

that the information is entitled to proprietary treatment; and

(2) Either (i) A full public summary or approximated presentation of all proprietary information, incorporated in the public version of the document (generally data in numerical form relating to prices and costs, operating rates, and deliveries of individual firms shall be presented in figures ranged within 10 percent of the actual figure); or,

(ii) A statement that the information is not susceptible to such a summary or presentation, accompanied by a full statement of the reasons supporting this conclusion.

(b) *Proprietary treatment.* The Secretary normally will consider the following factual information to be business proprietary, if so designated by the submitter:

(1) Business or trade secrets concerning the nature of a product or production process, if unique or not known to the industry;

(2) Price information;

(3) Operating rates;

(4) The names or identifiers of particular customers, distributors, or suppliers;

(5) Normal and current order-to-delivery periods; and

(6) Any other specific business information which the submitter can reasonably demonstrate would be likely to cause substantial harm to the submitter's competitive position if released.

(c) *Confidentiality maintained.* Information that the Secretary designates as proprietary will not be disclosed to any person (other than officers or employees of the United States Government who are directly concerned with the short supply determination) without the consent of the submitter unless disclosure is ordered by a court of competent jurisdiction.

(d) *Public information.* The Secretary normally will consider the following to be public information:

(1) Factual information and written argument that is not designated business proprietary by the submitter;

(2) Exact tonnages sought or offered for each product included in a request, if applicable;

(3) Physical and mechanical properties of products offered as substitutes;

(4) Product specifications;

(5) End use(s) to which the product(s) will be put;

(6) Suppliers contacted, when they were contacted, and the reasons they cannot supply the product, and

(7) Offers by U.S. and foreign producers for the product that have been rejected.

(e) *Treatment of information where request for proprietary treatment is denied.* If the Secretary denies a request for proprietary treatment of information submitted in connection with a request for a short supply allowance, or determines that information claimed not susceptible to a non-proprietary summary is in fact capable of such summary, the Secretary promptly will notify the submitter of that determination. Unless the submitter thereafter agrees that the information (including any summarized or approximated presented thereof) may be treated as public information, or provides a summary of matters found to be capable of such summary, such information (including any summarized approximated presentation thereof) will be returned to the submitter and not considered in the short supply determination.

PART 358—SUPPLIES FOR USE IN EMERGENCY RELIEF WORK

Sec.

358.101 Scope.

358.102 Definitions.

358.103 Importation of supplies.

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AUTHORITY: 19 U.S.C. 1318(a).

SOURCE: 71 FR 63234, Oct. 30, 2006, unless otherwise noted.

§ 358.101 Scope.

This part sets forth the procedures for importation of supplies for use in emergency relief work free of anti-dumping and countervailing duties, as authorized under section 318(a) of the Act.

§ 358.102 Definitions.

For purposes of this part:

Act means the Tariff Act of 1930, as amended.

§ 358.103

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CBP means the Bureau of Customs and Border Protection of the United States Department of Homeland Security.

Department means the United States Department of Commerce.

Order means an order issued by the Secretary under section 303, section 706, or section 736 of the Act.

Secretary means the Secretary of Commerce or a designee.

Supplies for use in emergency relief work means food, clothing, and medical, surgical, and other supplies for use in emergency relief work.

§ 358.103 Importation of supplies.

(a) Where the President, acting under section 318 of the Act, authorizes the Secretary to permit the importation of supplies for use in emergency relief work free of antidumping and countervailing duties, the Secretary shall consider requests for such importation under the following conditions:

(1) Before importation, a written request shall be submitted to the Secretary by the person in charge of sending the subject merchandise from the foreign country or by the person for whose account it will be brought into the United States. Three copies of the request should be submitted to the Secretary of Commerce, Attention: Import Administration, Central Records Unit, Room 1870, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230.

(2) The request shall state the Department antidumping and/or countervailing duty order case number, the producer of the merchandise, a detailed description of the merchandise, the current HTS number, the price in the United States, the quantity, the proposed date of entry, the proposed port of entry, the mode of transport, the person for whose account the merchandise will be brought into the United States, the destination, the use to be made of the merchandise at the designated destination, and any other information the person would like the Secretary to consider.

(b) If the Secretary determines to permit duty-free importation of particular merchandise for use in emergency relief work, the Secretary will notify the person who submitted the

request, instruct CBP to allow entry of the merchandise identified in the request submitted under paragraph (a) without regard to antidumping and countervailing duties, and post notification of the determination on the Department's website.

(c) Any subject merchandise entered under paragraph (b) of this section must enter the United States normally within 60 days after the date on which the Secretary notifies the person who submitted the request or the merchandise will be subject to antidumping and/or countervailing duties, as applicable.

(d) Any subject merchandise entered under paragraph (b) of this section which is used in the United States other than for a purpose contemplated for it by section 318(a) of the Act may be subject to seizure or other penalty, including under section 592 of the Act.

(e) Any subject merchandise entered under paragraph (b) of this section is subject to the Department's reporting requirements in its conduct of an antidumping and/or countervailing duty administrative or new shipper review, as applicable.

(f) Any subject merchandise entered under paragraph (b) of this section will be excluded from:

(1) The calculation of assessment and cash deposit rates in an administrative or new shipper review under section 751(a) of the Act;

(2) "Commercial quantities" under 19 CFR 351.222; and

(3) The quantity allowed by, or revised price requirements established pursuant to, a suspension agreement under section 704 or section 734 of the Act, as applicable.

§ 358.104 Report.

The Secretary will review and issue a report on the first five years of the operation of Part 358. The report will consider the impact of determinations to permit importation of particular merchandise for use in emergency relief work under this Part, on U.S. parties injured by dumped and/or subsidized imports.