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Part II

Department of Transportation

Research and Special Programs Administration

49 CFR Part 173

Hazardous Materials; Uranium Hexafluoride; Revision to the Final Rule and Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 173

[Docket No. HM-166V; Amdt. No. 173-198]

Hazardous Materials; Uranium Hexafluoride

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Revision to the final rule.

SUMMARY: This document revises the final rule published on November 18, 1986 (Amendment No. 173-198, 51 FR 41631) and revised December 24, 1986 (51 FR 46674) concerning design criteria for certain types of packagings used for the transport of uranium hexafluoride (UF_6). Packagings manufactured after June 30, 1987 must meet specifications of the American National Standard N14.1-1982 or DOT Class 106A (49 CFR 179.300) for multi-unit tank car tanks. Design standards for other types of UF_6 packagings are considered under a notice of proposed rulemaking (NPRM) elsewhere in this issue of the **Federal Register**. This action is in response to petitions for reconsideration which have been received by RSPA. Issues applying to other types of UF_6 packagings currently in use are to be resolved under the NPRM.

Under 5 U.S.C. 553, agencies are permitted to publish a rule less than 30 days before its effective date in the rule relieves a restriction or if the agency finds good cause for not providing at least 30 days between publication and effective date. This final rule relieves a restriction. Also, RSPA finds good cause to issue this rule with less than 30 days between publication and effective date in order to avoid a potential disruption in defense and civilian nuclear activities that would be caused by implementation on June 30, 1987 of the packaging standards previously promulgated under Docket No. HN-166V for UF_6 shipments.

EFFECTIVE DATE: June 30, 1987.

FOR FURTHER INFORMATION CONTACT: Michael E. Wangler, Chief, Radioactive Materials Branch, Technical Division, Office of Hazardous Materials Transportation, 400 Seventh St. SW., Washington DC 20590, (202) 366-4545

SUPPLEMENTARY INFORMATION:

Background

Previous rulemaking actions under Docket HM-166V have addressed the need for regulations for the packaging, handling and transporting of packages containing uranium hexafluoride (UF_6). Amendments Nos. 172-107 and 173-198 were published in the **Federal Register** (51 FR 41631) on November 18, 1986. That final rule adopted standards requiring that, after December 31, 1986, packagings used for UF_6 transport be designed, fabricated, inspected, tested, and marked in accordance with ANSI N14.1-1982.

In response to the final rule, RSPA received five petitions for reconsideration. The petitioners requested reconsideration of the application of the packaging standards and an extension of the effective date of the final rule. The basis of their petitions was that compliance with the packaging design requirements was not practicable, because the majority of existing packagings for UF_6 were manufactured before the publication of ANSI N14.1-82, and do not conform to that standard. Petitioners also contended that there was not sufficient time for affected shippers to obtain packagings which do conform to the packaging design requirements, or to obtain exemptions to continue to use existing packagings. As a result, shipments of UF_6 would be disrupted, leading to substantial economic losses and disruption of defense and civilian nuclear activities.

In response to these petitions for reconsideration, RSPA published a revision to Amendment 173-198 in the **Federal Register** (51 FR 46674) on December 24, 1986. The revision extended the effective date for complying with the packaging design requirements from January 1, 1987 to July 1, 1987 and amended those requirements to permit continued use of packagings manufactured in accordance with previous editions of ANSI N14.1 These actions were intended as interim measures pending RSPA's evaluation of the extent of the problem and potential remedies.

The revision to the final rule announced a public meeting (held on March 2, 1987 in Washington, DC) and requested additional comments concerning appropriate packaging design standards for UF_6. To facilitate RSPA revaluation of the design requirements for UF_6 packagings, the public was invited to submit information regarding (1) the effects of the requirement that all packagings be designed and fabricated in accordance with ANSI standards, including the technical and economic impacts of implementing the requirement; (2) the effects of permitting continued use of existing packagings that do not conform to ANSI standards (grandfathering) and any restrictions or conditions that should be placed on their continued use; (3) all of the standards to which existing packagings have been manufactured; and (4) any other relevant information regarding design and fabrication of non-ANSI packagings. In response to the request for comments, RSPA received written comments from five individuals. Additionally, approximately 35 individuals attended the public meeting. Comments are discussed in detail in the NPRM which appears elsewhere in this issue of the **Federal Register**.

Joint NPRM and Final Rule

Based on evaluation of the problem and comments submitted to the docket, RSPA agrees with the petitioners that relief from Amendment 173-198 as adopted on December 24, 1986 is needed. Without further rulemaking action, after June 30, 1987 only packagings manufactured in conformance to ANSI N14.1-82 or a previous edition would be authorized for continued use as packagings for UF_6 and only those which conform to ANSI N14.1-82 would be authorized for new construction. RSPA agrees that the industry has an excellent record of safety in transporting UF_6. Although accidents have been reported, no releases of UF_6 are known to have occurred. However, RSPA believes that certain safety control measures and packaging standards are essential to address chemical hazards of UF_6, and that it should not delay implementation of new packaging standards.

RSPA has decided upon a two-pronged approach to the problem, addressing the new manufacture of packagings in this final rule and addressing existing packagings in the NPRM. In order to address safety issues concerning new manufacture, RSPA is revising Amendment 173-198 in this final rule. The revised rule amends § 173.420(a)(2) to require that packagings manufactured after June 30, 1987 conform to either ANSI N14.1-82 or the specification for DOT Class 106A multi-unit tank car tanks. This action reflects RSPA's belief that both of these categories of packagings provide a high level of safety and are essentially non-controversial. Inclusion of the specification for DOT Class 106A multi-unit tank car tanks corrects an error of omission on RSPA's part.

The final rule does not impose design requirements on any packaging for UF_6 manufactured on or before June 30, 1987, and provides for their continued use until further rulemaking action is taken. RSPA has decided to make the requirements for new packagings effective immediately because we believe that all new packagings are

being constructed either in accordance with the ANSI standard or with the DOT specification for Class 106A multi-unit tank car tanks. Interested readers are referred to the NPRM which appears elsewhere in this issue of the **Federal Register** for discussion of RSPA's proposals concerning continued use of UF_6 packagings other than those conforming to either ANSI N14.1-82 or DOT Class 106A.

Administrative Notices

The RSPA has determined that this rulemaking (1) is not "major" under Executive Order 12291; (2) is not "significant" under DOT's regulatory policies and procedures (44 FR 11034); (3) will not affect not-for-profit enterprises or small governmental jurisdictions; and (4) does not require an environmental impact statement under the National Environmental Policy Act (40 U.S.C. 4321 et seq.). A regulatory evaluation is available for review in the docket. Based on limited information concerning the size and nature of entities likely affected, I certify that this regulation will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 49 CFR Part 173

Hazardous materials transportation, Packaging, Radioactive materials.

In consideration of the foregoing, 49 CFR 173 is amended as follows:

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

1. The authority citation for Part 173 is revised to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1806, 1807, 1808; 49 CFR Part 1, unless otherwise noted.

2. In § 173.420, paragraph (a)(2) is revised to read as follows:

§ 173.420 Uranium hexafluoride (fissile and low specific activity).

(a) * * *

(2) Packagings used for the transportation of uranium hexafluoride on or before June 30, 1987 are authorized for continued use until further notice. Packagings manufactured after June 30, 1987 shall be designed, fabricated, and marked in accordance with—

(i) American National Standard N14.1-1982; or

(ii) Specifications for DOT Class 106A multi-unit tank car tanks (§§ 179.300, 179.301, and 179.302 of this subchapter).

* * * * *

Issued in Washington DC on June 30, 1987 under authority delegated in 49 CFR Part 1.

M. Cynthia Douglass,

Administrator, Research and Special Programs Administration.

[FR Doc. 87-15276 Filed 7-1-87; 9:53 am]

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