

## **Temporary Modification of AD/CVD Service Requirements**

The U.S. Department of Commerce (Commerce) is temporarily modifying certain requirements for serving documents in AD/CVD cases.

Commerce has issued a temporary final rule, effective March 24, 2020, that temporarily modifies certain service requirements in Enforcement & Compliance (E&C) AD/CVD cases.<sup>1</sup> This temporary final rule was initially extended through July 17, 2020.<sup>2</sup> E&C has further extended the temporary final rule to remain in effect until further notice.<sup>3</sup> We provide a summary of the modified procedures below and some additional information. In the event of a difference between any information provided below and the published regulations, the regulations control.

Specifically, E&C has taken the following steps with respect to its AD/CVD service requirements, including:

- With limited exceptions, documents containing business proprietary information (BPI) that are filed in ACCESS, are deemed to have been served on all authorized parties to the segment of the proceeding that are covered by an administrative protective order (APO).
- Those authorized parties will receive notification of BPI filings via email through the BPI Release Digest and through the “Get BPI Releases” link in ACCESS.
- BPI documents deemed to have been served electronically through ACCESS will be available for 14 days to all APO-authorized lead attorneys and their proxies and can be downloaded following the same procedures used to download Commerce BPI releases through ACCESS.

### **Details of Temporary Modifications to Service Requirements**

- For BPI documents submitted with final bracketing on the due date (i.e., documents not submitted under the one-day lag rule, 19 CFR 351.303(c)(2)(i)), E&C will deem service to be effectuated upon filing of the submission in ACCESS.\*
- For BPI documents submitted under the one-day lag rule, E&C is temporarily waiving the service requirement for bracketing-not-final BPI submissions filed on the due date. In addition, E&C will deem service to be effectuated upon the filing in ACCESS of the complete final BPI document on the next business day under 19 CFR 351.303(c)(2)(ii).\*
- E&C is temporarily modifying the service requirements for case and rebuttal briefs in 19 CFR 351.303(f)(3)(i). Service of BPI case and rebuttal briefs will be deemed effectuated via ACCESS. To provide adequate time for release of case briefs via ACCESS, E&C intends to schedule the due date for all rebuttal briefs to be 7 days after case briefs are filed (while these modifications remain in effect).\*

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<sup>1</sup> See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19*, [85 FR 17006](#) (March 26, 2020).

<sup>2</sup> See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, [85 FR 29615](#) (May 18, 2020).

<sup>3</sup> See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, [85 FR 41363](#) (July 10, 2020).

\* This modification does not apply to service to *pro se* parties or parties represented by a non-APO-authorized representative. For service to those parties, see fourth bullet point of this section of the document.

- Notwithstanding any of the above bullet points, parties must still take active steps to serve *pro se* parties BPI documents containing only the *pro se* party's BPI and serve parties represented by a non-APO-authorized representative documents containing only that party's BPI, consistent with 19 CFR 351.306(c)(2). However, E&C is temporarily modifying the electronic service provision under 19 CFR 351.303(f)(1)(ii), so that a *pro se* party may give consent to another interested party to serve a document electronically on that *pro se* party only, provided that the document only contains the *pro se* party's BPI. In addition, we are modifying the same regulation to clarify that a party represented by a non-APO-authorized representative may give consent to another interested party to serve a document electronically on that non-APO-authorized representative only, provided that the document only contains the BPI of the party represented by that non-APO-authorized representative. If such consent is given, then the serving party's APO-authorized representative may serve the submission on that party via electronic transmission with that recipient's consent.

### **Exceptions**

The following types of submissions and scenarios require normal service as required by E&C regulations, as ACCESS cannot effectuate service:

- *Requests for administrative review, new shipper review, changed circumstances review and expedited review.* Service lists for these segments are not yet established at the time of filing of the relevant request. The service requirements under 19 CFR 351.303(f)(3)(ii) continue to apply.
- *Requests for scope ruling or anti-circumvention inquiry.* These requests require service on the comprehensive scope service lists in accordance with 19 CFR 351.225(n).

### **Public Documents and Public Versions**

E&C's existing regulations (19 CFR 351.303(f)(1)(ii)) permit electronic service of public documents and public versions, provided that the receiving party consents. To be clear, E&C is not modifying of the applicable requirements for serving public documents and public versions at this time.

### **Certificates of Service**

A certificate of service must be included in all submissions in accordance with 19 CFR 351.303(f)(2). The certificate of service must specify how each recipient is being served. For recipients who appear on the APO service list at the time of filing, you may specify that service is being effectuated via ACCESS, provided that none of the exceptions above apply. For all other recipients, you must continue to specify the means of service used. You may also include a certificate of non-service as appropriate.

Please direct questions regarding service to [APOSupport@trade.gov](mailto:APOSupport@trade.gov).