

§ 535.503

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(c) Modifications that expand the geographic scope of an agreement containing any authority identified in § 535.502(b).

§ 535.503 Information Form.

(a) The Information Form, with instructions, for agreements and modifications to agreements subject to this subpart, are set forth in sections I through V of appendix A of this part. The instructions should be read in conjunction with the Act and this part.

(b) The Information Form shall apply as follows:

(1) Sections I and V shall be completed by parties to all agreements identified in § 535.502;

(2) Section II shall be completed by parties to agreements identified in § 535.502(a) that contain any of the following authorities: the charter or use of vessel space in exchange for compensation or services; or the rationalization of sailings or services relating to a schedule of ports, the frequency of vessel calls at ports, or the size and capacity of vessels for deployment. Such authorities do not include the establishment of a joint service, nor capacity rationalization;

(3) Section III shall be completed by parties to agreements identified in § 535.502 that contain the authority to discuss or agree on capacity rationalization; and

(4) Section IV shall be completed by parties to agreements identified in § 535.502 that contain any of the following authorities:

(i) The discussion of, or agreement upon, whether on a binding basis under a common tariff or a non-binding basis, any kind of rate or charge;

(ii) The establishment of a joint service;

(iii) The pooling or division of cargo traffic, earnings, or revenues and/or losses; or

(iv) The discussion of, or agreement on, any service contract matter.

§ 535.504 Application for waiver.

(a) Upon a showing of good cause, the Commission may waive any part of the Information Form requirements in this subpart.

(b) A request for such a waiver must be submitted and approved by the Com-

mission in advance of the filing of the Information Form to which the requested waiver would apply. Requests for a waiver shall be submitted in writing to the Director, Bureau of Trade Analysis, Federal Maritime Commission, Washington, DC 20573-0001, and shall state:

(1) The specific requirements from which relief is sought;

(2) The special circumstances requiring the requested relief;

(3) Relevant trade and industry data and information to substantiate and support the special circumstances requiring the requested relief;

(4) Why granting the requested waiver will not substantially impair effective review of the agreement; and

(5) A description of the full membership, geographic scope, and authority of the agreement or the agreement modification that is to be filed with the Commission.

(c) The Commission may take into account the presence or absence of shipper complaints as well as the past compliance of the agreement parties with any reporting requirement under this part in considering an application for a waiver.

Subpart F—Action on Agreements

§ 535.601 Preliminary review-rejection of agreements.

(a) The Commission shall make a preliminary review of each filed agreement to determine whether the agreement is in compliance with the requirements of the Act and this part and, where applicable, whether the accompanying Information Form is complete or, where not complete, whether the deficiency is adequately explained or is excused by a waiver granted by the Commission under § 535.504.

(b)(1) The Commission shall reject any agreement that fails to comply substantially with the filing and Information Form of the Act and this part. The Commission shall notify the filing party in writing of the reason for rejection of the agreement. The original filing, along with any supplemental information or documents submitted, shall be returned to the filing party.