

submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, 49 CFR part 571 is amended as follows:

PART 571—[AMENDED]

1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegations of authority at 49 CFR 1.50.

2. Section 571.303 is amended by revising the definition of *CNG fuel container* in S4, revising S7.1.2, and adding S7.1.8 to read as follows:

§ 571.303 Standard No. 303; Fuel system integrity of compressed natural gas vehicles.

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S4. Definitions.

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CNG fuel container means a container designed to store CNG as motor fuel onboard a motor vehicle.

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S7.1.2 After each fuel storage container is filled as specified in S7.1.1, the fuel system other than each fuel storage container is filled with nitrogen, N₂, to normal operating pressures. All manual shutoff valves are to be in the open position.

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S7.1.8 The pressure drop measurement specified in S5.2 is to be made using a location on the high pressure side of the fuel system in accordance with the vehicle manufacturer's recommendation.

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Issued on: January 4, 1994.

Ricardo Martinez,
Administrator.

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INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1002, 1011, and 1130

[Ex Parte No. MC-219]

Implementation of Section 4 of the Negotiated Rates Act of 1993

AGENCY: Interstate Commerce Commission.

ACTION: Adoption of final rules.

SUMMARY: The Commission is adopting final rules to implement section 4 of the Negotiated Rates Act of 1993. These rules provide a mechanism for obtaining Commission review of motor carrier and shipper resolutions of overcharge and undercharge claims resulting from incorrect tariff provisions or billing errors arising from the inadvertent failure to properly and timely file and maintain agreed-upon rates in compliance with 49 U.S.C. 10761 and 10762.

EFFECTIVE DATE: The rules are effective February 9, 1995.

FOR FURTHER INFORMATION CONTACT: Lawrence C. Herzig, (202) 927-5180. [TDD for the hearing impaired: (202) 927-5721.]

SUPPLEMENTARY INFORMATION: By a notice of proposed rulemaking (NPR) in Ex Parte No. MC-219, *Implementation of Section 4 of the Negotiated Rates Act* (not printed), served March 4, 1994, and published at 59 FR 11240, March 10, 1994, we proposed rules which would implement section 4 of the Negotiated Rates Act of 1993 (NRA), Pub. L. No. 103-180. The NPR proposed a mechanism for obtaining Commission review of motor carrier and shipper resolutions of overcharge and undercharge claims. These claims result from incorrect tariff provisions or billing errors arising from the inadvertent failure to properly and timely file and maintain agreed-upon rates in compliance with 49 U.S.C. 10761 and 10762.

The NPR proposed two alternate methods of settlement. Under the first method, a petition to depart from the filed rate would be filed which would become equivalent to an order of the Commission after 45 days if it was not protested or investigated; the second method would require a formal order to be issued in all instances, whether or not there was a protest or investigation. The NPR also proposed standards for the information required to be included in a petition to depart from the filed rate, and set a filing fee of \$70.

Nine comments were received. In response to these comments, we are modifying the information required to be included in a petition, and we will permit either a carrier or a shipper to file a petition. We will also adopt the first method of settlement and filing fees of \$40 and \$80, depending on the amount involved in the petition.

Consolidated Freightways Corporation of Delaware states that the proposed rules are too burdensome in requiring written Commission orders in all cases, pre-filing of the petitions for relief, and a docketing fee on

insignificant amounts. Also, it is concerned that the proposed rules do not clarify that multiple tariff errors may be resolved by a single filing. The final rules will not require an order on any uncontested petition. Also, while each petition should encompass only one shipper or one consignee, it can include multiple tariff errors. However, we will require payment of a fee for all petitions.

D & J Associates, a freight transportation consulting firm, is concerned that the proposed rules apply only to publishing errors and not to billing errors and overcharge claims based on published and timely filed rates. In this regard section 4 of the NRA is very clear; it applies only to overcharge and undercharge claims resulting from incorrect tariff provisions or billing errors arising from the inadvertent failure to properly and timely file and maintain agreed upon rates. Thus, the concerns of D & J Associates need not be addressed further.

The National Industrial Transportation League (NITL) states that the proposed procedures are too complex and formalistic. First, it argues that they will prevent the parties from quickly and efficiently resolving paperwork errors. We agree, and will simplify the requirements for information to be included in each petition. Also, NITL is concerned that any private party, even though not a party to the transportation at issue, could protest petitions. We do not consider this to be a significant problem. The right of any interested party to protest a petition has been part of the rail special docket procedures for a number of years, without causing any problems.

The Transportation Brokers Conference of America generally endorses the proposed rules. However, it favors the method whereby an uncontested petition automatically becomes an order of the Commission after 45 days. We are adopting this method in the final rules.

The National Motor Freight Traffic Association, which publishes the National Motor Freight Classification on behalf of its member carriers, generally supports the proposed rules. However, it suggests that a notice should be published by the Commission when a petition concerning classification matters is investigated on the Commission's own motion or is protested. We consider this publication to be unnecessary. Petitions will concern tariff publishing errors or the failure to publish agreed-upon rates, covering primarily discounts or