

## Federal Motor Carrier Safety Administration, DOT

## § 365.403T

representative. The phone and FAX numbers and address of applicant's representative shall be listed in the *FMCSA Register*.

### § 365.305 Serving copies of pleadings.

(a) An applicant must serve all pleadings and letters on the FMCSA and all known participants in the proceeding, except that a reply to a motion need only be served on the moving party.

(b) A protestant need serve only the FMCSA and applicant with pleadings or letters.

### § 365.307 Replies to motions.

Replies to motions filed under this part are due within 5 days of the date the motion is filed at the FMCSA.

### § 365.309 FAX filings.

FAX filings of applications and supporting evidence are not permitted. To assist parties in meeting the expedited time frames established for protesting an application, however, the FMCSA will accept FAX filings of protests and any reply or rebuttal evidence. FAX filings of these pleadings must be followed by the original document, plus one copy for FMCSA recordkeeping purposes.

## Subpart D—Transfers of Operating Authority

SOURCE: 80 FR 63705, Oct. 21, 2015, unless otherwise noted.

### § 365.401 Scope of rules.

The rules in this subpart define the procedures for motor carriers, property brokers, and freight forwarders to report to FMCSA transactions that result in the transfer of operating authority and are not subject to approval by the U.S. Surface Transportation Board under 49 U.S.C. 14303.

EFFECTIVE DATE NOTE: At 88 FR 80179, Nov. 17, 2023, § 365.401 was suspended indefinitely, effective Nov. 17, 2023.

### § 365.401T Scope of rules.

These rules define the procedures that enable motor passenger and property carriers, property brokers, and household goods freight forwarders to obtain approval from the FMCSA to

merge, transfer, or lease their operating rights in financial transactions not subject to 49 U.S.C. 11343. Transactions covered by these rules are governed by 49 U.S.C. 10321 and 10926. The filing fee is set forth at 49 CFR 360.3T(f)(8).

[82 FR 5300, Jan. 17, 2017]

### § 365.403 Definitions.

For the purposes of this subpart, the following definitions apply:

(a) *Transfer*. A transfer means any transaction in which an operating authority issued to one person is taken over by another person or persons who assume legal responsibility for the operations. Such transactions include a purchase of all or some of the assets of a company, a merger of two or more companies, or acquisition of controlling interest in a company through a purchase of company stock.

(b) *Operating authority*. Operating authority means a registration required by 49 U.S.C. 13902 issued to motor carriers; 49 U.S.C. 13903 issued to freight forwarders; and 49 U.S.C. 13904 issued to brokers.

(c) *Person*. An individual, partnership, corporation, company, association, or other form of business, or a trustee, receiver, assignee, or personal representative of any of these entities.

EFFECTIVE DATE NOTE: At 88 FR 80179, Nov. 17, 2023, § 365.403 was suspended indefinitely, effective Nov. 17, 2023.

### § 365.403T Definitions.

For the purposes of this part, the following definitions apply:

(a) *Transfer*. (1) Transfers include all transactions (*i.e.*, the sale or lease of interstate operating rights, or the merger of two or more carriers or a carrier into a noncarrier) subject to 49 U.S.C. 10926, as well as the sale of property brokers' licenses under 49 U.S.C. 10321.

(2) The execution of a chattel mortgage, deed of trust, or other similar document does not constitute a transfer or require FMCSA's approval. However, a foreclosure for the purpose of transferring an operating right to satisfy a judgment or claim against the record holder may not be effected without approval of FMCSA.