

[Docket No. 12574; Amdt. No. 103-18]

PART 103—TRANSPORTATION OF DANGEROUS ARTICLES AND MAGNETIC MATERIALS

Carriage of Radioactive and Other Hazardous Materials; Suspension

The purpose of this amendment to Part 103 of the Federal Aviation Regulations is to suspend the effectiveness of that part of Amendment 103-17 applicable to § 103.23, which became effective July 11, 1973, and to reinstate the previous rules of § 103.23 in effect immediately prior to that date.

Amendment 103-17, which became effective July 11, 1973 (38 FR 17831), prescribed, among other things, new rules in § 103.23 governing the distribution of packages of radioactive materials being transported in aircraft, consisting of the method to be used in determining the distance packages must be kept from a space occupied by a person or an animal.

As explained in the preamble to Amendment 103-17, the amendment was adopted by the FAA only after a notice of proposed rulemaking had been published (Notice 73-7; 38 FR 6890) and careful consideration had been given to all comments received from interested persons. Upon completion of the evaluation of comments, the FAA determined that the adoption of Amendment 103-17 was in the public interest and would not adversely affect the safety of persons aboard aircraft.

After Amendment 103-17 became effective, the FAA received a letter from the Department of Health, Education, and Welfare (HEW) dated August 6, 1973, regarding Amendment 103-17. The HEW letter supports the continued carriage aboard aircraft of radioactive materials for medical use, since short-lived materials must reach their destination by the fastest means available. However, the letter expresses the view that there are areas of public health concern which indicate a need to continue review of the potential radiation exposure to passengers and crewmembers and suggests that additional data is needed to adequately evaluate exposures under the conditions prescribed in Amendment 103-17. Accordingly, HEW advised that it will defer specific comments on the public health aspects of Amendment 103-17 until data becomes available from FAA studies being conducted.

In light of the HEW comments, the FAA has determined that the public interest requires suspension of the effectiveness of that part of Amendment 103-17 which amends § 103.23 and reinstatement of the rules of § 103.23 previously in effect on July 10, 1973. Such a suspension will permit current studies to be completed and make more data available, thereby providing HEW an opportunity to evaluate the public health significance of Amendment 103-17 and advise the FAA. Thereafter, the FAA will take whatever rule-making action that is deemed appropriate.

In view of the public health considerations involved, I find that notice and public procedure hereon are contrary to the public interest and that good cause exists for making these amendments effective on less than 30 days notice.

(Sec. 313(a), 601, 604, and 902, Federal Aviation Act of 1958 (49 U.S.C. 1345(a)), 1421, 1424, and 1472); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c).)

In consideration of the foregoing, Part 103 of the Federal Aviation Regulations is amended, effective October 1, 1973, by suspending the effectiveness of that part of Amendment 103-17 which amends § 103.23, published in the FEDERAL REGISTER July 5, 1973 (38 FR 17831), and by reissuing § 103.23 as it was in effect July 10, 1973.

Issued in Washington, D.C., on September 13, 1973.

JAMES E. DOW,
Acting Administrator.

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