



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

400 Seventh Street, S.W.
Washington, D.C. 20590

JAN 17 2006

Mr. Gerry G. Kefalinos
Manager, Dangerous Goods
ASTAR Air Cargo Inc.
3336 State Rt. 73 M/S 297
Wilmington, OH 45177

Ref. No. 05-0269

Dear Mr. Kefalinos:

This is in response to your letter dated October 18, 2005, requesting clarification on the use of the CARGO AIRCRAFT ONLY label under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask if a CARGO AIRCRAFT ONLY (CAO) label may be placed on a package containing a hazardous material that is authorized aboard a passenger-carrying air craft.

The answer is yes. Section 173.27(b)(4) of the HMR states that a package containing a hazardous material that is authorized aboard cargo aircraft but not aboard passenger aircraft must be labeled with the CAO label required by § 172.402(c) and may not be offered for transportation or transported aboard passenger-carrying aircraft. Column 9A of the Hazardous Materials Table specifies the maximum net quantity of a hazardous material that is authorized to be transported aboard a passenger-carrying aircraft. In addition, §172.402(c) requires each person who offers for transportation or transports by aircraft a package containing a hazardous material that is authorized on cargo aircraft only to label the package with a CAO label specified in § 172.448. Furthermore, under § 172.203(f) a statement indicating that the shipment is within the limitations prescribed for either passenger and cargo aircraft only must be entered on the shipping paper. However, the HMR do not prohibit the use of the CAO label on a package containing a hazardous material that is authorized aboard passenger aircraft.

In accordance with Part 5 Chapter 3.2.11 of the International Civil Aviation Organization (ICAO) Technical Instructions for the Safe Transport of Dangerous Goods by Air the CAO label "must" be affixed when the package containing the dangerous goods may be transported on a cargo aircraft. However, where the packing instruction number and the permitted quantity per package are identical for passenger and cargo aircraft, the CAO label "should" not be used. In the ICAO Technical Instructions, "should" is used in a recommendatory sense. It is the opinion of this



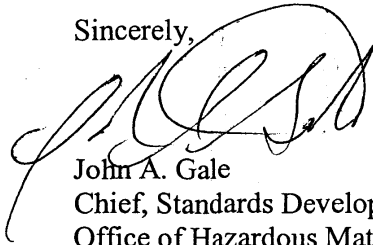
050269

172.203(f)
172.402(c)
173.27(b)(4)
175.85(b) = (c)

Office that a package bearing the CAO label that is authorized for transport aboard a passenger-carrying aircraft would not be in violation of the ICAO Technical Instructions. PHMSA will attempt to improve the clarity of this issue in a future rulemaking.

I hope this information is helpful. Please contact us if you require additional assistance

Sincerely,

A handwritten signature in black ink, appearing to read 'J. A. Gale', written in a cursive style.

John A. Gale
Chief, Standards Development
Office of Hazardous Materials Standards



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\$172.402(c)
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Labeling
05-0269
18 October 2005

Mr. Delmer F. Billings
U.S. Dept. of Transportation
Director – Exemptions and Approvals
Pipeline and Hazardous Material
Safety Administration
400 Seventh Street, SW
Washington, DC 20590

Dear Mr. Billings,

I have run across a situation that I believe needs to be addressed regarding the use of the Cargo Aircraft Only (CAO) label on packages that do not contain a hazardous material authorized only on cargo aircraft.

49 CFR 172.402(c) states: "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 172.488 of this subpart."

The ICAO Technical Instructions in Part 5 Chapter 3.2.11 states: "In addition to the class hazard labels specified in 3.1, handling labels must be affixed to packages of dangerous goods as follows: (a) the Cargo aircraft only" label (Figure 5-23) must be affixed: 1) when the package containing the dangerous goods may only be transported on a cargo aircraft."

Both of the above references indicate that the CAO label must only be used when the material as packaged is not allowed on a passenger aircraft. The intent of the CAO label was to prohibit quantities authorized only for cargo aircraft from being loaded on a passenger aircraft.

The loading of packages bearing a CAO label becomes an issue for airline operators in that they are required to load those packages bearing the CAO label where they are accessible and can be handled by the flight crew during flight if the need were to occur. (There are a few exceptions to the accessible rule.)

In 49 CFR 175.85(b) it states: "Each package containing a hazardous material acceptable only for cargo aircraft must be loaded in such a manner that a crew member or other authorized person can see, handle and where size and weight permit, separate such packages from other cargo during flight." 175.85(c) goes on to list the exceptions for certain hazard classes.

In the ICAO Technical Instructions in Part 7 Chapter 2.4.1 it states: "Packages or overpacks of dangerous goods bearing the "Cargo aircraft only" label must be loaded in such a manner that a crew member or other authorized person can see, handle and, where size and mass permit, separate such packages or overpacks from other cargo in flight. Hazard warning labels and the "Cargo aircraft only" label must be visible. It then goes on to list the exceptions....."



It has been brought to my attention that RSPA has previously issued a letter of interpretation indicating that it was okay for a shipper to use the Cargo Aircraft Only (CAO) label on packages that the shipper wishes to travel only on cargo aircraft when shipped according to 49 CFR even though the quantity is allowed on a passenger aircraft.

The authorization by then RSPA, for the use of the CAO label at the shipper's discretion is in direct conflict with 49 CFR and the ICAO Technical Instructions. Both sets of regulations require the label be used for only those materials that are authorized on cargo aircraft only. Allowing the use of the CAO label on shipments that are authorized for passenger aircraft defeats the purpose and the original intent and use of the CAO label. It also puts an undue burden on the carrier who has limited space to put items that are true CAO items which need to be visible and accessible during flight.

In addition, both 49 CFR and the ICAO Technical Instructions require a shipper to sign a certification that the shipment is accurately described, classified, marked and labeled according to the applicable regulations. Placing a CAO label on a package that is not prepared according to the CAO requirements and quantities is a direct conflict with the certification statement.

I respectfully request that PHMSA issue a new interpretation clarifying the proper use of the Cargo Aircraft Only label and that it is only to be used on packages authorized for transport aboard a cargo aircraft. If a shipper desires that their hazardous material package travel only on a cargo aircraft they should use some other means of identifying such rather than being allowed to use a regulatory label that has a specific use and mandatory requirements associated with it. Unrestricted use of the CAO label by a shipper puts a carrier at risk of violation because packages bearing the CAO label must be loaded where they are accessible and visible. Asking a carrier to physically look up each of these items in the appropriate regulations to determine if it was a true CAO quantity would be extremely time consuming and cause a carrier to bear the additional cost and expense of the additional workload just because a shipper desires his package to travel on a cargo aircraft.

If you require additional information, please contact me at your earliest convenience.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gerry G. Kefalinos", written over a horizontal line.

Gerry G. Kefalinos
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