

§ 365.411

Commission will set forth the basis for its action in a decision or letter notice. If parties with "Unsatisfactory" safety fitness ratings consummate a transaction pursuant to the 10-day rule at § 365.405 of this part prior to the notification of Commission action, they do so at their own risk and subject to any conditions we may impose subsequently. Transactions that have been consummated but later are denied by the Commission are null and void and must be rescinded. Similarly, if applications contain false or misleading information, they are void *ab initio*.

[53 FR 4852, Feb. 18, 1988, as amended at 56 FR 46735, Sept. 16, 1991; 62 FR 49940, Sept. 24, 1997]

§ 365.411 Responsive pleadings.

(a) Protests must be filed within 20 days after the date of publication of an approved transfer application in the *ICC Register*. Protests received prior to the notice will be rejected. Applicants may respond within 20 days after the due date of protests. Petitions for reconsideration of decisions denying applications must be filed within 20 days after the date of service of such decisions.

(b) Protests and petitions for reconsideration must be filed with the Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, and be served on appropriate parties.

§ 365.413 Procedures for changing the name or business form of a motor or water carrier, household goods freight forwarder, or property broker.

(a) *Scope*. These procedures (and not the transfer rules at 49 CFR parts 365, subpart D, 1182, 1183 and 1186) apply in the following circumstances:

(1) A change in the form of a business, such as the incorporation of a partnership or sole proprietorship;

(2) A change in the legal name of a corporation or partnership or change in the trade name or assumed name of any entity;

(3) A transfer of operating rights from a deceased or incapacitated spouse to the other spouse;

(4) A reincorporation and merger for the purpose of effecting a name change;

49 CFR Ch. III (10-1-00 Edition)

(5) An amalgamation or consolidation of a carrier and a noncarrier into a new carrier having a different name from either of the predecessor entities; and

(6) A change in the State of incorporation accomplished by dissolving the corporation in one State and reincorporating in another State.

(b) *Procedures*. To accomplish these changes, a letter must be sent to the Office of the Secretary, Applications and Fees Unit, Interstate Commerce Commission, Washington, DC 20423. The envelope should be marked "NAME CHANGE". The applicant must provide:

(1) The docket number(s) and name of the carrier requesting the change;

(2) A copy of the articles of incorporation and the State certificate reflecting the incorporation;

(3) The name(s) of the owner(s) of the stock and the distribution of the shares;

(4) The names of the officers and directors of the corporation; and

(5) A statement that there is no change in the ownership, management, or control of the business. When this procedure is being used to transfer operating rights from a deceased or incapacitated spouse to the other spouse, documentation that the other spouse has the legal right to effect such change must be included with the request. The fee for filing a name change request is in 49 CFR 1002.2(f)(11).

[53 FR 4852, Feb. 18, 1988, as amended at 54 FR 47364, Nov. 14, 1989; 62 FR 49940, Sept. 24, 1997]

PART 366—DESIGNATION OF PROCESS AGENT

Sec.

366.1 Applicability.

366.2 Form of designation.

366.3 Eligible persons.

366.4 Required States.

366.5 Blanket designations.

366.6 Cancellation or change.

AUTHORITY: 49 U.S.C. 13303, 13304, and 14704; 49 CFR 1.48.

SOURCE: 55 FR 11197, Mar. 27, 1990, unless otherwise noted. Redesignated at 61 FR 54707, Oct. 21, 1996.

§ 366.1 Applicability.

These rules, relating to the filing of designations of persons upon whom court process may be served, govern motor carriers and brokers and, as of the moment of succession, their fiduciaries (as defined at 49 CFR 387.319(a)).

[55 FR 11197, Mar. 27, 1990. Redesignated at 61 FR 54707, Oct. 21, 1996; 62 FR 49940, Sept. 24, 1997]

§ 366.2 Form of designation.

Designations shall be made on Form BOC-3, *Designation of Agent for Service of Process*. Only one completed current form may be on file. It must include all States for which agent designations are required. One copy must be retained by the carrier or broker at its principal place of business.

§ 366.3 Eligible persons.

All persons (as defined at 49 U.S.C. 13102(16)) designated must reside or maintain an office in the State for which they are designated. If a State official is designated, evidence of his willingness to accept service of process must be furnished.

[55 FR 11197, Mar. 27, 1990. Redesignated at 61 FR 54707, Oct. 21, 1996; 62 FR 49940, Sept. 24, 1997]

§ 366.4 Required States.

(a) *Motor carriers*. Every motor carrier (of property or passengers) shall make a designation for each State in which it is authorized to operate and for each State traversed during such operations. Every motor carrier (including private carriers) operating in the United States in the course of transportation between points in a foreign country shall file a designation for each State traversed.

(b) *Brokers*. Every broker shall make a designation for each State in which its offices are located or in which contracts will be written.

[55 FR 11197, Mar. 27, 1990, as amended at 55 FR 47338, Nov. 13, 1990]

§ 366.5 Blanket designations.

Where an association or corporation has filed with the Commission a list of process agents for each State, motor carriers may make the required des-

ignations by using the following statement:

Those persons named in the list of process agents on file with the Interstate Commerce Commission by _____

(Name of association or corporation) and any subsequently filed revisions thereof, for the States in which this carrier is or may be authorized to operate, including States traversed during such operations, except those States for which individual designations are named.

§ 366.6 Cancellation or change.

A designation may be canceled or changed only by a new designation except that, where a carrier or broker ceases to be subject to § 366.4 in whole or in part for 1 year, designation is no longer required and may be canceled without making another designation.

[55 FR 11197, Mar. 27, 1990. Redesignated at 61 FR 54707, Oct. 21, 1996; 62 FR 49940, Sept. 24, 1997]

PART 367—STANDARDS FOR REGISTRATION WITH STATES

Sec.

- 367.1 Definitions.
- 367.2 Participation by States.
- 367.3 Selection of registration State.
- 367.4 Requirements for registration.
- 367.5 Registration receipts.
- 367.6 Registration State accounting.
- 367.7 Violations unlawful; criminal penalties and civil sanctions.

APPENDIX A TO PART 367—UNIFORM APPLICATION FOR SINGLE STATE REGISTRATION FOR MOTOR CARRIERS REGISTERED WITH THE SECRETARY OF TRANSPORTATION

AUTHORITY: 49 U.S.C. 13301 and 14504; 49 CFR 1.48.

SOURCE: 58 FR 28933, May 18, 1993, unless otherwise noted. Redesignated at 61 FR 54707, Oct. 21, 1996.

§ 367.1 Definitions.

(a) *The Secretary*. The Secretary of Transportation.

(b) *Motor carrier and carrier*. A person authorized to engage in the transportation of passengers or property, as a common or contract carrier, in interstate or foreign commerce, under the provisions of 49 U.S.C. 13902.

(c) *Motor vehicle*. A self-propelled or motor driven vehicle operated by a