800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before June 9, 1969, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

The last sentence of § 151.23 of the Federal Aviation Regulations states that if any part of the estimated project costs consists of the value of donated land, labor, materials, or equipment, or of the value of a property interest in land acquired at a cost that (as represented by the sponsor) is not the actual cost or the amount of an award in eminent domain proceedings, the sponsor must so state in the application, indicating the nature of the donation or other transaction and the value it places on it. However, there are instances in which a grant agreement has been entered into where the sponsor has failed to observe this requirement, through inadvertence or because it did not know the item would be donated at the time of the project application.

The proposed changes would establish a specific procedure (similar to that in § 151.27 used before the grant agreement), for use after the grant agreement is entered into but before final grant payment is made, that would provide an appraisal procedure applicable to each of the items in question. A downward adjustment in the U.S. share of the project costs would be made to reflect any decrease in value of the item below the value stated in the project application. These procedures would be used only where the sponsor's inadvertence or lack of knowledge is discovered after the grant agreement is executed, thus supplementing § 151.27 for the situations in question. The sponsor would have the right to request reconsideration, as it has under the § 151.27 procedure, thus safeguarding its interest. This is the only adjustment that would be made, for no increase in the U.S. share would be made in these circumstances.

In consideration of the foregoing, it is proposed to amend Part 151 of the Federal Aviation Regulations as follows:

1. By striking out the third sentence of § 151.23.

2. By inserting a new § 151.24 following § 151.23 to read as follows:

§ 151.24 Procedures: application; information on estimated project costs.

(a) If any part of the estimated project costs consists of the value of donated land, labor, materials, or equipment, or of the value of a property interest in land acquired at a cost that (as represented by the sponsor) is not the actual cost or the amount of an award in eminent domain proceedings, the sponsor must so state in the application, indicating the nature of the donation or other transaction and the value it places on it.

(b) If, after the grant agreement is executed and before the final payment of the allowable project costs is made under § 151.63 of this part, it appears that the sponsor inadvertently or unknowingly failed to comply with paragraph (a) of this section as to any item, the Administrator—

(1) Makes or obtains an appraisal of the item, and if the appraised value is less than the value placed on the item in the project application, notifies the sponsor that it may, within a stated time, ask in writing for reconsideration of the appraisal and submit statements of pertinent facts and opinion; and

(2) Adjusts the U.S. share of the project costs to reflect any decrease in value of the item below that stated in the project application.

These amendments are proposed under the authority of sections 1–15 and 17–20 of the Federal Airport Act (49 U.S.C. 1101–1114, 1116–1119), section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)), and § 1.4(b)(2) of the regulations of the Office of the Secretary of Transportation.

Issued in Washington, D.C., on April 24, 1969.

CHESTER G. BOWERS,
Director, Airports Service.

[F.R. Doc. 69-5494; Filed, May 7, 1969; 8:48 a.m.]

Hazardous Materials Regulations Board

[49 CFR Parts 174, 175, 177]

[Docket No. HM-4; Notice No. 69-12]

LOADING AND TRANSPORTING POISONS, CLASS A OR B WITH FOODSTUFFS

Proposed Restrictions

The Hazardous Materials Regulations Board is considering amending Parts 174, 175, and 177 of Title 49 and Part 103 of Title 14 of the Department's Hazardous Materials Regulations (1) to clarify a previous amendment (Amendment 67–1, Docket HM–4) concerned with the carriage of poisons and foodstuffs and (2) to propose further amendments to the current loading and carriage requirements. An advance notice of proposed rule making will soon be published which will request public advice on the reasons for leakage of packages, the resulting safety hazards, and appropriate regulatory action.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket and notice number and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, 400 Sixth Street SW., Washington, D.C. 20590. Communications received on or before June 10, 1969, will be considered before final action is taken on the proposal. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, both before and after the closing date for comments.

Amendment 67–1 was issued on December 21, 1967 (32 F.R. 20982, 12–29–67) after a number of deaths occurred outside the United States due to eating food that was contaminated by an insecticide or pesticide. Many of the contamination incidents resulted from shipments originating in the United States. A number of injuries occurred in the United States from similar contamination incidents. Numerous petitions and complaints have been filed with the Board since issuance of Amendment 67–1 pointing out certain problems caused by the rule. In this notice the Board proposes to resolve some of these problems by making certain clarifying changes in language. In addition, the Board proposes to adopt additional restrictions on the comingling of shipments of poisons and foodstuffs.

One major difficulty in attempting to comply with the amendment was a lack of certainty as to how far a carrier was required to go in identifying foodstuffs, feeds, or any other material intended for consumption by humans or animals under the provisions of the amendment. The Board recognizes the difficulties inherent in attempting to segregate packages of foodstuffs under normal cargo handling procedures. It is proposed to clarify and relax this requirement. Only those foodstuffs and feed, etc., which are clearly marked as or are known to be such need be considered in applying these regulations.

Carriers have had difficulty in understanding the meaning of the terms "airtight and nonpermeable." Although the normal dictionary meaning of these terms was intended, the amount of confusion that has ensued warrants reconsideration of this requirement. In many cases, the mechanics of making on-the-spot field determinations of whether a particular packaging for foodstuffs was airtight or nonpermeable were impracticable. The practical result often was an operational restriction by carriers against loading any poisons with any foodstuffs, regardless of packaging. Several carrier representatives have suggested that the regulations be amended to that effect to reflect the practicalities of transportation.

Although the regulations in question at present deal only with poison, class B, several class A poisons are shipped as liquids. The Board therefore proposes to include all class A poisons in the restriction against loading with foodstuffs, feeds, or any other material intended for consumption by humans or animals. Accordingly, the Board proposes to place a total restriction on the transportation of all packages of poisons, class A or B, with packages of foodstuffs, feed, or any other material intended for consumption by humans or animals as discussed above.

Another clarifying change that is proposed would limit post-transportation inspection on aircraft to the compartment in which the poisonous material was carried. Aircraft have a number

of isolated cargo compartments with no reasonable way for materials to leak from one compartment to another. Therefore, it is unreasonable to require inspection of an entire aircraft in every case.

In consideration of the foregoing, it is proposed to amend Parts 174, 175, 177, and 103 of the Department's Hazardous Materials Regulations as provided for herein. This proposal is made under the authority of sections 831–835 of title 18, United States Code; section 9 of the Department of Transportation Act (49 U.S.C. 1657); and title VI and section 902(h) of the Federal Aviation Act of 1958 (49 U.S.C. 1421–1430 and 1472(h)).

Issued in Washington, D.C., on May 5, 1969.

F. C. TURNER,
Administrator,
Federal Highway Administration.

R. N. WHITMAN,
Administrator,
Federal Railroad Administration.

SAM SCHNEIDER,
Board Member, for the
Federal Aviation Administration.

I. Part 174 would be amended as follows:

A. By amending paragraph (m) in § 174.532 to read as follows:

§ 174.532 Loading other dangerous articles.

* * * * *

(m) Material marked as or known to be poison, class A or B, must not be transported in the same car with material which is marked as or known to be foodstuffs, feeds, or any other material intended for consumption by humans or animals.

B. By amending subparagraph (a) (1) in § 174.566 to read as follows:

§ 174.566 Cleaning cars.

(a) * * *

(1) A car which has been used to transport material marked as or known to be poison, class A or B, must be inspected for contamination before reuse. A car which has been contaminated must not be returned to service until such contamination has been removed. This subparagraph does not apply to cars used solely for transporting such poisons so long as they are used in that service.

* * * * *

II. Part 175 would be amended as follows:

A. By amending paragraphs (k) and (l) in § 175.655 to read as follows:

§ 175.655 Protection of packages.

* * * * *

(k) Material marked as or known to be poison, class A or B, must not be transported in the same car with material which is marked as or known to be foodstuffs, feeds, or any other material intended for consumption by humans or animals.

(l) A car which has been used to transport material marked as or known to be poison, class A or B, must be inspected for contamination and must not be returned to service until such contamination has been removed.

III. Part 177 would be amended as follows:

A. By amending paragraph (e) in § 177.841 to read as follows:

§ 177.841 Poisons.

* * * * *

(e) Material marked as or known to be poison, class A or B, must not be transported in the same vehicle with material which is marked as or known to be foodstuffs, feeds, or any other material intended for consumption by humans or animals.

B. By amending subparagraph (a) (1) in § 177.860 to read as follows:

§ 177.860 Accidents or leakage; poisons.

(a) * * *

(1) *Leakage.* A vehicle which has been used to transport material marked as or known to be poison, class A or B, must be inspected for contamination before reuse. A vehicle which has been contaminated must not be returned to service until such contamination has been removed. This subparagraph does not apply to vehicles used solely for transporting such poisons so long as they are used in that service.

* * * * *

IV. Part 103 of Title 14 would be amended as follows:

A. By amending § 103.35 in its entirety to read as follows:

§ 103.35 Special requirements for poisons.

(a) No operator of an aircraft may carry material marked as or known to be poison, class A or B, in the same cargo compartment of an aircraft with material which is marked as or known to be foodstuffs, feeds, or any other material intended for consumption by humans or animals.

(b) No person may operate an aircraft that has been used to transport material marked as or known to be poison, class A or B, unless, upon removal of such poisonous material, the compartment in which it was carried is inspected for leakage, spillage, or other contamination. All contamination discovered must be either isolated or removed from the aircraft. The operation of an aircraft contaminated with such poisons is considered to be the carriage of poisonous materials under paragraph (a) of this section.

[F.R. Doc. 69-5522; Filed, May 7, 1969; 8:50 a.m.]

[49 CFR Part 177]

[Docket No. HM-24; Notice No. 69-13]

EXPLOSIVES ON VEHICLES IN COMBINATION

Notice of Proposed Rule Making

The Hazardous Materials Regulations Board is considering amending § 177.835 (c) of the Department's Hazardous Materials Regulations to permit class A explosives to be transported on one vehicle of a combination of motor vehicles when certain other hazardous materials are transported in another vehicle of the same combination.

Interested persons are invited to give their views on this proposal. Communications should identify the docket number and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, 400 Sixth Street SW., Washington, D.C. 20590. Communications received on or before June 10, 1969, will be considered before final action is taken on the proposal. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, both before and after the closing date for comments.

Section 177.835(c)(1) of the Hazardous Materials Regulations presently provides in part as follows:

> No class A explosive may be loaded into or transported on any vehicle in any combination of vehicles if any vehicle in the same combination contains any explosive or other dangerous article which may not be loaded or stored with explosives class A under the provisions of § 177.848.

Section 177.848 contains a chart which indicates that a number of hazardous materials are prohibited from being loaded or transported in the same vehicle with class A explosives.

The Hazardous Materials Regulations Board has received two petitions requesting a relaxation of the complete prohibition quoted above. One petitioner states in support of this proposal that its adoption will permit expedited shipper-to-user service greatly reducing pubiic exposure to small shipments of explosives which, at the present time, are frequently found being held at carriers' terminals or freight houses awaiting other compatible freight to provide economical loads. Another petitioner states that since there would be two vehicles involved, even though in combination, they could be easily and quickly detached from each other.

Several types of hazardous materials present potential hazards of a degree sufficient to warrant exclusion from this proposal. Examples include initiating explosives, certain radioactive materials, poisons, and bulk liquid shipments of hazardous materials. The presence of these materials could result in a greater hazard to the public than would be acceptable, either as contributants to the accident potential, or as additional hazards to the environment following accidents.

It is also proposed to revise the first portion of paragraph (c) to state simply the present restriction on the number of vehicles permitted in a combination of vehicles when class A explosives are to be carried in the combination.

In consideration of the foregoing, it is proposed to amend paragraph (c) in § 177.835 as follows:

§ 177.835 Explosives.

* * * * *

(c) *Explosives on vehicles in combination.* Class A explosives may not be