



7020-02

INTERNATIONAL TRADE COMMISSION

19 CFR Part 220

Rules Relating to the Submission and Consideration of Petitions for Duty Suspensions and Reductions

AGENCY: United States International Trade Commission.

ACTION: Interim rule with request for comments.

SUMMARY: The United States International Trade Commission (Commission) is adopting interim rules that will amend the Commission's Rules of Practice and Procedure and establish a new part governing the submission and consideration of petitions for duty suspensions and reductions under the American Manufacturing Competitiveness Act of 2016.

DATES: Effective date: [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Deadline for filing written comments: [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]

ADDRESSES: You may submit comments, identified by docket number MISC-046, rulemaking regarding petitions for duty suspensions and reductions, by any of the following methods:

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

-Agency Website: <https://edis.usitc.gov>. Follow the instructions for submitting comments on the website.

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

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

Instructions: All submissions received must include the agency name and docket number (MISC-046, Rulemaking Regarding Petitions for Duty Suspensions/Reductions), along with a cover letter stating the nature of the commenter's interest in the proposed rulemaking. All comments received will be posted without change to <https://edis.usitc.gov> including any personal information provided. For paper copies, a signed original and 8 copies of each set of comments should be submitted to Lisa R. Barton, Secretary, U.S. International Trade Commission, 500 E Street, SW, Room 112A, Washington, DC 20436.

For access to the docket to read background documents or comments received, go to <https://edis.usitc.gov> and/or the U.S. International Trade Commission, 500 E Street, SW, Room 112A, Washington, DC 20436.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary, telephone (202) 205-2000 or William Gearhart, Esquire, Office of the General Counsel, United States International Trade Commission, telephone (202) 205-3091. 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 website at <https://www.usitc.gov>.

SUPPLEMENTARY INFORMATION: The preamble below is designed to assist readers in understanding these amendments to the Commission's Rules of Practice and Procedure (the Rules). This preamble provides background information, a regulatory analysis of the amendments, a section-by-section explanation of the amendments, and a description of the amendments to the Rules. The Commission encourages members of the public to comment on whether the language of the amendments is sufficiently clear for users to understand, and to submit any other comments they wish to make on the amendments.

These amendments are being promulgated in accordance with the Administrative Procedure Act (5 U.S.C. 553) (APA), and will be codified in 19 CFR part 220.

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. In addition, section 3(b)(5) of the American Manufacturing Competitiveness Act of 2016, Public Law 114-159, 130 Stat. 396 (19 U.S.C. 1332 note) (the Act) directs the Commission to prescribe and publish in the Federal Register and on a publicly available internet website of the Commission procedures to be complied with by members of the public submitting petitions for duty suspensions and reductions under section 3(b)(1)(A) of that Act.

The Commission is promulgating rules governing the submission and consideration of petitions for duty suspensions and reductions under the Act. Section 3

of the Act establishes a process for the submission and consideration of petitions for duty suspensions and reductions. More specifically, it directs the Commission to publish a notice by October 15, 2016, that requests members of the public to submit petitions to the Commission for duty suspensions and reductions, provided that they can demonstrate that they are likely beneficiaries of such duty suspensions or reductions. The Act also provides that the petitioners must submit disclosure forms with respect to such duty suspensions and reductions. The petitions and disclosure forms must be submitted during the 60-day period beginning on the date of publication of the Commission's notice. Section 3 of the Act also lists the types of information that must be included in a petition.

Section 3 of the Act requires that the Commission publish on its website all of the petitions that contain the required information and the related disclosure forms no later than 30 days after the close of the 60-day filing period. It also provides that members of the public will have 45 days from the date of the notice's publication to submit comments to the Commission regarding the petitions and disclosure forms. The Commission must make those comments available to the public on the Commission's website.

These amendments establish new Commission rules governing the submission of petitions and the issuance of the Commission's reports to the Congress under the Act. The new rules identify the types of entities that may file a petition, describe the information that must be included in a petition, provide procedures for public comment, and describe the schedule for filing petitions and public comments. The new rules also describe the content of the preliminary and final reports that the Commission must submit to the Congress, and the time for submitting those reports, and otherwise establish

procedures relating to the Commission's review and processing of the petitions under the Act.

Procedure for Adopting the Interim Amendments

The Commission ordinarily promulgates amendments to the Code of Federal Regulations in accordance with the notice-and-comment rulemaking procedure in section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553). That procedure entails publication of notice of proposed rulemaking in the Federal Register that solicits public comment on the proposed amendments, consideration by the Commission of public comments on the content of the amendments, and publication of the final amendments at least 30 days prior to their effective date.

In this instance, however, the Commission is amending its rules in 19 CFR part 220 on an interim basis, effective upon publication of this notice in the Federal Register. The Commission's authority to adopt interim amendments without following all steps listed in section 553 of the APA is derived from section 335 of the Tariff Act of 1930 (19 U.S.C. 1335), section 3(b)(5) of the American Manufacturing Competitiveness Act of 2016 (19 U.S.C. 1332 note), and section 553 of the APA.

Section 553(b) of the APA allows an agency to dispense with publication of a notice of proposed rulemaking when the following circumstances exist: (1) the rules in question are interpretive rules, general statements of policy, or rules of agency organization, procedure or practice; or (2) the agency for good cause finds that notice and public comment on the rules are impracticable, unnecessary, or contrary to the public interest, and the agency incorporates that finding and the reasons therefor into the rules

adopted by the agency. Section 553(d)(3) of the APA allows an agency to dispense with the publication of notice of final rules at least thirty days prior to their effective date if the agency finds that good cause exists for not meeting the advance publication requirement and the agency publishes that finding along with the rules. Additionally, section 3(b)(5) of the American Manufacturing Competitiveness Act of 2016 requires that the Commission prescribe and publish procedures for submitting petitions for duty suspensions and reductions under that Act, and section 335 of the Tariff Act authorizes the Commission to adopt such reasonable procedures, rules, and regulations as it deems necessary to carry out its functions and duties.

In this instance, the Commission has determined that the requisite circumstances exist for dispensing with the notice, comment, and advance publication procedure that ordinarily precedes the adoption of Commission rules. For purposes of invoking the section 553(b)(3)(A) exemption from publishing a notice of proposed rulemaking that solicits public comment, the Commission finds that the interim amendments to part 220 are “agency rules of procedure and practice.” Moreover, the Commission finds under 553(b)(3)(B) that good cause exists to waive prior notice and opportunity for public comment. In particular, the American Manufacturing Competitiveness Act of 2016 took effect on May 20, 2016, and it requires that the Commission have a process in place to accept petitions not later than October 15, 2016, which makes the establishment of rules a matter of urgency. Hence, it would be impracticable for the Commission to comply with the usual notice of proposed rulemaking and public comment procedure, and therefore the Commission has determined that interim rules are needed under these circumstances.

For the purpose of invoking the section 553(d)(3) exemption from publishing advance notice of the interim amendments to part 220 at least thirty days prior to their effective date, the Commission finds the fact that the Act was signed by the President on May 20, 2016, but requires that the Commission have a complete process in place no later than October 15, 2016, makes such advance publication impracticable and constitutes good cause for not complying with that requirement.

The Commission recognizes that interim rule amendments should not respond to anything more than the exigencies created by the new legislation. Each interim amendment to part 220 concerns a new rule covering a matter addressed in the new legislation but not covered by a preexisting rule.

After taking into account all comments received and the experience acquired under the interim rules, the Commission will replace them with final rules promulgated in accordance with the notice, comment, and advance publication procedure prescribed in section 553 of the APA.

Regulatory Analysis of Proposed Amendments to the Commission's Rules.

The Commission has determined that these interim rules do not meet the criteria described in section 3(f) of Executive Order 12866 (58 FR 51735, October 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.

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

No actions are necessary under title II of the Unfunded Mandates Reform Act of 1995, Pub. L. 104-4 (2 U.S.C. 1531-1538) because the interim rules will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year (adjusted annually for inflation), and will not significantly or uniquely affect small governments.

These interim rules are not “major rules” as defined by section 251 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 that Act because they contain rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties.

The Commission has submitted an information collection request for its secure web portal for the Miscellaneous Tariff Bills Petition System to the Office of Management and Budget for Paperwork Reduction Act clearance. See 81 FR 58531 (Aug. 25, 2016). The Commission intends to process the information it collects consistent with these interim rules.

Section-by-Section Explanation of the Proposed Amendments

PART 220 – PROCESS FOR CONSIDERATION OF PETITIONS FOR DUTY SUSPENSIONS AND REDUCTIONS

Section 220.1 of part 220 states this part of the rules applies to proceedings of the Commission under the American Manufacturing Competitiveness Act of 2016.

Section 220.2 defines key terms and acronyms used in part 220. The definitions are drawn largely from definitions in the Act itself. The definitions of the terms “like” and “directly competitive” are taken from definitions in the legislative history of the Trade Act of 1974 and have been traditionally applied in connection with several U.S. trade laws that use those terms. The definition of “imminent production” states that the term normally means production that is planned to begin within 3 years of the date the petition is filed, which is intended to conform to the Commission’s practice with respect to miscellaneous tariff bills prior to the Act. The applicability of this definition of “imminent production” is limited to the Act.

Section 220.3 identifies the types of entities that may file a petition and specifies the format that must be followed in submitting a petition. Consistent with the statute, it states that a petition under this part may be filed by members of the public who can demonstrate that they are likely beneficiaries of duty suspensions or reductions. It also states that a member of the public for these purposes would generally be a firm, importer of record, a manufacturer that uses the imported article, or a U.S. Federal, state, or local government entity. Section 220.3 states that any petition must be filed via the Commission’s secure web portal designated for this purpose, and it makes clear that the Commission will not accept petitions submitted in paper or in any other form.

Section 220.4 states that petitions for duty suspensions or reductions must be filed not later than 60 days after the Commission publishes a notice of opportunity to file in the

Federal Register, and states that the Commission will publish such notice no later than October 15, 2016, for the first round of petitions. Section 220.4 states that a second round of petitions may be filed in October 2019, after publication of a similar notice.

Section 220.5 lists the types of information that must be set forth in a petition, including the name of the petitioner and contact information, a statement regarding whether the petitioner is seeking a duty suspension or a duty reduction, a description of the article concerned, a description of the industry, a certification that the petitioner is a likely beneficiary, certain U.S. Customs and Border Protection (CBP) documentation, the names of known importers, the names of likely beneficiaries, and a description of any domestic production of the article. It also requires that the petitioner certify that it has not filed identical or overlapping petitions with the Commission.

Section 220.6 further describes the information that should be included in the description of the article for which a duty suspension or reduction is being sought. It also identifies types of article descriptions that the Commission will not likely recommend for inclusion in a miscellaneous tariff bill, such as those that contain “actual use” or “chief use” criteria or trade-marked and other protected names, and those that might alter tariff treatment or classification of a product.

Section 220.7 states that a petition will not be considered to be “properly filed” unless it contains all the information required by §§ 220.3 through 220.5 of the rules. It also states that, when a petitioner files petitions that are identical or overlapping in article coverage and does not withdraw the earlier petition(s), the Commission will consider the earliest filed pending petition to be the petition of record.

Section 220.8 states that, in the case of petitions for identical or overlapping articles received from multiple petitioners, the Commission may consolidate those petitions and publish a single recommendation.

Section 220.9 states that a petitioner may withdraw a petition at any time prior to the time the Commission transmits its final report to the House Committee on Ways and Means and the Senate Committee on Finance (Committees). It also states that a petitioner who withdraws a petition may file a new petition, but only during the 60-day window allowed for filing petitions. The rule further states that a petitioner may not amend a petition, but instead must withdraw the petition and file a new one within the 60-day filing period.

Section 220.10 states that the Commission will publish on its website, no later than 30 days after expiration of the 60-day period for filing petitions, the petitions for duty suspensions and reductions that are timely filed and that contain the required information. The rule also states that at that time the Commission will publish a notice in the Federal Register inviting members of the public to submit comments on the petitions received. It states that those comments must be filed through the Commission's secure web portal no later than 45 days after publication of the notice.

Section 220.11 states that the Commission will submit its preliminary report to the Committees no later than 150 days after it publishes the petitions submitted. The rule describes the types of information that will be included in the preliminary report, including the Commission's determination of whether or not domestic production of the article exists, any technical changes to the article description that are needed to make the

description administrable, an estimate of the amount of revenue loss, and a determination of whether or not the duty suspension is available to any person who imports the article. The rule states that the Commission will also include in the preliminary report a list of the petitions that meet certain statutory criteria.

Section 220.12 states that the Commission will submit its final report to the Committees no later than 60 days after it submits its preliminary report. It states that the final report will include the information required to be included in the preliminary report as updated after taking into consideration certain information from the Committees, and that the report also will include determinations regarding whether the duty suspension or reduction can likely be administered by CBP, whether the estimated loss in revenue from the duty suspension or reduction does not exceed \$500,000, and whether the duty suspension or reduction is available to any person importing the articles.

Section 220.13 states that the Commission will not release information that the Commission considers to be confidential business information within the meaning of 19 CFR 201.6(a) unless the party submitting the information had notice at the time of submission that such information would be released, or such party subsequently consents to release. The rule notifies parties of two possible instances in which confidential business information might be released: (1) the Commission may base its revenue loss estimates on the estimated values of imports submitted by petitioners in their petitions, and (2) the Commission may disclose some or all of the confidential business information provided in petitions and public comments to the U.S. Department of Commerce, the U.S. Department of Agriculture, and CBP for use in preparing the report that Commerce

provides to the Commission and the Committees.

Section 220.14 states that Commission rules that apply to the initiation and conduct of investigations, with the exception of certain rules that apply to methods employed in obtaining information, the computation of time, and to attorneys and agents, will not apply to Commission proceeding under part 220.

List of Subjects in 19 CFR Part 220

Administrative practice and procedure, Miscellaneous tariff bills.

For the reasons stated in the preamble, the United States International Trade Commission amends 19 CFR chapter II by adding part 220 to subchapter D to read as follows:

**PART 220 – PROCESS FOR CONSIDERATION OF PETITIONS FOR DUTY
SUSPENSIONS AND REDUCTIONS**

Sec.

- 220.1 Applicability of part.
- 220.2 Definitions applicable to this part.
- 220.3 Who may file a petition, format for filing.
- 220.4 Time for filing.
- 220.5 Contents of petition.
- 220.6 Article description.
- 220.7 Properly filed petition.
- 220.8 Consolidation of petitions.
- 220.9 Withdrawal of petitions, amendments to petitions.

220.10 Commission review of petitions and disclosure forms.

220.11 Commission preliminary report.

220.12 Commission final report.

220.13 Confidential business information.

220.14 Application of other Commission rules.

Authority: 19 U.S.C. 1335; Pub. L. 114-159, 130 Stat. 396 (19 U.S.C. 1332 note).

§ 220.1 Applicability of part.

This part applies to proceedings of the Commission under the American Manufacturing Competitiveness Act of 2016, Pub. L. 114-159, 130 Stat. 396 (19 U.S.C. 1332 note).

§ 220.2 Definitions applicable to this part.

For the purposes of this part, the following terms have the meanings hereby assigned to them:

(a) Act means the American Manufacturing Competitiveness Act of 2016.

(b) HTS means Harmonized Tariff Schedule of the United States.

(c) Committees means the House Committee on Ways and Means and Senate Committee on Finance.

(d) Commission disclosure form means the information submitted to the Commission by a petitioner as part of a petition for a duty suspension or reduction that contains the following:

(1) The contact information for any known importers of the article to which the proposed duty suspension or reduction would apply.

(2) A certification by the petitioner that the proposed duty suspension or reduction is available to any person importing the article to which the proposed duty suspension or reduction would apply.

(3) A certification that the petitioner is a likely beneficiary of the proposed duty suspension or reduction.

(e) Duty suspension or reduction refers to an amendment to the HTS for a period not to exceed 3 years that—

(1) Extends an existing temporary duty suspension or reduction on an article under chapter 99 of the HTS; or

(2) Provides for a new temporary duty suspension or reduction on an article under that chapter.

(f) Likely beneficiary means an individual or entity likely to utilize, or benefit directly from the utilization of, an article that is the subject of a petition for a duty suspension or reduction.

(g) Domestic producer means a person that demonstrates production, or imminent production, in the United States of an article that is identical to, or like or directly competitive with, an article to which a petition for a duty suspension or reduction would apply.

(h) Domestic production means the production of an article that is identical to, or like or directly competitive with, an article to which a petition for a duty suspension or reduction would apply, for which a domestic producer has demonstrated production, or imminent production, in the United States.

(1) “Identical” article means a domestic article that has the same inherent or intrinsic characteristics and is classified in the same HTS rate line as the article that is the subject of a petition for duty suspension or reduction;

(2) “Like” article means a domestic article that is substantially identical in inherent or intrinsic characteristics (i.e., materials from which made, appearance, quality, texture, etc.) as the article that is the subject of a petition for duty suspension or reduction; and

(3) “Directly competitive” article means a domestic article which, although not substantially identical in its inherent or intrinsic characteristics, is substantially equivalent for commercial purposes, that is, adapted to the same uses and essentially interchangeable therefor as the article that is the subject of a petition for duty suspension or reduction.

(i) Imminent production normally means production planned to begin within 3 years of the date on which the petition is filed.

§ 220.3 Who may file a petition, format for filing.

(a) Who may file. A petition under this part may be filed by members of the public who can demonstrate that they are likely beneficiaries of duty suspensions or reductions. A member of the public for these purposes would generally be a firm, importer of record, a manufacturer that uses the imported article, or a government entity at the U.S. Federal, state, or local level.

(b) Format for filing. Each such petition shall be submitted via the secure Commission web portal designated by the Commission and in the format designated by the Commission. The Commission will not accept petitions submitted in paper or in any

other form or format. Petitions, including any attachments thereto, shall otherwise comply with the Commission's Handbook on MTB Filing Procedures as posted on the Commission's website.

§ 220.4 Time for filing.

Petitions for duty suspensions and reductions and Commission disclosure forms must be filed not later than 60 days after the Commission publishes in the Federal Register and on its website a notice requesting members of the public to submit this information. The Commission will publish notice requesting such petitions and disclosure forms not later than October 15, 2016, and October 15, 2019.

§ 220.5 Contents of petition.

The petition shall include the following information:

(a) The name, telephone number, and postal and email address of the petitioner, and if appropriate, its representative in the matter;

(b) A statement as to whether the petitioner is requesting an extension of an existing duty suspension or reduction or a new duty suspension or reduction; and if a duty reduction, the amount of the reduction;

(c) A certification that the petitioner is a likely beneficiary of the proposed duty suspension or reduction;

(d) An article description that meets the requirements of § 220.6 for the proposed duty suspension or reduction and identifies the permanent classification of the article in chapters 1-97 of the HTS and the Chemical Abstracts Service registry number (if applicable);

(e) To the extent available –

(1) A classification ruling of U.S. Customs and Border Protection (CBP) with respect to the article; and

(2) A copy of CBP documentation indicating where the article is classified in the HTS.

(f) A brief and general description of the article and its uses, and the names of the principal countries from which it is imported.

(g) A brief description of the industry in the United States that uses the article.

(h) For each HTS number included in the article description, an estimate of the total value (in United States dollars) of imports of the article for the calendar year preceding the year in which the petition is filed, for the calendar year in which the petition is filed, and for each of the 5 calendar years after the calendar year in which the petition is filed, including an estimate of the total value of such imports for each HTS article, by the person who submits the petition and by any other importers, if available.

(i) The name of each person that imports the article, if available.

(j) A description of any domestic production of the article, if available.

(k) A Commission disclosure form as defined in § 220.2(d).

(l) The names of any likely beneficiaries, and their contact information.

(m) A certification that the petitioner has not separately filed, and has not withdrawn, a petition for duty suspension or reduction during the current filing cycle:

(1) For an article that is identical to that in the current petition;

(2) For an article whose article description includes the article covered by the

current petition; or

(3) For an article that is included in the scope of the current petition.

(n) Such other information as the Commission may require.

§ 220.6 Article description.

(a) In general. The article description in the petition shall be provided in a format appropriate to be included in the amendment to chapter 99 of the HTS and shall include language that:

(1) Describes a specific class or kind of imported merchandise and provides any other information needed to distinguish the covered products from other goods;

(2) Is suitable for incorporation in the HTS in the column entitled “Article Description” for each tariff heading in HTS chapter 99 that affords a temporary duty suspension or reduction;

(3) Describes covered products in their condition as imported, based primarily upon the goods’ discernible physical characteristics at the time of importation;

(4) Is sufficiently clear as to be administrable by CBP; and

(5) Is otherwise required by this part or accomplishes the purposes of the Act.

(b) Article descriptions that are not recommended. The Commission will generally consider proposed article descriptions containing the following kinds of information or criteria as preventing the relevant petition from being recommended for inclusion in a miscellaneous tariff bill, unless input received from the U.S. Department of Commerce (Commerce) or CBP provides a basis for the Commission’s analysis under the Act:

- (1) “Actual use” or “chief use” criteria;
- (2) Trade-marked or similarly protected terms or names, brand names, proprietary names, part numbers, or other company-specific names;
- (3) Language --
 - (i) Describing goods that are illegal to import, where the petitioner is not a government entity;
 - (ii) Describing goods that are covered by tariff-rate quota provisions; or
 - (iii) Seeking to alter the tariff treatment provided in subchapter III or IV of chapter 99 of the HTS; or
- (4) An HTS subheading number(s) that would alter or attempt to alter the classification of the product in chapters 1 through 97 of the HTS.

§ 220.7 Properly filed petition.

(a) In general. A petition will not be considered to be properly filed unless the petition and the Commission disclosure form are filed in accordance with and contain the information required by §§ 220.3 through 220.5

(b) Identical and overlapping petitions. (1) A petition will not be considered to be properly filed if the petitioner has previously filed, and has not withdrawn, a petition for duty suspension or reduction during the current filing cycle:

- (i) For an article that is identical to that in the current petition;
- (ii) For an article whose article description includes the article covered by the current petition; or
- (iii) For an article that is included in the scope of the current petition.

(2) Should the Commission find that a petitioner has filed one or more identical or overlapping petitions and that such earlier filed petitions have not been withdrawn, the Commission will generally consider the earliest filed pending petition to be the petition of the petitioner.

§ 220.8 Consolidation of petitions.

Should the Commission receive petitions for duty suspensions or reductions from multiple petitioners for identical or overlapping articles classified in the same HTS subheading or subheadings, the Commission may consolidate the petitions and publish a single recommendation so that a single proposed HTS chapter 99 provision for the articles is presented in the Commission's preliminary and final reports.

§ 220.9 Withdrawal of petitions, amendments to petitions.

(a) Withdrawal of petitions. A petitioner may withdraw a petition for duty suspension or reduction filed under this part at any time prior to the date on which the Commission submits its final report. It shall do so by notifying the Commission through the Commission's designated secure web portal of its withdrawal and the notification shall include the name of the petitioner, the Commission identification number for the petition, and the HTS number for the article concerned.

(b) Submission of new petition. A petitioner who withdraws a petition for duty suspension or reduction that was timely filed under § 220.4 may submit a new petition, but only during the 60-day period described in § 220.4.

(c) Amendments to petitions. A petitioner may not amend or otherwise change a petition once it is submitted. If a petitioner wishes to amend or otherwise change a

petition, such as to correct an error, the petitioner must withdraw the petition and file a new petition containing the changes in accordance with paragraphs (a) and (b) of this section.

§ 220.10 Commission review of petitions and disclosure forms.

(a) Commission publication and public availability. Not later than 30 days after expiration of the 60-day period for filing petitions for duty suspensions and reductions, the Commission will publish on its website the petitions for duty suspensions and reductions submitted under § 220.3 that were timely filed and contain the information required under § 220.5. When circumstances allow, the Commission may post such petitions on its website earlier than 30 days after expiration of the 60-day period for filing petitions.

(b) Public comment. Not later than 30 days after expiration of the 60-day period for filing petitions, the Commission will also publish in the Federal Register and on its website a notice requesting members of the public to submit comments on the petitions for duty suspensions and reductions. To be considered, such comments must be filed through the Commission's secure web portal during the 45-day period following publication of the Commission's notice requesting comments from members of the public. Comments, including any attachments thereto, must otherwise comply with the Commission's Handbook on MTB Filing Procedures as posted on the Commission's website. For purposes of this section, all petitions posted by the Commission on its website, whether or not posted early, shall be deemed to be officially published by the Commission on its website on the date of publication of the notice seeking written

comments from members of the public on the petitions.

§ 220.11 Commission preliminary report.

(a) Not later than 150 days after the Commission publishes the petitions and Commission disclosure forms submitted, the Commission will submit a preliminary report on the petitions filed to the Committees. The report will include the following information for each petition filed –

(1) The HTS heading or subheading in which each article that is the subject of a petition is classified, as identified by documentation supplied to the Commission and any supporting information obtained by the Commission.

(2) A determination of whether or not domestic production of the article that is the subject of the petition exists, taking into account the report of the Secretary of Commerce under section 3(c)(1) of the Act, and, if such production exists, whether or not a domestic producer of the article objects to the duty suspension or reduction.

(3) Any technical changes to the description of the article that is the subject of the petition for the duty suspension or reduction that are necessary for purposes of administration when the article is presented for importation, taking into account the report of the Secretary of Commerce under section 3(c)(2) of the Act.

(4) An estimate of the amount of loss in revenue to the United States that would no longer be collected if the duty suspension or reduction takes effect.

(5) A determination of whether or not the duty suspension or reduction is available to any person that imports the article that is the subject of the duty suspension or reduction.

(6) The likely beneficiaries of each duty suspension or reduction, including whether the petitioner is a likely beneficiary.

(b) The preliminary report will also include the following information:

(1) A list of petitions for duty suspensions and reductions that meet the requirements of the Act without modifications.

(2) A list of petitions for duty suspensions and reductions for which the Commission recommends technical corrections (i.e., corrections to the article description that do not otherwise substantially alter the scope or HTS classification of the articles covered by the petition) in order to meet the requirements of the Act, with the correction specified.

(3) A list of petitions for duty suspensions and reductions for which the Commission recommends modifications to the amount of the duty suspension or reduction that is the subject of the petition to comply with the requirements of the Act, with the modification specified.

(4) A list of petitions for duty suspensions and reductions for which the Commission recommends modifications to the scope of the articles that are the subject of the petitions in order to address objections by domestic producers to such petitions, with the modifications specified.

(5) A list of the following:

(i) Petitions for duty suspensions and reductions that the Commission has determined do not contain the information required under section 3(b)(2) of the Act.

(ii) Petitions for duty suspensions and reductions with respect to which the

Commission has determined the petitioner is not a likely beneficiary.

(6) A list of petitions for duty suspensions and reductions that the Commission does not recommend for inclusion in a miscellaneous tariff bill, other than petitions specified in section 3(b)(3)(C)(ii)(V) of the Act.

(c) The Commission will forward to the Committees any additional information submitted to the Commission by the Secretary of Commerce after the Commission transmits its preliminary report.

§ 220.12 Commission final report.

(a) The Commission will submit its final report on each petition for a duty suspension or reduction specified in the preliminary report to the Committees not later than 60 days after the Commission submits its preliminary report. The final report will contain the following information –

(1) The information required to be included in a preliminary report under section 3(b)(3)(C)(i)-(ii) of the Act and updated as appropriate after considering any information submitted by the Committees under section 3(b)(3)(D) of the Act.

(2) A determination of the Commission whether –

(i) The duty suspension or reduction can likely be administered by U.S. Customs and Border Protection;

(ii) The estimated loss in revenue to the United States from the duty suspension or reduction does not exceed \$500,000 in a calendar year during which the duty suspension or reduction would be in effect; and

(iii) The duty suspension or reduction is available to any person importing the

articles that is the subject of the duty suspension or reduction.

(b) [Reserved]

§ 220.13 Confidential business information.

(a) In general. The Commission will not release information which the Commission considers to be confidential business information within the meaning of § 201.6(a) of this chapter unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released by the Commission, or such party subsequently consents to the release of the information.

(b) Exceptions. (1) In calculating the estimated revenue loss required under the Act, the Commission may base its estimates in whole or in part on the estimated values of imports submitted by petitioners in their petitions.

(2) The Commission may disclose some or all of the confidential business information provided to the Commission in petitions and public comments to the U.S. Department of Commerce for use in preparing its report to the Commission and the Committees, and to the U.S. Department of Agriculture and CBP for use in providing information for Commerce's report.

§ 220.14 Application of other Commission rules.

Commission rules applicable to the initiation and conduct of investigations, including rules set out in subpart B of part 201 of this chapter (except § 201.9 (methods employed in obtaining information), § 201.14(a) (computation of time), and § 201.15 (attorneys or agents)), shall not apply to Commission proceedings under this part

By order of the Commission.

Issued: September 21, 2016.

Lisa R. Barton,
Secretary to the Commission.

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