

rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Channel 277C at Alturas.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 05-6569 Filed 4-5-05; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 172

[Docket No. PHMSA-01-10292 (HM-206E)]

RIN 2137-AD50

Hazardous Materials: Hazardous Waste Manifest Requirements; Withdrawal of Notice of Proposed Rulemaking

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The Research and Special Programs Administration—the predecessor agency to the Pipeline and Hazardous Materials Safety Administration (PHMSA)—and the Environmental Protection Agency (EPA) issued final rules in 1980 requiring that a manifest accompany each shipment of hazardous waste during transportation. In 49 CFR 172.205, PHMSA provided that the uniform manifest “may be used as the shipping paper required by” the Hazardous Materials Regulations, so long as it contained all the required information. On May 22, 2001, EPA published a notice of proposed

rulemaking (NPRM) to revise the hazardous waste manifest system. One of EPA’s proposed changes would have allowed the uniform manifest to be prepared and transmitted electronically from the generator to the disposal facility, rather than requiring it to accompany the shipment. EPA is deferring final action on the electronic manifest pending further analysis, outreach, and possible supplemental proposals. Therefore, PHMSA is withdrawing an NPRM published on August 8, 2001, that would have amended the Hazardous Materials Regulations on the use of the Uniform Hazardous Waste Manifest for shipments of hazardous wastes. The changes proposed in that NPRM would have accommodated changes proposed by EPA. PHMSA proposed to require that, if the generator of a hazardous waste prepares an electronic manifest, either a physical copy of the electronic manifest or another document containing the information required for a shipping paper must accompany the hazardous waste in transportation.

FOR FURTHER INFORMATION CONTACT: Mr. Darral Releford, Office of Hazardous Materials Standards, Pipeline and Hazardous Materials Safety Administration, 202-366-8553.

SUPPLEMENTARY INFORMATION:

I. Background

Under the authority of the Resource Conservation and Recovery Act (RCRA; 42 U.S.C. 6901, *et seq.*) and regulations of the Environmental Protection Agency (EPA) at 40 CFR parts 262-264, hazardous wastes are tracked from their producer (generator) to their final disposal sites. The central tracking element of this system is the Uniform Hazardous Waste Manifest (uniform manifest), which accompanies a hazardous waste shipment from its point of origin to its destination. In 42 U.S.C. 6923, RCRA directs EPA to consult with DOT and issue regulations on the transportation of hazardous wastes that are “consistent with” requirements in the Hazardous Materials Regulations (HMR; 49 CFR parts 171-180).

In 1980, EPA and PHMSA issued final rules requiring that a manifest accompany each shipment of hazardous waste during transportation. See 45 FR 12272 (Feb. 26, 1980) (EPA), 34560 (May 22, 1980) (PHMSA). In 49 CFR 172.205, PHMSA provided that the uniform manifest “may be used as the shipping paper required by” the HMR, so long as it contained all the required information.

On March 20, 1984, 49 FR 10490 (EPA), 10507 (PHMSA), EPA and PHMSA concurrently amended their regulations to adopt the current uniform manifest form in order to address the problems resulting from “a proliferation of manifests as States decided to develop and print their own forms.” Under the current regulations, a generator may use the uniform manifest form for wastes regulated solely by a State, but a State may not “impose enforcement sanctions on a transporter during transportation of the shipment for failure of the form to include preprinted information or optional State information items,” 40 CFR 271.10(h)(2).

On May 22, 2001, EPA published a notice of proposed rulemaking (NPRM) to revise the hazardous waste manifest system (66 FR 28240). One of EPA’s proposed changes would have allowed the uniform manifest to be prepared and transmitted electronically from the generator to the disposal facility, rather than requiring it to accompany the shipment. EPA received 64 comments in response to the May 22, 2001, proposed rule from hazardous waste generators, transporters, waste management firms, consultants, an information technology vendor and ten state hazardous waste agencies. The revisions proposed in May 2001 aimed to reduce the manifest system’s paperwork burden on users, while enhancing the effectiveness of the manifest as a tool to track hazardous waste shipments that are shipped from the site of generation to treatment, storage, or disposal facilities (TSDFs).

On August 8, 2001, PHMSA published a notice of proposed rulemaking (NPRM) (66 FR 41490). PHMSA proposed to revise its regulations on the use of the Uniform Hazardous Waste Manifest for shipments of hazardous wastes to accommodate the changes proposed by the Environmental Protection Agency (EPA). The intended effect of this proposed rule was to maintain consistency between EPA’s and PHMSA’s requirements. PHMSA proposed to modify 49 CFR 172.205 to provide that, when an electronic manifest is used, the hazardous waste must be accompanied by a physical shipping paper that can be either (1) a print-out (paper copy) of the electronic manifest or (2) a separate shipping paper that meets all of the shipping paper requirements in 49 CFR, subpart C of part 172. In addition, to prevent confusion by enforcement officials, if an electronic manifest is being used in the transportation of a hazardous waste, the shipping paper or copy of the electronic manifest must indicate on the document

that an electronic manifest is being used. Because § 172.204(d)(2) allows for a shipping paper to be “signed manually, by typewriter, or by other mechanical means,” no change to the HMR is needed when a paper copy of the electronic manifest is used as the shipping paper accompanying hazardous waste during transportation. The signature of the generator on the electronic manifest, as printed out on a physical copy, would satisfy the requirement in § 172.204 (d).

More than 18 commenters submitted written comments in response to the NPRM, including representatives of waste treatment and disposal facilities, emergency responders, suppliers of industrial gases and related equipment and selected chemicals, shippers, carriers, federal and state governmental agencies and private citizens. Many commenters agreed that an electronic manifest would not provide emergency responders with the information as to the nature and hazards of materials in a transport vehicle or freight container if an electronic translator would not be available during an incident in transport.

II. Proposal To Be Withdrawn

In a final rulemaking published on March 4, 2005 (70 FR 10776), EPA indicates that the comments addressing the electronic manifest (“e-manifest”) proposal raise significant substantive issues that merit further analysis and stakeholder outreach prior to adopting a final approach.

EPA stated the key electronic manifest issues that must be resolved include: (1) Whether the e-manifest should be decentralized as proposed and hosted by multiple private systems, centrally by EPA or by another party; (2) if a decentralized approach were to be adopted, how EPA’s standards should address interoperability of private systems; (3) whether the final e-manifest approach should be integrated with biennial reporting or other functions supported by EPA, the states or other agencies; (4) what electronic signature methods should be included in the final rule; and, (5) the technical rigor and detail necessary in EPA’s final standards to ensure a workable approach to the electronic manifest.

Therefore, EPA has decided to separate the electronic manifest from the form revisions portion of the final rulemaking. EPA is deferring final action on the electronic manifest pending further analysis, outreach, and possible supplemental proposals. In a future rulemaking PHMSA and EPA may reconsider proposals to allow the use of an electronic manifest for

hazardous waste shipments. Accordingly, we are withdrawing the NPRM and terminating Docket No. PHMSA-01-10292 (HM-206E).

Issued in Washington, DC on March 31, 2005, under authority delegated in 49 CFR part 106.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 05-6805 Filed 4-5-05; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[Docket No. 050323081-5081-01; I.D. 031505C]

RIN 0648-AT02

Endangered and Threatened Wildlife and Plants: Proposed Threatened Status for Southern Distinct Population Segment of North American Green Sturgeon

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: We, the NMFS, have completed an update of an Endangered Species Act (ESA) status review for the North American green sturgeon (*Acipenser medirostris*; hereafter “green sturgeon”). After reviewing new and updated information on the status of green sturgeon and considering whether green sturgeon is in danger of extinction throughout all or a significant portion of its range, or is likely to become endangered within the foreseeable future throughout all or a significant portion of its range, we confirm our earlier determination that the species is comprised of two distinct population segments (DPSs) that qualify as species under the ESA, the Northern and Southern DPSs. We reaffirm our earlier determination that the Northern DPS does not warrant listing as threatened or endangered at this time, and we will maintain the DPS on the Species of Concern List due to remaining uncertainties about its status and threats. We revise our previous “not warranted” finding for the Southern DPS and propose to list it as threatened. This revision is based on: new information showing that the majority of spawning adults are concentrated into

one spawning river (i.e., Sacramento River), thus increasing the risk of extirpation due to catastrophic events; threats that have remained severe since the last status review and have not been adequately addressed by conservation measures currently in place; fishery-independent data exhibiting a negative trend in juvenile green sturgeon abundance; and new information showing evidence of lost spawning habitat in the upper Sacramento and Feather Rivers. We will reevaluate the status of the Northern DPS in 5 years. If the proposed listing is finalized, a recovery plan will be prepared and implemented for the Southern DPS. Protective regulations under ESA section 4(d) and critical habitat will be proposed in a subsequent **Federal Register** notice.

DATES: Comments on this proposal must be received by July 5, 2005. A public hearing will be held promptly if any person so requests by May 23, 2005. Notice of the location and time of any such hearing will be published in the **Federal Register** not less than 15 days before the hearing is held.

ADDRESSES: You may submit comments by any of the following methods:

- E-Mail:

GreenSturgeon.Comments@noaa.gov

- Federal e-Rulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.

- Mail: Submit written comments to Chief, Protected Resources Division, Southwest Region, National Marine Fisheries Service, 501 West Ocean Blvd., Suite 4200, Long Beach, CA, 90802-4213.

The updated green sturgeon status review and other reference materials regarding this determination can be obtained via the Internet at: *http://www.nmfs.noaa.gov* or by submitting a request to the Assistant Regional Administrator, Protected Resources Division, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213, or the Assistant Regional Administrator, Protected Resources Division, Northwest Region, NMFS, 1201 NE Lloyd Avenue, Suite 1100, Portland, OR 97232.

FOR FURTHER INFORMATION CONTACT: Melissa Neuman, NMFS, Southwest Region (562) 980-4115; Scott Rumsey, NMFS, Northwest Region (503) 872-2791; or Lisa Manning, NMFS, Office of Protected Resources (301) 713-1401.

SUPPLEMENTARY INFORMATION:

Background

On June 12, 2001, we received a petition from the Environmental Protection Information Center, Center