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intermediary pursuant to this section. (See also §545.3 of this chapter.)

(a) *Payment pursuant to Commission order.* If the Commission issues an order for reparation pursuant to sections 11 (46 U.S.C. 41301–41302, 41305–41307(a)) or 14 (46 U.S.C. 41304, 41308–41309) of the Act, or assesses a penalty pursuant to section 13 of the Act (46 U.S.C. 41107–41109), a bond, insurance, or other surety shall be available to pay such order or penalty.

(b) *Payment pursuant to a claim.* (1) If a party does not file a complaint with the Commission pursuant to section 11 of the Act (46 U.S.C. 41301–41302, 41305–41307(a)), but otherwise seeks to pursue a claim against an ocean transportation intermediary bond, insurance or other surety for damages arising from its transportation-related activities, it shall attempt to resolve its claim with the financial responsibility provider prior to seeking payment on any judgment for damages obtained. When a claimant seeks payment under this section, it simultaneously shall notify both the financial responsibility provider and the ocean transportation intermediary of the claim by certified mail, return receipt requested. The bond, insurance, or other surety may be available to pay such claim if:

(i) The ocean transportation intermediary consents to payment, subject to review by the financial responsibility provider; or

(ii) The ocean transportation intermediary fails to respond within forty-five (45) days from the date of the notice of the claim to address the validity of the claim, and the financial responsibility provider deems the claim valid.

(2) If the parties fail to reach an agreement in accordance with paragraph (b)(1) of this section within ninety (90) days of the date of the initial notification of the claim, the bond, insurance, or other surety shall be available to pay any final judgment for damages obtained from an appropriate court. The financial responsibility provider shall pay such judgment for damages only to the extent they arise from the transportation-related activities of the ocean transportation intermediary ordinarily within 30 days, without requiring further evidence related to the

validity of the claim; it may, however, inquire into the extent to which the judgment for damages arises from the ocean transportation intermediary's transportation-related activities.

(c) The Federal Maritime Commission shall not serve as depository or distributor to third parties of bond, guaranty, or insurance funds in the event of any claim, judgment, or order for reparation.

(d) *Optional bond riders.* The Federal Maritime Commission shall not serve as a depository or distributor to third parties of funds payable pursuant to optional bond riders described in §515.25(c).

[64 FR 11171, Mar. 8, 1999, as amended at 65 FR 26512, May 8, 2000; 65 FR 33480, May 24, 2000; 69 FR 17945, Apr. 6, 2004; 74 FR 50719, Oct. 1, 2009]

§515.24 Agent for service of process.

(a) Every ocean transportation intermediary not located in the United States and every group or association of ocean transportation intermediaries not located in the United States which provides financial coverage for the financial responsibility of a member ocean transportation intermediary shall designate and maintain a person in the United States as legal agent for the receipt of judicial and administrative process, including subpoenas.

(b) Service of administrative process, other than subpoenas, may be effected upon the legal agent by dispatching a copy of the document to be served by mail or courier service. Administrative subpoenas shall be served in accordance with §502.134 of this chapter.

(c) If the designated legal agent cannot be served because of death, disability, unavailability, termination or expiration of the designation, or if a legal agent authorized to receive such service is not designated in compliance with this section, the Secretary of the Federal Maritime Commission will be deemed to be the legal agent for service of process. Any person serving the Secretary must also send to the ocean transportation intermediary, or group or association of ocean transportation intermediaries which provide financial coverage for the financial responsibilities of a member ocean transportation

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intermediary, by mail or courier service at the ocean transportation intermediary's, or group's, address published in its tariff, a copy of each document served upon the Secretary, and shall attest to that service at the time service is made upon the Secretary. For purposes of this paragraph, it is sufficient that a person seeking to serve process on an ocean transportation intermediary, or group of such intermediaries, affirm to the Commission's Secretary that: they have contacted, or attempted to contact, the designated agent to confirm whether it remained authorized to accept service of process; or, if no legal agent is designated in the tariff, that it has no knowledge of the identity of the ocean transportation intermediary's legal agent. Designation of the Commission's Secretary as the legal agent shall survive any cancellation of the OTI's license or tariff and shall continue for the entire period during which claims may be made under the OTI's financial responsibility instrument.

(d) Designations of legal agent under paragraphs (a) and (b) of this section and provisions relating to service of process under paragraph (c) of this section shall be published in the ocean transportation intermediary's tariff, when required, in accordance with part 520 of this chapter.

(e) Every ocean transportation intermediary using a group or association of ocean transportation intermediaries to cover its financial responsibility requirement under §515.21(b) shall publish the name and address of the group or association's resident agent for receipt of judicial and administrative process, including subpoenas, in its tariff, when required, in accordance with part 520 of this chapter.

[64 FR 11171, Mar. 8, 1999, as amended at 78 FR 42888, July 18, 2013]

§ 515.25 Filing of proof of financial responsibility.

(a) *Filing of proof of financial responsibility.* Upon notification by the Commission by certified U.S. mail or other method reasonably calculated to provide actual notice that the applicant has been approved for licensing, the applicant shall file with the Director of the Commission's Bureau of Certifi-

cation and Licensing, proof of financial responsibility in the form and amount prescribed in §515.21. No tariff shall be published until a license is issued, if applicable, and proof of financial responsibility is provided. No license will be issued until the Commission is in receipt of valid proof of financial responsibility from the applicant. Should the applicant not file the requisite proof of financial responsibility within 120 days of notification, the Commission will consider the application to be invalid.

(b) *Branch offices.* New proof of financial responsibility, or a rider to the existing proof of financial responsibility, increasing the amount of the financial responsibility in accordance with §515.21(a)(4), shall be filed with the Commission prior to the date the licensee commences operation of any branch office. Failure to adhere to this requirement may result in revocation of the license.

(c) *Optional bond rider.* Any NVOCC as defined by §515.2(o)(2), in addition to a bond meeting the requirements of §515.21(a)(2), may obtain and file with the Commission proof of an optional bond rider, as provided for in appendix E or appendix F of this part.

[64 FR 11171, Mar. 8, 1999, as amended at 67 FR 39860, June 11, 2002; 69 FR 17945, Apr. 6, 2004; 72 FR 56273, Oct. 3, 2007]

§ 515.26 Termination of financial responsibility.

No license shall remain in effect unless valid proof of financial responsibility is maintained on file with the Commission. Upon receipt of notice of termination of such financial responsibility, the Commission shall notify the concerned licensee by certified U.S. mail or other method reasonably calculated to provide actual notice, at its last known address, that the Commission shall, without hearing or other proceeding, revoke the license as of the termination date of the financial responsibility, unless the licensee shall have submitted valid replacement proof of financial responsibility before such termination date. Replacement financial responsibility must bear an effective date no later than the termination date of the expiring financial responsibility.