

§ 397.77

49 CFR Ch. III (10–1–05 Edition)

ensure compliance with the Federal standards established in this subpart.

(c) *Notice.* (1) Any State or Indian tribe that files a petition for dispute resolution under this subpart shall mail a copy of the petition to any affected State, political subdivision, or Indian tribe, accompanied by a statement that the State, political subdivision, or Indian tribe may submit comments regarding the petition to the Administrator within 45 days.

(2) By serving notice on any other State, political subdivision, or Indian tribe determined by the Administrator to be possibly affected by the issues in dispute or the resolution sought, or by publication in the FEDERAL REGISTER, the Administrator may afford those persons an opportunity to file written comments on the petition.

(3) Any affected State, political subdivision, or Indian tribe submitting written comments to the Administrator with respect to a petition filed under this section shall send a copy of the comments to the petitioner and certify to the Administrator as to having complied with this requirement. The Administrator may notify other persons participating in the proceeding of the comments and provide an opportunity for those other persons to respond.

(d) *Court actions.* After a petition for dispute resolution is filed in accordance with this section, no court action may be brought with respect to the subject matter of such dispute until a final decision has been issued by the Administrator or until the last day of the one-year period beginning on the day the Administrator receives the petition, whichever occurs first.

(e) *Hearings; alternative dispute resolution.* Upon receipt of a petition filed pursuant to paragraph (a) of this section, the Administrator may schedule a hearing to attempt to resolve the dispute and, if a hearing is scheduled, will notify all parties to the dispute of the date, time, and place of the hearing. During the hearing the parties may offer any information pertinent to the resolution of the dispute. If an agreement is reached, it may be stipulated by the parties, in writing, and, if the Administrator agrees, made part of the decision in paragraph (f) of this sec-

tion. If no agreement is reached, the Administrator may take the matter under consideration and announce his or her decision in accordance with paragraph (f) of this section. Nothing in this section shall be construed as prohibiting the parties from settling the dispute or seeking other methods of alternative dispute resolution prior to the final decision by the Administrator.

(f) *Decision.* The Administrator will issue a decision based on the petition, the written comments submitted by the parties, the record of the hearing, and any other information in the record. The decision will include a written statement setting forth the relevant facts and the legal basis for the decision.

(g) *Record.* The Administrator will serve a copy of the decision upon the petitioner and any other party who participated in the proceedings. A copy of each decision will be placed on file in the public docket. The Administrator may publish the decision or notice of the decision in the FEDERAL REGISTER.

§ 397.77 Judicial review of dispute decision.

Any State or Indian tribe adversely affected by the Administrator's decision under § 397.75 of this subpart may seek review by the appropriate district court of the United States under such proceeding only by filing a petition with such court within 90 days after such decision becomes final.

Subpart D—Routing of Class 7 (Radioactive) Materials

§ 397.101 Requirements for motor carriers and drivers.

(a) Except as provided in paragraph (b) of this section or in circumstances when there is only one practicable highway route available, considering operating necessity and safety, a carrier or any person operating a motor vehicle that contains a Class 7 (radioactive) material, as defined in 49 CFR 172.403, for which placarding is required under 49 CFR part 172 shall:

(1) Ensure that the motor vehicle is operated on routes that minimize radiological risk;