

### 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 Federal 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;
  - (4) The applicant meets the qualifications required by applicable regulations; and
  - (5) The applicant is fit to conduct the activity authorized by the exemption or special permit. This assessment may be based on information in the application, prior compliance history of the applicant, and other information available to the Associate Administrator.
- (g) An applicant is notified in writing whether the application is granted or denied. A denial contains a brief statement of reasons.
- (h) The initial exemption or special permit terminates according to its terms or, if not otherwise specified, 24 months from the date of issuance. A subsequent renewal of a special permit terminates according to its terms or, if not otherwise specified, 48 months after the date of issuance. A grant of party status to an exemption or special permit, unless otherwise stated, terminates on the date that the exemption or special permit expires.

(i) The Associate Administrator, on determining that an application concerns a matter of general applicability and future effect and should be the subject of rulemaking, may initiate rulemaking under part 106 of this chapter in addition to or instead of acting on the application.

(j) The Associate Administrator publishes in the Federal Register a list of all special permit grants, denials, and modifications and all special permit applications withdrawn under this section.

[Amdt. 107-38, 61 FR 21095, May 9, 1996, as amended at 67 FR 61011, Sept. 27, 2002; 70 FR 73161, Dec. 9, 2005]