

industry. For example, firms in the food production or food service industry may use the word "mill" because of its association with grinding grain into flour. These uses would not be covered by the Guide, because the businesses do not handle textiles. Other businesses may use the word "mill" in a creative name that has nothing to do with the original meanings of the word for textile manufacturing, grain processing, or any other form of materials processing. The Commission considers it unlikely that such uses of the word "mill" mislead consumers in any material way in their purchasing decisions or otherwise cause any consumer injury.

Given the many and varied uses of the term "mill" in today's lexicon, the Commission has concluded that the Guide is obsolete. If, in the future, certain uses of this term (or any other term) in business or trade names are determined to be materially misleading, the Commission can address such practices under Section 5 of the Federal Trade Commission Act.

#### List of Subjects in 16 CFR Part 236

Advertising, trade name, textiles, mill.

By direction of the Commission.

Donald S. Clark,  
Secretary.

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## INTERNATIONAL TRADE COMMISSION

### 19 CFR Part 201

#### Rules of General Application

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission hereby amends its rules for Part 201 of the Commission's Rules of Practice and Procedure (the "Commission's Rules"). The amended rules clarify those sections of the Commission's Rules dealing with the Freedom of Information Act (FOIA) and Privacy Act Officers' initial denial authority. The amended rules will also reflect the Inspector General's authority, under both the Inspector General Act of 1978, as amended, (the "IG Act") and under Section 552a(b) of the Privacy Act to disclose Privacy Act information to contractor personnel who function as federal employees.

**EFFECTIVE DATE:** In accordance with the 30-day advance publication requirement imposed by 5 U.S.C. § 553(d), the

effective date of this rulemaking is August 21, 1995.

**FOR FURTHER INFORMATION CONTACT:** Hilaire R. Henthorne, Esq., Counsel to the Inspector General, Office of Inspector General, U.S. International Trade Commission, telephone 202-205-2210. Hearing impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

**SUPPLEMENTARY INFORMATION:** In 60 FR 26851, dated May 19, 1995, the Commission published a notice containing proposed amendments to Part 201 of the Commission's Rules. No comments were received concerning the proposed amendments. Thus, the substantive text of the final rule is identical to that of the proposed rule.

#### Statutory Authority

Section 335 of the Tariff Act of 1930 (19 U.S.C. § 1335) authorizes the Commission to adopt such reasonable procedures and rules and regulations as it deems necessary to carry out its functions and duties. This amendment will bring the Commission's Rules into conformity with Section 6 of the IG Act (5 U.S.C. app. 3) and with Section 552a(b) of the Privacy Act of 1974, as amended (5 U.S.C. § 552a(b)).

Section 6 of the IG Act authorizes Inspectors General to "enter into contracts and other arrangements for audits, studies, analyses, and other services with \* \* \* private persons \* \* \*." See 5 U.S.C. app. 3. When contractor personnel are employed to perform the authorized functions of an Office of Inspector General, and are, in the judgment of the Inspector General, performing such functions, they serve in the capacity of government employees. See generally *Coakley v. United States Dep't of Transportation*, No. 93-1420, slip op. at 3 (D.D.C. Apr. 7, 1994); and *Hulett v. Dep't of the Navy*, No. TH 85-310-C, slip op. at 3-4 (S.D. Ind. Oct. 26, 1987); *aff'd* 866 F.2d 432 (7th Cir. 1988) (table cite), *cert. denied*, 490 U.S. 1068 (1989). Section 552a(b) of the Privacy Act stipulates that Privacy Act disclosures are permissible when made to "employees of the agency \* \* \* who have a need for the record in the performance of their duties \* \* \*." See 5 U.S.C. § 552a(b).

Section 552a(c) of the Privacy Act specifically exempts disclosure to government employees from the Privacy Act's recordkeeping requirement. Thus, this amendment to the Commission's Rules clarifies the three categories of disclosure that are exempt, under the Privacy Act, from the recordkeeping

provisions: (1) disclosures made to officers and employees of the Commission who have a need for the information in the performance of their duties; (2) disclosures made to contractor personnel, pursuant to the IG Act or any other law, when such personnel are performing the functions of government employees; and (3) other contractor personnel who, in the judgment of the Director of Personnel, are acting as Commission employees.

#### Regulatory Analysis

Commission rules ordinarily are promulgated in accordance with the rulemaking provisions of section 553 of the Administrative Procedure Act (5 U.S.C. § 551 *et seq.*) (APA). Under the APA, rulemaking entails the following steps: (1) publication of a notice of proposed rulemaking; (2) solicitation of public comment on the proposed rules; (3) Commission review of such comments prior to developing final rules; and (4) publication of the final rules thirty days prior to their effective date. See 5 U.S.C. § 553. This final rule is the last step in that procedure.

The amendments to the Commission's Rules adopted in this notice do not meet the criteria described in section 3f of Executive Order (EO) 12866 (58 FR 51735, Oct. 4, 1993) and 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 final rule set forth in this notice is not likely to have a significant economic impact on a substantial number of small business entities. This conclusion is premised on the fact that this final rule merely conforms to existing IG Act and Privacy Act provisions. Thus, it is not expected to have any significant economic impact.

#### List of Subjects in 19 CFR Part 201

Administrative practice and procedure, Freedom of information, and Privacy.

For the reasons set out in the preamble, the U.S. International Trade Commission hereby amends 19 CFR part 201 as follows:

### PART 201—RULES OF GENERAL APPLICATION

#### Subpart A—Miscellaneous

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