§ 535.309 Marine terminal services agreements—exemption.

(a) Marine terminal services agreement means an agreement, contract, understanding, arrangement, or association, written or oral, (including any modification or appendix) between a marine terminal operator and an ocean common carrier that applies to marine terminal services that are provided to and paid for by an ocean common carrier. These services include: checking, docking, free time, handling, heavy lift, loading and unloading, terminal storage, usage, wharfage, and wharf demurrage and including any marine terminal facilities that may be provided incidentally to such marine terminal services. The term marine terminal services agreement does not include any agreement that conveys to the involved carrier any rights to operate any marine terminal facility by means of a lease, license, permit, assignment, land rental, or similar other arrangement for the use of marine terminal facilities or property.

(b) All marine terminal services agreements as defined in §535.309(a) are exempt from the filing and waiting period requirements of the Act and this part.

(c) Parties to marine terminal services agreements currently in effect shall provide copies to any requesting party for a reasonable copying and mailing fee.

(d) The filing fee for optional filing of terminal services agreements is provided in §535.401(g).

§ 535.310 Marine terminal facilities agreement—exemption.

(a) Marine terminal facilities agreement means any agreement between or among two or more marine terminal operators and/or one or more ocean common carriers, to the extent that the agreement involves ocean transportation in the foreign commerce of the United States, that conveys to any of the involved parties any rights to operate any marine terminal facility by means of lease, license, permit, assignment, land rental, or other similar arrangement for the use of marine terminal facilities or property.

(b) All marine terminal facilities agreements as defined in §535.310(a) are exempt from the filing and waiting period requirements of the Act and this part.

(c) Parties to marine terminal facilities agreements currently in effect shall provide copies to any requesting party for a reasonable copying and mailing fee.

(d) The filing fee for optional filing of terminal facilities agreements is provided in §535.401(g).

§ 535.311 Low market share agreements—exemption.

(a) Low market share agreement means any agreement among ocean common carriers which contains none of the authorities listed in §535.502(b) and for which the combined market share, based on cargo volume, of the parties in any of the agreement's sub-trades is either:

(1) Less than 30 percent, if all parties are members of another agreement in the same trade or sub-trade containing any of the authorities listed in §535.502(b); or

(2) Less than 35 percent, if at least one party is not a member of another agreement in the same trade or sub-trade containing any of the authorities listed in §535.502(b).

(b) Low market share agreements are exempt from the waiting period requirement of the Act and this part.

(c) Parties to agreements may seek a determination from the Director, Bureau of Trade Analysis, as to whether a