

a neutral third panel member to create a tri-partite panel;

(3) The tri-partite panel shall, at a minimum, review the proposed text of the NASDO and any explanatory material provided to the funding parties by the NASDO, the comments and any alternative text provided by the funding party seeking dispute resolution, any relevant standards which have been established or which are under development by an accredited-standards development organization, and any comments submitted by other funding parties;

(4) Any party in interest submitting information to the panel for consideration (including the NASDO, the party seeking dispute resolution and the other funding parties) shall be asked by the panel whether there is knowledge of patents, the use of which may be essential to the standard or generic requirement being considered. The fact that the question was asked along with any affirmative responses shall be recorded, and considered, in the panel's recommendation; and

(5) The tri-partite panel shall, within fifteen (15) days after being established, decide by a majority vote, the issue or issues raised by the party seeking dispute resolution and produce a report of their decision to the funding parties. The tri-partite panel must adopt one of the five options listed below:

(i) The NASDO's proposal on the issue under consideration;

(ii) The position of the party seeking dispute resolution on the issue under consideration;

(iii) A standard developed by an accredited standards development organization that addresses the issue under consideration;

(iv) A finding that the issue is not ripe for decision due to insufficient technical evidence to support the soundness of any one proposal over any other proposal; or

(v) Any other resolution that is consistent with the standard described in section 64.1703(a)(6).

(6) The tri-partite panel must choose, from the five options outlined above, the option that they believe provides the most technically sound solution and base its recommendation upon the substantive evidence presented to the panel. The panel is not precluded from taking into account complexity of implementation and other practical considerations in deciding which option is most technically sound. Neither of the disputants (i.e., the NASDO and the funding party which invokes the dispute resolution process) will be permitted to participate in any decision

to reject the mediation panel's recommendation.

(b) The tri-partite panel's recommendation(s) must be included in the final industry-wide standard or industry-wide generic requirement, unless three-fourths of the funding parties who vote decide within thirty (30) days of the filing of the dispute to reject the recommendation and accept one of the options specified in paragraphs (a)(5) (i) through (v) of this section. Each funding party shall have one vote.

(c) All costs sustained by the tri-partite panel will be incorporated into the cost of producing the industry-wide standard or industry-wide generic requirement.

§ 64.1704 Frivolous disputes/penalties.

(a) No person shall willfully refer a dispute to the dispute resolution process under this subpart unless to the best of his knowledge, information and belief there is good ground to support the dispute and the dispute is not interposed for delay.

(b) Any person who fails to comply with the requirements in paragraph (a) of this section, may be subject to forfeiture pursuant to section 503(b) of the Communications Act, 47 U.S.C. 503(b).

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 173 and 180

[Docket No. HM-200; Notice No. 96-9]

RIN 2137-AB37

Hazardous Materials in Intrastate Transportation; Extension of Comment Period

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

ACTION: Supplemental notice of proposed rulemaking (SNPRM); extension of comment period.

SUMMARY: RSPA is extending for 60 days, until August 16, 1996, the period for submitting comments on its March 20, 1996 supplemental notice of proposed rulemaking (SNPRM) in this proceeding. In the SNPRM, RSPA proposed certain exceptions from requirements in the Hazardous Materials Regulations that would otherwise apply to: the transportation of small quantities of certain hazardous

materials used by carriers, particularly private carriers, in the conduct of their businesses ("materials of trade"); smaller cargo tank motor vehicles (less than 13,250 liters [3,500 gallons] capacity) used exclusively in intrastate transportation of flammable liquid petroleum products; and registered inspections of these smaller cargo tank motor vehicles used exclusively for transporting flammable liquid petroleum fuels.

DATES: *Written comments:* Comments must be received on or before August 16, 1996.

ADDRESSES: *Comments:* Address comments to Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590-0001.

Comments should identify the Docket (HM-200) and be submitted, if possible, in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard showing the docket number. The Dockets Unit is located in Room 8421 of the Nassif Building, 400 Seventh Street, SW., Washington, DC 20590-0001. Telephone: 202-366-5046. Public dockets may be reviewed between the hours of 8:30 a.m. and 5:30 p.m.; Monday through Friday except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jackie Smith or Diane LaValle, 202-366-8553, Office of Hazardous Materials Standards, RSPA, 400 Seventh Street, SW., Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION: In July 1993, RSPA proposed to extend the application of the Hazardous Materials Regulations (HMR), 49 CFR Parts 171-180, to all intrastate carriers of hazardous materials in commerce and their shippers. The notice of proposed rulemaking (NPRM), was published on July 9, 1993 (58 FR 36920), and a correction was published on July 15, 1993 (58 FR 38111). Based on comments to that NPRM, on March 20, 1996, RSPA published a supplemental notice proposing three additional changes to the HMR. See 61 FR 11481. These changes would provide: (1) An exception for "materials of trade," certain small quantities of hazardous materials transported and used by carriers, particularly private carriers, in the conduct of their businesses; (2) an exception to permit the continued use of non-specification smaller cargo tank motor vehicles (i.e., less than 13,250 liters [3,500 gallons] capacity) used exclusively in intrastate transportation of flammable liquid petroleum products; and (3) an exception from certain