

bursting, or other functioning elements unless of a type and design which has been approved by the Associate Administrator.

(c) Tear gas grenades, tear gas candles, and similar devices must be packaged in one of the following packagings conforming to the requirements of part 178 of this subchapter at the Packing Group II performance level:

(1) In UN 4C1, 4C2, 4D, or 4F metal-strapped wooden boxes. Functioning elements not assembled in grenades or devices must be in a separate compartment of these boxes, or in inner or separate outer boxes, UN 4C1, 4C2, 4D, or 4F, and must be so packed and cushioned that they may not come in contact with each other or with the walls of the box during transportation. Not more than 50 tear gas devices and 50 functioning elements must be packed in one box, and the gross weight of the outer box may not exceed 35 kg (77 pounds).

(2) In a UN 1A2 metal drum. Functioning elements must be packed in a separate inner packaging or compartment. Not more than 24 tear gas devices and 24 functioning elements must be packed in one outer drum, and the gross weight of the drum may not exceed 35 kg (77 pounds).

(3) In a UN 4G fiberboard box with inside tear gas devices meeting Specifications 2P or 2Q. Each inside packaging must be placed in fiberboard tubes fitted with metal ends or a fiber box with suitable padding. Not more than 30 inner packagings must be packed in one outer box, and the gross weight of the outer box may not exceed 16 kg (35 pounds).

(4) In other packagings of a type or design which has been approved by the Associate Administrator.

(d) Tear gas devices may be shipped completely assembled when offered by or consigned to the U.S. Department of Defense, provided the functioning elements are so packed that they cannot accidentally function. Outer packagings must be UN 4C1, 4C2, 4D, or 4F metal-strapped wooden boxes.

[Amdt. 173-224, 55 FR 52669, Dec. 21, 1990, as amended 66 FR 45379, Aug. 28, 2001]

#### Subpart H [Reserved]

### Subpart I—Class 7 (Radioactive) Materials

SOURCE: Amdt. 173-244, 60 FR 50307, Sept. 28, 1995, unless otherwise noted.

#### § 173.401 Scope.

(a) This subpart sets forth requirements for the packaging and transportation of Class 7 (radioactive) materials by offerors and carriers subject to this subchapter. The requirements prescribed in this subpart are in addition to, not in place of, other requirements set forth in this subchapter for Class 7 (radioactive) materials and those of the Nuclear Regulatory Commission in 10 CFR part 71.

(b) This subpart does not apply to:

(1) Class 7 (radioactive) materials produced, used, transported, or stored within an establishment other than during the course of transportation, including storage in transportation.

(2) Class 7 (radioactive) materials that have been implanted or incorporated into, and are still in, a person or live animal for diagnosis or treatment.

(3) Class 7 (radioactive) material that is an integral part of the means of transport.

(4) Natural material and ores containing naturally occurring radionuclides which are not intended to be processed for use of these radionuclides, provided the activity concentration of the material does not exceed 10 times the values specified in § 173.436.

[Amdt. 173-244, 60 FR 50307, Sept. 28, 1995, as amended at 69 FR 3670, Jan. 26, 2004]

#### § 173.403 Definitions.

For purposes of this subpart—

$A_1$  means the maximum activity of special form Class 7 (radioactive) material permitted in a Type A package. This value is either listed in § 173.435 or may be derived in accordance with the procedures prescribed in § 173.433.

$A_2$  means the maximum activity of Class 7 (radioactive) material, other than special form material, LSA material, and SCO, permitted in a Type A package. This value is either listed in

§173.435 or may be derived in accordance with the procedures prescribed in §173.433.

*Class 7 (radioactive) material* See the definition of *Radioactive material* in this section.

*Closed transport vehicle* means a transport vehicle or conveyance equipped with a securely attached exterior enclosure that during normal transportation restricts the access of unauthorized persons to the cargo space containing the Class 7 (radioactive) materials. The enclosure may be either temporary or permanent, and in the case of packaged materials may be of the "see-through" type, and must limit access from top, sides, and bottom.

*Consignment* means a package or group of packages or load of radioactive material offered by a person for transport in the same shipment.

*Containment system* means the assembly of components of the packaging intended to retain the Class 7 (radioactive) material during transport.

*Contamination* means the presence of a radioactive substance on a surface in quantities in excess of 0.4 Bq/cm<sup>2</sup> for beta and gamma emitters and low toxicity alpha emitters or 0.04 Bq/cm<sup>2</sup> for all other alpha emitters. Contamination exists in two phases.

(1) *Fixed radioactive contamination* means radioactive contamination that cannot be removed from a surface during normal conditions of transport.

(2) *Non-fixed radioactive contamination* means radioactive contamination that can be removed from a surface during normal conditions of transport.

*Conveyance* means:

(1) For transport by public highway or rail: any transport vehicle or large freight container;

(2) For transport by water: any vessel, or any hold, compartment, or defined deck area of a vessel including any transport vehicle on board the vessel; and

(3) For transport by aircraft, any aircraft.

*Criticality Safety Index (CSI)* means a number (rounded up to the next tenth) which is used to provide control over the accumulation of packages, overpacks or freight containers containing fissile material. The CSI for packages containing fissile material is deter-

mined in accordance with the instructions provided in 10 CFR 71.22, 71.23, and 71.59. The CSI for an overpack, freight container, or consignment containing fissile material packages is the arithmetic sum of the criticality safety indices of all the fissile material packages contained within the overpack, freight container, or consignment.

*Design* means the description of a special form Class 7 (radioactive) material, a package, packaging, or LSA-III, that enables those items to be fully identified. The description may include specifications, engineering drawings, reports showing compliance with regulatory requirements, and other relevant documentation.

*Deuterium* means, for the purposes of §173.453, deuterium and any deuterium compound, including heavy water, in which the ratio of deuterium atoms to hydrogen atoms exceeds 1:5000.

*Exclusive use* means sole use by a single consignor of a conveyance for which all initial, intermediate, and final loading and unloading are carried out in accordance with the direction of the consignor or consignee. The consignor and the carrier must ensure that any loading or unloading is performed by personnel having radiological training and resources appropriate for safe handling of the consignment. The consignor must provide to the initial carrier specific written instructions for maintenance of exclusive use shipment controls, including the vehicle survey requirement of §173.443 (c) as applicable, and include these instructions with the shipping paper information provided to the carrier by the consignor.

*Exemption value* means either an exempt material activity concentration or an exempt consignment activity limit listed in the table in §173.436, or determined according to the procedures described in §173.433, and used to determine whether a given physically radioactive material is sufficiently radioactive to be subject to the HMR (see definition of radioactive material). An exemption value is different from an exemption, as specified under the definition for special permit in §171.8 of this subchapter.

*Fissile material* means plutonium<sup>239</sup>, plutonium<sup>241</sup>, uranium<sup>233</sup>, uranium<sup>235</sup>,

or any combination of these radionuclides. This term does not apply to material containing fissile nuclides, unirradiated natural uranium and unirradiated depleted uranium, or to natural uranium or depleted uranium that has been irradiated in thermal reactors only.

*Freight container* means a reusable container having a volume of 1.81 cubic meters (64 cubic feet) or more, designed and constructed to permit it being lifted with its contents intact and intended primarily for containment of packages in unit form during transportation. A "small freight container" is one which has either one outer dimension less than 1.5 m (4.9 feet) or an internal volume of not more than 3.0 cubic meters (106 cubic feet). All other freight containers are designated as "large freight containers."

*Graphite* means, for the purposes of § 173.453, graphite with a boron equivalent content less than 5 parts per million and density greater than 1.5 grams per cubic centimeter.

*Highway route controlled quantity* means a quantity within a single package which exceeds:

- (1) 3,000 times the  $A_1$  value of the radionuclides as specified in § 173.435 for special form Class 7 (radioactive) material;
- (2) 3,000 times the  $A_2$  value of the radionuclides as specified in § 173.435 for normal form Class 7 (radioactive) material; or
- (3) 1,000 TBq (27,000 Ci), whichever is least.

*Limited quantity of Class 7 (radioactive) material* means a quantity of Class 7 (radioactive) material not exceeding the material's package limits specified in § 173.425 and conforming with requirements specified in § 173.421.

*Low Specific Activity (LSA) material* means Class 7 (radioactive) material with limited specific activity which satisfies the descriptions and limits set forth below. Shielding material surrounding the LSA material may not be considered in determining the estimated average specific activity of the package contents. LSA material must be in one of three groups:

(1) LSA-I:

- (i) Uranium and thorium ores, concentrates of uranium and thorium ores,

and other ores containing naturally occurring radionuclides which are intended to be processed for the use of these radionuclides; or

- (ii) Solid unirradiated natural uranium or depleted uranium or natural thorium or their solid or liquid compounds or mixtures; or

- (iii) Radioactive material other than fissile material, for which the  $A_2$  value is unlimited; or

- (iv) Other radioactive material, excluding fissile material in quantities not excepted under § 173.453, in which the activity is distributed throughout and the estimated average specific activity does not exceed 30 times the values for activity concentration specified in § 173.436, or 30 times the default values listed in Table 8 of § 173.433.

(2) LSA-II:

- (i) Water with tritium concentration up to 0.8 TBq/L (20.0 Ci/L); or

- (ii) Other radioactive material in which the activity is distributed throughout and the average specific activity does not exceed  $10^{-4}$   $A_2/g$  for solids and gases, and  $10^{-5}$   $A_2/g$  for liquids.

(3) LSA-III. Solids (*e.g.*, consolidated wastes, activated materials), excluding powders, that meet the requirements of § 173.468 and in which:

- (i) The radioactive material is distributed throughout a solid or a collection of solid objects, or is essentially uniformly distributed in a solid compact binding agent (such as concrete, bitumen, ceramic, etc.);

- (ii) The radioactive material is relatively insoluble, or it is intrinsically contained in a relatively insoluble material, so that, even under loss of packaging, the loss of Class 7 (radioactive) material per package by leaching when placed in water for seven days would not exceed 0.1  $A_2$ ; and

- (iii) The estimated average specific activity of the solid, excluding any shielding material, does not exceed  $2 \times 10^{-3}$   $A_2/g$ .

*Low toxicity alpha emitters* means natural uranium; depleted uranium; natural thorium; uranium-235 or uranium-238; thorium-232; thorium-228 and thorium-230 when contained in ores or physical and chemical concentrates; and alpha emitters with a half-life of less than 10 days.

*Maximum normal operating pressure* means the maximum gauge pressure that would develop in a containment system during a period of one year, in the absence of venting or cooling, under the heat conditions specified in 10 CFR 71.71(c)(1).

*Multilateral approval* means approval of a package design or shipment by the relevant Competent Authority of the country of origin and of each country through or into which the package or shipment is to be transported. This definition does not include approval from a country over which Class 7 (radioactive) materials are carried in aircraft, if there is no scheduled stop in that country.

*Natural thorium* means thorium with the naturally occurring distribution of thorium isotopes (essentially 100 percent by weight of thorium-232).

*Normal form Class 7 (radioactive) material* means Class 7 (radioactive) which has not been demonstrated to qualify as "special form Class 7 (radioactive) material."

*Package* means the packaging together with its radioactive contents as presented for transport.

(1) "Excepted package" means a packaging together with its excepted Class 7 (radioactive) materials as specified in §§ 173.421-173.426 and 173.428.

(2) "Industrial package" means a packaging that, together with its low specific activity (LSA) material or surface contaminated object (SCO) contents, meets the requirements of §§ 173.410 and 173.411. Industrial packages are categorized in § 173.411 as either:

(i) "Industrial package Type 1 (IP-1)";

(ii) "Industrial package Type 2 (IP-2)"; or

(iii) "Industrial package Type 3 (IP-3)".

(3) "Type A package" means a packaging that, together with its radioactive contents limited to A<sub>1</sub> or A<sub>2</sub> as appropriate, meets the requirements of §§ 173.410 and 173.412 and is designed to retain the integrity of containment and shielding required by this part under normal conditions of transport as demonstrated by the tests set forth in § 173.465 or § 173.466, as appropriate. A

Type A package does not require Competent Authority approval.

(4) "Type B package" means a packaging designed to transport greater than an A<sub>1</sub> or A<sub>2</sub> quantity of radioactive material that, together with its radioactive contents, is designed to retain the integrity of containment and shielding required by this part when subjected to the normal conditions of transport and hypothetical accident test conditions set forth in 10 CFR part 71.

(i) "Type B(U) package" means a Type B packaging that, together with its radioactive contents, for international shipments requires unilateral approval only of the package design and of any stowage provisions that may be necessary for heat dissipation.

(ii) "Type B(M) package" means a Type B packaging, together with its radioactive contents, that for international shipments requires multilateral approval of the package design, and may require approval of the conditions of shipment. Type B(M) packages are those Type B package designs which have a maximum normal operating pressure of more than 700 kPa/cm<sup>2</sup> (100 lb/in<sup>2</sup>) gauge or a relief device which would allow the release of Class 7 (radioactive) material to the environment under the hypothetical accident conditions specified in 10 CFR part 71.

(5) "Fissile material package" means a packaging, together with its fissile material contents, which meets the requirements for fissile material packages described in subpart E of 10 CFR 71. A fissile material package may be a Type AF package, a Type B(U)F package, or a Type B(M)F package.

*Packaging* means, for Class 7 (radioactive) materials, the assembly of components necessary to ensure compliance with the packaging requirements of this subpart. It may consist of one or more receptacles, absorbent materials, spacing structures, thermal insulation, radiation shielding, service equipment for filling, emptying, venting and pressure relief, and devices for cooling or absorbing mechanical shocks. The conveyance, tie-down system, and auxiliary equipment may sometimes be designated as part of the packaging.

*Quality assurance* means a systematic program of controls and inspections applied by each person involved in the transport of radioactive material which provides confidence that a standard of safety prescribed in this subchapter is achieved in practice.

*Radiation level* means the radiation dose-equivalent rate expressed in millisieverts per hour or mSv/h (millirem/h or mrem/h). Neutron flux densities may be converted into radiation levels according to Table 1:

TABLE 1—NEUTRON FLUENCE RATES TO BE REGARDED AS EQUIVALENT TO A RADIATION LEVEL OF 0.01 MSV/H (1MREM/H)<sup>1</sup>

Energy of neutron	Flux density equivalent to 0.01 mSv/h (1 mrem/h) neutrons per square centimeter per second (n/cm <sup>2</sup> /s)
Thermal (2.510E-8) MeV .....	272.0
1 keV .....	272.0
10 keV .....	281.0
100 keV .....	47.0
500 keV .....	11.0
1 MeV .....	7.5
5 MeV .....	6.4
10 MeV .....	6.7

<sup>1</sup>Flux densities equivalent for energies between those listed in this table may be obtained by linear interpolation.

*Radioactive contents* means a Class 7 (radioactive) material, together with any contaminated or activated solids, liquids and gases within the packaging.

*Radioactive instrument or article* means any manufactured instrument or article such as an instrument, clock, electronic tube or apparatus, or similar instrument or article having Class 7 (radioactive) material in gaseous or non-dispersible solid form as a component part.

*Radioactive material* means any material containing radionuclides where both the activity concentration and the total activity in the consignment exceed the values specified in the table in §173.436 or values derived according to the instructions in §173.433.

*Special form Class 7 (radioactive) material* means either an indispersible solid radioactive material or a sealed capsule containing radioactive material which satisfies the following conditions:

(1) It is either a single solid piece or a sealed capsule containing radioactive

material that can be opened only by destroying the capsule;

(2) The piece or capsule has at least one dimension not less than 5 mm (0.2 in); and

(3) It satisfies the test requirements of §173.469. Special form encapsulations designed in accordance with the requirements of §173.389(g) in effect on June 30, 1983 (see 49 CFR part 173, revised as of October 1, 1982), and constructed prior to July 1, 1985 and special form encapsulations designed in accordance with the requirements of §173.403 in effect on March 31, 1996 (see 49 CFR part 173, revised as of October 1, 1995), and constructed prior to April 1, 1997, may continue to be used. Any other special form encapsulation must meet the requirements of this paragraph (3).

*Specific activity* of a radionuclide means the activity of the radionuclide per unit mass of that nuclide. The specific activity of a material in which the radionuclide is essentially uniformly distributed is the activity per unit mass of the material.

*Surface Contaminated Object (SCO)* means a solid object which is not itself radioactive but which has radioactive material distributed on its surface. SCO exists in two phases:

(1) SCO-I: A solid object on which:

(i) The non-fixed contamination on the accessible surface averaged over 300 cm<sup>2</sup> (or the area of the surface if less than 300 cm<sup>2</sup>) does not exceed 4 Bq/cm<sup>2</sup> (10<sup>-4</sup> microcurie/cm<sup>2</sup>) for beta and gamma and low toxicity alpha emitters, or 0.4 Bq/cm<sup>2</sup> (10<sup>-5</sup> microcurie/cm<sup>2</sup>) for all other alpha emitters;

(ii) The fixed contamination on the accessible surface averaged over 300 cm<sup>2</sup> (or the area of the surface if less than 300 cm<sup>2</sup>) does not exceed 4 × 10<sup>4</sup> Bq/cm<sup>2</sup> (1.0 microcurie/cm<sup>2</sup>) for beta and gamma and low toxicity alpha emitters, or 4 × 10<sup>3</sup> Bq/cm<sup>2</sup> (0.1 microcurie/cm<sup>2</sup>) for all other alpha emitters; and

(iii) The non-fixed contamination plus the fixed contamination on the inaccessible surface averaged over 300 cm<sup>2</sup> (or the area of the surface if less than 300 cm<sup>2</sup>) does not exceed 4 × 10<sup>4</sup> Bq/cm<sup>2</sup> (1 microcurie/cm<sup>2</sup>) for beta and gamma and low toxicity alpha

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emitters, or  $4 \times 10^3$  Bq/cm<sup>2</sup> (0.1 microcurie/cm<sup>2</sup>) for all other alpha emitters.

(2) SCO-II: A solid object on which the limits for SCO-I are exceeded and on which:

(i) The non-fixed contamination on the accessible surface averaged over 300 cm<sup>2</sup> (or the area of the surface if less than 300 cm<sup>2</sup>) does not exceed 400 Bq/cm<sup>2</sup> ( $10^{-2}$  microcurie/cm<sup>2</sup>) for beta and gamma and low toxicity alpha emitters, or 40 Bq/cm<sup>2</sup> ( $10^{-3}$  microcurie/cm<sup>2</sup>) for all other alpha emitters;

(ii) The fixed contamination on the accessible surface averaged over 300 cm<sup>2</sup> (or the area of the surface if less than 300 cm<sup>2</sup>) does not exceed  $8 \times 10^5$  Bq/cm<sup>2</sup> (20 microcurie/cm<sup>2</sup>) for beta and gamma and low toxicity alpha emitters, or  $8 \times 10^4$  Bq/cm<sup>2</sup> (2 microcuries/cm<sup>2</sup>) for all other alpha emitters; and

(iii) The non-fixed contamination plus the fixed contamination on the inaccessible surface averaged over 300 cm<sup>2</sup> (or the area of the surface if less than 300 cm<sup>2</sup>) does not exceed  $8 \times 10^5$  Bq/cm<sup>2</sup> (20 microcuries/cm<sup>2</sup>) for beta and gamma and low toxicity alpha emitters, or  $8 \times 10^4$  Bq/cm<sup>2</sup> (2 microcuries/cm<sup>2</sup>) for all other alpha emitters.

*Transport index (TI)* means the dimensionless number (rounded up to the next tenth) placed on the label of a package, to designate the degree of control to be exercised by the carrier during transportation. The transport index is determined by multiplying the maximum radiation level in millisieverts (mSv) per hour at 1 m (3.3 ft) from the external surface of the package by 100 (equivalent to the maximum radiation level in millirem per hour at 1 m (3.3 ft)).

*Type A quantity* means a quantity of Class 7 (radioactive) material, the aggregate radioactivity which does not exceed A<sub>1</sub> for special form Class 7 (radioactive) material of A<sub>2</sub> for normal form Class 7 (radioactive) material, where A<sub>1</sub> and A<sub>2</sub> values are given in §173.435 or are determined in accordance with §173.433.

*Type B quantity* means a quantity of material greater than a Type A quantity.

*Unilateral approval* means approval of a package design solely by the Competent Authority of the country of origin of the design.

*Unirradiated thorium* means thorium containing not more than  $10^{-7}$  grams uranium-233 per gram of thorium-232.

*Unirradiated uranium* means uranium containing not more than  $2 \times 10^3$  Bq of plutonium per gram of uranium-235, not more than  $9 \times 10^6$  Bq of fission products per gram of uranium-235 and not more than  $5 \times 10^{-3}$  g of uranium-236 per gram of uranium-235.

*Uranium—natural, depleted or enriched* means the following:

(1)(i) "Natural uranium" means chemically separated uranium containing the naturally occurring distribution of uranium isotopes (approximately 99.28% uranium-238 and 0.72% uranium-235 by mass).

(ii) "Depleted uranium" means uranium containing a lesser mass percentage of uranium-235 than in natural uranium.

(iii) "Enriched uranium" means uranium containing a greater mass percentage of uranium-235 than 0.72%.

(2) In all cases listed in this definition, a very small mass percentage of uranium-234 is present.

[69 FR 3670, Jan. 26, 2004; 69 FR 55116, Sept. 13, 2004; 69 FR 58843, Oct. 1, 2004; 70 FR 56098, Sept. 23, 2005; 70 FR 73165, Dec. 9, 2005]

§ 173.410 General design requirements.

In addition to the requirements of subparts A and B of this part, each package used for the shipment of Class 7 (radioactive) materials must be designed so that—

(a) The package can be easily handled and properly secured in or on a conveyance during transport.

(b) Each lifting attachment that is a structural part of the package must be designed with a minimum safety factor of three against yielding when used to lift the package in the intended manner, and it must be designed so that failure of any lifting attachment under excessive load would not impair the ability of the package to meet other requirements of this subpart. Any other structural part of the package which could be used to lift the package must be capable of being rendered inoperable for lifting the package during