

**DEPARTMENT OF TRANSPORTATION****49 CFR Parts 173 and 177**

[Docket No. HM-164B; Notice 87-9]

**Notification to RSPA of Route Plans for Radioactive Materials Transportation****AGENCY:** Office of Hazardous Materials Transportation, Research and Special Programs Administration, DOT.**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to amend 49 CFR 173.22 and 177.825 to require that carriers, rather than shippers, give written notice to the Research and Special Programs Administration (RSPA) of route plans and other information relating to the transportation of highway route controlled quantities of radioactive materials.

**DATE:** Comments must be received by August 31, 1987.

**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, identifying the docket number (Docket HM-164B) and, when possible, in five copies. The Dockets Unit is located in Room 8426 of the Nassif Building, 400 Seventh Street SW., Washington, DC. Office hours are 8:30 a.m. to 5:00 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Edward H. Bonekemper, III, Senior Attorney, Office of the Chief Counsel, Research and Special Programs Administration, 400 7th Street, SW., Washington, DC 20590 (202-366-4362).

**SUPPLEMENTARY INFORMATION:** On January 19, 1981 (46 FR 5298), in Docket HM-164, RSPA promulgated 49 CFR 177.825(b) as a final rule establishing routing and driver training requirements for highway carriers of any package of "large quantity radioactive materials." The regulated quantities later were changed (49 FR 10247, March 10, 1983) to any package of "highway route controlled quantity radioactive materials" as defined in 49 CFR 173.403(1).

Section 177.825(c) requires the carrier (or his agent) operating a motor vehicle containing highway route controlled quantities of radioactive materials to prepare a written route plan and to provide copies to the motor vehicle driver and the shipper. The route plan must contain origin and destination points, the selected route, planned stops, estimated departure and arrival times,

and emergency assistance telephone numbers. Finally, the rule requires variations between the route plan and routes actually used, and the reasons therefor, to be reported in an amendment to the route plan, which must be delivered to the shipper as soon as practicable but within 30 days of the deviation.

Under Docket HM-164, RSPA imposed certain filing requirements on shippers of highway route controlled quantities of radioactive materials. Section 173.22(d) requires them, within 90 days of carriers' accepting a package of such materials, to file with the Director, Office of Hazardous Materials Transportation, RSPA: (1) The route plan described above, including supplements within 90 days of receipt; (2) a statement of the names and addresses of the shipper, carrier and consignee, and (3) a copy of the shipping paper or description of the radioactive material required by § 172.202 and § 172.203.

Several problems have occurred as shippers attempt to comply with these regulations. Submissions of route plans, and particularly of route plan amendments, have been late and inaccurate. Part of the problem seems to be the awkward information flow required by the regulations. The carrier develops the route plan and subsequent amendments thereto and submits copies of these to the shipper. The shipper, without knowing whether these documents are correct, is then required to provide copies of them to RSPA. RSPA considers that the timeliness and accuracy of these submissions would be improved by requiring their preparer, the carrier, to submit them directly to RSPA. Thus, RSPA proposes to amend Part 177 to place this responsibility on carriers instead of shippers.

Shippers also have two related but less burdensome information requirements under § 173.22(d). That section requires shippers to provide RSPA with (1) a statement of the names and addresses of the shipper, carrier and consignee and (2) a copy of the shipping paper or description of the radioactive material required by §§ 172.202 and 172.203.

This information is available to both carriers and shippers. It appears more efficient to place these information-providing responsibilities on a single party than to place them on two parties. It also appears more effective and efficient to receive the route plans from carriers rather than shippers. Therefore, RSPA is proposing to require carriers to provide to RSPA all three types of information currently required from shippers under § 173.22(d).

RSPA solicits comments which will enable it to determine the most equitable and efficient means of allocating responsibility for providing all these types of information.

**Administrative Notices****A. Executive Order 12291**

RSPA has determined that the effect of this regulatory proposal would not meet the criteria specified in section 1(b) of Executive Order 12291 and, therefore, that it is not a major rule. This is not a significant rule under DOT regulatory procedures (44 FR 11034) and requires neither a Regulatory Impact Analysis nor 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.

**B. Impact on Small Entities**

I certify that the proposal in this notice will not, if promulgated, have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**C. Paperwork Reduction Act**

Information collection requirements contained in this proposal are being submitted for approval to the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

**List of Subjects****49 CFR Part 173**

Hazardous materials transportation, shippers' responsibility.

**49 CFR Part 177**

Hazardous materials transportation, Radioactive materials, Shippers, Carriers.

In consideration of the foregoing, 49 CFR Parts 173 and 177 would be amended as follows:

**PART 173—SHIPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS**

1. The authority citation for Part 173 would be revised to read:

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

**§ 173.22 [Amended]**

2. § 173.22, paragraph (d) would be removed.

**PART 177—CARRIAGE BY PUBLIC HIGHWAY**

1. The authority citation for Part 177 would be revised to read:

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

In § 177.825, a new paragraph (f) would be added to read as follows:

**§ 177.825 Routing and training requirements for radioactive materials.**

\* \* \* \* \*

(f) Except for shipments in compliance with physical security requirements of

the U.S. Nuclear Regulatory Commission in 10 CFR Part 73, each carrier shall, within 90 days following acceptance by a carrier of each shipment containing a highway route controlled quantity of radioactive material (see § 173.401(l)), file the following information with the Director, Office of Hazardous Materials Transportation, RSPA:

(1) The route plan required under § 177.825(c) of this subchapter. Any supplement to the route plan prepared in accordance with § 177.825(c) of this subchapter shall be filed within 30 days of its delivery to the shipper;

(2) A statement identifying the names and addresses of the shipper, carrier and consignee; and

(3) A copy of the shipping paper or the description of the radioactive material in the shipment required by §§ 172.202 and 172.203 of this subchapter.

Issued in Washington, DC, on July 10, 1987, under authority delegated in 49 CFR Part 106, Appendix A.

Alan I. Roberts,

*Director, Office of Hazardous Materials Transportation.*

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