

(7) See 242.7502 for ACO responsibilities with regard to receipt of an audit report identifying significant accounting system or related internal control deficiencies.

(9) For additional contract administration functions related to IR&D/B&P projects performed by major contractors, see 242.771–3(a).

(12) Also perform all payment administration in accordance with any applicable payment clauses.

(13)(A) Do not delegate the responsibility to make payments to the Defense Contract Management Agency (DCMA).

(B) Follow the procedures at PGI 242.302(a)(13)(B) for designation of payment offices.

(39) See 223.370 for contract administration responsibilities on contracts for ammunition and explosives.

(67) Also support program offices and buying activities in precontractual efforts leading to a solicitation or award.

(S–70) Serve as the single point of contact for all Single Process Initiative (SPI) Management Council activities. The ACO shall negotiate and execute facilitywide class modifications and agreements for SPI processes, when authorized by the affected components.

(S–71) DCMA has responsibility for reviewing earned value management system (EVMS) plans and for verifying initial and continuing contractor compliance with DoD EVMS criteria. The contracting officer shall not retain this function.

(b)(S–70) Issue, negotiate, and execute orders under basic ordering agreements for overhaul, maintenance, and repair.

[FR Doc. E6–12778 Filed 8–7–06; 8:45 am]

BILLING CODE 5001–08–P

## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

#### 49 CFR Part 171

[Docket No. PHMSA–2005–22208 (HM–240)]

RIN 2137–AE12

### Hazardous Materials: Incorporation of Statutorily Mandated Revisions to the Hazardous Materials Regulations; Correction

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

**ACTION:** Final rule; correction.

**SUMMARY:** On December 9, 2005, PHMSA published a final rule to revise

terminology, definitions, and requirements for consistency with the Hazardous Materials Safety and Security Reauthorization Act of 2005. These amendments included revising the definitions of “hazmat employee” and “hazmat employer”; modifying shipping paper retention requirements; providing a security plan exception for farmers; and replacing the term “Exemption” with “Special permit.” This final rule corrects an error in the final rule. In addition, we are clarifying the amendments applicable to shipping paper retention requirements, the definition of “hazmat employer,” and the transition from “Exemption” to “Special permit.”

**DATE:** Effective date: August 8, 2006.

#### FOR FURTHER INFORMATION CONTACT:

Cameron Satterthwaite or Kurt Eichenlaub, Office of Hazardous Materials Standards, (202) 366–8553, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On December 9, 2005, the Pipeline and Hazardous Materials Safety Administration (PHMSA, we) published a final rule under Docket No. PHMSA–2005–22208 (HM–240) revising the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180) to reflect amendments made to the Federal hazardous materials law (Federal hazmat law; 49 U.S.C. 5101 *et seq.*) by the Hazardous Materials Safety and Security Reauthorization Act of 2005 (the Act; Title VII of Pub. L. 109–59, 119 Stat. 1144 (August 10, 2005)).

The December 9, 2005 final rule made the following amendments to the HMR:

- Revised the definitions of “hazmat employee” and “hazmat employer”;
- Revised shipping paper retention requirements;
- Added a security plan exception for farmers;
- Revised applicability of the HMR to matter subject to postal laws and regulations; and
- Replaced “Exemption” with “Special permit.”

We received a number of questions from the regulated community concerning the amendments in the final rule applicable to the revised definition of “hazmat employer”, new shipping paper retention requirements, and the transition from “Exemption” to “Special permit.” To ensure our responses to these questions reach a broad audience, we are addressing them in this final rule.

## II. Clarifications

### A. Definition of “Hazmat Employer”

We revised the definition of “hazmat employer” in § 171.8 for consistency with editorial revisions adopted under the Act. The revised definition is not intended to apply more broadly than the previous definition. The amendment does not expand the scope of the definition or revise the training requirements applicable to hazmat employers in subpart H of part 172 or the operational requirements applicable to training in parts 173–180 of the HMR.

### B. Revision of Shipping Paper Retention Requirements

In accordance with the Act, we revised the HMR to require shippers to retain a copy of a shipping paper for a period of two years after the shipping paper is provided to a carrier and to require carriers to retain a copy of a shipping paper for a period of one year after the date the shipping paper is received from the shipper. We also specified that shippers and carriers of a hazardous waste must continue to retain a shipping paper for 3 years after the material is accepted by the initial carrier. PHMSA is aware of confusion in the regulated community regarding the implementation of these provisions. The provisions for shipping paper retention in this rulemaking became effective on January 9, 2006 (the effective date of the final rule). It was not our intention to apply the revised shipping paper retention requirements retroactively to documents retained for shipments made prior to the effective date of the final rule. Shipments offered or accepted for transportation prior to January 9, 2006 are not subject to the new shipping paper retention provisions. For shipments offered or accepted for transportation prior to January 9, 2006, each person who provides a shipping paper and each person who receives a shipping paper must retain a copy of the shipping paper or an electronic image thereof for 375 days after the shipment is accepted by the initial carrier. For shipments offered or accepted for transportation on or after January 9, 2006, each person who provides a shipping paper must retain a copy of the shipping paper or an electronic image thereof for two years after the shipment is accepted by the initial carrier; each person who receives a shipping paper must retain a copy of the shipping paper or an electronic image thereof for one year after the shipment is accepted by the initial carrier.

### C. Conversion of Exemptions to Special Permits

The final rule adopted amendments to replace most of the references in the HMR to the term "exemption" with "special permit." See §§ 171.1, 171.2, 171.6, 171.8, 172.102, 172.203, 172.301, 172.302, 173.22, 173.22a, 173.124, 173.301, 173.403, 175.33, 176.31, 178.3, 179.3, 179.4, 180.3, 180.201, 180.205, 180.209, 180.213, and 180.215. In addition, we adopted the following revisions to the HMR to address the transition to special permits:

- Current exemptions will be effective until they expire, are terminated, or become due for renewal. Current exemptions will be replaced by special permits at the time when a renewal application is approved by the Associate Administrator. See definition of "Special permit" in § 171.8.
- Packagings and shipping papers prepared in accordance with a new special permit issued on or after October 1, 2005 must be marked with "DOT-SP" and the appropriate special permit number, unless otherwise specified by the special permit. However, packagings and shipping papers previously marked "DOT-E" in accordance with a current exemption generally may continue in use so long as the provisions in the exemption remain valid. See §§ 172.203, 172.302, and 173.23.
- An initial special permit will be valid for up to two years before it expires or becomes due for renewal. A separate person wishing to transport in the same manner as the applicant for a special permit may apply for "party status" to the special permit. In this situation, the party applying for party status will be considered a "new" special permit holder and will be issued a special permit authorization letter, authorizing the party to operate as a grantee to the special permit with an expiration date (up to two years) based on the date of its application. If renewed, a special permit may be issued an expiration date of up to four years from the date of issuance. See §§ 107.107, and 107.113.
- The Office of Hazardous Materials Exemptions and Approvals (OHMEA) is renamed the Office of Hazardous Materials Special Permits and Approvals (OHMSPA).
- The e-mail address for OHMSPA is revised from  
*Exemptions@rspa.dot.gov* to  
*Specialpermits@dot.gov*. See §§ 107.105, 107.107, and 107.109.

The provisions of the final rule applicable to the change from "Exemptions" to "Special permits" have caused some confusion among current exemption holders concerning the continued use of the "DOT-E" exemption marking on packages and shipping papers. The final rule allows for packagings authorized by an exemption issued prior to October 1, 2007, to be plainly and durably marked "DOT-E" in lieu of "DOT-SP" (see § 172.301(c)). This does not mean that all "DOT-E" exemption markings must be changed to "DOT-SP" after October 1, 2007. As provided in § 173.23(h), an exemption packaging that is permanently marked "DOT-E" prior to October 1, 2007, may continue in use with the "DOT-E" marking for the life of that exemption packaging, so long as the terms of the exemption or special permit remain valid.

As provided in § 172.203(a), a shipping paper for a shipment made under a special permit must include the notation "DOT-SP" followed by the special permit number assigned. As an alternative, shipping papers for shipments made under an exemption or special permit issued prior to October 1, 2007, may include the notation "DOT-E" instead of "DOT-SP" followed by the number assigned. Thus, a shipper may use either notation for shipments made under an exemption or special permit issued prior to October 1, 2007.

### III. Correction

This final rule corrects an error in the December 9, 2005 final rule. The final rule revised § 171.1(d)(7) to read: "Any matter subject to the postal laws and regulations of the United States, except in the case of an imminent hazard." This final rule is removing that language from § 171.1(d)(7) and restoring the language previously in effect. In correcting this error, we confirm that the HMR do not apply to any matter subject to the postal laws and regulations of the United States and that the scope of the HMR has not changed.

### IV. Regulatory Analyses and Notices

#### A. Statutory/Legal Authority for This Rulemaking

This final rule is published under authority of Federal Hazardous Materials Transportation Law (Federal Hazmat Law; 49 U.S.C. 5101 *et seq.*). Section 5103(b) of Federal Hazmat Law authorizes the Secretary of Transportation to prescribe regulations for the safe transportation, including security, of hazardous materials in intrastate, interstate, and foreign commerce. The amendments in this

final rule are being adopted for consistency with the Hazardous Materials Safety and Security Reauthorization Act of 2005.

#### B. 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, 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). There are no cost impacts associated with this final rule.

#### C. Executive Order 13132

This final rule has been analyzed in accordance with the principles and criteria in Executive Order 13132 ("Federalism"). This final rule does not adopt any regulation that: (1) 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; (2) imposes substantial direct compliance costs on State and local governments; or (3) preempts state law. Therefore, preparation of a federalism assessment is not warranted.

#### D. Executive Order 13175

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 ("Consultation and Coordination with Indian Tribal Governments"). Because this final rule does not have tribal implications, does not impose substantial direct compliance costs on Indian tribal governments, and does not preempt tribal law, the funding and consultation requirements of Executive Order 13175 do not apply.

#### E. Regulatory Flexibility Act, Executive Order 13272, and DOT Procedures and Policies

I certify this final rule will not have a significant economic impact on a substantial number of small entities. This rule corrects a previously issued final rule for consistency with the Hazardous Materials Safety and Security Reauthorization Act of 2005. There are no cost impacts associated with this rule.

#### F. Unfunded Mandates Reform Act of 1995

This rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of \$120.7 million or

more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

#### *G. Paperwork Reduction Act*

There are no new information collection requirements in this final rule.

#### *H. Environmental Impact Analysis*

There are no environmental impacts associated with this final rule.

#### *I. 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 in 49 CFR Part 171**

Applicability, Hazardous materials transportation, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, amend 49 CFR Chapter I as follows:

#### **PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS**

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

**Authority:** 49 U.S.C. 5101–5127, 44701; 49 CFR 1.45 and 1.53; Public Law 101–410 section 4 (28 U.S.C. 2461 note); Public Law 104–134 section 31001.

■ 2. In § 171.1, revise paragraph (d)(7) to read as follows:

#### **§ 171.1 Applicability of Hazardous Materials Regulations (HMR) to persons and functions.**

\* \* \* \* \*

(d) \* \* \*

(7) Any matter subject to the postal laws and regulations of the United States.

\* \* \* \* \*

Issued in Washington, DC, on August 1, 2006, under authority delegated in 49 CFR part 1.

**Thomas J. Barrett,**  
*Administrator.*

[FR Doc. E6–12804 Filed 8–7–06; 8:45 am]

**BILLING CODE 4910–60–P**

## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 679**

[Docket No. 060216044–6044–01; I.D. 080206C]

#### **Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the West Yakutat District of the Gulf of Alaska**

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

**ACTION:** Temporary rule; prohibition of retention.

**SUMMARY:** NMFS is prohibiting retention of Pacific ocean perch in the West Yakutat District of the Gulf of Alaska (GOA). NMFS is requiring that catch of Pacific ocean perch in this area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the 2006 total allowable catch (TAC) of Pacific ocean perch in this area has been reached.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), August 3, 2006, until 2400 hrs, A.l.t., December 31, 2006.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Hogan, 907–586–7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and CFR part 679.

The 2006 TAC of Pacific ocean perch in the West Yakutat District of the GOA is 1,101 metric tons as established by the 2006 and 2007 harvest specifications for groundfish of the GOA (71 FR 10870, March 3, 2006).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS, has determined that the 2006 TAC of Pacific ocean perch in the West Yakutat District of the GOA has been reached. Therefore, NMFS is requiring that further catches of Pacific ocean perch in the West Yakutat District of the GOA be treated as prohibited species in accordance with § 679.21(b).

## **Classification**

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the prohibition of retention of Pacific ocean perch in the West Yakutat District of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of July 27, 2006.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: August 2, 2006.

**James P. Burgess,**  
*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
[FR Doc. 06–6755 Filed 8–3–06; 1:02 pm]

**BILLING CODE 3510–22–S**

## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 679**

[Docket No. 060216044–6044–01; I.D. 080206B]

#### **Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Central Regulatory Area of the Gulf of Alaska**

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

**ACTION:** Temporary rule; prohibition of retention.

**SUMMARY:** NMFS is prohibiting retention of Pacific ocean perch in the Central Regulatory Area of the Gulf of Alaska (GOA). NMFS is requiring that catch of Pacific ocean perch in this area be