

(1) The holder or party may file a written response that shows cause why the proposed action should not be taken within 30 days of receipt of notice of the proposed action.

(2) After considering the holder's or party's written response, or after 30 days have passed without response since receipt of the notice, the Associate Administrator notifies the holder or party in writing of the final decision with a brief statement of reasons.

(d) The Associate Administrator, if necessary to avoid a risk of significant harm to persons or property, may in the notification declare the proposed action immediately effective.

[Amdt. 107-38, 61 FR 21095, May 9, 1996, as amended at 70 FR 73161, Dec. 9, 2005]

§ 107.123 Reconsideration.

(a) An applicant for special permit, a special permit holder, or an applicant for party status to an exemption or special permit may request that the Associate Administrator reconsider a decision under § 107.113(g), § 107.117(e) or § 107.121(c) of this part. The request must—

(1) Be in writing and filed within 20 days of receipt of the decision;

(2) State in detail any alleged errors of fact and law;

(3) Enclose any additional information needed to support the request to reconsider; and

(4) State in detail the modification of the final decision sought.

(b) The Associate Administrator grants or denies, in whole or in part, the relief requested and informs the requesting person in writing of the decision. If necessary to avoid a risk of significant harm to persons or property, the Associate Administrator may, in the notification, declare the action immediately effective.

[Amdt. 107-38, 61 FR 21095, May 9, 1996, as amended at 70 FR 73161, Dec. 9, 2005]

§ 107.125 Appeal.

(a) A person who requested reconsideration under § 107.123 and is denied the relief requested may appeal to the Administrator. The appeal must—

(1) Be in writing and filed within 30 days of receipt of the Associate Administrator's decision on reconsideration;

(2) State in detail any alleged errors of fact and law;

(3) Enclose any additional information needed to support the appeal; and

(4) State in detail the modification of the final decision sought.

(b) The Administrator, if necessary to avoid a risk of significant harm to persons or property, may declare the Associate Administrator's action effective pending a decision on appeal.

(c) The Administrator grants or denies, in whole or in part, the relief requested and informs the appellant in writing of the decision. The Administrator's decision is the final administrative action.

§ 107.127 Availability of documents for public inspection.

(a) Documents related to an application under this subpart, including the application itself, are available for public inspection, except as specified in paragraph (b) of this section, at the Office of the Associate Administrator for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration, Office of Hazardous Materials Special Permits and Approvals, U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590-0001, Room 8102. Office hours are 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays when the office is closed. Copies of available documents may be obtained as provided in part 7 of this title. Documents numbered 11832 and above may also be viewed at the website address <http://dms.dot.gov>.

(b) Documents available for inspection do not include materials determined to be withheld from public disclosure under § 105.30 and in accordance with the applicable provisions of section 552(b) of title 5, United States Code, and part 7 of this title.

[Amdt. 107-38, 61 FR 21095, May 9, 1996, as amended at 65 FR 58618, Sept. 29, 2000; 66 FR 45377, Aug. 28, 2001; 67 FR 61011, Sept. 27, 2002; 70 FR 73162, Dec. 9, 2005]

Subpart C—Preemption

§ 107.201 Purpose and scope.

(a) This subpart prescribes procedures by which: