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DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 351

[Docket Number: 200626-0171]

RIN 0625-AB19

Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period

AGENCY: Enforcement and Compliance, International Trade Administration, Commerce.

ACTION: Temporary final rule; extension of effective period.

SUMMARY: In March, the Department of Commerce (Commerce) implemented temporary modifications to its service regulations to enable non-U.S. Government personnel responsible for serving documents in the Enforcement & Compliance's (E&C) antidumping and countervailing duty (AD/CVD) cases to work remotely. Through this extension, Commerce extends the duration of these temporary modifications until further notice.

DATES: The temporary final rule published on March 26, 2020 (85 FR 17006), which was extended on May 18, 2020 (85 FR 29615), is further extended indefinitely. At this time, Commerce is not establishing a termination date. Instead, the temporary modifications will remain in place until further notice, and Commerce will publish a document announcing the termination date in the *Federal Register*.

FOR FURTHER INFORMATION CONTACT: Evangeline D. Keenan, Director, APO/Dockets Unit, at (202) 482-3354.

SUPPLEMENTARY INFORMATION:

Background

On March 26, 2020, E&C published a temporary final rule in the Federal Register, temporarily modifying certain requirements for serving documents containing business proprietary information in AD/CVD proceedings administered by E&C until May 19, 2020, unless extended. *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19*, 85 FR 17006 (March 26, 2020) (*Temporary Final Rule*). On May 18, 2020, E&C published a notification extending the temporary modifications through July 17, 2020. *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 29615 (May 18, 2020). The temporary modifications were implemented to facilitate the effectuation of service through electronic means, with the goal of promoting public health and slowing the spread of COVID-19 while at the same time permitting the continued administration of AD/CVD proceedings. E&C explained that the service requirements in its regulations are often effectuated by hand delivery or by U.S. mail delivery of hard copy documents, which frequently takes place in an office setting. In turn, this could pose a risk to the personnel tasked with serving or accepting service by hand or mail, as well as those around them. Based on these circumstances, E&C announced that it would temporarily deem service of submissions containing business proprietary information (BPI) to be effectuated when the BPI submissions are filed by parties in ACCESS, with certain exceptions. With the continued goal of promoting public health during these times while at the same time permitting the continued administration of AD/CVD proceedings, E&C is extending the date through which the modified service requirements in the *Temporary Final Rule* will be in effect. This is the second extension of the temporary final rule. For efficiency purposes, and with the continued goal identified above in mind, instead of again setting a termination date for the

temporary final rule, the temporary final rule will remain in effect until further notice.

Commerce will publish a document announcing the termination date in the *Federal Register*.

Extension

The modified service requirements announced in the *Temporary Final Rule* will remain in effect until further notice.

Classification

Administrative Procedure Act

The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking and the opportunity for public participation are waived for good cause because they would be impracticable and contrary to the public interest. (See 5 U.S.C. 553(b)(B)). Interested parties participating in E&C's AD/CVD proceedings are generally required to serve other interested parties with documents they submit to E&C. If notice and comment were to be allowed, parties submitting documents containing BPI information to E&C likely either would be unable to serve other parties in the manners prescribed in E&C's regulations, or potentially would put their health and safety at risk in doing so. COVID-19 was unexpected and this circumstance could not have been foreseen; therefore E&C could not have prepared ahead of time for this set of circumstances. The provision of the Administrative Procedure Act otherwise requiring a 30-day delay in effectiveness is also waived for those same reasons, which constitute good cause. (5 U.S.C. 553(d)(3)).

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this temporary rule is not significant for purposes of Executive Order 12866.

Executive Order 13771

This temporary rule is not expected to be subject to the requirements of Executive Order 13771 because this temporary rule is not significant for purposes of Executive Order 12866.

Paperwork Reduction Act

This temporary rule contains no new collection of information subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

Executive Order 13132

This temporary rule does not contain policies with federalism implications as that term is defined in section 1(a) of Executive Order 13132, dated August 4, 1999 (64 FR 43255 (August 10, 1999)).

Regulatory Flexibility Act

The analytical requirements of the Regulatory Flexibility Act (5 U.S.C 601 *et seq.*) are not applicable because no general notice of proposed rulemaking was required for this action. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

Authority

5 U.S.C. 301; 19 U.S.C. 1202 note; 19 U.S.C. 1303 note; 19 U.S.C. 1671 *et seq.*; and 19 U.S.C. 3538.

Dated: June 29, 2020.

Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance.

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