

## § 531.4

to whom delivery is to be made, a shippers' association, or an ocean transportation intermediary, as defined in section 3(17)(B) of the Act (46 U.S.C. 40102(16)), that accepts responsibility for payment of all applicable charges under the NSA.

(p) *NVOCC Service Arrangement* ("NSA") means a written contract, other than a bill of lading or receipt, between one or more NSA shippers and an individual NVOCC or two or more affiliated NVOCCs, in which the NSA shipper makes a commitment to provide a certain minimum quantity or portion of its cargo or freight revenue over a fixed time period, and the NVOCC commits to a certain rate or rate schedule and a defined service level. The NSA may also specify provisions in the event of nonperformance on the part of any party.

(q) *Statement of essential terms* means a concise statement of the essential terms of an NSA required to be published under this part.

[69 FR 75853, Dec. 20, 2004, as amended at 70 FR 56580, Sept. 28, 2005; 74 FR 50724, Oct. 1, 2009]

### § 531.4 Confidentiality.

(a) All NSAs and amendments to NSAs filed with the Commission shall, to the fullest extent permitted by law, be held in confidence by the Commission.

(b) Nothing contained in this part shall preclude the Commission from providing certain information from or access to NSAs to another agency of the Federal government of the United States.

(c) Parties to a filed NSA may agree to disclose information contained in it. Breach of any confidentiality agreement contained in an NSA by either party will not, on its own, be considered a violation of these rules.

### § 531.5 Duty to file.

(a) The duty under this part to file NSAs, amendments and notices, and to publish statements of essential terms, shall be upon the NVOCC acting as carrier party to the NSA.

(b) The Commission shall not order any person to pay the difference between the amount billed and agreed upon in writing with a common carrier

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or its agent and the amount set forth in an NSA by that common carrier for the transportation service provided.

(c) Filing may be accomplished by any duly agreed-upon agent, as the parties to the NSA may designate, and subject to conditions as the parties may agree.

(d) *Registration*—(1) *Application*. Authority to file or delegate the authority to file must be requested by a responsible official of the NVOCC in writing by submitting to BTA, either by mail to 800 N. Capitol Street, NW., Washington, DC 20573, or by facsimile to (202) 523-5867, a completed NSA Registration Form (FMC-78)(Exhibit 1 to this part).

(2) *Approved registrations*. OIT shall provide approved Registrants a log-on identification number ("I.D.") and password for filing and amending NSAs, and notify Registrants of such approval via U.S. mail.

[69 FR 75853, Dec. 20, 2004, as amended at 70 FR 56580, Sept. 28, 2005]

## Subpart B—Filing Requirements

### § 531.6 NVOCC Service Arrangements.

(a) Authorized persons shall file with BTA, in the manner set forth in Appendix A of this part, a true and complete copy of every NSA or amendment before any cargo moves pursuant to that NSA or amendment.

(b) Every NSA filed with the Commission shall include the complete terms of the NSA including, but not limited to, the following:

(1) The origin port ranges in the case of port-to-port movements and geographic areas in the case of through intermodal movements;

(2) The destination port ranges in the case of port-to-port movements and geographic areas in the case of through intermodal movements;

(3) The commodity or commodities involved;

(4) The minimum volume or portion;

(5) The service commitments;

(6) The line-haul rate;

(7) Liquidated damages for non-performance (if any);

(8) Duration, including the

(i) Effective date; and

(ii) Expiration date;