

§ 165.6

19 CFR Ch. I (4–1–22 Edition)

United States Government, through questionnaires and correspondence, and through field work by its officials.

(b) *Submissions to CBP.* The following requirements pertain to all parties who knowingly make submissions covered in this part:

(1) *Form.* All submissions to CBP must be in writing in the English language or accompanied by an adequate English language translation as they will be part of the record for proceedings and determinations covered in this part. Oral discussions or communications with CBP will not be considered part of the record, unless they are memorialized in a written document that is placed on the record. All submissions must be made electronically to the designated email address specified by CBP for purposes of the investigation or through any other method approved or designated by CBP.

(2) *Certifications.* Every written submission made to CBP by an interested party under this part must be accompanied by the following certifications from the person making the submission:

(i) “On behalf of the party making this submission, I certify that all statements in this submission (and any attachments) are accurate and true to the best of my knowledge and belief.”

(ii) “On behalf of the party making this submission, I certify that any information for which I have not requested business confidential treatment pursuant to 19 CFR 165.4(a), may be released for public consumption.”

(iii) “On behalf of the party making this submission, I certify that I will advise CBP promptly of any knowledge of or reason to suspect that the covered merchandise poses any health or safety risk to U.S. consumers pursuant to 19 CFR 165.7(a).”

(3) *False statement.* Any interested party that provides a material false statement or makes a material omission or otherwise attempts to conceal material facts at any point in the proceedings may be subject to adverse inferences (see § 165.6) and prosecution pursuant to 18 U.S.C. 1001.

(c) *Compliance with CBP time limits—*
(1) *Requests for extensions.* CBP may, for good cause, extend any regulatory time limit if a party requests an extension

in a separate, stand-alone submission and states the reasons for the request. Such requests must be submitted no less than three business days before the time limit expires unless there are extraordinary circumstances. An extraordinary circumstance is an unexpected event that could not have been prevented even if reasonable measures had been taken. It is within CBP’s reasonable discretion to determine what constitutes extraordinary circumstances, what constitutes good cause, and to grant or deny a request for an extension.

(2) *Rejection of untimely submissions.* If a submission is untimely filed, then CBP will not consider or retain it in the administrative record and adverse inferences may be applied, if applicable.

§ 165.6 Adverse inferences.

(a) *In general.* If the party to the investigation that filed an allegation, the importer, or the foreign producer or exporter of the covered merchandise fails to cooperate and comply to the best of its ability with a request for information made by CBP, CBP may apply an inference adverse to the interests of that party in selecting from among the facts otherwise available to make the determination as to evasion pursuant to § 165.27 and subpart D of this part.

(b) *Other adverse inferences.* CBP may also apply an inference adverse to the interests of a party based on a prior determination in another CBP investigation, proceeding, or action that involves evasion with respect to AD/CVD orders, or any other available information.

(c) *Application.* An adverse inference described in this section may be used with respect to the importer of the covered merchandise, or the foreign producer or exporter of the covered merchandise without regard to whether another party involved in the same transaction or transactions under examination has provided the information sought by CBP, such as import or export documentation.

§ 165.7 Protection of public health and safety.

(a) *Notification to CBP.* Any interested party, including an importer, must

promptly notify CBP if it has knowledge or reason to suspect that the covered merchandise may pose a health or safety risk to U.S. consumers at any point during the proceedings described in this part.

(b) *Transmission by CBP.* During the course of an investigation or administrative review of a determination as to evasion under this part, CBP will consider whether the covered merchandise may pose a health or safety risk to U.S. consumers and will take into account any notification received under paragraph (a) of this section. CBP will promptly transmit information to the appropriate Federal agencies for purposes of mitigating the risk and will exercise its administrative powers, as appropriate.

Subpart B—Initiation of Investigations

§ 165.11 Allegations by interested parties.

(a) *Filing of allegation.* Any interested party, as defined in §165.1, may file an allegation that an importer of covered merchandise has evaded AD/CVD orders. An allegation must be filed electronically through the appropriate portal on CBP's online e-Allegations system or through any other method approved or designated by CBP. Each allegation must be limited to one importer, but an interested party may file multiple allegations. An allegation must satisfy the requirements in paragraphs (b) through (d) of this section.

(b) *Contents.* An allegation of evasion must include, but is not limited to, the following information:

(1) Name of the interested party making the allegation and identification of the agent filing on its behalf, if any, and the email address for communication and service purposes;

(2) An explanation as to how the interested party qualifies as an interested party pursuant to §165.1;

(3) Name and address of importer against whom the allegation is brought;

(4) Description of the covered merchandise;

(5) Applicable AD/CVD orders; and

(6) Information reasonably available to the interested party to support its

allegation that the importer with respect to whom the allegation is filed is engaged in evasion.

(c) *Certifications.* An allegation must also be accompanied by the certifications required under §165.5(b) and the following statement of informed consent from the person making the submission: "I certify my understanding and consent that the information provided for in §165.11(b)(1) through (5) may be released for public consumption."

(d) *Signature.* The person signing the allegation on behalf of the interested party must include his or her name, position in the company or other affiliation, and provide contact information. Electronic submission of this information will be considered "signed" for purpose of filing the allegation.

(e) *Technical assistance and guidance—*
(1) *Availability.* CBP will provide technical assistance and guidance for the preparation of an allegation of evasion and its submission to CBP, as described in this section.

(i) *Small businesses.* Small businesses are entitled to technical assistance upon request. In general, small businesses are eligible to make such requests if they have neither adequate internal resources nor financial ability to obtain qualified outside assistance in preparing and submitting for CBP's consideration allegations of evasion. Small businesses must satisfy the applicable standards set forth in 15 U.S.C. 632 and implemented in 13 CFR part 121.

(ii) *Other parties.* Other parties may request technical assistance, which CBP may provide if resources are reasonably available.

(2) *Requests.* Requests for technical assistance may be made at any time via the email address designated on CBP's online e-Allegations system or through any other method approved or designated by CBP.

(3) *Limitations.* The act of providing technical assistance is not part of the record for the investigation, nor does it compel a decision by CBP to initiate an investigation pursuant to §165.15.

§ 165.12 Receipt of allegations.

(a) *Date of receipt.* The "date of receipt" of a properly filed allegation is