

a lighter (see §171.8 of this subchapter) containing a Division 2.1 material, of a design that has not been examined and successfully tested by an authorized person under the criteria specified in §173.308(a)(4) or, a lighter design containing a Class 3 material, that has not been approved by the Associate Administrator.

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**§ 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 (IBR, see §171.7 of this subchapter), as authorized in §173.24(d)(2);

(iv) An approval issued under this subchapter; or

(v) An exemption or special permit 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 or special permit 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 or special permit 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, PHMSA.

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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 special permits.**

(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 or special permit issued under subpart B of part 107 of this title, unless that person is the holder of or a party to the exemption or special permit.

(b) If an exemption or special permit authorizes the use of a packaging for the transportation of a hazardous material by any person or class of persons other than or in addition to the holder of the exemption or special permit, that person or a member of that class of persons may use the packaging for