) Not poisonous;
- (ii) Carried by a private or contract motor carrier;
- (iii) Not overpacked; and
- (iv) Durably and legibly marked in accordance with CGA Pamphlet C-7, appendix A.

(2) A package or unit of military explosives (including ammunition) shipped by or on behalf of the DOD when in—

(i) Freight containerload, carload or truckload shipments, if loaded and unloaded by the shipper or DOD; or

(ii) Unitized or palletized break-bulk shipments by cargo vessel under charter to DOD if at least one required label is displayed on each unitized or palletized load.

(3) A package containing a hazardous material other than ammunition that is—

- (i) Loaded and unloaded under the supervision of DOD personnel, and
- (ii) Escorted by DOD personnel in a separate vehicle.

(4) A compressed gas cylinder permanently mounted in or on a transport vehicle.

(5) A freight container, aircraft unit load device or portable tank, which—

- (i) Is placarded in accordance with subpart F of this part, or
- (ii) Conforms to paragraph (a)(3) or (b)(3) of § 172.512.

(6) An overpack or unit load device in or on which labels representative of each hazardous material in the overpack or unit load device are visible.

(7) A package of low specific activity radioactive material and surface contaminated objects, when transported under § 173.427(a)(6)(vi) of this subchapter.

(b) Certain exceptions to labeling requirements are provided for small quantities and limited quantities in ap-

plicable sections in part 173 of this subchapter.

(c) Notwithstanding the provisions of § 172.402(a), a subsidiary hazard label is not required on a package containing a Class 8 (corrosive) material which has a subsidiary hazard of Division 6.1 (poisonous) if the toxicity of the material is based solely on the corrosive destruction of tissue rather than systemic poisoning.

(d) A package containing a material poisonous by inhalation (see § 171.8 of this subchapter) in a closed transport vehicle or freight container may be excepted from the POISON INHALATION HAZARD or POISON GAS label or placard, under the conditions set forth in §§ 171.12 and 171.12a of this subchapter.

[Amdt. 172-123, 55 FR 52594, Dec. 21, 1990, as amended by Amdt. 172-132, 58 FR 50501, Sept. 27, 1993; 172-130, 58 FR 51531, Oct. 1, 1993; Amdt. 172-139, 59 FR 67490, Dec. 29, 1994; Amdt. 172-145, 60 FR 49110, Sept. 21, 1995; 63 FR 52849, Oct. 1, 1998; 64 FR 10776, Mar. 5, 1999; 65 FR 58626, Sept. 29, 2000; 66 FR 44255, Aug. 22, 2001]

**§ 172.401 Prohibited labeling.**

(a) Except as otherwise provided in this section, no person may offer for transportation and no carrier may transport a package bearing a label specified in this subpart unless:

(1) The package contains a material that is a hazardous material, and

(2) The label represents a hazard of the hazardous material in the package.

(b) No person may offer for transportation and no carrier may transport a package bearing any marking or label which by its color, design, or shape could be confused with or conflict with a label prescribed by this part.

(c) The restrictions in paragraphs (a) and (b) of this section, do not apply to packages labeled in conformance with:

(1) The UN Recommendations (see § 171.7 of this subchapter);

(2) The IMDG Code (see § 171.7 of this subchapter);

(3) The ICAO Technical Instructions (see § 171.7 of this subchapter);

(4) The TDG Regulations (see § 171.7 of this subchapter).

(d) The provisions of paragraph (a) of this section do not apply to a packaging bearing a label if that packaging is:

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- (1) Unused or cleaned and purged of all residue;
- (2) Transported in a transport vehicle or freight container in such a manner that the packaging is not visible during transportation; and
- (3) Loaded by the shipper and unloaded by the shipper or consignee.

[Amdt. 172-9, 41 FR 15996, Apr. 15, 1976, as amended by Amdt. 172-75, 47 FR 44471, Oct. 7, 1982; Amdt. 172-77, 47 FR 54822, Dec. 6, 1982; Amdt. 172-94, 49 FR 38134, Sept. 27, 1984; Amdt. 172-100, 50 FR 41521, Oct. 11, 1985; Amdt. 172-123, 55 FR 52594, Dec. 21, 1990; Amdt. 172-132, 58 FR 50501, Sept. 27, 1993; 66 FR 8647, Feb. 1, 2001; 66 FR 45379, Aug. 28, 2001]

§ 172.402 Additional labeling requirements.

(a) *Subsidiary hazard labels.* Each package containing a hazardous material—

(1) Shall be labeled with primary and subsidiary hazard labels as specified in column 6 of the §172.101 table (unless excepted in paragraph (a)(2) of this section); and

(2) For other than Class 1 or Class 2 materials (for subsidiary labeling requirements for Class 1 or Class 2 materials see paragraph (e) or paragraphs (f) and (g), respectively, of this section), if not already labeled under paragraph (a)(1) of this section, shall be labeled with subsidiary hazard labels in accordance with the following table:

SUBSIDIARY HAZARD LABELS							
Subsidiary hazard level (packing group)	Subsidiary Hazard (Class or Division)						
	3	4.1	4.2	4.3	5.1	6.1	8
I .....	X	***	***	X	X	X	X
II .....	X	X	X	X	X	X	X
III .....	*	X	X	X	X	X	X

X—Required for all modes.  
 \*—Required for all modes, except for a material with a flash point at or above 38 °C (100 °F) transported by rail or highway.  
 \*\*—Reserved  
 \*\*\*—Impossible as subsidiary hazard.

(b) *Display of hazard class on labels.* The appropriate hazard class or division number must be displayed in the lower corner of a primary hazard label and a subsidiary hazard label. A subsidiary label meeting the specifications of this section which were in effect on September 30, 2001, such as, a label without the hazard class or division number displayed in the lower corner

of the label) may continue to be used as a subsidiary label in domestic transportation by rail or highway until October 1, 2005, provided the color tolerances are maintained and are in accordance with the display requirements in this subchapter.

(c) *Cargo Aircraft Only label.* Each person who offers for transportation or transports by aircraft a package containing a hazardous material which is authorized on cargo aircraft only shall label the package with a CARGO AIRCRAFT ONLY label specified in §172.448 of this subpart.

(d) *Class 7 (Radioactive) Materials.* Except as otherwise provided in this paragraph, each package containing a Class 7 material that also meets the definition of one or more additional hazard classes must be labeled as a Class 7 material as required by §172.403 of this subpart and for each additional hazard. A subsidiary hazard label is not required on a package containing a Class 7 material that conforms to criteria specified in §173.4 of this subchapter, except §173.4(a)(1)(iv) of this subchapter.

(e) *Class 1 (explosive) Materials.* In addition to the label specified in column 6 of the §172.101 table, each package of Class 1 material that also meets the definition for:

(1) Division 6.1, Packing Groups I or II, shall be labeled POISON or POISON INHALATION HAZARD, as appropriate.

(2) Class 7, shall be labeled in accordance with §172.403 of this subpart.

(f) *Division 2.2 materials.* In addition to the label specified in column 6 of the §172.101 table, each package of Division 2.2 material that also meets the definition for an oxidizing gas (see §171.8 of this subchapter) must be labeled OXIDIZER.

(g) *Division 2.3 materials.* In addition to the label specified in column 6 of the §172.101 table, each package of Division 2.3 material that also meets the definition for:

(1) Division 2.1, must be labeled Flammable Gas;

(2) Division 5.1, must be labeled Oxidizer; and