

§ 209.13

copy of the document from which the information for which confidential treatment is requested has been deleted. If the person filing a document of which only a portion is requested to be held in confidence does not submit a second copy of the document with the confidential information deleted, FRA may assume that there is no objection to public disclosure of the document in its entirety.

(e) FRA retains the right to make its own determination with regard to any claim of confidentiality. Notice of a decision by the FRA to deny a claim, in whole or in part, and an opportunity to respond shall be given to a person claiming confidentiality of information no less than five days prior to its public disclosure.

[42 FR 56742, Oct. 28, 1977, as amended at 70 FR 11094, Mar. 7, 2005]

§ 209.13 Consolidation.

At the time a matter is set for hearing under subpart B, C, or D of this part, the Chief Counsel may consolidate the matter with any similar matter(s) pending against the same respondent or with any related matter(s) pending against other respondent(s) under the same subpart. However, on certification by the presiding officer that a consolidated proceeding is unmanageable or otherwise undesirable, the Chief Counsel will rescind or modify the consolidation.

[54 FR 42906, Oct. 18, 1989]

§ 209.15 Rules of evidence.

The Federal Rules of Evidence for United States Courts and Magistrates shall be employed as general guidelines for proceedings under subparts B, C, and D of this part. However, all relevant and material evidence shall be received into the record.

[54 FR 42907, Oct. 18, 1989]

§ 209.17 Motions.

Motions shall be in writing, filed with the presiding officer, and copies served upon the parties in accordance with § 209.5, except that oral motions may be made during the course of any hearing or appearance before the presiding officer. Each motion shall state the particular order, ruling, or action

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desired and the grounds therefor. Unless otherwise specified by the presiding officer, any objection to a written motion must be filed within 10 days after receipt of the motion.

[54 FR 42907, Oct. 18, 1989]

Subpart B—Hazardous Materials Penalties

CIVIL PENALTIES

§ 209.101 Civil penalties generally.

(a) Sections 209.101 through 209.121 prescribe rules of procedure for the assessment of civil penalties pursuant to the Federal hazardous materials transportation safety law, 49 U.S.C. Chapter 51.

(b) When the FRA has reason to believe that a person has knowingly committed an act which is a violation of any provision of subchapter B or C of chapter I, subtitle B of this title for which the FRA exercises enforcement responsibility or any waiver or order issued thereunder, it may conduct a proceeding to assess a civil penalty.

[42 FR 56742, Oct. 28, 1977, as amended at 61 FR 38646, July 25, 1996]

§ 209.103 Minimum and maximum penalties.

(a) A person who knowingly violates a requirement of the Federal hazardous material transportation law, an order issued thereunder, subchapter A or C of Chapter I, subtitle B, of this title, or a special permit or approval issued under subchapter A or C of Chapter I, subtitle B, of this title is liable for a civil penalty of at least \$250 but not more than \$50,000 for each violation, except that—

(1) The maximum civil penalty for a violation is \$100,000 if the violation results in death, serious illness or severe injury to any person, or substantial destruction of property and

(2) A minimum \$450 civil penalty applies to a violation related to training.

(b) When the violation is a continuing one, each day of the violation constitutes a separate offense. 49 U.S.C. 5123.

(c) The maximum and minimum civil penalties described in paragraph (a)