



DEPARTMENT OF TRANSPORTATION
 MATERIALS TRANSPORTATION BUREAU
 WASHINGTON, D.C. 20590

22366

[Docket No. HM-149; Amdt. Nos. 172-35,
 175-4]

**PART 172—HAZARDOUS MATERIALS
 TABLE AND HAZARDOUS MATERIALS
 COMMUNICATION REGULATIONS**

PART 175—CARRIAGE BY AIRCRAFT

**Air Transportation of Limited Quantities of
 Low-Level Radioactive Materials; Ex-
 emption Renewal**

AGENCY: Materials Transportation
 Bureau, DOT.

ACTION: Final rule.

SUMMARY: The Materials Transporta-
 tion Bureau (MTB) is renewing for two
 years the limited quantity exception for
 air transportation of materials exhibit-
 ing very low levels of radiation. These
 materials do not present a significant
 hazard to passengers and crew of an air-
 craft. The intended effect of this action
 is to permit continued transportation by
 passenger aircraft of these materials un-
 der existing restrictions.

DATES: This amendment is effective
 May 3, 1977.

FOR FURTHER INFORMATION CON-

C. Hugh Thompson, Director, Of-
 fice of Hazardous Materials Opera-
 tions, 2100 Second Street, SW., Wash-
 ington, D.C. 20590. Phone: 202-428-
 0656.

SUPPLEMENTARY INFORMATION:
 By notice (42 FR 16459, March 28, 1977)
 the MTB proposed to renew the expir-
 ing exemption found at 49 CFR 175.10
 (a) (6). Twelve comments were received
 which may be grouped as follows:

(1) Objection to imposition of the pro-
 posed shipping paper requirements for
 § 173.391(a) materials, and request for
 a public hearing on that subject.

(2) Objection to continuation of sur-
 face shipping paper requirements for
 § 173.391 (b) and (c) materials in light
 of the proposed continuance of air ship-
 ping paper exceptions for § 173.391 (b)
 and (c) materials;

(3) Request for amendment of § 172.-
 203(d) (1) (iii) to allow alternative use of
 a statement of maximum permitted activ-
 ity in place of the actual activity per
 package;

(4) Request for a permanent regula-
 tion instead of an exemption renewal;

(5) General support for the March 28
 proposals.

There were not received any objections
 to basic continuation of the exemption.
 Given the public interest in matters re-
 lated to the exemption, such as shipping
 paper requirements for surface trans-
 portation as well as for transportation
 by air, the MTB has decided to limit
 final action under this docket to the ex-
 emption itself and to consider the ques-
 tion of shipping paper requirements and
 the request for a public hearing as sepa-
 rate matters under a new docket. A no-
 tice of proposed rulemaking for that bur-
 pose will appear in a subsequent issue
 of the **FEDERAL REGISTER**.

The exemption itself is authorized by
 § 107(a) of the Hazardous Materials
 Transportation Act of 1974 (Title I of
 Pub. L. 93-633; 49 U.S.C. 1806(a)) and
 necessitated by § 108(b) of that Act (49
 U.S.C. 1807(b)). It is predicated on the
 very limited hazards posed by those ma-
 terials meeting the criteria of § 173.391
 (a), (b), and (c). Because the existing
 exemption, which relieves a restriction
 stated in the Act and in § 175.700(d),
 will expire on May 3, 1977, an effective
 date of less than 30 days following this
 publication is necessary to avoid dis-
 rupting exempted shipments. Continua-
 tion of the exemption will have a negli-
 gible environmental impact and will not
 impose any additional costs on shippers,
 carriers or consumers.

Primary drafters of this document are
 Douglas A. Crockett and Alfred W.
 Grella.

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

§ 172.204 [Amended]

1. In § 172.204, paragraph (c) (4) is

amended by changing the last sentence
 to read " * * * Prior to May 3, 1979, this
 provision does not apply to materials
 meeting the requirements of § 173.391
 (a), (b) or (c) of this subchapter in ef-
 fect on May 3, 1977."

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

§ 175.10 Exceptions.

(a) * * *

(6) Prior to May 3, 1979, radioactive
 materials which meet the requirements
 of § 173.391 (a), (b) or (c) of this sub-
 chapter in effect on May 3, 1977.

3. In § 175.700, paragraph (d) is
 amended to read as follows:

**§ 175.700 Special requirements for
 radioactive materials.**

(d) Except as provided in this para-
 graph, no person may carry aboard a
 passenger-carrying aircraft any radio-
 active material other than a radioactive
 material intended for use in, or incident
 to, research or medical diagnosis or
 treatment. Prior to May 3, 1979, this pro-
 hibition does not apply to materials
 which meet the requirements of § 173.391
 (a), (b) or (c) of this subchapter in ef-
 fect on May 3, 1977.

(49 U.S.C. 1803, 1804, 1806, 1808; 49 CFR
 1.63(e).)

NOTE.—The Materials Transportation Bu-
 reau has determined that this document does
 not contain a major proposal requiring the
 preparation of an Economic Impact State-
 ment under Executive Order 11821 and OMB
 Circular A-107.

Issued in Washington, D.C., on April
 28, 1977.

JAMES T. CURTIS, Jr.,
 Director, Materials,
 Transportation Bureau.

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