

apply to an oxygen generator for medical or personal use of a passenger that meets the requirements of § 175.10(a)(7) of this subchapter.

[Amdt. 173-224, 55 FR 52609, Dec. 21, 1990, as amended at 56 FR 66265, Dec. 20, 1991; Amdt. 173-234, 58 FR 51532, Oct. 1, 1993; Amdt. 173-241, 59 FR 67490, Dec. 29, 1994; Amdt. 173-254, 61 FR 26419, May 24, 1996; Amdt. 173-253, 61 FR 27174, May 30, 1996; Amdt. 173-254, 61 FR 68954, Dec. 30, 1996; Amdt. 173-261, 62 FR 24719, May 6, 1997; 66 FR 8647, Feb. 1, 2001; 66 FR 45379, 81, Aug. 28, 2001; 67 FR 61013, Sept. 27, 2002; 68 FR 45032, July 31, 2003]

§ 173.22 Shipper's responsibility.

(a) Except as otherwise provided in this part, a person may offer a hazardous material for transportation in a packaging or container required by this part only in accordance with the following:

(1) The person shall class and describe the hazardous material in accordance with parts 172 and 173 of this subchapter, and

(2) The person shall determine that the packaging or container is an authorized packaging, including part 173 requirements, and that it has been manufactured, assembled, and marked in accordance with:

(i) Section 173.7(a) and parts 173, 178, or 179 of this subchapter;

(ii) A specification of the Department in effect at the date of manufacture of the packaging or container;

(iii) National or international regulations based on the UN Recommendations, as authorized in § 173.24(d)(2);

(iv) An approval issued under this subchapter; or

(v) An exemption issued under subchapter A of this chapter.

(3) In making the determination under paragraph (a)(2) of this section, the person may accept:

(i) Except for the marking on the bottom of a metal or plastic drum with a capacity over 100 L which has been reconditioned, remanufactured or otherwise converted, the manufacturer's certification, specification, approval, or exemption marking (see §§ 178.2 and 179.1 of this subchapter); or

(ii) With respect to cargo tanks provided by a carrier, the manufacturer's identification plate or a written certification of specification or exemption provided by the carrier.

(4) For a DOT Specification or UN standard packaging subject to the requirements of part 178 of this subchapter, a person must perform all functions necessary to bring the package into compliance with parts 173 and 178 of this subchapter, as identified by the packaging manufacturer or subsequent distributor (for example, applying closures consistent with the manufacturer's closure instructions) in accordance with § 178.2 of this subchapter.

(b) [Reserved]

(c) Prior to each shipment of fissile radioactive materials, and Type B or highway route controlled quantity packages of radioactive materials (see § 173.403), the shipper shall notify the consignee of the dates of shipment and expected arrival. The shipper shall also notify each consignee of any special loading/unloading instructions prior to his first shipment. For any shipment of irradiated reactor fuel, the shipper shall provide physical protection in compliance with a plan established under:

(1) Requirements prescribed by the U.S. Nuclear Regulatory Commission, or

(2) Equivalent requirements approved by the Associate Administrator, RSPA.

[Amdt. 173-100, 42 FR 2689, Jan. 13, 1977]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 173.22, see the List of CFR Sections Affected which appears in the Finding Aids section of the printed volume and on GPO Access.

§ 173.22a Use of packagings authorized under exemptions.

(a) Except as provided in paragraph (b) of this section, no person may offer a hazardous material for transportation in a packaging the use of which is dependent upon an exemption issued under subpart B of part 107 of this title, unless that person is the holder of or a party to the exemption.

(b) If an exemption authorizes the use of a packaging for the shipment or transportation of a hazardous material by any person or class of persons other than or in addition to the holder of the exemption, that person or a member of that class of persons may use the packaging for the purposes authorized in the exemption subject to the terms specified therein. However, no person

may use a packaging under the authority of this paragraph unless he maintains a copy of the exemption at each facility where the packaging is being used in connection with the shipment or transportation of the hazardous material concerned. Copies of exemptions may be obtained from the Associate Administrator for Hazardous Materials Safety, U.S. Department of Transportation, Washington, DC 20590-0001, Attention: RSPA Records Center.

(c) When an exemption issued to a person who offers a hazardous material contains requirements that apply to a carrier of the hazardous material, the offeror shall furnish a copy of the exemption to the carrier before or at the time a shipment is tendered.

[Amdt. 173-93, 41 FR 3478, Jan. 23, 1976, as amended by Amdt. 173-121, 43 FR 48643, Oct. 19, 1978; Amdt. 173-223, 55 FR 39981, Oct. 1, 1990; Amdt. 173-224, 56 FR 66279, Dec. 20, 1991; Amdt. 173-233, 58 FR 33305, June 16, 1993; Amdt. 173.249, 61 FR 21102, May 9, 1996; Amdt.173-249, 61 FR 51242, Oct. 1, 1996; 66 FR 45381, Aug. 28, 2001]

§173.23 Previously authorized packaging.

(a) When the regulations specify a packaging with a specification marking prefix of "DOT," a packaging marked prior to January 1, 1970, with the prefix of "ICC" may be used in its place if the packaging otherwise conforms to applicable specification requirements.

(b) [Reserved]

(c) After July 2, 1982, a seamless aluminum cylinder manufactured in conformance with and for use under DOT special permit (SP) or exemption (E) 6498, 7042, 8107, 8364 or 8422 may be continued in use if marked before or at the time of the next retest with either the specification identification "3AL" immediately above the special permit or exemption number, or the DOT mark (e.g., DOT 3AL 1800) in proximity to the special permit or exemption marking.

(d) Cylinders (spheres) manufactured and marked under DOT special permit (SP) or exemption (E) 6616 prior to January 1, 1983, may be continued in use if marked before or at the time of the next retest with the specification identification "4BA" near the special permit or exemption marking.

(e) After October 1, 1984, cylinders manufactured for use under special permit (SP) or exemption (E) 6668 or 8404 may be continued in use, and must be marked "DOT-4LXXXYY" (XXX to be replaced by the service pressure, YY to be replaced by the letters "AL", if applicable) in compliance with Specification 4L (§178.57 of this subchapter) on or before January 1, 1986. The "DOT-4LXXXYY" must appear in proximity to other required special permit or exemption markings.

(f) An MC 331 cargo tank motor vehicle must conform to structural integrity requirements in §178.337-3 or to corresponding requirements in effect at the time of manufacture.

(g) A non-bulk packaging manufactured, tested, marked, and certified on or before September 30, 1996, in accordance with the applicable provisions of subparts L and M of part 178 of this subchapter in effect on September 30, 1995, may be used as authorized by this subchapter if the packaging conforms to all requirements applicable at the time of manufacture. In addition, such a packaging may be reused as authorized by §173.28 without a nominal thickness marking, if it conforms to the minimum thickness criteria prescribed in §173.28(b)(4).

[Amdt. 173-3, 33 FR 14921, Oct. 4, 1968]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §173.23, see the List of CFR Sections Affected which appears in the Finding Aids section of the printed volume and on GPO Access.

§173.24 General requirements for packagings and packages.

(a) Applicability. Except as otherwise provided in this subchapter, the provisions of this section apply to—

- (1) Bulk and non-bulk packagings;
- (2) New packagings and packagings which are reused; and
- (3) Specification and non-specification packagings.

(b) Each package used for the shipment of hazardous materials under this subchapter shall be designed, constructed, maintained, filled, its contents so limited, and closed, so that under conditions normally incident to transportation—