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this paragraph and must include the names and addresses of each State, political subdivision, or Indian tribe official to whom a copy of the application was sent.

(b) The Chief Counsel will publish notice of, including an opportunity to comment on, an application in the FEDERAL REGISTER and may notify in writing any person readily identifiable as affected by the outcome of the determination.

(c) Each person submitting written comments to the Chief Counsel with respect to an application filed under this section must send a copy of the comments to the applicant and certify to the Chief Counsel that he or she has complied with this requirement. The Chief Counsel may notify other persons participating in the proceeding of the comments and provide an opportunity for those other persons to respond. Late-filed comments are considered so far as practicable.

[Amdt. 107–38, 61 FR 21098, May 9, 1996, as amended at 71 FR 30067, May 25, 2006]

§ 107.207 Processing.

(a) The Chief Counsel may initiate an investigation of any statement in an application and utilize in his or her evaluation any relevant facts obtained by that investigation. The Chief Counsel may solicit and accept submissions from third persons relevant to an application and will provide the applicant an opportunity to respond to all third person submissions. In evaluating an application, the Chief Counsel may consider any other source of information. The Chief Counsel on his or her own initiative may convene a hearing or conference, if he or she considers that a hearing or conference will advance his or her evaluation of the application.

(b) The Chief Counsel may dismiss the application without prejudice if:

(1) He or she determines that there is insufficient information upon which to base a determination; or

(2) He or she requests additional information from the applicant and it is not submitted.

[Amdt. 107–3, 41 FR 38171, Sept. 9, 1976, as amended by Amdt. 107–24, 56 FR 8621, 8622, Feb. 28, 1991; Amdt. 107–38, 61 FR 21098, May 9, 1996; 71 FR 30067, May 25, 2006]

§ 107.209 Determination.

(a) Upon consideration of the application and other relevant information received, the Chief Counsel issues a determination.

(b) The determination includes a written statement setting forth the relevant facts and the legal basis for the determination, and provides that any person aggrieved thereby may file a petition for reconsideration with the Chief Counsel.

(c) The Chief Counsel provides a copy of the determination to the applicant and to any other person who substantially participated in the proceeding or requested in comments to the docket to be notified of the determination. A copy of each determination is placed on file in the public docket. The Chief Counsel will publish the determination or notice of the determination in the FEDERAL REGISTER, at which time the determination becomes a final agency action.

(d) A determination issued under this section constitutes an administrative determination as to whether a particular requirement of a State or political subdivision or Indian tribe is preempted under the Federal hazardous materials transportation law. The fact that a determination has not been issued under this section with respect to a particular requirement of a State or political subdivision or Indian tribe carries no implication as to whether the requirement is preempted under the Federal hazardous materials transportation law.

[Amdt. 107–24, 56 FR 8623, Feb. 28, 1991, as amended by Amdt. 107–25, 57 FR 20428, May 13, 1992; Amdt. 107–32, 59 FR 49131, Sept. 26, 1994; Amdt. 107–38, 61 FR 21098, May 9, 1996; 68 FR 52847, Sept. 8, 2003; 71 FR 30067, May 25, 2006]

§ 107.211 Petition for reconsideration.

(a) Any person aggrieved by a determination issued under § 107.209 may file a petition for reconsideration. The petition must be filed with the Chief Counsel, in the same manner specified for filing an application in § 107.203(b), within 20 days of publication of the determination in the FEDERAL REGISTER.

(b) The petition must contain a concise statement of the basis for seeking review, including any specific factual