

### § 357.107

within 30 days after the day on which an adequate petition is received.

#### **§ 357.107 Publication of determinations and notification of foreign governments.**

The Secretary will publish in the FEDERAL REGISTER a notice of each short supply determination setting forth the basis for that determination. If the determination authorizes a short supply allowance, the Secretary will notify a representative of the appropriate foreign government and issue to the petitioner the necessary documentation to permit the importation.

#### **§ 357.108 Disclosure of information.**

Promptly after making a short supply determination, the Secretary will disclose to each interested party which requests such disclosure the rationale for the determination, along with all non-proprietary information forming the basis of the determination.

#### **§ 357.109 Request for reconsideration.**

Interested parties may file a request for reconsideration with the Secretary. The interested party must state with particularity the grounds for the request, including any alleged inaccurate information upon which the short supply determination was based, or facts or points of law which the interested party claims the Secretary has overlooked or misapplied. The interested party shall file the request for reconsideration within 5 days after the publication of the short supply determination in the FEDERAL REGISTER. If the request for reconsideration is granted, the Secretary will review and affirm, modify, or reverse the original determination and publish such decision in the FEDERAL REGISTER.

#### **§ 357.110 Record of review.**

(a) The Secretary will maintain in the Import Administration Central Records Unit an official record of each short supply review. The Secretary will include in the record all relevant factual information, written argument, or other material developed or obtained by the Secretary during the course of the proceeding. The record will include governmental memoranda pertaining to the proceeding, memoranda of *ex*

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*parte* meetings, determinations, notices published in the FEDERAL REGISTER. The official record will include both public and proprietary information.

(b) *Examination and copying of information.* In general, all public information in the official record will be available for inspection or copying at the Import Administration Central Records Unit, Room B-099, by any person during business hours. With respect to documents prepared by an officer or employee of the United States Government, facts (as distinguished from advice, recommendations, opinions and evaluations) contained in any such documents will be made available by summary or otherwise on the same basis as information contained in documents submitted by other persons.

(c) *Ex Parte meetings.* Written memoranda will be prepared as expeditiously as possible of any *ex parte* meeting between the Secretary and any interested party or other person providing factual information relating to the short supply determination. A memorandum of an *ex parte* meeting will include the date, time, and place of the meeting, the identity of all the persons present, and a non-proprietary summary of the matters discussed and/or facts submitted.

#### **§ 357.111 Public and proprietary information.**

(a) Any person who submits information in connection with a short supply review may designate that information, or any part thereof, as proprietary, thereby requesting that the Secretary treat that information as proprietary. The Secretary normally will not treat as proprietary any information not designated as proprietary by the submitter. The submitter must file four copies of a public version of the proprietary information, including any public summaries as substitutes for the portions for which the person has requested proprietary treatment. The submitter must conspicuously mark in the upper right corner of both versions, the words "proprietary document" or "public version of proprietary document", as appropriate. Each separate designation of information as proprietary shall be accompanied by:

(1) A full statement of the reason or reasons why the submitter believes 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) with-

out 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.