



**UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, DC 20436**

**ADMINISTRATIVE PROTECTIVE ORDER**

**Inv. No(s).** \_\_\_\_\_

**(Name of Investigation(s))** \_\_\_\_\_

**A. Application**

1. To obtain disclosure of business proprietary information (“BPI”) under this Administrative Protective Order (“APO”), an authorized applicant, as defined in section 207.7(a)(3) of the Commission's Rules of Practice and Procedure (19 C.F.R. § 207.7(a)(3), as amended), must comply with the terms of this APO.
2. In application for disclosure must be made by an authorized applicant in the form attached hereto. The authorized applicant shall file an application with the Secretary to the Commission (“the Secretary”) within the deadlines provided in section 207.7(a)(2) of the Commission's rules. An authorized applicant need file only one application in order to obtain BPI in both the preliminary and the final phases of an investigation.
3. In order to obtain disclosure of BPI under this APO from Commission personnel, an authorized applicant must present a copy of his application and personal identification satisfactory to the Secretary. If the authorized applicant wishes a person described in paragraph B(1)(iv) of this APO to act for him in obtaining disclosure, the person must present a copy of his or her, Acknowledgment for Clerical Personnel form and personal identification satisfactory to the Secretary.

**B. Obligations of the authorized applicant**

By filing an application, the authorized applicant shall agree to:

1. Not divulge any of the BPI disclosed under this APO or otherwise obtained in this investigation and not otherwise available to him or her, to any person other than
  - i. Personnel of the Commission concerned with the investigation,
  - ii. The person or agency from whom the BPI was obtained,
  - iii. A person whose application for disclosure of BPI under this APO has been granted by the Secretary, and
  - iv. Other persons, such as paralegals and clerical staff, who (a) are employed or supervised by and under the direction and control of the authorized applicant or another authorized applicant in the same firm whose application has been granted; (b) have a need thereof in connection with

the investigation; (c) are not involved in competitive decision making for an interested party which is a party to the investigation; and (d) have signed the acknowledgment for clerical personnel in the form attached hereto (the authorized applicant shall also sign such acknowledgment and will be deemed responsible for such persons' compliance with this APO);

2. Use such BPI solely for the purposes of the above-captioned Commission investigation or for U.S. judicial or review pursuant to the North American Free Trade Agreement the determination resulting from such investigation of such Commission investigation;
3. Not consult with any person not described in paragraph (1) concerning BPI disclosed under this APO or otherwise obtained in this investigation without first having received the written consent of the Secretary and the party or the representative of the party from whom such BPI was obtained;
4. Whenever materials (e.g. documents, removable computer disks or similar media, etc.) containing such BPI are not being used, store such material in a locked file cabinet, vault, safe, or other suitable container (N.B.: storage of BPI on so-called hard disk computer or similar media is to be avoided, because mere erasure of data from such media may not irrecoverably destroy the BPI and may result in violation of paragraph C of this APO);
5. Serve all materials containing BPI disclosed under this APO as directed by the Secretary and pursuant to section 207.7(f) of the Commission's rules;
6. Transmit each document containing BPI disclosed under this APO:
  - i. with a cover sheet identifying the document as containing BPI,
  - ii. with all BPI enclosed in brackets and each page warning that the document contains BPI,
  - iii. if the document is to be filed by a deadline, with each page marked "Bracketing of BPI not final for one business day after date of filing," and
  - iv. within two envelopes, the inner one sealed and marked Business Proprietary Information--To be opened only by [name of recipient]", and the outer one sealed and not marked as containing BPI;
7. Comply with the provisions of this APO and section 207.7 of the Commission's rules:
  - i. Make true and accurate representations in the authorized applicant's application and promptly notify the Secretary of any changes that occur after the submission of the application and that affect the representations made in the application (e.g., change in personnel assigned to the investigation);
  - ii. Report promptly and confirm in writing to the Secretary any possible breach of this APO; and
  - iii. Acknowledge that breach of this APO may subject the authorized applicant and other persons to such sanctions or other actions as the Commission deems

appropriate, including the administrative sanctions and actions set out in this APO.

8. Return or destruction of BPI

- i. At any time, the Secretary may order the return, destruction, or transfer of any BPI disclosed under this APO, in which case the authorized applicant shall promptly return such BPI to the Secretary or to the submitter of the BPI or destroy the BPI or transfer the BPI to another authorized applicant, as the Secretary may direct. Unless otherwise directed, an authorized applicant to whom BPI was disclosed under this APO during the preliminary phase of the above-captioned investigation may retain possession of such BPI during the final phase of the investigation.
- ii. Subject to paragraphs C(3) and C(4) below, within sixty (60) days after the completion of this investigation (e.g., after the publication in the *Federal Register* of a Commission preliminary negative determination, a Commerce Department final negative determination, a Commission final determination, or other final termination of this investigation), or at such other time as the Secretary may direct, the authorized applicant shall return or destroy all copies of BPI disclosed under this APO and all other materials containing such BPI, such as charts or notes based on such BPI. Whenever returning or destroying BPI pursuant to this paragraph, the authorized applicant shall file: (1) a certificate attesting that to the applicant's knowledge and belief all copies of such BPI have been returned or destroyed and no copies of such BPI have been made available to any person to whom disclosure was not specifically authorized and (2) a copy of the signed and dated Acknowledgment for Clerical Personnel forms maintained during the course of the investigation(s).
- iii. In the event that U.S. judicial review of the Commission's determination in the above-captioned investigation is sought, the authorized applicant shall not be required to comply with paragraph C(2) above, provided that the authorized applicant obtains access to BPI pursuant to U.S. count of international Trade Rule 73.2 and CIT Administrative Order No. 02-01 within 150 days. If by such date a protective order has not been applied for, or a BPI certification has not been filed, the authorized applicant shall then promptly comply with paragraph C(2) above.
- iv. Special rule applicable only to investigations involving imports from Canada or Mexico:
  - a. An authorized applicant may retain BPI disclosed under this APO during any binational panel review pursuant to the North American Free Trade Agreement of the Commission's determination in the above-captioned investigation, subject to the additional terms and conditions set forth in the current version of APO NAFTA Form C. By filing an application for disclosure of BPI under this APO, and by failing to return or destroy all copies of BPI disclosed under this APO on or before the fifteenth (15) day after a First Request for Panel Review has been filed with the NAFTA Secretariat, the authorized

applicant agrees to be bound as of that date by the terms and conditions set forth in APO NAFTA Form C, and by the provisions in that form regarding sanctions for violations of those terms and conditions.

- b. Persons described in paragraph B(1)(iv) of this APO who have filed a statement described in that paragraph shall become subject to the terms and conditions of APO NAFTA Form C on the same date as the authorized applicant, or as soon thereafter as they file a statement described in paragraph B(1)(iv).

9. Sanctions and other actions for breach of this APO.

The authorized applicant shall in the application acknowledge that, pursuant to section 207.7(d) of the Commission's rules, breach of this Administrative Protective Order may subject an offender to:

1. Disbarment from practice in any capacity before the Commission along with such person's partners, associates, employer, and employees, for up to seven years following publication of a determination that the order has been breached;
2. Referral to the United States Attorney;
3. In the case of an attorney, accountant, or other professional, referral to the ethics panel of the appropriate, professional association;
4. Such other administrative sanctions as the Commission determines to be appropriate, including public release of, or striking from, the record any information or briefs submitted by, or on behalf of, such person or the party he represent, denial of further access to business proprietary information in the current or any future investigations before the Commission, and issuance of a public or private letter of reprimand; and
5. Such other actions, including but not limited to, a warning letter, as the Commission determines to be appropriate.

By order of the Commission.

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Lisa R. Barton  
Secretary

Issued:

Attachments:

1. Form Application for Disclosure of Business Proprietary Information under Administrative Protective Order
2. Form Administrative Protective Order Acknowledgment for Clerical Personnel