

interested parties should serve the petitioner's counsel, as follows: F. William LeBeau, Hogan & Hartson L.L.P., 555 Thirteenth Street, NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 01-169, adopted July 18, 2001, and released July 27, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857-3800, facsimile (202) 857-3805. Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

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 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 Kentucky, is amended by removing Danville, Channel 296A and adding Nonesuch, Channel 296A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01-19846 Filed 8-7-01; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01-1804; MM Docket No. 01-170; RM-10190]

Radio Broadcasting Services; Pittsburg, NH

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Pittsburg Broadcasting Company, requesting the allotment of Channel 246A to Pittsburg, New Hampshire, as that community's first local aural transmission service. Coordinates used for this proposal are 45-02-25 NL and 71-21-17 WL. Pittsburg is located within 320 kilometers (200 miles) of the U.S.-Canadian border and will result in a short-spacing to the proposed allotment of Channel 247C1 at Thetford Mines, Quebec at coordinates 46-03-28 NL and 71-36-06 WL. Therefore, concurrence in the requested allotment by the Canadian government as a specially negotiated short-spaced allotment, must be obtained. Although the Pittsburg proposal is also short-spaced to a proposed allotment on Channel 247C2 at Sherbrooke, Quebec, at coordinates 45-24-00 NL and 71-54-00, the Sherbrooke proposal has been scheduled for deletion.

DATES: Comments must be filed on or before September 17, 2001, and reply comments on or before October 2, 2001.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Mark N. Lipp, Esq., Shook Hardy & Bacon, L.L.P., 600 14th Street, NW., Suite 800, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01-170, adopted July 18, 2001, and released July 27, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY-A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor,

International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857-3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for 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 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 New Hampshire, is amended by adding Pittsburg, Channel 246A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01-19847 Filed 8-7-01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 172

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

RIN 2137-AD50

Hazardous Materials: Hazardous Waste Manifest Requirements

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: RSPA proposes to revise its regulations on the use of the Uniform Hazardous Waste Manifest for shipments of hazardous wastes to

parallel some changes proposed by the Environmental Protection Agency (EPA). RSPA is proposing 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. The intended effect of this proposed rule is to maintain consistency between EPA's and RSPA's requirements.

DATES: Submit comments by October 4, 2001. To the extent practicable, we will consider comments received after this date in making our decision on a final rule.

ADDRESSES: Address your comments to the Dockets Management System, U.S. Department of Transportation, Room PL 401, 400 Seventh St., SW, Washington, DC 20590-0001. You must identify the docket number, RSPA-01-10292 (HM-206E) at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that your comments are received, include a self-addressed stamped postcard. You may also submit your comments and review all comments by accessing the Docket Management System website at <http://dms.dot.gov>. Click on "Help and Information" to obtain instructions for filing a document electronically.

The Dockets Unit is located on the Plaza Level of the Nassif Building at the U.S. DOT at the above address. You may view public dockets between the hours of 10 a.m. and 5 p.m., Monday through Friday, except on Federal holidays. An electronic copy of this document may be downloaded from the **Federal Register** Electronic Bulletin Board Service at (202) 512-1661. Internet users may reach the Office of the Federal Register's home page at: <http://www.nara.gov/nara/fedreg> and the Government Printing Office's database at <http://www.access.gpo.gov/su-docs> or the Office of Hazardous Materials Safety at <http://rspa.dot.gov/rulemake.htm>.

FOR FURTHER INFORMATION CONTACT:

Michael Johnsen, Office of Hazardous Materials Standards, telephone (202) 366-8553, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001.

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 coordinated rulemakings that followed joint EPA-DOT public hearings, EPA and RSPA issued final rules in 1980 requiring that a manifest accompany each shipment of hazardous waste during transportation. See 45 *FR* 12272 (Feb. 26, 1980) (EPA), 34560 (May 22, 1980) (RSPA). In 49 CFR 172.205, RSPA 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. Four years later, EPA and RSPA 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." 49 *FR* 10490 (EPA), 10507 (RSPA) (March 20, 1984). 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).

EPA has recently proposed to revise its uniform manifest regulations (66 *FR* 28239; May 22, 2001). One of EPA's proposed changes would allow the uniform manifest to be prepared and transmitted electronically from the generator to the disposal facility, rather than requiring it to accompany the shipment. On the electronic manifest, the required signatures would be done electronically, rather than in handwriting on a paper form. In addition, EPA is proposing to: (1) Align the definitions of "bulk packaging" and "non-bulk packaging" in its regulations to be consistent with those definitions in 49 CFR 171.8; (2) provide space on the uniform manifest for information currently required by the HMR on a shipping paper, including an emergency response phone number and the Packing Group of the material; and (3) revise the text of the certification statement by the

generator to match the language required in 49 CFR 172.204(a).

II. Proposed Changes to the HMR

A uniform manifest that is prepared and transmitted electronically, from the generator to the transporter, the disposal facility, and the monitoring governmental agencies, can provide all the information necessary to track a shipment of hazardous waste. However, an electronic manifest cannot serve the purpose of a shipping paper to alert emergency responders as to the nature and hazards of materials in a transport vehicle or freight container, in the event of an incident during transportation of those materials, when electronic translators or readers may not be available. Accordingly, EPA has proposed that a paper copy of the manifest or other shipping paper must accompany the shipment.

In order to parallel EPA's proposal for an electronic manifest, RSPA proposes 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). Other changes to the uniform manifest proposed by EPA that relate to requirements in the HMR would not require changes in the HMR.

III. Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This NPRM is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget. This rule is not significant under the

Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034).

The intent of the changes in this notice is to clarify that shipping paper information must still accompany every shipment of hazardous waste, even those for which electronic manifests are authorized. The net effect of these changes is to maintain current shipping paper requirements for hazardous wastes. Since there is no change in the shipping paper requirements other than the inclusion of an indication on the shipping documentation that an electronic manifest is being used, the costs and benefits would be so minimal as to not warrant preparation of a regulatory impact analysis or regulatory evaluation. This determination may be revised as a result of public comment.

B. Executive Order 13132

This NPRM has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). This proposed rule would preempt State, local, and Indian tribe requirements but does not propose any regulation that has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

The Federal hazardous material transportation law (Federal law), 49 U.S.C. 5101–5127, contains an express preemption provision in 49 U.S.C. 5125(b)(1) that a State, local, or Indian tribe requirement about any of the following subjects is preempted if the non-Federal requirement is not substantively the same as a provision in the Federal law or the HMR:

- (A) The designation, description, and classification of hazardous material;
- (B) The packing, repacking, handling, labeling, marking, and placarding of hazardous material;
- (C) The preparation, execution, and use of shipping documents related to hazardous material and requirements related to the number, contents, and placement of those documents;
- (D) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material; or
- (E) The design, manufacturing, fabricating, marking, maintenance, reconditioning, repairing, or testing of a packaging or container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

This proposed rule addresses the preparation and use of shipping documents, and Federal law would preempt State, local, and Indian tribe written incident reporting requirements that are not "substantively the same as" the requirements in this proposed rule HMR.

Federal law provides at section 5125(b)(2) that, if DOT issues a regulation concerning any of the covered subjects, DOT must determine and publish in the **Federal Register** the effective date of Federal preemption. The 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. We propose that the effective date of Federal preemption would be 180 days from publication of a final rule in this matter in the **Federal Register**.

C. Executive Order 13084

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13084 ("Consultation and Coordination with Indian Tribal Governments"). Because this proposed rule, if adopted, would not significantly or uniquely affect the Indian tribal communities, and would not impose substantial direct compliance costs, the funding and consultation requirements of the Executive Order do not apply.

D. Regulatory Flexibility Act

The intent of the changes in this notice is to clarify that shipping paper information must still accompany every shipment of hazardous waste, even those for which electronic manifests are authorized. The net effect of these changes is to maintain current shipping paper requirements for hazardous wastes. Since there is no change in the shipping paper requirements other than the inclusion of an indication on the shipping documentation that an electronic manifest is being used, the impacts of this rule, if adopted, are anticipated to be so minimal as to not warrant preparation of a regulatory impact analysis. Therefore, I certify that this rulemaking action will not have a significant economic impact on a substantial number of small entities.

E. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid Office of Management and Budget (OMB) control number. This proposed rule does not propose any change in information collection burdens. The information collection associated with the proposal

is currently reported and has been approved by OMB under control number 2137–0034.

F. 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.

G. Unfunded Mandates Reform Act

This rulemaking would not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It would not result in costs of \$100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector.

H. Environmental Assessment

The intent of the changes in this notice is to clarify that shipping paper information must still accompany every shipment of hazardous waste, even those for which electronic manifests are authorized. The net effect of these changes is to maintain current shipping paper requirements for hazardous wastes. Since there is no change in the shipping paper requirements other than the inclusion of an indication on the shipping documentation that an electronic manifest is being used, we find that there are no significant environmental impacts associated with this proposed rule.

List of Subjects in 49 CFR Part 172

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

In consideration of the foregoing, 49 CFR part 172 is proposed to be amended as follows:

PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, AND TRAINING REQUIREMENTS

1. The authority citation for part 172 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

2. In § 172.205, paragraphs (a), (b), (c), (d) and the introductory text of paragraph (f) would be revised, paragraph (e) would be removed and reserved, paragraph (g) would be

redesignated as paragraph (f)(6), and paragraph (h) would be removed to read as follows:

§ 172.205 Hazardous waste manifest.

(a) No person may offer, transport, transfer, or deliver a hazardous waste (waste) unless a hazardous waste manifest (manifest) is prepared in accordance with 40 CFR 262.20 and the manifest is signed, carried, and given in accordance with this section.

(b) When a generator prepares an electronic manifest in accordance with 40 CFR 262.20(a)(3)—

(1) Either a physical copy of the electronic manifest bearing the signature of the generator or a shipping paper meeting the requirements of §§ 172.200 through 172.204 must accompany the waste during transportation; and

(2) The copy of the electronic manifest or the shipping paper must include a statement indicating that an electronic manifest is being used, such as “electronic manifest.”

(c) When a generator prepares a paper manifest on Form 8700–22 (and 8700–22A when necessary) in accordance with 40 CFR 262.20(a)(2) and the instructions in the appendix to 40 CFR part 262—

(1) The original copy of the manifest must be dated by, and bear the

handwritten signatures of, the person representing:

(i) The generator of the hazardous waste at the time that the hazardous waste is offered for transportation, and

(ii) The initial carrier accepting the hazardous waste for transportation;

(2) A copy of the manifest must be dated by, and bear the handwritten signatures of the person representing:

(i) Each subsequent carrier accepting the hazardous waste for transportation at the time of acceptance, and

(ii) The designated facility receiving the hazardous waste, upon receipt; and

(3) A copy of the manifest bearing all required dates and signatures must be:

(i) Given to a person representing each carrier accepting the hazardous waste for transportation;

(ii) Given to a person representing the designated facility receiving the hazardous waste;

(iii) Returned to the generator by the carrier that transported hazardous waste from the United States; and

(iv) Retained by the generator and by the initial and each subsequent carrier for three years from the date the waste was accepted by the initial carrier. Each retained copy must bear all required signatures and dates up to and including those entered by the next person who received the hazardous

waste from the person retaining the copy.

(d) A physical copy of an electronic manifest or a paper manifest may be used as a shipping paper if it contains all the information required by this subpart. When used as a shipping paper, the physical copy of an electronic manifest or the paper manifest must be carried during transportation in the same manner as required by this subchapter for shipping papers.

(e) [Reserved]

(f) *Transportation by rail.* When a generator of a hazardous waste shipment by rail prepares a paper manifest on Form 8700–22 (and 8700–22A when necessary) in accordance with 40 CFR 262.20(a)(2) and the instructions in the appendix to 40 CFR part 262, the following requirements apply instead of the requirements in paragraphs (c)(2) and (c)(3) of this section:

* * * * *

Issued in Washington, DC, on July 31, 2001, under authority delegated in 49 CFR Part 106.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 01–19647 Filed 8–7–01; 8:45 am]

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