

Amendments to Rule 3

Rule 3 is amended as follows:

TITLE II. COMMENCING AN ACTION; AMENDING A SUMMONS; SERVICE OF SUMMONS, PLEADINGS, MOTIONS, AND ORDERS

Rule 3. Commencing an Action

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(f) Notice to Interested Parties. In an action described in 28 U.S.C. § 1581(c), the plaintiff, as provided in section 516A(d) **or 517(g)** of the Tariff Act of 1930, must notify every interested party who was a party to the administrative proceeding of the commencement of the action, by mailing a copy of the summons **in section 516A actions and summons and complaint in section 517 actions** at the time the action is commenced, or promptly thereafter, by certified or registered mail, return receipt requested, to each such party at the address last known in the administrative proceeding.

When filing a complaint in an action described in 28 U.S.C. § 1581(c) **in section 516A actions**, the plaintiff must promptly serve a copy of the complaint, by certified or registered mail, return receipt requested, on every interested party who was a party to the administrative proceeding at the address last known in that proceeding.

(g) Precedence of Action. On motion for good cause or on its own the court may expedite the following actions and give them precedence over other pending actions:

(1) An action involving the exclusion of perishable merchandise or redelivery of such merchandise;

(2) An action described in 28 U.S.C. § 1581(c) to contest a determination under section 516A **or 517(g)** of the Tariff Act of 1930;

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(h) Special Rule for Actions Described in 28 U.S.C. § 1581(c). When an action is commenced under 28 U.S.C. § 1581(c) to contest a determination listed in section 516A(a)(2) or (3) of the Tariff Act of 1930 by the administering authority and such a determination by the Commission, a party must file a separate summons and complaint with respect to each agency. Also, in an action described in 28 U.S.C. § 1581(c), **except arising from section 517 of the Tariff Act of 1930**, when the plaintiff files the summons, attorneys for the plaintiff are required to comply with the procedures set forth in Rule 73.2(c) by filing of a Business Proprietary Information Certification where appropriate.

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PRACTICE COMMENT: As provided in ~~Section~~ **section** 516A(a)(2) and (3) of the Tariff Act of 1930, a complaint must be filed within 30 days after the filing of the summons. See *Georgetown Steel v. United States*, 801 F.2d 1308 (Fed. Cir. 1986).

Nevertheless, counsel are encouraged to commence any action described in ~~Section~~ **section** 516A(a)(2) or (3) of the Tariff Act of 1930 and 28 U.S.C. §1581(c) by the concurrent filing of a summons and complaint. This will serve to expedite the prosecution of the action.

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PRACTICE COMMENT: Rule 3(a) sets forth whether an action can be commenced by filing a summons alone or whether a summons and complaint must be filed concurrently. The Enforce and Protect Act (EAPA), Title IV, section 421 of the Trade Facilitation and Enforcement Act (TFTEA) of 2015, amended the Tariff Act of 1930 to add section 517 to the Tariff Act of 1930, “Procedures for investigating claims of evasion of antidumping and countervailing duty orders,” codified at 19 U.S.C. § 1517. Civil actions of EAPA cases shall be commenced by filing the summons and complaint concurrently, pursuant to 28 U.S.C. § 2632(a).

(As amended Nov. 4, 1981, eff. Jan. 1, 1982; July 21, 1986, eff. Oct. 1, 1986; Dec. 3, 1986, eff. Mar. 1, 1987; Sept. 25, 1992, eff. Jan. 1, 1993, Nov. 29, 1995, eff. Mar. 31, 1996; Aug. 29, 1997, eff. Nov. 1, 1997; May 27, 1998, eff. Sept. 1, 1998; Jan. 25, 2000, eff. May 1, 2000; Aug. 29, 2000, eff. Jan. 1, 2001; Dec. 18, 2001, eff. Apr. 1, 2002; Sept. 30, 2003, eff. Jan. 1, 2004; Sept. 28, 2004, eff. Jan. 1, 2005; Mar. 29, 2005, eff. Oct. 1, 2005; Nov. 29, 2005, eff. Jan. 1, 2006; Mar. 21, 2006, eff. Apr. 10, 2006; Nov. 25, 2008, eff. Jan. 1, 2009; Nov. 25, 2009, eff. Jan. 1, 2010; Dec. 7, 2010, eff. Jan. 1, 2011; Dec. 4,

2012, eff. Jan. 1, 2013; Mar. 19, 2013, eff. May 1, 2013; Dec. 22, 2014, eff. Jan. 28, 2015;
Sept. 18, 2018, eff. Oct. 15, 2018.)