

SUBCHAPTER A—HAZARDOUS MATERIALS AND OIL TRANSPORTATION

PART 106—RULEMAKING PROCEDURES

Subpart A—General

- Sec.
106.1 Scope.
106.3 Delegations.
106.5 Regulatory dockets.
106.7 Records.
106.9 Where to file petitions.

Subpart B—Procedures for Adoption of Rules

- 106.11 General.
106.13 Initiation of rulemaking.
106.15 Contents of notices of proposed rulemaking.
106.17 Participation by interested persons.
106.19 Petitions for extension of time to comment.
106.21 Contents of written comments.
106.23 Consideration of comments received.
106.25 Additional rulemaking proceedings.
106.27 Hearings.
106.29 Adoption of final rules.
106.31 Petitions for rulemaking.
106.33 Processing of petition.
106.35 Petitions for reconsideration.
106.37 Proceedings on petitions for reconsideration.
106.38 Appeals.
106.39 Direct final rulemaking.

AUTHORITY: 49 U.S.C. 5101–5127; 49 CFR 1.53.

SOURCE: 40 FR 31768, July 29, 1975, unless otherwise noted. Redesignated by Amdt. 102–1, and Amdt. 106–1, 43 FR 43306, Sept. 25, 1978.

Subpart A—General

§ 106.1 Scope.

This part prescribes general rulemaking procedures for the issue, amendment, and repeal of Hazardous Material Safety Program regulations of the Research and Special Programs Administration of the Department of Transportation.

[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]

§ 106.3 Delegations.

For the purposes of this part, “Administrator” means the Administrator,

Research and Special Programs Administration, or his or her delegate.

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

§ 106.5 Regulatory dockets.

(a) Information and data considered relevant by the Administrator relating to rulemaking actions, including notices of proposed rulemaking; comments received in response to notices; petitions for rulemaking and reconsideration; denials of petitions for rulemaking and reconsideration; records of additional rulemaking proceedings under § 106.25; and final regulations are maintained by the Research and Special Programs Administration at 400 7th Street, SW., Washington, DC 20590–0001.

(b) Any person may examine any docketed material at the offices of the Research and Special Programs Administration at any time during regular business hours after the docket is established, except material which the Administrator determines should be withheld from public disclosure under applicable provisions of any statute administered by the Administrator and Section 552(b) of title 5, United States Code, and may obtain a copy of it upon payment of a fee.

[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]

§ 106.7 Records.

Records of the Research and Special Programs Administration relating to rulemaking proceedings are available for inspection as provided in section 552(b) of title 5, United States Code, and part 7 of the Regulations of the Office of the Secretary of Transportation (part 7 of this title).

§ 106.9 Where to file petitions.

Petitions for extension of time to comment submitted under § 106.19, petitions for hearings submitted under § 106.27, petitions for rulemaking submitted under § 106.31, and petitions for

§ 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;

49 CFR Ch. I (10-1-01 Edition)

(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,