



INTERNATIONAL TRADE COMMISSION

19 CFR Part 201

Rules of General Application

AGENCY: International Trade Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The United States International Trade Commission (“Commission”) proposes to amend provisions of its Rules of Practice and Procedure concerning the Privacy Act. The purpose of the proposed amendment is to delete certain exemptions that pertain only to systems of records that the Commission is removing and to add exemptions that pertain to a new system of records.

DATES: To be assured of consideration, written comments must be received by 5:15 p.m. on **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by docket number MISC-043, by any of the following methods:

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

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

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

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

Instructions: All submissions received must include the agency name and docket number (MISC-043), along with a cover letter stating the nature of the commenter's interest in the proposed rulemaking. Persons filing comments must file the original document electronically on <https://edis.usitc.gov>; any personal information provided will be viewable by the public. 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.

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

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary, telephone (202) 205-2000, or Clara Kuehn, Office of the General Counsel, telephone (202) 205-3012, United States International Trade Commission. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at (202) 205-1810. General information concerning the Commission may also be obtained by accessing its Internet server at <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 amend provisions of the Commission's existing Rules of Practice and

Procedure concerning the Privacy Act. The Commission invites the public to comment on these proposed rules amendments.

Consistent with its ordinary practice, the Commission is issuing these proposed amendments 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 the following steps: (1) Publication of a notice of proposed rulemaking; (2) solicitation of public comments on the proposed amendments; (3) Commission review of public comments on the proposed amendments; and (4) publication of final amendments at least thirty days prior to their effective date.

The Commission proposed to revise 19 CFR section 201.32, which governs exemptions to certain Privacy Act requirements. Pursuant to 5 U.S.C. 552a(k), the Commission proposes to delete two exemptions currently set forth in paragraphs 201.32(a) and (b). These two exemptions pertain only to Inspector General Investigative Files (General) and Inspector General Investigative Files (Criminal). These exemptions will be deleted because the Office of Inspector General is removing these two Privacy Act systems of records. The Commission proposes to redesignate paragraph 201.32(c) as 201.32(a) and correct a typographical error in that paragraph. Pursuant to 5 U.S.C. 552a(k)(1) and (k)(2), the Commission proposes to add exemptions for a new Privacy Act system of records, Freedom of Information Act and Privacy Act Records. The Commission proposes to promulgate this new exemption at paragraph (b) to protect from disclosure classified and other sensitive information.

Regulatory Analysis of Proposed Amendments to the Commission's Rules

The Commission certifies that the proposed amendments to the Commission's rules will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because it does not create an economic impact and does not affect

small entities. The proposed amendments are concerned only with the administration of Privacy Act systems of records within the Commission.

The proposed amendments to the Commission's rules do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

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 proposed amendments to the Commission's rules will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and will not significantly or uniquely affect small governments.

The Commission has determined that the proposed amendments to the Commission's rules do not constitute a "significant regulatory action" under section 3(f) of Executive Order 12866 (58 FR 51735, October 4, 1993).

The proposed amendments to the Commission's rules do not have Federalism implications warranting the preparation of a federalism summary impact statement under Executive Order 13132 (64 FR 43255, August 4, 1999).

The proposed amendments to the Commission's 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.).

List of Subjects in 19 CFR part 201

Administrative practice and procedure.

For the reasons stated in the preamble, under the authority of 19 U.S.C. 1335, the United States International Trade Commission proposes to amend 19 CFR part 201 as follows:

PART 201--RULES OF GENERAL APPLICATION

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

Authority: 19 U.S.C. 1335; 19 U.S.C. 2482, unless otherwise noted.

2. In § 201.32, remove paragraphs (a) and (b); redesignate paragraph (c) as paragraph (a); revise the first sentence of redesignated paragraph (a); and add paragraph (b) to read as follows:

§ 201.32 Specific exemptions.

(a) Pursuant to 5 U.S.C. 552a(k)(1), (5) and (6), records contained in the system entitled “Personnel Security Investigative Files” have been exempted from subsections (c)(3), (d), (e)(1), (e)(4)(G) through (I) and (f) of the Privacy Act. * * *

(b) Pursuant to 5 U.S.C. 552a(k)(1) and (k)(2), records contained in the system entitled “Freedom of Information Act and Privacy Act Records” have been exempted from subsections 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 he 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.

By order of the Commission.

Issued: September 21, 2017.

Lisa R. Barton,

Secretary to the Commission.

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