

Federal Maritime Commission

§ 531.8

(g) Failure to comply with the provisions of this section shall result in the application of the terms of the otherwise applicable tariff.

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

§ 531.7 Notices.

Within thirty (30) days of the occurrence of any event listed below, there shall be filed with the Commission, pursuant to the same procedures as those followed for the filing of an amendment pursuant to § 531.5 and Appendix A to this part, a detailed notice of:

- (a) Correction;
- (b) Cancellation;
- (c) Adjustment of accounts, by re-rating, liquidated damages, or otherwise;
- (d) Final settlement of any account adjusted as described in paragraph (c) of this section; and
- (e) Any change to the name, legal name and/or business address of any NSA party.

§ 531.8 Amendment, correction, cancellation, and electronic transmission errors.

(a) *Amendment.* (1) NSAs may be amended by mutual agreement of the parties. Amendments shall be filed electronically with the Commission in the manner set forth in § 531.5 and Appendix A to this part.

(i) Where feasible, NSAs should be amended by amending only the affected specific term(s) or subterms.

(ii) Each time any part of an NSA is amended, the filer shall assign a consecutive amendment number (up to three digits), beginning with the number "1."

(iii) Each time any part of a filed NSA is amended, the "Filing Date" will be the date of filing of the amendment.

(2) [Reserved]

(b) *Correction.* (1) Requests shall be filed, in duplicate, with the Commission's Office of the Secretary within forty-five (45) days of the NSA's filing with the Commission, accompanied by remittance of a \$276 service fee.

(2) Requests shall include:

(i) A letter of transmittal explaining the purpose of the submission, and providing specific information to identify the initial or amended NSA to be corrected;

(ii) A paper copy of the proposed correct terms. Matter to be deleted shall be struck through and matter to be added shall immediately follow the language being deleted and underscored;

(iii) An affidavit from the filing party attesting with specificity to the factual circumstances surrounding the clerical or administrative error, with reference to any supporting documentation;

(iv) Documents supporting the clerical or administrative error; and

(v) A brief statement from the other party to the NSA concurring in the request for correction.

(3) If the request for correction is granted, the carrier party shall file the corrected provisions using a special case number as described in Appendix A to this part.

(c) *Electronic transmission errors.* (1) An authorized person who experiences a purely technical electronic transmission error or a data conversion error in transmitting an NSA filing or an amendment thereto is permitted to file a Corrected Transmission ("CT") of that filing within 48 hours of the date and time of receipt recorded in the Commission's electronic filing system (excluding Saturdays, Sundays and legal public holidays). This time-limited permission to correct an initial defective NSA filing is not to be used to make changes in the original NSA rates, terms or conditions that are otherwise provided for in § 531.6(b). The CT tab box in the Commission's electronic filing system must be checked at the time of resubmitting a previously filed NSA, and a description of the corrections made must be stated at the beginning of the corrected NSA in a comment box. Failure to check the CT box and enter a description of the correction will result in the rejection of a file with the same name, as documents with duplicate file names or NSA and amendment numbers are not accepted by the FMC's electronic filing system.

(2) [Reserved]

§ 531.9

46 CFR Ch. IV (10–1–11 Edition)

(d) *Cancellation.* (1) An account may be adjusted for events and damages covered by the NSA. This shall include adjustment necessitated by either liability for liquidated damages appearing in the NSA as filed with the Commission under § 531.6(b)(7), or the occurrence of an event described below in paragraph (d)(2) of this section.

(2) In the event of cancellation as defined in § 531.3(g):

(i) Further or continued implementation of the NSA is prohibited; and

(ii) The cargo previously carried under the NSA shall be re-rated according to the otherwise applicable tariff provisions.

(e) If the amendment, correction or cancellation affects an essential term required to be published under § 531.9, the statement of essential terms shall be changed as soon as possible after the filing of the amendment to accurately reflect the change to the NSA terms.

Subpart C—Publication of Essential Terms

§ 531.9 Publication.

(a) *Contents.* All authorized persons who choose to file NSAs under this part are also required to make available to the public, contemporaneously with the filing of each NSA with the Commission, and in tariff format, a concise statement of the following essential terms:

(1) The port ranges:

(i) origin; and

(ii) destination;

(2) The commodity or commodities involved;

(3) The minimum volume or portion; and

(4) The duration.

(b) *Certainty of terms.* The terms described in paragraph (a) of this section may not:

(1) Be uncertain, vague or ambiguous; or

(2) Make reference to terms not explicitly detailed in the statement of essential terms, unless those terms are contained in a publication widely available to the public and well known within the industry. Reference may not be made to a tariff of a common carrier other than the NVOCC party to the NSA.

(c) *Location.* The statement of essential terms shall be published as a separate part of the individual NVOCC's automated tariff system.

(d) *References.* The statement of essential terms shall contain a reference to the "NSA Number" as described in § 531.6(e)(1).

(e) *Terms.* (1) The publication of the statement of essential terms shall accurately reflect the terms as filed with the Commission.

(2) If any of the published essential terms include information not required to be filed with the Commission but filed voluntarily, the statement of essential terms shall so note.

(f) *Commission listing.* The Commission will publish on its website, *www.fmc.gov*, a listing of the locations of all NSA essential terms publications.

(g) Updating statements of essential terms. To ensure that the information contained in a published statement of essential terms is current and accurate, the statement of essential terms publication shall include a prominent notice indicating the date of its most recent publication or revision. When the published statement of essential terms is affected by filed amendments, corrections, or cancellations, the current terms shall be changed and published as soon as possible in the relevant statement of essential terms.

Subpart D—Exceptions and Implementation

§ 531.10 Excepted and exempted commodities.

(a) *Statutory exceptions.* NSAs for the movement of the following, as defined in section 3 of the Act (46 U.S.C. 40102) and § 530.3 or § 520.2 of this chapter, are not subject to the conditions of this exemption:

(1) Bulk cargo;

(2) Forest products;

(3) Recycled metal scrap;

(4) New assembled motor vehicles; and

(5) Waste paper or paper waste.

(b) *Commission exemptions.* The following commodities and/or services are not subject to the conditions of this exemption: