

§ 106.120

(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

49 CFR Ch. I (10-1-03 Edition)

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.