

AD/CVD Document Filing Requirements

Antidumping Duties, Final Rule 62 FR 27295, May 19, 1997

Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures, 73 FR 3634, January 22, 2008

Final Rule: Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures

Explanatory Notes	Sec. 351.303 - Filing, format, translation, service, and certification of documents.
<p>Documents that deviate, in any way, from the procedures and format set forth in the following, without explicit prior approval, will be rejected by the Department.</p> <p>The Department amended the regulations to require electronic filing. All documents filed in all cases must be filed electronically beginning on August 5, 2011, unless Sec. 351.303(b)(2)(ii) is applicable.</p> <p>A document exceeding 500 pages in length qualifies as a bulky document. If a business proprietary document is more than 500 pages in length, do not assume that the public or business proprietary/APO version of a business proprietary document qualifies as a bulky document. If the public or business proprietary/APO version is less than 500 pages in length, it</p>	<p>(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.</p> <p>(b) Filing--(1) In general. Persons must address all documents to the Secretary of Commerce, Attention: Import Administration, APO/Dockets Unit, Room 1870, 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, IA 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 Sec. 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 IA ACCESS, in accordance with Sec. 351.303(b)(3).</p> <p>(2) Filing of documents and databases--(i) Electronic filing. A person must file all documents and databases electronically using IA ACCESS at http://iaaccess.trade.gov. A person making a filing must comply with the procedures set forth in the IA ACCESS Handbook on Electronic Filing Procedures, which is available on the Department's Web site at http://www.trade.gov/ia.</p> <p>(ii) Manual filing. (A) Notwithstanding Sec. 351.303(b)(2)(i), a person must manually file a data file that exceeds the file size limit specified in the IA ACCESS Handbook on Electronic Filing Procedures and as referenced in Sec. 351.303(c)(3), and the data file must be accompanied by a cover sheet described in Sec. 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 Sec. 351.303(b)(3). The Department both provides specifications for large data files</p>

<p>A manual filing in accordance with Sec. 351.303(b)(2)(ii)(C) must be accompanied by a waiver letter from the Department.</p>	<p>Procedures, which is available on the Department's Web site at http://www.trade.gov/ia.</p> <p>(B) If the IA ACCESS system is unable to accept filings continuously or intermittently over the course of any period of time greater than one hour between 12 noon and 4:30 p.m. Eastern Time or for any duration of time between 4:31 p.m. and 5 p.m. Eastern Time, then a person may manually file the document in the APO/Dockets Unit. The Department will provide notice of such technical failures on its Help Desk line. Procedures for manual filing in this situation are provided in the IA ACCESS Handbook on Electronic Filing Procedures.</p> <p>(C) Apart from the documents and database files described in Sec. 351.303(b)(2)(ii)(A), if a submitter is unable to comply with the electronic filing requirement, as provided in Sec. 351.103(c), and in accordance with section 782(c) of the Act, the submitter must notify the Department promptly of the reasons the submitter is unable to file the document electronically, provide a full explanation, and suggest alternative forms in which to submit the information. The Department will consider the ability of the submitter and may modify the electronic filing requirement on a case-by-case basis.</p> <p>(D) Number of hardcopies for manual filing. If a document is filed manually, the submitter must file one hardcopy of the document in the APO/Dockets Unit, along with a cover sheet generated in IA ACCESS. If the document contains business proprietary information, the submitter must file one hardcopy of the business proprietary document and one hardcopy of the public version, along with the requisite IA ACCESS-generated cover sheets. If applicable, the submitter must also file one hardcopy of the business proprietary/APO version, along with the requisite IA ACCESS-generated cover sheet. For a bulky document, in addition to the foregoing, the submitter must also provide one additional hardcopy of the business proprietary document or public document, as applicable.</p> <p>(3) Cover sheet. When manually filing a document, parties must complete the cover sheet (as described in the IA ACCESS Handbook on Electronic Filing Procedures) online at http://iaaccess.trade.gov and print the cover sheet for submission to the APO/Dockets Unit.</p>
<p>These five document classifications correspond with those in IA ACCESS. Selection of the incorrect document classification may result in the disclosure of business proprietary information and/or an APO violation.</p>	<p>(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 Sec. 351.304.</p> <p>(i) Business Proprietary Document--May Be Released Under APO. This business proprietary document contains single-bracketed business proprietary information that the submitter agrees to</p>

	<p>accordance with the requirements under paragraph (d)(2)(v) of this section.</p> <p>(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.</p> <p>(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.</p> <p>(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 Sec. 351.304(c).</p> <p>(v) Public Document. The public document contains only public information. There is no corresponding business proprietary document for a public document.</p>
<p>The one-day lag rule may not be invoked for the filing of a petition, an amendment to a petition, and any other submission filed prior to the initiation of an investigation.</p> <p>If there are bracketing corrections to a document, the submitter must serve the interested parties with the complete final business proprietary document. The Department will no longer allow service of only those pages containing bracketing corrections.</p>	<p>(c) Filing of business proprietary documents and public versions under the one-day lag rule; information in double brackets.</p> <p>(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.</p> <p>(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.</p> <p>(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</p>

The submitter must serve the **complete** final business proprietary document on the parties on the relevant service lists. Parties may no longer serve only those pages containing bracketing corrections on the other parties.

The submitter must file with the Department the complete business proprietary/APO version. The Department will no longer accept only those pages in which information in double brackets has been excluded.

Business proprietary data files/databases must be releasable under APO. Public version data files/databases must be publicly summarized and indexed/ranged. Public version data files/databases must be submitted in a pdf format.

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 Sec. 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 Sec. 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 Sec. 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 Sec. 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 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 Sec. 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 Sec. 351.104(a).

(2) Specifications and markings. If a document is filed manually, it must be on letter-size (8½

This "cluster" of information must be visible on the top or cover page of the document, and the information given must refer to the content of the **entire** document.

See attached **Sample Cluster** as used on a letter.

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 x 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 Sec. 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 Sec. 351.303(c)(2) and Sec. 351.304(c)); and

(vi) For the public version of a business proprietary document required under Sec. 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 Sec. 351.202(c) (filing of petition), Sec. 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 Sec. 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

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.

(g) Certifications. A person must file with each submission containing factual information the certification 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.

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

COMPANY/GOVERNMENT CERTIFICATION

I, (PRINTED NAME AND TITLE), currently employed by (COMPANY NAME or GOVERNMENT), certify that I prepared or otherwise supervised the preparation of the attached submission of (IDENTIFY THE SPECIFIC SUBMISSION BY TITLE AND DATE) pursuant to the (INSERT ONE OF THE FOLLOWING: THE (ANTIDUMPING OR COUNTERVAILING DUTY) INVESTIGATION OF (PRODUCT) FROM (COUNTRY) (CASE NUMBER) or THE (DATES OF POR) (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 AD/CVD ORDER ON (PRODUCT) FROM (COUNTRY) (CASE NUMBER). I certify that the information 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 Department may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that I am filing a copy of this signed certification with this submission to the U.S. Department of Commerce and that I will retain the original for a five-year period commencing with the filing of this document. The original will be available for inspection by U.S. Department of Commerce officials.

Signature: _____

Date: _____

¹ 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"

(2) For the legal counsel or other representative:**

REPRESENTATIVE CERTIFICATION

I, (PRINTED NAME) , with (LAW FIRM or OTHER FIRM) , counsel or representative to (COMPANY OR GOVERNMENT OR PARTY), certify that I have read the attached submission of (IDENTIFY THE SPECIFIC SUBMISSION BY TITLE AND DATE) pursuant to the (INSERT ONE OF THE FOLLOWING: THE (ANTIDUMPING OR COUNTERVAILING DUTY) INVESTIGATION OF (PRODUCT) FROM (COUNTRY) (CASE NUMBER) or THE (DATES OF POR) (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 AD/CVD ORDER ON (PRODUCT) FROM (COUNTRY) (CASE NUMBER). In my capacity as an adviser, counsel, 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 Department may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that I am filing a copy of this signed certification with this submission to the U.S. Department of Commerce and that I will retain the original for a five-year period commencing with the filing of this document. The original will be available for inspection by U.S. Department of Commerce officials.

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" should be changed to "we" and "my knowledge" should be changed to "our knowledge."

Sec. 351.305(b)(2) - Access to business proprietary information.

APO applications must be served on other parties at the same time it is filed with the Department, using the most expeditious manner possible.

A representative of a party to the proceeding may apply for access to business proprietary information under the administrative protective order by submitting Form ITA-367 to the Secretary. Form ITA-367 must identify the applicant and the segment of the proceeding

information, and state the agreement of the applicant to be bound by the administrative protective order. Form ITA-367 may be prepared on the applicant's own wordprocessing system, and 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. An applicant must serve an APO application on the other parties by the most expeditious manner possible at the same time that it files the application with the Department.