DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 175

[Docket No. HM-192]

Quantity Limitations Aboard Aircraft

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Notice of public hearing.

SUMMARY: On April 6, 1984, the Materials Transportation Bureau (MTB) published an Advance Notice of Proposed Rulemaking in the **Federal Register** (49 FR 13717) which solicited public comments relative to any future action it should take concerning the provisions of § 175.75(a)(2) of the Department's Hazardous Materials Regulations (HMR). This section imposes a limitation of fifty pounds net weight on the quantity of hazardous materials, permitted to be carried aboard passenger aircraft, that may be carried in an inaccessible manner aboard any aircraft. The advance notice of proposed rulemaking was published in response to a petition for rulemaking submitted by Japan Air Lines Company, LTD. (JAL) on April 15, 1983, requesting that § 175.75(a)(2) be removed from the HMR. This document summarizes the comments received in response to that Advance Notice of Proposed Rulemaking and announces a public hearing that will be held with regard to this matter.

DATE: The hearing will be held May 30, 1985, beginning at 9:30 a.m.

ADDRESS: The hearing will be held in the Third Floor Auditorium at the Federal Aviation Administration Headquarters Building (Federal Office Building 10A), 800 Independence Avenue, SW., Washington, D.C. 20591. Submit written comments to Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Comments should identify the docket, be submitted in five copies, and be received on or before May 31, 1985. The Dockets Branch is located in room 8426 of the Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Edward A. Altemos, International Standards Coordinator, Materials Transportation Bureau, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426-0656.

SUPPLEMENTARY INFORMATION: A total of 28 comments were received in response to the advance notice of proposed rulemaking. Commenters expressed widely varying opinions regarding the action proposed in the JAL petition, from full agreement that § 175.75(a)(2) be removed from the HMR to opposition to making any change to the existing provisions. Other commenters proposed that the quantity limitations in § 175.75(a)(2) be increased. Because this matter is so controversial, the Air Line Pilots Association (ALPA) requested that a public hearing be held on the matter. The MTB agrees with ALPA that this is both an important and controversial matter, and believes that any change to the existing provisions of § 175.75(a)(2) must be carefully examined. Accordingly a public hearing will be held concerning this matter. In addition, the MTB believes it is important to summarize the comments that have been received in response to the advance notice of proposed rulemaking in order that certain matters raised by various commenters may be further considered at the hearing. The MTB will also accept additional written comments on matters raised in this document.

Six comments were received from emergency response organizations (e.g. fire departments and fire service training organizations). All of these commenters opposed any change to § 175.75(a)(2), alleging that removal of these quantity limitations could result in a catastrophic loss of life. One of these commenters termed any consideration of deleting the existing quantity limitation as "ludicrous". It should be noted that none of these commenters provided any detailed information to support these opinions, nor did any attempt to answer the specific questions posed by the MTB in the advance notice of proposed rulemaking. These questions had been posed in an attempt to gather information in order to determine the merits of the JAL petition.

One comment was received from a foreign government. The Director General of Civil Aviation of Portugal supported deletion of the provisions of § 175.75(a)(2) on the basis that such action would not be prejudicial to safety and that it would create further uniformity with the International Civil Aviation Organization (ICAO)

Regulations in Annex 18 of the Convention on International Civil Aviation and the ICAO Technical Instructions for the Safe Transport of Dangerous Goods by Air. However, no information was provided to support the contention that removal of these quantity limitations would not be prejudicial to safety.

Comments were received from nine chemical shippers or shipper related organizations. All of these commenters supported some modification to the existing quantity limitations, with eight suggesting the removal of the limitations. Many of these commenters cited distribution and marketing difficulties that had arisen from these regulations such as the following example:

American Hoechst Corporation divisions, subsidiaries and our parent facility have experienced, as a result of this regulation, marketing disadvantages with unnecessary handling and packaging difficulties which, in many cases, has defeated the purpose of using air freight service in the first place.

* * * * *

Current packaging standards, whether performance or specification criterion, when complied with offers sufficient control to transport hazardous material safety as proven by the lengthy service from responding air lines to this docket.

In its comments, Dow Chemical U.S.A. cited similar difficulties, and also attempted to outline the origin of the "50 pound" weight restriction. The salient points of the Dow comment are as follows:

1. This is to advise that the Dow Chemical Company supports the elimination of the present 50 lb. weight restriction for hazardous materials that currently applies to inaccessible cargo compartments on passenger aircraft. The rule served it's purpose years ago when most passenger aircraft had baggage and cargo compartments that were easily accessible to a crew member; and there was a very limited experience with transporting hazardous materials by air. Today not a single passenger aircraft operated by the Trunk Air Carriers have in-flight access to any of the baggage or cargo compartments. As a result, it creates an undue and unnecessary burden upon carrier and shipper alike.

2. The original rule stems from the early history when cargo and passenger aircraft had both accessible and inaccessible cargo and baggage compartments. The DC-3's had an in-flight accessible compartment behind the crew and one that was inaccessible in-flight behind the passenger compartment. The DC-4, DC-6 and DC-7 as well as the Connies and the Strata Cruisers all had the larger accessible compartment behind the crew as well as the belly compartments that were inaccessible during flight for all practical purposes. Some had trap doors or hatches that could be removed but they were primarily for mechanical inspection and normally used on the ground.

3. The limit of 50 lbs. was believed to be the heaviest weight that a cargo agent could physically handle with any degree of care. It also was high enough to cover an aircraft battery which the air carriers frequently transported as company material. Since there were other cargo compartments for the larger shipments the 50 lb. limit did not necessarily create a problem for either the shipper or the carrier.

4. The world headquarters of Dow's Pharmaceutical Division, Merrell Dow, is located in Cincinnati, Ohio. At one time they used a central purchasing plan that sourced their global manufacturing points on Cincinnati for certain of their raw materials and expensive drugs, many of which were regulated by DOT. The purpose of the central sourcing was for better quality control and to buy in large quantities at a lower price. In most cases the materials would move from Cincinnati to international points by air. Since Cincinnati had little or no all-cargo aircraft, the distribution system relied heavily upon the passenger aircraft and packaged accordingly. This was especially true for destinations like South Africa.

In the past, shipments were small and it went fairly smoothly, but as production increased the shipments became larger. As an example, Cherry Extract. Due to its flash point it is shipped as a flammable. On shipments of 100 to 200 pounds they were not only separated in compartments, but split up between aircraft, often being separated from the restricted article certificate and causing undue delays. Reducing the size of the shipment to 50 lbs. helped but also increased the costs.

* * * * *

5. In researching hazardous material incidences that have been reported to DOT and discussing the matter with knowledgeable air carrier personnel, we are unable to find a record of any hazardous material incidents aboard an aircraft that was caused by a large quantity of hazardous material. The control of the potential hazard of the material is in the packaging, not in the quantity aboard the aircraft in any one compartment.

The Council for the Safe Transportation of Hazardous Articles (COSTHA) supported some change to the existing quantity limitations, citing successful transportation experience with hazardous materials classified as ORM-D Consumer Commodities to which the quantity limitations of § 175.75(a)(2) do not apply. The following extract of the COSTHA comment outlines the suggested modification to the existing quantity limitations:

For a number of years, COSTHA participants have been shipping Consumer Commodities ORM-D-AIR via aircraft, without being subject to the 50-pound limitation. This transportation has been free of any undue passenger or crew hazard exposure. This verifies that certain packaging and quantity restrictions imposed by the rules result in safe transportation.

Without addressing what higher quantity would be equally safe, it seems reasonable to conclude that similar quantities of similar materials, otherwise classed, will provide the same degree of safety for passengers and crew alike. There is such a category under the U.S. regulations commonly referred to as "limited quantity".

There are a few exceptions to this equivalency generalization, but except for pure gases in quantities over 4 fluid ounces, the only material difference would seem to be the overall ORM-D gross package weight limit of 65 pounds. Pure flammable gases and non-flammable gases may need to be considered as a separate category.

The following points should be considered:

1. Experience that has been reported by foreign commenters to the docket (Question 1).

2. The obvious lack of safety implications for permitting the same items as now permitted by another name (Question 2).

3. The marked increase in efficiency and timeliness in moving goods because of the greater availability of scheduled airlines, thereby avoiding the delays that shippers frequently experience (Question 3).

4. The known outstanding experience of moving ORM-D materials by air without significant risk (Question 4).

5. And using the established 65-pound package limit now recognized by the DOT Hazardous Materials Regulations and ICAO TI Packing Note 910 (actually 55.1 pound) (Question 5).

There is a basis to remove immediately the total quantity limit by substituting a package size restriction, and a hazard risk level. The level could be that set by the current U.S. limited quantity categories.

While this solution is not entirely satisfactory because it does not correlate directly to the international regulatory system, the general risk level (better described as the "lack-of-significant-risk" level) might be adequately reflected by choosing UN Group II and III materials and quantities for passenger aircraft as given in the ICAO TIs. While it is true that the ICAO quantities would result in larger packaging for some materials than the 65-pound limit suggests, it is equally true that under U.S. experience many of these materials are moving safely in commerce, some as unregulated, and have been for many years. Safety in their movement is more related to methods of packaging than a packaging size having its origins in the ancient regulations for railway express cars.

The major advantage to such an approach is that it is not U.S.-regulation oriented. It uses existing international criteria. It would seem to be a reasonable compromise for at least the initial step.

We request, therefore, a formal rule making proposal at least using the U.S. limited quantity levels. During these considerations very serious study should be given to considering alternatively the use of ICAO passenger aircraft quantity limits or Group II and III limitations on package sizes, rather than aircraft total quantities. Under this

proposal, the 50-pound quantity limitation would continue to apply to Group I substances where they are authorized aboard aircraft.

Eleven comments were received from air carriers and air carrier organizations. All of these commenters supported either the removal of the quantity limitations or an increase in the quantity limits. The International Air Transport Association (IATA) and seven foreign air carriers submitted comments fully supporting the JAL petition to remove any limitation on the quantity of hazardous materials permitted to be carried in an inaccessible location aboard a passenger aircraft. The majority of these commenters provided specific opinions regarding the questions posed in the advance notice of proposed rulemaking. The comments submitted by Air France are typical of these comments and, although the comments are relatively lengthy, the MTB believes there is merit in reproducing those comments in this document. The five questions referred to in the Air France comments are those posed by the MTB in the advance notice.

In response to the reference advance notice of proposed rulemaking, AIR FRANCE wishes to submit the following comments:

(a) We fully support the statements in the JAPAN AIR LINES Co., Ltd., petition dated April 15, 1983, quoted in the reference Docket.

(b) With regard to the questions raised in the Docket itself:

(1) What has been the transportation experience in areas outside of the United States where no corresponding aircraft quantity limitations are imposed?

As most international airlines serving airports located on United States territory, AIR FRANCE had for the past two decades the experience of simultaneously operating:

—Flights to, from, or through a U.S. airport, where the quantity limitations per aircraft hold or compartment in § 175.75(a)(2) were applied, and

—Flights not serving a U.S. airport, where no such quantity limitations were applied and only the quantity limitations were applied and only the quantity limitations per package in (up to 1982) International Air Transport Association (I.A.T.A.) Regulations and (from 1983 on), International Civil Aviation Organization (I.C.A.O.) Technical Instructions for the Safe Transport of Dangerous Goods by Air were enforced, with no total aircraft or compartment quantity limitation.

We registered during this long period no evidence of either more incidents or more potentially hazardous ones on the international flights, as compared to the flights serving an airport on U.S. territory, which were—and still are—performed in compliance with the requirements of § 175.75(a)(2).

Further, our records of all incidents or abnormalities concerning carriage of dangerous goods (hazardous materials) associated with AIR FRANCE flights, held since 1972, include no case where the total quantity (number of packages) per aircraft, or cargo compartment, or unit load device was identified as a factor which might eventually have increased the risk.

(2) What would be the safety implications, if any, if the J.A.L. petition were granted?

To the best of our knowledge, this would introduce no adverse safety implications. On the contrary, positive safety improvement effect could be expected, insofar as past experience demonstrates safety regulations are best and most universally complied with when they are systematically the same for all flights. Exceptions, and rules with too many variants, have consistently been found more difficult to enforce. The currently prevailing international situation, whereby in accordance with I.C.A.O. Technical Instructions there is no aircraft quantity limitation on most routes, but there is one for any shipment to, from or through an airport located in the United States or on U.S. territory, constitutes an additional complexity which may have an adverse effect on safety.

(3) What would be the economic benefits and consequences associated with adoption of the amendment proposed by J.A.L.?

The currently prevailing situation under 49 CFR 175.75(a)(2) is primarily detrimental to the U.S. general public, insofar as U.S. shippers or consignees may not benefit from the possibility of shipping any significant amount of hazardous cargo on passenger aircraft flights: They are in practice limited to the use of freighter aircraft flights, noticeably less frequent and available to a significantly lesser number of international destinations.

Since there is no evidence to demonstrate it contributes to a higher safety, this rule therefore seems to constitute an unwarranted restraint on international commerce by air, primarily detrimental to United States citizens or companies.

Deletion of the rule would result in more equal competition between the U.S. and foreign chemical industries on worldwide markets, as well as more equal competition between U.S. and foreign air carriers on international routes not touching an airport located on U.S. territory. Past experience has shown that removing such restrictions on fair competition usually results in traffic development beneficial to the shipping public as well as the airline industry at large.

(4) If, instead of removing § 175.75(a)(2), certain classes * * * of hazardous materials were to be excepted from these quantity limitations, what hazard classes or sub-classes could be safely excepted and why?

Based on the findings of the I.C.A.O. group of international experts as reflected in I.C.A.O. Technical Instructions for the Safe Transport of Dangerous Goods by air, all classes or sub-classes of hazardous materials (dangerous goods) can safely be exempted from aircraft quantity limitations, with the exception of:

—United Nations Class 7, Radioactive Materials, where a maximum quantity of 50 Transport Indexes per aircraft should remain applicable in accordance with International Atomic Energy Agency (I.A.E.A.) rules.

(5) If, instead of removing § 175.75(a)(2), the 50 pound limitation were replaced by a higher quantity limit, what quantity limit would be applicable and why?

Except as provided for under comment No. 4) above in accordance with I.C.A.O. Technical Instructions, we believe 50 pound (or 150 pounds of non flammable compressed gas) to be an arbitrary limit, and it does not, to the best of our knowledge, seem possible to substantiate this value or any higher set value in terms of safety. This is because safety, in the context of international I.C.A.O. regulations as well as 49 CFR, is based on quantity limitations per package in relation with stringent packaging requirements, with the intent of making each individual package harmless once all specified requirements have been complied with. The actual safety problem is to ensure every single package is totally harmless: If it is not, it should be deemed unacceptable on passenger aircraft, where it may not be accessible during flight in the event of an incident. If it is, then having 2, 3 or in identical packages, all meeting the safety requirements per package, will not change the safety risk.

The Air Transport Association of America (ATA) reported that its member airlines are in basic agreement that the quantity limitations imposed by § 175.75(a)(2) are too restrictive, although they are divided as to whether to remove them or raise them, with one carrier stating that they are satified with the present rule and quantities. However, they noted that only international carriers can provide transportation experience in areas outside of the United States where no corresponding aircraft quantity limitations are imposed. The ATA went on to make the following observations regarding the origin of this limitation, problems enountered by carriers as a result of the limitation and a suggested interim measure to increase the permitted quantities in order to help the carriers as a result of the limitation and a suggested interim measure to increase the permitted quantities in order to help to resolve the problems that have been encountered:

Certain air carriers have reported that, in complying with § 175.75(a)(2), it has forced multi-piece air freight shipments of hazardous materials of the same class to be split, requiring loading in multiple ULD's and cargo compartments, and/or movement on numerous aircraft over a period of days, and in certain instances, requiring routing to different transfer points. This all provides for additional handling, and exposure of the pieces in the shipment to an increased possibility of incompatible loading and damage. In this situation, additional paperwork is also required, i.e., extra copies of dangerous goods declarations, pilot notifications, and separate manifests for each additional flight.

In considering this issue, one has to ponder the question of how the 50 pounds of

hazardous materials (and 150 pounds of non-flammable compressed gas) in an inaccessible cargo compartment, found its way into the regulations. It appears that it may have been inherited from passenger rail car and rail express car quantities established many years ago, perhaps by the old Railway Express Agency (REA).

This also makes it all the more difficult to recommend practicable quantity limits. Perhaps an approach applying modification to § 175.75(a)(2) could be introduced to increase the quantity from 50 pounds to 300 pounds, and 150 pounds of non-flammable compressed gas to 500 pounds, for a period, such as, one year from the date of an interim rule. Close evaluation of the increased quantities could be made during and at the end of this period. Further determination could then be made with respect to the issuance of a final rule.

The Flying Tiger Line was the only United States air carrier to submit comments on the notice separate from those submitted by the ATA. Flying Tigers expressed reservations concerning the complete removal of the quantity limitations in question and indicated a belief that ". . . statements and/or petitions relating to experience can be misleading. The United States of America has imposed a Hazardous Incident Reporting Procedure (49 CFR 171.15 and 175.16) for many years. This same requirement does not exist worldwide, which suggests information received by DOT-MTB may be partially self-serving rather than complete." Flying Tigers went on to support an increase in the present quantity limitations along the lines suggested by the ATA. The Flying Tigers comments also made the following observations of general interest, and posed certain additional questions:

We further believe that the introduction of the ICAO Technical Instructions January 1, 1983, (acceptable to DOT when used in accordance with 49 CFR 171.11) permitted numerous quantity increases per existing packages on passenger and cargo aircraft. While we support the introduction and acceptance of ICAO Technical Instructions, it is suggested there is inadequate history to insure the same past levels of safety have been maintained. Carriers, and carrier organizations continue to file exceptions suggesting some form of disapproval with current regulations, and the level of safety provided by same.

There are obvious economic benefits to shippers and passenger air carriers that could be derived from either a relaxation of § 175.75(a)(2), or if the limitations were removed. The questions which arise are primarily based on removal of all quantity limitations, and the impact on safety. You may wish to consider the following:

1. Current quantity limitations present minimal problems to carriers insuring non-compatible Hazardous Material is properly separated in accordance with 49 CFR 175.78 (Table a). Removal of limitations can result in mixing non-compatible Hazardous Material due to aircraft space constraints. This problem may be compounded due to aircraft ground time at a facility, (further compounded by other flight activity, which must be completed in conjunction with flight prior to departure). This degree of danger is an unknown factor, which can only be determined by number and quantity of non-compatibles on a given flight and the potential reaction based on contact.

2. Aircraft configuration, (B747 vs B747 Combi, etc.) should be considered. Should a combi-aircraft be permitted to transport an unlimited quantity of hazardous materials on the main cargo deck of a passenger aircraft? What is the potential degree of danger to passengers in the event of incident? Does this impede crew abililty to respond to emergency?

Note: We believe this same incident occurring in a belly compartment can be more easily addressed by crews and presents a lesser degree of danger to passengers.

Sabena Belgian World Airlines also expressed some reservations regarding the total removal of these quantity limitations, and suggested a revision of § 175.75(a) (2) similar in many respects to that proposed by the ATA and Flying Tigers. In addition, the Sabena comments contained a number of important observations of a general nature, paraticularly with respect to the need to load hazardous materials on the main deck of combi-aircraft because the existing quantity limitations so severely restrict the loading of hazardous materials in the inaccessible underfloor holds. The following comments by Sabena are of particular interest:

In order to meet the present quantity limitations to, from or via the USA, we (SABENA) are obliged to load most of hazardous materials permitted on passenger aircraft in the main deck cargo compartment of our combi aircraft (these compartments are fully accessible Class B cargo compartments), but the adequacy of main deck Class B cargo compartments for transport of hazardous materials has been questioned by some parties. It has been considered that the loading of hazardous materials in main deck cargo compartments should not be encouraged, because combi main deck holds must be kept ventilated at all times. However, in theory, any fire in aircraft underfloor holds would be suppressed by oxygen starvation.

We believe that the present restriction of § 175.75(a)(2) does not recognize the principle that when hazardous materials are properly packaged, they no longer constitute any appreciable degree of hazard. We prefer to see more stringent packaging regulations where necessary with the complete elimination of quantity restrictions per aircraft (other than for radioactive materials). In fact, this was done in the ICAO Technical Instructions where specification packagings for hazardous materials have been required for transport on passenger-carrying aircraft as well. In this connection, we disagree with point 6 of the JAL petition which states: 'Shipments of hazardous materials that are acceptable for carriage on passenger aircraft would be subject . . . to much more stringent individual . . . packaging requirements than those applicable to hazardous materials transported on cargo aircraft.' We believe that the possibility of ruptured packagings does in fact exist with the non-specification packagings presently permitted for carriage on passenger aircraft, but that this possibility is remote with the specification packagings required for carriage on cargo aircraft or required by the ICAO Technical Instructions for carriage on passenger aircraft.

Considering the above, we feel that § 175.75(a) (2) should be retained for hazardous materials permitted to be carried aboard passenger-carrying aircraft when such materials are packed in non-specification packagings, but that § 175.75(a) (2) should not apply when hazardous materials are packed in marked specification packagings as provided in the ICAO Technical Instructions. This principle would be reviewed if and when ICAO adopts provisions for limited quantities of dangerous goods. Nevertheless, since no incidents have been reported in air transport, as stated above, a certain relaxation of the present restrictions of § 175.75(a) (2) seems desirable, and it is suggested that the quantity limitation be increased from 50 pounds to 300 pounds. On the other hand, we see no need to limit the quantity of non-flammable compressed gases, in view of the very specialized type of packagings (cylinders) used for these materials.

In addition to the general suggestion to raise the quantity limitation to 300 pounds, Sabena also proposed in their comments to exempt certain hazardous materials with a limited level of hazard from the provisions of § 175.75. Specifically, Sabena proposed that § 175.75 be amended to read as follows:

Section 175.75 Quantity limitations aboard aircraft.

(a) * * *

(1) * * *

(2) More than 300 pounds net weight of hazardous material permitted to be carried aboard passenger-carrying aircraft—

(i) * * *

(ii) * * *

(iii) * * *

(3) * * *

(b) No limitation applies to the number of packages of the following materials aboard an aircraft:

(i) Hazardous materials in marked specification packagings as provided in the ICAO Technical Instructions,

(ii) Non-flammable compressed gases,

(iii) Small-arms ammunition or Explosives of ICAO Division 1.4, compatibility group S,

(iv) Flammable liquids with a flashpoint above 90°F. (32°C.) that do

not meet the definition of another hazardous class,

(v) Combustible liquids subject to the requirements of this subchapter,

(vi) Substances of ICAO Packing Group III in Division 6.1,

(vii) Materials of ICAO Class 9, and

(viii) ORM materials.

While not ruling out the possibility of increasing the quantity limitations in § 175.75(a)(2), ALPA in their comments emphasized that such action should only be taken after careful study to insure that flight safety is in no way compromised. ALPA also indicated that testing should be done in order to assess the effects of hazardous materials releases not only in inaccessible compartments, but in accessible compartments as well. The following extract from the ALPA comments summarizes their views on this matter.

In summary, ALPA has reservations on the dilution of the safety aspects of 49 CFR by the proposed elimination of the limitations imposed by § 175.75(a)(2) solely to bring it in line with the ICAO Technical Instructions. We would strongly recommend that any consideration toward a reduction of the valuable safety quantity limitations of § 175.75(a)(2) be based on testing of inaccessible cargo compartments containing hazardous materials under actual flight conditions to assess their capability to withstand safely the possible problems created by the effects of the materials being carried in the compartments. These tests should include, but not be limited to, fire, toxic leaks, corrosive spills, the effects of high ground ambient temperatures, excessive humidity conditions, and the effects of explosive decompression. While it is recognized that this ANPRM is addressing only inaccessible cargo compartments, we would recommend that the same type of testing be accomplished for accessible cargo compartments. With the worldwide acceptance and use of the combi aircraft, the same issues will again have to be addressed.

We cannot support any reduction of the safety aspects of 49 CFR 175.75(a)(2) based purely on simplifying airline procedures or for economic gain. The fact that the possibility of a catastrophic ground accident concerns the petitioner, JAL, should certainly indicate that unlimited quantities of hazardous materials in inaccessible cargo compartments may have even more catastrophic results during flight.

Since this subject has become so controversial, we would recommend that a public hearing be scheduled.

As previously indicated, owing to the diversity of views on the question of limitations on the quantity of hazardous materials that may be carried in an inaccessible location aboard a passenger aircraft, the MTB agrees with the ALPA suggestion that a public hearing be scheduled relative to this matter. At this hearing the MTB desires to receive further information and constructive comments on the questions raised in the advance notice of proposed rulemaking, comments and further information regarding the general matters raised in the comments highlighted in this document and comments on the following specific questions:

1. What will be the difference in the effects of fire, toxic leaks, or corrosive spills if an incident occurs in an inaccessible compartment as compared to an accessible compartment?

2. What is the relative hazard of transporting unlimited quantities of hazardous materials in an accessible location aboard passenger aircraft (e.g. on the main deck of a combi aircraft), as compared to carrying the same quantities in inaccessible locations, and why? Should the scope of this docket be expanded to address the transport of hazardous materials in accessible locations that may afford less safety than inaccessible locations?

3. If the MTB proceeds with a rulemaking to increase the quantities permitted to be carried in an inaccessible location, should a distinction in the quantities permitted be made on the basis of the classification of the compartment (i.e. C, D or E) in which hazardous materials are to be loaded?

4. Should the use of unit load devices be considered as a condition for permitting an increase in the quantities of hazardous materials permitted to be transported in inaccessible locations?

5. What are the merits of the approaches suggested by COSTHA, ATA and Sabena to modifying the existing quantity limitations?

Persons participating in this hearing are asked to provide, to the extent possible, detailed factual support for their statements in order to provide the MTB with sufficient information on which to base a decision regarding any future action that may be taken under this docket. Commenters are not limited to responding to the questions raised above and may submit any facts and views consistent with the intent of this notice. In addition, as requested in the advance notice, commenters are encouraged to provide comments on "major rule" considerations under terms of Executive Order 12291, "significant rule" consideration under DOT regulatory procedures (44 FR 11034), potential environmental impacts subject to the Environmental Policy Act, information collection burdens which must be reviewed under the Paperwork Reduction Act, and economic impact on small entities subject to the Regulatory Flexibility Act.

It is requested that persons desiring to provide oral comments at the hearing advise Mr. Altemos before May 28, 1985.

(49 U.S.C. 1804, 1808)

Issued in Washington, D.C., on February 8, 1985.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

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