

prior to its amendment by the URAA, and for purposes of determining whether the three- or five-year requirements of paragraphs (b) and (c) of this section are satisfied, the following rules will apply:

(1) *Antidumping proceedings.* The Secretary will consider sales at not less than foreign market value to be equivalent to sales at not less than normal value.

(2) *Countervailing duty proceedings.* The Secretary will consider the absence of a subsidy, as defined in section 771(5) of the Act prior to its amendment by the URAA, to be equivalent to the absence of a countervailable subsidy, as defined in section 771(5) of the Act, as amended by the URAA.

(n) *Cross-reference.* For the treatment in a subsequent investigation of business proprietary information submitted to the Secretary in connection with a changed circumstances review under § 351.216 or a sunset review under § 351.218 that results in the revocation of an order (or termination of a suspended investigation), see section 777(b)(3) of the Act.

[62 FR 27379, May 19, 1997, as amended at 63 FR 13523, Mar. 20, 1998; 64 FR 51240, Sept. 22, 1999]

§ 351.223 Procedures for initiation of downstream product monitoring.

(a) *Introduction.* Section 780 of the Act establishes a mechanism for monitoring imports of “downstream products.” In general, section 780 is aimed at situations where, following the issuance of an antidumping or countervailing duty order on a product that is used as a component in another product, exports to the United States of that other (or “downstream”) product increase. Although the Department is responsible for determining whether trade in the downstream product should be monitored, the Commission is responsible for conducting the actual monitoring. The Commission must report the results of its monitoring to the Department, and the Department must consider the reports in determining whether to self-initiate an antidumping or countervailing duty investigation on the downstream product. This section contains rules regarding applications for the initiation of down-

stream product monitoring and decisions regarding such applications.

(b) *Contents of application.* An application to designate a downstream product for monitoring under section 780 of the Act must contain the following information, to the extent reasonably available to the applicant:

(1) The name and address of the person requesting the monitoring and a description of the article it produces which is the basis for filing its application;

(2) A detailed description of the downstream product in question;

(3) A detailed description of the component product that is incorporated into the downstream product, including the value of the component part in relation to the value of the downstream product, and the extent to which the component part has been substantially transformed as a result of its incorporation into the downstream product;

(4) The name of the country of production of both the downstream and component products and the name of any intermediate country from which the merchandise is imported;

(5) The name and address of all known producers of component parts and downstream products in the relevant countries and a detailed description of any relationship between such producers;

(6) Whether the component part is already subject to monitoring to aid in the enforcement of a bilateral arrangement within the meaning of section 804 of the Trade and Tariff Act of 1984;

(7) A list of all antidumping or countervailing duty investigations that have been suspended, or antidumping or countervailing duty orders that have been issued, on merchandise that is related to the component part and that is manufactured in the same foreign country in which the component part is manufactured;

(8) A list of all antidumping or countervailing duty investigations that have been suspended, or antidumping or countervailing duty orders that have been issued, on merchandise that is manufactured or exported by the

manufacturer or exporter of the component part and that is similar in description and use to the component part; and

(9) The reasons for suspecting that the imposition of antidumping or countervailing duties has resulted in a diversion of exports of the component part into increased production and exportation to the United States of the downstream product.

(c) *Determination of sufficiency of application.* Within 14 days after an application is filed under paragraph (b) of this section, the Secretary will rule on the sufficiency of the application by making the determinations described in section 780(a)(2) of the Act.

(d) *Notice of Determination.* The Secretary will publish in the FEDERAL REGISTER notice of each affirmative or negative “monitoring” determination made under section 780(a)(2) of the Act, and if the determination under section 780(a)(2)(A) of the Act and a determination made under any clause of section 780(a)(2)(B) of the Act are affirmative, will transmit to the Commission a copy of the determination and the application. The Secretary will make available to the Commission, and to its employees directly involved in the monitoring, the information upon which the Secretary based the initiation.

§ 351.224 Disclosure of calculations and procedures for the correction of ministerial errors.

(a) *Introduction.* In the interests of transparency, the Department has long had a practice of providing parties with the details of its antidumping and countervailing duty calculations. This practice has come to be referred to as a “disclosure.” This section contains rules relating to requests for disclosure and procedures for correcting ministerial errors.

(b) *Disclosure.* The Secretary will disclose to a party to the proceeding calculations performed, if any, in connection with a preliminary determination under section 703(b) or section 733(b) of the Act, a final determination under section 705(a) or section 735(a) of the Act, and a final results of a review under section 736(c), section 751, or section 753 of the Act, normally within

five days after the date of any public announcement or, if there is no public announcement of, within five days after the date of publication of, the preliminary determination, final determination, or final results of review (whichever is applicable). The Secretary will disclose to a party to the proceeding calculations performed, if any, in connection with a preliminary results of review under section 751 or section 753 of the Act, normally not later than ten days after the date of the public announcement of, or, if there is no public announcement, within five days after the date of publication of, the preliminary results of review.

(c) *Comments regarding ministerial errors—(1) In general.* A party to the proceeding to whom the Secretary has disclosed calculations performed in connection with a preliminary determination may submit comments concerning a significant ministerial error in such calculations. A party to the proceeding to whom the Secretary has disclosed calculations performed in connection with a final determination or the final results of a review may submit comments concerning any ministerial error in such calculations. Comments concerning ministerial errors made in the preliminary results of a review should be included in a party’s case brief.

(2) *Time limits for submitting comments.* A party to the proceeding must file comments concerning ministerial errors within five days after the earlier of:

(i) The date on which the Secretary released disclosure documents to that party; or

(ii) The date on which the Secretary held a disclosure meeting with that party.

(3) *Replies to comments.* Replies to comments submitted under paragraph (c)(1) of this section must be filed within five days after the date on which the comments were filed with the Secretary. The Secretary will not consider replies to comments submitted in connection with a preliminary determination.

(4) *Extensions.* A party to the proceeding may request an extension of the time limit for filing comments concerning a ministerial error in a final