

§ 107.109

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to the application. In addition, each applicant must state why party status to the special permit is needed and must submit a certification of understanding of the provisions of the special permit to which party status is being requested;

(4) Include a designation of agent of service for process in accordance with § 105.40 of this part if the applicant is not a resident of the United States; and

(5) For a Class 1 material that is forbidden for transportation by aircraft except under a special permit (see Columns 9A and 9B in the table in 49 CFR 172.101), include a certification by the applicant for party status to a special permit to transport such Class 1 material, on passenger-carrying or cargo-only aircraft with a maximum certificated takeoff weight of less than 12,500 pounds, that no person within the categories listed in 18 U.S.C. 842(i) will participate in the transportation of the Class 1 material.

(c) The Associate Administrator grants or denies an application for party status in the manner specified in § 107.113(e) and (f) of this subpart.

(d) A party to a special permit is subject to all terms of that special permit, including the expiration date. If a party to a special permit wishes to renew party status, the special permit renewal procedures set forth in § 107.109 apply.

[Amdt. 107–38, 61 FR 21095, May 9, 1996, as amended at 65 FR 50457, Aug. 18, 2000; 67 FR 61010, 61011, Sept. 27, 2002; 69 FR 6198, Feb. 10, 2004; 70 FR 56090, Sept. 23, 2005; 70 FR 73160, Dec. 9, 2005; 72 FR 55683, Oct. 1, 2007; 75 FR 27212, May 14, 2010]

§ 107.109 Application for renewal.

(a) Each application for renewal of a special permit or renewal of party status to a special permit must—

(1)(i) Be submitted in duplicate to: Associate Administrator for Hazardous Materials Safety (Attention: Special Permits, PHH–31), Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001;

(ii) Be submitted in duplicate with any attached supporting documenta-

tion by facsimile (fax) to: (202) 366–3753 or (202) 366–3308; or

(iii) Be submitted by electronic mail (e-mail) to: *Specialpermits@dot.gov*. Electronic submissions need not be submitted in duplicate;

(2) Identify by number the special permit for which renewal is requested;

(3) State the name, street and mailing addresses, e-mail address (if available), US DOT Registration number (if applicable), and telephone number of the applicant. If the applicant is not an individual, also state the name, street and mailing addresses, e-mail address (if available), and telephone number of an individual designated as an agent of the applicant for all purposes related to the application. In addition, each applicant for renewal of party status must state why party status to the special permit is needed and must submit a certification of understanding of the provisions of the special permit to which party status is being requested;

(4) Include either a certification by the applicant that the original application, as it may have been updated by any application for renewal, remains accurate and complete; or include an amendment to the previously submitted application as is necessary to update and assure the accuracy and completeness of the application, with certification by the applicant that the application as amended is accurate and complete; and

(5) Include a statement describing all relevant shipping and incident experience of which the applicant is aware in connection with the special permit since its issuance or most recent renewal. If the applicant is aware of no incidents, the applicant must so certify. When known to the applicant, the statement should indicate the approximate number of shipments made or packages shipped, as the case may be, and number of shipments or packages involved in any loss of contents, including loss by venting other than as authorized in subchapter C; and

(6) When a Class 1 material is forbidden for transportation by aircraft, except under a special permit (see Columns 9A and 9B in the table in 49 CFR 172.101), include a certification by the applicant for renewal of party status to a special permit to transport such

Class 1 material, on passenger-carrying or cargo-only aircraft with a maximum certificated takeoff weight of less than 12,500 pounds, that no person within the categories listed in 18 U.S.C. 842(i) will participate in the transportation of the Class 1 material.

(b) If at least 60 days before an existing special permit expires the grantee files an application for renewal that is complete and conforms to the requirements of this section, the special permit will not expire until final administrative action on the application for renewal has been taken.

[75 FR 27212, May 14, 2010]

§ 107.111 Withdrawal.

An application may be withdrawn at any time before a decision to grant or deny it is made. Withdrawal of an application does not authorize the removal of any related records from the PHMSA dockets or files. Applications that are eligible for confidential treatment under § 105.30 will remain confidential after the application is withdrawn. The duration of this confidential treatment for trade secrets and commercial or financial information is indefinite, unless the party requesting the confidential treatment of the materials notifies the Associate Administrator that the confidential treatment is no longer required.

§ 107.113 Application processing and evaluation.

(a) The Associate Administrator reviews an application for special permit, modification of special permit, party to special permit, or renewal of an exemption or special permit to determine if it is complete and conforms with the requirements of this subpart. This determination will be made within 30 days of receipt of the application for special permit, modification of special permit, or party to special permit, and within 15 days of receipt of an application for renewal of an exemption or special permit. If an application is determined to be incomplete, the applicant is informed of the reasons.

(b) An application, that is not a renewal, party to, or emergency special permit application, and is determined to be complete is docketed. Notice of the application is published in the FED-

ERAL REGISTER, and an opportunity for public comment is provided. All comments received during the comment period are considered before final action is taken on the application.

(c) No public hearing or other formal proceeding is required under this subpart before the disposition of an application. Unless emergency processing under § 107.117 is requested and granted, applications are usually processed in the order in which they are filed.

(d) During the processing and evaluation of an application, the Associate Administrator may request additional information from the applicant. If the applicant does not respond to a written request for additional information within 30 days of the date the request was received, the application may be deemed incomplete and denied. However, if the applicant responds in writing within the 30-day period requesting an additional 30 days within which it will gather the requested information, the Associate Administrator may grant the 30-day extension.

(e) The Associate Administrator may grant or deny an application, in whole or in part. In the Associate Administrator's discretion, an application may be granted subject to provisions that are appropriate to protect health, safety or property. The Associate Administrator may impose additional provisions not specified in the application or remove conditions in the application that are unnecessary.

(f) The Associate Administrator may grant an application on finding that—

(1) The application complies with this subpart;

(2) The application demonstrates that the proposed alternative will achieve a level of safety that:

(i) Is at least equal to that required by the regulation from which the special permit is sought, or

(ii) If the regulations do not establish a level of safety, is consistent with the public interest and adequately will protect against the risks to life and property inherent in the transportation of hazardous materials in commerce;

(3) The application states all material facts, and contains no materially false or materially misleading statement;