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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.

(f) The Associate Administrator notifies the applicant in writing of the decision on the application. A denial contains a brief statement of reasons.

§ 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An application may be withdrawn at any time before a decision to grant or deny it is made.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that are eligible for confidential treatment under §105.30 will remain confidential after the application is withdrawn.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.

[Amdt. 107–38, 61 FR 21100, May 9, 1996, as amended at 67 FR 61011, Sept. 27, 2002]

§ 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 proposed action and the reasons for it, and provides an opportunity to show cause why the proposed action should not be taken.

(1) The holder may file a written response with the Associate Administrator within 30 days of receipt of notice of the proposed action.

(2) After considering the holder's or party's written response, or after 30 days have passed without response since receipt of the notice, the Associate Administrator notifies the holder in writing of the final decision with a brief statement of reasons.