

Rule 73.3. Documents in All Other Actions Based on the Agency Record

(a) Documents Furnished in All Other Actions Based on the Agency Record.

Unless the alternative procedure prescribed by subdivision (b) of this rule is followed, in all actions in which judicial review is on the basis of the record made before an agency, other than those actions described in Rules 73.1 and 73.2, simultaneously with the filing of an answer, or in actions described in section 517(g) of the Tariff Act of 1930, within 40 days after the date of service of the complaint on U.S. Customs and Border Protection, the agency must file with the clerk of the court the items specified in paragraphs (1), (2) and (3) of this subdivision (a), if they exist, and the certified list specified in paragraph (4) of this subdivision (a), as part of the official record of the civil action.

(1) A copy of the contested determination and the findings or report on which such determination was based.

(2) A copy of any reported hearings or conferences conducted by the agency.

(3) Any documents, comments, or other papers filed by the public, interested parties, or governments with respect to the agency's action. The agency must identify and file under seal any document, comment, or other information obtained on a confidential basis, including a non-confidential description of the nature of such confidential document, comment or information.

(4) A certified list of all items specified in paragraphs (1), (2) and (3) of this subdivision (a).

(b) Stipulations. The parties may stipulate that fewer documents, comments, or other information than those specified in subdivision (a) of this rule will be filed with the clerk of the court. The agency must retain the remainder of the record. All parts of the record will be part of the record on review for all purposes. On request to the agency by a party, or by the court, at any time, any part of the record retained by the agency must be filed by the agency with the clerk of the court promptly, notwithstanding any prior stipulation or designation under this subdivision.

(c) Documents Filed-Copies. Certified copies of the original papers in the agency proceeding may be filed.

(Added Sept. 30, 2003, eff. Jan. 1, 2004; and amended May 25, 2004, eff. Sept. 1, 2004; Nov. 25, 2009, eff. Jan. 1, 2010; Dec. 6, 2011, eff. Jan. 1, 2012; Sept. 18, 2018, eff. Oct. 15, 2018.)