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(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 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 or by electronic means whether the application is granted or denied. A denial contains a brief statement of reasons.

(h) The initial 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 a special permit, unless otherwise stated, terminates on the date that the 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FEDERAL REGISTER a list of all special permit grants, denials, and modifications and all special permit applications withdrawn under this section.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; 76 FR 463, Jan. 5, 2011]

§ 107.117 Emergency processing.

(a) An application is granted emergency processing if the Associate Administrator, on the basis of the application and any inquiry undertaken, finds that—

(1) Emergency processing is necessary to prevent significant injury to persons or property (other than the hazardous material to be transported) that could not be prevented if the application were processed on a routine basis; or

(2) Emergency processing is necessary for immediate national security purposes or to prevent significant economic loss that could not be prevented if the application were processed on a routine basis.

(b) Where the significant economic loss is to the applicant, or to a party in a contractual relationship to the applicant with respect to the activity to be undertaken, the Associate Administrator may deny emergency processing if timely application could have been made.

(c) A request for emergency processing on the basis of potential economic loss must reasonably describe and estimate the potential loss.

(d) An application submitted under this section must conform to § 107.105 to the extent that the receiving Department official deems necessary to process the application. An application on an emergency basis must be submitted to the Department modal contact official for the initial mode of transportation to be utilized, as follows:

(1) *Certificate-Holding Aircraft:* The Federal Aviation Administration Civil Aviation Security Office that serves the place where the flight will originate or that is responsible for the aircraft operator's overall aviation security program. The nearest Civil Aviation Security Office may be located by calling the FAA Duty Officer, 202–267–3333 (any hour).

(2) *Noncertificate-Holding Aircraft (Those Which Operate Under 14 CFR Part 91):* The Federal Aviation Administration Civil Aviation Security Office that serves the place where the flight will originate. The nearest Civil Aviation Security Office may be located by calling the FAA Duty Officer, 202–267–3333 (any hour).

(3) *Motor Vehicle Transportation:* Chief, Hazardous Materials Division,

Federal Motor Carrier Safety Administration, U.S. Department of Transportation, Washington, DC 20590–0001, 202–385–2400 (day); 1–800–424–8802 (night).

(4) *Rail Transportation:* Staff Director, Hazardous Materials Division, Office of Safety Assurance and Compliance, Federal Railroad Administration, U.S. Department of Transportation, Washington, DC 20590–0001, 202–493–6248 or 202–493–6244 (day); 1–800–424–8802 (night).

(5) *Water Transportation:* Chief, Hazardous Materials Standards Division, Office of Operating and Environmental Standards, U.S. Coast Guard, U.S. Department of Homeland Security, Washington, DC 20593–0001; 202–372–1420 (day); 1–800–424–8802 (night).

(e) On receipt of all information necessary to process the application, the receiving Department official transmits to the Associate Administrator, by the most rapid available means of communication, an evaluation as to whether an emergency exists under §107.117(a) and, if appropriate, recommendations as to the conditions to be included in the special permit. If the Associate Administrator determines that an emergency exists under §107.117(a) and that, with reference to the criteria of §107.113(f), granting of the application is in the public interest, the Associate Administrator grants the application subject to such terms as necessary and immediately notifies the applicant. If the Associate Administrator determines that an emergency does not exist or that granting of the application is not in the public interest, the applicant immediately is so notified.

(f) A determination that an emergency does not exist is not subject to reconsideration under §107.123 of this part.

(g) Within 90 days following issuance of an emergency special permit, the Associate Administrator will publish, in the FEDERAL REGISTER, a notice of issuance with a statement of the basis for the finding of emergency and the scope and duration of the special permit.

[Amdt. 107–38, 61 FR 21095, May 9, 1996, as amended at 62 FR 51556, Oct. 1, 1997; 64 FR 51914, Sept. 27, 1999; 65 FR 58618, Sept. 29, 2000; 66 FR 45377, Aug. 28, 2001; 67 FR 61011, Sept. 27, 2002; 70 FR 56090, Sept. 23, 2005; 75 FR 53596, Sept. 1, 2010; 76 FR 463, Jan. 5, 2011]

§107.121 Modification, suspension or termination of special permit or grant of party status.

(a) The Associate Administrator may modify a special permit or grant of party status on finding that:

(1) Modification is necessary so that the special permit reflects current statutes and regulations; or

(2) Modification is required by changed circumstances to meet the standards of §107.113(f).

(b) The Associate Administrator may modify, suspend or terminate a special permit or grant of party status, as appropriate, on finding that:

(1) Because of a change in circumstances, the special permit or party status no longer is needed or no longer would be granted if applied for;

(2) The application contained inaccurate or incomplete information, and the special permit or party status 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 or party knowingly has violated the terms of the special permit or an applicable requirement of this chapter in a manner demonstrating the holder or party is not fit to conduct the activity authorized by the special permit.

(c) Except as provided in paragraph (d) of this section, before a special permit or grant of party status is modified, suspended, or terminated, the Associate Administrator notifies the holder or party in writing or by electronic means of the proposed action and the reasons for it, and provides an opportunity to show cause why the proposed action should not be taken.

(1) Within 30 days of receipt of notice of the proposed action, the holder or party may file a response in writing or by electronic means that shows cause