

§ 365.111

(ii) *Form BMC-84*—Surety bond or Form BMC-85—trust fund agreement (property brokers of general commodities and household goods).

(iii) *Form BMC-34 or BMC 83 surety bond*—Cargo liability (motor property common carriers and household goods freight forwarders).

(6) Applicants also must submit Form BOC-3—designation of legal process agents—within 20 days from the date an application notice is published in the *FMCSA Register*.

(7) Applicants seeking to conduct operations for which tariffs are required may not commence such operations until tariffs are in effect.

(8) All applications must be completed in English.

(b) A summary of the application will be published as a preliminary grant of authority in the *FMCSA Register* to give notice to the public in case anyone wishes to oppose the application.

[59 FR 63728, Dec. 9, 1994, as amended at 60 FR 63981, Dec. 13, 1995; 67 FR 61820, Oct. 2, 2002]

§ 365.111 Appeals to rejections of the application.

(a) An applicant has the right to appeal rejection of the application. The appeal must be filed at the FMCSA within 10 days of the date of the letter of rejection.

(b) If the appeal is successful and the filing is found to be proper, the application shall be deemed to have been properly filed as of the decision date of the appeal.

§ 365.113 Changing the request for authority or filing supplementary evidence after the application is filed.

(a) Once the application is filed, the applicant may supplement evidence only with approval of the FMCSA.

(b) Amendments to the application generally are not permitted, but in appropriate instances may be entertained at the discretion of the FMCSA.

§ 365.115 After publication in the FMCSA Register.

(a) Interested persons have 10 days from the date of *FMCSA Register* publication to file protests. See Subpart B of this part.

49 CFR Ch. III (10-1-03 Edition)

(b) If no one opposes the application, the grant published in the *FMCSA Register* will become effective by issuance of a certificate, permit, or license.

§ 365.117 Obtaining a copy of the application.

After publication, interested persons may request a copy of the application by contacting the FMCSA-designated contract agent (as identified in the *FMCSA Register*).

§ 365.119 Opposed applications.

If the application is opposed, opposing parties are required to send a copy of their protest to the applicant.

§ 365.121 Filing a reply statement.

(a) If the application is opposed, applicant may file a reply statement. This statement is due within 20 days after *FMCSA Register* publication.

(b) The reply statement may not contain new evidence. It shall only rebut or further explain matters previously raised.

(c) The reply statement need not be notarized or verified. Applicant understands that the oath in the application form applies to all evidence submitted in the application. Separate legal arguments by counsel need not be notarized or verified.

§ 365.123 Applicant withdrawal.

If the applicant wishes to withdraw an application, it shall request dismissal in writing.

Subpart B—How To Oppose Requests for Authority

§ 365.201 Definitions.

A person wishing to oppose a request for permanent authority files a *protest*. A person filing a valid protest becomes a *protestant*.

§ 365.203 Time for filing.

A protest shall be filed (received at the FMCSA) within 10 days after notice of the application appears in the *FMCSA Register*. A copy of the protest shall be sent to applicant's representative at the same time. Failure timely to file a protest waives further participation in the proceeding.