

## INTERNATIONAL TRADE COMMISSION

### Preliminary Plan for Retrospective Analysis of Existing Rules

AGENCY: International Trade Commission

ACTION: Notice

SUMMARY: The United States International Trade Commission (Commission) is developing a plan for the retrospective analysis of its existing regulations. The Commission is seeking public comment on a preliminary version of such a plan.

DATES: Comment Date: To be assured of consideration, written comments must be received by 5:15 p.m. on [INSERT DATE 30 DAYS AFTER PUBLICATION].

ADDRESSES: You may submit comments, identified by docket number MISC-038 by any of the following methods:

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

Agency Web Site: <http://www.usitc.gov>. Follow the instructions for submitting comments. See <http://www.usitc.gov/secretary/edis.htm>.

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

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

For detailed instructions on submitting comments, see the "Public Participation" heading of the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Peter L. Sultan, Office of the General Counsel, United States International Trade Commission, telephone 202-205-3094, e-mail [Peter.Sultan@usitc.gov](mailto:Peter.Sultan@usitc.gov). 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 (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION: Executive Order 13579 of July 11, 2011, calls on each independent regulatory agency to develop and release to the public, within 120 days of the date of the Executive Order, a plan under which the agency 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its significant regulations to determine whether any such regulations should be modified, streamlined, expanded, or repealed so as to make the agency's regulatory program more effective or less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. The following is the Commission's Preliminary Plan for Retrospective Analysis of Existing Rules. The Commission welcomes comments from the public concerning this plan.

## Public Participation

Instructions: All submissions received must include the agency name and the docket number (MISC-038) for this proceeding. All comments received will be posted without change to <http://www.usitc.gov>, including any personal information provided. For paper copies, a signed original and 14 copies of each set of comments, along with a cover letter stating the nature of the commenter's interest in the proposed rulemaking, should be submitted to James Holbein, Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436. Comments, along with a cover letter, may be submitted electronically to the extent provided by Sec. 201.8 of the Commission's rules. This rule may refer commenters to the Handbook for Electronic Filing Procedures (see <http://www.usitc.gov/secretary/edis.htm>). For those submitting comments by mail, it is advisable to mail comments in advance of the due date since Commission mail will be delayed due to necessary security screening.

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

# **United States International Trade Commission Preliminary Plan for Retrospective Analysis of Existing Rules October 18, 2011**

## **I. Executive Summary of Plan**

Executive Orders 13579 and 13563 recognize the importance of maintaining a consistent culture of retrospective review and analysis throughout the federal government. Executive Order 13579 calls on each independent regulatory agency to develop and release to the public a plan, consistent with law and reflecting the agency's resources and regulatory priorities and processes, under which the agency 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 the regulatory objectives.

Pursuant to Executive Order 13579, the U.S. International Trade Commission developed this preliminary plan for retrospective analysis of its regulations. The plan is designed to create a defined method and schedule for identifying and reconsidering certain significant rules that are obsolete, unnecessary, unjustified, excessively burdensome, or counterproductive. Its review processes are intended to facilitate the identification of rules that warrant repeal or modification, or the strengthening, complementing, or modernizing of rules where necessary or appropriate.

## **II. Background**

The Commission is an independent, quasi-judicial federal agency with broad investigative responsibilities on matters of trade. It investigates the effects of dumped and subsidized imports on domestic industries, conducts global safeguard investigations, and adjudicates cases involving imports that allegedly infringe intellectual property rights. The Commission also serves as a federal resource where trade data and other trade policy-related information are gathered and analyzed. The information and analysis are provided to the President, the Office of the United States Trade Representative (USTR), and Congress to facilitate the development of sound and informed U.S. trade policy. The Commission makes most of its information and analysis available to the public to promote understanding of international trade issues. The Commission also maintains the Harmonized Tariff Schedule of the United States (HTS).

Thus, the Commission is not primarily a regulatory agency, and its regulations generally serve to govern the process of its statutory investigative responsibilities. In carrying out its mission, the Commission issues rules of practice and procedure relating to the conduct of its investigations. The Commission's rules are codified in Title 19 of the Code of Federal Regulations.

- Part 201 of the Commission's rules are rules of general application relating to the functions and activities of the Commission.
- Part 202 sets out rules pertaining to investigations of costs of production under section 336 of the Tariff Act of 1930, as amended (19 U.S.C. § 1336).
- Part 204 contains rules pertaining to investigations of effects of imports on agricultural programs under section 22 of the Agricultural Adjustment Act, as amended (7 U.S.C. §624).
- Part 205 covers rules pertaining to investigations to determine the probable economic effect on the economy of the United States of proposed modifications of duties or any other barrier to (or other distortion of) international trade or of taking retaliatory actions to obtain the elimination of unjustifiable or unreasonable foreign acts or policies which restrict U.S. commerce.
- Part 206 pertains to investigations relating to global and bilateral safeguard actions, market disruption, trade diversion, and review of relief actions.
- Part 207 sets out rules for the conduct of antidumping and countervailing duty investigations conducted under title VII of the Tariff Act of 1930, as amended (19 U.S.C. §§ 1671 et seq.).
- Part 208 contains rules pertaining to investigations with respect to the commercial availability of textile fabric and yarn in Sub-Saharan African countries.
- Part 210 sets out rules for the conduct of investigations of unfair practices in import trade under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. §337).

- Part 212 establishes rules for the implementation of the Equal Access to Justice Act (5 U.S.C. §504).

In the course of its investigations, the Commission also generally issues questionnaires seeking business and financial information from domestic and foreign firms. These questionnaires are frequently revised and adapted, with the input of affected parties wherever possible.

The Commission also maintains several documents that provide guidance to parties involved in its investigations, including its “Antidumping and Countervailing Duty Handbook,” “An Introduction to Administrative Protective Order Practice in Import Injury Investigations,” and the “Handbook on Electronic Filing Procedures.” The documents are maintained in electronic form on the Commission’s website and are reviewed and updated periodically.

### **III. Scope of Plan**

This Plan covers existing regulations, existing information collections, and significant guidance documents.

### **IV. Elements of the Plan**

*Fostering a Culture of Retrospective Analysis.* The Commission intends to strengthen its culture of retrospective analysis by informing all of its employees of the Plan and periodically seeking input from them.

*Prioritization.* The Commission has identified selection criteria for the rules it will review retrospectively. It will endeavor to review rules that:

- have been affected by subsequent legal developments;
- overlap, duplicate, or conflict with other federal rules;
- are the subject of public comments, from individuals and entities that appear before the Commission, and from Congressional and other Executive Branch sources;
- require outdated reporting practices; or
- have been in place for a long time, so that updating may be appropriate.

*Structure and Staffing.* The following Commission official will be responsible for overseeing the retrospective review of existing rules:

James R. Holbein, Secretary  
email: [secretary@usitc.gov](mailto:secretary@usitc.gov)

*Process for Retrospective Review.* Every two years, the Commission's General Counsel will send a memorandum to the Commission's Secretary, office directors, and administrative law judges asking them for input on rules suitable for modification or elimination. The Commission will also seek input from the public at that time. Based on responses to this memorandum and comments from the public, and in consultation with Commissioners, staff of the General Counsel's office will make recommendations to the Commission regarding the possible modification or elimination of existing regulations. Once an appropriate rule change has been identified, the Commission will publish a notice of proposed rulemaking and solicit public comment on the proposed change.

## **V. Public Access and Participation**

On October 18, 2011, the Commission issued a notice to be published in the Federal Register and posted on the homepage of its Web site seeking public comment on the design of this Plan and the identification of specific rules to be included in the Plan. See [www.usitc.gov/](http://www.usitc.gov/).

[This section will discuss public comments that the Commission receives.]

## **VI. Current Agency Efforts Already Underway Independent of Executive Order 13579**

Even before the issuance of Executive Order 13579, Commission staff periodically review existing regulations with a view to updating and improving them, and eliminating redundant or unnecessary regulations. For example, this year the Commission undertook to revise its rules to provide that most documents filed with the agency will be filed by electronic means. See 76 Fed. Reg. 61937 (Oct. 6, 2011). In addition, the Commission staff constantly adapts the questionnaires that it issues in its investigations to reflect the specific circumstances of each investigation. Wherever possible, the staff seek preliminary input from firms that will be asked to complete these questionnaires. In light of these efforts, the Commission is well-positioned to implement a more systematic plan for retrospective review of its regulations.

## **VII. Examples of Rules for Retrospective Review**

The Commission has preliminarily identified the following aspects of its existing rules for review over the next two years:

1. General review of existing regulations in 19 C.F.R. parts 201, 207, and 210. The Commission will seek to determine whether any such regulations shall be modified, streamlined, expanded or repealed so as to make the agency's regulations more effective or less burdensome.
2. Employee Responsibilities and Conduct, 19 C.F.R. Part 200. The

Commission intends to review its regulations addressing employee responsibilities and conduct, to assess whether these regulations can be modified or repealed, in light of the issuance of similar regulations by the Office of Government Ethics.

3. National Security Information, 19 C.F.R. Part 201, Subpart F. The Commission intends to review its regulations addressing national security information, to assess whether these regulations should be modified, in light of Executive Order 13526 (Dec. 29, 2009).

4. Investigations With Respect to Commercial Availability of Textile Fabric and Yarn in Sub-Saharan African Countries, 19 C.F.R. Part 208. The Commission intends to review its regulations addressing investigations with respect to the commercial availability of textile fabric and yarn in Sub-Saharan African countries, to assess whether these regulations can be repealed, in light of the repeal of section 112(c)(2) of the African Growth and Opportunity Act (AGOA), which required the Commission to make determinations with respect to the commercial availability and use of regional textile fabric or yarn in lesser developed beneficiary sub-Saharan African countries in the production of apparel articles receiving U.S. preferential treatment under AGOA (see section 3(a)(2)(B) of Public Law 110-436, October 16, 2008, 122 Stat. 4980).

This list is non-exhaustive and the Commission will consider whether other parts of its regulations should also be subject to review within the next two years.

### **VIII. Publishing the Plan Online**

The Commission will publish this plan in the Federal Register and on the agency's Web site, at [www.usitc.gov](http://www.usitc.gov). The Web site includes a page on the Commission's Rules of Practice and Procedure, at [http://www.usitc.gov/secretary/fed\\_reg\\_notices/rules/](http://www.usitc.gov/secretary/fed_reg_notices/rules/). This Rules page will include a link to the plan. Members of the public will be able to post comments about the plan via a link on the page. Commenters may also choose to file comments in paper form to the Secretary to the Commission, room 112, 500 E Street, SW, Washington, DC 20436.

By Order of the Commission.

/s/  
James R. Holbein  
Secretary to the Commission

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