

U.S. INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

19 CFR Part 201 Rules of General Application

19 CFR Part 206 Investigations Relating to Global and Bilateral Safeguard Actions, Market Disruption, Trade Diversion, and Review of Relief Actions

19 CFR Part 207 Investigations of Whether Injury to Domestic Industries Results from Imports Sold at less than Fair Value or from Subsidized Exports to the United States

19 CFR Part 210 Rules of Adjudication and Enforcement

AGENCY: International Trade Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The United States International Trade Commission ("Commission") proposes to amend its Rules of Practice and Procedure concerning rules of general application, safeguards, antidumping and countervailing duty, and adjudication and enforcement. The amendments are necessary to implement a new Commission requirement for electronic filing of most documents with the agency. The intended effects of the proposed amendments are to increase efficiency in processing documents filed with the Commission, reduce Commission expenditures, and conform agency processes to federal government initiatives.

DATES: To be assured of consideration, written comments must be received by 5:15 p.m. on [INSERT DATE 30 DAYS AFTER PUBLICATION].

ADDRESSES: You may submit comments, identified by docket number MISC-036, by any of the following methods:

--*Federal eRulemaking Portal*: <http://www.regulations.gov>. Follow the instructions for submitting comments.

--*Agency Web Site*: <https://edis.usitc.gov>. Follow the instructions for submitting comments on the Web site.

--*Mail*: For paper submission. U.S. International Trade Commission, 500 E Street, SW., Room 112A, Washington, DC 20436.

--*Hand Delivery/Courier*: U.S. International Trade Commission, 500 E Street, SW., Room 112A, Washington, DC 20436, from the hours of 8:45 a.m. to 5:15 p.m.

Instructions: All submissions received must include the agency name and docket number (MISC-036), along with a cover letter stating the nature of the commenter's interest in the proposed rulemaking. All comments received will be posted without change to <https://edis.usitc.gov>, including any personal information provided. For paper copies, a signed original and 14 copies of each set of comments should be submitted to James R. Holbein, Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112A, Washington, DC 20436. Docket: For access to the docket to read background documents or comments received, go to <https://edis.usitc.gov> and/or the U.S. International Trade Commission, 500 E Street, SW., Room 112A, Washington, DC 20436.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, Secretary, telephone (202) 205-2000 or Gracemary Roth-Roffy, telephone (202) 205-3117, Office of the General Counsel, United States

International Trade Commission. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at 202-205-1810. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>.

SUPPLEMENTARY INFORMATION: The preamble below is designed to assist readers in understanding these proposed amendments to the Commission's Rules. This preamble provides background information, a regulatory analysis of the proposed amendments, and a section-by-section explanation of the proposed amendments. The Commission encourages members of the public to comment on the proposed amendments as well as on whether the language of the proposed amendments is sufficiently clear for users to understand.

If the Commission decides to proceed with this rulemaking after reviewing the comments filed in response to this notice, the proposed rule revisions will be promulgated in accordance with the procedures provided for in the Administrative Procedure Act (5 U.S.C. 553), and will be codified in 19 CFR parts 201, 206, 207, and 210.

BACKGROUND

Section 335 of the Tariff Act of 1930 (19 U.S.C. 1335) authorizes the Commission to adopt such reasonable procedures, rules, and regulations as it deems necessary to carry out its functions and duties. This rulemaking seeks to improve provisions of the Commission's existing Rules of Practice and Procedure. The Commission proposes amendments to its rules covering proceedings such as investigations and reviews conducted under title VII and section 337 of the Tariff Act of 1930 (19 U.S.C. 1337, 1671 *et seq.*), sections 202, 406, 421, 422 of the Trade Act of 1974 (19 U.S.C. 2252, 2436, 2451, 2451a), and sections 302 and 312 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3352, 3372). The Commission invites the public to comment on all of these proposed rule amendments. In any comments, please consider addressing whether the language of the proposed amendments is sufficiently clear for users to understand. In addition please consider addressing how the proposed rule amendments could be improved, and/or offering specific constructive alternatives where appropriate.

Consistent with its ordinary practice, the Commission is issuing these proposed amendments in accordance with provisions of section 553 of the APA (5 U.S.C. § 553), although such provisions are not mandatory with respect to this rulemaking. The APA procedure entails the following steps: (1) publication of a notice of proposed rulemaking; (2) solicitation of public comments on the proposed amendments; (3) Commission review of public comments on the proposed amendments; and (4) publication of final amendments at least thirty days prior to their effective date.

The Commission proposes to require that most filings with the agency be made by electronic means. When a filing is made by electronic means, the electronic version will constitute the official record document and any paper form of the document must be a true copy and identical to the electronic version. The Commission's Electronic Document Information System (EDIS) already accepts electronic filing of certain documents, and will be the mechanism by which participants in Commission proceedings electronically file their documents in the future. Whereas submitters have only been permitted to file public documents into EDIS, the proposed rule amendments would provide for the electronic filing of documents containing confidential business information and business proprietary information into EDIS. A Handbook on Filing Procedures will supersede the Commission's current Handbook on Electronic Filing Procedures, and will provide more detailed information on the filing process. The Commission plans to seek public comment concerning the new handbook in a separate notice. Persons seeking to file documents will be required to comply with the revised rules and the Handbook on Filing Procedures.

The Commission estimates that electronic filing of most documents will significantly reduce the cost to the agency of processing documents. These costs include labor costs for scanning paper documents into EDIS, storage costs for paper documents, and costs for continuity of operations. Electronic filing also is expected to improve the efficiency and effectiveness of the filing process by entering documents into EDIS more rapidly. Electronic filing also accords with government-wide initiatives encouraging agencies to do business electronically.

Although the Commission intends to require electronic filing of most documents, documents generally will also be submitted in paper form. Moreover, witness testimony and hearing materials in import injury investigations and reviews would be submitted only in paper form, and public versions of testimony would be accepted at the relevant conference or hearing. The proposed rules would provide the Secretary to the Commission with the authority to establish exceptions and modifications to the requirement to electronically file documents.

The proposed changes to the filing process are not intended to affect the current practice with respect to the filing of responses to Commission questionnaires in import injury investigations and reviews.

REGULATORY ANALYSIS OF PROPOSED AMENDMENTS TO THE COMMISSION'S RULES

The Commission has determined that the final rules do not meet the criteria described in section 3(f) of Executive Order 12866 (58 FR 51735, Oct. 4, 1993) and thus do not constitute a significant regulatory action for purposes of the Executive Order.

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is inapplicable to this rulemaking because it is not one for which a notice of final rulemaking is required under 5 U.S.C. 553(b) or any other statute. Although the Commission has chosen to publish a notice of proposed rulemaking, these proposed regulations are “agency rules of procedure and practice,” and thus are exempt from the notice requirement imposed by 5 U.S.C. 553(b).

These proposed rules do not contain federalism implications warranting the preparation of a federalism summary impact statement pursuant to Executive Order 13132 (64 FR 43255, Aug. 4, 1999).

No actions are necessary under the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 *et seq.*) because the proposed rules will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and will not significantly or uniquely affect small governments.

The proposed rules are not major rules as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*). Moreover, they are exempt from the reporting requirements of the Contract With America Advancement Act of 1996 (Pub. L. 104-121) because they concern rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties.

The amendments are not subject to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), because the amendments would impose no new collection of information under the statute.

SECTION-BY-SECTION ANALYSIS

Section 201.8 generally provides the requirements for filing documents with the Commission. The Commission proposes to revise paragraphs (c) and (d) of section 201.8 to clarify document specification requirements, and to revise paragraph (f) to set out requirements for filing of documents, including the general requirement that documents be filed electronically. Paragraphs (d) and (f) would be reversed to present information in a clearer order.

Section 201.12 sets out requirements for action requests in a nonadjudicative investigation. The Commission proposes to revise the section to require that requests be filed electronically and submitted in paper form on the same business day.

Section 201.14 sets out requirements for requests for additional hearings, postponements, continuances, and extensions of time. The Commission proposes to revise paragraph (b)(3) to require that requests be filed electronically and submitted in paper form on the same business day.

Section 201.16 sets out the general requirements for service of process and other documents. The Commission proposes to revise paragraph (b) of section 201.16 to remove language concerning service on the Secretary of paper documents.

Section 206.2 identifies types of petitions or requests in certain Commission proceedings. The Commission proposes to add that petitions and requests filed under Part 206 of the Commission's Rules must be filed in paper form and to require the submission of all exhibits, appendices, and attachments to the petition or request on certain approved electronic media.

Section 206.8 covers service, filing, and certification of documents in certain proceedings. The Commission proposes to add a paragraph specifying that briefs filed in such proceedings are to be filed electronically and also submitted in paper form on the same business day.

Section 206.17 provides procedures for limited disclosure of certain confidential business information under administrative protective order. The Commission proposes to revise paragraph (a)(2) of the section to provide for electronic filing of administrative protective order applications.

Section 207.7 provides procedures for limited disclosure of certain business proprietary information under administrative protective order. The Commission proposes to revise paragraph (a)(2) of the section to provide for electronic filing of administrative protective order applications.

Section 207.10 addresses the filing of petitions in title VII proceedings. The Commission proposes to revise the language of section 207.10(a) to specify that petitions are to be filed in paper form and to require the submission of all exhibits, appendices, and attachments to the petition on certain approved electronic media.

Section 207.15 addresses written briefs and conferences in title VII proceedings. The Commission proposes to revise section 207.15 to require electronic filing of briefs and submission of a requisite number of paper copies on the same business day. The proposed rule also would provide for the filing of witness testimony at the conference.

Section 207.23 addresses prehearing briefs in title VII proceedings. The Commission proposes to revise section 207.23 to require electronic filing of the prehearing brief and submission of a requisite number of paper copies on the same business day.

Section 207.24 addresses hearing procedures in title VII proceedings. The Commission proposes to revise paragraph (b) of section 207.24 to permit a party to file witness testimony at the hearing.

Section 207.25 addresses posthearing briefs in title VII proceedings. The Commission proposes to revise section 207.25 to require electronic filing of briefs and submission of a requisite number of paper copies on the same business day.

Section 207.28 addresses anticircumvention under title VII. The Commission proposes to revise section 207.28 to require electronic filing of statements and submission of a requisite number of paper copies on the same business day.

Section 207.30 addresses comments on information in certain title VII proceedings. The Commission proposes to revise paragraph (b) of section 207.30 to require electronic filing of comments and submission of a requisite number of paper copies on the same business day.

Section 207.61 addresses responses to notices of institution. The Commission proposes to add paragraph (e) of section 207.61 to require electronic filing of responses and submission of a requisite number of paper copies on the same business day.

Section 207.62 concerns rulings on adequacy and nature of Commission review in certain title VII proceedings. The Commission proposes to revise paragraph (b)(2) of section 207.62 to require electronic filing of comments and submission of a requisite number of paper copies on the same business day.

Section 207.65 addresses prehearing briefs in certain title VII proceedings. The Commission proposes to revise section 207.65 to require electronic filing of briefs and submission of a requisite number of paper copies on the same business day.

Section 207.67 addresses posthearing briefs and statements in certain title VII proceedings. The Commission proposes to revise paragraph (a) of section 207.67 to require electronic filing of briefs and submission of a requisite number of paper copies on the same business day.

Section 207.68 covers final comments on information in certain title VII proceedings. The Commission proposes to revise paragraph (b) of section 207.68 to require electronic filing of comments and submission of a requisite number of paper copies on the same business day.

Section 210.4 sets out procedures for written submissions, representations, and sanctions in section 337 proceedings. The Commission proposes to revise paragraph (f) of section 210.4 to require electronic filing of certain documents. Additionally, the Commission proposes to require electronic filing of all other written submissions and the submission of paper copies of these submissions by noon on the next business day.

Section 210.8 sets out the filing procedures for complaints and motions for temporary relief in section 337 proceedings. The Commission proposes to revise paragraph (a) of section 210.8 to require paper filing of complaints and filing of exhibits, appendices, and attachments to complaints on certain approved electronic media.

List of Subjects in 19 CFR parts 201, 206, 207, and 210

Administrative practice and procedure, Business and industry, Customs duties and inspection, Imports, Investigations.

For the reasons stated in the preamble, the United States International Trade Commission proposes to amend 19 CFR parts 201, 206, 207, and 210 as follows:

PART 201-- RULES OF GENERAL APPLICATION

1. The authority citation for part 201 continues to read as follows:

Authority: Sec. 335 of the Tariff Act of 1930 (19 U.S.C. 1335), and sec. 603 of the Trade Act of 1974 (19 U.S.C. 2482), unless otherwise noted.

Subpart B Initiation and Conduct of Investigations

2. Amend Sec. 201.8 to revise paragraph (c) and revise and reverse paragraphs (d) and (f) to read as follows:

§ 201.8 Filing of documents.

* * * * *

(c) *Specifications for documents.* Each document filed under this chapter shall be signed, double-spaced, clear and legible, except that a document of two pages or less in length need not be double-spaced. All submissions shall be in letter-sized format (8.5x11 inches), except copies of documents prepared for another agency or a court (e.g. patent file wrappers or pleadings papers), and single sided. The name of the person signing the original shall be typewritten or otherwise reproduced on each copy.

* * * * *

(d) *Filing.* (1) Except as provided in paragraphs (d)(2)-(d)(7) and (f) of this section, all documents filed with the Commission shall be filed electronically, and shall be submitted in paper form by 12:00 noon eastern time on the next business day. A paper copy provided for in this section must be a true and identical copy of the electronic version of the document. All filings shall comply with the procedures set forth in the Commission's Handbook on Filing Procedures, which is available from the Secretary and on the Commission's World Wide Web site at <https://edis.usitc.gov>. Failure to comply with the requirements of this chapter and the Handbook on Filing Procedures in the filing of a document may result in the rejection of the document as improperly filed.

(2) Briefs, statements, responses, comments, and requests filed pursuant to sections 201.12, 201.14, 206.8, 207.15, 207.23, 207.25, 207.28, 207.30, 207.61, 207.62, 207.65, 207.67, or 207.68 of this chapter shall be filed electronically and the requisite number of true paper copies of these documents shall be submitted to the Commission in accordance with the provisions of the applicable section.

(3) Petitions, complaints, requests, or motions filed under section 206.2, 207.10, 210.4, 210.8, 210.75, 210.76, or 210.79 of this chapter shall be filed in paper form and exhibits, appendices, and attachments to the documents shall be filed in electronic form on CD-ROM, DVD or other portable electronic media approved by the Secretary in accordance with the provisions of the applicable section. Submitted media will be retained by the Commission, except that media may be returned to the submitter if a document is not accepted for filing.

(4) Certain documents filed under section 210.4 shall be filed electronically in accordance with the provisions of that section, and copies of certain of those documents shall also be submitted in paper form as provided in that section.

(5) Supplementary material and witness testimony provided for under section 201.13, 207.15, or 07.24 of this chapter shall be filed in paper form in accordance with the provisions of the applicable section.

(6) Certain documents filed under section 201.4 of this chapter and applications for administrative protective orders filed under sections 206.17 and 207.7 of this chapter shall only be filed electronically; no paper copies will be required.

(7) The Secretary may provide for exceptions and modifications to the filing requirements set out in this chapter. A person seeking an exception should consult the Handbook on Filing Procedures* *

(f) *Nonconfidential copies.* In the event that confidential treatment of a document is requested under § 201.6(b), a nonconfidential version of the document shall be filed, in which the confidential business information shall have been deleted and which shall have been conspicuously marked “nonconfidential” or “public inspection.” The nonconfidential version shall be filed electronically, and four (4) true paper copies shall be submitted on the same business day. In the event that confidential treatment is not requested for a document under § 201.6(b), the document shall be conspicuously marked “No confidential version filed,” and the document shall be filed in accordance with paragraph (d) of this section. The name of the person signing the original shall be typewritten or otherwise reproduced on each copy.

3. Amend Sec. 201.12 to read as follows:

§ 201.12 Requests.

Any party to a nonadjudicative investigation may request the Commission to take particular action with respect to that investigation. Such requests shall be made by letter addressed to the Secretary, shall be placed by him in the record, and shall be served on all other parties. Such request shall be filed electronically and two (2) true paper copies shall be submitted on the same business day. The Commission shall take such action or make such response as it deems appropriate.

4. Amend Sec. 201.14 to revise paragraph (b)(3) to read as follows:

§ 201.14 Computation of time, additional hearings, postponements, continuances, and extensions of time.

(b) * * *

(3) A request that the Commission take any of the actions described in this section shall be filed with the Secretary and served on all parties to the investigation. Such request shall be filed electronically and two (2) true paper copies shall be submitted on the same business day.

5. Amend Sec. 201.16 to revise paragraphs (b)(1) and (b)(2) to read as follows:

§ 201.16 Service of process and other documents.

* * * * *

(b) *By a party other than the Commission.* Except when service by another method shall be specifically ordered by the Commission, the service of a document of a party shall be effected:

- (1) By mailing or delivering copies of a nonconfidential version of the document to each party, or, if the party is represented by an attorney before the Commission, by mailing or delivering a nonconfidential version thereof to such attorney; or
- (2) By leaving copies thereof at the principal office of each other party, or, if a party is represented by an attorney before the Commission, by leaving copies at the office of such attorney.
- (3) When service is by mail, it is complete upon mailing of the document.
- (4) When service is by mail, it shall be by first class mail, postage prepaid. In the event the addressee is outside the United States, service shall be by first class airmail, postage prepaid.

PART 206--INVESTIGATIONS RELATING TO GLOBAL AND BILATERAL SAFEGUARD ACTIONS, MARKET DISRUPTION, TRADE DIVERSION, AND REVIEW OF RELIEF ACTIONS

6. The authority citation for part 206 continues to read as follows:

Authority: 19 U.S.C. 1335, 2251-2254, 2451-2451a, 3351-3382; secs. 103, 301-302, Pub. L. 103-465, 108 Stat. 4809.

7. Amend Sec. 206.2 to read as follows:

§ 206.2 Identification of type of petition or request and petition filing procedures.

An investigation under this part 206 may be commenced on the basis of a petition, request, resolution, or motion as provided in section 202(a)(1), 204(c)(1), 406(a)(1), 421(b) or (o), or 422(b) of the Trade Act of 1974 or section 302(a)(1) or 312(c)(1) of the North American Free Trade Agreement Implementation Act. Each petition or request, as the case may be, filed by an entity representative of a domestic industry under this part 206 shall state clearly on the first page thereof "This is a [petition or request] under section [202, 204(c), 406, 421(b) or (o), or 422(b) of the Trade Act of 1974, or section 302 or 312(c) of the North American Free Trade Agreement Implementation Act] and Subpart [B, C, D, E, F, or G] of part 206 of the rules of practice and procedure of the United States International Trade Commission." A paper original and eight (8) true paper copies of a petition, request, resolution, or motion shall be filed. One copy of any exhibits, appendices, and attachments to the document shall be filed in electronic form on CD-ROM, DVD, or other portable electronic format approved by the Secretary.

8. Amend Sec. 206.8 to add paragraph (d) to read as follows:

§ 206.8 Service, filing, and certification of documents.

* * * * *

(d) *Briefs.* All briefs filed in proceedings subject to this part shall be filed electronically, and eight (8) true paper copies shall be filed on the same business day.

9. Amend Sec. 206.17 to revise paragraph (a)(2) to read as follows:

§ 206.17 Limited disclosure of certain confidential business information under administrative protective order.

(a) * * *

(2) Application. An application under paragraph (a)(1) of this section must be made by an authorized applicant on a form adopted by the Secretary or a photocopy thereof. A signed application shall be filed electronically. An application on behalf of an authorized applicant must be made no later than the time that entries of appearance are due pursuant to §201.11 of this chapter. In the event that two or more authorized applicants represent one interested party who is a party to the investigation, the authorized applicants must select one of their number to be lead authorized applicant. The lead authorized applicant's application must be filed no later than the time that entries of appearance are due. Provided that the application is accepted, the lead authorized applicant shall be served with confidential business information pursuant to paragraph (f) of this section. The other authorized applicants representing the same party may file their applications after the deadline for entries of appearance but at least five days before the deadline for filing posthearing briefs in the investigation, and shall not be served with confidential business information.

PART 207--INVESTIGATIONS OF WHETHER INJURY TO DOMESTIC INDUSTRIES RESULTS FROM IMPORTS SOLD AT LESS THAN FAIR VALUE OR FROM SUBSIDIZED EXPORTS TO THE UNITED STATES

10. The authority citation for part 207 continues to read as follows:

Authority: 19 U.S.C. 1336, 1671-1677n, 2482, 3513.

11. Amend Sec. 207.7 to revise paragraph (a)(2) to read as follows:

§ 207.7 Limited disclosure of certain business proprietary information under administrative protective order.

(a) * * *

(2) Application. An application under paragraph (a)(1) of this section must be made by an authorized applicant on a form adopted by the Secretary or a photocopy thereof. A signed application shall be filed electronically. An application on behalf of a petitioner, a respondent, or another party must be made no later than the time that entries of appearance are due pursuant to §201.11 of this chapter. In the event that two or more authorized applicants represent one interested party who is a party to the investigation, the authorized applicants must select one of their number to be lead authorized applicant. The lead authorized applicant's application must be filed no later than the time that entries of appearance are due. Provided that the application is accepted, the lead authorized applicant shall be served with business proprietary information pursuant to paragraph (f) of this section. The other authorized applicants representing the same party may file their applications after the deadline for entries of appearance but at least five days before the deadline for filing posthearing briefs in the investigation, or the deadline for filing briefs in the preliminary phase of an investigation, or the deadline for filing submissions in a remanded investigation, and shall not be served with business proprietary information.

12. Amend Sec. 207.10(a) to revise the paragraph to read as follows:

§ 207.10 Filing of petition with the Commission.

(a) *Filing of the petition.* Any interested party who files a petition with the administering authority pursuant to section 702(b) or section 732(b) of the Act in a case in which a Commission determination under title VII

of the Act is required, shall file copies of the petition, including all exhibits, appendices, and attachments thereto, pursuant to §201.8 of this chapter, with the Secretary on the same day the petition is filed with the administering authority. A paper original and eight (8) true paper copies of a petition shall be filed. One copy of all exhibits, appendices, and attachments to the petition shall be filed in electronic form on CD-ROM, DVD, or other portable electronic format approved by the Secretary. If the petition complies with the provisions of §207.11, it shall be deemed to be properly filed on the date on which the requisite number of copies of the petition is received by the Secretary, provided that, if the petition is filed with the Secretary after 12:00 noon, eastern time, the petition shall be deemed filed on the next business day. The Secretary shall notify the administering authority of that date. Notwithstanding §201.11 of this chapter, a petitioner need not file an entry of appearance in the investigation instituted upon the filing of its petition, which shall be deemed an entry of appearance.

13. Amend Sec. 207.15 to read as follows:

§ 207.15 Written briefs and conference.

Each party may submit to the Commission on or before a date specified in the notice of investigation issued pursuant to §207.12 a written brief containing information and arguments pertinent to the subject matter of the investigation. Briefs shall be signed, shall include a table of contents, and shall contain no more than fifty (50) double-spaced and single-sided pages of textual material, and shall be filed electronically, and eight (8) true paper copies shall be submitted on the same business day (on paper measuring 8.5x11 inches, double-spaced and single-sided). Any person not a party may submit a brief written statement of information pertinent to the investigation within the time specified and the same manner specified for the filing of briefs. In addition, the presiding official may permit persons to file within a specified time answers to questions or requests made by the Commission's staff. If he deems it appropriate, the Director shall hold a conference. The conference, if any, shall be held in accordance with the procedures in §201.13 of this chapter, except that in connection with its presentation a party may provide written witness testimony at the conference; if written testimony is provided, eight (8) true paper copies shall be submitted. The Director may request the appearance of witnesses, take testimony, and administer oaths.

14. Amend Sec. 207.23 to read as follows:

§ 207.23 Prehearing Brief.

Each party who is an interested party shall submit to the Commission, no later than five (5) business days prior to the date of the hearing specified in the notice of scheduling, a prehearing brief. Prehearing briefs shall be signed and shall include a table of contents and shall be filed electronically, and eight (8) true paper copies shall be submitted on the same business day. The prehearing brief should present a party's case concisely and shall, to the extent possible, refer to the record and include information and arguments which the party believes relevant to the subject matter of the Commission's determination under section 705(b) or section 735(b) of the Act. Any person not an interested party may submit a brief written statement of information pertinent to the investigation within the time specified and the same manner specified for filing of prehearing briefs.

15. Amend Sec. 207.24 to revise paragraph (b) to read as follows:

§ 207.24 Hearing.

* * * * *

(b) *Procedures.* Any hearing shall be conducted after notice published in the Federal Register. The hearing shall not be subject to the provisions of 5 U.S.C. subchapter II, chapter 5, or to 5 U.S.C. 702. Each party shall limit its presentation at the hearing to a summary of the information and arguments contained in its prehearing brief, an analysis of the information and arguments contained in the prehearing briefs described in §207.23, and information not available at the time its prehearing brief was filed. Unless a portion of the hearing is closed, presentations at the hearing shall not include business proprietary information. Notwithstanding §201.13(f) of this chapter, in connection with its presentation, a party may provide witness testimony at the hearing; if written testimony is provided, eight (8) true paper copies shall be submitted. In the case of testimony to be presented at a closed session held in response to a request under §207.24(d), confidential and non-confidential versions shall be filed in accordance with §207.3. Any person not a party may make a brief oral statement of information pertinent to the investigation.

16. Amend Sec. 207.25 to read as follows:

§ 207.25 Posthearing briefs.

Any party may file a posthearing brief concerning the information adduced at or after the hearing with the Secretary within a time specified in the notice of scheduling or by the presiding official at the hearing. A posthearing brief shall be filed electronically, and eight (8) true paper copies shall be submitted on the same business day. No such posthearing brief shall exceed fifteen (15) pages of textual material, double-spaced and single-sided, when printed out on paper measuring 8.5x11 inches. In addition, the presiding official may permit persons to file answers to questions or requests made by the Commission at the hearing within a specified time. The Secretary shall not accept for filing posthearing briefs or answers which do not comply with this section.

17. Amend Sec. 207.28 to read as follows:

§ 207.28 Anticircumvention.

Prior to providing advice to the administering authority pursuant to section 781(e)(3) of the Act, the Commission shall publish in the Federal Register a notice that such advice is contemplated. Any person may file one written submission concerning the matter described in the notice no later than fourteen (14) days after publication of the notice. Such a statement shall be filed electronically, and eight (8) true paper copies shall be submitted on the same business day. The statement shall contain no more than fifty (50) double-spaced and single-sided pages of textual material, when printed out on paper measuring 8.5x11 inches. The Commission shall by notice provide for additional statements as it deems necessary.

18. Amend Sec. 207.30 to revise paragraph (b) to read as follows:

§ 207.30 Comment on information.

* * * * *

(b) The parties shall have an opportunity to file comments on any information disclosed to them after they have filed their posthearing brief pursuant to §207.25. A comment shall be filed electronically, and eight (8) true paper copies shall be submitted on the same business day. Comments shall only concern such information, and shall not exceed 15 pages of textual material, double-spaced and single-sided, when printed out on paper measuring 8.5x11 inches. A comment may address the accuracy, reliability, or probative value of such information by reference to information elsewhere in the record, in which case the

comment shall identify where in the record such information is found. Comments containing new factual information shall be disregarded. The date on which such comments must be filed will be specified by the Commission when it specifies the time that information will be disclosed pursuant to paragraph (a) of this section. The record shall close on the date such comments are due, except with respect to investigations subject to the provisions of section 771(7)(G)(iii) of the Act, and with respect to changes in bracketing of business proprietary information in the comments permitted by §207.3(c).

19. Amend Sec. 207.61 to add paragraph (e) to read as follows:

§ 207.61 Responses to notice of institution

* * * * *

(e) A document filed under this section shall be filed electronically, and eight (8) true paper copies shall be submitted on the same business day.

20. Amend Sec. 207.62 to revise paragraph (b)(2) to read as follows:

§ 207.62 Rulings on adequacy and nature of Commission review.

* * * * *

(b) * * *

(2) Comments shall be submitted within the time specified in the notice of institution. In a grouped review, only one set of comments shall be filed per party. Comments shall be filed electronically, and eight (8) true paper copies shall be submitted on the same business day. Comments shall not exceed fifteen (15) pages of textual material, double spaced and single sided, when printed out on paper measuring 8.5x11 inches. Comments containing new factual information shall be disregarded.

21. Amend Sec. 207.65 to revise it to read as follows:

§ 207.65 Prehearing briefs.

Each party to a five-year review may submit a prehearing brief to the Commission on the date specified in the scheduling notice. A prehearing brief shall be signed and shall include a table of contents. A prehearing brief shall be filed electronically, and eight (8) true paper copies shall be submitted (on paper measuring 8.5x11 inches and single-sided) on the same business day. The prehearing brief should present a party's case concisely and shall, to the extent possible, refer to the record and include information and arguments which the party believes relevant to the subject matter of the Commission's determination.

22. Amend Sec. 207.67 to revise paragraph (a) to read as follows:

§ 207.67 Posthearing briefs and statements.

(a) Briefs from parties. Any party to a five-year review may file with the Secretary a posthearing brief concerning the information adduced at or after the hearing within a time specified in the scheduling notice or by the presiding official at the hearing. A posthearing brief shall be filed electronically, and eight (8) true paper copies shall be submitted on the same business day. No such posthearing brief shall exceed

fifteen (15) pages of textual material, double spaced and single sided, when printed out on paper measuring 8.5x11 inches and single-sided. In addition, the presiding official may permit persons to file answers to questions or requests made by the Commission at the hearing within a specified time. The Secretary shall not accept for filing posthearing briefs or answers which do not comply with this section.

23. Amend Sec. 207.68 to revise paragraph (b) to read as follows:

§ 207.68 Final comments on information.

* * * * *

(b) The parties shall have an opportunity to file comments on any information disclosed to them after they have filed their posthearing brief pursuant to §207.67. Comments shall be filed electronically, and eight (8) true paper copies shall be submitted on the same business day. Comments shall only concern such information, and shall not exceed 15 pages of textual material, double spaced and single-sided, when printed out on paper measuring 8.5x11 inches and single-sided. A comment may address the accuracy, reliability, or probative value of such information by reference to information elsewhere in the record, in which case the comment shall identify where in the record such information is found. Comments containing new factual information shall be disregarded. The date on which such comments must be filed will be specified by the Commission when it specifies the time that information will be disclosed pursuant to paragraph (a) of this section. The record shall close on the date such comments are due, except with respect to changes in bracketing of business proprietary information in the comments permitted by §207.3(c).

PART 210—RULES OF ADJUDICATION AND ENFORCEMENT

24. The authority citation for part 210 continues to read as follows:

Authority: 19 U.S.C. 1333, 1335, and 1337.

25. Amend Sec. 210.4 to revise paragraph (f)(1) and to remove paragraph (f)(2) to read as follows:

§ 210.4 Written submissions; representations; sanctions.

* * * * *

(f) Specifications; filing of documents. (1)(i) Written submissions that are addressed to the Commission during an investigation or a related proceeding shall comply with § 201.8 of this chapter and the Commission's Handbook on Filing Procedures. Responses to a complaint, briefs, comments and responses thereto, compliance reports, motions and response or replies thereto, petitions and replies thereto, prehearing statements, and proposed findings of fact and conclusions of law and responses thereto provided for under §§ 210.4(d), 210.13, 210.14, 210.15, 210.16, 210.17, 210.18, 210.19, 210.20, 210.21, 210.23, 210.24, 210.25, 210.26, 210.33, 210.34, 210.35, 210.36, 210.40, 210.43, 210.45, 210.46, 210.47, 210.50, 210.52, 210.53, 210.57, 210.59, or 210.71; and submissions pursuant to an order of the presiding administrative law judge shall be filed electronically, and true paper copies of such submissions shall be filed by 12 noon, eastern time, on the next business day. Except for the above-listed documents and complaints, petitions, and requests filed under section 210.8, 210.75, 210.76, or 210.79, all other documents shall be filed electronically, and no paper copies will be required. If paper copies are required under this section, the required number of paper copies shall be governed by paragraph (f)(2) of this section. Typed

matter shall not exceed 6.5x9.5 inches using 11-point or larger type and shall be double-spaced between each line of text using the standard of 6 lines of type per inch. Text and footnotes shall be in the same size type. Quotations more than two lines long in the text or footnotes may be indented and single-spaced. Headings and footnotes may be single-spaced.

(ii) The administrative law judge may impose any specifications he deems appropriate for submissions that are addressed to the administrative law judge.

(2) Unless the Commission or this part specifically states otherwise,

(i) The original and two (2) true paper copies of each submission shall be filed if the investigation or related proceeding is before an administrative law judge, and

(ii) The original and eight (8) true paper copies of each submission shall be filed if the investigation or related proceeding is before the Commission, except that a submitter shall file the original and 6 copies of any exhibits filed with a request or petition for related proceedings under section 210.75, 210.76, or 210.79.

* * * * *

(4) A complaint, petition, or request filed under section 210.75, 210.76, or 210.79 shall be filed in paper form. An original and eight (8) true paper copies shall be filed in accordance with section 210.4(f). All exhibits, appendices, and attachments to the document shall be filed in electronic form on CD-ROM, DVD, or other portable electronic media approved by the Secretary.

26. Amend § 210.8 to revise paragraph (a) to read as follows:

§ 210.8 Commencement of preinstitution proceedings.

* * * * *

(a)(1) A complaint filed under this section shall be filed in paper form. An original and eight (8) true paper copies shall be filed in accordance with section 201.8(c). All exhibits, appendices, and attachments to the complaint shall be filed in electronic form on CD-ROM, DVD, or other portable electronic media approved by the Secretary.

(2) If the complainant is seeking temporary relief, the complainant must also file an original and eight (8) copies of the motion for temporary relief in accordance with section 201.8(c). All exhibits, appendices, and attachments to the motion shall be filed in electronic form on CD-ROM, DVD, or other portable electronic media approved by the Secretary.

By order of the Commission.

/s/
James R. Holbein
Secretary to the Commission

Issued: June 24, 2011