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must be filed with the Chief Counsel, in the same manner specified for filing an application in §107.215(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 or legal error alleged. If the petition requests consideration of information that was not previously made available to the Chief Counsel, the petition must include the reasons why such information was not previously made available.

(c) The petitioner shall mail a copy of the petition to each person who participated, either as an applicant or commenter, in the waiver of preemption proceeding, accompanied by a statement that the person may submit comments concerning the petition to the Chief Counsel within 20 days. The petition filed with the Chief Counsel must contain a certification that the petitioner has complied with this paragraph and include the names and addresses of all persons to whom a copy of the petition was sent. Late-filed comments are considered so far as practicable.

(d) The Chief Counsel will publish the decision on the petition for reconsideration or notice of the decision in the FEDERAL REGISTER, at which time the decision on the petition for reconsideration becomes a final agency action.

[Amdt. 107–25, 57 FR 20429, May 13, 1992, as amended by Amdt. 107–38, 61 FR 21099, May 9, 1996; 71 FR 30068, May 25, 2006]

§107.227 Judicial review.

A party to a proceeding under §107.215(a) may seek review of a determination of the Chief Counsel by filing a petition, within 60 days after the determination becomes final, in the United States Court of Appeals for the District of Columbia or in the Court of Appeals for the United States for the circuit in which the person resides or has its principal place of business.

[71 FR 30068, May 25, 2006]

Subpart D—Enforcement

SOURCE: Amdt. 107–11, 48 FR 2651, Jan. 20, 1983, unless otherwise noted.

§107.301 Delegated authority for enforcement.

Under redelegation from the Administrator, Pipeline and Hazardous Materials Safety Administration, the Associate Administrator for Hazardous Materials Safety and the Office of the Chief Counsel exercise their authority for enforcement of the Federal hazardous material transportation law, this subchapter, and subchapter C of this subchapter, in accordance with §1.53 of this title.

[Amdt. 107–11, 48 FR 2651, Jan. 20, 1983, as amended by Amdt. 107–24, 56 FR 8621, Feb. 28, 1991; Amdt. 107–32, 59 FR 49131, Sept. 26, 1994]

§107.303 Purpose and scope.

This subchapter describes the various enforcement authorities exercised by the Associate Administrator for Hazardous Materials Safety and the Office of Chief Counsel and the associated sanctions and prescribes the procedures governing the exercise of those authorities and the imposition of those sanctions.

[Amdt. 107–11, 48 FR 2651, Jan. 20, 1983, as amended by Amdt. 107–15, 51 FR 34986, Oct. 1, 1986; Amdt. 107–24, 56 FR 8621, Feb. 28, 1991]

§107.305 Investigations.

(a) *General.* In accordance with its delegated authority under part 1 of this title, the Associate Administrator may initiate investigations relating to compliance by any person with any provisions of this subchapter or subchapter C of this chapter, or any special permit, approval, or order issued thereunder, or any court decree relating thereto. The Associate Administrator encourages voluntary production of documents in accordance with and subject to §105.45, and hearings may be conducted, and depositions taken pursuant to 49 U.S.C. 5121(a). The Associate Administrator may conduct investigative conferences and hearings in the course of any investigation.

(b) *Investigations and Inspections.* Investigations under 49 U.S.C. 5121(a) are conducted by personnel duly authorized for that purpose by the Associate Administrator. Inspections under 49

U.S.C. 5121(c) are conducted by Hazardous Materials Enforcement Specialists or Hazardous Materials Compliance Investigators, also known as ''hazmat investigators'' or ''investigators,'' whom the Associate Administrator has designated for that purpose.

(1) An investigator will, on request, present his or her credentials for examination, but the credentials may not be reproduced.

(2) An investigator may administer oaths and receive affirmations in any matter under investigation by the Associate Administrator.

(3) An investigator may gather information by reasonable means including, but not limited to, interviews, statements, photocopying, photography, and video- and audio-recording.

(4) With concurrence of the Director, Field Operations, Pipeline and Hazardous Materials Safety Administration, an investigator may issue a subpoena for the production of documentary or other tangible evidence if, on the basis of information available to the investigator, the documents and evidence materially will advance a determination of compliance with this subchapter or subchapter C. Service of a subpoena shall be in accordance with §105.50. A person to whom a subpoena is directed may seek review of the subpoena by applying to the Office of Chief Counsel in accordance with §105.55(a). A subpoena issued under this paragraph may be enforced in accordance with §105.55(b).

(c) *Notification.* Any person who is the subject of an Associate Administrator investigation and who is requested to furnish information or documentary evidence is notified as to the general purpose for which the information or evidence is sought.

(d) *Termination.* When the facts disclosed by an investigation indicate that further action is unnecessary or unwarranted at that time, the person being investigated is notified and the investigative file is closed without prejudice to further investigation by the Associate Administrator.

(e) *Confidentiality.* Information received in an investigation under this section, including the identity of the person investigated and any other person who provides information during the investigation, shall remain confidential under the investigatory file exception, or other appropriate exception, to the public disclosure requirements of 5 U.S.C. 552.

[Amdt. 107–11, 48 FR 2651, Jan. 20, 1983, as amended by Amdt. 107–24, 56 FR 8621, Feb. 28, 1991; Amdt. 107–32, 59 FR 49131, Sept. 26, 1994; Amdt. 107–38, 61 FR 21099, May 9, 1996; 66 FR 45377, Aug. 28, 2001; 67 FR 61011, Sept. 27, 2002; 73 FR 4711, Jan. 28, 2008; 76 FR 56311, Sept. 13, 2011]

COMPLIANCE ORDERS AND CIVIL PENALTIES

§ 107.307 General.

(a) When the Associate Administrator and the Office of Chief Counsel have reason to believe that a person is knowingly engaging or has knowingly engaged in conduct which is a violation of the Federal hazardous material transportation law or any provision of this subchapter or subchapter C of this chapter, or any exemption, special permit, or order issued thereunder, for which the Associate Administrator or the Office of Chief Counsel exercise enforcement authority, they may—

(1) Issue a warning letter, as provided in §107.309;

(2) Initiate proceedings to assess a civil penalty, as provided in either §§107.310 or 107.311;

(3) Issue an order directing compliance, regardless of whether a warning letter has been issued or a civil penalty assessed; and

(4) Seek any other remedy available under the Federal hazardous material transportation law.

(b) In the case of a proceeding initiated for failure to comply with an exemption or special permit, the allegation of a violation of a term or condition thereof is considered by the Associate Administrator and the Office of Chief Counsel to constitute an allegation that the special permit holder or party to the special permit is failing, or has failed to comply with the underlying regulations from which relief was granted by the special permit.

[Amdt. 107–11, 48 FR 2651, Jan. 20, 1983, as amended by Amdt. 107–32, 59 FR 49131, Sept. 26, 1994; Amdt. 107–36, 61 FR 7183, Feb. 26, 1996; 66 FR 45377, Aug. 28, 2001; 70 FR 73162, Dec. 9, 2005]