

§ 173.6 Materials of trade exceptions.

When transported by motor vehicle in conformance with this section, a material of trade (see § 171.8 of this subchapter) is not subject to any other requirements of this subchapter besides those set forth or referenced in this section.

(a) *Materials and amounts.* A material of trade is limited to the following:

(1) A Class 3, 8, 9, Division 4.1, 5.1, 5.2, 6.1, or ORM-D material contained in a packaging having a gross mass or capacity not over—

(i) 0.5 kg (1 pound) or 0.5 L (1 pint) for a Packing Group I material;

(ii) 30 kg (66 pounds) or 30 L (8 gallons) for a Packing Group II, Packing Group III, or ORM-D material;

(iii) 1500 L (400 gallons) for a diluted mixture, not to exceed 2 percent concentration, of a Class 9 material.

(2) A Division 2.1 or 2.2 material in a cylinder with a gross weight not over 100 kg (220 pounds), or a permanently mounted tank manufactured to ASME standards of not more than 70 gallon water capacity for a non-liquefied Division 2.2 material with no subsidiary hazard.

(3) A Division 4.3 material in Packing Group II or III contained in a packaging having a gross capacity not exceeding 30 mL (1 ounce).

(4) This section does not apply to a hazardous material that is self-reactive (see § 173.124), poisonous by inhalation (see § 173.133), or a hazardous waste.

(b) *Packaging.* (1) Packagings must be leak tight for liquids and gases, sift proof for solids, and be securely closed, secured against movement, and protected against damage.

(2) Each material must be packaged in the manufacturer's original packaging, or a packaging of equal or greater strength and integrity.

(3) Outer packagings are not required for receptacles (e.g., cans and bottles) that are secured against movement in cages, carts, bins, boxes or compartments.

(4) For gasoline, a packaging must be made of metal or plastic and conform to the requirements of this subchapter or to the requirements of the Occupational Safety and Health Administra-

tion of the Department of Labor contained in 29 CFR 1910.106(d)(2) or 1926.152(a)(1).

(5) A cylinder or other pressure vessel containing a Division 2.1 or 2.2 material must conform to packaging, qualification, maintenance, and use requirements of this subchapter, except that outer packagings are not required. Manifolding of cylinders is authorized provided all valves are tightly closed.

(c) *Hazard communication.* (1) A non-bulk packaging other than a cylinder (including a receptacle transported without an outer packaging) must be marked with a common name or proper shipping name to identify the material it contains, including the letters "RQ" if it contains a reportable quantity of a hazardous substance.

(2) A bulk packaging containing a diluted mixture of a Class 9 material must be marked on two opposing sides with the four-digit identification number of the material. The identification number must be displayed on placards, orange panels or, alternatively, a white square-on-point configuration having the same outside dimensions as a placard (at least 273 mm (10.8 inches) on a side), in the manner specified in § 172.332 (b) and (c) of this subchapter.

(3) A DOT specification cylinder (except DOT specification 39) must be marked and labeled as prescribed in this subchapter. Each DOT-39 cylinder must display the markings specified in 178.65(i).

(4) The operator of a motor vehicle that contains a material of trade must be informed of the presence of the hazardous material (including whether the package contains a reportable quantity) and must be informed of the requirements of this section.

(d) *Aggregate gross weight.* Except for a material of trade authorized by paragraph (a)(1)(iii) of this section, the aggregate gross weight of all materials of trade on a motor vehicle may not exceed 200 kg (440 pounds).

(e) *Other exceptions.* A material of trade may be transported on a motor vehicle under the provisions of this section with other hazardous materials

without affecting its eligibility for exceptions provided by this section.

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§ 173.7 U.S. Government material.

(a) Hazardous materials offered for transportation by, for, or to the Department of Defense (DOD) of the U.S. Government, including commercial shipments pursuant to a DOD contract, must be packaged in accordance with the regulations in this subchapter or in packagings of equal or greater strength and efficiency as certified by DOD in accordance with the procedures prescribed by "Performance Oriented Packaging of Hazardous Material, DLAR 4145.41/AR 700-143/AFR 71-5/NAVSUPINST 4030.55/MCO 4030.40." Hazardous materials offered for transportation by DOD under this provision may be reshipped by any shipper to any consignee provided the original packaging has not been damaged or altered in any manner.

(1) Hazardous materials sold by the DOD in packagings that are not marked in accordance with the requirements of this subchapter may be shipped from DOD installations if the DOD certifies in writing that the packagings are equal to or greater in strength and efficiency than the packaging prescribed in this subchapter. The shipper shall obtain such a certification in duplicate for each shipment. He shall give one copy to the originating carrier and retain the other for no less than 1 year.

(2) [Reserved]

(b) Shipments of hazardous materials, made by or under the direction or supervision of the U.S. Department of Energy (DOE) or the Department of Defense (DOD), for the purpose of national security, and which are escorted by personnel specifically designated by or under the authority of those agencies, are not subject to the requirements of this subchapter. For transportation by a motor vehicle or a rail car, the escorts must be in a separate transport vehicle from the transport vehicle carrying the hazardous materials that are excepted by this paragraph. A docu-

ment certifying that the shipment is for the purpose of national security must be in the possession of the person in charge of providing security during transportation.

(c) Shipments of explosive samples, not exceeding 1 g net weight, offered by and consigned to the Bureau of Alcohol, Tobacco and Firearms (ATF) of the Department of the Treasury are not otherwise subject to the regulations in parts 110-189 of this subchapter when placed in a specifically designed multi-unit assembly packed in a strong outside packaging. The packaging must be of a type accepted by ATF as capable of precluding a propagation of any explosion outside the packaging. The second component from the outside of the packaging must be marked or tagged to indicate the presence of an explosive.

(d) Notwithstanding the requirements of §§173.416 and 173.417 of this subchapter, packagings made by or under the direction of the U.S. Department of Energy may be used for the transportation of Class 7 materials when evaluated, approved, and certified by the Department of Energy against packaging standards equivalent to those specified in 10 CFR part 71. Packages shipped in accordance with this paragraph shall be marked and otherwise prepared for shipment in a manner equivalent to that required by this subchapter for packagings approved by the Nuclear Regulatory Commission.

(e) Class 1 (explosive) materials owned by the Department of Defense and packaged prior to January 1, 1990, in accordance with the requirements of this subchapter in effect at that time, are excepted from the marking and labeling requirements of part 172 of this subchapter and the packaging and package marking requirements of part 178 of this subchapter, provided the packagings have maintained their integrity and the explosive material is declared as "government-owned goods packaged prior to January 1, 1990" on the shipping papers. In addition, packages of these materials owned by the Department of Defense that are marked and labeled in conformance with the requirements of the HMR that were in effect at the time they were