

access to business proprietary information, and state the agreement of the applicant to be bound by the administrative protective order. Form ITA-367 must be accompanied by a certification that the application is consistent with Form ITA-367 and an acknowledgment that any discrepancies will be interpreted in a manner consistent with Form ITA-367. An applicant must apply to receive all business proprietary information on the record of the segment of a proceeding in question but may waive service of business proprietary information it does not wish to receive from other parties to the proceeding.

(3) To minimize the disruption caused by late applications, an application should be filed before the first response to the initial questionnaire has been submitted. Where justified, however, applications may be filed up to the date on which the case briefs are due.

(c) *Approval of access under administrative protective order; administrative protective order service list; service of earlier-filed business proprietary submissions.*

(1) The Secretary will grant access to a qualified applicant by including the name of the applicant on an administrative protective order service list. Access normally will be granted within five days of receipt of the application unless there is a question regarding the eligibility of the applicant to receive access. In that case, the Secretary will decide whether to grant the applicant access within 30 days of receipt of the application. The Secretary will provide by the most expeditious means available the administrative protective order service list to parties to the proceeding on the day the service list is issued or amended.

(2) After the Secretary approves an application, the authorized applicant may request service of earlier-filed business proprietary submissions of the other parties that are no longer available in ACCESS.

(i) For an application that is approved before the first response to the initial questionnaire is submitted, the submitting party must serve the authorized applicant those submissions within two business days of the request. Service must be made in accord-

ance with section 351.303(f)(1)(iii). A certificate of service is not required.

(ii) For an application that is approved after the first response to the initial questionnaire is submitted, the submitting party must serve the authorized applicant those submissions within five business days of the request. Service must be made in accordance with section 351.303(f)(1)(iii). A certificate of service is not required. Any authorized applicant who filed the application after the first response to the initial questionnaire is submitted will be liable for costs associated with the additional production and service of business proprietary information already on the record.

(d) *Additional filing requirements for importers.* If an applicant represents a party claiming to be an interested party by virtue of being an importer, then the applicant shall submit, along with the Form ITA-367, documentary evidence demonstrating that during the applicable period of investigation or period of review the interested party imported subject merchandise. For a scope segment of a proceeding pursuant to §351.225 or a circumvention segment of a proceeding pursuant to §351.226, the applicant must present documentary evidence that the interested party imported subject merchandise, or that it has taken steps towards importing the merchandise subject to the scope or circumvention inquiry. For a covered merchandise referral segment of a proceeding pursuant to §351.227, an applicant representing an interested party that has been identified by the Customs Service as the importer in a covered merchandise referral is exempt from the requirements of providing documentary evidence to demonstrate that it is an importer for purposes of that segment of a proceeding.

[63 FR 24402, May 4, 1998, as amended at 73 FR 3643, Jan. 22, 2008; 76 FR 39277, July 6, 2011; 86 FR 52384, Sept. 20, 2021; 88 FR 67080, Sept. 29, 2023]

**§ 351.306 Use of business proprietary information.**

(a) *By the Secretary.* The Secretary may disclose business proprietary information submitted to the Secretary only to:

- (1) An authorized applicant;

(2) An employee of the Department of Commerce or the International Trade Commission directly involved in the proceeding in which the information is submitted;

(3) An employee of the Customs Service directly involved in conducting a fraud investigation relating to an anti-dumping or countervailing duty proceeding;

(4) The U.S. Trade Representative as provided by 19 U.S.C. 3571(i);

(5) Any person to whom the submitting person specifically authorizes disclosure in writing; and

(6) A charged party or counsel for the charged party under 19 CFR part 354.

(b) *By an authorized applicant.* An authorized applicant may retain business proprietary information for the time authorized by the terms of the administrative protective order. An authorized applicant may use business proprietary information for purposes of the segment of a proceeding in which the information was submitted. If business proprietary information that was submitted in a segment of the proceeding is relevant to an issue in a different segment of the proceeding, an authorized applicant may place such information on the record of the subsequent segment as authorized by the APO.

(c) *Identifying parties submitting business proprietary information.* (1) If a party submits a document containing business proprietary information of another person, the submitting party must identify, contiguously with each item of business proprietary information, the person that originally submitted the item (e.g., Petitioner, Respondent A, Respondent B). Business proprietary information not identified will be treated as information of the person making the submission. If the submission contains business proprietary information of only one person, it shall so state on the first page and identify the person that originally submitted the business proprietary information on the first page.

(2) If a party to a proceeding is not represented, or its representative is not an authorized applicant, the submitter of a document containing that party's business proprietary information must serve that party or its representative, if applicable, with a version of the doc-

ument that contains only that party's business proprietary information consistent with § 351.303(f)(1)(iii). The document must not contain the business proprietary information of other parties.

(d) *Disclosure to parties not authorized to receive business proprietary information.* No person, including an authorized applicant, may disclose the business proprietary information of another person to any other person except another authorized applicant or a Department official described in paragraph (a)(2) of this section. Any person that is not an authorized applicant and that is served with business proprietary information must return it to the sender immediately, to the extent possible without reading it, and must notify the Department. An allegation of an unauthorized disclosure will subject the person that made the alleged unauthorized disclosure to an investigation and possible sanctions under 19 CFR part 354.

[63 FR 24403, May 4, 1998, as amended at 88 FR 67080, Sept. 29, 2023]

EFFECTIVE DATE NOTE: At 89 FR 20836, Mar. 25, 2024, § 351.306 was amended by revising paragraph (b), effective Apr. 24, 2024. For the convenience of the user, the revised text is set forth as follows:

**§ 351.306 Use of business proprietary information.**

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(b) *By an authorized applicant.* (1) An authorized applicant may retain business proprietary information for the time authorized by the terms of the administrative protective order (APO).

(2) An authorized applicant may use business proprietary information for purposes of the segment of the proceeding in which the information was submitted.

(3) If business proprietary information that was submitted to a segment of the proceeding is relevant to an issue in a different segment of the same proceeding, an authorized applicant may place such information on the record of the subsequent segment as authorized by the APO of the segment where the business proprietary information was submitted.

(4) If business proprietary information that was submitted to a countervailing duty segment of the proceeding is relevant to a subsequent scope, circumvention, or covered merchandise inquiry conducted on the record of the companion antidumping duty segment

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of the proceeding pursuant to § 351.225(m)(2), § 351.226(m)(2), or § 351.227(m)(2), an authorized applicant may place such information on the record of the companion antidumping duty segment of the proceeding as authorized by the APO of the countervailing duty segment where the business proprietary information was submitted.

(5) If business proprietary information that was submitted to a scope, circumvention, or covered merchandise inquiry conducted on the record of a companion antidumping duty segment of the proceeding pursuant to § 351.225(m)(2), § 351.226(m)(2), or § 351.227(m)(2) is relevant to a subsequent countervailing duty segment of the proceeding, an authorized applicant may place such information on the record of the companion countervailing duty segment of the proceeding as authorized by the APO of the antidumping duty segment where the business proprietary information was submitted.

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§ 351.307 Verification of information.

(a) *Introduction.* Prior to making a final determination in an investigation or issuing final results of review, the Secretary may verify relevant factual information. This section clarifies when verification will occur, the contents of a verification report, and the procedures for verification.

(b) *In general.* (1) Subject to paragraph (b)(4) of this section, the Secretary will verify factual information upon which the Secretary relies in:

- (i) A final determination in a continuation of a previously suspended countervailing duty investigation (section 704(g) of the Act), countervailing duty investigation, continuation of a previously suspended antidumping investigation (section 705(a) of the Act), or antidumping investigation;
- (ii) The final results of an expedited antidumping review;
- (iii) A revocation under section 751(d) of the Act;
- (iv) The final results of an administrative review, new shipper review, or changed circumstances review, if the Secretary decides that good cause for verification exists; and
- (v) The final results of an administrative review if:

(A) A domestic interested party, not later than 100 days after the date of publication of the notice of initiation

of review, submits a written request for verification; and

(B) The Secretary conducted no verification under this paragraph during either of the two immediately preceding administrative reviews.

(2) The Secretary may verify factual information upon which the Secretary relies in a proceeding or a segment of a proceeding not specifically provided for in paragraph (b)(1) of this section.

(3) If the Secretary decides that, because of the large number of exporters or producers included in an investigation or administrative review, it is impractical to verify relevant factual information for each person, the Secretary may select and verify a sample.

(4) The Secretary may conduct verification of a person if that person agrees to verification and the Secretary notifies the government of the affected country and that government does not object. If the person or the government objects to verification, the Secretary will not conduct verification and may disregard any or all information submitted by the person in favor of use of the facts available under section 776 of the Act and § 351.308.

(c) *Verification report.* The Secretary will report the methods, procedures, and results of a verification under this section prior to making a final determination in an investigation or issuing final results in a review.

(d) *Procedures for verification.* The Secretary will notify the government of the affected country that employees of the Department will visit with the persons listed below in order to verify the accuracy and completeness of submitted factual information. The notification will, where practicable, identify any member of the verification team who is not an officer of the U.S. Government. As part of the verification, employees of the Department will request access to all files, records, and personnel which the Secretary considers relevant to factual information submitted of:

- (1) Producers, exporters, or importers;
- (2) Persons affiliated with the persons listed in paragraph (d)(1) of this section, where applicable;
- (3) Unaffiliated purchasers, or