

make any *ex parte* communications to the administrative law judge concerning the merits of the allegations or any matters at issue, except as provided in § 356.18(j) regarding emergency interim sanctions.

**§ 356.24 Proceeding without a hearing.**

If no party has requested a hearing, the Deputy Under Secretary, within 40 days after the date of service of a charging letter, will submit for inclusion into the record and provide each charged or affected party information supporting the allegations in the charging letter. Each charged or affected party has the right to file a written response to the information and supporting documentation within 30 days after the date of service of the information provided by the Deputy Under Secretary unless the Deputy Under Secretary alters the time period for good cause. The Deputy Under Secretary may allow the parties to submit further information and argument.

**§ 356.25 Witnesses.**

Witnesses summoned before the Department shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

**§ 356.26 Initial decision.**

(a) *Initial decision.* The administrative law judge, if a hearing was requested, or the Deputy Under Secretary will submit an initial decision to the APO Sanctions Board, providing copies to the parties. The administrative law judge or the Deputy Under Secretary will ordinarily issue the decision within 20 days of the conclusion of the hearing, if one was held, or within 15 days of the date of service of final written submissions. The initial decision will be based solely on evidence received into the record and the pleadings of the parties.

(b) *Findings and conclusions.* The initial decision will state findings and conclusions as to whether a person has violated a protective order or a disclosure undertaking; the basis for those findings and conclusions; and whether the sanctions proposed in the charging letter, or lesser included sanctions, should be imposed against the charged or affected party. The administrative

law judge or the Deputy Under Secretary may impose sanctions only upon determining that the preponderance of the evidence supports a finding of violation of a protective order or a disclosure undertaking and that the sanctions are warranted against the charged or affected party.

(c) *Finality of decision.* If the APO Sanctions Board has not issued a decision on the matter within 60 days after issuance of the initial decision, the initial decision becomes the final decision of the Department.

**§ 356.27 Final decision.**

(a) *APO Sanctions Board.* Upon request of a party, the initial decision will be reviewed by the members of the APO Sanctions Board. The Board consists of the Under Secretary for International Trade, who shall serve as Chairperson, the Under Secretary for Economic Affairs, and the General Counsel.

(b) *Comments on initial decision.* Within 30 days after issuance of the initial decision, a party may submit written comments to the APO Sanctions Board on the initial decision, which the Board will consider when reviewing the initial decision. The parties have no right to an oral presentation, although the Board may allow oral argument in its discretion.

(c) *Final decision by the APO Sanctions Board.* Within 60 days but not sooner than 30 days after issuance of an initial decision, the APO Sanctions Board may issue a final decision which adopts the initial decision in its entirety; differs in whole or in part from the initial decision, including the imposition of lesser included sanctions; or remands the matter to the administrative law judge or the Deputy Under Secretary for further consideration. The only sanctions that the Board can impose are those sanctions proposed in the charging letter or lesser included sanctions.

(d) *Content's of final decision.* If the final decision of the APO Sanctions Board does not remand the matter and differs from the initial decision, it will state findings and conclusions which differ from the initial decision, if any, the basis for those findings and conclusions, and the sanctions which are to

**§ 356.28**

be imposed, to the extent they differ from the sanctions in the initial decision.

(e) *Public notice of sanctions.* If the final decision is that there has been a violation of a protective order or a disclosure undertaking and that sanctions are to be imposed, notice of the decision will be published in the FEDERAL REGISTER and forwarded to the United States section of the Secretariat. Such publication will be no sooner than 30 days after issuance of a final decision or after a motion to reconsider has been denied, if such a motion was filed. If the final decision is made in a proceeding based upon a request to charge by an authorized agency of an FTA country, the decision will be forwarded to the Secretariat of the involved FTA country for transmittal to the authorized agency of the FTA country for publication in the official publication or other appropriate action. The Deputy Under Secretary will also provide such information to the ethics panel or other disciplinary body of the appropriate bar associations or other professional associations whenever the Deputy Under Secretary subjects a charged or affected party to a sanction under §356.12(a)(2) and to any Federal agency likely to have an interest in the matter and will cooperate in any disciplinary actions by any association or agency.

**§ 356.28 Reconsideration.**

Any party may file a motion for reconsideration with the APO Sanctions Board. The party must state with particularity the grounds for the motion, including any facts or points of law which the party claims the APO Sanctions Board has overlooked or misapplied. The party may file the motion within 30 days of the issuance of the final decision or the adoption of the initial decision as the final decision, except that if the motion is based on the discovery of new and material evidence which was not known, and could not reasonably have been discovered through due diligence prior to the close of the record, the party shall file the motion within 15 days of the discovery of the new and material evidence. The party shall provide a copy of the motion to all other parties. Opposing parties may file a response within 30 days

**19 CFR Ch. III (4-1-02 Edition)**

of the date of service of the motion. The response shall be considered as part of the record. The parties have no right to an oral presentation on a motion for reconsideration, but the Board may permit oral argument at its discretion. If the motion to reconsider is granted, the Board will review the record and affirm, modify, or reverse the original decision or remand the matter for further consideration to an administrative law judge or the Deputy Under Secretary, as warranted.

**§ 356.29 Confidentiality.**

(a) All proceedings involving allegations of a violation of a protective order or a disclosure undertaking shall be kept confidential until such time as the Department makes a final decision under these regulations, which is no longer subject to reconsideration, imposing a sanction.

(b) The charged party or counsel for the charged party will be, to the extent possible, granted access to proprietary information in these proceedings, as necessary, under administrative protective order, consistent with the provisions of §356.10.

**§ 356.30 Sanctions for violations of a protective order for privileged information.**

The provisions of this subpart shall apply to persons who are alleged to have violated a Protective Order for Privileged Information.

**PART 357—SHORT SUPPLY PROCEDURES**

- Sec.
- 357.101 Definitions.
- 357.102 Short supply allowances.
- 357.103 Petitions for short supply allowances.
- 357.104 Determination of adequacy of petition, notice of review, and opportunity for comment.
- 357.105 Questionnaires.
- 357.106 Time limits.
- 357.107 Publication of determinations and notification of foreign governments.
- 357.108 Disclosure of information.
- 357.109 Request for reconsideration.
- 357.110 Record of review.
- 357.111 Public and proprietary information.

AUTHORITY: Sec. 4(b) of the Steel Trade Liberalization Program Implementation Act, Pub. L. No. 101-221, 103 Stat. 1886 (1989).