

(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 exemption, a statement of the name and street address of each facility where manufacturing under the exemption 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 exemption proposal.* The application must include the following information that is relevant to the exemption 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 exemption (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 exemption is sought;

(5) A statement outlining the applicant's basis for seeking relief from compliance with the specified regulations and, if the exemption 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 exemption;

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

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

(10) A certification that the applicant is in compliance with transportation security laws and regulations. When a Class 1 material is forbidden for transportation by air except under an ex-

emption (*see* Columns 9A and 9B in the table in 49 CFR 172.101), an applicant for an exemption to transport such Class 1 material on passenger-carrying or cargo-only aircraft must also 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 exemption proposal.* The application must demonstrate that an exemption 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 exemption 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 exemption 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]

§ 107.107 Application for party status.

(a) Any person eligible to apply for an exemption may apply to be made party to an application or an existing exemption, other than a manufacturing exemption.

(b) Each application filed under this section must—

(1) Be submitted in duplicate to: Associate Administrator for Hazardous Materials Safety (Attention: Exemptions, DHM-31), Research and Special

Programs Administration, U.S. Department of Transportation, 400 7th Street, SW, 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: *Exemptions@rspa.dot.gov*;

(2) Identify by number the exemption application or exemption to which the applicant seeks to become a party;

(3) 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 the applicant's agent for all purposes related to the application; and

(4) If the applicant is not a resident of the United States, provide a designation of agent for service in accordance with § 105.40.

(c) The Associate Administrator grants or denies an application for party status in the manner specified in § 107.113(e) and (f) of this subpart.

(d) A party to an exemption is subject to all terms of that exemption, including the expiration date. If a party to an exemption wishes to renew party status, the exemption renewal procedures set forth in § 107.109 apply.

[Amdt. 107-38, 61 FR 21095, May 9, 1996, as amended at 65 FR 50457, Aug. 18, 2000; 67 FR 61010, 61011, Sept. 27, 2002]

§ 107.109 Application for renewal.

(a) Each application for renewal of an exemption or party status to an exemption must—

(1) Be submitted in duplicate to: Associate Administrator for Hazardous Materials Safety (Attention: Exemptions, DHM-31), Research and Special Programs Administration, U.S. Department of Transportation, 400 7th Street, SW, 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: *Exemptions@rspa.dot.gov*;

(2) Identify by number the exemption for which renewal is requested;

(3) 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;

(4) Include either a certification by the applicant that the original application, as it may have been updated by any application for renewal, remains accurate and complete; or include an amendment to the previously submitted application as is necessary to update and assure the accuracy and completeness of the application, with certification by the applicant that the application as amended is accurate and complete; and

(5) Include a statement describing all relevant shipping and incident experience of which the applicant is aware in connection with the exemption since its issuance or most recent renewal. If the applicant is aware of no incidents, the applicant shall so certify. When known to the applicant, the statement should indicate the approximate number of shipments made or packages shipped, as the case may be, and number of shipments or packages involved in any loss of contents, including loss by venting other than as authorized in subchapter C.

(6) Include a certification that the applicant is in compliance with transportation security laws and regulations. When a Class 1 material is forbidden for transportation by air except under an exemption (see Columns 9A and 9B in the table in 49 CFR 172.101), an applicant for an exemption to transport such Class 1 material on passenger-carrying or cargo-only aircraft must also 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.

(b) If at least 60 days before an existing exemption expires the holder files an application for renewal that is complete and conforms to the requirements of this section, the exemption will not expire until final administrative action