

established a schedule for the conduct of the preliminary phase of the subject investigations (89 FR 93651, November 27, 2024). Subsequently, the Department of Commerce (“Commerce”) extended the deadline for its initiation determinations from December 11, 2024 to December 31, 2024 (89 FR 102113, December 17, 2024). The Commission, therefore, is revising its schedule to conform with Commerce’s new schedule.

The Commission must reach preliminary determinations by January 27, 2025, and the Commission’s views must be transmitted to Commerce within five business days thereafter, or by February 3, 2025.

For further information concerning this proceeding, see the Commission’s notice cited above and the Commission’s Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

*Authority:* These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission’s rules.

By order of the Commission.

Issued: December 17, 2024.

**Lisa Barton,**

*Secretary to the Commission.*

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## INTERNATIONAL TRADE COMMISSION

### Summary of Commission Practice Relating to Administrative Protective Orders

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Summary of Commission practice relating to administrative protective orders.

**SUMMARY:** Since February 1991, the U.S. International Trade Commission (“Commission”) has published in the **Federal Register** reports on the status of its practice with respect to breaches of its administrative protective orders (“APOs”) under title VII of the Tariff Act of 1930 in response to a direction contained in the Conference Report to the Customs and Trade Act of 1990. Over time, the Commission has added to its report discussions of APO breaches in Commission proceedings other than under title VII and violations of the Commission’s rules, including the rule on bracketing business proprietary information (the “24-hour rule”) title 19 of the Code of Federal Regulations. This

notice provides a summary of APO breach investigations completed during fiscal year 2024. This summary addresses APO breach investigations related to proceedings under both title VII and section 337 of the Tariff Act of 1930. The Commission intends for this summary to inform representatives of parties to Commission proceedings of the specific types of APO breaches before the Commission and the corresponding types of actions that the Commission has taken.

**FOR FURTHER INFORMATION CONTACT:** Lisa Barton, Secretary to the Commission, U.S. International Trade Commission, telephone (202) 205–2786. Hearing-impaired individuals may obtain information on this matter by contacting the Commission’s TDD terminal at (202) 205–1810. General information concerning the Commission is available on its website at <https://www.usitc.gov>.

**SUPPLEMENTARY INFORMATION:** Statutory authorities for Commission investigations provide for the release of business proprietary information (“BPI”) or confidential business information (“CBI”) to certain authorized representatives in accordance with requirements set forth in the Commission’s Rules of Practice and Procedure. Such statutory and regulatory authorities include: 19 U.S.C. 1677f; 19 CFR 207.7; 19 U.S.C. 1337(n); 19 CFR 210.5, 210.34; 19 U.S.C. 2252(i); 19 CFR 206.17; 19 U.S.C. 4572(f); 19 CFR 208.22; 19 U.S.C. 1516a(g)(7)(A); and 19 CFR 207.100–207.120. The term “CBI” is defined in 19 CFR 201.6(a) and includes the term “proprietary information” within the meaning of 19 U.S.C. 1677f(b). The discussion below describes APO breach investigations that the Commission completed during fiscal year 2024, including descriptions of actions taken in response to any breaches.

Since 1991, the Commission has published annually a summary of its actions in response to violations of Commission APOs and rule violations. See 88 FR 85303 (Dec. 7, 2023); 87 FR 69331 (Nov. 18, 2022); 86 FR 71916 (Dec. 20, 2021); 85 FR 7589 (Feb. 10, 2020); 83 FR 42140 (Aug. 20, 2018); 83 FR 17843 (Apr. 24, 2018); 82 FR 29322 (June 28, 2017); 81 FR 17200 (Mar. 28, 2016); 80 FR 1664 (Jan. 13, 2015); 78 FR 79481 (Dec. 30, 2013); 77 FR 76518 (Dec. 28, 2012); 76 FR 78945 (Dec. 20, 2011); 75 FR 66127 (Oct. 27, 2010); 74 FR 54071 (Oct. 21, 2009); 73 FR 51843 (Sept. 5, 2008); 72 FR 50119 (Aug. 30, 2007); 71 FR 39355 (July 12, 2006); 70 FR 42382 (July 22, 2005); 69 FR 29972 (May 26, 2004); 68 FR 28256 (May 23, 2003); 67 FR 39425 (June 7, 2002); 66 FR

27685 (May 18, 2001); 65 FR 30434 (May 11, 2000); 64 FR 23355 (Apr. 30, 1999); 63 FR 25064 (May 6, 1998); 62 FR 13164 (Mar. 19, 1997); 61 FR 21203 (May 9, 1996); 60 FR 24880 (May 10, 1995); 59 FR 16834 (Apr. 8, 1994); 58 FR 21991 (Apr. 26, 1993); 57 FR 12335 (Apr. 9, 1992); and 56 FR 4846 (Feb. 6, 1991). This report does not provide an exhaustive list of conduct that will be deemed to be a breach of the Commission’s APOs. The Commission considers APO breach investigations on a case-by-case basis.

As part of the Commission’s efforts to educate practitioners about the Commission’s current APO practice, the Secretary to the Commission (“Secretary”) issued in January 2022 a sixth edition of *An Introduction to Administrative Protective Order Practice in Import Injury Investigations* (Pub. No. 5280). This document is available on the Commission’s website at <https://www.usitc.gov>.

## I. In General

### A. Antidumping and Countervailing Duty Investigations

The current APO application form for antidumping and countervailing duty investigations, which the Commission revised in July 2024, requires an APO applicant to 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

United State-Mexico-Canada Agreement (USMCA) 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 documents and materials (e.g., word processing or computer discs) containing such BPI are not being used, store such material in a locked file cabinet, vault, safe, or other suitable container (N.B.: [S]torage of BPI on so-called hard disk computer media 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) Not enter BPI into a shared computing resource (e.g., database, network file share, cloud environment) unless access to the resource is restricted to persons authorized to receive the BPI;

(6) 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;

(7) Transmit each document containing BPI disclosed under this APO:

(i) Via secure electronic means, as authorized by the Secretary, or

(ii) With a cover sheet identifying the document as containing BPI,

(iii) With all BPI enclosed in brackets and each page warning that the document contains BPI, 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;

(8) Comply with the provision of this APO and section 207.7 of the Commission's rules;

(9) 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);

(10) Report promptly and confirm in writing to the Secretary any possible breach of this APO;

(11) 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; and

(12) Whenever an authorized applicant is representing parties in any litigation or dispute settlement regarding the same, similar, or related matter, or other matter that otherwise encompasses the same information, as the relevant investigations, proactively disclose representation(s) as follows:

(i) Indicate the proceeding and name the parties to it (including whomever the authorized applicant represents) on the antidumping/countervailing duty APO application;

(ii) Acknowledge that failure to provide this information may result in denial, modification, and/or revocation of APO access; and

(iii) During the period of APO access, acknowledge continuing obligation to notify the Secretary of any changes to the information provided in the application.

The APO form for antidumping and countervailing duty investigations also provides for the return or destruction of the BPI obtained under the APO on the order of the Secretary, at the conclusion of the investigation, or at the completion of judicial review. The BPI disclosed to an authorized applicant under an APO during the preliminary phase of the investigation generally may remain in the applicant's possession during the final phase of the investigation.

The APO further provides that breach of an APO may subject an applicant 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 represents; 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.

APOs issued in cross-border long-haul trucking ("LHT") investigations, conducted under the USMCA Implementation Act, 19 U.S.C. 4571–4574 (19 U.S.C. 4501 note), and safeguard investigations, conducted under the statutory authorities listed in 19 CFR 206.1 and 206.31, contain similar (though not identical) provisions.

#### *B. Section 337 Investigations*

APOs in section 337 investigations differ from those in title VII investigations: There is no set form as with the title VII APO application, and provisions of individual APOs may differ depending on the investigation and the presiding administrative law judge. However, in practice, the provisions are often similar in scope and applied quite similarly. Any person seeking access to CBI during a section 337 investigation (including, for example, outside counsel for parties to the investigation and technical experts and their staff who are employed for the purposes of the investigation) is required to read the APO, file a letter with the Secretary indicating agreement to be bound by the terms of the APO, agree not to reveal CBI to anyone other than another person permitted access by the APO, and agree to utilize the CBI solely for the purposes of that investigation.

In general, an APO in a section 337 investigation will define what kind of information is CBI and direct how CBI is to be designated and protected. The APO will state which persons may have access to CBI and which of those persons must sign onto the APO. The APO will provide instructions on how CBI is to be maintained and protected by labeling documents and filing transcripts under seal. It will provide protections for the suppliers of CBI by notifying them of a Freedom of Information Act request for the CBI and providing a procedure for the supplier to seek to prevent the release of the information. There are provisions for disputing the designation of CBI and a procedure for resolving such disputes. Under the APO, suppliers of CBI are given the opportunity to object to the release of the CBI to a proposed expert. The APO requires a person who discloses CBI, other than in a manner authorized by the APO, to provide all pertinent facts to the supplier of the CBI and to the administrative law judge and to make every effort to prevent further disclosure. Under Commission practice, if the underlying investigation is before the Commission at the time of the alleged breach or if the underlying investigation has been terminated, a

person who discloses CBI, other than in a manner authorized by the APO, should report the disclosure to the Secretary. *See* 19 CFR 210.25, 210.34(c). Upon final termination of an investigation, the APO requires all signatories to the APO to either return to the suppliers or, with the written consent of the CBI supplier, destroy the originals and all copies of the CBI obtained during the investigation.

Commission Rule 210.34(d) requires APO signatories to report in writing to the Commission immediately upon learning that CBI obtained through an APO is the subject of (1) a subpoena; (2) a court or an administrative order (other than an order of a court reviewing a Commission decision); (3) a discovery request; (4) an agreement; or (5) any other written request, if the request or order seeks disclosure, by the APO signatory or any other person, of the subject CBI to a person who is not, or may not be, permitted access to that information pursuant to an APO or Commission Rule. Individuals who willfully fail to comply with this requirement may be subject to sanctions in accordance with Commission Rule 210.34(e).

The Commission's regulations provide for the imposition of certain sanctions if a person subject to the APO violates its restrictions. The Commission keeps the names of the persons being investigated for violating an APO confidential unless the Commission issues a public sanction or in other circumstances where the Commission determines that such disclosure is necessary. 19 CFR 210.34(c)(1). The possible sanctions are:

- (1) An official reprimand by the Commission.
- (2) Disqualification from or limitation of further participation in a pending investigation.
- (3) Temporary or permanent disqualification from practicing in any capacity before the Commission pursuant to 19 CFR 201.15(a).
- (4) Referral of the facts underlying the violation to the appropriate licensing authority in the jurisdiction in which the individual is licensed to practice.
- (5) Making adverse inferences and rulings against a party involved in the violation of the APO or such other action that may be appropriate. 19 CFR 210.34(c)(3).

Commission employees are not signatories to the Commission's APOs and do not obtain access to BPI or CBI through APO procedures. Consequently, they are not subject to the requirements of the APO with respect to the handling of BPI and CBI. However, Commission employees are subject to strict statutory

and regulatory constraints concerning BPI and CBI, and they face potentially severe penalties for noncompliance. *See* 18 U.S.C. 1905; title 5, U.S. Code; and Commission personnel policies implementing the statutes. Although the Privacy Act (5 U.S.C. 552a) limits the Commission's authority to disclose any personnel action against agency employees, this should not lead the public to conclude that no such actions have been taken.

## II. Investigations of Alleged APO Breaches

The Commission conducts APO breach investigations for potential breaches that occur in title VII, safeguard, and LHT investigations, as well as for potential breaches in section 337 investigations that are before the Commission or have been terminated.<sup>1</sup> Administrative law judges handle potential APO breaches in section 337 investigations when the breach occurred and is discovered while the underlying investigation is before the administrative law judge. The Commission may review any decision that the administrative law judge makes on sanctions in accordance with Commission regulations. *See* 19 CFR 210.25, 210.34(c).

For Commission APO breach investigations, upon finding evidence of an APO breach or receiving information that there is reason to believe that one has occurred, the Secretary notifies relevant Commission offices that the Secretary has opened an APO breach file and that the Commission has commenced an APO breach investigation. The Commission then notifies the alleged breaching parties of the alleged breach and provides them with the voluntary option to proceed under a one- or two-step investigatory process. Under the two-step process, which was the Commission's historic practice, the Commission determines first whether a breach has occurred and, if so, who is responsible for it. This is done after the alleged breaching parties have been provided an opportunity to present their views on the matter. The breach investigation may conclude after this first step if: (1) the Commission determines that no breach occurred and issues a letter so stating; or (2) the Commission finds that a breach

occurred but concludes that no further action is warranted and issues a warning letter. If the Commission determines that a breach occurred that may warrant further action, the Commission will then determine what sanction, if any, to impose. Before making this determination, the Commission provides the breaching parties with an opportunity to present their views on the appropriate sanction and any mitigating circumstances. The Commission can decide as part of either the first or second step to issue a warning letter. A warning letter is not a sanction, but the Commission will consider a warning letter as part of any subsequent APO breach investigation.

The Commission recognizes that the two-step process can result in duplicative work for the alleged breaching party and Commission staff in some APO breach investigations. For example, parties who self-report their own breach often address mitigating circumstances and sanctions in their initial response to the Commission's letter of inquiry on the breach. But, under the Commission's two-step process, they must await a Commission decision on breach and then submit again their views on mitigating circumstances and sanctions. To streamline this process and accelerate processing times, the Commission offers alleged breaching parties the option to voluntarily elect a one-step APO breach investigation process. Under this process, the Commission will determine simultaneously whether a breach occurred and, if so, the appropriate sanction to impose, if any. Under either process, the alleged breaching party has the opportunity to submit affidavits reciting the facts concerning the alleged breach and mitigating factors pertaining to the appropriate response if a breach is found.

Sanctions for APO violations serve three basic interests: (a) preserving the confidence of submitters of BPI/CBI that the Commission is a reliable protector of BPI/CBI; (b) disciplining breachers; and (c) deterring future violations. As the Conference Report to the Omnibus Trade and Competitiveness Act of 1988 observed: "[T]he effective enforcement of limited disclosure under [APO] depends in part on the extent to which private parties have confidence that there are effective sanctions against violation." H.R. Conf. Rep. 100-576, at 623 (1988).

The Commission has worked to develop consistent jurisprudence, not only in determining whether a breach has occurred, but also in selecting an appropriate response. In determining the appropriate response, the

<sup>1</sup> Procedures for investigations to determine whether a prohibited act, such as a breach, has occurred and for imposing sanctions for violation of the provisions of a protective order issued during a North American Free Trade Agreement or USMCA panel or committee proceedings are set out in 19 CFR 207.100-207.120. The Commission's Office of Unfair Import Investigations conducts the initial inquiry.

Commission generally considers mitigating factors such as the unintentional nature of the breach, the lack of prior breaches committed by the breaching party, the corrective measures taken by the breaching party, and the promptness with which the breaching party reported the violation to the Commission. The Commission also considers aggravating circumstances, especially whether persons not authorized under the APO had access to and viewed the BPI/CBI. The Commission considers whether there have been prior breaches by the same person or persons in other investigations and whether there have been multiple breaches by the same person or persons in the same investigation.

The Commission's rules permit an economist or consultant to obtain access to BPI/CBI under the APO in a title VII, safeguard, or LHT investigation if the economist or consultant is under the direction and control of an attorney under the APO, or if the economist or consultant appears regularly before the Commission and represents an interested party who is a party to the investigation. See 19 CFR 207.7(a)(3)(i)(B) and (C); 19 CFR 206.17(a)(3)(i)(B) and (C); and 19 CFR 208.22(a)(3)(i)(B) and (C). Economists and consultants who obtain access to BPI/CBI under the APO under the direction and control of an attorney nonetheless remain individually responsible for complying with the APO. In appropriate circumstances, for example, an economist under the direction and control of an attorney may be held responsible for a breach of the APO by failing to redact APO information from a document that is subsequently filed with the Commission and served as a public document, or for retaining BPI/CBI without consent of the submitter after the termination of an investigation. This is so even though the Commission may also hold the attorney exercising direction or control over the economist or consultant responsible for the APO breach. In section 337 investigations, technical experts and their staff who are employed for the purposes of the investigation are required to sign onto the APO and agree to comply with its provisions.

The records of Commission investigations of alleged APO breaches in antidumping and countervailing duty cases, section 337 investigations, safeguard investigations, and LHT investigations are not publicly available and are exempt from disclosure under the Freedom of Information Act, 5 U.S.C. 552. See, e.g., 19 U.S.C. 1677f(g); 19 U.S.C. 1333(h); 19 CFR 210.34(c).

The two types of breaches most frequently investigated by the Commission involve: (1) the APO's prohibition on the dissemination or exposure of BPI or CBI to unauthorized persons; and (2) the APO's requirement that the materials received under the APO be returned or destroyed and that a certificate be filed with the Commission indicating what actions were taken after the termination of the investigation or any subsequent appeals of the Commission's determination. The dissemination of BPI/CBI usually occurs as the result of failure to delete BPI/CBI from public versions of documents filed with the Commission or transmission of proprietary versions of documents to unauthorized recipients. Other breaches have included the failure to bracket properly BPI/CBI in proprietary documents filed with the Commission, the failure to report immediately known or suspected violations of an APO, and the failure to adequately supervise non-lawyers in the handling of BPI/CBI.

Occasionally, the Commission conducts APO breach investigations that involve members of a law firm or consultants working with a firm who were granted access to APO materials by the firm although they were not APO signatories. In many of these cases, the firm and the person using the BPI/CBI mistakenly believed an APO application had been filed for that person. The Commission has determined in all of these cases that the person who was a non-signatory, and therefore did not agree to be bound by the APO, could not be found to have breached the APO. However, under Commission rule 201.15 (19 CFR 201.15), the Commission may take action against these persons for good cause shown. In all cases in which the Commission has taken such action, it decided that the non-signatory appeared regularly before the Commission, was aware of the requirements and limitations related to APO access, and should have verified their APO status before obtaining access to and using the BPI/CBI. The Commission notes that section 201.15 may also be available to issue sanctions to attorneys or agents in different factual circumstances in which they did not technically breach the APO, but their action or inaction did not demonstrate diligent care of the APO materials, even though they appeared regularly before the Commission and were aware of the importance that the Commission places on the proper care of APO materials.

The Commission has held routinely that the disclosure of BPI/CBI through recoverable metadata or hidden text constitutes a breach of the APO even when the BPI/CBI is not immediately

visible without further manipulation of the document. In such cases, breaching parties have transmitted documents that appear to be public documents in which the parties have removed or redacted all BPI/CBI. However, further inspection of the document reveals that confidential information is actually retrievable by manipulating codes in software or through the recovery of hidden text or metadata. In such instances, the Commission has found that the electronic transmission of a public document with BPI/CBI in a recoverable form was a breach of the APO.

The Commission has cautioned counsel to ensure that each authorized applicant files with the Commission within 60 days of the completion of an import injury investigation or at the conclusion of judicial or binational review of the Commission's determination, a certificate stating that, to the signatory's knowledge and belief, all copies of BPI/CBI have been returned or destroyed, and no copies of such materials have been made available to any person to whom disclosure was not specifically authorized. This requirement applies to each attorney, consultant, or expert in a firm who has access to BPI/CBI. One firm-wide certificate is insufficient.

Attorneys who are signatories to the APO in a section 337 investigation should inform the administrative law judge and the Secretary if there are any changes to the information that was provided in the application for access to the CBI. This is similar to the requirement to update an applicant's information in title VII investigations.

In addition, attorneys who are signatories to the APO in a section 337 investigation should send a notice to the Commission if they stop participating in the investigation or the subsequent appeal of the Commission's determination. The notice should inform the Commission about the disposition of CBI obtained under the APO that was in their possession, or the Commission could hold them responsible for any failure of their former firm to return or destroy the CBI in an appropriate manner.

### III. Specific APO Breach Investigations

Case 1. The Commission determined that two attorneys from different law firms who collaborated on a joint brief filed with the Court of International Trade in connection with a title VII investigation each breached the APO. Both attorneys breached the APO by publicly filing a brief that contained unredacted BPI, and then one of the attorneys breached the APO a second time by failing to completely redact the

BPI from the corrected version of the brief.

The first breach occurred when two law firms filed a joint public brief before the Court of International Trade that contained unredacted BPI in a footnote. Neither law firm identified the BPI as confidential or redacted it from the public brief during the review process. One of the law firms then filed the brief through the Court of International Trade's electronic filing system, where it remained publicly available until the next day. The second law firm identified the breach and notified the first law firm, which requested the brief's removal.

A second breach occurred when the first law firm electronically filed a corrected, second version of the brief. In the corrected version, the BPI was identified as such, but the redaction process failed to completely remove the BPI from the document, thereby leaving it retrievable by electronic means. The corrected version was also uploaded to the Court of International Trade's electronic filing system, where the document remained available for six days. One of the law firms also distributed the corrected version to five individuals employed by its client. The second law firm discovered that the BPI was improperly redacted, and the first law firm notified the Court of International Trade of the error, resulting in the removal of the corrected version. The Commission determined to hold both law firms responsible for the first breach and to hold the first law firm responsible for the second breach, given its role in preparing the corrected version of the brief and its responsibility for properly removing the BPI.

In determining whether to issue a sanction for the breach, the Commission considered the following mitigating factors: (1) both breaches were inadvertent and unintentional; (2) one of the law firms discovered both breaches; (3) after discovering the second breach, the breaching parties took prompt action to remedy it and prevent further dissemination of BPI; (4) the breaching parties implemented new procedures to prevent future similar breaches; and (5) the attorneys involved had not previously breached an APO in the two-year period preceding the dates of these breaches. The Commission also considered the following aggravating factors: (1) unauthorized individuals had access to and presumably viewed the BPI; (2) one of the breaching parties violated the APO in two different ways; and (3) one of the breaching parties failed to follow firm procedures for protecting BPI in the second breach.

The Commission issued a private letter of reprimand to one attorney from the first law firm, who was found to bear the ultimate responsibility for both breaches. The Commission also issued a warning letter to an attorney from the second law firm who assisted in the preparation of the brief. The Commission found that a warning letter was appropriate because that attorney had an opportunity to review the footnote while drafting the brief and to flag the BPI for redaction and removal.

Case 2. The Commission determined that three individuals breached the APO issued in a title VII investigation when they publicly filed and served to unauthorized parties a public version of a brief that contained unredacted BPI.

The law firm responsible for the breach filed an original and revised confidential version of its brief on the Commission's Electronic Document Information System ("EDIS"). The revised confidential version of the brief contained bracketing changes to BPI, including the complete redaction of two tables that contained BPI. The firm then filed a public version of the original confidential brief that did not include the redactions to the tables. The firm also served that public version of the brief to all parties on the public service list. Approximately two hours later, counsel from another law firm notified the breaching parties that the public version of the brief contained unredacted BPI. Upon receiving that notification, the breaching parties contacted the parties on the public service list and requested confirmation of destruction of the public version of the brief. The next day, the breaching parties contacted the Commission to request removal of the public version of the brief from EDIS. The breaching parties later filed a corrected public version of the brief, with the BPI redacted.

In determining whether to issue a sanction for the breach, the Commission considered the following mitigating factors: (1) the breach was unintentional and inadvertent; and (2) the breaching parties took prompt action to remedy the breach and prevent further dissemination of BPI; (3) the law firm promptly reported the breach to the Commission; and (4) the individuals involved had not previously breached an APO in the two-year period preceding the date of this breach. The Commission also considered as an aggravating factor that unauthorized individuals had access to and presumably viewed the BPI.

The Commission determined to issue a private letter of reprimand to the supervisory attorney who reviewed and

approved the filing of the original public version of the brief and failed to ensure that legal support staff complied with the APO. The Commission also determined to issue a private letter of reprimand to an office manager and a warning letter to a legal assistant for their respective roles in preparing the brief and contributing to the breach.

Case 3. The Commission determined that a law firm breached the APO issued in a section 337 investigation when it filed on EDIS and served to its clients a public version of a document that contained CBI from another party.

Two attorneys at the law firm were responsible for reviewing the public document for CBI. One of the attorneys received opposing counsel's proposed redactions to the document, but the receiving attorney reportedly failed to provide those redactions to the legal secretary who was assisting with preparing the document for filing. Thereafter, the attorney forwarded the document that the legal secretary prepared to a second attorney for review, along with opposing counsel's requested redactions. After the second attorney completed a review for CBI, the first attorney reviewed the document one more time before instructing the legal secretary to file the public document. The attorney also sent the finalized version to the law firm's clients. The next day, opposing counsel notified the attorney that the document contained unredacted CBI. The attorney instructed a firm paralegal to contact the Commission to request that the document be removed from EDIS. The attorney also contacted the clients who received a copy of the document to request its destruction.

In determining whether to issue a sanction for the breach, the Commission considered the following mitigating factors: (1) the breach was inadvertent and unintentional; (2) the law firm took prompt corrective action to investigate the breach and prevent further dissemination of CBI; (3) the law firm promptly self-reported the breach; (4) the law firm implemented new procedures to prevent against similar breaches in the future; and (5) the individuals involved had not been found to have breached an APO in the two years preceding the date of the breach. The Commission also considered the following aggravating factors: (1) the law firm did not discover its own breach; and (2) the breach resulted in exposure of CBI to unauthorized individuals.

The Commission issued a private letter of reprimand to both attorneys: one who reviewed and redacted the document, approved the public version

for filing, and served it on the firm's clients, and the other who reviewed and redacted the document but failed to protect the other party's CBI.

Case 4. The Commission determined that an economic consultant breached the APO in a title VII investigation by making BPI available to unauthorized parties on three separate occasions.

The document that was the subject of all three breaches was a presentation slide prepared by the consultant's firm. The slide at issue contained unredacted BPI that revealed information in a chart about pricing data. The first breach occurred when copies of the slide were distributed during a meeting that included individuals who were not authorized under the APO to receive BPI. The second breach occurred at a second meeting, to additional unauthorized individuals who were not present at the first meeting. The third breach occurred at a public Commission hearing when the economic consulting firm displayed the slide in question on a large screen and distributed paper copies. At the conclusion of the presentation, a Commission employee approached the economic consultant to express concerns that the slide had exposed BPI. At the conclusion of the hearing, the economic consultant attempted to retrieve the paper copies from the recipients, which the Commission then collected.

In determining whether to issue a sanction for the breach, the Commission considered the following mitigating factors: (1) all three breaches were inadvertent and unintentional; (2) the breaching party took prompt action to remedy the third breach and prevent further dissemination of BPI; (3) the breaching party implemented new procedures to prevent against similar breaches in the future; and (4) the individual involved had not previously breached an APO in the two-year period preceding the dates of these breaches. The Commission also considered the following aggravating factors: (1) all three breaches resulted in the exposure of BPI to unauthorized individuals; (2) the breaching party violated the APO on three occasions; and (3) the breaching party did not discover the breaches.

The Commission issued a private letter of reprimand to the economic consultant responsible for creating, reviewing, and disseminating the slide to unauthorized individuals.

By order of the Commission.

Issued: December 17, 2024.

**Lisa Barton,**

Secretary to the Commission.

[FR Doc. 2024-30518 Filed 12-20-24; 8:45 am]

BILLING CODE 7020-02-P

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On December 17, 2024, the United States lodged a proposed Consent Decree and Environmental Settlement Agreement with the United States Bankruptcy Court for the Southern District of Texas in the Chapter 11 bankruptcy cases filed by Vertex Energy, Inc., as Lead Debtor, and its Affiliated Debtors in the case captioned *In re Vertex Energy, Inc., et al.*, Case No. 24-90507-CML.

The proposed Consent Decree requires the Debtors, and after the effective date of the Debtors' plan of reorganization, the Reorganized Debtors, to retire over 18.7 million renewable identification number credits, currently estimated to cost approximately \$15 million, to satisfy the Debtors' 2023 and 2024 renewable volume obligations by March 31, 2025.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *In re Vertex Energy, Inc., et al.*, D.J. Ref. No. 90-5-2-1-13141. All comments must be submitted no later than ten (10) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email .....	<a href="mailto:pubcomment-ees.enrd@usdoj.gov">pubcomment-ees.enrd@usdoj.gov</a> .
By mail .....	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

Any comments submitted in writing may be filed by the United States in whole or in part on the public court docket without notice to the commenter.

During the public comment period, the proposed Consent Decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. If you require assistance accessing the proposed Consent Decree, you may request assistance by email or by mail to the addresses provided above for submitting comments.

**Patricia McKenna,**

Deputy Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2024-30505 Filed 12-20-24; 8:45 am]

BILLING CODE 4410-15-P

## DEPARTMENT OF LABOR

### Bureau of Labor Statistics

#### Information Collection Activities; Comment Request

**AGENCY:** Bureau of Labor Statistics, Department of Labor.

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed reinstatement with change of the "Contingent Work Supplement (CWS) to the Current Population Survey (CPS)" to be conducted in May 2025. A copy of the proposed information collection request can be obtained by contacting the individual listed below in the Addresses section of this notice.

**DATES:** Written comments must be submitted to the office listed in the Addresses section of this notice on or before February 21, 2025.

**ADDRESSES:** Send comments to Erin Good, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, by email to [BLS\\_PRA\\_Public@bls.gov](mailto:BLS_PRA_Public@bls.gov).

**FOR FURTHER INFORMATION CONTACT:** Erin Good, BLS Clearance Officer, at 202-691-7628 (this is not a toll-free number). (See **ADDRESSES** section.)

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The purpose of this request for review is for the Bureau of Labor Statistics (BLS) to obtain clearance for a reinstatement with change for the Contingent Work Supplement (CWS) to the Current Population Survey (CPS), which was last conducted in July 2023. The proposed CWS questions focus on people with contingent jobs—those that people do not expect to last or that are temporary—and workers in alternative employment arrangements, such as independent contractors, on-call