

§ 351.303 Filing, document identification, format, translation, service, and certification of documents.

(a) *Introduction.* This section contains the procedural rules regarding filing, document identification, format, service, translation, and certification of documents and applies to all persons submitting documents to the Department for consideration in an antidumping or countervailing duty proceeding.

(b) *Filing*—(1) *In general.* Persons must address all documents to the Secretary of Commerce, Attention: Enforcement and Compliance, APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5 p.m. Eastern Time on the due date. Where applicable, a submitter must manually file a document between the hours of 8:30 a.m. and 5 p.m. Eastern Time on business days (see § 351.103(b)). For both electronically filed and manually filed documents, if the applicable due date falls on a non-business day, the Secretary will accept documents that are filed on the next business day. A manually filed document must be accompanied by a cover sheet generated in ACCESS, in accordance with § 351.303(b)(3).

(2) *Filing of documents and databases*—(i) *Electronic filing.* A person must file all documents and databases electronically using ACCESS at <https://access.trade.gov>. A person making a filing must comply with the procedures set forth in the ACCESS Handbook on Electronic Filing Procedures, which is available on the ACCESS Web site at <https://access.trade.gov>.

(ii) *Manual filing.* (A) Notwithstanding § 351.303(b)(2)(i), a person must manually file a data file that exceeds the file size limit specified in the ACCESS Handbook on Electronic Filing Procedures and as referenced in § 351.303(c)(3), and the data file must be accompanied by a cover sheet described in § 351.303(b)(3). A person may manually file a bulky document. If a person elects to manually file a bulky document, it must be accompanied by a

cover sheet described in § 351.303(b)(3). The Department both provides specifications for large data files and defines bulky document standards in the ACCESS Handbook on Electronic Filing Procedures, which is available on the ACCESS Web site at <https://access.trade.gov>.

(B) [Reserved]

(3) *Cover sheet.* When manually filing a document, parties must complete the cover sheet (as described in the ACCESS Handbook on Electronic Filing Procedures) online at <https://access.trade.gov> and print the cover sheet for submission to the APO/Dockets Unit.

(4) *Document identification.* Each document must be clearly identified as one of the following five document classifications and must conform with the requirements under paragraph (d)(2) of this section. Business proprietary document or business proprietary/APO version, as applicable, means a document or a version of a document containing information for which a person claims business proprietary treatment under § 351.304.

(i) *Business Proprietary Document—May be Released Under APO.* This business proprietary document contains single-bracketed business proprietary information that the submitter agrees to release under APO. It must contain the statement “May be Released Under APO” in accordance with the requirements under paragraph (d)(2)(v) of this section.

(ii) *Business Proprietary Document—May Not be Released Under APO.* This business proprietary document contains double-bracketed business proprietary information that the submitter does not agree to release under APO. This document must contain the statement “May Not be Released Under APO” in accordance with the requirements under paragraph (d)(2)(v) of this section. This type of document may contain single-bracketed business proprietary information in addition to double-bracketed business proprietary information.

(iii) *Business Proprietary/APO Version—May be Released Under APO.* In the event that a business proprietary document contains both single-

and double-bracketed business proprietary information, the submitting person must submit a version of the document with the double-bracketed business proprietary information omitted. This version must contain the single-bracketed business proprietary information that the submitter agrees to release under APO. This version must be identified as “Business Proprietary/APO Version” and must contain the statement “May be Released Under APO” in accordance with the requirements under paragraph (d)(2)(v) of this section.

(iv) *Public version.* The public version excludes all business proprietary information, whether single- or double-bracketed. Specific filing requirements for public version submissions are discussed in § 351.304(c).

(v) *Public document.* The public document contains only public information. There is no corresponding business proprietary document for a public document.

(c) Filing of business proprietary documents and public versions under the one-day lag rule; information in double brackets.

(1) *In general.* If a submission contains information for which the submitter claims business proprietary treatment, the submitter may elect to file the submission under the one-day lag rule described in paragraph (c)(2) of this section. A petition, an amendment to a petition, and any other submission filed prior to the initiation of an investigation shall not be filed under the one-day lag rule. The business proprietary document and public version of such pre-initiation submissions must be filed simultaneously on the same day.

(2) *Application of the one-day lag rule—*
(i) *Filing the business proprietary document.* A person must file a business proprietary document with the Department within the applicable time limit.

(ii) Filing of final business proprietary document; bracketing corrections. By the close of business one business day after the date the business proprietary document is filed under paragraph (c)(2)(i) of this section, a person must file the complete final business proprietary document with the Department. The final business

proprietary document must be identical in all respects to the business proprietary document filed on the previous day except for any bracketing corrections and the omission of the warning “Bracketing of Business Proprietary Information Is Not Final for One Business Day After Date of Filing” in accordance with paragraph (d)(2)(v) of this section. A person must serve other persons with the complete final business proprietary document if there are bracketing corrections. If there are no bracketing corrections, a person need not serve a copy of the final business proprietary document.

(iii) *Filing the public version.* Simultaneously with the filing of the final business proprietary document under paragraph (c)(2)(ii) of this section, a person also must file the public version of such document (see § 351.304(c)) with the Department.

(iv) *Information in double brackets.* If a person serves authorized applicants with a business proprietary/APO version of a document that excludes information in double brackets pursuant to §§ 351.303(b)(4)(iii) and 351.304(b)(2), the person simultaneously must file with the Department the complete business proprietary/APO version of the document from which information in double brackets has been excluded.

(3) *Sales files, cost of production files and other electronic databases.* When a submission includes sales files, cost of production files or other electronic databases, such electronic databases must be filed electronically in accordance with paragraph (b)(2) of this section. If a submitter must file the database manually pursuant to § 351.303(b)(2)(ii)(A), the submitter must file such information on the computer medium specified by the Department’s request for such information. The submitter need not accompany the computer medium with a paper printout. All electronic database information must be releasable under APO (see § 351.305). A submitter need not include brackets in an electronic database containing business proprietary information. The submitter’s selection of the security classification “Business Proprietary Document—May Be Released

§ 351.303

19 CFR Ch. III (4–1–23 Edition)

Under APO” at the time of filing indicates the submitter’s request for business proprietary treatment of the information contained in the database. Where possible, the submitter must insert headers or footers requesting business proprietary treatment of the information on the databases for printing purposes. A submitter must submit a public version of a database in pdf format. The public version of the database must be publicly summarized and ranged in accordance with § 351.304(c).

(d) *Format of submissions*—(1) *In general*. Unless the Secretary alters the requirements of this section, a document filed with the Department must conform to the specification and marking requirements under paragraph (d)(2) of this section or the Secretary may reject such document in accordance with § 351.104(a).

(2) *Specifications and markings*. If a document is filed manually, it must be on letter-size (8½ × 11 inch) paper, single-sided and double-spaced, bound with a paper clip, butterfly/binder clip, or rubber band. The filing of stapled, spiral, velo, or other type of solid binding is not permitted. In accordance with paragraph (b)(3) of this section, a cover sheet must be placed before the first page of the document. Electronically filed documents must be formatted to print on letter-size (8½ × 11 inch) paper and double-spaced. Spreadsheets, unusually sized exhibits, and databases are best utilized in their original printing format and should not be reformatted for submission. A submitter must mark the first page of each document in the upper right-hand corner with the following information in the following format:

(i) On the first line, except for a petition, indicate the Department case number;

(ii) On the second line, indicate the total number of pages in the document including cover pages, appendices, and any unnumbered pages;

(iii) On the third line, indicate the specific segment of the proceeding, (*e.g.*, investigation, administrative review, scope inquiry, suspension agreement, *etc.*) and, if applicable, indicate the complete period of review (MM/DD/YY–MM/DD/YY);

(iv) On the fourth line, except for a petition, indicate the Department office conducting the proceeding;

(v) On the fifth and subsequent lines, indicate whether any portion of the document contains business proprietary information and, if so, list the applicable page numbers and state either: “Business Proprietary Document—May Be Released Under APO,” “Business Proprietary Document—May Not Be Released Under APO,” or “Business Proprietary/APO Version—May Be Released Under APO,” as applicable, and consistent with § 351.303(b)(4). Indicate “Business Proprietary Treatment Requested” on the top of each page containing business proprietary information. In addition, include the warning “Bracketing of Business Proprietary Information Is Not Final for One Business Day After Date of Filing” on the top of each page containing business proprietary information in the business proprietary document filed under paragraph (c)(2)(i) of this section (one-day lag rule). Do not include this warning in the final business proprietary document filed on the next business day under paragraph (c)(2)(ii) of this section (see § 351.303(c)(2) and § 351.304(c)); and

(vi) For the public version of a business proprietary document required under § 351.304(c), complete the marking as required in paragraphs (d)(2)(i)–(v) of this section for the business proprietary document, but conspicuously mark the first page “Public Version.”

(vii) For a public document, complete the marking as required in paragraphs (d)(2)(i)–(v) of this section for the business proprietary document or version, as applicable, but conspicuously mark the first page “Public Document.”

(e) *Translation to English*. A document submitted in a foreign language must be accompanied by an English translation of the entire document or of only pertinent portions, where appropriate, unless the Secretary waives this requirement for an individual document. A party must obtain the Department’s approval for submission of an English translation of only portions of a document prior to submission to the Department.

(f) *Service of copies on other persons*—(1)(i) *In general*. Except as provided in

§ 351.202(c) (filing of petition), § 351.208(f)(1) (submission of proposed suspension agreement), and paragraph (f)(3) of this section, a person filing a document with the Department simultaneously must serve a copy of the document on all other persons on the service list by personal service or first class mail.

(ii) *Service of public versions, public documents, or a party's own business proprietary information.* Notwithstanding paragraphs (f)(1)(i) and (f)(3) of this section, service of a business proprietary document containing only the server's own business proprietary information, on persons on the APO service list, or the public version of such a document, or a public document on persons on the public service list, may be made by facsimile transmission or other electronic transmission process, with the consent of the person to be served.

(2) *Certificate of service.* Each document filed with the Department must include a certificate of service listing each person served (including agents), the type of document served, and the date and method of service on each person. The Secretary may refuse to accept any document that is not accompanied by a certificate of service.

(3) *Service requirements for certain documents—(i) Briefs.* In addition to the certificate of service requirements contained in paragraph (f)(2) of this section, a person filing a case or rebuttal brief with the Department simultaneously must serve a copy of that brief on all persons on the service list and on any U.S. Government agency that has submitted a case or rebuttal brief in the segment of the proceeding. If, under § 351.103(c), a person has designated an agent to receive service that is located in the United States, service on that person must be either by personal service on the same day the brief is filed or by overnight mail or courier on the next day. If the person has designated an agent to receive service that is located outside the United States, service on that person must be by first class airmail.

(ii) *Request for review.* In addition to the certificate of service requirements under paragraph (f)(2) of this section, an interested party that files with the Department a request for an expedited

antidumping review, an administrative review, a new shipper review, or a changed circumstances review must serve a copy of the request by personal service or first class mail on each exporter or producer specified in the request and on the petitioner by the end of the anniversary month or within ten days of filing the request for review, whichever is later. If the interested party that files the request is unable to locate a particular exporter or producer, or the petitioner, the Secretary may accept the request for review if the Secretary is satisfied that the party made a reasonable attempt to serve a copy of the request on such person.

(4) Notwithstanding any other paragraph in this section, until further notice, as of March 24, 2020, we are modifying the service requirements with respect to documents containing business proprietary information as follows:

(i) For BPI documents submitted with final bracketing on the due date (*i.e.*, documents not submitted under the one-day lag rule, paragraph (c)(2)(i) of this section), E&C will deem service to be effectuated upon filing of the submission in ACCESS. E&C will notify interested parties that the document has been filed through daily ACCESS BPI Release Digest emails. This paragraph (f)(4)(i) does not apply to service to pro se parties or parties represented by a non-APO-authorized representative.

(ii) For BPI documents submitted under the one-day lag rule, paragraph (c)(2)(i) of this section, E&C is temporarily waiving the service requirement for bracketing-not-final BPI submissions filed on the due date. In addition, E&C will deem service to be effectuated upon the filing in ACCESS of the complete final BPI document on the next business day under paragraph (c)(2)(ii) of this section. This paragraph (f)(4)(ii) does not apply to service to pro se parties or parties represented by a non-APO-authorized representative.

(iii) For case and rebuttal briefs served pursuant to paragraph (f)(3)(i) of this section, service of BPI case and rebuttal briefs will be deemed effectuated via ACCESS. This paragraph (f)(4)(iii)

does not apply to service to pro se parties or parties represented by a non-APO-authorized representative.

(iv) Parties must still take active steps to serve pro se parties BPI documents containing only the pro se party's BPI and serve parties represented by a non-APO-authorized representative documents containing only that party's BPI, consistent with § 351.306(c)(2). However, E&C is temporarily modifying the electronic service provision under paragraph (f)(1)(ii) of this section, so that a pro se party may give consent to another interested party to serve a document electronically on that pro se party only, provided that the document only contains the pro se party's BPI. Such a document must not contain the BPI of other parties. In addition, a party represented by a non-APO-authorized representative may give consent to another interested party to serve a document electronically on that non-APO-authorized representative only, provided that the document only contains the BPI of the party represented by that non-APO-authorized representative. Such a document must not contain the BPI of other parties. If such consent is given, then the serving party's APO-authorized representative may serve the submission on that party via electronic transmission with that recipient's consent.

(v) *Exceptions.* Notwithstanding paragraphs (f)(4)(i) through (iv) of this section, the following types of submissions and scenarios require the normal means of service as required by this paragraph (f):

(A) Requests for administrative review, new shipper review, changed circumstances review and expedited review.

(B) Requests for scope ruling or anti-circumvention inquiry.

(g) *Certifications.* Each submission containing factual information must include the following certification from the person identified in paragraph (g)(1) of this section and, in addition, if the person has legal counsel or another representative, the certification in paragraph (g)(2) of this section. The certifying party must maintain the original signed certification for a period of five years from the date of fil-

ing the submission to which the certification pertains. The original signed certification must be available for inspection by U.S. Department of Commerce officials. Copies of the certifications must be included in the submission filed at the Department.

(1) For the person(s) officially responsible for presentation of the factual information:

(i) COMPANY CERTIFICATION *

I, (PRINTED NAME AND TITLE), currently employed by (COMPANY NAME), certify that I prepared or otherwise supervised the preparation of the attached submission of (IDENTIFY THE SPECIFIC SUBMISSION BY TITLE) due on (DATE) OR filed on (DATE) pursuant to the (INSERT ONE OF THE FOLLOWING OPTIONS IN { }; {THE (ANTIDUMPING OR COUNTERVAILING) DUTY INVESTIGATION OF (PRODUCT) FROM (COUNTRY) (CASE NUMBER)} or {THE (DATES OF PERIOD OF REVIEW) (ADMINISTRATIVE OR NEW SHIPPER) REVIEW UNDER THE (ANTIDUMPING OR COUNTERVAILING) DUTY ORDER ON (PRODUCT) FROM (COUNTRY) (CASE NUMBER)} or {THE (SUNSET REVIEW OR CHANGED CIRCUMSTANCE REVIEW OR SCOPE RULING OR CIRCUMVENTION INQUIRY) OF THE (ANTIDUMPING OR COUNTERVAILING) DUTY ORDER ON (PRODUCT) FROM (COUNTRY) (CASE NUMBER)}}). I certify that the public information and any business proprietary information of (CERTIFIER'S COMPANY NAME) contained in this submission is accurate and complete to the best of my knowledge. I am aware that the information contained in this submission may be subject to verification or corroboration (as appropriate) by the U.S. Department of Commerce. I am also aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. Government. In addition, I am aware that, even if this submission may be withdrawn from the record of the AD/CVD proceeding, the U.S. Department of Commerce may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that a copy of this signed certification will be filed with this submission to the U.S. Department of Commerce.

Signature: _____

Date: _____

* For multiple person certifications, all persons should be listed in the first sentence of the certification and all

persons should sign and date the certification. In addition, singular pronouns and possessive adjectives should be changed accordingly, *e.g.*, “I” should be changed to “we” and “my knowledge” should be changed to “our knowledge.”

(ii) GOVERNMENT CERTIFICATION**

I, (PRINTED NAME AND TITLE), currently employed by the government of (COUNTRY), certify that I prepared or otherwise supervised the preparation of the attached submission of (IDENTIFY THE SPECIFIC SUBMISSION BY TITLE) due on (DATE) OR filed on (DATE) pursuant to the (INSERT ONE OF THE FOLLOWING OPTIONS IN { }: {THE (ANTIDUMPING OR COUNTERVAILING) DUTY INVESTIGATION OF (PRODUCT) FROM (COUNTRY) (CASE NUMBER)} or {THE (DATES OF PERIOD OF REVIEW) (ADMINISTRATIVE OR NEW SHIPPER) REVIEW UNDER THE (ANTIDUMPING OR COUNTERVAILING) DUTY ORDER ON (PRODUCT) FROM (COUNTRY) (CASE NUMBER)} or {THE (SUNSET REVIEW OR CHANGED CIRCUMSTANCE REVIEW OR SCOPE RULING OR CIRCUMVENTION INQUIRY) OF THE (ANTIDUMPING OR COUNTERVAILING) DUTY ORDER ON (PRODUCT) FROM (COUNTRY) (CASE NUMBER)}}). I certify that the public information and any business proprietary information of the government of (COUNTRY) contained in this submission is accurate and complete to the best of my knowledge. I am aware that the information contained in this submission may be subject to verification or corroboration (as appropriate) by the U.S. Department of Commerce. In addition, I am aware that, even if this submission may be withdrawn from the record of the AD/CVD proceeding, the U.S. Department of Commerce may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that a copy of this signed certification will be filed with this submission to the U.S. Department of Commerce.

Signature: _____

Date: _____

**For multiple person certifications, all persons should be listed in the first sentence of the certification and all persons should sign and date the certification. In addition, singular pronouns and possessive adjectives should be changed accordingly, *e.g.*, “I” should be changed to “we” and “my knowledge” should be changed to “our knowledge.”

(2) For the legal counsel or other representative:

REPRESENTATIVE CERTIFICATION * * *

I, (PRINTED NAME), with (LAW FIRM or OTHER FIRM), (INSERT ONE OF THE FOLLOWING OPTIONS IN { }: {COUNSEL TO} or {REPRESENTATIVE OF}) (COMPANY NAME, OR GOVERNMENT OF COUNTRY, OR NAME OF ANOTHER PARTY), certify that I have read the attached submission of (IDENTIFY THE SPECIFIC SUBMISSION BY TITLE) due on (DATE) OR filed on (DATE) pursuant to the (INSERT ONE OF THE FOLLOWING OPTIONS IN { }: {THE (ANTIDUMPING OR COUNTERVAILING DUTY) INVESTIGATION OF (PRODUCT) FROM (COUNTRY) (CASE NUMBER)} or {THE (DATES OF PERIOD OF REVIEW) (ADMINISTRATIVE OR NEW SHIPPER) REVIEW UNDER THE (ANTIDUMPING OR COUNTERVAILING) DUTY ORDER ON (PRODUCT) FROM (COUNTRY) (CASE NUMBER)} or {THE (SUNSET REVIEW OR CHANGED CIRCUMSTANCE REVIEW OR SCOPE RULING OR CIRCUMVENTION INQUIRY) OF THE (ANTIDUMPING OR COUNTERVAILING) DUTY ORDER ON (PRODUCT) FROM (COUNTRY) (CASE NUMBER)}}). In my capacity as (INSERT ONE OF THE FOLLOWING OPTIONS IN { }: {COUNSEL} or {ADVISER, PREPARER, OR REVIEWER}) of this submission, I certify that the information contained in this submission is accurate and complete to the best of my knowledge. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. Government. In addition, I am aware that, even if this submission may be withdrawn from the record of the AD/CVD proceeding, the U.S. Department of Commerce may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that a copy of this signed certification will be filed with this submission to the U.S. Department of Commerce.

Signature: _____

Date: _____

***For multiple representative certifications, all representatives and their firms should be listed in the first sentence of the certification and all representatives should sign and date the certification. In addition, singular pronouns and possessive adjectives should be changed accordingly, *e.g.*, “I”

§ 351.304

19 CFR Ch. III (4–1–23 Edition)

should be changed to “we” and “my knowledge” should be changed to “our knowledge.”

[62 FR 27379, May 19, 1997, as amended at 73 FR 3643, Jan. 22, 2008; 76 FR 7499, Feb. 10, 2011; 76 FR 39275, July 6, 2011; 76 FR 54699, Sept. 2, 2011; 78 FR 42691, July 17, 2013; 79 FR 69047, Nov. 20, 2014; 80 FR 36473, June 25, 2015; 85 FR 17007, Mar. 26, 2020]

EFFECTIVE DATE NOTE: At 85 FR 17007, Mar. 26, 2020, §351.303 was amended by adding paragraph (f)(4), effective Mar. 24, 2020 through May 19, 2020. At 85 FR 29615, May 18, 2020, this amendment was extended to July 17, 2020. At 85 FR 41363, July 10, 2020, this amendment was extended indefinitely.

§ 351.304 Establishing business proprietary treatment of information.

(a) *Claim for business proprietary treatment.* (1) Any person that submits factual information to the Secretary in connection with a proceeding may:

(i) Request that the Secretary treat any part of the submission as business proprietary information that is subject to disclosure only under an administrative protective order,

(ii) Claim that there is a clear and compelling need to withhold certain business proprietary information from disclosure under an administrative protective order, or

(iii) In an investigation, identify customer names that are exempt from disclosure under administrative protective order under section 777(c)(1)(A) of the Act.

(2) The Secretary will require that all business proprietary information presented to, or obtained or generated by, the Secretary during a segment of a proceeding be disclosed to authorized applicants, except for

(i) Customer names submitted in an investigation,

(ii) Information for which the Secretary finds that there is a clear and compelling need to withhold from disclosure, and

(iii) Privileged or classified information.

(b) *Identification of business proprietary information—*(1) *Information releasable under administrative protective order—*(i) *In general.* A person submitting information must identify the information for which it claims business proprietary treatment by enclosing the information within single brackets.

The submitting person must provide with the information an explanation of why each item of bracketed information is entitled to business proprietary treatment. A person submitting a request for business proprietary treatment also must include an agreement to permit disclosure under an administrative protective order, unless the submitting party claims that there is a clear and compelling need to withhold the information from disclosure under an administrative protective order.

(ii) *Electronic databases.* In accordance with §351.303(c)(3), an electronic database need not contain brackets. The submitter must select the security classification “Business Proprietary Document—May Be Released Under APO” at the time of filing to request business proprietary treatment of the information contained in the database. The public version of the database must be publicly summarized and ranged in accordance with §351.304(c).

(2) *Information claimed to be exempt from disclosure under administrative protective order.* (i) If the submitting person claims that there is a clear and compelling need to withhold certain information from disclosure under an administrative protective order (see paragraph (a)(1)(ii) of this section), the submitting person must identify the information by enclosing the information within double brackets, and must include a full explanation of the reasons for the claim.

(ii) In an investigation, the submitting person may enclose business proprietary customer names within double brackets (see paragraph (a)(1)(iii) of this section).

(iii) The submitting person may exclude the information in double brackets from the business proprietary/APO version of the submission served on authorized applicants. See §351.303 for filing and service requirements.

(c) *Public version.* (1) A person filing a submission that contains information for which business proprietary treatment is claimed must file a public version of the submission. The public version must be filed on the first business day after the filing deadline for the business proprietary document (see §351.303(b)). The public version must contain a summary of the bracketed