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Administration, Attn: PHH–30, U.S. Department of Transportation, East Building, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(e) *Designations are binding.* You are bound by your designation of an agent, even if you did not follow all the requirements in this section, until we reject your designation.

[67 FR 42951, June 25, 2002, as amended at 70 FR 56088, Sept. 23, 2005; 70 FR 73159, Dec. 9, 2005; 72 FR 55682, Oct. 1, 2007; 75 FR 27211, May 14, 2010; 76 FR 56310, Sept. 13, 2011]

SUBPOENAS

§ 105.45 Issuing a subpoena.

(a) *Subpoenas explained.* A subpoena is a document that may require you to attend a proceeding, produce documents or other physical evidence in your possession or control, or both. PHMSA may issue a subpoena either on its initiative or at the request of someone participating in a proceeding. Anyone who requests that PHMSA issue a subpoena must show that the subpoena seeks information that will materially advance the proceeding.

(b) *Attendance and mileage expenses.* (1) If you receive a subpoena to attend a proceeding under this part, you may receive money to cover attendance and mileage expenses. The attendance and mileage fees will be the same as those paid to a witness in a proceeding in the district courts of the United States.

(2) If PHMSA issues a subpoena to you based upon a request, the requester must serve a copy of the original subpoena on you, as required in §105.50. The requester must also include attendance and mileage fees with the subpoena unless the requester asks PHMSA to pay the attendance and mileage fees because of demonstrated financial hardship and PHMSA agrees to do so.

(3) If PHMSA issues a subpoena at the request of an officer or agency of the Federal government, the officer or agency is not required to include attendance and mileage fees when serving the subpoena. The officer or agency must pay the fees before you leave the hearing at which you testify.

§ 105.50 Serving a subpoena.

(a) *Personal service.* Anyone who is not an interested party and who is at least 18 years of age may serve you with a subpoena and fees by handing the subpoena and fees to you, by leaving them at your office with the individual in charge, or by leaving them at your house with someone who lives there and is capable of making sure that you receive them. If PHMSA issues a subpoena to an entity, rather than an individual, personal service is made by delivering the subpoena and fees to the entity's registered agent for service of process or to any officer, director or agent in charge of any of the entity's offices.

(b) *Service by mail.* You may be served with a copy of a subpoena and fees by certified or registered mail at your last known address. Service of a subpoena and fees may also be made by registered or certified mail to your agent for service of process or any of your representatives at that person's last known address.

(c) *Other methods.* You may be served with a copy of a subpoena by any method where you receive actual notice of the subpoena and receive the fees before leaving the hearing at which you testify.

(d) *Filing after service.* After service is complete, the individual who served a copy of a subpoena and fees must file the original subpoena and a certificate of service with the PHMSA official who is responsible for conducting the hearing.

§ 105.55 Refusal to obey a subpoena.

(a) *Quashing or modifying a subpoena.* If you receive a subpoena, you can ask PHMSA to overturn (''quash'') or modify the subpoena within 10 days after the subpoena is served on you. Your request must briefly explain the reasons you are asking for the subpoena to be quashed or modified. PHMSA may then do the following:

(1) Deny your request.

(2) Quash or modify the subpoena.

(3) Grant your request on the condition that you satisfy certain specified requirements.

(b) *Failure to obey.* If you disobey a subpoena, PHMSA may ask the Attorney General to seek help from the

United States District Court for the appropriate District to compel you, after notice, to appear before PHMSA and give testimony, produce subpoenaed documents or physical evidence, or both.

PART 106—RULEMAKING PROCEDURES

Subpart A—PHMSA Rulemaking Documents

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

SOURCE: 67 FR 42954, June 25, 2002, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 106 appear at 70 FR 56088, Sept. 23, 2005.

Subpart A—PHMSA Rulemaking Documents

§ 106.5 Defined terms used in this subpart.

The following defined terms (see part 105, subpart A, of this subchapter) appear in this subpart: File; Person; State.

§ 106.10 Process for issuing rules.

(a) PHMSA (''we'') uses informal rulemaking procedures under the Administrative Procedure Act (5 U.S.C. 553) to add, amend, or delete regulations. To propose or adopt changes to a regulation, PHMSA may issue one or more of the following documents. We publish the following rulemaking documents in the FEDERAL REGISTER unless we name and personally serve a copy of a rule on every person subject to it:

(1) An advance notice of proposed rulemaking.

(2) A notice of proposed rulemaking.

(3) A final rule.

(4) An interim final rule.

(5) A direct final rule.

(b) Each of the rulemaking documents in paragraph (a) of this section generally contains the following information:

(1) The topic involved in the rulemaking document.

(2) PHMSA's legal authority for issuing the rulemaking document.

(3) How interested persons may participate in the rulemaking proceeding (for example, by filing written comments or making oral presentations).

(4) Whom to call if you have questions about the rulemaking document.

(5) The date, time, and place of any public meetings being held to discuss the rulemaking document.

(6) The docket number and regulation identifier number (RIN) for the rulemaking proceeding.

[67 FR 42954, June 25, 2002, as amended at 70 FR 56088, Sept. 23, 2005]

§ 106.15 Advance notice of proposed rulemaking.

An advance notice of proposed rulemaking (ANPRM) tells the public that