

107.105 Application for special permit.

(a) *General.* Each application for a special permit or modification of a special permit must be written in English and must—

(1) Be submitted for timely consideration, at least 120 days before the requested effective date, 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. Alternatively, the application with any attached supporting documentation submitted in an appropriate format may be sent by facsimile (fax) to: (202) 366-3753 or (202) 366-3308 or by electronic mail (e-mail) to: *Specialpermits@dot.gov*;

(2) State the name, street and mailing addresses, e-mail address optional, and telephone number of the applicant; if the applicant is not an individual, state the name, street and mailing addresses, e-mail address optional, and telephone number of an individual designated as an agent of the applicant for all purposes related to the application;

(3) If the applicant is not a resident of the United States, a designation of agent for service in accordance with §105.40 of this part; and

(4) For a manufacturing special permit, a statement of the name and street address of each facility where manufacturing under the special permit will occur.

(b) *Confidential treatment.* To request confidential treatment for information contained in the application, the applicant shall comply with §105.30(a).

(c) *Description of special permit proposal.* The application must include the following information that is relevant to the special permit proposal:

(1) A citation of the specific regulation from which the applicant seeks relief;

(2) Specification of the proposed mode or modes of transportation;

(3) A detailed description of the proposed special permit (e.g., alternative packaging, test, procedure or activity) including, as appropriate, written descriptions, drawings, flow charts, plans and other supporting documents;

(4) A specification of the proposed duration or schedule of events for which the special permit is sought;

(5) A statement outlining the applicant's basis for seeking relief from compliance with the specified regulations and, if the special permit is requested for a fixed period, a description of how compliance will be achieved at the end of that period;

(6) If the applicant seeks emergency processing specified in §107.117, a statement of supporting facts and reasons;

(7) Identification and description of the hazardous materials planned for transportation under the special permit;

(8) Description of each packaging, including specification or special permit number, as applicable, to be used in conjunction with the requested special permit;

(9) For alternative packagings, documentation of quality assurance controls, package design, manufacture, performance test criteria, in-service performance and service-life limitations.

(10) 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), an applicant for 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 must certify that no person within the categories

listed in 18 U.S.C. 842(i) will participate in the transportation of the Class 1 material.

(d) *Justification of special permit proposal.* The application must demonstrate that a special permit achieves a level of safety at least equal to that required by regulation, or if a required safety level does not exist, is consistent with the public interest. At a minimum, the application must provide the following:

(1) Information describing all relevant shipping and incident experience of which the applicant is aware that relates to the application;

(2) A statement identifying any increased risk to safety or property that may result if the special permit is granted, and a description of the measures to be taken to address that risk; and

(3) Either:

(i) Substantiation, with applicable analyses, data or test results, that the proposed alternative will achieve a level of safety that 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, an analysis that identifies each hazard, potential failure mode and the probability of its occurrence, and how the risks associated with each hazard and failure mode are controlled for the duration of an activity or life-cycle of a packaging.

[Amdt. 107–38, 61 FR 21095, May 9, 1996, as amended at 62 FR 51556, Oct. 1, 1997; 65 FR 50457, Aug. 18, 2000; 65 FR 58618, Sept. 29, 2000; 67 FR 61010, 61011, Sept. 27, 2002; 68 FR 23841, May 5, 2003; 69 FR 6198, Feb. 10, 2004; 70 FR 56089, Sept. 23, 2005; 70 FR 73160, Dec. 9, 2005; 71 FR 54390, Sept. 14, 2006; 72 FR 55683, Oct. 1, 2007]