

intended to eliminate the requirement that broker-dealers disclose to their customers when a customer's order for listed options has been executed at a price inferior to a better published quote.

The Commission is proposing to repeal the Trade-Through Disclosure Rule under the authority set forth in Exchange Act Sections 3(b), 15, 11A, 17, and 23(a).

#### C. Small Entities Subject to the Rules

Commission rules generally define a broker-dealer as a small entity for purposes of the Exchange Act and the Regulatory Flexibility Act if the broker-dealer had a total capital (net worth plus subordinated liabilities) of less than \$500,000 on the date in the prior fiscal year as of which its audited financial statements were prepared, and it is not affiliated with any person (other than a natural person) that is not a small entity.<sup>28</sup> The Commission estimates that as of December 31, 2000, approximately 900 Commission-registered broker-dealers were small entities under the Regulatory Flexibility Act.<sup>29</sup> However, the Commission estimates that none of the 900 registered broker-dealers that would be considered small entities for purposes of the statute regularly represent options orders on behalf of their customers. As of December 31, 2000, data indicates that only one broker-dealer that was a small entity was an options specialist or market maker.

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996, the Commission is also requesting information regarding the potential impact of the proposed repeal of the Trade-Through Disclosure Rule on the economy on an annual basis. Commenters should provide empirical data to support their views.

#### D. Reporting, Recordkeeping, and other Compliance Requirements

The Trade-Through Disclosure Rule requires a broker-dealer to disclose to its customer when its order has been executed at a price inferior to a published price on another exchange, unless the options trade is executed on an exchange that participates in an approved linkage plan that has rules reasonably designed to limit intermarket trade-throughs. The proposed repeal of the Trade-Through Disclosure Rule would eliminate this requirement.

#### E. Duplicative, Overlapping, or Conflicting Federal Rules

The Commission believes there are no rules that duplicate, overlap, or conflict with the proposed repeal of the Trade-Through Disclosure Rule.

#### F. Significant Alternatives

The Regulatory Flexibility Act directs the Commission to consider significant alternatives that would accomplish the stated objective, while minimizing any significant adverse impact on small entity issuers. In connection with the proposed repeal of the Trade-Through Disclosure Rule, the Commission considered the application of the proposed repeal of the Trade-Through Disclosure Rule to small entities.

The Commission believes that the application of the proposed repeal of the Trade-Through Disclosure Rule to small entities would achieve the primary goal of limiting trade-throughs or providing information to customers when their orders are traded-through.

#### G. Solicitation of Comments

The Commission encourages the submission of comments with respect to any aspect of this IRFA. In particular, the Commission requests comments regarding: (1) The number of small entities that may be affected by the proposed repeal of the Trade-Through Disclosure Rule; (2) the existence or nature of the potential impact of the proposed repeal of the Trade-Through Disclosure Rule on small entities discussed in the analysis; and (3) how to quantify the impact of the proposed repeal of the Trade-Through Disclosure Rule. Commenters are asked to describe the nature of any impact and provide empirical data supporting the extent of the impact. Such comments will be considered in the preparation of the Final Regulatory Flexibility Analysis, if the proposed rules are adopted, and will be placed in the same public file as comments on the proposed repeal of the Trade-Through Disclosure Rule.

### VII. Statutory Authority

We are proposing to repeal the Trade-Through Disclosure Rule pursuant to our authority under Exchange Act Sections 3(b), 15, 11A, 17, and 23(a).

#### List of Subjects in 17 CFR Part 240

Brokers, Brokers-dealers, Fraud, Issuers, Reporting and recordkeeping requirements, Securities.

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as set forth below.

### PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 240 continues to read in part as follows:

**Authority:** 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z-2, 77z-3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j-1, 78k, 78k-1, 78l, 78m, 78n, 78o, 78p, 78q, 78s, 78u-5, 78w, 78x, 78ll, 78mm, 79q, 79t, 80a-20, 80a-23, 80a-29, 80a-37, 80b-3, 80b-4 and 80b-11, unless otherwise noted.

\* \* \* \* \*

#### **\$240.11Ac1-7 [Removed]**

2. Section 240.11Ac1-7 is removed.

Dated: May 30, 2002.

By the Commission.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02-14010 Filed 6-4-02; 8:45 am]

**BILLING CODE 8010-01-P**

### INTERNATIONAL TRADE COMMISSION

#### 19 CFR parts 201, 204, 206 and 207

**Rules of General Application; Investigations of Effects of Imports on Agricultural Programs; Investigations Relating to Global and Bilateral Safeguard Actions, Market Disruption, and Review of Relief Actions; and Investigations of Whether Injury to Domestic Industries Results From Imports Sold at Less Than Fair Value or From Subsidized Exports to the United States**

**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 rules of general application, safeguard investigations, and antidumping and countervailing duty investigations and reviews. The amendments are necessary to make certain technical corrections, to clarify certain provisions, to harmonize different parts of the Commission's rules, and to address concerns that have arisen in Commission practice. The intended effect of the proposed amendments is to facilitate compliance with the Commission's Rules and improve the administration of agency proceedings.

**DATES:** To be assured of consideration, written comments must be received no later than 5:15 p.m. on August 5, 2002.

<sup>28</sup> 17 CFR 240.0-10(c).

<sup>29</sup> The Commission's estimate of 900 small entities includes all of the registered broker-dealers that do not have relationships with clearing firms.

**ADDRESSES:** A signed original and 8 copies of each set of comments on these proposed amendments to the Commission's Rules, along with a cover letter, should be submitted by mail or hand delivery to Marilyn R. Abbott, Secretary, United States International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436.

**FOR FURTHER INFORMATION CONTACT:** Paul R. Bardos, Esq., Office of the General Counsel, United States International Trade Commission (telephone 202-205-3102). 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 World Wide Web site (<http://www.usitc.gov>).

#### **SUPPLEMENTARY INFORMATION:**

This preamble provides background information, a regulatory analysis of the proposed amendments, and then a detailed section-by-section analysis of the proposed amendments to the rules.

#### **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. To carry out its functions and duties, the Commission has issued Rules of Practice and Procedure. The passage of time has rendered some provisions of the rules outdated. In addition, Commission practice has revealed the need for improvements in certain rules. This rulemaking seeks to update certain outdated provisions and improve other provisions.

The Commission invites the public to comment on all of these proposed rules. In any comments, please also consider addressing whether the proposed amendments are in language that is plain, clear and easy to understand.

Consistent with its ordinary practice, the Commission is issuing these proposed amendments in accordance with the rulemaking procedure in section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553). This 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 such comments prior to developing final amendments; and (4) publication of final amendments at least thirty days prior to their effective date.

#### **Regulatory Analysis**

The Commission has determined that these proposed amendments do not meet the criteria described in section 3(f) of Executive Order 12866 (58 FR 51735, Oct. 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. Although the Commission has chosen to publish a notice, these proposed amendments 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 amendments 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 amendments 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 proposed amendments 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 (5 U.S.C. 801 *et seq.*) because they concern rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties.

The proposed amendments are not subject to § 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), since they do not contain any new information collection requirements.

#### **Section-by-Section Analysis of the Proposed Amendments**

##### **Part 201—Rules of General Application**

###### *Subpart A—Miscellaneous*

The Commission proposes to amend § 201.1 regarding the applicability of part 201 to correctly reference parts 210, 212 and 213 in the reference to rules of special application.

The Commission proposes to amend paragraph (c) of § 201.2, which defines the term "Tariff Act," to include citations to 19 U.S.C. 1677m and 1677n.

The Commission proposes to amend paragraph (c) of § 201.3 regarding Commission business hours to clarify that any document filed after Commission business hours will be considered filed the next business day.

The Commission proposes to amend paragraph (a) of § 201.3a regarding missing children information, to update the Commission's designated point of contact for using its penalty mail in locating and recovering missing children.

The Commission proposes amending paragraph (d) of § 201.4 concerning matters that may come within the purview of other laws. This proposal will correctly cite to section 202 of the Trade Act of 1974 (19 U.S.C. 2252), eliminate the citation to the former 19 U.S.C. 1303, which has been repealed, and will add "*et seq.*" to the citation to 19 U.S.C. 1673 to correctly refer to all of the antidumping provisions.

The Commission proposes to correct paragraph (a)(2) of § 201.6 to include § 206.17 as a section having special rules for the handling of nondisclosable confidential business information. The Commission also proposes amending paragraph (d) of § 201.6 regarding the approval or denial of requests for confidential treatment. The proposed amendment would provide for consistency by stating that approvals, like denials, would be in writing. The Commission also proposes updating paragraph (e)(3) of § 201.6 by replacing "his consideration" with "consideration." The Commission proposes amending paragraph (g) of § 201.6 regarding granting confidential status to business information to clarify when business information deemed not entitled to confidential treatment will be treated as public information. The proposed amendment would impose a five day deadline for withdrawing such business information after which time it would become public.

###### *Subpart B—Initiation and Conduct of Investigations*

The Commission proposes to amend paragraph (a) of § 201.8 regarding where to file documents and the date of filed documents. The proposed amendment would state that filings made within the Commission's official hours of operation will be deemed filed on the date received by the Commission, consistent with the proposed amendment to paragraph (c) of § 201.3 regarding Commission hours.

Additionally, the Commission proposes to amend paragraph (c) of § 201.8 regarding specifications for documents, to provide that all documents filed, other than one or two-

page documents, must be double-spaced, to improve the readability of documents.

The Commission proposes to amend paragraph (f) of § 201.13 to provide, for ease of consideration, that supplementary materials in nonadjudicative hearings must be marked with the name of the organization submitting them. The Commission proposes to amend paragraph (h)(i)(1) of § 201.13, to delete the unnecessary reference to the requirement to file 14 copies of briefs with the Secretary, since paragraph (d) of § 201.8 already contains a requirement concerning the requisite number of copies to be filed.

The Commission proposes to amend paragraph (a) of § 201.14, regarding the computation of time, to simplify filing requirements. In the event of an early or all-day closing of the Commission on a business day, the amendment would allow the Secretary to accept filings due the day of the early or all-day closing on the next business day, without requiring the submitter to file a request for an extension of time.

#### *Subpart C—Availability of Information to the Public Pursuant to 5 U.S.C. 552*

The Commission proposes to amend paragraph (a)(1) of § 201.17, regarding requests, to permit the filing of requests electronically. Similarly, paragraph (b) of § 201.18 is proposed to be amended to permit the filing of appeals by such means.

The Commission currently has the capability of accepting electronic filing of requests at its World Wide Web site, at <http://www.usitc.gov/foia.htm>. In order to give requesters the opportunity to avail themselves of this capability, the Commission, pursuant to § 201.4(b), is waiving the provisions of §§ 201.17 and 201.18 to the extent of permitting electronic filing as of the date of publication of this notice. All other requirements of those rules remain in force.

The Commission proposes amending paragraphs (d) and (e) of § 201.18 regarding denials of requests for inspection or copying of records under the Freedom of Information Act (FOIA) and appeals of such denials. Such proposed amendment would correct the rule to state that paragraph (c), and not paragraphs (a) and (b), provides for extension of time for deciding appeals of denials.

The Commission proposes to amend paragraph (b) of § 201.19 concerning notification regarding requests for confidential business information under FOIA. The proposed amendment would clarify that the term “(s)submitter”

includes contractors, bidders, vendors and others who have an administrative relationship with the Commission, and who provide confidential business information to the Commission. Under the amended provision, persons or entities having an administrative relationship to the Commission would qualify to receive notice before release of their confidential submission under FOIA.

The Commission proposes amending paragraph (a) of § 201.21, regarding availability of specific records, to provide information about the Commission’s World Wide Web site, consistent with the electronic reading room provisions of the FOIA.

#### *Subpart D—Safeguarding Individual Privacy Pursuant to 5 U.S.C. 552a*

The Commission proposes amending § 201.31, regarding fees, to include employee conduct as part of the section and to rename the section heading to reflect this change. Consequently, the Commission proposes to remove § 201.33, which currently deals with employee conduct, and add its text to § 201.31. This will eliminate the current duplication of section numbers.

#### *Subpart G—Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the U.S. International Trade Commission*

The Commission proposes amending paragraph (c) of § 201.170 to provide an updated contact point.

#### *Subpart H—Debt Collection*

The Commission proposes amending subpart H, regarding debt collection, to update all references to “Office of Finance and Budget” to read “Office of Finance.” The Commission would make this change in paragraphs (f) and (m) of § 201.201 and paragraphs (g)(1), (g)(2), (h)(1)(iii), (h)(3), and (h)(4)(ii) of § 201.204.

#### **Part 204—Investigations of Effects of Imports on Agricultural Programs**

The Commission proposes to amend § 204.1 by renumbering footnote 5 as footnote 1, and to amend § 204.2 by renumbering footnote 6 as footnote 2. These changes would correct a misnumbering of those footnotes. The Commission also proposes to simplify the authority citation.

#### **Part 206—Investigations Relating to Global and Bilateral Safeguard Actions, Market Disruption, and Review of Relief Actions**

##### *Subpart A—General*

The Commission proposes amending paragraph (b) of § 206.3 regarding the contents of a notice of institution of an investigation under part 206. Under the proposed amendment, the notice of institution would include any limits on page lengths for posthearing briefs.

The Commission proposes amending paragraph (b) of § 206.8 regarding service to provide that the Secretary shall promptly notify a petitioner of approval of an application for disclosure of confidential business information under administrative protective order (APO), and that the petitioner shall then serve a copy of the confidential petition on those approved applicants within two (2) calendar days of receiving that notification. Under this proposed amendment, which is consistent with § 207.10(b)(1)(i), approved applicants will receive a copy of the confidential petition more quickly, and without having to wait for the Secretary’s issuance of the service list.

The Commission proposes amending paragraphs (a)(2), (g)(1) and (3) of § 206.17. The Commission proposes to amend paragraph (a)(2), regarding applications for disclosure of confidential business information under APO, to require only a signed APO application and five (5) copies to be filed with the Commission. Filing a signed original and fourteen (14) copies pursuant to § 201.8 (d) provides the Commission with unnecessary copies. The Commission proposes amending paragraph (g)(1) to include the definition of nondisclosable confidential business information from § 201.6(a)(2) to make the rule easier to understand. The Commission also proposes amending paragraph (g)(3) regarding required bracketing procedures if a request for exemption from disclosure of business proprietary information is approved. This proposed amendment would make this provision consistent with existing § 207.7(g)(3), the analogous provision in part 207.

#### **Part 207—Investigations of Whether Injury to Domestic Industries Results From Imports Sold at Less Than Fair Value or From Subsidized Exports to the United States**

##### *Subpart A—General Provisions*

The Commission proposes to remove § 207.6 regarding reports of progress of investigation as unnecessary and

inconsistent with Commission practice. The section number will be reserved.

The Commission proposes to amend paragraph (a)(2) of § 207.7 regarding applications for disclosure of business proprietary information under APO, to require only a signed APO application and five (5) copies to be filed with the Commission, consistent with the proposed changes in part 206. The Commission further proposes to amend paragraph (a)(2) of § 207.7 for consistency to include a deadline for adding attorneys under the APO in remanded investigations.

#### Subpart F—Five-Year Reviews

The Commission proposes to amend paragraph (b)(2) of § 207.62, regarding rules on adequacy and nature of Commission review, to delete the reference to “per group,” as unnecessary, since a grouped review only involves one “group.”

The Commission proposes to amend paragraph (b) of § 207.64, regarding staff reports, to conform with agency practice by providing that the final staff report will be placed in the record.

#### List of Subjects in 19 CFR Parts 201, 204, 206, and 207

Administrative practice and procedure, Investigations.

For the reasons stated in the preamble, the Commission proposes to amend 19 CFR parts 201, 204, 206 and 207 as set forth below:

#### PART 201—RULES OF GENERAL APPLICATION

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

**Authority:** Sec. 335 of the Tariff Act of 1930 (19 U.S.C. 1335), and sec. 603 of the Trade Act of 1974 (19 U.S.C. 2482), unless otherwise noted.

2. Revise § 201.1 to read as follows:

##### § 201.1 Applicability of part.

This part relates generally to functions and activities of the Commission under various statutes and other legal authority. Rules having special application appear separately in parts 202 through 207, inclusive, and parts 210, 212 and 213, of this chapter. In case of inconsistency between a rule of general application and a rule of special application, the latter is controlling.

3. Amend § 201.2 to revise paragraph (c) to read as follows:

##### § 201.2 Definitions.

\* \* \* \* \*

(c) *Tariff Act* means the Tariff Act of 1930, 19 U.S.C. §§ 1202–1677j, §§ 1677m–n;

\* \* \* \* \*

4. Amend § 201.3 to revise paragraph (c) to read as follows:

##### § 201.3 Commission offices, mailing address, and hours.

\* \* \* \* \*

(c) *Hours.* The business hours of the Commission are from 8:45 a.m. to 5:15 p.m., eastern standard or daylight savings time, whichever is in effect in Washington, DC. Any document filed with the Secretary of the Commission after 5:15 p.m. will be considered filed the next business day.

5. Amend § 201.3a to revise paragraph (a) to read as follows:

##### § 201.3a Missing children information.

(a) Pursuant to 39 U.S.C. 3220, penalty mail sent by the Commission may be used to assist in the location and recovery of missing children. This section establishes procedures for such use and is applicable on a Commission-wide basis. The Commission's Office of Facilities Management, telephone 202–205–2741, shall be the point of contact for matters related to the implementation of this section.

\* \* \* \* \*

6. Amend § 201.4 to revise paragraph (d) to read as follows:

##### § 201.4 Performance of functions.

\* \* \* \* \*

(d) *Presentation of matter that may come within the purview of other laws.* Whenever any party or person, including the Commission staff, has reason to believe that a matter under investigation pursuant to section 337 of the Tariff Act of 1930, or a matter under an investigation pursuant to section 202 of the Trade Act of 1974 (19 U.S.C. 2252), which is causing increased imports may come within the purview of another remedial provision of law not the basis of such investigation, including but not limited to the antidumping provisions (19 U.S.C. 1673 *et. seq.*) or the countervailing duty provisions (19 U.S.C. 1671 *et. seq.*) of the Tariff Act of 1930, then the party or person may file a suggestion of notification with the Commission that the appropriate agency be notified of such matter or circumstances, together with such information as the party or person has available. The Secretary shall promptly thereafter publish notice of the filing of such suggestion and information, and make them available for inspection and copying to the extent permitted by law. Any person may comment on the suggestion within 10

days after the publication of said notice. Thereafter, the Commission shall determine whether notification is appropriate under the law and, if so, shall notify the appropriate agency of such matters or circumstances. The Commission may at any time make such notification in the absence of a suggestion under this rule when the Commission has reason to believe, on the basis of information before it, that notification is appropriate under law.

7. Amend § 201.6 to revise paragraphs (a)(2), (d), (e)(3) and (g) to read as follows:

##### § 201.6 Confidential business information.

(a) \* \* \*

(2) *Nondisclosable confidential business information* is privileged information, classified information, or specific information (e.g., trade secrets) of a type for which there is a clear and compelling need to withhold from disclosure. Special rules for the handling of such information are set out in § 206.17 and § 207.7 of this chapter.

\* \* \* \* \*

(d) *Approval or denial of requests for confidential treatment.* Approval or denial of requests shall be made only by the Secretary or Acting Secretary. An approval or a denial of a request for confidential treatment shall be in writing. A denial shall specify the reason therefor, and shall advise the submitter of the right to appeal to the Commission.

(e) \* \* \*

(3) The justification submitted to the Commission in connection with an appeal shall be limited to that presented to the Secretary with the original or amended request. When the Secretary or Acting Secretary has denied a request on the ground that the submitter failed to provide adequate justification, any such additional justification shall be submitted to the Secretary for consideration as part of an amended request. For purposes of paragraph (e)(1) of this section, the twenty (20) day period for filing an appeal shall be tolled on the filing of an amended request and a new twenty (20) day period shall begin once the Secretary or Acting Secretary has denied the amended request, or the approval or denial has not been forthcoming within ten (10) days of the filing of the amended request. A denial of a request by the Secretary on the ground of inadequate justification shall not obligate a requester to furnish additional justification and shall not preclude a requester from filing an appeal with the Commission based on the justification earlier submitted to the Secretary.

\* \* \* \* \*

(g) *Granting confidential status to business information.* Any business information submitted in confidence and determined to be entitled to confidential treatment shall be maintained in confidence by the Commission and not disclosed except as required by law. In the event that any business information submitted to the Commission is not entitled to confidential treatment, the submitter will be permitted to withdraw the tender within five days of its denial of confidential treatment unless it is the subject of a request under the Freedom of Information Act or of judicial discovery proceedings. After such five day period, the business information deemed not entitled to confidential treatment, and not withdrawn, will be treated as public information.

\* \* \* \* \*

8. Amend § 201.8 to revise paragraphs (a) and (c) to read as follows:

**§ 201.8 Filing of Documents.**

(a) *Where to file; date of filing.* Documents shall be filed at the office of the Secretary of the Commission in Washington, DC. Such documents, if properly filed within the hours of operation specified in § 201.3 (c), will be deemed to be filed on the date on which they are actually received in the Commission.

\* \* \* \* \*

(c) *Specifications for documents.* Each document filed under this chapter shall be double-spaced, clear and legible, except that a document of two pages or less in length need not be double-spaced.

\* \* \* \* \*

9. Amend § 201.13 to revise paragraphs (f) and (i)(1) to read as follows:

**§ 201.13 Conduct of nonadjudicative hearings.**

\* \* \* \* \*

(f) *Supplementary material.* Up to five double-spaced pages of supplementary material, other than remarks read into the record, will be accepted for the record. Supplementary material exceeding five pages may be accepted upon a showing of such cause as may be deemed sufficient by the presiding officials. Supplementary materials must be marked with the name of the organization submitting it. As used herein, the term *supplementary material* refers to:

(1) Additional graphic material such as charts and diagrams used to illuminate an argument or clarify a position and

(2) Information not available to a party at the time its prehearing brief was filed.

\* \* \* \* \*

(i) *Briefs—(1) Parties.* Briefs of the information produced at the hearing and arguments thereon may be presented to the Commission by parties to the investigation. Time to be allowed for submission of briefs will be set after conclusion of testimony and oral argument, if any.

\* \* \* \* \*

10. Amend § 201.14 to revise paragraph (a) to read as follows:

**§ 201.14 Computation of time, additional hearings, postponements, continuances, and extensions of time.**

(a) *Computation of time.* Computation of any period of time prescribed or allowed by the rules in this chapter, by order of the Commission, or by order of the presiding officer under part 210 of this chapter shall begin with the first business day following the day on which the act or event initiating such period of time shall have occurred. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or Federal legal holiday, in which event the period runs until the end of the next business day. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and Federal legal holidays shall be excluded from the computation. As used in this rule, a Federal legal holiday refers to any full calendar day designated as a legal holiday by the President or the Congress of the United States. In the event of an early or all-day closing of the Commission on a business day, the Secretary is authorized to accept on the next full business day filings due the day of the early or all-day closing, without requiring the granting of an extension of time by the Chairman of the Commission, or such other person designated to conduct the investigation.

\* \* \* \* \*

11. Amend § 201.17 to revise paragraph (a)(1) to read as follows:

**§ 201.17 Procedures for requesting access to records.**

(a) *Requests for records.* (1) A request for any information or record shall be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436 and shall indicate clearly in the request, and if the request is in paper form on the envelope, that it is a "Freedom of Information Act Request." A written request may be made either in paper form, or Electronically by

contacting the Commission at <http://www.usitc.gov/foia.htm>.

\* \* \* \* \*

12. Amend § 201.18 to revise paragraphs (b), (d), introductory text, and (e) to read as follows:

**§ 201.18 Denial of requests, appeals from denial.**

\* \* \* \* \*

(b) An appeal from a denial of a request must be received within sixty days of the date of the letter of denial and shall be made to the Commission and addressed to the Chairman, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. Any such appeal shall be in writing, and shall indicate clearly in the appeal, and if the appeal is in paper form on the envelope, that it is a "Freedom of Information Act Appeal." An appeal may be made either:

(1) In paper form, or  
(2) Electronically by contacting the Commission at <http://www.usitc.gov/foia.htm>.

\* \* \* \* \*

(d) The extensions of time mentioned in paragraph (c) of this section shall be made only for one or more of the following reasons:

\* \* \* \* \*

(e) The extensions of time mentioned in paragraph (c) of this section shall not exceed ten working days in the aggregate.

13. Amend § 201.19(b) to revise the definition of *Submitter* to read as follows:

**§ 201.19 Notification regarding requests for confidential business information.**

\* \* \* \* \*

(b) *Definitions.* \* \* \*

*Submitter* means any person or entity who provides confidential business information, directly or indirectly, to the Commission. The term includes, but is not limited to, corporations, producers, importers, and state and federal governments, as well as others who have an administrative relationship with the Commission such as contractors, bidders and vendors.

\* \* \* \* \*

14. Amend § 201.21 to revise paragraph (a) to read as follows:

**§ 201.21 Availability of specific records.**

(a) *Records available.* The following information, on request to the Secretary of the Commission, is available for public inspection and copying: final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases; those statements of policy and interpretations which have been adopted by the agency;

and administrative staff manuals and instructions to staff that affect a member of the public. Available information includes, but is not limited to: Applications, petitions, and other formal documents filed with the Commission, notices to the public concerning Commission matters, transcripts of testimony taken and exhibits submitted at hearings, reports to the President, to either or both Houses of Congress, or to Committees of Congress, release of which has been authorized by the President or the legislative body concerned, reports and other documents issued for general distribution. Much of the information described above also is available on the Commission's World Wide Web site. The Commission's home page is at <http://www.usitc.gov>. The web site also includes information subject to repeated Freedom of Information Act requests. Persons accessing the web site can find instructions on how to locate Commission information by following the "Freedom of Information Act" link on the home page.

15. Amend § 201.31 to revise the section heading and add paragraph (c) to read as follows:

**§ 201.31 Fees and employee conduct.**

(c) The Privacy Act Officer shall establish rules of conduct for persons involved in the design, development, operation, or maintenance of any system of records, or in maintaining any record, and periodically instruct each such person with respect to such rules and the requirements of the Privacy Act including the penalties for noncompliance.

**§ 201.33 [Removed]**

16. Remove § 201.33.

17. Amend § 201.170 to revise paragraph (c) to read as follows:

**§ 201.170 Compliance procedures.**

(c) The Director, Office of Equal Employment Opportunity, shall be responsible for coordinating implementation of this section. Complaints may be sent to the Director, Office of Equal Employment Opportunity, United States International Trade Commission, 500 E Street SW., Washington, DC 20436.

18. Amend § 201.201 to revise paragraphs (f) and (m) to read as follows:

**§ 201.201 Definitions.**

(f) Director means the Director, Office of Finance of the Commission or an

official designated to act on the Director's behalf.

(m) Office of Finance means the Office of Finance of the Commission.

19. Amend § 201.204 to revise paragraphs (g), introductory text, (g)(1), (g)(2), (h)(1)(iii), (h)(3), and (h)(4)(ii) to read as follows:

**§ 201.204 Salary offset.**

(g) Notice of salary offset where the Commission is the paying agency.

(1) Upon issuance of a proper certification by the Director (for debts owed to the Commission) or upon receipt of a proper certification from another creditor agency, the Office of Finance shall send the employee a written notice of salary offset. Such notice shall advise the employee:

(i) Of the certification that has been issued by the Director or received from another creditor agency;

(ii) Of the amount of the debt and of the deductions to be made; and

(iii) Of the initiation of salary offset at the next officially established pay interval or as otherwise provided for in the certification.

(2) The Office of Finance shall provide a copy of the notice to the creditor agency and advise such agency of the dollar amount to be offset and the pay period when the offset will begin.

(h) \* \* \*

(1) \* \* \*

(iii) Deductions shall begin the pay period following the issuance of the certification by the Director or the receipt by the Office of Finance of the certification from another agency or as soon thereafter as possible.

(3) Multiple debts. Where two or more creditor agencies are seeking salary offset, or where two or more debts are owed to a single creditor agency, the Office of Finance may, at its discretion, determine whether one or more debts should be offset simultaneously within the 15 percent limitation.

(4) \* \* \*

(ii) In the event that a debt to the Commission is certified while an employee is subject to salary offset to repay another agency, the Office of Finance may, at its discretion, determine whether the debt to the Commission should be repaid before the debt to the other agency, repaid simultaneously, or repaid after the debt to the other agency.

**PART 204—INVESTIGATIONS OF EFFECTS OF IMPORTS ON AGRICULTURAL PROGRAMS**

1. Revise the authority citation for part 204 to read as follows:

**Authority:** 19 U.S.C. 1335.

2. In § 204.1, redesignate footnote 5 as footnote 1.

3. In § 204.2, redesignate footnote 6 as footnote 2.

**PART 206—INVESTIGATIONS RELATING TO GLOBAL AND BILATERAL SAFEGUARD ACTIONS, MARKET DISRUPTION, AND REVIEW OF RELIEF ACTIONS**

1. The authority citation for part 206 continues to read as follows:

**Authority:** 19 U.S.C. 1335, 2251–2254, 3351–3382; secs. 103, 301–302, Pub. L. 103–465, 108 .Stat. 4809.

2. Amend § 206.3 to revise paragraph (b) to read as follows:

**§ 206.3 Institution of investigations; publication of notice; and availability for public inspection.**

(b) *Contents of notice.* The notice will identify the petitioner or other requestor, the imported article that is the subject of the investigation and its tariff subheading, the nature and timing of the determination to be made, the time and place of any public hearing, dates of deadlines for filing briefs, statements, and other documents, limits on page lengths for posthearing briefs, the place at which the petition or request and any other documents filed in the course of the investigation may be inspected, and the name, address, and telephone number of the office that may be contacted for more information. The Commission will provide the same sort of information in its notice when the investigation was instituted following receipt of a resolution or on the Commission's own motion.

3. Amend § 206.8 to revise paragraph (b) to read as follows:

**§ 206.8 Service, filing and certification of documents.**

(b) *Service.* Any party submitting a document for the consideration of the Commission in the course of an investigation to which this part pertains shall, in addition to complying with § 201.8 of this chapter, serve a copy of the public version of such document on all other parties to the investigation in the manner prescribed in § 201.16 of this chapter, and, when appropriate, serve a copy of the confidential version of such document in the manner provided for in § 206.17(f). The

Secretary shall promptly notify a petitioner when, before the establishment of a service list under § 206.17(a)(4), an application under § 206.17(a) is approved. When practicable, this notification shall be made by facsimile transmission. A copy of the petition including all confidential business information shall then be served by petitioner on those approved applicants in accordance with this section within two (2) calendar days of the time notification is made by the Secretary. If a document is filed before the Secretary's issuance of the service list provided for in § 201.11 of this chapter or the administrative protective order list provided for in § 206.17, the document need not be accompanied by a certificate of service, but the document shall be served on all appropriate parties within two (2) days of the issuance of the service list or the administrative protective order list and a certificate of service shall then be filed. Notwithstanding § 201.16 of this chapter, petitions, briefs, and testimony filed by parties shall be served by hand or, if served by mail, by overnight mail or its equivalent. Failure to comply with the requirements of this rule may result in removal from status as a party to the investigation. The Commission shall make available, upon request, to all parties to the investigation a copy of each document, except transcripts of hearings, confidential business information, privileged information, and information required to be served under this section, placed in the docket file of the investigation by the Commission.

\* \* \* \* \*

4. Amend § 206.17 to revise paragraph (a)(2), (g)(1) and (3) to read as follows:

**§ 206.17 Limited disclosure of certain confidential business information under administrative protective order.**

(a) \* \* \*

(1) \* \* \*

(2) *Application.* An application under paragraph (a)(1) of this section must be made by an authorized applicant on a form adopted by the Secretary or a photocopy thereof. A signed application and five (5) copies thereof shall be filed. An application on behalf of an authorized applicant must be made no later than the time that entries of appearance are due pursuant to § 201.11 of this chapter. In the event that two or more authorized applicants represent one interested party who is a party to the investigation, the authorized applicants must select one of their number to be lead authorized applicant. The lead authorized applicant's application must be filed no later than the time that entries of appearance are

due. Provided that the application is accepted, the lead authorized applicant shall be served with confidential business information pursuant to paragraph (f) of this section. The other authorized applicants representing the same party may file their applications after the deadline for entries of appearance but at least five days before the deadline for filing posthearing briefs in the investigation, and shall not be served with confidential business information.

\* \* \* \* \*

(g) *Exemption from disclosure—(1) In general.* Any person may request exemption from the disclosure of confidential business information under administrative protective order, whether the person desires to include such information in a petition filed under this Subpart B, or any other submission to the Commission during the course of an investigation. Such a request shall only be granted if the Secretary finds that such information is nondisclosable confidential business information. As defined in § 201.6(a)(2) of this chapter, nondisclosable confidential business information is privileged information, classified information, or specific information (e.g., trade secrets) of a type for which there is a clear and compelling need to withhold from disclosure.

(2) \* \* \*

(3) *Procedure if request is approved.* If the request is approved, the person shall file three versions of the submission containing the nondisclosable confidential business information in question. One version shall contain all confidential business information, bracketed in accordance with § 201.6 of this chapter and § 206.8(c), with the specific information as to which exemption from disclosure was granted enclosed in triple brackets. This version shall have the following warning marked on every page: "CBI exempted from disclosure under APO enclosed in triple brackets." The other two versions shall conform to and be filed in accordance with the requirements of § 201.6 of this chapter and § 206.8 (c), except that the specific information as to which exemption from disclosure was granted shall be redacted from those versions of the submission.

\* \* \* \* \*

**PART 207—INVESTIGATIONS OF WHETHER INJURY TO DOMESTIC INDUSTRIES RESULTS FROM IMPORTS SOLD AT LESS THAN FAIR VALUE OR FROM SUBSIDIZED EXPORTS TO THE UNITED STATES**

1. The authority citation for part 207 continues to read as follows:

**Authority:** 19 U.S.C. 1336, 1671–1677n, 2482, 3513.

**§ 207.6 [Removed]**

2. Remove and reserve § 207.6.

3. Amend § 207.7 by revising paragraphs (a)(2) and (g)(1) to read as follows:

**§ 207.7 Limited disclosure of certain business proprietary information under administrative protective order.**

(a) \* \* \*

(2) *Application.* An application under paragraph (a)(1) of this section must be made by an authorized applicant on a form adopted by the Secretary or a photocopy thereof. A signed application and five (5) copies thereof shall be filed. An application on behalf of a petitioner, a respondent, or another party must be made no later than the time that entries of appearance are due pursuant to § 201.11 of this chapter. In the event that two or more authorized applicants represent one interested party who is a party to the investigation, the authorized applicants must select one of their number to be lead authorized applicant. The lead authorized applicant's application must be filed no later than the time that entries of appearance are due. Provided that the application is accepted, the lead authorized applicant shall be served with business proprietary information pursuant to paragraph (f) of this section. The other authorized applicants representing the same party may file their applications after the deadline for entries of appearance but at least five days before the deadline for filing posthearing briefs in the investigation, or the deadline for filing briefs in the preliminary phase of an investigation, or the deadline for filing submissions in a remanded investigation, and shall not be served with business proprietary information.

\* \* \* \* \*

(g) *Exemption from disclosure—(1) In general.* Any person may request exemption from the disclosure of business proprietary information under administrative protective order, whether the person desires to include such information in a petition filed under § 207.10, or any other submission to the Commission during the course of an investigation. Such a request shall only



be granted if the Secretary finds that such information is nondisclosable confidential business information. As defined in § 201.6(a)(2) of this chapter, nondisclosable confidential business information is privileged information, classified information, or specific information (e.g., trade secrets) of a type for which there is a clear and compelling need to withhold from disclosure. The request will be granted or denied not later than thirty (30) days (ten (10) days in a preliminary phase investigation) after the date on which the request is filed.

4. Amend § 207.62 to revise paragraph (b)(2) to read as follows:

**§ 207.62 Rulings on adequacy and nature of Commission review.**

\* \* \* \* \*

(b) \* \* \*

(2) Comments shall be submitted within the time specified in the notice of institution. In a grouped review, only one set of comments shall be filed per party. Comments shall not exceed fifteen (15) pages of textual material, double spaced and single sided, on stationery measuring 8 1/2 × 11 inches. Comments containing new factual information shall be disregarded.

\* \* \* \* \*

5. Amend § 207.64 to revise paragraph (b) to read as follows:

**§ 207.64 Staff Reports.**

\* \* \* \* \*

(b) *Final staff report.* After the hearing, the Director shall revise the prehearing staff report and submit to the Commission, prior to the Commission's determination, a final version of the staff report. The final staff report is intended to supplement and correct the information contained in the prehearing staff report. The Director shall place the final staff report in the record. A public version of the final staff report shall be made available to the public and a business proprietary version shall also be made available to persons authorized to receive business proprietary information under § 207.7.

Issued: May 30, 2002.

By Order of the Commission.

**Marilyn R. Abbott,**

*Secretary.*

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**BILLING CODE 7020-20-P**

**DEPARTMENT OF THE INTERIOR**

**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Part 917**

[KY-216-FOR]

**Kentucky Regulatory Program**

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Proposed rule; reopening of public comment period.

**SUMMARY:** We, the Office of Surface Mining Reclamation and Enforcement (OSM), are reopening the public comment period on a proposed amendment to the Kentucky regulatory program (the "Kentucky program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Kentucky has submitted additional explanatory information pertaining to a previously proposed amendment about subsidence, water replacement, impoundments, hydrology, and permits. Kentucky intends to revise its program to be consistent with the corresponding Federal regulations.

**DATES:** We will accept written comments on this amendment until 4:00 p.m., [e.s.t.] June 20, 2002.

**ADDRESSES:** You should mail or hand deliver written comments to William J. Kovacic at the address listed below.

You may review copies of the Kentucky program, this amendment, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Lexington Field Office.

William J. Kovacic, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 2675 Regency Road, Lexington, Kentucky 40503, Telephone: (859) 260-8400. E-mail: [bkovacic@osmre.gov](mailto:bkovacic@osmre.gov).

Department of Surface Mining Reclamation and Enforcement, 2 Hudson Hollow Complex, Frankfort, Kentucky 40601, Telephone: (502) 564-6940.

**FOR FURTHER INFORMATION CONTACT:** William J. Kovacic, Telephone: (859) 260-8400. Internet: [bkovacic@osmre.gov](mailto:bkovacic@osmre.gov).

**SUPPLEMENTARY INFORMATION:**

- I. Background on the Kentucky Program
- II. Description of the Proposed Amendment
- III. Public Comment Procedures
- IV. Procedural Determinations

**I. Background on the Kentucky Program**

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, "a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act \* \* \*; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Kentucky program on May 18, 1982. You can find background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Kentucky program in the May 18, 1982, **Federal Register** (48 FR 21404). You can also find later actions concerning Kentucky's program and program amendments at 30 CFR 917.11, 917.12, 917.13, 917.15, 917.16, and 917.17.

**II. Description of the Proposed Amendment**

By letter dated July 30, 1997 (administrative record no. KY-1410), Kentucky sent us a proposed amendment to its program. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES**. The provisions of the Kentucky Administrative Regulations (KAR) at section 405 that are being revised are: 8:001, 8:030, 8:040; 16:001, 16:060, 16:090, 16:100, 16:160, 18:001, 18:060, 18:090, 18:100, 18:160, and 18:210. The proposed amendment was announced in the September 5, 1997, **Federal Register** (62 FR 46933). On November 14, 1997, a Statement of Consideration of public comments was filed with the Kentucky Legislative Research Committee. As a result of the comments and by letter dated March 4, 1998, Kentucky made changes to the original submission (administrative record no. KY-1422). The revisions were made at 405 KAR 8:040, 16:060, 18:060, and 18:210. By letter dated March 16, 1998, Kentucky made additional changes to the original submission (administrative record no. KY-1423). The revisions were made at 8:001, 8:030, 8:040, 16:001, 16:060, 16:090, 16:100, 16:160, 18:001, 18:060, 18:090, 18:100, 18:160, and 18:210. By letter dated July 14, 1998, Kentucky submitted a revised version of the