Part 174	Part 175	Part 176	Part 177	Part 178
174.715	175.702 175.703	176.704 176.708 176.715	177.843 177.861	

#### V. Regulatory Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and was not reviewed by the Office of Management and Budget. The rule is not considered significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11034). A regulatory evaluation is available for review in the docket.

#### Executive Order 12612

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 ("Federalism"). The Federal hazardous materials transportation law (49 USC 5101–5127) contains an express preemption provision that preempts State, local, and Indian tribe requirements on certain covered subjects. Covered subjects are:

- (i) The designation, description, and classification of hazardous materials;
- (ii) The packing, repacking, handling, labeling, marking, and placarding of hazardous materials;
- (iii) The preparation, execution, and use of shipping documents pertaining to hazardous materials and requirements respecting the number, content, and placement of such documents;
- (iv) The written notification, recording, and reporting of the unintentional release in transportation of hazardous materials; or
- (v) The design, manufacturing, fabrication, marking, maintenance, reconditioning, repairing, or testing of a package or container which is represented, marked, certified, or sold as qualified for use in the transportation of hazardous materials.

This final rule concerns the packaging and classification of radioactive materials. This final rule preempts State, local, or Indian tribe requirements in accordance with the standards set forth above. The Federal statute provides that if DOT issues a regulation concerning any of the covered subjects after November 16, 1990, DOT must determine and publish in the Federal Register the effective date of Federal preemption (49 USC 5125(b)(2)). That effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later

than two years after the date of issuance. RSPA has determined that the effective date of Federal preemption for these requirements is April 1, 1996. Thus RSPA lacks discretion in this area, and preparation of a federalism assessment is not warranted.

## Executive Order 12778

Any interested person may petition RSPA's Administrator for reconsideration of this final rule within 30 days of publication of this rule in the Federal Register, in accordance with the procedures set forth at 49 CFR 106.35. Neither the filing of a petition for reconsideration nor any other administrative proceeding is required before the filing of a suit in court for review of this rule.

# Regulatory Flexibility Act

I certify that this final rule will not have a significant economic impact on a substantial number of small entities. This rule applies to shippers and carriers of radioactive materials, some of whom are small entities.

# Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)) and assigned control number 2137–0510.

#### Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

# List of Subjects

# 49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

# 49 CFR Part 172

Hazardous materials transportation, Hazardous waste, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

#### 49 CFR Part 173

Hazardous materials transportation, Incorporation by reference, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

#### 49 CFR Part 174

Hazardous materials transportation, Radioactive materials, Railroad safety.

#### 49 CFR Part 175

Air carriers, Hazardous materials transportation, Radioactive materials, Reporting and recordkeeping requirements.

#### 49 CFR Part 176

Hazardous materials transportation, Maritime carriers, Radioactive materials, Reporting and recordkeeping requirements.

#### 49 CFR Part 177

Hazardous materials transportation, Motor carriers, Radioactive materials, Reporting and recordkeeping requirements.

# 49 CFR Part 178

Hazardous materials transportation, Packaging and containers, Reporting and recordkeeping requirements. In consideration of the foregoing, 49 CFR parts 171, 172, 173, 174, 175, 176, 177 and 178 are amended as follows:

# PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. The authority citation for part 171 continues to read as follows:

Authority: 49 U.S.C. 5101-5127;

# 49 CFR part 1.53.

# §171.7 [Amended]

2. In § 171.7, the Table of material incorporated by reference, in paragraph (a)(3), is amended by removing the entry for "USAEC, ORO–651," under the Department of Energy (USDOE), revising the entry for "IAEA, Regulations for the Safe Transport of Radioactive Materials, Safety Series No. 6," under the *International Atomic Energy Agency (IAEA)* and by adding an entry for "ORO–651" under the Department of Energy and three new entries following