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**Office of the Secretary**

[ 49 CFR Part 1 ]

(OST Docket No. 1; Amdt. 1-223 )

ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

AGENCY: Department of Transportation (**DOT**), Office of the Secretary

ACTION: Final Rule

SUMMARY: This amendment delegates authority to the Federal Aviation Administrator **to take actions** under section 404(d) of **the** Federal Aviation Act (49 U.S.C. 1374(d), as amended by section 328(a) of the Department of Transportation and Related Agencies Appropriations Act of 1988 (Pub. L. **100-202**), concerning smoking on airline flights.

DATE: The effective date of **this** amendment is [date of publication].

FOR FURTHER INFORMATION CONTACT: Robert C. **Ashby**, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 7th Street, S.W., Washington, D.C., (202) **366-9306**.

SUPPLEMENTARY INFORMATION: Since this amendmen. relates **to** Departmental management, procedures, and practice, notice and comment on it are unnecessary and it may be made effective in **fewer** than thirty days after publication in the Federal Register.

The Secretary has determined that the authority to take certain actions under section 328(a) of the Department of Transportation

and Related Agencies Appropriations Act of **1988** (Pub. L. **100-202**), should be delegated to the Federal Aviation Administrator. Under section 328(a), which created a new section 404(d) of the Federal Aviation Act (49 U.S.C. 1374(d)), it **is** unlawful to **smoke** in the passenger cabin or lavatory on any scheduled airline flight in intrastate, interstate, or overseas air transportation if the scheduled duration of the flight is two hours or less. The Secretary is authorized to issue implementing regulations.

Under 49 U.S.C. **§322**, the Secretary has the authority to delegate responsibilities to other Departmental officials and offices. Therefore, the Secretary has determined that the Federal Aviation Administrator should carry out the statutory responsibilities under section 328, including promulgation of regulations and enforcement.

List of Subjects in **49** CFR Part **1**:

Authority delegations (government agencies);

Organization and functions (government agencies);

Transportation Department

In consideration of the foregoing, 49 CFR Part 1 is amended as follows:

1. The authority of Part 1 continues to read **as** follows:

AUTHORITY: 49 U.S.C. **§322**

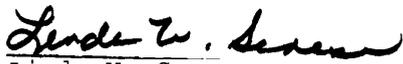
2. Section 1.47 of Part 1 of Title 49, Code of Federal Regulations, is revised by adding paragraph (q) to read as follows:

\* \* \* \* \*

(q) Carry out all of the functions vested in the Secretary under section 404(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1374(d)), as amended by section 328(a) of the Department of Transportation and Related Agencies Appropriations Act of 1988 (Pub. L. 100-202).

ISSUED IN WASHINGTON D.C., ON March 23, 1988

CERTIFIED TO BE A TRUE  
COPY OF THE ORIGINAL:

  
Linda W. Senese  
Certifying Officer

  
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Jim Burnley  
Secretary of Transportation

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