TABLE 1 TO § 194.306—Continued

Regulation	Applicability	Additional requirements or clarification
(www) Section 135.619 of this chapter.	Applies to powered-lift operators with 10 or more powered-lift, helicopters, or any combination thereof, assigned to the certificate holder's operations specifications for air ambulance operations.	
(xxx) Section 135.621 of this chapter.	Applies to powered-lift conducting operations in accordance with subpart L to part 135 of this chapter.	

Issued under authority provided by 49 U.S.C. 106(f), 44701(a), and 44703 in Washington, DC.

Brandon Roberts,

Executive Director, Office of Rulemaking.

[FR Doc. 2024–30331 Filed 1–2–25; 8:45 am]

BILLING CODE 4910–13–P

INTERNATIONAL TRADE COMMISSION

19 CFR Parts 201, 206, 207, and 210

Practice and Procedure: Rules of General Application, Safeguards, Antidumping and Countervailing Duty Investigations, and Section 337 Adjudication and Enforcement

AGENCY: International Trade Commission.

ACTION: Final rule.

SUMMARY: The United States International Trade Commission (''Commission'') amends its Rules of Practice and Procedure concerning rules of general application, safeguards, antidumping and countervailing duty investigations, and section 337 adjudication and enforcement. The amendments are necessary to make certain technical corrections, to clarify certain provisions, to harmonize different parts of the Commission's rules, and to address concerns that have arisen in Commission practice. The intended effect of the proposed amendments is to facilitate compliance with the Commission's Rules and improve the administration of agency proceedings.

DATES: Effective February 3, 2025. The rule amendments as stated herein shall apply to investigations and proceedings instituted subsequent to the aforementioned date.

FOR FURTHER INFORMATION CONTACT: Cathy Chen, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2392. 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 *https://www.usitc.gov.*

SUPPLEMENTARY INFORMATION:

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, including increasing the efficiency of its proceedings and reducing the burdens and costs on the parties and the agency. The Commission proposed amendments to its rules governing proceedings conducted under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), as well as Title VII of the Tariff Act of 1930, which comprises 19 U.S.C. 1671–1677n, sections 201–202, 204, and 406 of the Trade Act of 1974 (19 U.S.C. 2251–2252, 2254, and 2436), and sections 301–302 of the United States-Mexico-Canada Implementation Act (19 U.S.C. 4551–4552).

This rulemaking was undertaken to make certain technical corrections, to clarify certain provisions, to harmonize different parts of the Commission's rules, and to address concerns that have arisen in Commission practice. The intended effect of the amendments is to facilitate compliance with the Commission's Rules and improve the administration of agency proceedings. The Commission is concurrently considering additional amendments to its rules to be reflected in future Notices of Proposed Rulemaking.

The current rulemaking is consistent with the Commission's plan to ensure that the Commission's rules are effective, as detailed in the Commission's Plan for Retrospective Analysis of Existing Rules, published February 14, 2012, and found at 77 FR 8114. This plan was issued in response to Executive Order 13579 of July 11, 2011, and established a process under which the Commission will periodically review its significant regulations to determine whether any such regulations should be modified, streamlined, expanded, or repealed so as to make the agency's regulatory program more effective or less burdensome in achieving regulatory objectives. This process includes a general review of existing regulations in 19 CFR parts 201, 206, 207, and 210.

Although the Commission considers these rules to be procedural rules which are excepted from notice-and-comment under 5 U.S.C. 553(b)(3)(A), the Commission invited the public to comment on all the proposed rules amendments consistent with its ordinary practice. This practice entails the following steps: (1) publication of a notice of proposed rulemaking (''NPRM''); (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 (30) days prior to their effective date. The Commission published a NPRM in the **Federal Register** at 89 FR 22012–39 (Mar. 28, 2024), proposing to amend the Commission's Rules of Practice and Procedure concerning rules of general application, safeguards, antidumping and countervailing duty investigations, and section 337 adjudication and enforcement.

The NPRM requested public comment on the proposed rules within sixty (60) days of publication of the NPRM, *i.e.,* by May 20, 2024. The Commission received four sets of comments from organizations or law firms, including one each from the ITC Trial Lawyers Association (''ITCTLA''); the Customs and International Bar Association (''CITBA''); the ITC Modernization Alliance (''IMA''); and the law firm of Sterne, Kessler, Goldstein & Fox P.L.L.C (''Sterne Kessler''). The IMA is a coalition of companies in the technology, telecom, and automotive industries that have participated in section 337 investigations, including Amazon, Apple, Comcast, Google, HP, Intel, Microsoft, and Samsung, among others.

The Commission has carefully considered all comments that it received. The Commission's response is provided below in a section-by-section analysis. The Commission appreciates

the time and effort of the commentators in preparing their submissions.

Regulatory Analysis of Proposed Amendments to the Commission's Rules

The Commission has determined that these 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 proposed rulemaking is required under 5 U.S.C. 553(b) or any other statute. Although the Commission chose to publish a notice of proposed rulemaking, these 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 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 rules will not result in expenditure in the aggregate by State, local, and Tribal governments, or by the private sector, of $100,000,000 or more in any one year, and will not significantly or uniquely affect small governments, as defined in 5 U.S.C. 601(5).

The 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. 3504(h)).

Overview of the Amendments to the Regulations

Many of the final rules set forth in this notice are identical to the correspondingly numbered proposed rules published in the NPRM on March 28, 2024. 89 FR 22012–39 (Mar. 28, 2024). For many of the proposed rules, only positive comments were received or no comment was received. Specifically, the commentators generally support replacing gender-specific language with gender-neutral language in the rules. These rules are: §§ 201.3a, 201.8, 201.15, 201.20, 201.32, 207.10, 207.15, 210.4, 210.12, 210.14, 210.15, 210.20, 210.25, 210.28, 210.31, 210.32, 210.34, 210.37, 210.49, 210.65, and 210.67. The commentators also generally support the elimination of paper copies and the permanent implementation of e-filing requirements. These rules are: §§ 201.8, 201.12, 201.14, 206.2, 206.8, 207.10, 207.15, 207.23, 207.25, 207.28, 207.30, 207.61, 207.62, 207.65, 207.67, 207.68, 210.4, 210.8, 210.14, and 210.75. The Commission has therefore determined to adopt the proposed gender-neutral language and e-filing requirements in the rules as stated in the NPRM. The Commission finds no reason to change those proposed rules on its own (except for certain technical, non-substantive changes) before adopting them as final rules. Thus, the preamble to those unchanged proposed rules is as set forth in the section-by-section analysis of the proposed rules found in the NPRM 89 FR at 22012–39.

The section-by-section analysis below includes a discussion of all modifications suggested by the commentators. As a result of some of the comments, the Commission has determined to modify one (1) of the proposed amendments from the proposals in the NPRM. Regarding the provisions of § 210.12 that govern the content, sufficiency, and submission of a complaint alleging a violation of section 337, the Commission has determined to remove the language ''of each element'' from paragraph (a)(8)(i) to address the ITCTLA's concern that different jurisdictions may apply different legal standards for unfair acts alleged under section 337(a)(1)(A). The Commission agrees with the ITCTLA that section 337(a)(1)(A) broadly prohibits ''[u]nfair methods of competition and unfair acts,'' and thus the proposed amendments to paragraph (a)(8)(i) should be applied in a manner that balances the Commission's goals of making clear that bare assertions of unfair acts or methods of competition are insufficient with the need to allege sufficient information to enable the Commission to determine whether a cause of action exists. The Commission has also determined to make four (4) additional changes for consistency or to address its recent precedent. Regarding the provisions of § 207.10 governing filing of petitions with the Commission, the Commission has determined to substitute the language ''he or she'' from paragraph (b)(1)(i) with ''the Secretary.'' Regarding the provisions of § 210.14 governing consolidation of investigations, the Commission has determined to substitute the language ''he or she'' from paragraph (g) with ''the administrative law judge.'' The Commission has also determined to substitute the language ''its standing to'' in § 210.12 (g)(9)(iv) and (g)(10)(ii) to ''establish that it can bring pursuant to § 210.12(a)(7).'' The Commission has recently clarified that § 210.12(a)(7) informs who may bring a complaint.

The analysis below refers to the rules as they appeared in the NPRM. The commentary in the NPRM published on March 28, 2024, is considered part of the preamble to the final rules to the extent that such commentary is not inconsistent with the discussion below. *See* 89 FR at 22012–39.

Section-by-Section Analysis

Part 201—Rules of General Application

Subpart B—Initiation and Conduct of Investigations

Section 201.15

Section 201.15 provides general provisions for attorneys and others practicing and appearing before the Commission. The Commission proposed in the NPRM to revise paragraph (a) to indicate that no separate application for admission to practice before the Commission is required. It also proposed revising the paragraph to provide that attorneys practicing or desiring to practice before the Commission must maintain a bar membership in good standing in any State of the United States or the District of Columbia and must report any change in status including, but not limited to, disbarment or suspension by any bar association, court, or agency. The Commission welcomed comments on whether these requirements should be mandatory or permissive and how the Commission should use this information. The Commission further proposed that non-attorneys desiring to appear before the Commission may be required to show that they are acceptable in the capacity in which they seek to appear.

The Commission also proposed to revise paragraph (b) to clarify that the restrictions on a former officer or employee of the Commission from practicing or appearing before the Commission in connection with a matter which was pending in any manner or form in the Commission during that person's employment applies to both former attorney and non-attorney employees of the Commission.

Additionally, for the reasons noted above regarding gender neutral language amendments, under § 201.3a(c), the Commission proposed to change certain

gender-specific language in § 201.15(a) and (b) to remove several references to ''he,'' ''him,'' and ''his.'' No substantive changes are intended.

Comments

The CITBA supports requiring all attorneys appearing before the Commission to maintain good standing and active bar membership in at least one U.S. state or the District of Columbia. It also supports mandatory reporting of any change in that status by the attorney to the Commission and by the Commission to such bars, including but not limited to disbarment or suspension by any bar association, court, or agency. The CITBA submits that ''the Commission has a need to know and an obligation to report such information to authorities in a position to take appropriate actions beyond restricting the attorneys' appearance in Commission proceedings.''

As discussed above in the Overview of the Amendments to the Regulations, the commentators generally support these changes as well as replacing gender-specific language with gender-neutral language in the rules.

Commission Response

No commentator opposes the proposed changes to § 201.15. The Commission has therefore determined to adopt the proposed rule as stated in the NPRM. The Commission does not include in the rule a requirement that the Commission report the status or any change in status of an attorney to any bar association, court, or agency, though retains the discretion to do so in appropriate circumstances. It is not clear that CITBA is advocating for such a rule and in any event has not stated the basis for its assertion that the Commission has an obligation to report such information nor is the Commission aware of such an obligation.

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

Subpart B—Preliminary Determinations

Section 207.15

Section 207.15 provides for written briefs and a conference in preliminary phase antidumping and countervailing duty investigations. Consistent with the proposed amendments to § 201.8, the Commission proposed to eliminate the requirement for submission of paper copies of briefs. The Commission proposed to only require submission of paper copies of written witness testimony when it is provided on the day of the conference, but not when it is filed electronically prior to the date of the conference. For the reasons noted in its explanation for the proposed change under § 201.3a(c), the Commission proposed to change certain gender-specific language to remove a reference to ''he.'' The Commission also proposed to remove language related to electronic filing since that requirement is in § 201.8 and to replace the term ''Director'' with ''presiding official'' for consistency.

Comments

CITBA comments that permitting parties to either file witness testimony electronically the day before a conference or submit paper copies of written witness testimony the day of the conference would create a perverse incentive for parties to only submit paper copies the day of the conference, to avoid revealing their testimony to opposing parties prior to the conference. CITBA urges the Commission to adopt a requirement that written witness testimony must be filed by a deadline of 4 p.m. the day before a conference for the submission.

Commission Response

The proposed amendments to § 207.15 would give parties, who desire to submit written testimony, the option of submitting their written witness testimony electronically either before the date of the conference, unaccompanied by paper copies, or on the day of the conference, but with the added requirement that nine (9) paper copies of the witness testimony also be filed. This is a change from the current rule which allows for the submission of written testimony but only through the provision of paper copies the day of the conference. The purpose of this change is to provide parties greater flexibility and eliminate the requirement for paper copies for those parties who wish to submit written testimony but find providing paper copies burdensome. The proposed amendments to § 207.15, however, would not alter the current rule that a party may provide written witness testimony in connection with its presentation at the conference but is not required to do so. The Commission recognizes that some witnesses may choose to submit paper copies the day of the conference, or not to file written testimony at all, to avoid revealing their testimony in advance. The Commission, however, encourages parties where possible to file witness testimony electronically no later than the day before the conference. Filing witness testimony before the conference is helpful to Commission staff, because having an advanced opportunity to review the testimony facilitates staff's understanding of the issues to be addressed during the conference. Written witness testimony is also helpful to Commission staff as they may follow along as testimony is presented and note areas for questions. The Commission, however, has chosen not to impose a requirement that witness testimony be filed the day before the conference and instead to adopt a rule that provides flexibility for parties to choose to file testimony either electronically no later than the day before the conference, or the same day with paper copies.

Subpart C—Final Determinations, Short Life Cycle Products

Section 207.24

Section 207.24 provides procedures for hearings. The Commission proposed to only require submission of paper copies of written witness testimony when it is provided on the day of the hearing, but not when it is filed electronically prior to the date of the hearing. The Commission proposed to delete the reference to § 201.13(f), consistent with the clarifications proposed for that section.

Comments

CITBA comments that permitting parties to either file witness testimony electronically the day before a hearing or submit paper copies of written witness testimony the day of the hearing would create a perverse incentive for parties to only submit paper copies the day of the hearing, to avoid revealing their testimony to opposing parties prior to the conference. CITBA urges the Commission to adopt a requirement that written witness testimony must be filed by a deadline of 4 p.m. the day before a hearing for the submission of all witness testimony.

Commission Response

The proposed amendments to § 207.24 would give parties the option of submitting written witness testimony electronically either before the date of the hearing, unaccompanied by paper copies, or on the day of the hearing, but with the added requirement that nine paper copies of the witness testimony also be filed. This is a change from the current rule which allows for the submission of written testimony but only through the provision of paper copies the day of the hearing. The purpose of this change is to provide parties greater flexibility and eliminate the requirement for paper copies for those parties who wish to submit

written testimony but find providing paper copies burdensome. The proposed amendments, however, would not alter the current rule that a party may provide written witness testimony in connection with its presentation at the hearing but is not required to do so. The Commission recognizes that some witnesses may choose to submit paper copies the day of the hearing, or not to file written testimony at all, to avoid revealing their testimony in advance. The Commission, however, encourages parties where possible to file witness testimony electronically no later than the day before the hearing. Filing witness testimony before the hearing is helpful to Commissioners and staff, because having an advanced opportunity to review the testimony facilitates Commissioners' and staff's understanding of the issues to be addressed during the hearing. Witness testimony is also helpful to Commissioners and staff as they may follow along as testimony is presented and note areas for questions. The Commission, however, has chosen not to impose a requirement that witness testimony be filed the day before the hearing and instead to adopt a rule that provides flexibility for parties to choose to file testimony either electronically no later than the day before the hearing, or the same day with paper copies.

Subchapter C—Investigations of Unfair Practices in Import Trade (Section 337)
Part 210—Adjudication and Enforcement

Subpart B—Commencement of Preinstitution Proceedings and Investigations

Section 210.10

Section 210.10 provides the general provisions for institution of an investigation. The Commission proposed in the NPRM to amend paragraph (a)(1) of this section to add that the Commission will not institute an investigation within thirty (30) days after the complaint is filed if the Commission determines that the complaint or any exhibits or attachments thereto contain excessive designations of confidentiality that are not warranted under §§ 201.6(a) and 210.5 of this chapter. Proposed paragraph (a)(7) explains that, under such circumstances, the Commission may require the complainant to file new nonconfidential versions of the aforesaid submissions in accordance with § 210.8 and may determine that the thirty (30)-day period for deciding whether to institute an investigation shall begin to run anew from the date that the new nonconfidential versions are filed with the Commission. This is consistent with existing § 210.55(b) of this chapter, which contains similar provisions pertaining to complaints accompanied by a motion for temporary relief, and was also proposed to be added to § 210.75, which concerns enforcement complaints.

Comments

The ITCTLA supports the proposed amendments to § 210.10 and recognizes that the proposed amendments ''put[ ] stakeholders on notice of a specific mechanism the Commission may employ to curtail CBI designation abuses.'' The ITCTLA noted that, although the term ''excessive'' is not ''clearly defined,'' it recognizes that the suggested language ''is consistent with long-standing rules and practice and can be interpreted in that context.'' The ITCTLA thus views the proposed changes as ''codifying existing Commission practices targeting excessive redactions and causing few, if any, delays to institution of a complaint.''

Sterne Kessler proposes including an explicit statement that any decision to not institute will occur only ''after appropriate notice to correct the excessive designations'' has been provided to complainant.

The ITCTLA and Sterne Kessler offer the same comments regarding confidentiality designations in § 210.75.

Commission Response

The Commission agrees with the ITCTLA that the proposed amendments to §§ 210.10 and 210.75 implement existing Commission practice regarding excessive designations of confidentiality as set forth under §§ 201.6(a) and 210.5 of this chapter. The Commission considers Sterne Kessler's concern to be adequately addressed by the proposed addition of paragraph (a)(7) in § 210.10, which provides that the Commission may require the complainant to file new nonconfidential versions of the submissions determined to contain excessive designations of confidentiality in accordance with § 210.8, and that the thirty (30)-day period for the Commission to decide whether to institute an investigation may begin to run anew from the date that the new nonconfidential versions are filed with the Commission. As the ITCTLA recognizes, a complainant can seek guidance from the Office of Unfair Import Investigations during the pre-filing period regarding redactions to a complaint or any exhibits or attachments thereto. The Commission has therefore determined to adopt the proposed rules for §§ 210.10 and 210.75 as stated in the NPRM.

Subpart C—Pleadings

Section 210.12

Section 210.12 contains the provisions governing the content, sufficiency, and submission of a complaint alleging a violation of section 337. The Commission proposed in the NPRM to make several amendments to the existing rule. Specifically:

For the reasons discussed in the NPRM in connection with § 201.8, the Commission proposed to replace ''agent'' in paragraph (a)(1) with ''corporate representative'' and to amend certain gender-specific language in paragraphs (a)(1) and (j). The Commission proposed in the NPRM to amend § 210.12(a)(1) to require a complaint to include email addresses for the complainant and its duly authorized officer, attorney, or corporate representative who has signed the complaint. The proposed amendment to § 210.12(a)(3) removes reference to the Tariff Schedules of the United States that applied prior to January 1, 1989. The proposed amendment to § 210.12(a)(5) expands the required disclosure to include information about arbitrations concerning the alleged unfair methods of competition and unfair acts, or the subject matter thereof.

The Commission proposed in the NPRM to amend § 210.12(a)(6)(i) by reorganizing the rule to more clearly distinguish between the information required to support a complaint based on an alleged domestic industry that exists and the information required to support a complaint based on an alleged domestic industry in the process of being established for complaints that allege a violation based on infringement of a U.S. patent, or a federally registered copyright, trademark, mask work, or vessel hull design. The Commission also proposed correcting typographical errors in spacing and punctuation in paragraphs 210.12(a)(6)(ii) and 210.12(a)(6)(iii).

The Commission proposed amending § 210.12(a)(7) by removing an extraneous ''and'' at the end of paragraph (a)(7).

The Commission proposed amending § 210.12(a)(8)(i) and (ii) to clarify that, for complaints based on an unfair act or method of competition under section 337(a)(1)(A), the complaint's statement of facts should include factual allegations that would show the existence of each element of the cause of action underlying the unfair act or method of competition. The purpose of these amendments would be to make

clear that bare assertions of unfair acts or methods of competition without factual allegations supporting all elements of a cognizable legal theory do not meet the requirements of § 210.12(a)(2). For example, a complaint based on trade secret misappropriation would have to include factual allegations sufficient to establish every element of a trade secret misappropriation claim. The Commission also proposed correcting the terminal punctuation for § 210.12(a)(8)(ii) and requires that the complaint state the elements of the proposed legal theory.

The Commission proposed amending § 210.12(a)(9)(v) by adding a requirement to disclose known domestic patent applications that correspond to the patents asserted in the investigation in addition to the existing required disclosure of foreign patent applications. The Commission expressed interest in comments from the public regarding the burden this amendment would place on complainants.

The Commission proposed correcting the terminal punctuation for § 210.12(a)(9)(xi) and adds an ''and'' at the end of § 210.12(a)(10)(i) for grammatical purposes.

The Commission proposed amending § 210.12(a)(11) by adding a requirement that a complaint seeking a general exclusion order must plead factual allegations sufficient to show that such an order is available under the requirements of section 337(d)(2). The Commission noted that this information has been voluntarily included in various complaints filed under the current rules. This proposed amendment would formalize the requirement to include such information in complaints going forward. The Commission believes this amendment will lead to greater efficiency in investigations where general exclusion orders are requested. The proposed rule also adds an ''and'' at the end of § 210.12(a)(11)(ii) for grammatical purposes.

The Commission proposed amending § 210.12(b) to change the word ''all'' to ''exemplary,'' as the Commission recognizes that it might not be feasible to submit physical samples of all imported articles.

The Commission proposed amending paragraphs 210.12(c)–(h) to remove the reference to the ''original'' complaint because the rules propose to remove paper filings. The Commission proposed amending § 210.12(c)(2) by eliminating the requirement that the complaint be accompanied by the applicable pages of each technical reference mentioned in the prosecution history of each involved U.S. patent. The Commission believes that this requirement is no longer necessary given the availability of such materials online. The Commission also proposed amending § 210.12(c) by removing the requirement in subparagraph (2) for four (4) copies of the patent, because it is duplicative of § 210.12(a)(9)(i), and by adding new subparagraph (2) requiring one copy of each prosecution history of any priority applications for the asserted patents to accompany a patent-based complaint.

Comments

Regarding the proposed amendments to paragraphs 210.12(a)(8)(i) and (ii), the ITCTLA is concerned that potentially different legal standards among different judicial circuits for what constitutes an unfair act subject to section 337(a)(1)(A) may ''make it difficult for a complainant to be certain that it is adequately including factual allegations and legal theories that would show the existence of each element of the cause of action,'' especially where the Commission has not previously set out a standard for a violation of that cause of action. The ITCTLA notes that, unlike patent infringement cases, which are reviewed by a single appeals court, non-patent ''unfair acts are reviewed by appellate courts throughout the United States resulting in standards that can vary among circuits.'' As such, the ITCTLA is ''concerned that the proposed amendment could lead to non-institution of claims for complaints that provide a good faith attempt to articulate the factual and legal elements of a particular cause of action.'' It also believes ''[t]his uncertainty could [ ] discourage parties from bringing new or novel causes of action to the Commission.'' Thus, while the ITCTLA ''supports efforts to require specificity in pleading (a)(1)(A) claims,'' it urges the Commission to apply the rule in a manner consistent with section 337(a)(1)(A)'s ''goal of broadly permitting parties to allege violations of Section 337 for unfair methods of competition and unfair acts.''

Sterne Kessler supports adding the requirement in paragraph (a)(9)(v) to disclose known domestic patent applications that correspond to the patents asserted in the investigation. It believes this requirement is ''especially critical for non-public applications filed within the eighteen-month publication window or for which a non-publication request was filed.'' It notes that ''[a]ny such information could be treated as Confidential Business Information and presumably is available to complainants despite the additional burden associated with its disclosure.'' Sterne Kessler also proposes amending §§ 210.12(a)(9)(viii) and (ix), and 210.13(b)(1), to clarify that respondents ''are required to disclose non-infringement and invalidity claim charts with their Response.''

The IMA notes that, while having no specific comments on or issues with the proposed amendments to § 210.12, it has concerns which are not addressed by the proposed amendments. In particular, the IMA recommends amending §§ 210.12(a)(9) and 210.13(b) to add a requirement for parties to disclose the existence of third-party litigation funding, which it asserts has been on the rise according to data it presents regarding patent litigation in district courts. The IMA believes disclosure of whether third-party litigation funding is involved in a particular case, and the transparency it brings, are important to allow the Commission to accurately assess conflicts, ensure fairness to the parties in a dispute, and assess the effect of an exclusion order on the public interest.

Commission Response

The ITCTLA's concerns about the potentially differing legal standards applied by different judicial circuits for unfair acts subject to section 337(a)(1)(A) appear to be limited to § 210.12(a)(8)(i) and do not concern the proposed amendments to paragraph (a)(8)(ii). The Commission agrees with the ITCTLA that section 337(a)(1)(A) generally prohibits ''[u]nfair methods of competition and unfair acts,'' and thus the proposed amendments to paragraph (a)(8)(i) should be applied in a manner that addresses the Commission's goals of making clear that bare assertions of unfair acts or methods of competition are insufficient and the need to allege sufficient information to enable the Commission to determine whether a cause of action is properly pled. Upon consideration of the proposed rule, the Commission has determined to remove the language ''of each element'' from paragraph (a)(8)(i). The Commission believes this change addresses the ITCTLA's concerns that different jurisdictions may articulate different standards for certain causes of action.

No commentator opposes adding the requirement in paragraph (a)(9)(v) to disclose known domestic patent applications that correspond to the patents asserted in the investigation. The Commission has therefore determined to adopt the remainder of proposed rule 210.12 as stated in the NPRM.

The Commission has determined not to consider at this time Sterne Kessler's suggestion to require respondents to disclose non-infringement and

invalidity claim charts with their Response because it was not part of the NPRM. The Commission notes the proposal and may consider it in future rulemakings.

The IMA's proposal to require parties to disclose the existence of third-party litigation funding in an investigation was not part of the NPRM. The Commission notes the proposal and may consider it in future rulemakings.

Section 210.14

Section 210.14 generally provides for amendments to the pleadings and notice of investigation. Paragraph (a) provides for pre-institution amendments to the complaint and notice of investigation, while paragraph (b) provides for post-institution amendments.

The Commission proposed amending the heading of this section to indicate the existing severance provision under paragraph (h). The Commission further proposed to add the requirement that amended complaints, exhibits, and supplements thereto, filed under this section shall be filed electronically with the Secretary pursuant to § 210.4.

The Commission further proposed to amend paragraphs (a) and (b)(1) to clarify that any proposed amendment to the complaint and notice of investigation that introduces an additional unfair act or an additional respondent must comply with the content requirements of § 210.12(a). *See Certain Skin Rejuvenation Resurfacing Devices, Components Thereof, and Products Containing the Same,* Inv. No. 337–TA–1262, Notice of Commission Decision to Review, and on Review, to Vacate and Remand an Initial Determination Granting Complainants' Motion to Amend the Complaint and Notice of Investigation (Sept. 22, 2021). For example, an amendment to add a cause of action under section 337(a)(1)(A) to an investigation instituted under section 337(a)(1)(B) of that Act would be required to contain all of the information required in the relevant portions of § 210.12(a) of the Commission's Rules. The purpose of the amendment is to ensure that the public, all affected parties, and/or new respondents have adequate notice of the scope of any substantive amendment to the complaint and notice of investigation.

For § 210.14(b)(1), the requirement is also intended to provide the presiding administrative law judge and the Commission with the information needed to determine whether good cause exists to allow the proposed amendment after institution. This section is also amended to make clear that the complainant shall serve the motion to amend the complaint and notice of investigation on any new proposed respondent and on all current respondents. It also is amended to require the Commission to serve the amended complaint and notice of investigation on any new respondent and the embassies of the relevant foreign countries after the Commission determines to affirm or not review an initial determination granting the motion. Further, this section is amended to require complainants to file service copies of the complaint and exhibits, including paper service copies of the amended complaint, for each new respondent and for the embassy of the country in which the respondent is located by the close of the next business day after the amended complaint is filed.

Section 210.14(b)(1) currently lacks any indication of whether and when a response to an amended complaint and/or notice of investigations is required. The absence of such guidance has led to inconsistent practice across investigations. Accordingly, the Commission proposed to amend § 210.14(b)(1) by clarifying that responses from respondents currently in the investigation are required, and that they shall be due within ten (10) days of the service of the order (for amendments only to the complaint), or of the Commission determination affirming or not reviewing an initial determination (for amendments to the complaint and notice of investigation), as applicable, that grants a motion to amend the complaint and/or notice of investigation. The Commission intends that any response to an amended complaint and/or notice of investigation should conform to the same content requirements applicable to a response to an initial complaint and notice of investigation, as provided in § 210.13(b). The Commission also proposed specifying that if any additional respondents are added to the investigation, they shall have twenty (20) days from the date of service of the amended complaint and notice of investigation to file a written response.

Section 210.14(g) currently allows two or more investigations to be consolidated if: (1) the Commission consolidates the investigations; or (2) the presiding administrative law judge consolidates investigations before that judge. There is no mechanism under the current rule for investigations before different administrative law judges to be consolidated absent Commission intervention. The proposed amendment to § 210.14(g) would address this by providing that the Chief Administrative Law Judge may consolidate investigations that are before different presiding administrative law judges and assign an administrative law judge to preside over the consolidated investigations.

Comments

Sterne Kessler recommends requiring complainants to provide the Commission (and, accordingly, all parties to the investigation, as well as the public) with a redlined copy of any amended pleadings, in addition to a clean copy of the amended pleadings under both paragraphs (a) and (b).

Commission Response

The Commission does not adopt Sterne Kessler's recommendation to require complainants to provide a redlined copy of the amended pleadings. Because amended pleadings are filed electronically with the Secretary, parties can easily generate a redlined copy of the amended pleadings.

Subpart E—Discovery and Compulsory Process

Section 210.28

Section 210.28 concerns the procedures governing depositions taken during Commission investigations. Current § 210.28(a) limits the number of fact depositions that each party, including the Commission investigative attorney, may take in an investigation. The Commission is aware that disputes have arisen over whether depositions of non-party witnesses count towards the limits in § 210.28(a). In response to those disputes, the Commission proposed to amend the rule by adding a sentence clarifying that party and non-party depositions, alike, count toward the limits recited in paragraph (a). A notice for a corporation to designate deponents, however, shall continue to count as only one deposition and shall include all corporate representatives so designated to respond.

The Commission further proposed to change the limit for complainants as a group from five (5) fact depositions per respondent to a total of twenty (20) fact depositions, regardless of the number of respondents. This amendment effects a simplification of the current rule, which permits a complainant group to take the greater of either twenty depositions or five per respondent. It also provides for the same number of fact depositions for complainants as a group and respondents as a group. The amendment does not abrogate the presiding administrative law judge's authority to increase the number of fact depositions allowed on a showing of good cause by

any party. Thus, the Commission does not anticipate that the proposed amendment will foreclose a complainant group from taking additional depositions if good cause to do so exists.

While current § 210.28 limits the number of depositions that may be taken, there is no provision specifying the maximum permissible length of a deposition. By contrast, Federal Rule of Civil Procedure 30 presumptively limits depositions to one (1) day of seven (7) hours. The Committee Notes to the 2000 Amendments to Federal Rule of Civil Procedure 30(d) explain that the one-day limitation was designed to restrain undue cost and delay that can result from overlong depositions. Fed. R. Civ. P. 30(d) (2000 Advisory Committee Note). The Committee Notes explain that the rule contemplates reasonable breaks throughout the day and that only time occupied by the actual deposition will be counted. They further explain that, for purposes of the durational limit, the deposition of each person designated in response to a deposition noticed under Federal Rule of Civil Procedure 30(b)(6) should be considered a separate deposition. *Id.*

The Commission proposed to amend § 210.28 by adding a new paragraph (b), which includes a presumptive durational limitation of one (1) day of seven (7) hours to depositions conducted under that section consistent with Federal Rule of Civil Procedure 30. The Commission intends for the limitation to control in the absence of an agreement among the parties or an order of the presiding administrative law judge otherwise. The amended rule requires the presiding administrative law judge to grant additional time as needed, to the extent consistent with the provisions of paragraphs 210.27(b) through 210.27(d), which govern the scope of and limitations on discovery, respectively. The reference to those paragraphs is intended to ensure that additional time is only granted in proportion to the needs of the investigation. The Commission intends for the same computational rules to apply as are laid out in the Committee Notes to the 2000 Amendments to Federal Rule of Civil Procedure 30. Specifically, only time actually spent conducting the deposition will count towards the seven (7) hour limit, and for the purpose of the durational limit each individual designated in response to a deposition notice directed to a party will be considered a separate deponent. Nothing in this proposed rule should be construed to alter the provision in paragraph (a) that specifies that each notice of deposition to a party is counted as a single deposition for purposes of calculating the total number of depositions that may be taken by a party.

Due to the addition of new paragraph (b), the Commission proposed to redesignate current paragraphs (b) through (i) as paragraphs (c) through (j), respectively.

Current paragraph (f), which in the proposed rule would be redesignated as paragraph (g), requires the party taking a deposition to promptly serve a copy of the deposition transcript on the Commission investigative attorney. As written, current paragraph (f) could be read as not requiring service of exhibits marked during the deposition. In order to remove that ambiguity, the Commission proposed amending current paragraph (f), redesignated as paragraph (g), to make clear that copies of the deposition exhibits must be included when the transcript is served on the Commission investigative attorney.

For the reasons noted above under § 210.4, the Commission also proposed to amend certain gender-specific language in current paragraphs (c) and (h)(4), redesignated as paragraphs (d) and (i)(4), respectively, by replacing references to ''he'' and ''him.'' The Commission also proposed to add that testimony may be taken by ''videoconference'' to current paragraph (c) (redesignated as (d)).

Comments

The ITCTLA cautions against clarifying that party and non-party depositions, alike, count toward the limits recited in paragraph (a) for two reasons. First, it believes including non-party depositions in the twenty-deposition limit under paragraph (a) would ''impede the development of a fulsome evidentiary record on a number of issues, particularly those relating to the public interest,'' but also issues relating to domestic industry, patent validity, and infringement. For example, the ITCTLA explains that disputes over validity often require the parties to obtain evidence from third parties regarding prior art references and potential prior public uses. Moreover, it explains that non-party discovery may be needed to fully understand the products accused of infringement and the domestic industries of third parties upon which a complainant relies, and the impact of the public interest considerations on non-parties. The ITCTLA further believes that applying a twenty-deposition limit to complainants as a group regardless of the number of respondents could impede the ability to obtain sufficient evidence against each respondent in investigations involving more than four respondents. This is a particular concern ''in cases involving widespread infringement, particularly general exclusion order cases.''

Second, the ITCTLA states that requiring approval before exceeding the deposition limit ''will either add to the motion practice before the Administrative Law Judges or not be effective within the short discovery period in ITC proceedings.'' In particular, it explains that the need for non-party discovery often is not evident until some discovery is completed, or initial contentions disclosed, at which point there is little time remaining [in] the fact discovery period.'' The ITCTLA warns that the proposed rule could cause parties to routinely file motions for increased depositions at the outset of each case.

Concerning new paragraph (b), the ITCTLA recommends exempting translated depositions from the presumptive seven-hour limit because they ''commonly take longer (often 1.5 to 2 times normal deposition lengths) to complete.'' Sterne Kessler recommends increasing the presumptive durational limit for depositions to ten (10) hours if, for example, an interpreter is required to translate the deposition.

Commission Response

The Commission declines to adopt the ITCTLA's suggestion to remove the twenty-deposition limit under paragraph (a) or to exclude non-party depositions from that limit. While the Commission agrees with the ITCTLA that non-party discovery may be important to certain issues that arise in section 337 investigations, this does not provide a basis to distinguish depositions of party witnesses from a non-party witness for purposes of this rule. The Commission notes that Rule 30(a)(2)(A)(i) of Federal Rule of Civil Procedure also does not distinguish between party and non-party witness depositions. In addition, the proposed change to § 210.28(a) allows twice as many depositions as Rule 30(a)(2)(A)(i) of Federal Rule of Civil Procedure, which establishes a limitation of ten (10) depositions being taken by a party unless leave of court is obtained. As for the ITCTLA's concern that requiring approval from the administrative law judge before exceeding the twenty-deposition limit will ''not be effective within the short discovery period in ITC proceedings,'' it is precisely because of that short period that a clear limit on the number of depositions at the outset of an investigation is necessary. Thus, the Commission believes that the proposed rule provides an adequate number of

depositions for most investigations and provides the administrative law judge with appropriate flexibility in increasing the number of depositions as appropriate. Therefore, the final rule is unchanged from the proposed rule.

Regarding the ITCTLA's and Sterne Kessler's concerns about the need for additional time if an interpreter is required to translate the deposition, the Commission declines to exempt depositions using an interpreter or impose a predetermined durational limit of ten (10) hours for translated depositions. Rather, the proposed rule encourages parties to agree to a reasonable length for translated depositions. Absent an agreement and in keeping with the Federal rules, the Commission notes that parties may seek additional time for depositions beyond the default seven (7) hour limit by order of the presiding administrative law judge. Indeed, the notes to Federal Rule of Civil Procedure 30 indicate the need for an interpreter is one circumstance justifying an order extending deposition time limits.

Section 210.30

Section 210.30 is similar to Federal Rule of Civil Procedure 34 and provides procedures governing requests for production or inspection of documents and things, as well as entry upon land, during discovery. Section 210.30, like Federal Rule of Civil Procedure 34, includes provisions permitting a party from whom information is requested to object to the request. Current § 210.30 differs from Federal Rule of Civil Procedure 34, however, in that it does not require an objecting party to state whether it is withholding any responsive materials on the basis of its objection. As explained in the Committee Notes to the 2015 amendments to Federal Rule of Civil Procedure 34, which added the requirement, the purpose of the amendment was to ''end the confusion that frequently arises when a producing party states several objections and still produces information, leaving the requesting party uncertain whether any relevant and responsive information has been withheld on the basis of the objections.'' Fed. R. Civ. P. 34 Advisory Committee Notes—2015 Amendment. For similar reasons, the Commission proposed to amend § 210.30(b)(2) to include a requirement that any objection to a request to provide information must state whether any responsive materials are being withheld on the basis of that objection and that the party must permit inspection of any other materials not being withheld.

For the reasons noted above under § 210.4, the Commission proposed to amend certain gender-specific language in paragraph (a)(1) by replacing ''his behalf'' with ''that party's behalf.'' In paragraph (b)(2) of § 210.30, the Commission also proposed to change ''10 days'' to ''ten (10) days'' for clarity. No substantive change is intended.

Comments

The ITCTLA supports aligning § 210.30(b)(2) with the Federal Rule of Civil Procedure 34. However, it believes the proposed rule ''may appear unnecessarily burdensome to the producing party without further explanation by the Commission.'' In particular, the ITCTLA recommends that the Commission include a reference to the full Advisory Committee Note on FRCP 34(b)(2)(C), which clarifies that:

> The producing party does not need to provide a detailed description or log of all documents withheld, but does need to alert other parties to the fact that documents have been withheld and thereby facilitate an informed discussion of the objection. An objection that states the limits that have controlled the search for responsive and relevant materials qualifies as a statement that the materials have been 'withheld.'

The ITCTLA also recommends that the Commission state that federal court decisions will be used to guide interpretation of the proposed changes to § 210.30(b)(2).

Commission Response

The Commission proposed amending § 210.30(b)(2) to conform to the 2015 amendments to FRCP 34(b)(2)(C). Accordingly, the Commission agrees with the ITCTLA that the proposed rule should be interpreted in view of the full 2015 Committee Notes, including the helpful guidance about what the producing party's obligation does and does not require in practice, and federal court decisions interpreting FRCP 34(b)(2)(C). As the ITCTLA points out, that guidance provides that parties would not be required to provide ''an 'objection log'—similar to a privilege log—that specifically listed all of the documents not being produced as a result of the objection.'' Fed. R. Civ. P. 34 Advisory Committee Notes—2015 Amendment. Moreover, the Committee Notes explain:

> Rather, the rule is satisfied so long as the objecting party does something to ''alert the other parties to the fact that documents have been withheld and thereby facilitate an informed discussion of the objection.'' To that end, the 2015 Committee Note provides this very sensible solution: ''[a]n objection that states the limits that have controlled the search for responsive and relevant materials qualifies as a statement that the materials have been 'withheld.'" For example, if document request seeks materials going back ten years, and a party thinks that time period is too long, a response that objects to the length of the time period and states that the party will search for and produce documents going back three years sufficiently identifies the materials being withheld on the basis of the objection.

Fed. R. Civ. P. 34 Advisory Committee Notes—2015 Amendment.

No other comments concerning the proposed amendments to § 210.30 were received other than general support for the use of gender-neutral language in the rules. The Commission has therefore determined to adopt the proposed rule as stated in the NPRM with the above clarifications proposed by the ITCTLA.

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

Administration practice and procedure, Business and industry, Customs duties and inspection, Imports, Investigations Reporting and recordkeeping requirements.

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 is revised to read as follows:

Authority: 19 U.S.C. 1335; 19 U.S.C. 2482; the Administrative Procedure Act (5 U.S.C. 551, *et seq.*), unless otherwise noted.

Subpart A—Miscellaneous

■ 2. Amend § 201.3a by revising paragraph (c) to read as follows:

§ 201.3a Missing children information.

* * * * *

(c) The procedure established in paragraph (b) of this section will result in missing children information being inserted in an estimated 25 percent of the Commission's penalty mail and will cost an estimated $1,500 for the first year of implementation. The Chief Administrative Officer shall make such changes in the procedure as the Officer deems appropriate to maximize the use of missing children information in the Commission's mail.

Subpart B—Initiation and Conduct of Investigations

■ 3. Amend § 201.8 by revising paragraphs (a) and (c), revising and republishing paragraph (d), and revising paragraphs (e) through (g) to read as follows:

§ 201.8 Filing of documents.

(a) *Applicability; where to file; date of filing.* This section applies to all Commission proceedings except, notwithstanding any other section of this chapter, those conducted under 19 U.S.C. 1337, which are covered by requirements set out in part 210 of this chapter. Documents shall be filed with the office of the Secretary through the Commission's Electronic Document Information System (EDIS) website at *https://edis.usitc.gov.* If a paper filing is required or authorized under paragraphs (d)(2) and (3) of this section, documents shall be filed at the office of the Secretary in Washington, DC. Such documents, if properly filed within the hours of operation specified in § 201.3(c), will be deemed to be filed on the date on which they are actually received by the Commission.

* * * * *

(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 (8.5 x 11 inches), except copies of documents prepared for another agency or a court (*e.g.,* pleadings papers). The name of the person signing the original shall be typewritten or otherwise reproduced on each copy.

(d) *Filing.* (1) All documents filed with the Commission shall be filed electronically. All filings shall comply with the procedures set forth in the Commission's Electronic Document Information System website at *https://edis.usitc.gov.* See also *https://www.usitc.gov/press_room/edissupport.htm.* Failure to comply with the requirements of this chapter and the Handbook on Filing Procedures that apply to the filing of a document may result in the rejection of the document as improperly filed.

(2) Supplementary material and witness testimony provided for under § 201.13 or § 207.15 or § 207.24 of this chapter shall also be filed in accordance with the provisions of the applicable section.

(3) 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.

(4) During any period in which the Commission is closed, deadlines for filing documents electronically and by other means are extended so that documents are due on the first business day after the end of the closure.

(e) *Identification of party filing document.* Each document filed with the Commission for the purpose of initiating any investigation shall show on the first page thereof the name, address, and telephone number of the party or parties by whom or on whose behalf the document is filed and shall be signed by the party filing the document or by a duly authorized officer, attorney, or corporate representative of such party. Also, any attorney or corporate representative filing the document shall give a current address, electronic mail address, and telephone number. The signature of the person signing such a document constitutes a certification that the person has read the document, that to the best of that person's knowledge and belief the statements contained therein are true, and that the person signing the document was duly authorized to sign it.

(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. 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.

(g) *Cover sheet.* For documents that are filed electronically, parties must complete the cover sheet form for such filing online at *https://edis.usitc.gov* at the time of the electronic filing. When making a paper filing, parties must complete the cover sheet form on-line at *https://edis.usitc.gov* and print out the cover sheet for submission to the Office of the Secretary with the paper filing. The party submitting the cover sheet is responsible for the accuracy of all information contained in the cover sheet, including, but not limited to, the security status and the investigation number, and must comply with applicable limitations on disclosure of business proprietary information or confidential information under § 201.6 and §§ 206.8, 206.17, 207.3, and 207.7 of this chapter.

■ 4. Revise § 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 filed by letter addressed to the Secretary, shall be placed by the Secretary in the record, and shall be served on all other parties. The Commission shall take such action or make such response as it deems appropriate.

■ 5. Amend § 201.13 by revising paragraphs (d) and (f) to read as follows:

§ 201.13 Conduct of nonadjudicative hearings.

* * * * *

(d) *Witness list.* Each person who files a notice of participation pursuant to paragraph (c) of this section shall simultaneously file with the Secretary a list of the witnesses that person intends to call at the hearing.

* * * * *

(f) *Supplementary material.* (1) A party to the investigation may file with the Secretary supplementary material for acceptance into the record. The party shall file any such material with the Secretary no later than the day of the hearing. Supplementary materials must be marked with the name of the organization submitting it. As used herein, the term *supplementary material* refers to:

(i) Additional graphic material such as charts and diagrams used to illuminate an argument or clarify a position; and

(ii) Information not available to a party at the time its prehearing brief was filed.

(2) Supplementary material does not include witness statements which are addressed in §§ 207.15 and 207.24 of this chapter.

* * * * *

■ 6. Amend § 201.14 by revising 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.

■ 7. Revise § 201.15 to read as follows:

§ 201.15 Attorneys and others practicing or appearing before the Commission.

(a) *In general.* No register of attorneys who may practice before the Commission is maintained. No separate application for admission to practice

before the Commission is required. Attorneys practicing before the Commission, or desiring to so practice, must maintain a bar membership in good standing in any State of the United States or the District of Columbia. Persons practicing before the Commission must report any discipline or suspension by any bar association, court, or agency. Non-attorneys desiring to appear before the Commission may be required to show to the satisfaction of the Commission that they are acceptable in the capacity in which they seek to appear. Any person practicing or appearing before the Commission, or desiring to do so, may for good cause shown be suspended or barred from practicing or appearing before the Commission, or may be subject to such lesser sanctions as the Commission deems appropriate, but only after having been afforded an opportunity to present that person's views in the matter.

(b) *Former officers or employees.* No former officer or employee of the Commission who personally and substantially participated in a matter which was pending in any manner or form in the Commission during that person's employment shall be eligible to practice or appear before the Commission in connection with such matter. No former officer or employee of the Commission shall be eligible to practice or appear before the Commission in connection with any matter which was pending in any manner or form in the Commission during that person's employment without first obtaining written consent from the Commission.

■ 8. Amend § 201.16 by:

■ a. Revising paragraphs (d) and (e); and

■ b. Removing the parenthetical authority citation at the end of the section.

The revisions read as follows:

§ 201.16 Service of process and other documents.

* * * * *

(d) *Additional time after service by mail.* Whenever a party or Federal agency or department has the right or is required to perform some act or take some action within a prescribed period after the service of a document upon it and the document is served upon it by mail, three (3) calendar days shall be added to the prescribed period, except that when mailing is to a person located in a foreign country, ten (10) calendar days shall be added to the prescribed period. Computation of additional time for Commission proceedings conducted under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) is set out in § 210.6 of this chapter.

(e) *Additional time after service by express delivery.* Whenever a party or Federal agency or department has the right or is required to perform some act or take some action within a prescribed period after the service of a document upon it and the document is served by express delivery, one (1) calendar day shall be added to the prescribed period if the service is to a destination in the United States, and five (5) calendar days shall be added to the prescribed period if the service is to a destination outside the United States. ''Service by express delivery'' refers to a method that would provide delivery by the next business day within the United States and refers to the equivalent express delivery service when the delivery is to a foreign location. Computation of additional time for Commission proceedings conducted under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) is set out in § 210.6 of this chapter.

* * * * *

Subpart C—Availability of Information to the Public Pursuant to 5 U.S.C. 552

■ 9. Amend § 201.20 by revising paragraphs (d)(2)(iii), (e), and (g)(2) to read as follows:

§ 201.20 Fees.

* * * * *

(d) * * *

(2) * * *

(iii) *The contribution of an understanding of the subject by the public likely to result from disclosure: Whether disclosure of the requested information will contribute to ''public understanding.''* The disclosure must contribute to the understanding of the public at large, as opposed to the individual understanding of the requester or a narrow segment of interested persons. A requester's identity and qualifications—*e.g.,* expertise in the subject area and ability and intention to effectively convey information to the general public—shall be considered. It will be presumed that a representative of the news media (as defined in paragraph (j)(8) of this section) who has access to the means of public dissemination readily will be able to satisfy this consideration. Requests from libraries or other record repositories (or requesters who intend merely to disseminate information to such institutions) shall be analyzed, like those of other requesters, to identify a particular person who represents that that person actually will use the requested information in scholarly or other analytic work and then disseminate it to the general public.

* * * * *

(e) *Notice of anticipated fees in excess of $25.00.* Where the Secretary determines or estimates that the fees to be assessed under this section may amount to more than $25.00, the Secretary shall notify the requester as soon as practicable of the actual or estimated amount of the fees, unless the requester has indicated in advance a willingness to pay fees as high as those anticipated. (If only a portion of the fee can be estimated readily, the Secretary shall advise the requester that the estimated fee may be only a portion of the total fee.) In cases where a requester has been notified that actual or estimated fees may amount to more than $25.00, the request will be deemed not to have been received until the requester has agreed to pay the anticipated total fee. A notice of the requester pursuant to this paragraph (e) shall offer the opportunity to confer with agency personnel in order to reformulate the request to meet the requester's needs at a lower cost.

* * * * *

(g) * * *

(2) Where a requester has previously failed to pay a records access fee within thirty (30) days of the date of billing, the Secretary may require the requester to pay the full amount owed, plus any applicable interest (as provided for in paragraph (h) of this section), and to make an advance payment of the full amount of any estimated fee before beginning to process a new request or continuing to process a pending request from that requester.

* * * * *

Subpart D—Safeguarding Individual Privacy Pursuant to 5 U.S.C. 552a

■ 10. Amend § 201.32 by revising paragraph (b) to read as follows:

§ 201.32 Specific exemptions.

* * * * *

(b) Pursuant to 5 U.S.C. 552a(k)(1) and (2), records contained in the system entitled ''Freedom of Information Act and Privacy Act Records'' have been exempted from paragraphs (c)(3), (d), (e)(1), (e)(4)(G) through (I) and (f) of the Privacy Act. Pursuant to section 552a(k)(1) of the Privacy Act, the Commission exempts records that contain properly classified information pertaining to national defense or foreign policy. Application of exemption (k)(1) may be necessary to preclude individuals' access to or amendment of such classified information under the Privacy Act. Pursuant to section 552a(k)(2) of the Privacy Act, and in order to protect the effectiveness of Inspector General investigations by

preventing individuals who may be the subject of an investigation from obtaining access to the records and thus obtaining the opportunity to conceal or destroy evidence or to intimidate witnesses, the Commission exempts records insofar as they include investigatory material compiled for law enforcement purposes. However, if any individual is denied any right, privilege, or benefit to which that individual is otherwise entitled under Federal law due to the maintenance of this material, such material shall be provided to such individual except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence.

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

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

Authority: 19 U.S.C. 1335, 2112 note, 2251–2254, 2436, 3805 note, 4051–4065, 4101, and 4551–4552.

Subpart A—General

■ 12. Revise § 206.2 to read as follows:

§ 206.2 Identification of type of petition or request.

An investigation under this part may be commenced on the basis of a petition, request, resolution, or motion as provided for in the statutory provisions listed in §§ 206.1 and 206.31. Each petition or request, as the case may be, filed by an entity representative of a domestic industry under this part shall state clearly on the first page thereof ''This is a [petition or request] under section [citing the statutory provision] 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.'' The petition or request, along with all exhibits, appendices, and attachments, must be filed in accordance with § 201.8 of this chapter.

■ 13. Amend § 206.8 by revising 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 in accordance with § 201.8 of this chapter.

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

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

Authority: 19 U.S.C. 1335, 1671–1677n, 2482, 3513, 4582.

Subpart B—Preliminary Determinations

■ 15. Amend § 207.10 by revising paragraphs (a) and (b)(1)(i) 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 and 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. If the petition complies with the provisions of § 207.11, it shall be deemed to be properly filed on the date on which the electronic filing of the petition is received by the Secretary, provided that, if the petition is filed with the Secretary after 12 noon, eastern time, the petition shall be deemed filed on the next business day. Notwithstanding § 207.11, 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.

(b) * * *

(1)(i) The Secretary shall promptly notify a petitioner when, before the establishment of a service list under § 207.7(a)(4), the Secretary approves an application under § 207.7(a). A copy of the petition including all business proprietary information shall then be served by petitioner on those approved applicants in accord with § 207.3(b) within two (2) calendar days of the time notification is made by the Secretary.

* * * * *

■ 16. Revise § 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) pages of textual material. 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 the presiding official deems it appropriate, the presiding official 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. The party shall file the written testimony in accordance with § 201.8(d) of this chapter no later than the date of the conference. If the written testimony is filed on the day of the conference, the party shall also file with the Secretary on that day nine (9) true paper copies of any such written testimony. The presiding official may request the appearance of witnesses, take testimony, and administer oaths.

Subpart C—Final Determinations, Short Life Cycle Products

■ 17. Amend § 207.23 by revising the first and second sentences 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. * * *

■ 18. Amend § 207.24 by revising 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. In connection with its presentation, a party may provide written witness testimony at the hearing. The party shall file the written testimony in accordance with § 201.8(d) of this chapter no later than the date of the hearing. If the written testimony is filed on the day of the hearing, the party shall also file with the Secretary on that day nine (9) true paper copies of any such written testimony. In the case of testimony to be presented at a closed session held in response to a request under paragraph (d) of this section, 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.

* * * * *

■ 19. Revise § 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. No such posthearing brief shall exceed fifteen (15) pages of textual material. 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.

■ 20. Revise § 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. The submission shall contain no more than fifty (50) pages of textual material. The Commission shall by notice provide for additional submissions as it deems necessary.

■ 21. Amend § 207.30 by revising 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. Comments shall only concern such information, and shall not exceed fifteen (15) pages of textual material. 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).

Subpart F—Five-Year Reviews

§ 207.61 [Amended]

■ 22. Amend § 207.61 by removing paragraph (e).

■ 23. Amend § 207.62 by revising 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 not exceed fifteen (15) pages of textual material. Comments containing new factual information shall be disregarded.

* * * * *

■ 24. Amend § 207.65 by revising the first and second sentences 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. * * *

■ 25. Amend § 207.67 by revising 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. No such posthearing brief shall exceed fifteen (15) pages of textual material. 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.

* * * * *

■ 26. Amend § 207.68 by revising 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 only concern such information, and shall not exceed fifteen (15) pages of textual material. 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—ADJUDICATION AND ENFORCEMENT

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

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

Subpart A—Rules of General Applicability

■ 28. Amend § 210.4 by revising paragraphs (b) and (d)(1)(i), revising and republishing paragraph (f), and revising paragraphs (g) and (h) to read as follows:

§ 210.4 Written submissions; representations; sanctions.

* * * * *

(b) *Signature.* Every pleading, written motion, and other paper of a party or proposed party who is represented by an attorney in an investigation or a related proceeding under this part shall be signed by at least one attorney of record in the attorney's individual name. A party or proposed party who is not represented by an attorney shall sign, or a duly authorized officer or

corporate representative of that party or proposed party shall sign, the pleading, written motion, or other paper. Each paper shall state the signer's address and telephone number, if any. Pleadings, written motions, and other papers need not be under oath or accompanied by an affidavit, except as provided in § 210.12(a)(1), § 210.13(b), § 210.18, § 210.52(d), § 210.59(b), or another section of this part or by order of the administrative law judge or the Commission. If a pleading, motion, or other paper is not signed, it shall be stricken unless it is signed promptly after omission of the signature is called to the attention of the submitter.

* * * * *

(d) * * *

(1) * * *

(i) *By motion.* A motion for sanctions under this section shall be made separately from other motions or requests and shall describe the specific conduct alleged to violate paragraph (c) of this section. It shall be served as provided in paragraph (i) of this section, but shall not be filed with or presented to the presiding administrative law judge or the Commission unless, within seven (7) days after service of the motion (or such other period as the administrative law judge or the Commission may prescribe), the challenged paper, claim, defense, contention, allegation, or denial is not withdrawn or appropriately corrected. *See also* § 210.25(a) through (c). If warranted, the administrative law judge or the Commission may award to the party or proposed party prevailing on the motion the reasonable expenses and attorney's fees incurred in presenting or opposing the motion. Absent exceptional circumstances, a law firm shall be held jointly responsible for violations committed by its partners, associates, and employees.

* * * * *

(f) *Filing of documents.* (1) Written submissions that are addressed to the Commission during an investigation or a related proceeding shall comply with the Commission's Handbook on Filing Procedures, which is issued by and available from the Secretary and posted on the Commission's Electronic Document Information System website 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) All documents filed under this part shall be filed electronically.

(3) Sections 210.8 and 210.12 set out additional requirements for a complaint filed under § 210.8. Additional requirements for a complaint filed under § 210.75 are set forth in § 210.75.

(4)(i) If a complaint, a supplement or amendment to a complaint, a motion for temporary relief, or the documentation supporting a motion for temporary relief contains confidential business information as defined in § 201.6(a) of this chapter, the complainant shall file nonconfidential copies of the complaint, the supplement or amendment to the complaint, the motion for temporary relief, or the documentation supporting the motion for temporary relief concurrently with the requisite confidential copies, as provided in § 210.8(a). A nonconfidential copy of all exhibits, appendices, and attachments to the document shall be filed in electronic form on one CD–ROM, DVD, or other portable electronic media approved by the Secretary, separate from the media used for the confidential version.

(ii)(A) Persons who file the following submissions that contain confidential business information covered by an administrative protective order, or that are the subject of a request for confidential treatment, must file nonconfidential copies and serve them on the other parties to the investigation or related proceeding within ten (10) calendar days after filing the confidential version with the Commission:

(*1*) A response to a complaint and all supplements and exhibits thereto;

(*2*) All submissions relating to a motion to amend the complaint or notice of investigation; and

(*3*) All submissions addressed to the Commission.

(B) Other sections of this part may require, or the Commission or the administrative law judge may order, the filing and service of nonconfidential copies of other kinds of confidential submissions. If the submitter's ability to prepare a nonconfidential copy is dependent upon receipt of the nonconfidential version of an initial determination, or a Commission order or opinion, or a ruling by the administrative law judge or the Commission as to whether some or all of the information at issue is entitled to confidential treatment, the nonconfidential copies of the submission must be filed within 10 calendar days after service of the Commission or administrative law judge document in question. The time periods for filing specified in this paragraph (f)(4)(ii)(B) apply unless the Commission, the administrative law judge, or another section of this part specifically provides otherwise.

(5) 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.

(6) Documents shall be filed with the Office of the Secretary through the Commission's Electronic Document Information System (EDIS) website at *https://edis.usitc.gov.* If a paper filing is required or authorized under paragraph (f)(5) of this section, documents shall be filed at the office of the Secretary in Washington, DC. Such documents, if properly filed within the hours of operation specified in § 201.3(c) of this chapter, will be deemed to be filed on the date on which they are actually received by the Commission.

(7) Each document filed with the Commission for the purpose of initiating any investigation shall be considered properly filed if it conforms with the pertinent rules prescribed in this chapter. Substantial compliance with the pertinent rules may be accepted by the Commission provided good and sufficient reason is stated in the document for inability to comply fully with the pertinent rules.

(8) During any period in which the Commission is closed, deadlines for filing documents electronically and by other means are extended so that documents are due on the first business day after the end of the closure.

(g) *Cover sheet.* For documents that are filed electronically, parties must complete the cover sheet form for such filing on-line at *https://edis.usitc.gov* at the time of the electronic filing. When making a paper filing, parties must complete the cover sheet form online at *https://edis.usitc.gov* and print out the cover sheet for submission to the Office of the Secretary with the paper filing. The party submitting the cover sheet is responsible for the accuracy of all information contained in the cover sheet, including, but not limited to, the security status and the investigation number, and must comply with applicable limitations on disclosure of confidential information under § 210.5.

(h) *Specifications.* (1) Each document filed under this chapter shall be 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 (8.5 × 11 inches), except copies of documents prepared for another agency or a court (*e.g.,* patent file wrappers or pleadings papers). Typed matter shall not exceed 6.5 × 9.5 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.

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

* * * * *

■ 29. Amend § 210.7 by revising paragraph (a)(2) to read as follows:

§ 210.7 Service of process and other documents; publication of notices.

(a) * * *

(2) The service of all initial determinations as defined in § 210.42, all cease and desist orders as set forth in § 210.50(a)(1), all show cause orders issued under § 210.16(b)(1)(i), and all documents containing confidential business information as defined in § 201.6(a) of this chapter, issued by or on behalf of the Commission or the administrative law judge on a private party, shall be effected by serving a copy of the document by express delivery, as defined in § 201.16(e) of this chapter, on the person to be served, on a member of the partnership to be served, on the president, secretary, other executive officer, or member of the board of directors of the corporation, association, or other organization to be served, or, if an attorney represents a person or entity to be served in connection with an investigation under part 210, by serving a copy by express delivery on such attorney.

* * * * *

Subpart B—Commencement of Preinstitution Proceedings and Investigations

■ 30. Amend § 210.8 by revising the introductory text and paragraphs (a), (b) introductory text, (c)(1) introductory text, and (c)(2) and adding paragraph (c)(3) to read as follows:

§ 210.8 Commencement of preinstitution proceedings.

A preinstitution proceeding is commenced by filing with the Secretary a signed complaint.

(a) *Filing and service copies.* (1)(i) A complaint, enforcement complaint, supplement, or amendment under § 210.14(a) thereto, filed under this section shall be filed with the Secretary pursuant to § 210.4. By close of business the next business day following official receipt of the complaint, complainant must deliver copies to the Secretary for service by the Secretary as follows:

(A) For each proposed respondent, one (1) true paper copy of the nonconfidential version of the complaint, one (1) true paper copy of the confidential version of the complaint, if any, and one (1) true paper copy of any supplements or amendments under § 210.14(a), along with one (1) true copy of the nonconfidential exhibits and one (1) true copy of the confidential exhibits in electronic form on a CD ROM, DVD, or other portable electronic media approved by the Secretary; and

(B) For the government of the foreign country in which each proposed respondent is located as indicated in the complaint, one (1) true paper copy of the nonconfidential version of the complaint.

(ii) Failure to timely provide service copies may result in a delay or denial of institution of an investigation under § 210.10 for failure to properly file the complaint.

(2) If the complaint, enforcement complaint, supplement, or amendment under § 210.14(a) thereto, is seeking temporary relief, the complainant must also by close of business the next business day following official receipt of the complaint, deliver copies to the Secretary for service as follows: for each proposed respondent, one (1) true paper copy of the nonconfidential version of the motion and one (1) true paper copy of the confidential version of the motion along with one (1) true copy of the nonconfidential exhibits and one (1) true copy of the confidential exhibits filed with the motion in electronic form on a CD ROM, DVD, or other portable electronic media approved by the Secretary.

(b) *Provide specific information regarding the public interest.* Complainant must file, concurrently with the complaint, a separate statement of public interest, not to exceed five (5) pages, inclusive of attachments, addressing how issuance of the requested relief, *i.e.,* a general exclusion order, a limited exclusion order, and/or a cease and desist order, in this investigation could affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers. If the complainant files a confidential version of its submission on public interest, it shall file a public version of the submission no later than one business day after the deadline for filing the submission. In particular, the submission should:

* * * * *

(c) * * *

(1) When a complaint is filed, the Secretary to the Commission will publish a notice in the **Federal Register** inviting comments from the public, interested government agencies, and proposed respondents on any issues arising from the complaint and potential exclusion and/or cease and desist orders. In response to the notice, members of the public, interested government agencies, and proposed respondents may provide specific information regarding the public interest and other issues in a written submission not to exceed five (5) pages, inclusive of attachments, to the Secretary to the Commission within eight (8) calendar days of publication of notice of the filing of a complaint. Members of the public, interested government agencies, and proposed respondents may address how issuance of the requested exclusion order and/or a cease and desist order in this investigation could affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers. If a member of the public, interested government agency, or proposed respondent files a confidential version of its submission, it shall file a public version of the submission with the Secretary to the Commission and provide a copy of the public version of the submission to complainant no later than one (1) business day after the deadline for filing the submission. Submissions addressing the public interest should:

* * * * *

(2) Complainant may file a reply to any submissions received under paragraph (c)(1) of this section not to exceed five (5) pages, inclusive of attachments, to the Secretary to the Commission within three (3) calendar days following the filing of the submissions. Notwithstanding § 201.14(a) of this chapter, computation of the reply time period will begin with the first business day following the day on which submissions under paragraph (c)(1) are due, but will include subsequent Saturdays, Sundays, and Federal legal holidays. If the complainant files a confidential version of its submission, it shall file a public version of the submission no later than one (1) business day after the deadline for filing the submission.

(3) No further submissions will be accepted unless requested by the Commission.

* * * * *

■ 31. Amend § 210.10 by revising paragraphs (a)(1)(iii) and (iv) and adding paragraphs (a)(1)(v) and (a)(7) to read as follows:

§ 210.10 Institution of investigation.

(a)(1) * * *

(iii) The complainant requests that the Commission postpone the determination on whether to institute an investigation;

(iv) The complainant withdraws the complaint; or

(v) The complaint or any exhibits or attachments thereto contain excessive designations of confidentiality that are not warranted under § 201.6(a) of this chapter and § 210.5.

* * * * *

(7) If the Commission determines that the complaint or any exhibits or attachments thereto contain excessive designations of confidentiality that are not warranted under § 201.6(a) of this chapter and § 210.5, the Commission may require the complainant to file new nonconfidential versions of the aforesaid submissions in accordance with § 210.4(f)(7)(i) and may determine that the thirty (30) day period for deciding whether to institute an investigation shall begin to run anew from the date the new nonconfidential versions are filed with the Commission in accordance with § 210.4(f)(7)(i).

* * * * *

■ 32. Amend § 210.11 by:

■ a. Revising paragraphs (a)(1) and (2);

■ b. Removing paragraph (a)(3); and

■ c. Redesignating paragraph (a)(4) as paragraph (a)(3).

The revisions read as follows:

§ 210.11 Service of complaint and notice of investigation upon institution.

(a)(1) Upon institution of an investigation, the Commission shall serve:

(i) Copies of the nonconfidential version of the complaint, the nonconfidential exhibits, and the notice of investigation upon each respondent; and

(ii) Copies of the nonconfidential version of the complaint and the notice of investigation upon the embassy in Washington, DC, of the country in which each proposed respondent is located as indicated in the complaint.

(2) If the Commission institutes temporary relief proceedings, upon institution of an investigation, the Commission shall also serve copies of the nonconfidential version of the motion for temporary relief, the nonconfidential version of the complaint, and the notice of investigation upon each respondent.

* * * * *

Subpart C—Pleadings

■ 33. Revise and republish § 210.12 to read as follows:

§ 210.12 The complaint.

(a) *Contents of the complaint.* In addition to conforming with the requirements of §§ 210.4 and 210.5, the complaint shall—

(1) Be under oath and signed by the complainant or the complainant's duly authorized officer, attorney, or corporate representative, with the name, address, email address, and telephone number of the complainant and any such officer, attorney, or corporate representative given on the first page of the complaint, and include a statement attesting to the representations in § 210.4(c)(1) through (3).

(2) Include a statement of the facts constituting the alleged unfair methods of competition and unfair acts.

(3) Describe specific instances of alleged unlawful importations or sales, and shall provide the Harmonized Tariff Schedule of the United States item number(s) for such importations.

(4) State the name, address, and nature of the business (when such nature is known) of each person alleged to be violating section 337 of the Tariff Act of 1930.

(5) Include a statement as to whether the alleged unfair methods of competition and unfair acts, or the subject matter thereof, are or have been the subject of any court or agency litigation, or of any arbitration, and, if so, include a brief summary of such proceeding.

(6)(i) If the complaint alleges a violation of section 337 based on infringement of a U.S. patent, or a federally registered copyright, trademark, mask work, or vessel hull design, under section 337(a)(1)(B), (C), (D), or (E) of the Tariff Act of 1930, include a statement as to whether an alleged domestic industry exists or is in the process of being established as defined in section 337(a)(2). Include the following information with the statement:

(A) For complaints alleging that a domestic industry exists, a detailed description of the relevant domestic industry as defined in section 337(a)(3) that allegedly exists including facts showing significant/substantial investment and employment, and also including the relevant operations of any licensees;

(B) For complaints alleging a domestic industry that is in the process of being established, a detailed description of the relevant domestic industry that is in the process of being established including facts showing that complainant is actively engaged in the steps leading to the exploitation of its intellectual property rights and that there is a significant likelihood that an industry will be established in the future, and also including the relevant operations of any licensees; and

(C) Relevant information that should be included in the statements pursuant to paragraphs (a)(6)(i)(A) and (B) of this section includes but is not limited to:

(*1*) Significant investment in plant and equipment;

(*2*) Significant employment of labor or capital; or

(*3*) Substantial investment in the exploitation of the subject patent, copyright, trademark, mask work, or vessel hull design, including engineering, research and development, or licensing;

(ii) If the complaint alleges a violation of section 337 of the Tariff Act of 1930 based on unfair methods of competition and unfair acts in the importation or sale of articles in the United States that have the threat or effect of destroying or substantially injuring an industry in the United States or preventing the establishment of such an industry under section 337(a)(1)(A)(i) or (ii), include a detailed statement as to whether an alleged domestic industry exists or is in the process of being established (*i.e.,* for the latter, facts showing that there is a significant likelihood that an industry will be established in the future), and include a detailed description of the domestic industry affected, including the relevant operations of any licensees; or

(iii) If the complaint alleges a violation of section 337 of the Tariff Act of 1930 based on unfair methods of competition or unfair acts that have the threat or effect of restraining or monopolizing trade and commerce in the United States under section 337(a)(1)(A)(iii), include a description of the trade and commerce affected.

(7) Include a description of the complainant's business and its interests in the relevant domestic industry or the relevant trade and commerce. For every intellectual property based complaint (regardless of the type of intellectual property right involved), include a showing that at least one complainant is the owner or exclusive licensee of the subject intellectual property.

(8) If the alleged violation involves an unfair method of competition or an unfair act other than those listed in paragraph (a)(6)(i) of this section:

(i) Include in the statement of facts required by paragraph (a)(2) of this section factual allegations that would show the existence of the cause of action underlying the unfair act or method of competition; and

(ii) State a specific theory, and elements thereof, and provide supporting factual allegations concerning the existence of a threat or effect to destroy or substantially injure a domestic industry, to prevent the establishment of a domestic industry, or to restrain or monopolize trade and commerce in the United States. The information that should ordinarily be provided includes the volume and trend of production, sales, and inventories of the involved domestic article; a description of the facilities and number and type of workers employed in the production of the involved domestic article; profit-and-loss information covering overall operations and operations concerning the involved domestic article; pricing information with respect to the involved domestic article; when available, volume and sales of imports; and other pertinent data.

(9) Include, when a complaint is based upon the infringement of a valid and enforceable U.S. patent—

(i) The identification of each U.S. patent and a certified copy thereof (a legible copy of each such patent will suffice for each required copy of the complaint);

(ii) The identification of the ownership of each involved U.S. patent and a certified copy of each assignment of each such patent (a legible copy thereof will suffice for each required copy of the complaint);

(iii) The identification of each licensee under each involved U.S. patent;

(iv) A copy of each license agreement (if any) for each involved U.S. patent that complainant relies upon to establish that it can bring pursuant to paragraph (a)(7) of this section the complaint or to support its contention that a domestic industry as defined in section 337(a)(3) exists or is in the process of being established as a result of the domestic activities of one or more licensees;

(v) When known, a list of each foreign patent, each foreign or domestic patent application (not already issued as a patent), and each foreign or domestic patent application that has been denied, abandoned or withdrawn, corresponding to each involved U.S. patent, with an indication of the prosecution status of each such patent application;

(vi) A nontechnical description of the invention of each involved U.S. patent;

(vii) A reference to the specific claims in each involved U.S. patent that allegedly cover the article imported or sold by each person named as violating section 337 of the Tariff Act of 1930, or the process under which such article was produced;

(viii) A showing that each person named as violating section 337 of the Tariff Act of 1930 is importing or selling the article covered by, or produced under the involved process covered by, the specific, asserted claims of each involved U.S. patent. The complainant shall make such showing by appropriate allegations, and when practicable, by a chart that applies each asserted independent claim of each involved U.S. patent to a representative involved article of each person named as violating section 337 of the Tariff Act or to the process under which such article was produced;

(ix) A showing that an industry in the United States, relating to the articles protected by the patent exists or is in the process of being established. The complainant shall make such showing by appropriate allegations, and when practicable, by a chart that applies an exemplary claim of each involved U.S. patent to a representative involved domestic article or to the process under which such article was produced;

(x) Drawings, photographs, or other visual representations of both the involved domestic article or process and the involved article of each person named as violating section 337 of the Tariff Act of 1930, or of the process utilized in producing the imported article, and, when a chart is furnished under paragraphs (a)(9)(viii) and (ix) of this section, the parts of such drawings, photographs, or other visual representations should be labeled so that they can be read in conjunction with such chart; and

(xi) The expiration date of each patent asserted.

(10) Include, when a complaint is based upon the infringement of a federally registered copyright, trademark, mask work, or vessel hull design—

(i) The identification of each licensee under each involved copyright, trademark, mask work, and vessel hull design; and

(ii) A copy of each license agreement (if any) that complainant relies upon to establish that it can bring pursuant to paragraph (a)(7) of this section the complaint or to support its contention that a domestic industry as defined in section 337(a)(3) exists or is in the process of being established as a result of the domestic activities of one or more licensees.

(11) Contain a request for relief, including a statement as to whether a limited exclusion order, general exclusion order, and/or cease and desist orders are being requested, and if temporary relief is requested under section 337(e) and/or (f) of the Tariff Act of 1930, a motion for such relief, which shall either accompany the complaint as provided in § 210.52(a) or follow the complaint as provided in § 210.53(a). Complaints requesting issuance of a general exclusion order shall include a statement of factual allegations that would satisfy the requirements of section 337(d)(2), including, for example:

(i) Factual allegations showing that a general exclusion order is necessary to prevent circumvention of a limited exclusion order; or

(ii) Factual allegations showing a pattern of violation of section 337 and difficulty in identifying the source of infringing products.

(12) Contain a clear statement in plain English of the category of products accused. For example, the caption of the investigation might refer to ''certain electronic devices,'' but the complaint would provide a further statement to identify the type of products involved in plain English such as mobile devices, tablets, or computers.

(b) *Submissions of articles as exhibits.* At the time the complaint is filed, if practicable, the complainant shall submit both the domestic article and exemplary imported articles that are the subject of the complaint.

(c) *Additional material to accompany each patent-based complaint.* There shall accompany the submission of each complaint based upon the alleged unauthorized importation or sale of an article covered by, or produced under a process covered by, the claims of a valid U.S. patent the following:

(1) One (1) certified copy of the U.S. Patent and Trademark Office prosecution history for each involved U.S. patent, plus three additional copies thereof; and

(2) One (1) copy of the prosecution histories of any priority applications for each involved U.S. patent.

(d) *Additional material to accompany each registered trademark-based complaint.* There shall accompany the submission of each complaint based upon the alleged unauthorized importation or sale of an article covered by a federally registered trademark, one certified copy of the Federal registration

and three additional copies, and one certified copy of the prosecution history for each federally registered trademark.

(e) *Additional material to accompany each complaint based on a non-federally registered trademark.* There shall accompany the submission of each complaint based upon the alleged unauthorized importation or sale of an article covered by a non-federally registered trademark the following:

(1) A detailed and specific description of the alleged trademark;

(2) Information concerning prior attempts to register the alleged trademark; and

(3) Information on the status of current attempts to register the alleged trademark.

(f) *Additional material to accompany each copyright-based complaint.* There shall accompany the submission of each complaint based upon the alleged unauthorized importation or sale of an article covered by a copyright one certified copy of the Federal registration and three additional copies.

(g) *Additional material to accompany each registered mask work-based complaint.* There shall accompany the submission of each complaint based upon the alleged unauthorized importation or sale of a semiconductor chip in a manner that constitutes infringement of a federally registered mask work, one certified copy of the Federal registration and three additional copies.

(h) *Additional material to accompany each vessel hull design-based complaint.* There shall accompany the submission of each complaint based upon the alleged unauthorized importation or sale of an article covered by a vessel hull design, one certified copy of the Federal registration (including all deposited drawings, photographs, or other pictorial representations of the design), and three additional copies.

(i) *Initial disclosures.* Complainant shall serve on each respondent represented by counsel who has agreed to be bound by the terms of the protective order one copy of each document submitted with the complaint pursuant to paragraphs (c) through (h) of this section within five days of service of a notice of appearance and agreement to be bound by the terms of the protective order.

(j) *Duty to supplement complaint.* Complainant shall supplement the complaint prior to institution of an investigation if complainant obtains information upon the basis of which complainant knows or reasonably should know that a material legal or factual assertion in the complaint is false or misleading.

■ 34. Amend § 210.13 by revising the first sentence of paragraph (b) introductory text to read as follows:

§ 210.13 The response.

* * * * *

(b) * * * In addition to conforming to the requirements of §§ 210.4 and 210.5, each response shall be under oath and signed by respondent or by respondent's duly authorized officer, attorney, or corporate representative with the name, address, email address, and telephone number of the respondent and any such officer, attorney, or corporate representative given on the first page of the response. * * *

* * * * *

■ 35. Amend § 210.14 by:
■ a. Revising the section heading;
■ b. Adding introductory text; and
■ c. Revising paragraphs (a), (b)(1), and (g).

The revisions and addition read as follows:

§ 210.14 Amendments to pleadings and notice; supplemental submissions; counterclaims; severance and consolidation of investigations.

Amended complaints, exhibits, and supplements thereto, filed under this section shall be filed with the Secretary pursuant to § 210.4.

(a) *Preinstitution amendments.* The complaint may be amended at any time prior to the institution of the investigation. Any amendment that introduces an additional unfair act or additional respondent shall be in the form of an amended complaint that complies with the requirements of § 210.12(a). If, prior to institution, the complainant seeks to amend a complaint to add a respondent or to assert an additional unfair act not in the original complaint, including asserting a new patent or patent claim, then the complaint shall be treated as if it had been filed on the date the amendment is filed for purposes of §§ 210.8(b) and (c), 210.9, and 210.10(a).

(b) * * *

(1) After an investigation has been instituted, the complaint or notice of investigation may be amended only by leave of the Commission for good cause shown and upon such conditions as are necessary to avoid prejudicing the public interest and the rights of the parties to the investigation. A motion for amendment must be made to the presiding administrative law judge. Complainant shall serve one (1) copy of any motion to amend the complaint and notice of investigation to name an additional respondent after institution on the proposed respondent and on all other respondents. If the proposed amendment of the complaint would introduce an additional unfair act or an additional respondent, the motion shall be accompanied by a proposed amended complaint that complies with the requirements of § 210.12(a). If the proposed amendment of the complaint would require amending the notice of investigation, the presiding administrative law judge may grant the motion only by filing with the Commission an initial determination. All other dispositions of such motions shall be by order. Respondents shall have ten (10) calendar days from the date of service of an order granting the motion or, in cases where the amendment requires amending the notice of investigation, a Commission determination affirming or not reviewing an initial determination granting the motion, to file a written response to the amended complaint and/or notice of investigation. The contents of such response shall be governed by § 210.13(b).

(i) If the amended complaint and notice of investigation name an additional respondent, the Commission shall serve one (1) copy of the amended complaint and notice of investigation on the additional respondent and the embassies of the relevant foreign countries, in the manner specified in § 201.16(b) of this chapter, after a Commission determination affirming or not reviewing an initial determination granting the motion.

(ii) By close of business the next business day following official receipt of the amended complaint, Complainant must deliver copies to the Secretary for service by the Secretary as follows:

(A) For each proposed additional respondent, one (1) true paper copy of the nonconfidential version of the amended complaint and one (1) true paper copy of the confidential version of the amended complaint, if any, along with one (1) true copy of the nonconfidential exhibits and one (1) true copy of the confidential exhibits in electronic form on a CD ROM, DVD, or other portable electronic media approved by the Secretary; and

(B) For the government of the foreign country in which each proposed respondent is located as indicated in the amended complaint, one (1) true paper copy of the nonconfidential version of the complaint shall be filed.

(iii) Unless otherwise ordered in the notice of investigation or by the presiding administrative law judge, an additional respondent named in the amended complaint and notice of investigation shall have twenty (20)

days from the date of service of the amended complaint and notice of investigation to file a written response in the manner specified in § 210.13.

* * * * *

(g) *Consolidation of investigations.* The Commission may consolidate two or more investigations. If the investigations are currently before the same presiding administrative law judge, the administrative law judge may consolidate the investigations. If the investigations are not currently before the same presiding administrative law judge, the chief administrative law judge may consolidate the investigations and assign an administrative law judge to preside over the consolidated investigations. The investigation number in the caption of the consolidated investigation will include the investigation numbers of the investigations being consolidated. The investigation number in which the matter will be proceeding (the lead investigation) will be the first investigation number named in the consolidated caption.

* * * * *

Subpart D—Motions

■ 36. Amend § 210.15 by revising paragraphs (a)(2) and (c) to read as follows:

§ 210.15 Motions.

(a) * * *

(2) When an investigation or related proceeding is before the Commission, all motions shall be addressed to the Chair of the Commission. All such motions shall be filed with the Secretary and shall be served upon each party. Motions may not be filed with the Commission during preinstitution proceedings except for motions for temporary relief pursuant to § 210.53.

* * * * *

(c) *Responses to motions.* Within ten (10) days after service of any written motions, or within such longer or shorter time as may be designated by the administrative law judge or the Commission, a nonmoving party, or in the instance of a motion to amend the complaint or notice of investigation to name an additional respondent after institution, the proposed respondent, shall respond or may be deemed to have consented to the granting of the relief asked for in the motion. The moving party shall have no right to reply, except as permitted by the administrative law judge or the Commission.

* * * * *

■ 37. Amend § 210.16 by revising paragraphs (b)(1)(i) and (b)(2) and (3) to read as follows:

§ 210.16 Default.

* * * * *

(b) * * *

(1)(i) If a respondent has failed to respond or appear in the manner described in paragraph (a)(1) of this section, a party may file a motion for, or the administrative law judge may issue *sua sponte,* an order directing the respondent to show cause why it should not be found in default.

* * * * *

(2) Any party may file a motion for issuance of, or the administrative law judge may issue *sua sponte,* an initial determination finding a party in default for abuse of process under § 210.4(c) or failure to make or cooperate in discovery under § 210.33. A motion for a finding of default as a sanction for abuse of process or failure to make or cooperate in discovery shall be granted by initial determination or denied by order.

(3)(i) A proposed respondent may file a notice of intent to default under this section with the administrative law judge at any time before the issuance of the final initial determination.

(ii) Upon the filing of a notice of intent to default under paragraph (b)(3)(i) of this section, the administrative law judge shall issue an initial determination finding the respondent in default without first issuing the show-cause order of paragraph (b)(1)(i) of this section. Such default will be treated in the same manner as any other default under this section.

* * * * *

§ 210.17 [Amended]

■ 38. Amend § 210.17 by removing paragraph (h) and designating the undesignated paragraph at the end of the section as paragraph (h).

■ 39. Amend § 210.18 by revising paragraph (b) to read as follows:

§ 210.18 Summary determinations.

* * * * *

(b) *Opposing affidavits; oral argument; time and basis for determination.* Any nonmoving party may file opposing affidavits within ten (10) days after service of the motion for summary determination. At the discretion of the administrative law judge or at the request of any party, the administrative law judge may set the matter for oral argument and call for the submission of briefs or memoranda. The determination sought by the moving party shall be rendered if pleadings and any depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a summary determination as a matter of law.

* * * * *

■ 40. Amend § 210.20 by revising paragraph (a) to read as follows:

§ 210.20 Declassification of confidential information.

(a) Any party may move to declassify documents (or portions thereof) that have been designated confidential by the submitter but that do not satisfy the confidentiality criteria set forth in § 201.6(a) of this chapter. All such motions, whether brought at any time during the investigation or after conclusion of the investigation shall be addressed to and ruled upon by the presiding administrative law judge, or if the investigation is not before a presiding administrative law judge, by the chief administrative law judge or such administrative law judge as the chief administrative law judge may designate.

* * * * *

■ 41. Amend § 210.25 by revising paragraphs (d) and (f) to read as follows:

§ 210.25 Sanctions.

* * * * *

(d) If an administrative law judge's order concerning sanctions is issued before the initial determination concerning violation of section 337 of the Tariff Act of 1930 or termination of the investigation, it may be appealed under § 210.24(b)(1) with leave from the administrative law judge, if the requirements of that section are satisfied. If the order is issued concurrently with the initial determination, or if the administrative law judge denies leave to appeal a previously issued order under § 210.24(b)(1), the order may be appealed by filing a petition meeting the requirements of § 210.43(b) within the same time period specified in § 210.43(a) in which a petition for review of the initial determination terminating the investigation may be filed. The Commission will determine whether to adopt the order after disposition of the initial determination concerning violation of section 337 or termination of the investigation.

* * * * *

(f) If a motion for sanctions is filed with the administrative law judge during an investigation, the administrative law judge may defer

adjudication of the motion until after the administrative law judge has issued a final initial determination concerning violation of section 337 of the Tariff Act of 1930 or termination of investigation. If the administrative law judge defers adjudication in such a manner, the administrative law judge's ruling on the motion for sanctions must be in the form of a recommended determination and shall be issued no later than thirty (30) days after issuance of the Commission's final determination on violation of section 337 or termination of the investigation. Parties may submit comments on the recommended determination within ten (10) days from the service of the recommended determination. Parties may submit responses thereto within five (5) business days from service of any comments.

Subpart E—Discovery and Compulsory Process

■ 42. Amend § 210.27 by:
■ a. Revising and republishing paragraph (b);
■ b. Revising paragraph (e)(2)(ii); and
■ c. Redesignating paragraph (e)(5)(iii) as paragraph (e)(5)(ii)(C).

The revisions read as follows:

§ 210.27 General provisions governing discovery.

* * * * *

(b) *Scope of discovery.* Regarding the scope of discovery for the temporary relief phase of an investigation, see § 210.61 and the limitations of paragraph (d) of this section. For the permanent relief phase of an investigation, unless otherwise ordered by the administrative law judge, a party may obtain discovery, subject to the limitations of paragraph (d) of this section, regarding any matter, not privileged, that is proportional to the needs of the investigation and relevant to the following:

(1) The claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things;

(2) The identity and location of persons having knowledge of any discoverable matter;

(3) The appropriate remedy for a violation of section 337 of the Tariff Act of 1930 (see § 210.42(a)(1)(ii)(A)); or

(4) The appropriate bond for the respondents, under section 337(j)(3) of the Tariff Act of 1930, during Presidential review of the remedial order (if any) issued by the Commission (see § 210.42(a)(1)(ii)(B)).

* * * * *

(e) * * *

(2) * * *

(ii) If there exists a disagreement about the basis for the claim of privilege or protection as attorney work product, within seven (7) days of service of the notice, the claimant and the parties shall meet and confer in good faith to resolve the claim of privilege or protection. If, after meeting and conferring there continues to be a disagreement, within five (5) days after the conference, a party may file a motion to compel the production of the document and may, in the motion to compel, use a description of the document from the notice produced under this paragraph (e)(2). In connection with the motion to compel, the party may submit the document *in camera* for consideration by the administrative law judge. The person that produced the document must preserve the document until the claim of privilege or protection is resolved.

* * * * *

■ 43. Amend § 210.28 by:
■ a. Revising paragraph (a);
■ b. Redesignating paragraphs (b) through (i) as paragraphs (c) through (j);
■ c. Adding new paragraph (b); and
■ d. Revising newly redesignated paragraph (d), the last sentence of newly redesignated paragraph (e), and newly redesignated paragraphs (g) and (i)(4).

The revisions and addition read as follows:

§ 210.28 Depositions.

(a) *When depositions may be taken.* Following publication in the **Federal Register** of a Commission notice instituting the investigation, any party may take the testimony of any person, including a party, by deposition upon oral examination or written questions. The presiding administrative law judge will determine the permissible dates or deadlines for taking such depositions. Unless stipulated otherwise by the parties, the complainants as a group and the respondents as a group may each take a maximum of twenty (20) fact depositions. If the Office of Unfair Import Investigations is a party, the Commission investigative attorney may take a maximum of ten (10) fact depositions and is permitted to participate in all depositions taken by any parties in the investigation. The presiding administrative law judge may set the maximum number of depositions permitted to be taken by an intervenor. Depositions of party witnesses and non-party witnesses alike shall count towards the limits on fact depositions. A notice for a corporation to designate deponents shall count as only one deposition and shall include all corporate representatives so designated to respond. The presiding administrative law judge may increase or limit the number of depositions on written motion for good cause shown.

(b) *Duration.* Unless otherwise ordered by the presiding administrative law judge or stipulated by the parties, including, when participating in the investigation, the Commission investigative attorney, a deposition is limited to one (1) day of seven (7) hours. The presiding administrative law judge must allow additional time, in a manner consistent with § 210.27(b) through (d), if needed to fairly examine the deponent or if the deponent, another person, or any other circumstance impedes or delays the examination.

* * * * *

(d) *Notice of examination.* A party desiring to take the deposition of a person shall give notice in writing to every other party to the investigation. The administrative law judge shall determine the appropriate period for providing such notice. A party upon whom a notice of deposition is served may make objections to a notice of deposition and state the reasons therefor within ten (10) days of service of the notice of deposition. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs. A notice may provide for the taking of testimony by telephone or videoconference, but the administrative law judge may, on motion of any party, require that the deposition be taken in the presence of the deponent. The parties may stipulate in writing, or the administrative law judge may upon motion order, that the testimony at a deposition be recorded by other than stenographic means. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena shall be attached to or included in the notice.

(e) * * * See paragraph (j) of this section concerning the effect of errors and irregularities in depositions.

* * * * *

(g) *Service of deposition transcripts on the Commission staff.* The party taking the deposition shall promptly serve one copy of the deposition transcript and exhibits on the Commission investigative attorney.

* * * * *

(i) * * *

(4) If only part of a deposition is offered in evidence by a party, an adverse party may require the offering party to introduce any other part that ought in fairness to be considered with the part introduced, and any party may introduce any other parts.

* * * * *

■ 44. Amend § 210.30 by revising paragraphs (a)(1) and (b)(2) to read as follows:

§ 210.30 Requests for production of documents and things and entry upon land.

(a) * * *

(1) To produce and permit the party making the request, or someone acting on that party's behalf, to inspect and copy any designated documents (including writings, drawings, graphs, charts, photographs, and other data compilations from which information can be obtained), or to inspect and copy, test, or sample any tangible things that are in the possession, custody, or control of the party upon whom the request is served; or

* * * * *

(b) * * *

(2) The party upon whom the request is served shall serve a written response within ten (10) days or the time specified by the administrative law judge. The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for objection shall be stated. An objection must state whether any responsive materials are being withheld on the basis of that objection. An objection to part of a request must specify the part and permit inspection of the rest. The party submitting the request may move for an order under § 210.33(a) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested. A party who produces documents for inspection shall produce them as they are kept in the usual course of business or shall organize and label them to correspond to the categories in the request.

* * * * *

■ 45. Amend § 210.31 by revising paragraphs (b) through (d) to read as follows:

§ 210.31 Requests for admission.

* * * * *

(b) *Answers and objections to requests for admissions.* A party answering a request for admission shall repeat the request for admission immediately preceding the answer to the request. The matter may be deemed admitted unless, within ten (10) days or the period specified by the administrative law judge, the party to whom the request is directed serves upon the party requesting the admission a sworn written answer or objection addressed to the matter. If objection is made, the reason therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify an answer or deny only a part of the matter as to which an admission is requested, the party shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless the party has made reasonable inquiry and states that the information known to or readily obtainable by that party is insufficient to enable the party to admit or deny. A party who considers that a matter as to which an admission has been requested presents a genuine issue for a hearing may not object to the request on that ground alone; the party may deny the matter or set forth reasons why it cannot be admitted or denied.

(c) *Sufficiency of answers.* The party who has requested the admissions may move to determine the sufficiency of the answers or objections. Unless the objecting party sustains the burden of showing that the objection is justified, the administrative law judge shall order that an answer be served. If the administrative law judge determines that an answer does not comply with the requirements of this section, the administrative law judge may order either that the matter is admitted or that an amended answer be served. The administrative law judge may, in lieu of these orders, determine that final disposition of the request be made at a prehearing conference or at a designated time prior to a hearing under this part.

(d) *Effect of admissions; withdrawal or amendment of admission.* Any matter admitted under this section may be conclusively established unless the administrative law judge on motion permits withdrawal or amendment of the admission. The administrative law judge may permit withdrawal or amendment when the presentation of the issues of the investigation will be subserved thereby and the party who obtained the admission fails to satisfy the administrative law judge that withdrawal or amendment will prejudice that party in maintaining its position on the issue of the investigation. Any admission made by a party under this section is for the purpose of the pending investigation and any related proceeding as defined in § 210.3.

■ 46. Amend § 210.32 by revising paragraphs (a)(3) and (c)(2) to read as follows:

§ 210.32 Subpoenas.

(a) * * *

(3) The administrative law judge shall rule on all applications filed under paragraph (a)(1) or (2) of this section and may issue subpoenas when warranted. The administrative law judge shall also rule on any motion seeking foreign judicial assistance to obtain testimony or documents outside the United States.

* * * * *

(c) * * *

(2) *Ruling.* Such applications shall be ruled upon by the administrative law judge, who may issue such subpoenas when warranted. To the extent that the motion is granted, the administrative law judge shall provide such terms and conditions for the production of the material, the disclosure of the information, or the appearance of the official or employee as may appear necessary and appropriate for the protection of the public interest.

* * * * *

■ 47. Amend § 210.33 by revising paragraphs (b) introductory text and (b)(3) and (6) to read as follows:

§ 210.33 Failure to make or cooperate in discovery; sanctions.

* * * * *

(b) *Non-monetary sanctions for failure to comply with an order compelling discovery.* The administrative law judge may issue, based on a party's motion or *sua sponte,* non-monetary sanctions for failure to comply with an order compelling discovery. Such failure to comply may include failure of a party, or an officer or corporate representative of a party, to comply with an oral or written order including, but not limited to, an order for the taking of a deposition or the production of documents, an order to answer interrogatories, an order issued pursuant to a request for admissions, or an order to comply with a subpoena. Any such sanction may be ordered in the course of the investigation or concurrently with the administrative law judge's final initial determination on violation. The administrative law judge may take such action in regard to a failure to comply with an order compelling discovery as

is just, including, but not limited to the following:

* * * * *

(3) Rule that the party may not introduce into evidence or otherwise rely upon testimony by the party, officer, or corporate representative, or documents, or other material in support of the party's position in the investigation;

* * * * *

(6) Order any other non-monetary sanction available under Rule 37(b) of the Federal Rules of Civil Procedure.

* * * * *

■ 48. Amend § 210.34 by revising paragraphs (a) introductory text, (c)(2), (d) introductory text, and (d)(5) and redesignating ''Note to paragraph (d)'' as ''Note 1 to paragraph (d)''.

The revisions read as follows:

§ 210.34 Protective orders; reporting requirement; sanctions and other actions.

(a) *Issuance of protective order.* Upon motion by a party or by the person from whom discovery is sought or by the administrative law judge *sua sponte,* and for good cause shown, the administrative law judge may make any order that may appear necessary and appropriate for the protection of the public interest or that justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

* * * * *

(c) * * *

(2) If the breach occurs while the investigation is before an administrative law judge, any determination on sanctions of the type enumerated in paragraphs (c)(3)(i) through (iv) of this section shall be in the form of a recommended determination. The Commission may then consider both the recommended determination and any related orders in making a determination on sanctions. When the motion is addressed to the administrative law judge for sanctions of the type enumerated in paragraph (c)(3)(v) of this section, the administrative law judge shall grant or deny a motion by issuing an order.

* * * * *

(d) *Reporting requirement.* Each person who is subject to a protective order issued pursuant to paragraph (a) of this section shall report in writing to the Commission immediately upon learning that confidential business information disclosed to that person pursuant to the protective order is the subject of:

* * * * *

(5) Any other written request, if the request or order seeks disclosure, by that person or any other person, of the subject confidential business information to a person who is not, or may not be, permitted access to that information pursuant to either a Commission protective order or § 210.5(b).

* * * * *

Subpart F—Prehearing Conferences and Hearings

■ 49. Amend § 210.35 by revising paragraph (a) introductory text to read as follows:

§ 210.35 Prehearing conferences.

(a) *When appropriate.* The administrative law judge in any investigation may direct counsel or other representatives for all parties to meet with the administrative law judge for one or more conferences to consider any or all of the following:

* * * * *

■ 50. Amend § 210.37 by revising paragraph (g) to read as follows:

§ 210.37 Evidence.

* * * * *

(g) *Excluded evidence.* When an objection to a question propounded to a witness is sustained, the examining party may make a specific offer of what that party expects to prove by the answer of the witness, or the administrative law judge may as a matter of discretion receive and report the evidence in full. Rejected exhibits, adequately marked for identification, shall be retained with the record so as to be available for consideration by any reviewing authority.

■ 51. Amend § 210.38 by revising paragraph (d) to read as follows:

§ 210.38 Record.

* * * * *

(d) *Certification of record.* Any record created, including all physical exhibits entered into evidence or such photographic reproductions thereof as the administrative law judge approves, shall be certified to the Commission by the administrative law judge at the time the administrative law judge files an initial determination, or a recommended determination, or at such earlier time as the Commission may order.

■ 52. Revise § 210.40 to read as follows:

§ 210.40 Briefs and notices of supplemental authority.

(a) At the time a motion for summary determination under § 210.18(a) or a motion for termination under § 210.21(a) is made, or when it is found that a party is in default under § 210.16, or at the close of the reception of evidence in any hearing held pursuant to this part (except as provided in § 210.63), or within a reasonable time thereafter fixed by the administrative law judge, any party may file briefs in support of that party's positions, in the form specified by the administrative law judge, for the administrative law judge's consideration. Such briefs shall be in writing, shall be served upon all parties in accordance with § 210.4(g), and shall contain adequate references to the record and the authorities on which the submitter is relying.

(b) If pertinent and significant authorities come to a party's attention after the party's brief has been filed but before the final initial determination has issued, the party may promptly advise the administrative law judge by filing a written notice of supplemental authority, no more than two (2) double-spaced pages in length. The notice must be served on all other parties and must describe the relevance of the supplemental authority, with reference to specific pages in either the party's briefs or the transcript of the evidentiary hearing. Any other party may file a response of no more than two (2) double-spaced pages within five (5) business days after the date of service of the notice of supplemental authority.

Subpart G—Determinations and Actions Taken

■ 53. Amend § 210.42 by:

■ a. Revising paragraphs (c)(1) and (h)(3);

■ b. Removing paragraph (h)(5);

■ c. Redesignating paragraph (h)(6) as paragraph (h)(5) and revising it; and

■ d. Adding new paragraph (h)(6).

The revisions and addition read as follows:

§ 210.42 Initial determinations.

* * * * *

(c) * * *

(1) The administrative law judge shall grant the following types of motions by issuing an initial determination or shall deny them by issuing an order: a motion to amend the complaint or notice of investigation pursuant to § 210.14(b); a motion for a finding of default pursuant to §§ 210.16 and 210.17; a motion for summary determination pursuant to § 210.18; a motion for intervention pursuant to § 210.19; a motion for termination pursuant to § 210.21; a motion to suspend an investigation pursuant to § 210.23; or a motion to set a target date for an original investigation exceeding 16 months pursuant to § 210.51(a)(1); or a motion to set a target

date for an enforcement proceeding exceeding twelve (12) months pursuant to § 210.51(a)(2).

* * * * *

(h) * * *

(3) An initial determination filed pursuant to paragraph (c)(1) of this section shall become the determination of the Commission thirty (30) days after the date of service of the initial determination, except as provided for in paragraph (h)(5) of this section, unless the Commission, within thirty (30) days after the date of such service shall have ordered review of the initial determination or certain issues therein or by order has changed the effective date of the initial determination.

* * * * *

(5) The disposition of an initial determination filed pursuant to paragraph (c)(1) of this section which grants a motion for summary determination pursuant to § 210.18 that would terminate the investigation in its entirety if it were to become the Commission's final determination, shall become the final determination of the Commission forty-five (45) days after the date of service of the initial determination, unless the Commission has ordered review of the initial determination or certain issues therein, or by order has changed the effective date of the initial determination.

(6) The disposition of an initial determination filed pursuant to paragraph (c)(2) of this section, concerning possible forfeiture or return of a respondent's bonds as governed by § 210.50(d) or possible forfeiture or return of a complainant's temporary relief bond as governed § 210.70(c), shall become the final determination of the Commission forty-five (45) days after the date of service of the initial determination, unless the Commission has ordered review of the initial determination or certain issues therein, or by order has changed the effective date of the initial determination.

* * * * *

■ 54. Amend § 210.43 by revising paragraph (a)(1) to read as follows:

§ 210.43 Petitions for review of initial determinations on matters other than temporary relief.

(a) * * *

(1) Except as provided in paragraph (a)(2) of this section, any party to an investigation may request Commission review of an initial determination issued under § 210.42(a) or (c), § 210.50(d)(3), § 210.70(c), or § 210.75(a)(3) by filing a petition with the Secretary. A petition for review of an initial determination issued under § 210.42(a)(1) and a petition for review of any sanctions order issued under § 210.25(d) must be filed within twelve (12) days after service of the initial determination or order. A petition for review of an initial determination issued under § 210.42(a)(3) must be filed within five (5) business days after service of the initial determination. A petition for review of an initial determination issued under § 210.42(c) that terminates the investigation in its entirety on summary determination, or an initial determination issued under § 210.42(a)(2), § 210.50(d)(3), § 210.70(c), or § 210.75(a)(3), must be filed within ten (10) days after service of the initial determination. Petitions for review of all other initial determinations under § 210.42(c) must be filed within five (5) business days after service of the initial determination. A petition for review of an initial determination issued under § 210.50(d)(3) or § 210.70(c) must be filed within ten (10) days after service of the initial determination.

* * * * *

■ 55. Amend § 210.45 by revising paragraph (c) to read as follows:

§ 210.45 Review of initial determinations on matters other than temporary relief.

* * * * *

(c) *Determination on review.* On review, the Commission may affirm, reverse, modify, vacate, or remand for further proceedings, in whole or in part, the initial determination of the administrative law judge. In addition, the Commission may take no position on specific issues or portions of the initial determination of the administrative law judge. The Commission also may make any findings or conclusions that in its judgment are proper based on the record in the proceeding. If the Commission's determination on review terminates the investigation in its entirety, a notice will be published in the **Federal Register**.

■ 56. Revise § 210.48 to read as follows:

§ 210.48 Disposition of petitions for reconsideration.

The Commission may affirm, reverse, modify, or vacate its determination, in whole or part, including any action ordered by it to be taken thereunder. When appropriate, the Commission may remand to the administrative law judge via an order, specifying any necessary additional findings, determinations, or recommendations.

■ 57. Amend § 210.49 by revising paragraph (d) to read as follows:

§ 210.49 Implementation of Commission action.

* * * * *

(d) *Finality of affirmative Commission action.* If the President does not disapprove the Commission's action within a 60-day period beginning the day after a copy of the Commission's action is delivered to the President, or if the President notifies the Commission before the close of the 60-day period that the President approves the Commission's action, such action shall become final the day after the close of the 60-day period or the day the President notifies the Commission of the President's approval, as the case may be.

* * * * *

■ 58. Amend § 210.51 by revising paragraphs (a) introductory text and (a)(2) to read as follows:

§ 210.51 Period for concluding investigation.

(a) *Permanent relief.* Within forty-five (45) days after institution of an original investigation as to whether there is a violation of section 337 or an investigation that is an enforcement proceeding, the administrative law judge shall issue an order setting a target date for completion of the investigation. After the target date has been set, it can be modified by the administrative law judge for good cause shown before the investigation is certified to the Commission or by the Commission after the investigation is certified to the Commission.

* * * * *

(2) *Enforcement proceedings.* If the target date does not exceed twelve (12) months from the date of institution of the enforcement proceeding, the order of the administrative law judge shall be final and not subject to interlocutory review. If the target date exceeds twelve (12) months, the order of the administrative law judge shall constitute an initial determination. Any extension of the target date beyond twelve (12) months shall be by initial determination.

* * * * *

Subpart H—Temporary Relief

■ 59. Revise § 210.63 to read as follows:

§ 210.63 Briefs.

The administrative law judge shall determine whether and, if so, to what extent the parties shall be permitted to file briefs under § 210.40 concerning the issues involved in adjudication of the motion for temporary relief.

■ 60. Revise § 210.65 to read as follows:

§ 210.65 Certification of the record.

When the administrative law judge issues an initial determination concerning temporary relief pursuant to § 210.66(a), the administrative law judge shall also certify to the Commission the record upon which the initial determination is based.

■ 61. Amend § 210.66 by revising paragraphs (c) and (f) to read as follows:

§ 210.66 Initial determination concerning temporary relief; Commission action thereon.

* * * * *

(c) The Commission will not modify, reverse, or vacate an initial determination concerning temporary relief unless the Commission finds that a finding of material fact is clearly erroneous, that the initial determination contains an error of law, or that there is a policy matter warranting discussion by the Commission. All parties may file written comments concerning any clear error of material fact, error of law, or policy matter warranting such action by the Commission. Such comments must be limited to thirty-five (35) pages in an ordinary investigation and forty-five (45) pages in a ''more complicated'' investigation. The comments must be filed no later than seven (7) calendar days after issuance of the initial determination in an ordinary case and ten (10) calendar days after issuance of the initial determination in a ''more complicated'' investigation. In computing the aforesaid 7-day and 10-day deadlines, intermediary Saturdays, Sundays, and Federal holidays shall be included. If the initial determination is issued on a Friday, however, the filing deadline for comments shall be measured from the first business day after issuance. If the last day of the filing period is a Saturday, Sunday, or Federal holiday as defined in § 201.14(a) of this chapter, the filing deadline shall be extended to the next business day. The parties shall serve their comments on other parties by messenger, overnight delivery, or equivalent means.

* * * * *

(f) If the Commission determines to modify, reverse, or vacate the initial determination, the Commission will issue a notice and, if appropriate, a Commission opinion. If the Commission does not modify, reverse, or vacate the administrative law judge's initial determination within the time provided under paragraph (b) of this section, the initial determination will automatically become the determination of the Commission. Notice of the Commission's determination concerning the initial determination will be issued on the statutory deadline for determining whether to grant temporary relief, or as soon as possible thereafter, and will be served on the parties. Notice of the determination will be published in the **Federal Register** if the Commission's disposition of the initial determination has resulted in a determination that there is reason to believe that section 337 has been violated and a temporary remedial order is to be issued. If the Commission determines (either by reversing or modifying the administrative law judge's initial determination, or by adopting the initial determination) that the complainant must post a bond as a prerequisite to the issuance of temporary relief, the Commission may issue a supplemental notice setting forth conditions for the bond if any (in addition to those outlined in the initial determination) and the deadline for filing the bond with the Commission.

■ 62. Amend § 210.67 by revising paragraph (a) to read as follows:

§ 210.67 Remedy, the public interest, and bonding.

* * * * *

(a) While the motion for temporary relief is before the administrative law judge, the administrative law judge may compel discovery on matters relating to remedy, the public interest and bonding (as provided in § 210.61). The administrative law judge also is authorized to make findings pertaining to the public interest, as provided in § 210.66(a). Such findings may be superseded, however, by Commission findings on that issue as provided in paragraph (c) of this section.

* * * * *

Subpart I—Enforcement Procedures and Advisory Opinions

■ 63. Amend § 210.75 by revising paragraphs (a)(1) introductory text and (a)(1)(i)(B) and (C) and adding paragraphs (a)(1)(i)(D) and (a)(1)(v) to read as follows:

§ 210.75 Proceedings to enforce exclusion orders, cease and desist orders, consent orders, and other Commission orders.

(a) * * *

(1) The Commission may institute an enforcement proceeding upon the filing of an enforcement complaint pursuant to §§ 210.4 and 210.8(a) by the complainant in the original investigation or the complainant's successor in interest, by the Office of Unfair Import Investigations, or by the Commission. Notwithstanding § 210.8(a)(1)(ii), no paper copies of enforcement complaints or exhibits thereto are required for the government of the foreign country in which each alleged violator is located. If a proceeding is instituted, the Commission shall publish in the **Federal Register** a notice of institution and shall serve copies of the nonconfidential version the enforcement complaint, the nonconfidential exhibits, and the notice of investigation upon each alleged violator. Within fifteen (15) days after the date of service of such a complaint, the named respondent shall file a response to it.

(i) * * *

(B) The filing party requests that the Commission postpone the determination on whether to institute an investigation;

(C) The filing party withdraws the complaint; or

(D) The complaint or any exhibits or attachments thereto contain excessive designations of confidentiality that are not warranted under § 201.6(a) of this chapter and § 210.5.

* * * * *

(v) If the Commission determines that the complaint or any exhibits or attachments thereto contain excessive designations of confidentiality that are not warranted under § 201.6(a) of this chapter and § 210.5, the Commission may require the complainant to file new nonconfidential versions of the aforesaid submissions in accordance with § 210.4(f)(7)(i) and may determine that the thirty (30) day period for deciding whether to institute an investigation shall begin to run anew from the date the new nonconfidential versions are filed with the Commission in accordance with § 210.4(f)(7)(i).

* * * * *

■ 64. Amend § 210.76 by revising the paragraph (a) heading and paragraphs (a)(1) and (3) to read as follows:

§ 210.76 Modification or rescission of exclusion orders, cease and desist orders, consent orders, and seizure and forfeiture orders.

(a) *Petitions for modification or rescission of exclusion orders, cease and desist orders, consent orders, and seizure and forfeiture orders.* (1) Whenever any person believes that changed conditions of fact or law, or the public interest, require that an exclusion order, cease and desist order, consent order, or seizure and forfeiture order be modified or rescinded, in whole or in part, such person may file a petition, pursuant to section 337(k)(1) of the Tariff Act of 1930, requesting that the Commission make a determination that the conditions which led to the issuance of an exclusion order, cease and desist order, consent order, or seizure and

forfeiture order no longer exist. The Commission may also on its own initiative consider such action. The petition shall state the changes desired and the changed circumstances or public interest warranting such action, shall include materials and argument in support thereof, and shall be served on all parties to the investigation in which the exclusion order, cease and desist order, consent order, or seizure and forfeiture order was issued. Any person may file a response to the petition within ten (10) days of service of the petition. If the Commission makes such a determination, it shall notify the Secretary of the Treasury and U.S. Customs and Border Protection.

* * * * *

(3) If the petition requests modification or rescission of an order issued pursuant to section 337(d), (e), (f), (g), or (i) of the Tariff Act of 1930 on the basis of a licensing or other settlement agreement, the petition shall contain copies of the licensing or other settlement agreements, any supplemental agreements, any documents referenced in the petition or attached agreements, and a statement that there are no other agreements, written or oral, express or implied between the parties concerning the subject matter of the investigation. If the licensing or other settlement agreement contains confidential business information within the meaning of § 201.6(a) of this chapter, a copy of the agreement with such information deleted shall accompany the petition. On motion for good cause shown, the administrative law judge or the Commission may limit the service of the agreements to the settling parties and the Commission investigative attorney.

* * * * *

■ 65. Revise appendix A to part 210 to read as follows:

APPENDIX A TO PART 210—ADJUDICATION AND ENFORCEMENT

Initial determination concerning:	Petitions for review due:	Response to petitions due:	Commission deadline for determining whether to review the initial determination:
1. Violation § 210.42(a)(1)	12 days from service of the initial determination.	8 days from service of any petition	60 days from service of the initial determination (on private parties).
2. Summary initial determination that would terminate the investigation if it became the Commission's final determination § 210.42(c)(1).	10 days from service of the initial determination.	5 business days from service of any petition	45 days from service of the initial determination (on private parties).
3. Other matters § 210.42(c)(1)	5 business days from service of the initial determination.	5 business days from service of any petition	30 days from service of the initial determination (on private parties).
4. Declassify information § 210.42(a)(2).	10 days from service of the initial determination.	5 business days from service of any petition	45 days from service of the initial determination (on private parties).
5. Potentially dispositive issues § 210.42(a)(3).	5 business days from service of the initial determination.	5 business days from service of any petition	30 days from service of the initial determination (on private parties).
6. Forfeiture or return of respondents' bond § 210.50(d)(3).	10 days from service of the initial determination.	5 business days from service of any petition	45 days from service of the initial determination (on private parties).
7. Forfeiture or return of complainant's temporary relief bond § 210.70(c).	10 days from service of the initial determination.	5 business days from service of any petition	45 days from service of the initial determination (on private parties).
8. Enforcement proceedings § 210.75(a)(3).	10 days from service of the enforcement initial determination.	5 business days from service of any petition	45 days from service of the enforcement initial determination (on private parties).

By order of the Commission.

Issued: December 20, 2024.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2024–31242 Filed 1–2–25; 8:45 am]

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POSTAL SERVICE

39 CFR Part 20

International Return Receipt

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service is revising *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM®), and Notice 123, *Price List,* to reflect changes to international Return Receipt as established by the Governors of the United States Postal Service.

DATES: *Effective:* January 1, 2025.

FOR FURTHER INFORMATION CONTACT: Dale Kennedy at 202–268–6592 or Kathy Frigo at 202–268–4178.

SUPPLEMENTARY INFORMATION: On October 10, 2024, the Postal Service filed a notice in PRC Docket No. MC2025–58, which the PRC favorably reviewed on December 2, 2024, in Order No. 8179, regarding the termination of international Return Receipt as an extra service for Priority Mail International and First-Class Package International Service, effective January 1, 2025, although international Return Receipt will continue to be eligible when combined with registered letters and flats sent as First-Class Mail International.

The Postal Service hereby adopts the described changes to *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM), which is incorporated by reference in the Code of Federal Regulations.

We will publish an appropriate amendment to 39 CFR part 20 to reflect these changes.

List of Subjects in 39 CFR Part 20

Administrative practice and procedure, Postal Service.

Accordingly, the Postal Service amends Mailing Standards of the United States Postal Service, International Mail Manual (IMM), incorporated by reference in the Code of Federal Regulations as follows (see 39 CFR 20.1):