



INTERNATIONAL TRADE COMMISSION

19 CFR Part 210

Section 337 Adjudication and Enforcement

AGENCY: International Trade Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The United States International Trade Commission (“Commission”) proposes to amend its Rules of Practice and Procedure concerning section 337 adjudication and enforcement.

The intended effect of the proposed amendments is to require disclosure of information by the parties and intervenors in section 337 investigations and ancillary proceedings before the Commission regarding entities that have an ownership or a financial interest in the investigation.

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: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, D.C. 20436, telephone 202-205-2595. General information concerning the Commission may be obtained by accessing its Internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810.

Notwithstanding Commission Rule 201.8(d), 19 CFR 201.8(d), you may submit comments, identified by docket number MISC-051, by any of the following methods:

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

—*Agency Website:* <https://www.usitc.gov>. You may submit comments on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov.

—*Email*: contact Secretary@usitc.gov to request submission of comments by email. Include docket number MISC-051 in the subject line of the message.

—*Mail*: For paper submission. U.S. International Trade Commission, 500 E Street S.W., Room 112, Washington, D.C. 20436.

—*Hand Delivery/Courier*: U.S. International Trade Commission, 500 E Street S.W., Room 112, Washington, D.C. 20436, from 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-051), 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://www.usitc.gov>, including any personal information provided. For paper copies, a signed original and one (1) copy of each set of comments should be submitted to Lisa R. Barton, Secretary, U.S.

International Trade Commission, 500 E Street S.W., Room 112, Washington, D.C. 20436.

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

FOR FURTHER INFORMATION CONTACT: Lisa Barton, telephone 202-205-2000, Office of the General Counsel, 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: The preamble below is designed to assist readers in understanding the proposed amendments to the Commission Rules. This preamble provides background information, a regulatory analysis of the proposed amendments, an explanation of the proposed amendments to part 210, and a description of the proposed amendments to the rules. The Commission invites the public to comment on the proposed amendments to the Commission's rules.

If the Commission decides to proceed with this rulemaking after reviewing the comments filed in response to this proposed rule, the proposed rule revisions will be promulgated in accordance with the applicable requirements of the Administrative Procedure Act (“APA”) (5 U.S.C. 553) and will be codified in 19 CFR part 210.

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 by formalizing the disclosure of information by parties and intervenors in investigations conducted under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) (“section 337”) regarding entities that have an ownership and/or financial interest in the investigations. Accordingly, the Commission proposes amendments to its rules governing section 337 proceedings.

This rulemaking was undertaken to address concerns that have arisen in Commission practice. Many Federal courts have real-party-in-interest and litigation-funding disclosure requirements to promote transparency and for conflicts. The Commission does not currently have such rules. Accordingly, the Commission endeavors to implement such rules. The intended effect of the proposed amendments is to require disclosure of entities that have a financial interest in or exert control with respect to the parties that appear before the Commission in section 337 investigations and ancillary proceedings. The purpose of this disclosure requirement is to (a) facilitate evaluation of potential conflicts for the Commissioners, the Commission’s Administrative Law Judges, and Commission employees, for example, by clarifying whether a party is owned or controlled by another entity or whether an entity other than the party has control over the party’s participation in the investigation; (b) provide early clarity about entities whose rights are at issue in the investigation; and (c) promote transparency to facilitate settlement and to bring relevant issues to the Commission’s attention. The Commission notes

that nothing in this proposed amendment is meant to prohibit the Commission and its Administrative Law Judges from requesting additional information from the parties or from enforcing this rule and their ground rules against the parties.

The Commission invites the public to comment on the proposed rule amendments. In any comments, please consider addressing whether the language of the proposed amendments is sufficiently clear for users to understand for compliance and enforcement purposes, in addition to any other comments you wish to make on the proposed amendments. Please also consider addressing how the proposed amendments could be improved and offering specific constructive alternatives and explanations, where appropriate. Further, the Commission encourages members of the public to comment on (1) the benefits to parties, the public, and the Commission in having a disclosure rule like the one proposed; (2) any undue burden the proposed amendments would have on parties; and (3) ways to mitigate those burdens while achieving the objectives of the proposed amendments. In addition, the Commission welcomes comments on the effect this rule is likely to have in section 337 investigations, including whether the proposed amendments are likely to affect certain entities or circumstances more so than others. Moreover, because some provisions in the proposed amendments are similar to disclosure requirements in Federal district and appellate court rules and other Federal/State judicial or administrative forums, the Commission is interested in comments concerning the relevance of any variances between the proposed amendments and similar provisions in those rules.

The Commission draws attention to the following aspects of proposed § 210.14a that commenters may wish to address among other issues: (1) whether proposed § 210.14a(a)(1) should require disclosure of entities owning a party's stock only after a particular percentage of ownership is reached; (2) whether proposed § 210.14a(a)(2) should apply to respondents and intervenors or just to complainants and whether there is enough clarity about entities that have a legal right to bring a section 337 investigation particularly for claims under section 337(a)(1)(A) to be able to comply; (3) whether definitions of certain terms would be useful and any proposals

for such definitions; (4) whether the disclosures required should differ for investigations under section 337(a)(1)(A) as opposed to 337(a)(1)(B)-(E); (5) whether disclosure of funding or necessary approval in related litigation is relevant and should be included in the disclosures required under proposed paragraphs (a)(3)(i) and (ii) of this section; and (6) whether there are other possible financial interests in section 337 investigations that are not required to be disclosed under proposed § 210.14(a)(1) through (3) that should also be subject to disclosure, and if so, details regarding the nature of such interests and how to define both the nature and holders of such interests. The Commission notes that it applied for and received a deviation from the Office of the Federal Register to use a number with an alpha character for § 210.14a.

The current notice of proposed 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 (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 part 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 invites the public to comment on these proposed rules consistent with its ordinary practice. This practice 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 (30) days prior to their effective date.

Regulatory Analysis of Proposed Amendments to the Commission's Rules

Pursuant to Executive Order 12866 (58 FR 51735, Oct. 4, 1993), as amended by Executive Order 14215 (90 FR 10447, Feb. 18, 2025), a determination must be made whether a regulatory action is significant and therefore subject to review by the Office of Management and Budget (OMB) in accordance with the requirements of the Executive Order. OMB and the Commission have determined that the proposed rules do not meet the criteria described in section 3(f) of Executive Order 12866 (58 FR 51735, Oct. 4, 1993), as amended, and thus do not constitute a significant regulatory action for purposes of the Executive Order.

Executive Order 14192 (90 FR 9065, Jan. 31, 2025) requires agencies to identify ten (10) existing regulations for repeal for each new regulation that they promulgate. Implementation guidance for Executive Order 14192 issued by OMB (Memorandum M-25-20, Mar. 26, 2025) clarifies that “EO 14192 regulatory actions” are limited to “significant regulatory actions” (as defined in Executive Order 12866) and significant guidance documents that impose total costs greater than zero. As noted above, OMB and the Commission have determined that the proposed rules do not constitute a significant regulatory action.

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 final rulemaking is required under 5 U.S.C. 553(b) or any other statute. Although the Commission has chosen to publish a notice of proposed rulemaking, these proposed 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 proposed 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 proposed 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 proposed 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.

These proposed rules do not contain any new or amended collections of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

Part 210—Adjudication and Enforcement

Subpart B—Commencement of Preinstitution Proceedings and Investigations

Section 210.8

The Commission proposes to amend § 210.8 to indicate that the complainant must file, concurrently with the complaint, a separate disclosure statement pursuant to § 210.14a. The proposed rule also allows related complainants to file a single disclosure statement.

Subpart C—Pleadings

Section 210.13

The Commission also proposes to amend § 210.13 to indicate that each respondent must file, concurrently with its response, a separate disclosure statement pursuant to § 210.14a. The proposed rule also allows related respondents to file a single disclosure statement.

Section 210.14a

Section 210.14a is a new rule that provides for certain disclosures by the parties in section 337 proceedings. The proposed rule adds several requirements, which apply to each nongovernment party to a section 337 investigation and each nongovernment party who seeks to intervene in a section 337 investigation. The proposed rule requires that these parties file a disclosure statement with the Secretary. In the disclosure statement, each party must

identify any parent corporation and any other entity, not including natural person(s), owning that party's stock. The disclosure is focused on corporate or similar entities that through ownership of the party's stock may have a financial interest in the outcome of the investigation; the disclosure does not focus on individual persons that may hold stock in the party so as to not require disclosure of every individual shareholder. Each party must also identify any person or entity that has the legal right to bring a section 337 investigation based on the unfair act or acts asserted in the complaint besides complainant. The Commission notes that the person or entity that has the legal right to bring a section 337 complaint will depend on the unfair act(s) asserted in the complaint. By way of example, the person or entity that has the legal right to bring a section 337 in patent, trademark, and copyright investigations is the owner or exclusive licensee, whereas for trade secret investigations, the person or entity that has the legal right to bring a section 337 is the trade secret owner. In addition, each party must identify any person or entity, not including counsel representing the party in the investigation: (a) that provides funding specifically for the section 337 investigation, not including personal loan(s), bank loans, or insurance; or (b) whose approval is necessary for litigation decisions or settlement decisions in the section 337 investigation, and state the nature of the terms and conditions relating to that approval. The proposed section does not cover funding provided as part of a contingency fee agreement between the party and its counsel and therefore has excluded counsel representing the party from among the entities that must be disclosed pursuant to proposed § 210.14a. Whether the party is represented by counsel and if so, whom will otherwise be disclosed in the investigation. The proposed section does not cover banks or insurers that may provide loans or insurance to the party but does cover loans provided specifically for the investigation by entities other than banks.

The proposed rule further states that the disclosure statement shall include the identity, business address, and, if a legal entity, place of formation for each corporation, entity, or person identified. Finally, the proposed rule allows a party to state that there is no, and/or that

they are not aware of any, such parent corporation or entity under paragraph (a)(1) and/or such person or entity under paragraphs (a)(2) and (3) of this section.

Subpart D—Motions

Section 210.19

The Commission also proposes to amend § 210.19 to indicate that the intervenor must file, concurrently with its motion to intervene, a separate disclosure statement pursuant to § 210.14a. The proposed rule also allows related intervenors, who move to intervene together, to file a single disclosure statement.

Subpart I—Enforcement Procedures and Advisory Opinions

Section 210.75

The Commission also proposes to amend § 210.75 to indicate that a separate disclosure statement pursuant to § 210.14a must be filed by the enforcement complainant, concurrently with the enforcement complainant, and by the other parties named in the notice of institution, concurrently with their responses. The proposed rule also allows related parties to file a single disclosure statement.

Section 210.76

The Commission also proposes to amend § 210.76 to indicate that a separate disclosure statement pursuant to § 210.14a must be filed by the petitioner, concurrently with their petition to modify and/or rescind a remedial order, and by any responding party, concurrently with its response. The proposed rule also allows related parties to file a single disclosure statement.

Section 210.79

The Commission also proposes to amend § 210.79 to indicate that a separate disclosure statement pursuant to § 210.14a must be filed by the requester, concurrently with their request for an advisory proceeding, and by any responding party, concurrently with its response. The proposed rule also allows related parties to file a single disclosure statement.

Finally, the Commission proposes to change the term “10” to “ten (10).”

List of Subjects in 19 CFR Part 210

Administrative practice and procedure, Imports, Investigations Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the United States International Trade Commission proposes to amend 19 CFR part 210 as follows:

PART 210—ADJUDICATION AND ENFORCEMENT

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

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

Subpart B—Commencement of Preinstitution Proceedings and Investigations

2. Amend § 210.8 by:

- a. Redesignating paragraphs (c) and (d) as paragraphs (d) and (e); and
- b. Adding new paragraph (c).

The addition reads as follows:

§ 210.8 Commencement of preinstitution proceedings.

* * * * *

(c) *Provide disclosure statement.* Complainant must file, concurrently with the complaint, a separate disclosure statement pursuant to § 210.14a. Related complainants may file a single disclosure statement.

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Subpart C—Pleadings

3. Amend § 210.13 by adding paragraph (d) to read as follows:

§ 210.13 The response.

* * * * *

(d) *Provide disclosure statement.* Respondent must file, concurrently with its response, a separate disclosure statement pursuant to § 210.14a. Related respondents may file a single disclosure statement.

4. Add § 210.14a to read as follows:

§ 210.14a Disclosure rule.

(a) Each nongovernment party to, or a nongovernment party who seeks to intervene, in a section 337 investigation shall file with the Secretary a disclosure statement that identifies:

(1) Any parent corporation and any entity, not including natural person(s), owning its stock;

(2) Any person or entity that has the legal right based on the unfair act(s) asserted in the complaint to bring a section 337 investigation besides complainant; and

(3) Any person or entity, not including counsel representing the party in the investigation:

(i) That provides funding specifically for the section 337 investigation, not including personal loan(s), bank loans, or insurance, or

(ii) Whose approval is necessary for litigation decisions or settlement decisions in the section 337 investigation, including the nature of the terms and conditions relating to that approval.

(b) For each corporation, entity, or person identified, include the identity, business address, and if a legal entity, place of formation.

(c) With respect to paragraphs (a)(1) through (3) of this section, if no such corporations, entities, or person(s) exist or are known by said party, said party may state that there is no, or they are not aware of any, such parent corporation or entity under paragraph (a)(1) of this section and/or such person or entity under paragraphs (a)(2) and (3) of this section.

Subpart D—Motions

5. Revise § 210.19 to read as follows:

§ 210.19 Intervention.

Any person desiring to intervene in an investigation or a related proceeding under this part shall make a written motion after institution of the investigation or related proceeding. The motion shall have attached to it a certificate showing that the motion has been served upon each party to the investigation or related proceeding in the manner described in § 201.16(b) of this chapter. Each person must file, concurrently with their motion to intervene, a separate disclosure statement pursuant to § 210.14a. Related persons, who move to intervene jointly, may file a single disclosure statement. Any party may file a response to the motion in accordance with § 210.15(c) of this part, provided that the response is accompanied by a certificate confirming that the response was served on the proposed intervenor and all other parties. The Commission, or the administrative law judge by initial determination, may grant the motion to the extent and upon such terms as may be proper under the circumstances.

Subpart I—Enforcement Procedures and Advisory Opinions

6. Amend § 210.75 by revising paragraph (a)(1) 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. Each enforcement complainant must file, concurrently with its enforcement complaint, and each named respondent must file, concurrently with its response, a separate disclosure statement pursuant to § 210.14a.

Related parties may file a single disclosure statement.

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7. Amend § 210.76 by revising paragraph (a)(1) to read as follows:

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

(a) ***

(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. Each petitioner must file, concurrently with its petition, and each person who responds or is named in the notice of institution must file, concurrently with its response, a separate disclosure statement pursuant to § 210.14a. Related parties may file a single disclosure statement. If the Commission makes such a determination, it shall notify the Secretary

of the Treasury and U.S. Customs and Border Protection.

* * * * *

8. Amend § 210.79 by revising paragraph (a) introductory text to read as follows:

§ 210.79 Advisory opinions.

(a) *Advisory opinions.* Upon request of any person, the Commission may, upon such investigation as it deems necessary, issue an advisory opinion as to whether any person's proposed course of action or conduct would violate a Commission exclusion order, cease and desist order, or consent order. Any responses to a request for an advisory opinion shall be filed within ten (10) days of service of the request. Each requester must file, concurrently with its request, and each person who responds or is named in the notice of institution must file, concurrently with its response, a separate disclosure statement pursuant to § 210.14a. Related parties may file a single disclosure statement. The Commission will consider whether the issuance of such an advisory opinion would facilitate the enforcement of section 337 of the Tariff Act of 1930, would be in the public interest, and would benefit consumers and competitive conditions in the United States, and whether the person has a compelling business need for the advice and has framed his request as fully and accurately as possible. Advisory opinion proceedings are not subject to sections 554, 555, 556, 557, and 702 of title 5 of the United States Code.

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By order of the Commission.

Issued: April 28, 2026

Lisa Barton,

Secretary to the Commission.

