

107.311 Notice of probable violation.

- (a) The Office of Chief Counsel may serve a notice of probable violation on a person alleging the violation of one or more provisions of the Federal hazardous material transportation law or any provision of this subchapter or subchapter C of this chapter, or any special permit, or order issued thereunder.
- (b) A notice of probable violation issued under this section includes the following information:
- (1) A citation of the provisions of the Federal hazardous material transportation law, an order issued thereunder, this subchapter, subchapter C of this chapter, or the terms of any special permit issued thereunder which the Office of Chief Counsel believes the respondent is violating or has violated.
 - (2) A statement of the factual allegations upon which the demand for remedial action, a civil penalty, or both, is based.
 - (3) A statement of the respondent's right to present written or oral explanations, information, and arguments in answer to the allegations and in mitigation of the sanction sought in the notice of probable violation.
 - (4) A statement of the respondent's right to request a hearing and the procedures for requesting a hearing.
 - (5) In addition, in the case of a notice of probable violation proposing a compliance order, a statement of the proposed actions to be taken by the respondent to achieve compliance.
 - (6) In addition, in the case of a notice of probable violation proposing a civil penalty:
 - (i) A statement of the maximum civil penalty for which the respondent may be liable;
 - (ii) The amount of the preliminary civil penalty being sought by the Office of Chief Counsel, constitutes the maximum amount the Chief Counsel may seek throughout the proceeding; and
 - (iii) A description of the manner in which the respondent makes payment of any money due the United States as a result of the proceeding.
- (c) The Office of Chief Counsel may amend a notice of probable violation at any time before issuance of a compliance order or an order assessing a civil penalty. If the Office of Chief Counsel alleges any new material facts or seeks new or additional remedial action or an increase in the amount of the proposed civil penalty, it issues a new notice of probable violation under this section.

[Amdt. 107-11, 48 FR 2651, Jan. 20, 1983, as amended at 50 FR 45730, Nov. 1, 1985; Amdt. 107-24, 56 FR 8624, Feb. 28, 1991; Amdt. 107-32, 59 FR 49131, Sept. 26, 1994; Amdt. 107-35, 60 FR 49108, Sept. 21, 1995; Amdt. 107-36, 61 FR 7184, Feb. 26, 1996]