

Proposed Amendments to Rule 3

Rule 3 is amended as follows:

Rule 3. Commencing an Action

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(g) Precedence of Action. ~~Unless the court, on~~ **On** motion for good cause or on its own, ~~determines otherwise in a particular action,~~ **the court may expedite** the following actions ~~will be~~ **and** given **them** precedence, ~~in the following order,~~ over other **pending** actions ~~pending before the court, and expedited in every way:~~

~~(1) An action seeking temporary or preliminary injunctive relief;~~

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

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

(34) An action described in 28 U.S.C. § 1581(a) to contest the denial of a protest, in whole or in part, under section 515 of the Tariff Act of 1930, involving the exclusion or redelivery of merchandise;

(45) An action described in 28 U.S.C. § 1581(b) to contest a decision of the Secretary of the Treasury under section 516 of the Tariff Act of 1930.

(56) Any other action that the court determines, based on motion and for good cause shown, warrants expedited treatment.

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PRACTICE COMMENT: Rule 3(g) lists ~~four~~ five types of actions to which the court ~~may~~ will give precedence over other actions ~~as a matter of course~~, and allows the court to give precedence to any other action when a party can demonstrate, on motion and a showing of good cause, that expedited treatment is warranted. In addition to Rule 3(g), other rules that may bear on scheduling include Rule 16 (Post Assignment Conferences; Scheduling; Management), Rule 40 (Request for Trial), **Rule 56.2 (Judgment on an Agency Record for an Action Described in 28 U.S.C. § 1581(c))**, **Rule 65 (Injunctions and Restraining Orders)**, and Rule 78 (Motion Part).

(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; _____, **2012, eff. _____, 2013.**)

Advisory Committee Note

The text of Rule 3(g) has been amended to state that the Court will expedite the enumerated actions only upon motion demonstrating good cause, or upon the Court's sua sponte determination. The amendment also removes a reference to actions seeking temporary or preliminary injunctive relief. Provisions for expedited treatment of those actions are separately set forth in amended Rule 56.2 and Rule 65.