

§210.58

Washington, DC, of the foreign governments that they represent, in accordance with §210.54. If the amendment expands the scope of the motion or changes the complainant's assertions on the issue of whether a bond is to be required as a prerequisite to the issuance of temporary relief or the appropriate amount of the bond, the 35-day period under §210.58 for determining whether to institute an investigation and provisionally accept the motion for temporary relief shall begin to run anew from the date the amendment is filed with the Commission. A motion for temporary relief may not be amended to expand the scope of the temporary relief inquiry after an investigation is instituted.

§210.58 Provisional acceptance of the motion.

The Commission shall determine whether to accept a motion for temporary relief at the same time it determines whether to institute an investigation on the basis of the complaint. That determination shall be made within 35 days after the complaint and motion for temporary relief are filed, unless the 35-day period is restarted pursuant to §210.53(a), 210.54, 210.55, or 210.57, or exceptional circumstances exist which preclude adherence to the prescribed deadline. (See §210.10(a)(1).) Before the Commission determines whether to provisionally accept a motion for temporary relief, the motion will be examined for sufficiency and compliance with §§210.52, 210.53(a) (if applicable), 210.54 through 210.56, as well as §§201.8, 210.4, and 210.5. The motion will be subject to the same type of preliminary investigatory activity as the complaint. (See §210.9(b).) Acceptance of a motion pursuant to this paragraph constitutes provisional acceptance for referral of the motion to the chief administrative law judge, who will assign the motion to a presiding administrative law judge for issuance of an initial determination under §210.66(a). Commission rejection of an insufficient or improperly filed complaint will preclude acceptance of a motion for temporary relief. Commission rejection of a motion for temporary relief will not preclude institu-

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tion of an investigation of the complaint.

§210.59 Responses to the motion and the complaint.

(a) Any party may file a response to a motion for temporary relief. Unless otherwise ordered by the administrative law judge, a response to a motion for temporary relief in an ordinary investigation must be filed not later than 10 days after service of the motion by the Commission. In a "more complicated" investigation, the response shall be due within 20 days after such service, unless otherwise ordered by the presiding administrative law judge.

(b) The response must comply with the requirements of §201.8 of this chapter, as well as §§210.4 and 210.5 of this part, and shall contain the following information:

(1) A statement that sets forth with particularity any objection to the motion for temporary relief;

(2) A statement of specific facts concerning the factors the U.S. Court of Appeals for the Federal Circuit would consider in determining whether to affirm lower court decisions granting or denying preliminary injunctions;

(3) A memorandum of points and authorities in support of the respondent's response to the motion;

(4) Affidavits, where possible, executed by persons with knowledge of the facts specified in the response. Each response to the motion must address, to the extent possible, the complainant's assertions regarding whether a bond should be required and the appropriate amount of the bond. Responses to the motion for temporary relief also may contain counter-proposals concerning the amount of the bond or the manner in which the bond amount should be calculated.

(c) Each response to the motion for temporary relief must also be accompanied by a response to the complaint and notice of investigation. Responses to the complaint and notice of investigation must comply with §201.8 of this chapter, §§210.4 and 210.5 of this part, and any protective order issued by the administrative law judge under §210.34 of this part.