

Subpart A—General Provisions**§ 165.1 Definitions.**

As used in this part, the following terms will have the meanings indicated unless either the context in which they are used requires a different meaning or a different definition is prescribed for a particular section of this part:

Allegation. The term “allegation” refers to a filing with CBP under § 165.11 by an interested party that alleges an act of evasion by an importer of AD/CVD orders.

AD. The term “AD” refers to antidumping duty, consistent with section 736, Tariff Act of 1930, as amended (19 U.S.C. 1673e).

AD/CVD. The term “AD/CVD” refers to antidumping/countervailing duty, as these terms are defined in this section.

Covered merchandise. The term “covered merchandise” means merchandise that is subject to a CVD order issued under section 706, Tariff Act of 1930, as amended (19 U.S.C. 1671e), and/or an AD order issued under section 736, Tariff Act of 1930, as amended (19 U.S.C. 1673e).

CVD. The term “CVD” refers to countervailing duty, consistent with section 706, Tariff Act of 1930, as amended (19 U.S.C. 1671e).

Enter or entry. The terms “enter” and “entry” refer to the entry for consumption, or withdrawal from warehouse for consumption, of merchandise in the customs territory of the United States, see § 101.1 of this chapter, or to the filing with CBP of the necessary documentation to withdraw merchandise from a duty-deferral program in the United States for exportation to Canada or Mexico or for entry into a duty-deferral program in Canada or Mexico, see §§ 141.0a(f) and 181.53 of this chapter.

Evade or evasion. The terms “evade” and “evasion” refer to the entry of covered merchandise into the customs territory of the United States for consumption by means of any document or electronically transmitted data or information, written or oral statement, or act that is material and false, or any omission that is material, and that results in any cash deposit or other security or any amount of applicable antidumping or countervailing duties being

reduced or not being applied with respect to the covered merchandise.

Interested party. The term “interested party” in this part refers only to the following:

(1) A foreign manufacturer, producer, or exporter, or any importer (not limited to importers of record and including the party against whom the allegation is brought), of covered merchandise or a trade or business association a majority of the members of which are producers, exporters, or importers of such merchandise;

(2) A manufacturer, producer, or wholesaler in the United States of a domestic like product;

(3) A certified union or recognized union or group of workers that is representative of an industry engaged in the manufacture, production, or wholesale in the United States of a domestic like product;

(4) A trade or business association a majority of the members of which manufacture, produce, or wholesale a domestic like product in the United States;

(5) An association a majority of the members of which is composed of interested parties described in paragraphs (2), (3), and (4) of this definition with respect to a domestic like product; or,

(6) If the covered merchandise is a processed agricultural product, as defined in 19 U.S.C. 1677(4)(E), a coalition or trade association that is representative of any of the following: processors; processors and producers; or processors and growers.

Investigation. The term “investigation” refers to the CBP administrative process described in subpart C of this part, and is a formal investigation within the meaning of section 592(c)(4), Tariff Act of 1930, as amended (19 U.S.C. 1592(c)(4)).

Parties to the investigation. The phrase “parties to the investigation” means the interested party (or interested parties, in the case of consolidation pursuant to § 165.13) who filed the allegation of evasion and the importer (or importers, in the case of consolidation pursuant to § 165.13) who allegedly engaged in evasion. In the case of investigations initiated based upon a request from a Federal agency, parties to the investigation only refers to the importer or

§ 165.2

19 CFR Ch. I (4–1–22 Edition)

importers who allegedly engaged in evasion, and not the Federal agency.

Regulations and Rulings. The term “Regulations and Rulings” means the Executive Director, Regulations and Rulings, Office of Trade, or his or her designee.

TRLED. The term “TRLED” refers to the Trade Remedy Law Enforcement Directorate, Office of Trade, that conducts the investigation of alleged evasion under this part, and that was established as required by section 411 of the EAPA.

[81 FR 56482, Aug. 22, 2016, as amended at 81 FR 62004, Sept. 8, 2016]

§ 165.2 Entries subject to this part.

Entries that may be the subject of an allegation made under § 165.11 or a request for an investigation under § 165.14 are those entries of allegedly covered merchandise made within one year before the receipt of an allegation under § 165.11 or of a request for an investigation under § 165.14. In addition, at its discretion, CBP may investigate other entries of such covered merchandise.

§ 165.3 Power of attorney.

(a) *When required.* Any submission made under this part other than by a principal or its employees may be filed by a person acting as agent or attorney in fact for the principal; a power of attorney must specifically authorize such person to make, sign, and file the submission or grant unlimited authority to such person.

(b) *Exception.* No power of attorney is required for an attorney at law to act as agent or attorney for the principal. The signing of a submission as agent or attorney for the principal by the attorney at law will be considered a declaration by the attorney that the attorney is currently an active member in good standing of the highest court of a state, possession, territory, commonwealth, or the District of Columbia, and has been authorized to sign and file the submission for the principal.

(c) *Execution*—(1) *Corporation.* A corporate power of attorney to file the submissions described in paragraph (a) of this section must be signed by a duly authorized officer or employee of the corporation.

(2) *Partnership.* A partnership power of attorney to file the submissions described in paragraph (a) of this section must be signed by at least one member in the name of the partnership or by at least one duly authorized employee of the partnership, provided the power recites the name(s) of all of the members.

(3) *Other persons.* A power of attorney filed by a person other than a corporation or partnership must be signed by that person or an employee of that person who has the legal authority to act on that person's behalf when filing the submissions described in paragraph (a) of this section.

(d) *Revocation.* Any power of attorney will be subject to revocation at any time by written notice given to and received by CBP, Office of Trade.

(e) *Proof.* CBP will require proof of execution of a power of attorney, where applicable, the first time that an agent makes a submission on behalf of any interested party during an investigation or administrative review of a determination as to evasion. CBP may require proof of authority to execute a power of attorney pursuant to paragraph (c) of this section, at any point during the proceedings described in this part.

§ 165.4 Release of information provided by interested parties.

(a) *Claim for business confidential treatment.* Any interested party that makes a submission to CBP in connection with an investigation under this part, including for its initiation and administrative review, may request that CBP treat any part of the submission as business confidential information except for the information specified in paragraph (c) of this section. Business confidential treatment will be granted if the requirements of this section are satisfied and the information for which protection is sought consists of trade secrets and commercial or financial information obtained from any person, which is privileged or confidential in accordance with 5 U.S.C. 552(b)(4).

(1) *Identification of business confidential information.* An interested party submitting information must identify the information for which business confidential treatment is claimed by