

## § 106.11

reconsideration submitted under § 106.35 must be submitted to: Administrator, Research and Special Programs Administration, U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590-0001.

[40 FR 31768, July 29, 1975. Redesignated by Amdts. 102-1 and 106-1, 43 FR 43306, Sept. 25, 1978, and amended by Amdt. 106-3, 45 FR 81571, Dec. 11, 1980; Amdt. 106-7, 55 FR 39978, Oct. 1, 1990]

### Subpart B—Procedures for Adoption of Rules

#### § 106.11 General.

Unless the Administrator, for good cause, finds that notice is impracticable, unnecessary, or contrary to the public interest, and incorporates that finding and a brief statement of the reasons for it in the rule, a notice of proposed rulemaking is issued and interested persons are invited to participate in the rulemaking proceedings with respect to each substantive rule.

#### § 106.13 Initiation of rulemaking.

The Administrator initiates rulemaking on his or her own motion; however, in so doing, the Administrator may use discretion to consider the recommendations of other agencies of the United States or of other interested persons, including those of any technical advisory body established by statute for that purpose.

[Amdt. 106-13, 61 FR 51336, Oct. 1, 1996]

#### § 106.15 Contents of notices of proposed rulemaking.

(a) Each notice of proposed rulemaking is published in the FEDERAL REGISTER, unless all persons subject to it are named and are personally served with a copy of it.

(b) Each notice, whether published in the FEDERAL REGISTER or personally served, includes:

(1) A statement of the time, place, and nature of the proposed rulemaking proceeding;

(2) A reference to the authority under which it is issued;

(3) A description of the subjects and issues involved or the substance and terms of the proposed regulation;

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(4) A statement of the time within which written comments must be submitted; and

(5) A statement of how and to what extent interested persons may participate in the proceeding.

#### § 106.17 Participation by interested persons.

(a) Any interested person may participate in rulemaking proceedings by submitting comments in writing containing information, views or arguments in accordance with instructions for participation in the rulemaking document.

(b) The Administrator may invite any interested person to participate in the rulemaking proceedings described in § 106.25.

(c) For the purposes of this part, an interested person includes any Federal or State government agency or any political subdivision of a State (as defined in § 107.201(b) of this subchapter).

[40 FR 31768, July 29, 1975. Redesignated by Amdt. 102-1, and Amdt. 106-1, 43 FR 43306, Sept. 25, 1978, and amended by Amdt. 106-4, 48 FR 2651, Jan. 20, 1983; Amdt. 106-11, 61 FR 30180, June 14, 1996; Amdt. 106-13, 61 FR 51336, Oct. 1, 1996]

#### § 106.19 Petitions for extension of time to comment.

A petition for extension of the time to submit comments must be received not later than 10 days before expiration of the time stated in the notice. It is requested, but not required, that three copies be submitted. The filing of the petition does not automatically extend the time for petitioner's comments. A petition is granted only if the petitioner shows good cause for the extension, and if the extension is consistent with the public interest. If an extension is granted, it is granted to all persons, and it is published in the FEDERAL REGISTER.

#### § 106.21 Contents of written comments.

All written comments must be in English. It is requested, but not required, that five copies be submitted. Any interested person should submit as part of written comments all material considered relevant to any statement of fact. Incorporation of material by reference should be avoided; however,

where necessary, such incorporated material shall be identified by document title and page.

[Amdt. 106-13, 61 FR 51336, Oct. 1, 1996]

**§ 106.23 Consideration of comments received.**

All timely comments and the recommendations of any technical advisory body established by statute for the purpose of reviewing the proposed rule concerned are considered before final action is taken on a rulemaking proposal. Late filed comments are considered so far as practicable.

**§ 106.25 Additional rulemaking proceedings.**

The Administrator may initiate any further rulemaking proceedings that the Administrator finds necessary or desirable. For example, interested persons may be invited to make oral arguments, to participate in conferences between the Administrator or the Administrator's representative and interested persons at which minutes of the conference are kept, to appear at informal hearings presided over by officials designated by the Administrator at which a transcript of minutes are kept, or participate in any other proceeding to assure informed administrative action and to protect the public interest.

[40 FR 31768, July 29, 1975. Redesignated by Amdt. 102-1, and Amdt. 106-1, 43 FR 43306, Sept. 25, 1978, as amended by Amdt. 106-13, 61 FR 51336, Oct. 1, 1996]

**§ 106.27 Hearings.**

(a) If a notice of proposed rulemaking does not provide for a hearing, any interested person may petition the Administrator for an informal hearing. The petition must be received by the Administrator not later than 20 days before expiration of the time stated in the notice. The filing of the petition does not automatically result in the scheduling of a hearing. A petition is granted only if the petitioner shows good cause for a hearing. If a petition for a hearing is granted, notice of the hearing is published in the FEDERAL REGISTER.

(b) Sections 556 and 557 of title 5, United States Code, do not apply to hearings held under this part. Unless otherwise specified, hearings held

under this part are informal, non-adversary, fact-finding proceedings, at which there are not formal pleadings or adverse parties. Any regulation issued in a case in which an informal hearing is held is not necessarily based exclusively on the record of the hearing.

(c) The Administrator designates a representative to conduct any hearing held under this part. The Chief Counsel designates a member of his or her staff to serve as legal officer at the hearing.

[40 FR 31768, July 29, 1975. Redesignated by Amdt. 102-1, and Amdt. 106-1, 43 FR 43306, Sept. 25, 1978, as amended by Amdt. 106-13, 61 FR 51336, Oct. 1, 1996]

**§ 106.29 Adoption of final rules.**

Final rules are prepared by representatives of the Office of Hazardous Materials Safety concerned and the Office of the Chief Counsel. The regulation is then submitted to the Administrator for consideration. If the Administrator adopts the regulation, it is published in the FEDERAL REGISTER, unless all persons subject to it are named and are personally served with a copy of it.

[40 FR 31768, July 29, 1975. Redesignated by Amdt. 102-1, and Amdt. 106-1, 43 FR 43306, Sept. 25, 1978, as amended by Amdt. 106-13, 61 FR 51336, Oct. 1, 1996]

**§ 106.31 Petitions for rulemaking.**

(a) Any interested person may petition the Associate Administrator for Hazardous Materials Safety to establish, amend, or repeal a substantive regulation, or may petition the Chief Counsel to establish, amend, or repeal a procedural regulation in parts 106 or 107.

(b) Each petition filed under this section must—

(1) Summarize the proposed action and explain its purpose;

(2) State the text of the proposed rule or amendment, or specify the rule proposed to be repealed;

(3) Explain the petitioner's interest in the proposed action and the interest of any party the petitioner represents; and

(4) Provide information and arguments that support the proposed action, including relevant technical, scientific or other data as available to the petitioner, and any specific known