

§210.9

proposed respondent files a confidential version of its submission, it shall file a public version of the submission no later than one business day after the deadline for filing the submission. Submissions should:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) Identify any public health, safety, or welfare concerns relating to the requested remedial orders;

(iii) Identify like or directly competitive articles that complainant, its licensees, or third parties make which could replace the subject articles if they were to be excluded;

(iv) Indicate whether the complainant, its licensees, and/or third parties have the capacity to replace the volume of articles subject to the requested remedial orders in a commercially reasonable time in the United States; and

(v) State how the requested remedial orders would impact consumers.

(2) Complainant may file a reply to any submissions received under paragraph (c)(1) of this section not to exceed five pages, inclusive of attachments, to the Secretary to the Commission within three (3) calendar days following the filing of the submissions. If the complainant files a confidential version of its submission, it shall file a public version of the submission no later than one business day after the deadline for filing the submission.

(d) *Upon the initiative of the Commission.* The Commission may upon its initiative commence a preinstitution proceeding based upon any alleged violation of section 337 of the Tariff Act of 1930.

[59 FR 39039, Aug. 1, 1994, as amended at 60 FR 32444, June 22, 1995; 68 FR 32978, June 3, 2003; 73 FR 38320, July 7, 2008; 76 FR 61945, Oct. 6, 2011; 76 FR 64808, Oct. 19, 2011; 78 FR 23841, Apr. 19, 2013]

§210.9 Action of Commission upon receipt of complaint.

Upon receipt of a complaint alleging violation of section 337 of the Tariff Act of 1930, the Commission shall take the following actions:

(a) *Examination of complaint.* The Commission shall examine the complaint for sufficiency and compliance

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with the applicable sections of this chapter.

(b) *Informal investigatory activity.* The Commission shall identify sources of relevant information, assure itself of the availability thereof, and, if deemed necessary, prepare subpoenas therefore, and give attention to other preliminary matters.

§210.10 Institution of investigation.

(a)(1) The Commission shall determine whether the complaint is properly filed and whether an investigation should be instituted on the basis of the complaint. That determination shall be made within 30 days after the complaint is filed, unless—

(i) Exceptional circumstances preclude adherence to a 30-day deadline;

(ii) Additional time is allotted under other sections of this part in connection with the preinstitution processing of a motion by the complainant for temporary relief;

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

(iv) The complainant withdraws the complaint.

(2) If exceptional circumstances preclude Commission adherence to the 30-day deadline for determining whether to institute an investigation on the basis of the complaint, the determination will be made as soon after that deadline as possible.

(3) If additional time is allotted in connection with the preinstitution processing of a motion by the complainant for temporary relief, the Commission will determine whether to institute an investigation and provisionally accept the motion within 35 days after the filing of the complaint or by a subsequent deadline computed in accordance with §210.53(a), §210.54, §210.55(b), §210.57, or §210.58 as applicable.

(4) If the complainant desires to have the Commission postpone making a determination on whether to institute an investigation in response to the complaint, the complainant must file a written request with the Secretary. If the request is granted, the determination will be rescheduled for whatever date is appropriate in light of the facts.

(5)(i) The complainant may withdraw the complaint as a matter of right at any time before the Commission votes on whether to institute an investigation. To effect such withdrawal, the complainant must file a written notice with the Commission.

(ii) If a motion for temporary relief was filed in addition to the complaint, the motion must be withdrawn along with the complaint, and the complainant must serve copies of the notice of withdrawal on all proposed respondents and on the embassies that were served with copies of the complaint and motion pursuant to § 210.54.

(6) The Commission may determine to institute multiple investigations based on a single complaint where necessary to allow efficient adjudication.

(b)(1) An investigation shall be instituted by the publication of a notice in the FEDERAL REGISTER. The notice will define the scope of the investigation in such plain language as to make explicit what accused products or category of accused products provided in accordance with § 210.12(a)(12) will be the subject of the investigation, and may be amended as provided in § 210.14(b) and (c).

(2) The Commission may order the administrative law judge to take evidence and to issue a recommended determination on the public interest based generally on the submissions of the parties and the public under § 210.8(b) and (c). If the Commission orders the administrative law judge to take evidence with respect to the public interest, the administrative law judge will limit public interest discovery appropriately, with particular consideration for third parties, and will ensure that such discovery will not delay the investigation or be used improperly. Public interest issues will not be within the scope of discovery unless the administrative law judge is specifically ordered by the Commission to take evidence on these issues.

(3) The Commission may order the administrative law judge to issue an initial determination within 100 days of institution of an investigation as provided in § 210.42(a)(3) ruling on a potentially dispositive issue as set forth in the notice of investigation. The presiding administrative law judge is au-

thorized, in accordance with § 210.36, to hold expedited hearings on any such designated issue and also has discretion to stay discovery of any remaining issues during the pendency of the 100-day proceeding.

(c) If the Commission determines not to institute an investigation on the basis of the complaint, the complaint shall be dismissed, and the complainant and all proposed respondents will receive written notice of the Commission's action and the reason(s) therefor.

[59 FR 39039, Aug. 1, 1994, as amended at 73 FR 38321, July 7, 2008; 76 FR 64809, Oct. 19, 2011; 76 FR 71248, Nov. 17, 2011; 83 FR 21160, May 8, 2018]

§ 210.11 Service of complaint and notice of investigation.

(a)(1) Unless the Commission institutes temporary relief proceedings, 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 serve:

(i) 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; and

(ii) A copy of 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.

(3) All respondents named after an investigation has been instituted and the governments of the foreign countries in which they are located as indicated in the complaint shall be served as soon as possible after the respondents are named.

(4) The Commission shall serve copies of the notice of investigation upon the U.S. Department of Health and Human