

§ 206.35

that would be difficult to repair, and a statement concerning the provisional relief requested and the basis therefor.

[60 FR 16, Jan. 3, 1995]

§ 206.35 Time for determinations, reporting.

(a) *In general.* The Commission will make its determination with respect to injury within 120 days after the date on which the investigation is initiated. The Commission will make its report to the President no later than 30 days after the date on which its determination is made.

(b) *Perishable agricultural product.* In the case of a request in a petition for provisional relief with respect to a perishable agricultural product that has been the subject of monitoring by the Commission, the Commission will report its determination and any finding to the President not later than 21 days after the date on which the request for provisional relief is received.

(c) *Critical circumstances.* If petitioner alleges the existence of critical circumstances in the petition, the Commission will report its determination regarding such allegation and any finding on or before the 60th day after such filing date.

[60 FR 17, Jan. 3, 1995]

§ 206.36 Public report.

Upon making a report to the President of the results of an investigation to which this subpart D relates, the Commission will make such report public (with the exception of information which the Commission determines to be confidential) and cause a summary thereof to be published in the FEDERAL REGISTER.

Subpart E—Investigations for Relief From Market Disruption

§ 206.41 Applicability of subpart.

This subpart E applies specifically to investigations under section 406(a) or 421(b) or (o) of the Trade Act. For other applicable rules, see subpart A of this part and part 201 of this chapter.

[59 FR 5091, Feb. 3, 1994, as amended at 67 FR 8190, Feb. 22, 2002]

19 CFR Ch. II (4–1–06 Edition)

§ 206.42 Who may file a petition.

(a) A petition under section 406(a) of the Trade Act may be filed by an entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of a domestic industry producing an article with respect to which there are imports of a like or directly competitive article which is the product of a Communist country, which imports, allegedly, are increasing rapidly, either absolutely or relative to domestic production, so as to be a significant cause of material injury, or the threat thereof, to such domestic industry.

(b) A petition under section 421(b) or (o) of the Trade Act may be filed by an entity, including a trade association, firm, certified or recognized union, or group of workers, which is representative of an industry.

[67 FR 8191, Feb. 22, 2002]

§ 206.43 Contents of a petition under section 406(a) of the Trade Act.

A petition for relief under section 406(a) of the Trade Act shall include specific information in support of the claim that imports of an article that are the product of a Communist country which are like or directly competitive with an article produced by a domestic industry, are increasing rapidly, either absolutely or relative to domestic production, so as to be a significant cause of material injury, or the threat thereof, to such domestic industry. In addition, such petition shall, to the extent practicable, include the following information:

(a) *Product description.* The name and description of the imported article concerned, specifying the United States tariff provision under which such article is classified and the current tariff treatment thereof, and the name and description of the like or directly competitive domestic article concerned;

(b) *Representativeness.* (1) The names and addresses of the firms represented in the petition and/or the firms employing or previously employing the workers represented in the petition and the locations of their establishments in which the domestic article is produced; (2) the percentage of domestic production of the like or directly competitive

domestic article that such represented firms and/or workers account for and the basis for asserting that petitioner is representative of an industry; and (3) the names and locations of all other producers of the domestic article known to the petitioner;

(c) *Import data.* Import data for at least each of the most recent 5 full years which form the basis of the claim that imports from a Communist country of an article like or directly competitive with the article produced by the domestic industry concerned are increasing rapidly, either absolutely or relative to domestic production;

(d) *Domestic production data.* Data on total U.S. production of the domestic article for each full year for which data are provided pursuant to paragraph (c) of this section;

(e) *Data showing injury.* Quantitative data indicating the nature and extent of injury to the domestic industry concerned:

(1) With respect to material injury, data indicating:

(i) An idling of production facilities in the industry, including data indicating plant closings or the underutilization of production capacity;

(ii) The inability of a number of firms to carry out domestic production operations at a reasonable level of profit; and

(iii) Unemployment or underemployment within the industry; and/or

(2) With respect to the threat of material injury, data relating to:

(i) A decline in sales or market share, a higher and growing inventory (whether maintained by domestic producers, importers, wholesalers, or retailers), and a downward trend in production, profits, wages, or employment (or increasing underemployment);

(ii) The extent to which firms in the industry are unable to generate adequate capital to finance the modernization of their domestic plants and equipment, or are unable to maintain existing levels of expenditures for research and development; and

(iii) The extent to which the U.S. market is the focal point for the diversion of exports of the article concerned by reason of restraints on exports of such article to, or on imports of such article into, third country markets;

(f) *Cause of injury.* An enumeration and description of the causes believed to be resulting in the material injury, or threat thereof, described in paragraph (e) of this section; information relating to the effect of imports of the subject merchandise on prices in the United States for like or directly competitive articles; evidence of disruptive pricing practices, or other efforts to unfairly manage trade patterns; and a statement regarding the extent to which increased imports, either actual or relative to domestic production, of the imported article are believed to be such a cause, supported by pertinent data;

(g) *Relief sought and purpose thereof.* A statement describing the import relief sought.

[59 FR 5091, Feb. 3, 1994, as amended at 67 FR 8191, Feb. 22, 2002]

§ 206.44 Contents of a petition under section 421(b) or (o) of the Trade Act.

(a) *Petitions under section 421(b).* (1) A petition for relief under section 421(b) of the Trade Act shall provide specific information in support of the claim that products of the People's Republic of China are being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products. In addition, such petition shall include the information described in paragraphs (b) through (j) of this section. The petition shall provide the information required by this paragraph and paragraphs (b) through (j) of this section to the extent that such information is reasonably available to the petitioner with due diligence.

(2) If the petition fails to provide any item of information specified in paragraphs (b) through (j) of this section, the petition shall include a certification that such information was not reasonably available to the petitioner.

(b) *Product description.* Each petition shall include the name and description of the imported product concerned, specifying the United States tariff provision under which such product is