

§ 351.310

19 CFR Ch. III (4–1–23 Edition)

(iii) For the final results of an expedited sunset review, expedited antidumping review, Article 8 violation review, Article 4/Article 7 review, or section 753 review, a date specified by the Secretary.

(2) The case brief must present all arguments that continue in the submitter's view to be relevant to the Secretary's final determination or final results, including any arguments presented before the date of publication of the preliminary determination or preliminary results. As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

(d) *Rebuttal brief.* (1) Any interested party or U.S. Government agency may submit a "rebuttal brief" within five days after the time limit for filing the case brief, unless the Secretary alters this time limit.

(2) The rebuttal brief may respond only to arguments raised in case briefs and should identify the arguments to which it is responding. As part of the rebuttal brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

(e) *Comments on adequacy of response and appropriateness of expedited sunset review—*(i) *In general.* Where the Secretary determines that respondent interested parties provided inadequate response to a Notice of Initiation (see § 351.218(e)(1)(ii)) and has notified the International Trade Commission as such under § 351.218(e)(1)(ii)(C), interested parties (and industrial users and consumer organizations) that submitted a complete substantive response to the Notice of Initiation under § 351.218(d)(3) may file comments on whether an expedited sunset review under section 751(c)(3)(B) of the Act and

§ 351.218(e)(1)(ii)(B) or § 351.218(e)(1)(ii)(C) is appropriate based on the adequacy of responses to the notice of initiation. These comments may not include any new factual information or evidence (such as supplementation of a substantive response to the notice of initiation) and are limited to five pages.

(ii) *Time limit for filing comments.* Comments on adequacy of response and

appropriateness of expedited sunset review must be filed not later than 70 days after the date publication in the FEDERAL REGISTER of the notice of initiation.

[62 FR 27379, May 19, 1997, as amended at 63 FR 13524, Mar. 20, 1998; 70 FR 62064, Oct. 28, 2005]

§ 351.310 Hearings.

(a) *Introduction.* This section sets forth the procedures for requesting a hearing, indicates that the Secretary may consolidate hearings, and explains when the Secretary may hold closed hearing sessions.

(b) *Pre-hearing conference.* The Secretary may conduct a telephone pre-hearing conference with representatives of interested parties to facilitate the conduct of the hearing.

(c) *Request for hearing.* Any interested party may request that the Secretary hold a public hearing on arguments to be raised in case or rebuttal briefs within 30 days after the date of publication of the preliminary determination or preliminary results of review, unless the Secretary alters this time limit, or in a proceeding where the Secretary will not issue a preliminary determination, not later than a date specified by the Secretary. To the extent practicable, a party requesting a hearing must identify arguments to be raised at the hearing. At the hearing, an interested party may make an affirmative presentation only on arguments included in that party's case brief and may make a rebuttal presentation only on arguments included in that party's rebuttal brief.

(d) *Hearings in general.* (1) If an interested party submits a request under paragraph (c) of this section, the Secretary will hold a public hearing on the date stated in the notice of the Secretary's preliminary determination or preliminary results of administrative review (or otherwise specified by the Secretary in an expedited antidumping review), unless the Secretary alters the date. Ordinarily, the hearing will be held two days after the scheduled date for submission of rebuttal briefs.

(2) The hearing is not subject to 5 U.S.C. §§ 551–559, and § 702 (Administrative Procedure Act). Witness testimony, if any, will not be under oath or

subject to cross-examination by another interested party or witness. During the hearing, the chair may question any person or witness and may request persons to present additional written argument.

(e) *Consolidated hearings.* At the Secretary's discretion, the Secretary may consolidate hearings in two or more cases.

(f) *Closed hearing sessions.* An interested party may request a closed session of the hearing no later than the date the case briefs are due in order to address limited issues during the course of the hearing. The requesting party must identify the subjects to be discussed, specify the amount of time requested, and justify the need for a closed session with respect to each subject. If the Secretary approves the request for a closed session, only authorized applicants and other persons authorized by the regulations may be present for the closed session (see § 351.305).

(g) *Transcript of hearing.* The Secretary will place a verbatim transcript of the hearing in the public and official records of the proceeding and will announce at the hearing how interested parties may obtain copies of the transcript.

§ 351.311 Countervailable subsidy practice discovered during investigation or review.

(a) *Introduction.* During the course of a countervailing duty investigation or review, Department officials may discover or receive notice of a practice that appears to provide a countervailable subsidy. This section explains when the Secretary will examine such a practice.

(b) *Inclusion in proceeding.* If during a countervailing duty investigation or a countervailing duty administrative review the Secretary discovers a practice that appears to provide a countervailable subsidy with respect to the subject merchandise and the practice was not alleged or examined in the proceeding, or if, pursuant to section 775 of the Act, the Secretary receives notice from the United States Trade Representative that a subsidy or subsidy program is in violation of Article 8 of the Subsidies Agreement, the Sec-

retary will examine the practice, subsidy, or subsidy program if the Secretary concludes that sufficient time remains before the scheduled date for the final determination or final results of review.

(c) *Deferral of examination.* If the Secretary concludes that insufficient time remains before the scheduled date for the final determination or final results of review to examine the practice, subsidy, or subsidy program described in paragraph (b) of this section, the Secretary will:

(1) During an investigation, allow the petitioner to withdraw the petition without prejudice and resubmit it with an allegation with regard to the newly discovered practice, subsidy, or subsidy program; or

(2) During an investigation or review, defer consideration of the newly discovered practice, subsidy, or subsidy program until a subsequent administrative review, if any.

(d) *Notice.* The Secretary will notify the parties to the proceeding of any practice the Secretary discovers, or any subsidy or subsidy program with respect to which the Secretary receives notice from the United States Trade Representative, and whether or not it will be included in the then ongoing proceeding.

§ 351.312 Industrial users and consumer organizations.

(a) *Introduction.* The URAA provides for opportunity for comment by consumer organizations and industrial users on matters relevant to a particular determination of dumping, subsidization, or injury. This section indicates under what circumstances such persons may submit relevant information and argument.

(b) *Opportunity to submit relevant information and argument.* In an anti-dumping or countervailing duty proceeding under title VII of the Act and this part, an industrial user of the subject merchandise or a representative consumer organization, as described in section 777(h) of the Act, may submit relevant factual information and written argument to the Department under paragraphs (d)(3)(ii), and (d)(3)(vi), and (d)(4) of § 351.218, paragraphs (b), (c)(1), and (c)(3) of § 351.301, and paragraphs