§ 107.709 Processing of an application for approval, including an application for renewal or modification.

(a) No public hearing or other formal proceeding is required under this subpart before the disposition of an application.

(b) At any time during the processing 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.

(c) The Associate Administrator may grant or deny an application, in whole or in part. At the Associate Administrator’s discretion, an application may be granted subject to provisions that are appropriate to protect health, safety and property. The Associate Administrator may impose additional provisions not specified in the application, or delete conditions in the application which are unnecessary.

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

(1) The application complies with this subpart;

(2) The proposed duration of the approval;

(3) The transport mode or modes affected, as applicable;

(4) Any additional information specified in the section containing the approval; and

(5) For an approval which provides exceptions from regulatory requirements or prohibitions—

(i) Identification of any increased risk to safety or property that may result if the approval is granted, and specification of the measures that the applicant considers necessary or appropriate to address that risk; and

(ii) Substantiation, with applicable analyses or evaluations, if appropriate, demonstrating that the proposed activity will achieve a level of safety that is at least equal to that required by the regulation.

(c) For an approval with an expiration date, each application for renewal or modification must be filed in the same manner as an original application. If a complete and conforming renewal application is filed at least 60 days before the expiration date of an approval, the Associate Administrator, on written request from the applicant, will issue a written extension to permit operation under the terms of the expired approval until a final decision on the application for renewal has been made. Operation under an expired approval is prohibited absent a written extension. This paragraph does not limit the authority of the Associate Administrator to modify, suspend or terminate an approval under § 107.713.

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

§ 107.709 Processing of an application for approval, including an application for renewal or modification.

(a) No public hearing or other formal proceeding is required under this subpart before the disposition of an application.

(b) At any time during the processing 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.

(c) The Associate Administrator may grant or deny an application, in whole or in part. At the Associate Administrator’s discretion, an application may be granted subject to provisions that are appropriate to protect health, safety and property. The Associate Administrator may impose additional provisions not specified in the application, or delete conditions in the application which are unnecessary.

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

(1) The application complies with this subpart:
(2) The application demonstrates that the proposed activity will achieve a level of safety that—
   (i) Is at least equal to that required by the regulation, 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 approval, or renewal or modification of approval. This assessment may be based on information in the application, prior compliance history of the applicant, and other information available to the Associate Administrator.

(e) Unless otherwise specified in this chapter or by the Associate Administrator, an approval in which a term is not specified does not expire.

§ 107.711 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.


§ 107.713 Approval modification, suspension or termination.
(a) The Associate Administrator may modify an approval on finding that—
   (1) Modification is necessary to conform an existing approval to relevant statutes and regulations as they may be amended from time to time; or
   (2) Modification is required by changed circumstances to enable the approval to continue to meet the standards of §107.709(d).
(b) The Associate Administrator may modify, suspend or terminate an approval, as appropriate, on finding that—
   (1) Because of a change in circumstances, the approval no longer is needed or no longer would be granted if applied for;
   (2) The application contained inaccurate or incomplete information, and the approval would not have been granted had the application been accurate and complete;
   (3) The application contained deliberately inaccurate or incomplete information; or
   (4) The holder knowingly has violated the terms of the approval or an applicable requirement of this chapter in a manner demonstrating lack of fitness to conduct the activity for which the approval is required.
(c) Except as provided in paragraph (d) of this section, before an approval is modified, suspended or terminated, the Associate Administrator notifies the holder in writing of the decision on the application. A denial contains a brief statement of reasons.

§ 107.711 Withdrewal.
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.