

(1) *Mail in foreign commerce.* Transportation of mail between the United States and foreign countries.

(2) *Department of Defense cargo.* Transportation of U.S. Department of Defense cargo moving in foreign commerce under terms and conditions approved by the Military Transportation Management Command and published in a universal service contract. An exact copy of the universal service contract, including any amendments thereto, shall be filed with the Commission as soon as it becomes available.

(c) *Inclusion of excepted or exempted matter.* (1) The Commission will not accept for filing NSAs which exclusively concern the commodities or services listed in paragraph (a) or (b) of this section.

(2) NSAs filed with the Commission may include the commodities or services listed in paragraph (a) or (b) of this section only if:

(i) There is a tariff of general applicability for the transportation, which contains a specific commodity rate for the commodity or service in question; or

(ii) The NSA itself sets forth a rate or charge which will be applied if the NSA is canceled, as defined in §531.3(e) and §531.8(d).

(d) *Waiver.* Upon filing an NSA pursuant to paragraph (c) of this section, the NSA shall be subject to the same requirements as those for NSAs generally.

[69 FR 75853, Dec. 20, 2004, as amended at 74 FR 50725, Oct. 1, 2009]

#### §531.11 Implementation.

*Generally.* Performance under an NSA or amendment thereto may not begin before the day it is effective and filed with the Commission.

### Subpart E—Recordkeeping and Audit

#### §531.12 Recordkeeping and audit.

(a) *Records retention for five years.* Every NVOCC shall maintain original signed NSAs, amendments, and their associated records in an organized, readily accessible or retrievable manner for a period of five (5) years from

the termination of each NSA. These records must be kept in a form that is readily available and usable to the Commission; electronically maintained records shall be no less accessible than if they were maintained in paper form.

(b) *Production for audit within 30 days of request.* Every NVOCC shall, upon written request of the FMC's Director, Bureau of Enforcement, any Area Representative or the Director, Bureau of Trade Analysis, submit copies of requested original NSAs or their associated records within thirty (30) days of the date of the request.

#### §531.13–531.98 [Reserved]

#### §531.99 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The Commission has received OMB approval for this collection of information pursuant to the Paperwork Reduction Act of 1995, as amended. In accordance with that Act, agencies are required to display a currently valid control number. The valid control number for this collection of information is 3072–0070. The valid control number for form FMC–78 is 3072–0070.

[69 FR 75853, Dec. 20, 2004, as amended at 70 FR 31370, June 1, 2005]

#### APPENDIX A TO PART 531—INSTRUCTIONS FOR THE FILING OF NSAS

NSAs shall be filed in accordance with the instructions found on the Commission's home page, <http://www.fmc.gov>.

#### A. REGISTRATION, LOG-ON I.D. AND PASSWORD

To register for filing, an NVOCC or authorized agent must submit the NSA Registration Form (Form FMC–78) to BTA. A separate NSA Registration Form is required for each individual that will file NSAs. BTA will direct OIT to provide approved filers with a log-on identification number (“I.D.”) and password. Filers who would like a third party (agent/publisher) to file their NSAs must so indicate on Form FMC–78. Authority for filing can be transferred by submitting an amended registration form requesting the assignment of a new log-on I.D. and password. The original log-on ID will be canceled when a replacement log-on I.D. is issued. Log-on I.D.s and passwords may not be shared with, loaned to or used by any individual other than the individual registrant. The Commission reserves the right to disable