

## §515.12

(d) *Common carrier.* A common carrier or agent thereof which meets the requirements of this part may be licensed to dispatch shipments moving on other than such carrier's own bills of lading subject to the provisions of §515.42(g).

[64 FR 11171, Mar. 8, 1999; 64 FR 23020, Apr. 29, 1999, as amended at 65 FR 15254, Mar. 22, 2000]

### §515.12 Application for license.

(a) *Application and forms.* (1) Any person who wishes to obtain a license to operate as an ocean transportation intermediary shall submit, in duplicate, to the Director of the Commission's Bureau of Certification and Licensing, a completed application Form FMC-18 Rev. ("Application for a License as an Ocean Transportation Intermediary") accompanied by the fee required under §515.5(b). All applicants will be assigned an application number, and each applicant will be notified of the number assigned to its application. Notice of filing of such application shall be published in the FEDERAL REGISTER and shall state the name and address of the applicant and the name and address of the qualifying individual. If the applicant is a corporation or partnership, the names of the officers or partners thereof shall be published.

(2) An individual who is applying for a license in his or her own name must complete the following certification:

I, \_\_\_\_\_ (Name), \_\_\_\_\_, certify under penalty of perjury under the laws of the United States, that I have not been convicted, after September 1, 1989, of any Federal or state offense involving the distribution or possession of a controlled substance, or that if I have been so convicted, I am not ineligible to receive Federal benefits, either by court order or operation of law, pursuant to 21 U.S.C. 862.

(b) *Rejection.* Any application which appears upon its face to be incomplete or to indicate that the applicant fails to meet the licensing requirements of the Act, or the Commission's regulations, shall be returned by certified U.S. mail or other method reasonably calculated to provide actual notice to the applicant without further processing, together with an explanation of the reason(s) for rejection, and the application fee shall be refunded in full. Persons who have had their applications returned may reapply for a li-

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cence at any time thereafter by submitting a new application, together with the full application fee.

(c) *Investigation.* Each applicant shall be investigated in accordance with §515.13.

(d) *Changes in fact.* Each applicant and each licensee shall submit to the Commission, in duplicate, an amended Form FMC-18 Rev. advising of any changes in the facts submitted in the original application, within thirty (30) days after such change(s) occur. In the case of an application for a license, any unreported change may delay the processing and investigation of the application and may result in rejection or denial of the application. No fee is required when reporting changes to an application for initial license under this section.

[64 FR 11171, Mar. 8, 1999, as amended at 65 FR 15254, Mar. 22, 2000; 67 FR 39860, June 11, 2002]

### §515.13 Investigation of applicants.

The Commission shall conduct an investigation of the applicant's qualifications for a license. Such investigations may address:

(a) The accuracy of the information submitted in the application;

(b) The integrity and financial responsibility of the applicant;

(c) The character of the applicant and its qualifying individual; and

(d) The length and nature of the qualifying individual's experience in handling ocean transportation intermediary duties.

### §515.14 Issuance and use of license.

(a) *Qualification necessary for issuance.* The Commission will issue a license if it determines, as a result of its investigation, that the applicant possesses the necessary experience and character to render ocean transportation intermediary services and has filed the required bond, insurance or other surety.

(b) *To whom issued.* The Commission will issue a license only in the name of the applicant, whether the applicant is a sole proprietorship, a partnership, or a corporation. A license issued to a sole proprietor doing business under a trade name shall be in the name of the sole proprietor, indicating the trade name

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under which the licensee will be conducting business. Only one license shall be issued to any applicant regardless of the number of names under which such applicant may be doing business, and except as otherwise provided in this part, such license is limited exclusively to use by the named licensee and shall not be transferred without prior Commission approval to another person.

### § 515.15 Denial of license.

If the Commission determines, as a result of its investigation, that the applicant:

- (a) Does not possess the necessary experience or character to render intermediary services;
- (b) Has failed to respond to any lawful inquiry of the Commission; or
- (c) Has made any materially false or misleading statement to the Commission in connection with its application; then, a letter of intent to deny the application shall be sent to the applicant by certified U.S. mail or other method reasonably calculated to provide actual notice, stating the reason(s) why the Commission intends to deny the application. If the applicant submits a written request for hearing on the proposed denial within twenty (20) days after receipt of notification, such hearing shall be granted by the Commission pursuant to its Rules of Practice and Procedure contained in part 502 of this chapter. Otherwise, denial of the application will become effective and the applicant shall be so notified by certified U.S. mail or other method reasonably calculated to provide actual notice.

### § 515.16 Revocation or suspension of license.

(a) *Grounds for revocation.* Except for the automatic revocation for termination of proof of financial responsibility under § 515.26, or as provided in § 515.25(b), a license may be revoked or suspended after notice and an opportunity for a hearing for any of the following reasons:

- (1) Violation of any provision of the Act, or any other statute or Commission order or regulation related to carrying on the business of an ocean transportation intermediary;
- (2) Failure to respond to any lawful order or inquiry by the Commission;

(3) Making a materially false or misleading statement to the Commission in connection with an application for a license or an amendment to an existing license;

(4) Where the Commission determines that the licensee is not qualified to render intermediary services; or

(5) Failure to honor the licensee's financial obligations to the Commission.

(b) *Notice of revocation.* The Commission shall publish in the FEDERAL REGISTER a notice of each revocation.

### § 515.17 Application after revocation or denial.

Whenever a license has been revoked or an application has been denied because the Commission has found the licensee or applicant to be not qualified to render ocean transportation intermediary services, any further application within 3 years of the Commission's notice of revocation or denial, made by such former licensee or applicant or by another applicant employing the same qualifying individual or controlled by persons on whose conduct the Commission based its determination for revocation or denial, shall be reviewed directly by the Commission.

### § 515.18 Changes in organization.

(a) The following changes in an existing licensee's organization require prior approval of the Commission, and application for such status change or license transfer shall be made on Form FMC-18 Rev., filed in duplicate with the Commission's Bureau of Certification and Licensing, and accompanied by the fee required under § 515.5(b)(2):

- (1) Transfer of a corporate license to another person;
- (2) Change in ownership of a sole proprietorship;
- (3) Addition of one or more partners to a licensed partnership;
- (4) Any change in the business structure of a licensee from or to a sole proprietorship, partnership, or corporation, whether or not such change involves a change in ownership;
- (5) Any change in a licensee's name; or
- (6) Change in the identity or status of the designated qualifying individual, except as described in paragraphs (b) and (c) of this section.