

**§ 106.100 Required information for a petition for rulemaking.**

(a) You must include the following information in your petition for rulemaking:

- (1) A summary of your proposed action and an explanation of its purpose.
- (2) The language you propose for a new or amended rule, or the language you would delete from a current rule.
- (3) An explanation of your interest in your proposed action and the interest of anyone you may represent.
- (4) Information and arguments that support your proposed action, including relevant technical and scientific data available to you.
- (5) Any specific cases that support or demonstrate the need for your proposed action.

(b) If the impact of your proposed action is substantial, and data or other information about that impact are available to you, we may ask that you provide information about the following:

- (1) The costs and benefits of your proposed action to society in general, and

identifiable groups within society in particular.

- (2) The direct effects, including preemption effects under section 5125 of Federal hazardous materials transportation law, of your proposed action on States, on the relationship between the Federal government and the States, and on the distribution of power and responsibilities among the various levels of government. (See 49 CFR part 107, subpart C, regarding preemption.)
- (3) The regulatory burden of your proposed action on small businesses, small organizations, small governmental jurisdictions, and Indian tribes.
- (4) The recordkeeping and reporting burdens of your proposed action and whom they would affect.
- (5) The effect of your proposed action on the quality of the natural and social environments.

**§ 106.105 RSPA response to a petition for rulemaking.**

We will review and respond to your petition for rulemaking as follows:

If your petition is . . .	And if we determine that . . .	Then . . .
(a) Incomplete .....	.....	We may return your petition with a written explanation.
(b) Complete .....	Your petition does not justify a rulemaking action.	We will notify you in writing that we will not start a rulemaking proceeding.
(c) Complete .....	Your petition does justify a rulemaking action.	We will notify you in writing that we will start a rulemaking proceeding.

APPEALS

**§ 106.110 Appealing a RSPA Action.**

You may appeal the following RSPA actions:

- (a) RSPA's issuance of a final rule or RSPA's withdrawal of a notice of proposed rulemaking under the rulemaking procedures in this part. However, you may appeal RSPA's issuance of a direct final rule only if you previously filed comments to the direct final rule (see § 106.40(e)).
- (b) Any RSPA decision on a petition for rulemaking.

**§ 106.115 Required information for an appeal.**

(a) *Appeal of a final rule or withdrawal of a notice of proposed rulemaking.* If you

appeal RSPA's issuance of a final rule or RSPA's withdrawal of a notice of proposed rulemaking, your appeal must include the following:

- (1) The docket number of the rulemaking you are concerned about, clearly set out at the beginning of your appeal.
- (2) A brief statement of your concern about the final rule or the withdrawal of notice of proposed rulemaking at issue.
- (3) An explanation of why compliance with the final rule is not practical, reasonable, or in the public interest.
- (4) If you want RSPA to consider more facts, the reason why you did not present those facts within the time given during the rulemaking process for public comment.

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(b) *Appeal of a decision.* If you appeal RSPA's decision on a petition for rulemaking, you must include the following:

- (1) The contested aspects of the decision.
- (2) Any new arguments or information.

**§ 106.120 Appeal deadline.**

(a) *Appeal of a final rule or withdrawal of a notice of proposed rulemaking.* If you appeal RSPA's issuance of a final rule or RSPA's withdrawal of a proposed rulemaking, your appeal document must reach us no later than 30 days after the date RSPA published the regulation or the withdrawal notice in the FEDERAL REGISTER. After that time, RSPA will consider your petition to be one for rulemaking under § 106.100.

(b) *Appeal of a decision.* If you appeal RSPA's decision on a petition for rulemaking, your appeal document must reach us no later than 30 days from the date RSPA served you with written notice of RSPA's decision.

**§ 106.125 Filing an appeal.**

Send your appeal to: Docket Management System, U.S. Department of Transportation, Room PL 401, 400 7th Street, SW., Washington, DC 20590-0001.

**§ 106.130 RSPA response to an appeal.**

Unless RSPA provides otherwise, filing an appeal will not keep a final rule from becoming effective. We will handle an appeal according to the following procedures:

(a) *Appeal of a final rule or withdrawal of a notice of proposed rulemaking.* (1) We may consolidate your appeal with other appeals of the same rule.

(2) We may grant or deny your appeal, in whole or in part, without further rulemaking proceedings, unless granting your appeal would result in the issuance of a new final rule.

(3) If we decide to grant your appeal, we may schedule further proceedings and an opportunity to comment.

(4) RSPA will notify you, in writing, of the action on your appeal within 90 days after the date that RSPA published the final rule or withdrawal of notice of proposed rulemaking at issue in the FEDERAL REGISTER. If we do not issue a decision on your appeal within

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the 90-day period and we anticipate a substantial delay, we will notify you directly about the delay and will give you an expected decision date. We will also publish a notice of the delay in the FEDERAL REGISTER.

(b) *Appeal of a decision.* (1) We will not consider your appeal if it merely repeats arguments that RSPA has previously rejected.

(2) RSPA will notify you, in writing, of the action on your appeal within 90 days after the date that RSPA served you with written notice of its decision on your petition for rulemaking. If we do not issue a decision on your appeal within the 90-day period, and we anticipate a substantial delay, we will notify you directly about the delay and will give you an expected decision date.

**PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES**

**Subpart A—Definitions**

- Sec.
- 107.1 Definitions.

**Subpart B—Exemptions**

- 107.101 Purpose and scope.
- 107.105 Application for exemption.
- 107.107 Application for party status.
- 107.109 Application for renewal.
- 107.111 Withdrawal.
- 107.113 Application processing and evaluation.
- 107.117 Emergency processing.
- 107.121 Modification, suspension or termination of exemption or grant of party status.
- 107.123 Reconsideration.
- 107.125 Appeal.
- 107.127 Availability of documents for public inspection.

**Subpart C—Preemption**

- 107.201 Purpose and scope.
- 107.202 Standards for determining preemption.

**PREEMPTION DETERMINATIONS**

- 107.203 Application.
- 107.205 Notice.
- 107.207 Processing.
- 107.209 Determination.
- 107.211 Petition for reconsideration.
- 107.213 Judicial review.

**WAIVER OF PREEMPTION DETERMINATIONS**

- 107.215 Application.
- 107.217 Notice.