The Commission determined that the need for interim rules is clear in this instance. The Commission noted that the new legislation alters Title VII practice and procedure and that the existing Commission rules do not encompass certain procedures required by the new legislation. The Commission found that rulemaking was essential for the orderly administration of Title VII as amended by the new legislation. Furthermore, since the legislation is to become effective very shortly after enactment, the Commission concluded that it would be imperative that implementing rules be in place on the effective date of the new statute.

The Commission noted that an agency may dispense with publication of a notice of proposed rulemaking when the following circumstances exist: (1) the proposed rules are interpretive rules, general statements of policy, or rules of agency organization, procedure or practice; or (2) the agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, and that finding (and the reasons therefor) are incorporated into the rules adopted by the agency. 5 U.S.C. § 553(b). An agency may also dispense with the publication of a notice of final rules thirty days prior to their effective date if (1) the rules are interpretive rules or statements of policy or (2) the agency finds that "good cause" exists for not meeting the advance publication requirement and that finding is published along with the rule. 5 U.S.C. 553(d)(3).

In this instance, the Commission determined that the requisite circumstances existed for dispensing with the notice, comment, and advance publication procedure that ordinarily precedes the adoption of Commission rules. For purposes of invoking the section 553(b) exemption from publishing a notice of proposed rulemaking which solicits public comment, the Commission found that (1) the interim rules are "agency rules of procedure or practice"; and (2) since the new legislation is projected to become effective very shortly after enactment, and the time or fact of enactment could not be predicted in advance, it clearly would be "impracticable" for the Commission to comply with the usual notice, comment, and advance publication procedure. For the purpose of invoking the section 553(d)(3) exemption from publishing advance notice of the interim rules thirty days prior to their effective date, the Commission found that the fact that the new legislation is expected to become effective very shortly after

enactment made such advance publication impossible and constituted "good cause" for the Commission not to comply with that requirement.

The Commission recognizes that interim regulations should not respond to anything more than the exigencies created by the new legislation and expects that the more comprehensive final rules to follow will emerge as a result of the Congressionally-mandated policy of affording public participation in the rulemaking process. Having been promulgated in response to exigencies created by the new legislation, each interim rule accordingly comes under one or more of the following categories:

(1) revision of a pre-existing rule that conflicted with the new legislation;

(2) a technical amendment to make a pre-existing rule conform to the language of the new legislation;

(3) rewording of a pre-existing rule to avoid confusion about how the rule is to be applied in light of the new legislation; or

(4) a new rule covering a matter provided for in the new legislation but not covered by a pre-existing rule. More comprehensive final rules will be issued at a later date in accordance with the usual notice, public comment, and advance publication procedure.

Because the interim regulations merely respond to exigencies created by the new legislation, the Commission has further determined that they do not meet the criteria described in section 3(f) of Executive Order 12866 (58 FR 51735, Oct. 4, 1993) (EO) and thus do not constitute a significant regulatory action for purposes of the EO. In accordance with the Regulatory Flexibility Act (5 U.S.C. § 601 note), the Commission hereby certifies pursuant to 5 U.S.C. § 605(b) that the rules set forth in this notice are not likely to have a significant impact on a substantial number of small business entities. In any event, the Regulatory Flexibility Act is inapplicable to this rulemaking because it is not one in which a notice of proposed rulemaking is required under 5 U.S.C. § 553(b).

Explanation of the Interim Amendments to 19 CFR Part 207

The amendments set forth below are intended to reflect changes in the law effected by the URAA.

Section 207.1 is amended to state that the Part 207 regulations are not applicable to investigations conducted pursuant to section 783 of the Act,

which concerns antidumping petitions filed by third countries. Section 783 was added to the Act by section 232 of the URAA. Section 783(c) states that Commission determinations in investigations arising from antidumping petitions by third countries shall be made according to procedural requirements specified by the Office of the United States Trade Representative (USTR). Because the Commission is not the agency that has been accorded statutory authority to specify procedures with respect to section 783 investigations, section 207.1 must be amended to exclude section 783 investigations from its scope. Additionally, the U.S. Code citations in section 207.1 have been amended to reflect the new U.S. Code provisions added to Title VII of the Act by the URAA.

Section 207.2(e) is amended to change the reference to "a class or kind of merchandise" to "subject merchandise." This reflects a change in statutory terminology pursuant to, *inter alia*, section 233(5) of the URAA.

Section 207.8 is amended to conform its terminology to changes made in the Act pursuant to section 231 of the URAA. The reference under clause (a) to "best information otherwise available" has been changed to "the facts otherwise available," consistent with new section 776(a) of the Act. The language under clause (c) referencing adverse inferences has been amended to conform to that used in new section 776(b) of the Act.

Sections 207.10(a), 207.10(c)(2), and 207.11 are amended, and former section 207.10(d) is repealed, to eliminate references to petitions filed under section 303. Section 261 of the URAA repeals section 303 on its effective date, so no new section 303 petitions will be filed after the effective date of these regulations. Other references to section 303 have been retained in the regulations, inasmuch as section 261(b)(2) of the URAA states that the repeal does not affect pending proceedings under section 303, and the Commission may have section 303 investigations pending as of the effective date of these regulations.

A new section 207.29 is added concerning comments on information. This new section implements the provisions of section 782(g) of the Act, as amended by section 231(a) of the URAA. These new provisions require the Commission, before making a final determination in countervailing or antidumping duty investigations or review proceedings, to cease collecting information and provide parties to the proceeding with a final opportunity to

¹ See American Federation of Government Employees, AFL-CIO v. Block, 655 F.2d 1153, 1157– 1158 (D.C. Cir. 1981) ("AFGE"). See also United States v. Garner, 767 F.2d 104, 120 (5th Cir. 1985) (quoting AFGE).