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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA-2015-0168 (Notice No. 15-14)]

Hazardous Materials: 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 administrative appeals on a recently issued final rule titled, “Hazardous Materials: Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains” (80 FR 26643). 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 received a number of administrative appeals in relation to the PHMSA final rule, titled, “Hazardous Materials: Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains” (80 FR 26643). Key information on the administrative appeals is provided below.

HM-251 [Docket No. PHMSA-2012-0082]

Hazardous Materials: Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains

Appeals from	Docket Number	Focus of Appeal
Association of American Railroads (AAR)	PHMSA-2012-0082-3480	<ul style="list-style-type: none"> • Advanced Brake Signal Propagation Systems • Scope of the Rulemaking • Thermal Protection for Tank Cars
American Chemistry Council (ACC)	PHMSA-2012-0082-3473	<ul style="list-style-type: none"> • Advanced Brake Signal Propagation Systems • Retrofit Timeline and Tank Car Reporting Requirements • Scope of the Rulemaking
American Fuel & Petrochemical Manufacturers (AFPM)	PHMSA-2012-0082-3470	<ul style="list-style-type: none"> • Retrofit Timeline and Tank Car Reporting Requirements
Columbia River and Northwest Treaty Tribes	PHMSA-2012-0082-3478	<ul style="list-style-type: none"> • Information Sharing / Notification • Tribal Impacts and Consultation
Dangerous Goods Advisory Council (DGAC)	PHMSA-2012-0082-3471	<ul style="list-style-type: none"> • Advanced Brake Signal Propagation Systems • Scope of the Rulemaking • Testing and Sampling Program

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 the 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 complexity of the appeals received, we anticipate delays in making administrative appeal decisions as we will require additional time to adequately review and consider the appeals. 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 will be directly contacting parties having brought these administrative appeals shortly.

Issued in Washington, D.C. on August 4, 2015.

Magdy El-Sibaie
Associate Administrator for Hazardous Materials Safety
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