

§ 535.310

conference agreement means an agreement between or among two or more marine terminal operators and/or ocean common carriers for the conduct or facilitation of marine terminal operations that provides for the fixing of and adherence to uniform maritime terminal rates, charges, practices and conditions of service relating to the receipt, handling, and/or delivery of passengers or cargo for all members; and

(2) No antitrust immunity is conferred under the Act with regard to terminal services provided to an ocean common carrier under a marine terminal services agreement that is not filed with the Commission.

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

[69 FR 64414, Nov. 4, 2004, as amended at 74 FR 65036, Dec. 9, 2009]

§ 535.310 Marine terminal facilities agreement—exemption.

(a) *Marine terminal facilities agreement* means any agreement between or among two or more marine terminal operators, or between one or more marine terminal operators and 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

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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, and are effective on filing.

(c) Parties to agreements may seek a determination from the Director, Bureau of Trade Analysis, as to whether a proposed agreement meets the general definition of a low market share agreement.

(d) The filing fee for low market share agreements is provided in § 535.401(g).

[69 FR 64414, Nov. 4, 2004, as amended at 70 FR 20303, Apr. 19, 2005]

§ 535.312 Vessel charter party-exemption.

(a) For purposes of this section, vessel charter party shall mean a contractual agreement between two ocean common carriers for the charter of the full reach of a vessel, which agreement sets forth the entire terms and conditions (including duration, charter hire, and geographical or operational limitations, if any) under which the vessel will be employed.

(b) Vessel charter parties, as defined in paragraph (a) of this section, are exempt from the filing requirements of the Act and this part.

(c) The filing fee for optional filing of vessel charter parties is provided in § 535.401(g).

Subpart D—Filing of Agreements**§ 535.401 General requirements.**

(a) All agreements (including oral agreements reduced to writing in accordance with the Act) subject to this part and filed with the Commission for