

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 10270, Amdt. No. 103-12]

PART 103—TRANSPORTATION OF DANGEROUS ARTICLES AND MAGNETIZED MATERIALS

Medicinal and Toilet Articles

The purpose of this amendment to Part 103 of the Federal Aviation Regulations is to add medicinal and toilet articles in small quantities carried in passenger baggage to those materials expressly excluded from the applicability of Part 103.

Section 103.1(b) defines dangerous articles and includes, among other things, compressed gases, corrosive liquids, and flammable liquids and solids. Each of these materials may be found in one or more forms in many toilet articles and medicines. As dangerous articles, they are subject to the special labeling, packing, and marking requirements of 49 CFR 172 through 178 applicable to transportation by rail express. Since the FAA believes that it is not appropriate to so regulate the carriage of these articles when carried in small quantities in an article of crewmember or passenger baggage, such articles when carried in limited quantities are specifically excluded by this amendment from the applicability of Part 103.

This amendment is based on a notice of proposed rule making (Notice 72-4) published in the *Federal Register* on February 3, 1972 (37 F.R. 2587). That notice was prompted by a letter of April 2, 1970, from the Air Transport Association of America petitioning the FAA to amend § 103.1(c) of the Federal Aviation Regulations to expressly exclude from the applicability of Part 103 medicinal and toilet articles in small quantities carried in passenger baggage.

Comments in response to the notice generally concurred with the proposal as written. Some comments objected to the 10-ounce size limitation because of its effect upon the carriage of certain toilet articles manufactured and sold in aerosol cans. The objections were founded on

the fact that such articles are currently merchandised in cans that exceed 10 ounces in amount. We agree that the 10-ounce limitation proposed in Notice 72-4 is somewhat arbitrary; however, we believe that some reasonable limitation as to container size should be made. Accordingly, the FAA has decided that a maximum size limitation for each container of 16 ounces will not unduly restrict the general public in its right to carry such articles nor will a 6-ounce increase in the size of the aerosol container have an adverse effect upon safety in flight. On balance, however, the FAA believes that a restriction on the total quantity of these otherwise prohibited articles that can be carried by any passenger or crewmember must be made in order to offset the increase in the size of the container that is permitted. Therefore, since the regulation permits containers 16 ounces in size, the total quantity that can be carried by any passenger or crewmember is limited to 32 ounces. In this way, by limiting the amount of such articles and the size of their containers, an acceptable level of safety can be maintained without unduly restricting the freedom of the general public to carry such articles.

In consideration of the foregoing, § 103.1 of the Federal Aviation Regulations is amended, effective July 17, 1972, by changing the period at the end of § 103.1(c) (4) to a semicolon, and by adding a new subparagraph, designated (5), to read as follows:

§ 103.1 Applicability.

(c) * * *

(5) Medicinal or toilet articles in quantities of 16 ounces or less per container, when carried in crewmember or passenger baggage (including carry-on baggage) and the total quantity of those articles carried by any passenger or crewmember does not exceed 32 ounces.

(Secs. 313(a), 801, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on June 12, 1972.

K. M. SMITH,
Acting Administrator.

(As published in the Federal Register
/37 F.R. 12062/ on June 17, 1972)