

Research and Special Programs Administration

49 CFR Part 173

[Docket No. HM-149F, Notice No. 88-9]

Exceptions for Specified Quantities of Radioactive Materials

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: RSPA proposes to renew for two years the exceptions (statutory exemptions) for specified quantities of radioactive materials found in 49 CFR 173.4, 173.421-1 and 173.421-2. This action is necessary to update the exceptions in these sections which permit the transportation by passenger-carrying aircraft of certain quantities of radioactive materials under the existing restrictions. Updating these exceptions will prevent the disruption of routine and ongoing shipments which have been made safely for 12 years under the existing exceptions. These materials do not present a significant hazard to passengers or crew on an aircraft.

DATE: Comments must be received on or before January 11, 1988.

ADDRESS: Address comments to Dockets Unit, Office of Hazardous Materials Transportation, (DHM-30), U.S. Department of Transportation, Washington, DC 20590. Comments should be submitted, when possible, in five copies and should identify the docket number. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed, stamped postcard. The Dockets Unit is located in Room 8421 of the Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Office hours are 8:30 a.m. to 5:00 p.m., Monday through Friday, except public holidays.

FOR FURTHER INFORMATION CONTACT: Ann Boylan, Standards Division, Office of Hazardous Materials Transportation, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. (202) 366-4488.

SUPPLEMENTARY INFORMATION: On May 1, 1987, RSPA published a final rule under Docket HM-149E (52 FR 15948). In that final rule, RSPA renewed for two years the exceptions (statutory exemptions) for specified quantities of radioactive materials found in 49 CFR 173.4, 173.421-1 and 173.421-2. This action was taken because the existing exceptions were due to expire on May 2, 1987.

In accordance with section 107 of the Hazardous Materials Transportation Act (HMTA) (49 U.S.C. 1806) governing exemptions, the exceptions provided in §§ 173.4, 173.421-1 and 173.421-2 are limited to two years unless reexamined and renewed. These exceptions expire on May 2, 1989. Historically, these exceptions have been issued and subsequently renewed under Docket HM-149. The legal background and regulatory history of these exceptions can be found in Docket HM-149C (46 FR 24184) published on April 30, 1981, and in preceding amendments dating back to April 17, 1975 (40 FR 17141).

In accordance with 49 CFR 106.13 and 49 U.S.C. 1806, RSPA is once again reexamining the provisions of the exceptions provided in §§ 173.4, 173.421-1 and 173.421-2 and proposes to extend the effective dates of these exceptions. Specifically, in §§ 173.4(b), 173.421-1(b)(2) and 173.421-2(d), the date "May 2, 1989" would be amended to read "May 2, 1991". These amendments would permit the continued transportation of specified quantities of radioactive material by passenger-carrying aircraft.

Administrative Notices

Executive Order 12291

The RSPA has determined that this rulemaking (1) is not "major" under Executive Order 12291; (2) is not "significant" under DOT's regulatory policies and procedures (44 FR 11034); (3) will not affect not-for-profit enterprises or small governmental jurisdictions; and (4) does not require an environmental impact statement under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*). A regulatory evaluation is available for review in the Docket.

Executive Order 12612

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Impact on Small Entities

Based on limited information concerning the size and nature of entities likely to be affected by this proposed rule, I certify that the regulations proposed herein would not, if adopted, have a significant economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 173

Hazardous materials transportation, Packaging and containers.

In consideration of the foregoing, Part 173 of Title 49 of the Code of Federal Regulations would be amended as follows:

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

1. The authority citation for Part 173 continues to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 1806, 1807, 1808; 49 CFR Part 1, unless otherwise noted.

§ 173.4 [Amended]

2. In paragraph (b) of § 173.4, the year "1989" would be changed to read "1991".

§ 173.421-1 [Amended]

3. In paragraph (b)(2) of § 173.421-1, the year "1989" would be changed to read "1991".

§ 173.421-2 [Amended]

4. In paragraph (d) of § 173.421-2, the year "1989" would be changed to read "1991".

Issued to Washington, DC, on December 7, 1988, under the authority delegated in 49 CFR Part 1, Appendix A.

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation.

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