

drivers, or conveyances that affects the basis for continued participation in the LBCIP.

§ 123.73 Application to participate.

To request participation in the LBCIP, the carrier-applicant must submit an application containing the information requested in this section. The application must be accompanied by two copies of a LBCIP written agreement (see §123.72 of this part; upon request, the local port director will provide copies of an unsigned written agreement) containing original signatures of corporate officers or owners of the common carrier. The application shall be prepared by the common carrier, be signed by corporate officers or owners, and submitted to the port director. If a submitted application does not provide all of the information specified in this section, the processing of the application will either be delayed or the application will be rejected. The application shall include the following information:

(a) *General business identification and site condition information.* The name and address of the commercial conveyance entity, the names of all principals or corporate officers, the name and telephone number of an individual to be contacted for further information, and a complete and detailed description of the premises where business operations are conducted, to include all working/storage areas and security features employed;

(b) *Designated driver information.* A listing of the drivers designated by the carrier who will be transporting merchandise into the U.S. The listing shall set forth the name(s), address(es), date of birth, nationality, driver's license number, and any other personal identifying information regarding the drivers listed, *e.g.*, social security number (if available), to enable Customs to conduct background checks and to aid Customs officers at the border crossing point in identifying individual LBCIP-authorized drivers;

(c) *Conveyance identification information.* A listing of the conveyances, *e.g.*, trucks and locomotives, that the carrier will utilize to transport merchandise into the U.S. The listing shall set forth the type and make of convey-

ances, country of registration and license number(s), conveyance-specific identifying markings, *e.g.*, vehicle identification numbers (VINs), and any other general conveyance identifying information, *e.g.*, weight, color, recognizable modifications, etc., to aid Customs officers at the border crossing point in identifying particular LBCIP-registered conveyances; and

(d) *Affidavit of business character.* A statement signed by the carrier-applicant which attests to each principal's or corporate officer's past and present business relations, *e.g.*, a list of past companies worked for and positions held, which fully explains the presence of any past or present crime involving theft or smuggling or investigations into such crimes, or other dishonest conduct on the part of a principal.

§ 123.74 Notice of selection; appeal of determination.

The information provided pursuant to paragraphs (b) through (d) of §123.73 shall constitute the criteria used to evaluate the competency of the carrier-applicant to participate in the LBCIP. Following Customs evaluation of the information provided, Customs shall notify the carrier-applicant in writing of Customs determination as to whether the carrier-applicant is qualified to participate in the LBCIP. In cases of selection, Customs will sign and return one of the copies of the written agreement. In cases of non-selection, the written notice shall clearly state the reason(s) for denial and recite the applicant's appeal rights under paragraph (b) of this section.

(a) *Grounds for nonselection.* The port director may deny a carrier's application to participate in the LBCIP for any of the following reasons:

(1) Evidence of any criminal or dishonest conduct involving the carrier, a corporate officer, designated drivers, or other person the port director determines is exercising substantial ownership or control over the carrier operation or corporate officer;

(2) Evidence of improper use of designated conveyances;

(3) Evidence that the written agreement was entered into by fraud or misstatement of a material fact; or