

§ 515.14

§ 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 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.

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§ 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):

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(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.

(b) *Operation after death of sole proprietor.* In the event the owner of a licensed sole proprietorship dies, the licensee's executor, administrator, heir(s), or assign(s) may continue operation of such proprietorship solely with respect to shipments for which the deceased sole proprietor had undertaken to act as an ocean transportation intermediary pursuant to the existing license, if the death is reported within 30 days to the Commission and to all principals and shippers for whom services on such shipments are to be rendered. The acceptance or solicitation of any other shipments is expressly prohibited until a new license has been issued. Applications for a new license by the executor, administrator, heir(s), or assign(s) shall be made on Form FMC-18 Rev., and shall be accompanied by the transfer fee required under § 515.5(b)(2).

(c) *Operation after retirement, resignation, or death of qualifying individual.* When a partnership or corporation has been licensed on the basis of the qualifications of one or more of the partners or officers thereof, and such qualifying individual(s) no longer serve in a full-time, active capacity with the firm, the licensee shall report such change to the Commission within 30 days. Within the same 30-day period, the licensee shall furnish to the Commission the name(s) and detailed intermediary experience of any other active managing partner(s) or officer(s) who may qualify the licensee. Such qualifying individual(s) must meet the applicable requirements set forth in § 515.11(a). The licensee may continue to operate as an

ocean transportation intermediary while the Commission investigates the qualifications of the newly designated partner or officer.

(d) *Incorporation of branch office.* In the event a licensee's validly operating branch office becomes incorporated as a separate entity, the licensee may continue to operate such office pending receipt of a separate license, provided that:

(1) The separately incorporated entity applies to the Commission for its own license within ten (10) days after incorporation, and

(2) While the application is pending, the continued operation of the office is carried on as a *bona fide* branch office of the licensee, under its full control and responsibility, and not as an operation of the separately incorporated entity.

(e) Acquisition of one or more additional licensees. In the event a licensee acquires one or more additional licensees, for the purpose of merger, consolidation, or control, the acquiring licensee shall advise the Commission of such change within 30 days after such change occurs by submitting in duplicate, an amended Form FMC-18, Rev. No application fee is required when reporting this change.

(f) *Optional method of filing Form FMC-18.* In lieu of completing and filing Form FMC-18 in paper format, applications for approval of changes in organization, transfer of license, or changes in the identity or status of the designated qualifying individual required under this section may be completed and submitted to the Bureau of Certification and Licensing by using the automated FMC-18 filing system in accordance with the instructions found on the Commission's home page, <http://www.fmc.gov>. A \$250 fee for filing a new application and a \$125 fee for filing an amended application will be assessed for filers using the automated FMC-18 filing system instead of the fees listed at § 515.5(b)(1), (2).

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