DEPARTMENT OF TRANSPORTATION
HAZARDOUS MATERIALS REGULATIONS BOARD
WASHINGTON, D.C. 20590

Title 49—TRANSPORTATION

Chapter I—Hazardous Materials Regulations Board, Department of Transportation

[Docket No. HM-2, Amdt. 173-14]

PART 173—SHIPPERS

Packaging of Certain Radioactive Materials

The purpose of these amendments is to simplify the procedure for obtaining approval of packagings for certain radioactive materials by eliminating the requirement for issuance of a special permit in each case. These amendments are based on a notice of proposed rule making (Notice No. 69-14, Docket No. HM-2) published in the FEDERAL REGISTER on May 28, 1969 (34 F.R. 8244).

Interested persons were afforded an opportunity to participate in this rule making. Numerous comments were received from interested organizations representing shippers of fissile and radioactive materials, as well as several industry trade organizations, the U.S. Atomic Energy Commission, and the Canadian Atomic Energy Control Board. All of the comments received supported the basic proposal. Most commenters recommended that § 173.396 also be revised to extend the proposed procedures for certificates of package approval to fissile radioactive materials packages. These commenters pointed out that it would appear to be inappropriate to continue to use special permits as the means for approving fissile radioactive material packagings.

The Board did not propose in Notice 69-14 to remove the fissile radioactive material packaging approvals from the special permit category because these special permits, in addition to approving the packaging, also included additional substantive limitations. These were the numerical values for package assignment for fissile class I, the transport indices for fissile class II packages, and the vehicle limitations for fissile class III packages. Upon a review of the comments received, the Board agrees that it is desirable to remove the fissile packaging approval from the special permit category. This approval can be accomplished under the "certificate of approval" procedure providing the above described packaging and loading limitations are otherwise taken care of. This has been accomplished by including a requirement (§ 173.396(h)) that the applicable provisions of the U.S. Atomic Energy Commission regulations (10 CFR 71.36-71.40) be complied with. This requirement would also apply to the specification packagings listed in § 173.396.

The notice also proposed to include as a part of the regulations certain other shipping requirements which have been routinely included in special permits. Included are requirements for prior notification by the shippers to consignees and the providing of any special loading/unloading instructions. Several commenters stated that the objective of the requirement for prior notification to the consignee should be clarified and also questioned whether such notification was required prior to each shipment or prior to a planned series of shipments. The reason for the advance notification requirement is to determine promptly whether any shipment has been misrouted or possibly lost. The amendment to § 173.22 makes it clear that notification is required prior to each shipment. However, the Board does not consider it appropriate to include a statement of "objectives" as part of the regulations.

Several commenters recommended that acceptance of a U.S. Atomic Energy Commission license amendment or other approval by that Commission in place of a package structural integrity evaluation remain automatic as in present §§ 173.394 (c)(2) and 173.395(c)(2) rather than become discretionary with the Department as proposed. While in the vast majority of cases the U.S. Atomic Energy Commission license amendment or other approval will of itself be sufficient, the Board has determined that the Department should retain the option to require additional information to the extent it believes such information is necessary.

In order to establish the procedures for implementation of these amendments with a minimum of administrative effort and costs, existing Department of Transportation special permits for packages subject to this amendment will be converted to "certificates" either upon their expiration or revision.

In addition to the changes discussed above other minor changes in language have been made for clarification.

Since this amendment primarily relates to the administrative manner in which certain radioactive packaging approvals will be handled and since it imposes no burden on any person, the Board finds that good cause exists for making it effective on less than 30 days notice.

In consideration of the foregoing, the Hazardous Materials Regulations of the Department of Transportation (49 CFR Part 173) are hereby amended effective November 5, 1969, as set forth below.

(Secs. 831–835, 18 U.S.C., sec. 9, Department of Transportation Act (49 U.S.C. 1657), title VI, sec. 902(h), Federal Aviation Act of 1958 (49 U.S.C. 1421–1430, 1472(h)))

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

P. E. TRIMBLE,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

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

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

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

E. H. HOLMES,
Acting Federal
Highway Administrator.

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

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

(A) In § 173.22, paragraph (b) is added to read as follows:

§ 173.22 Shipper's responsibility.

* * * * *

(b) Prior to each shipment of fissile radioactive materials, and Type B or large quantities of radioactive materials, the shipper shall notify the consignee of the dates of shipment and of expected arrival. The shipper shall also notify each consignee of any special loading/unloading instructions prior to his first shipment.

(B) In § 173.394, paragraphs (b)(3) and (c)(2) are amended to read as follows:

§ 173.394 Radioactive material in special form.

* * * * *

(b) * * *

(3) Any other Type B packaging for which the Department has issued a certificate of compliance.

(c) * * *

(2) Any other Type B packaging which meets the pertinent requirements for large quantities of radioactive materials in the regulations of the U.S. Atomic Energy Commission (10 CFR Part 71), or the 1967 regulations of the International Atomic Energy Agency, and for which the Department has issued a certificate of compliance. In applying for Departmental certification, a copy of the U.S. Atomic Energy Commission license amendment or other approval of that Commission may be accepted in place of the package structural integrity evaluation.

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(C) In § 173.395, paragraphs (b)(2) and (c)(2) are amended to read as follows:

§ 173.395 Radioactive material in normal form.

* * * * *

(b) * * *

(2) Any other Type B packaging for which the Department has issued a certificate of compliance.

(c) * * *

(2) Any other Type B packaging which meets the pertinent requirements for large quantities of radioactive materials in the regulations of the U.S. Atomic Energy Commission (10 CFR Part 71), or the 1967 regulations of the International Atomic Energy Agency, and for which the Department has issued a certification of compliance. In applying for Departmental certification, a copy of the U.S. Atomic Energy Commission license amendment or other approval of that Commission may be accepted in place of the package structural integrity evaluation.

(D) In § 173.396, paragraphs (b)(4) and (c)(3) are amended; paragraph (h) is added to read as follows:

§ 173.396 Fissile radioactive material.

* * * * *

(b) * * *

(4) Any other Type A or B packaging which also meets the standards for packaging for fissile radioactive material in the regulations of the U.S. Atomic Energy Commission (10 CFR Part 71), or the 1967 regulations of the International Atomic Energy Agency, and for which the Department has issued a certificate of compliance. In applying for Departmental certification, a copy of the U.S. Atomic Energy Commission license amendment or other approval of that Commission may be accepted in place of the package structural integrity and nuclear safety evaluation.

(c) * * *

(3) Any other Type B packaging which also meets the standards for packaging for fissile radioactive materials in the regulations of the U.S. Atomic Energy Commission (10 CFR Part 71), or the 1967 regulations of the International Atomic Energy Agency, and for which the Department has issued a certification of compliance. In applying for Departmental certification, a copy of the U.S. Atomic Energy Commission license amendment or other approval of that Commission may be accepted in place of the package structural integrity and nuclear safety evaluation.

* * * * *

(h) The numerical values for package assignments as fissile class I, the transport indices for fissile class II packages, and the vehicle limitations for fissile class III packages must be determined in accordance with §§ 71.36 through 71.40 of Title 10 of the Code of Federal Regulations.

[F.R. Doc. 69-12942; Filed, Oct. 29, 1969; 8:47 a.m.]