

required to submit an application filing fee with their post-auction long-form applications. This clarification is intended to rectify a possible inconsistency throughout the Commission's rules, and in an earlier Commission Order.

DATES: Effective June 28, 2011.

ADDRESSES: Roland Helvajian, Federal Communications Commission, Office of the Managing Director, Revenue and Receivables Operations Group, 445 12th Street, SW., Washington, DC 20445.

FOR FURTHER INFORMATION CONTACT: Roland Helvajian, Office of the Managing Director, Revenue and Receivables Operations Group, (202) 418-0444 or Roland.Helvajian@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Order, FCC 11-98, adopted June 17, 2011, and released June 20, 2011.

Synopsis of Order

1. In the *Notice of Proposed Rulemaking* (NPRM) in this proceeding, the Commission proposed to clarify the rules on payment of post-auction long-form filing fees by winning bidders in auctions of construction permits in the broadcast services. It noted an inconsistency between *Implementation of Section 309(j) of the Communications Act—Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses*, First Report and Order (13 FCC Rcd 15920, 15984-85 para. 164 (1998)), in which the Commission required that winning broadcast auction bidders pay filing fees with their post-auction long-form applications, and 47 CFR 1.1104, the Schedule of Charges for Media Bureau Service filings, which requires payment of a fee when the long-form application is filed, on the one hand, and 47 CFR 1.2107(c), which suggests that a filing fee need not accompany a high bidder's long-form application, on the other. To rectify this inconsistency and conform the rules to the Commission's stated intent in the Broadcast Competitive Bidding First Report and Order, the Commission proposed in the NPRM to amend 47 CFR 1.2107(c) to read, "Except as otherwise provided in § 1.1104 of the rules, high bidders need not submit an additional application fee with their long-form applications." By amending 47 CFR 1.2107(c), the Commission clarifies that high bidders filing long-form applications for media services must still pay any fees required by 47 CFR 1.1104 when filing their post-auction long-form application.

2. The Commission received no comments or reply comments regarding

the proposed rule change. Therefore, the Commission adopts the change to 47 CFR 1.2107(c) as set forth herein.

Ordering Clauses

3. The rule adopted in this *Second Order* is a rule of agency procedure that does not substantially affect the rights or obligations of non-agency parties, and is exempt from the requirements of the Congressional Review Act pursuant to 5 U.S.C. 804(3)(C).

4. *It is ordered* that the Commission's rules *are hereby amended* as set forth herein.

5. *It is further ordered* that the rule change in this Second Order *will become effective* June 28, 2011.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 1 to read as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 15 U.S.C. 79 *et seq.*; 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, 303(r), and 309.

■ 2. Section 1.2107 is amended by revising paragraph (c) to read as follows:

§ 1.2107 Submission of down payment and filing of long-form applications.

(c) A high bidder that meets its down payment obligations in a timely manner must, within ten (10) business days after being notified that it is a high bidder, submit an additional application (the "long-form application") pursuant to the rules governing the service in which the applicant is the high bidder. Except as otherwise provided in § 1.1104, high bidders need not submit an additional application filing fee with their long-form applications. Specific procedures for filing applications will be set out by Public Notice. Ownership disclosure requirements are set forth in § 1.2112. Beginning January 1, 1999, all long-form applications must be filed electronically. An applicant that fails to submit the required long-form application under this paragraph and fails to establish good cause for any late-filed submission, shall be deemed to

have defaulted and will be subject to the payments set forth in § 1.2104.

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[FR Doc. 2011-16152 Filed 6-27-11; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 105, 107, 109, 171, 172, 173, 174, 175, 176, 178, and 180

[Docket No. PHMSA-2011-0132; Notice No. 11-5]

Notification of Anticipated Delay in Administrative Appeal Decisions

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

ACTION: Notice.

SUMMARY: This notice advises the public that PHMSA is currently reviewing numerous administrative appeals (*i.e.*, petitions for reconsideration) on recently issued final rules. In accordance with applicable regulatory requirements, this notice provides notification to parties having brought certain administrative appeals of the anticipated delay in processing these administrative appeals.

FOR FURTHER INFORMATION CONTACT: Charles E. Betts, Director, Standards and Rulemaking Division, Office of Hazardous Materials Safety, (202) 366-4512, PHMSA, 1200 New Jersey Avenue, SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

I. Appeals

The Pipeline and Hazardous Materials Safety Administration's (PHMSA) Office of Hazardous Materials Standards recently received a number of petitions for reconsideration of several recent PHMSA final rules, which are known as "administrative appeals" under PHMSA's applicable regulations, 49 CFR 106.110 *et seq.* The administrative appeals that are the subject of this **Federal Register** notice focus on four recently published final rules. Key information on the administrative appeals, including the rulemaking docket number, are provided below. Interested persons may go to <http://www.regulations.gov> and search by the rulemaking docket number to view rulemakings, administrative appeals, comments, and other rulemaking related documentation. The administrative appeals now being considered by PHMSA, organized by final rule, are as follows:

HM-231 (Docket No. PHMSA-2006-25736)

HAZARDOUS MATERIALS; MISCELLANEOUS PACKAGING AMENDMENTS (SEPTEMBER 30, 2010; 75 FR 60333)

Appeal from	Issue
Dangerous Goods Advisory Council (DGAC)	Appeal focuses on the miscellaneous packaging requirements final rule pertaining to PHMSA's responsiveness to the request to extend the effective date of the final rule and revisions to the final rule in a manner not previously proposed or requested.

HM-233B (Docket No. PHMSA-2009-0410)

HAZARDOUS MATERIALS; REVISIONS OF SPECIAL PERMITS PROCEDURES (JANUARY 5, 2011; 76 FR 454)

Appeals from	Issue
Council on Safe Transportation of Hazardous Articles, Inc. (COSTHA).	Appeal focuses on the special permit procedures final rule provisions addressing: • Estimating operations to be conducted under a special permit. • Listing the CEO or president of the company. • Providing a Dun and Bradstreet Data Universal Numbering System (DUNS) identifier.
Institute of Makers of Explosives (IME)	Appeal focuses on the special permit procedures final rule provisions addressing: • Listing all known locations where a special permit will be used. • Providing a description of operational controls. • Providing a statement outlining the reason(s) the hazardous material is being transported by air.
Association of Hazmat Shippers, Inc. (AHS)	Appeal focuses on the special permit procedures final rule provisions addressing: • Listing all known locations where a special permit will be used. • Providing estimates of the number of operations expected to be conducted under a special permit. • Providing a hazardous materials registration number. • Providing a statement justifying shipments by air. • Listing the CEO or president of the company. • Providing a DUNS identifier. • Providing a quantity or number of packages to be shipped.

HM-215K (Docket No. PHMSA-2009-0126)

HAZARDOUS MATERIALS; HARMONIZATION WITH THE UNITED NATIONS RECOMMENDATIONS ON THE TRANSPORT OF DANGEROUS GOODS, INTERNATIONAL MARITIME DANGEROUS GOODS CODE, INTERNATIONAL CIVIL AVIATION ORGANIZATION TECHNICAL INSTRUCTIONS FOR THE SAFE TRANSPORT OF DANGEROUS GOODS BY AIR (JANUARY 19, 2011; 76 FR 3308)

Appeals from	Issue
American Coatings Association (ACA)	Appeal focuses on the international harmonization final rule pertaining to PHMSA's decision to eliminate the ORM-D system "without any [PHMSA] debate or consideration of [1] the type of materials that use this exception; [2] the costs incurred by the regulated community; and [3] the safety benefits." ACA also requests, based on a denial of their request to address the elimination of the ORM-D system in a separate rulemaking that PHMSA extend the transition period for use of the ORM-D system until January 1, 2016.
AHS	Appeal focuses on the international harmonization final rule pertaining to the limited quantity exception for the material "Self-reactive solid, Type F, UN3230."
Dangerous Goods Transport Consulting, Inc. (DGTC) on behalf of DGAC.	Appeal focuses on the international harmonization final rule provisions addressing: • UN3334 (Aviation regulated liquid, n.o.s.) and UN3335 (Aviation regulated solid, n.o.s.) be added to the list of excepted Class 9 (miscellaneous hazard) material on the basis that the material is authorized for limited quantity exceptions under the HMR and is consistent with the ICAO TI. • The one-year transition period does not allow sufficient time to deplete stock(s) of pre-printed packagings.
Fuel Cell and Hydrogen Energy Association (FHEA).	Appeal focuses on the international harmonization final rule pertaining to the prohibition on air transportation of fuel cell cartridges as ORM-D material and the deviation from the ICAO TI and the UN Model Regulations.
Lilliputian Systems, Inc., (LSI)	Appeal focuses on the international harmonization final rule pertaining to 49 CFR 175.10(a)(19) to align with the ICAO TI and allow spare fuel cell cartridges containing Division 2.1 flammable gas to be carried in checked baggage.
PPG Industries (PPG)	Appeal focuses on the international harmonization final rule pertaining to the one-year transition period for depletion of stock(s) of pre-printed packagings.

HAZARDOUS MATERIALS; HARMONIZATION WITH THE UNITED NATIONS RECOMMENDATIONS ON THE TRANSPORT OF DANGEROUS GOODS, INTERNATIONAL MARITIME DANGEROUS GOODS CODE, INTERNATIONAL CIVIL AVIATION ORGANIZATION TECHNICAL INSTRUCTIONS FOR THE SAFE TRANSPORT OF DANGEROUS GOODS BY AIR (JANUARY 19, 2011; 76 FR 3308)—Continued

Appeals from	Issue
Sporting Arms & Ammunition Manufacturer's Institute (SAAMI).	Appeal focuses on the international harmonization final rule provisions addressing: • The list of prohibited hazardous material and articles. • Exceptions from the air prohibition for Table 3 in 49 CFR 173.27(f) pertaining to limited quantities of Class 1 (explosive) material conforming to 49 CFR 173.63(b) and Class 7 (radioactive) material conforming to 49 CFR 173.421 through 173.425.

PHM-7 (Docket No. PHMSA-2005-22356)

HAZARDOUS MATERIALS: ENHANCED ENFORCEMENT AUTHORITY PROCEDURES (MARCH 2, 2011; 76 FR 11570)

Appeals from	Issue
COSTHA	Appeal focuses on the enhanced enforcement authority procedures final rule provisions addressing: • Package opening and reclosing by carrier vs. enforcement personnel. • Removing a package from transportation and ordering carrier personnel to transport the package for testing.
American Trucking Associations (ATA)	Appeal focuses on the enhanced enforcement authority procedures final rule provisions addressing: • Implementation of the authority to direct carriers to transport materials suspected of being hazardous materials to a facility for further examination. • Resumption of transportation for a package that violates the HMR, but does not present an imminent safety hazard.
United Parcel Service (UPS)	Appeal focuses on the enhanced enforcement authority procedures final rule provisions addressing: • Package opening at facilities vs. road side. • Department of Homeland Security's responsibility to open packages in pursuit of security related issues and possible treats.

II. Notification of Anticipated Delay in Appeal Decisions

49 CFR 106.130(a)(4) provides that if PHMSA does not issue a decision on whether to grant or deny an administrative appeal within 90 days after the date that the final rule is published in the **Federal Register** and that we anticipate a substantial delay in making a decision, PHMSA will notify parties having brought administrative appeals directly and provide an expected decision date. In addition, PHMSA will publish a notice of the delay in the **Federal Register**. Due to the volume of appeals received, as indicated above, we anticipate delays in making administrative appeal decisions. As a result, in accordance with 49 CFR 106.130(a)(4), we are publishing this notice in the **Federal Register** to notify the public, and we anticipate directly contacting parties having brought these administrative appeals shortly.

Issued in Washington, DC on June 21, 2011.

Magdy El-Sibaie,

Associate Administrator for Hazardous Materials Safety.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Docket No. FWS-R3-ES-2010-0042; MO-92210-0-0009-B4]

RIN 1018-AW90

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Tumbling Creek Cavesnail

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), designate critical habitat for the Tumbling Creek cavesnail (*Antrobia culveri*) under the Endangered Species Act of 1973, as

amended (Act). In total, approximately 25 acres (10.25 hectares) located in Taney County, Missouri, fall within the boundaries of the critical habitat designation.

DATES: This rule becomes effective on July 28, 2011.

ADDRESSES: This final rule, the associated final economic analysis, comments and materials received, as well as supporting documentation used in preparing this final rule are available on the Internet at <http://www.regulations.gov> at Docket No. FWS-R3-ES-2010-0042. These documents are also available for public inspection, by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Columbia Fish and Wildlife Office, 101 Park DeVille Dr., Suite A., Columbia, MO 65203; telephone: 573-234-2132; facsimile: 573-234-2181.

FOR FURTHER INFORMATION CONTACT: Charles M. Scott, Field Supervisor, Columbia Fish and Wildlife Office, (see **ADDRESSES**). If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800-877-8339.