INTERNATIONAL TRADE COMMISSION

19 CFR Part 206

Rules for Investigations Relating to Global and Bilateral Safeguard Actions, Market Disruption, Trade Diversion, and Review of Relief Actions

AGENCY: United States International Trade Commission.

ACTION: Final rule.

SUMMARY: The United States International Trade Commission (Commission) is adopting as a final rule, with changes to correct three typographical errors, the interim rule amending its Rules of Practice and Procedure (Rules) that was published on January 26, 2012. The rule concerns the conduct of safeguard investigations under statutory provisions that implement bilateral safeguard provisions in free trade agreements that the United States has negotiated with Australia, Bahrain, Chile, Colombia, the Dominican Republic and five Central American countries (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua), Jordan, Korea, Morocco, Oman, Panama, Peru, and Singapore. With the exception of the free trade agreement with Panama, all of the aforementioned free trade agreements have entered into force. The free trade agreement with Panama is expected to enter into force imminently. The interim rule amended and expanded upon rules previously in effect that pertained to the conduct of bilateral safeguard investigations under the North American Free Trade Agreement (NAFTA) Implementation Act with respect to imports from Canada and Mexico.

DATES: *Effective date:* June 25, 2012.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Acting Secretary, telephone (202) 205–2000, or William Gearhart, Esquire, Office of the General Counsel, United States International Trade Commission, telephone (202) 205–3091. 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 Web site at *http://www.usitc.gov.*

SUPPLEMENTARY INFORMATION: The preamble below is designed to assist readers in understanding these amendments to the Commission's Rules. This preamble provides background information and a regulatory analysis of the amendments.

These amendments are being promulgated in accordance with the Administrative Procedure Act (5 U.S.C. 553) (APA), and will be codified in 19 CFR part 206.

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. The Commission is adopting as a final rule, with three changes to correct typographical errors, the interim rule published in the **Federal Register** on January 26, 2012 (77 FR 3922) governing investigations relating to global and bilateral safeguard actions, market disruption, trade diversion, and review of relief actions (part 206 of its Rules). The final rule principally concerns subpart D of part 206, Investigations Relating to Bilateral Safeguard Actions, but also includes several technical and conforming changes to the general rules in subpart A of part 206. Prior to publication of the interim rule, the rules in subpart D applied only to Commission investigations under the bilateral safeguard provision in the NAFTA Implementation Act with respect to imports from Canada and Mexico. The Commission adopted the interim rule in response to legislation enacted by Congress in recent years that implements bilateral safeguard provisions in several additional free trade agreements (FTAs), including legislation approved on October 21, 2011, that implements FTAs with Colombia, Korea, and Panama. The implementing legislation for each of those FTAs directs the Commission, upon receipt of a petition, to conduct an investigation and determine whether, as a result of the reduction or elimination of a duty under the agreement, an article is being imported into the United States in such increased quantities, in absolute terms or relative to domestic production, and under such conditions that imports of such article constitute a substantial cause of serious injury or the threat thereof to the domestic industry producing an article that is like or directly competitive with the imported article. If the Commission makes an affirmative determination, it must recommend a remedy to the President; the President makes the final decision on remedy.

More specifically, in addition to the NAFTA Implementation Act, the Commission is required to conduct bilateral safeguard investigations and make determinations under section 311(b) of the United States-Australia Free Trade Agreement Implementation Act, section 311(b) of the United States-Bahrain Free Trade Agreement Implementation Act, section 311(b) of the United States-Chile Free Trade Agreement Implementation Act, section 311(b) of the United States-Colombia Trade Promotion Agreement Implementation Act, section 311(b) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act, section 211(b) of the United States-Jordan Free Trade Area Implementation Act, section 311(b) of the United States-Korea Free Trade Agreement Implementation Act, section 311(b) of the United States-Morocco Free Trade Agreement Implementation Act, section 311(b) of the United States-Oman Free Trade Agreement Implementation Act, section 311(b) of the United States-Panama Trade Promotion Agreement Implementation Act, section 311(b) of the United States-Peru Trade Promotion Agreement Implementation Act, and section 311(b) of the United States-Singapore Free Trade Agreement Implementation Act. For U.S. Code citations to the respective implementation acts, see the text of interim rule section 206.31 published in the **Federal Register** on January 26, 2012 (77 FR 3922).

These amendments expand upon previous rules in Subpart D of Part 206 that provide for investigations and determinations under the NAFTA Implementation Act. Each of the statutory provisions listed above contains requirements that are similar both substantively and procedurally to the provision in the NAFTA Implementation Act. These amended rules identify the types of entities that may file a petition, describe the information that must be included in a petition, indicate the time for Commission determinations and reporting, and establish procedures for the limited disclosure of confidential business information under administrative protective order in those instances in which the Commission is authorized to make such disclosure.

In its notice of the interim rule published in the **Federal Register** on January 26, 2012, the Commission invited interested parties to submit written comments and asked that they be received within 60 days of publication in the notice in the **Federal Register**. The Commission received one written comment from the Embassy of the Republic of Korea (Korea), Washington, DC, on February 13, 2012. In its written comment, Korea stated

that, in the case of the bilateral safeguard provision in the FTA with Korea, the interim rule either did not properly incorporate or did not fully elaborate on (1) The obligation to notify the other Party in writing and consult on the initiation of an investigation within 30 days after it applies a safeguard measure; (2) the obligation to give interested parties a period of at least 20 days to submit comments after the publication of the notice; and (3) the obligation not to apply a provisional measure until at least 45 days after the initiation of investigation. In a footnote, Korea stated that the obligation to notify in writing and consult on the initiation of an investigation is usually fulfilled by the Executive Branch of the U.S. Government.

The Commission carefully reviewed the written comment of Korea and in so doing considered whether it should make any changes to the rule to address the concerns raised by Korea. Based on that review, the Commission concluded that no change is necessary and that the interim rule should be adopted as a final rule without change (other than to correct typographical errors). The Commission considered each of the concerns raised by Korea. With respect to the obligation to notify and consult, the Commission notes, and Korea appears to agree, that obligations to notify and consult under the FTAs are generally fulfilled by executive branch agencies other than the Commission, which is an independent agency. In the Commission's view it would be inappropriate for the Commission to issue a rule that states how or when another executive branch agency should notify and/or consult with Korea in a bilateral safeguard matter.

With respect to the obligation to provide interested parties with a period of at least 20 days to submit comments after publication of the notice, the Commission is of the view that this obligation can be readily satisfied within the statutory time period for making an injury determination and is more properly addressed in the notice announcing institution of the investigation. The U.S. implementing statute provides that the Commission must make its injury determination within 120 days (180 days if critical circumstances are alleged) after the date on which the investigation is initiated.

With respect to the obligation not to apply a provisional measure until at least 45 days after initiation of an investigation, the Commission notes that decisions regarding whether and when to apply a provisional measure are made by the President, not the Commission. Accordingly, in the Commission's view it would be inappropriate for the Commission to promulgate a rule that addresses the period in time at which the President might apply a measure. Moreover, the Commission notes that when critical circumstances are alleged in a petition, U.S. legislation gives the Commission more than 45 days (up to 60 days from the day on which a request for provisional relief is filed) to make and transmit a determination and provisional relief recommendation to the President. When the request involves a perishable agricultural product, U.S. legislation allows the Commission to conduct an expedited investigation and recommend provisional relief with respect to a perishable agricultural product only if the Commission has, for at least 90 days prior to receipt of the petition containing the request, monitored and investigated imports of the product concerned under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)). The Commission conducts such monitoring investigations at the request of the U.S. Trade Representative.

The three typographical errors are in sections 206.1 and 206.32 of the rule. The first two errors are in section 206.1, which is amended to add the word ''sections'' before the list of statutory sections cited, and to substitute the symbol ''§ '' for the word ''section'' so as to refer to ''§ 206.31'' of the rule to conform with standard rule writing format. The third error corrected is in section 206.32(a), which concerns the definition of ''substantial cause,'' to add the word ''in'' before the word ''section.''

Regulatory Analysis

The Commission has determined that this action adopting a final rule does not meet the criteria described in section 3(f) of Executive Order 12866 (58 FR 51735, October 4, 1993) and thus does 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 final rulemaking is required under 5 U.S.C. 553(b) or any other statute.

This final rule does not contain federalism implications warranting the preparation of a federalism summary impact statement pursuant to Executive Order 13132 (64 FR 43255, August 4, 1999).

No actions are necessary under the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 *et seq.*) because this final rule 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 final rule is not a major rule as defined by section 804 of the Congressional Review Act (5 U.S.C. 801 *et seq.*). Moreover, it is exempt from the reporting requirements of that Act because it contains rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties.

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

List of Subjects in 19 CFR Part 206

Administrative practice and procedure, Australia, Bahrain, Business and industry, Canada, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Imports, Investigations, Jordan, Korea, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, Singapore, Trade agreements.

Accordingly, the interim rule amending 19 CFR part 206 which was published at 77 FR 3922 on January 26, 2012, is adopted as a final rule with the following changes:

PART 206—INVESTIGATIONS RELATING TO GLOBAL AND BILATERAL SAFEGUARG ACTIONS, MARKET DISRUPTION, TRADE DIVERSION, AND REVIEW OF RELIEF ACTIONS

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

Authority: 19 U.S.C. 1335, 2112 note, 2251–2254, 2436, 2451–2451a, 3351–3382, 3805 note, 4051–4065, and 4101.

■ 2. Revise § 206.1 to read as follows:

§ 206.1 Applicability of part.

Part 206 applies to proceedings of the Commission under sections 201–202, 204, 406, and 421–422 of the Trade Act of 1974, as amended (2251–2252, 2254, 2436, 2451–2451a), sections 301–317 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3351–3382) (hereinafter NAFTA Implementation Act), and the statutory provisions listed in § 206.31 of this part 206 that implement bilateral safeguard provisions in other free trade agreements into which the United States has entered.

■ 3. Amend § 206.32 by revising paragraph (a) to read as follows:

§ 206.32 Definitions applicable to subpart D.

* * * * *

(a) The term *substantial cause* has the same meaning as in section 202(b)(1)(B) of the Trade Act.

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Issued: June 18, 2012.

By order of the Commission.

William R. Bishop,

Acting Secretary to the Commission.

[FR Doc. 2012–15346 Filed 6–22–12; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[TD 9596]

RIN 1545–BK39

Disregarded Entities and the Indoor Tanning Services Excise Tax

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final and temporary regulations relating to disregarded entities (including qualified subchapter S subsidiaries) and the indoor tanning services excise tax. These regulations affect disregarded entities responsible for collecting the indoor tanning services excise tax and owners of those disregarded entities. The text of these temporary regulations serves as the text of proposed regulations (REG–125570–11) published in the Proposed Rules section in this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective on June 25, 2012.

Applicability Date: For dates of applicability, see §§ 1.1361–4T(a)(8)(iii)(B) and 301.7701–2T(e)(9)(i).

FOR FURTHER INFORMATION CONTACT: Michael H. Beker, (202) 622–3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

This document contains amendments to the Income Tax Regulations (26 CFR part 1) under section 1361 of the Internal Revenue Code (Code) and the Procedure and Administration Regulations (26 CFR part 301) under section 7701 of the Code.

Since January 1, 2008, §§ 1.1361–4(a)(8) and 301.7701–2(c)(2)(v) have treated a qualified subchapter S subsidiary (QSub) and a single-owner eligible entity that is disregarded as an entity separate from its owner for any purpose under § 301.7701–2 (collectively, a disregarded entity) as a separate entity for purposes of excise taxes imposed by Chapters 31, 32 (other than section 4181), 33, 34, 35, 36 (other than section 4461), and 38 of the Code, and any floor stocks tax imposed on articles subject to any of these taxes.

Effective July 1, 2010, section 10907 of the Patient Protection and Affordable Care Act, Public Law 111–148 (124 Stat. 119 (2010)), added new Chapter 49 to the Code, which imposes an excise tax on amounts paid for indoor tanning services under section 5000B.

Consistent with existing §§ 1.1361–4(a)(8) and 301.7701–2(c)(2)(v), these temporary regulations add Chapter 49 to the list of excise taxes for which disregarded entities are treated as separate entities. Accordingly, effective for taxes imposed on amounts paid on or after July 1, 2012, these temporary regulations treat a disregarded entity as a separate entity for purposes of the indoor tanning services excise tax under section 5000B. These temporary regulations also treat a single-owner eligible entity that is disregarded as an entity separate from its owner for any purpose under § 301.7701–2 as a corporation with respect to the indoor tanning services excise tax.

The indoor tanning services excise tax is reported on Form 720 ''Quarterly Federal Excise Tax Return''. As a result of these temporary regulations, a Form 720 reporting indoor tanning services excise taxes imposed on amounts paid on or after July 1, 2012, must be filed under the name and employer identification number (EIN) of the entity rather than under the name and EIN of the disregarded entity's owner. Thus, this rule affects returns of this tax that are due on or after October 31, 2012.

For taxes imposed under section 5000B on amounts paid before July 1, 2012, the IRS will treat payments made by a disregarded entity, or other actions taken by a disregarded entity, with respect to the indoor tanning services excise tax as having been made or taken by the owner of that entity. Thus, for such periods, the owner of a disregarded entity will be treated as satisfying its obligations with respect to the indoor tanning services excise tax if those obligations are satisfied either: (i) By the owner itself or (ii) by the disregarded entity on behalf of the owner.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. For applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6), please refer to the Special Analyses section of the preamble to the cross-reference notice of proposed rulemaking published elsewhere in this issue of the **Federal Register**. Pursuant to section 7805(f) of the Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Michael H. Beker, Office of the Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 301 are amended as follows:

PART 1—INCOME TAX

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 1.1361–4 is amended by adding paragraph (a)(8)(iii) to read as follows:

§ 1.1361–4 Effect of QSub election.

(a) * * *

(8) * * *

(iii) [Reserved]. For further guidance, see § 1.1361–4T(a)(8)(iii).

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■ **Par. 3.** Section 1.1361–4T is added to read as follows:

§ 1.1361–4T Effect of QSub election (temporary).

(a)(1) through (a)(8)(ii) [Reserved]. For further guidance, see § 1.1361–4(a)(1) through (a)(8)(ii).