



441 G St. N.W.
Washington, DC 20548

B-334620

November 30, 2022

The Honorable Ron Wyden
Chairman
The Honorable Mike Crapo
Ranking Member
Committee on Finance
United States Senate

The Honorable Richard Neal
Chairman
The Honorable Kevin Brady
Republican Leader
Committee on Ways and Means
House of Representatives

Subject: *Department of Commerce, International Trade Administration: Procedures Covering Suspension of Liquidation, Duties and Estimated Duties in Accord with Presidential Proclamation 10414*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Commerce, International Trade Administration (ITA) entitled “Procedures Covering Suspension of Liquidation, Duties and Estimated Duties in Accord with Presidential Proclamation 10414” (RIN: 0625-AB21). We received the rule on September 15, 2022. It was published in the *Federal Register* as a final rule on September 16, 2022. 87 Fed. Reg. 56868. The effective date is November 15, 2022.

ITA stated that this final rule implements Presidential Proclamation 10414, 87 Fed. Reg. 35067 (June 9, 2022). Specifically, ITA stated it is issuing a new rule that, in the event of an affirmative preliminary or final determination in the antidumping and countervailing duty (AD/CVD) circumvention inquiries, under title VII of the Tariff Act of 1930, Pub. L. No. 71-361, 46 Stat. 590 (June 17, 1930), extends the time for, and waives, the suspension of liquidation, the application of certain AD/CVD duties, and the collection of cash deposits on applicable entries of certain crystalline silicon photovoltaic cells, whether or not assembled into modules, that are completed in the Kingdom of Cambodia, Malaysia, the Kingdom of Thailand, and the Socialist Republic of Vietnam using parts and components manufactured in the People’s Republic of China, and that are not already subject to an antidumping or countervailing duty order.

The Congressional Review Act requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). Here, the final rule was received by the House of Representatives on September 15, 2022. 168 Fed. Reg. H8377 (daily ed. Oct. 4, 2022). The rule was received by the Senate on September 20, 2022. 168 Fed. Reg. S6691 (daily ed. Nov. 15, 2022). The rule has a stated effective date of November 15, 2022. 87 Fed.

Reg. 56868. Therefore, based on the date of receipt by the Senate, the rule does not have the required 60-day delay in its effective date.

Enclosed is our assessment of ITA's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shari Brewster, Assistant General Counsel, at (202) 512-6398.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive style with a large initial 'S' and 'J'.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Benjamin Juvelier
Attorney, Office of the Chief Counsel
Trade Enforcement and Compliance
Department of Commerce

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF COMMERCE,
INTERNATIONAL TRADE ADMINISTRATION
ENTITLED
“PROCEDURES COVERING SUSPENSION OF LIQUIDATION, DUTIES
AND ESTIMATED DUTIES IN ACCORD WITH PRESIDENTIAL PROCLAMATION 10414”
(RIN: 0625-AB21)

(i) Cost-benefit analysis

The Department of Commerce, International Trade Administration (ITA), stated that the benefits of this final rule derive from the need for immediate action to ensure access to a sufficient supply of solar modules to assist in meeting the United States’ electricity generation needs while reducing the burning of fossil fuels, which drives climate change and presents a threat to national security. ITA also stated that the direct costs of the rule on regulated entities are minimal. According to ITA, the rule provides for an exemption from the collection of cash deposits and duties, if applicable, on imports of certain SA-Completed Cells and Modules. Further, according to ITA, the affected importers would not need to take additional action to come into compliance with the rule. Lastly, ITA noted that there are likely to be costs associated with indirect impacts of the rule that may affect domestic producers of cells and modules, whose products compete with the imports at issue in the rule, but that ITA crafted the rule to limit these indirect costs.

In evaluating the overall impact of the rule, ITA stated that the benefits of the rule, which provides for immediate action to ensure access to a sufficient supply of solar modules, will help meet electricity generation needs while addressing threats posed by climate change, and are likely to significantly outweigh the anticipated costs that may accompany adoption of the rule.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603–605, 607, and 609

ITA prepared a Final Regulatory Flexibility Analysis. The analysis included (1) a statement of the need for and objectives of the rule, (2) the number of small entities to which the rule will apply, (3) a description of reporting, recordkeeping, and other compliance requirements, (4) steps the agency has taken to minimize the significant economic impact on small entities, and (5) significant issues raised by comments on the initial regulatory flexibility analysis.

(iii) Agency actions relevant to sections 202–205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532–1535

ITA determined that this final rule will not produce a federal mandate under the Act.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

On July 1, 2022, ITA published a proposed rule. 87 Fed. Reg. 39426. ITA received 16 comments from interested parties, including domestic producers, exporters, importers, non-profit organizations, and trade associations. ITA responded to comments in this final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

ITA determined that this final rule contains no information collection requirements under PRA.

Statutory authorization for the rule

ITA promulgated this final rule pursuant to section 1318 of title 19, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

The Office of Management and Budget determined that this final rule is economically significant under the Order.

Executive Order No. 13132 (Federalism)

In its submission to us, ITA indicated that it did not discuss the Order in this final rule.