

of this title. This authority may not be redelegated. Each proposed determination is subject to the approval of the Assistant General Counsel, Research and Operations Division, or the appropriate Regional Attorney or Attorney-in-Charge, whichever routinely provides legal services for the purchasing activity.

(c) Doubtful cases that are to be submitted to the General Accounting Office for advance decision shall be submitted through the Director, Office of Operations.

**§ 4-2.406-4 Disclosure of mistakes after award.**

If a mistake in bid is disclosed after award, the Contracting Officer shall make a final determination in accordance with the provisions of § 1-2.406-4 (b) and (c) of this title and shall coordinate each proposed determination with the Assistant General Counsel, Research and Operations Division, or the Regional Attorney or Attorney-in-Charge, whichever routinely provides legal services to the contracting officer. Such coordination shall, at a minimum, consist of the Contracting Officer providing the proposed determination and the case file to the appropriate legal officer for comment.

Dated: March 4, 1983.

Frank Gearde, Jr.,

Director, Office of Operations.

[FR Doc. 83-11590 Filed 4-29-83; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION**

**Research and Special Programs Administration**

**49 CFR Parts 172 and 175**

[Docket No. HM-166Q and HM-166F; Amdt. Nos. 172-80, 175-27]

**Exceptions for Small Quantities of Hazardous Materials and Limited Quantities of Radioactive Materials**

**AGENCY:** Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** The MTB is renewing the exemption found in 49 CFR 172.204(c)(4), 175.10(a)(6), and 175.700(c) for air transport of limited quantity radioactive materials exhibiting low levels of radiation. These materials do not present a significant hazard to passengers and crew on an aircraft. The effect of this action is to permit continued transportation by passenger-carrying

aircraft of radioactive materials under existing restrictions.

**EFFECTIVE DATE:** May 3, 1983.

**FOR FURTHER INFORMATION CONTACT:** Thomas G. Allan, Exemptions and Regulations Termination Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau, 400 Seventh Street, S.W., Washington, D.C. 20590. Telephone (202) 426-2075.

**SUPPLEMENTARY INFORMATION:** The MTB published a notice of proposed rulemaking (NPRM) on November 15, 1982 (47 FR 51430), seeking public comment, in part, on the proposed renewal for two years of the exemption found at 49 CFR 172.204(c)(4), 175.10(a)(6) and 175.700(c) for air transportation of limited quantity radioactive materials exhibiting low levels of radiation. The comment period ended on January 6, 1983. Eight commenters specifically addressed the proposal to renew the limited exemption. Each of these commenters support the renewal of this exemption. There was no opposition to a renewal of the exemption.

Conforming with Section 107 of the Hazardous Materials Transportation Act (HMTA) (49 U.S.C. 1806) governing exemptions, the exemption in §§ 172.204(c)(4), 175.10(a)(6), and 175.700(c) is limited to a two-year life unless reexamined and renewed. The exemption was last renewed under Docket HM-149C (46 FR 24184), published on April 30, 1981. The legal background and regulatory history of the exemption is discussed in that amendment and preceding amendments dating back to April 17, 1975 (40 FR 17141). The present exemption expires on May 3, 1983. The MTB is renewing the exemption on the finding that renewal is consistent with the public interest and safety.

Two commenters suggested that MTB has gained sufficient experience with this exemption to permit its adoption in the Hazardous Materials Regulations as a permanent rule, or, alternatively, to increase the life of the exemption to a period of 4 years. Neither of the suggested actions are possible through rulemaking. The general prohibition which restricts radioactive material from being transported on passenger-carrying aircraft is contained in § 108 of the HMTA (49 U.S.C. 1807) and, therefore, may be withdrawn only by new legislation. As indicated above, MTB is limited in its authority and may issue exemptions only for a period not exceeding 2 years. Consequently, the commenters suggestions must be denied. It is noted, however, that MTB has

included this item in its 1983 legislative package.

This amendment is being handled as an emergency regulation to permit an effective date which is less than 30 days following publication in the **Federal Register**. An interruption of currently authorized practices would adversely affect many shippers of limited quantity radioactive materials and radioactive devices who depend on transportation by passenger-carrying aircraft. Also, a prohibition from passenger-carrying aircraft would not result in an overall increase in the level of safety during transportation.

Other proposals published in the NPRM are to be addressed in subsequent amendments issued under this Docket.

**Regulatory Impact:** MTB has determined this final rule is not a "major rule" under the terms of Executive Order 12291, and is not "significant" under DOT procedures (44 FR 11034). A regulatory evaluation is available in the Docket at the address shown above. Based on the comments received in response to the NPRM, I certify that this rule change will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act.

**List of Subjects in 49 CFR Parts 172 and 175**

Hazardous materials transportation, Air carriers, Radioactive materials.

In consideration of the foregoing, Parts 172 and 175 of Title 49, Code of Federal Regulations are amended as follows:

**PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS**

1. In § 172.204, paragraph (c)(4) is revised to read as follows:

**§ 172.204 Shipper's certification.**

\* \* \* \* \*

(c) \* \* \*

(4) *Radioactive material.* Each person who offers any radioactive material for transportation aboard a passenger-carrying aircraft shall sign (mechanically or manually) a printed certificate stating that the shipment contains radioactive material intended for use in, or incident to, research, or medical diagnosis or treatment. Prior to May 3, 1985, this provision does not apply to materials meeting the

requirements of § 173.391(a), (b) or (c) of this subchapter in effect on May 3, 1983.

**PART 175—CARRIAGE BY AIRCRAFT**

2. In § 175.10, paragraph (a)(6) is revised to read as follows:

**§ 175.10 Exceptions.**

(a) \* \* \*

(6) Prior to May 3, 1985, radioactive materials which meet the requirements of § 173.391(a), (b), or (c) of this subchapter in effect on May 3, 1983.

\* \* \* \* \*

3. In § 175.700, paragraph (c) is revised to read as follows:

**§ 175.700 Special limitations and requirements; radioactive materials packages in passenger-carrying aircraft.**

\* \* \* \* \*

(c) Except as provided in this paragraph, no person may carry aboard a passenger-carrying aircraft any radioactive material other than a radioactive material intended for use in,

or incident to, research, or medical diagnosis or treatment. Prior to May 3, 1985, this prohibition does not apply to materials which meet the requirements of § 173.391(a), (b), or (c) of this subchapter in effect on May 3, 1983.

(49 U.S.C. 1803, 1804, 1806, 1808; 49 CFR 1.53, Appendix A to Part 1)

Issued in Washington, D.C., on April 27, 1983.

**L. D. Santman,**  
*Director, Materials Transportation Bureau.*

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