

§ 705.7

disclose national security classified information or business confidential information (trade secrets, commercial or financial information, or any other information considered sensitive or privileged), shall be submitted on separate sheets with the clear legend "National Security Classified" or "Business Confidential," as appropriate, marked at the top of each sheet. Any information or material submitted that is identified as national security classified must be accompanied at the time of filing by a statement indicating the degree of classification, the authority for the classification, and the identity of the classifying entity. By submitting information or material identified as business confidential, the applicant or other party represents that the information is exempted from public disclosure, either by the Freedom of Information Act (5 U.S.C. 552 et seq.) or by some other specific statutory exemption. Any request for business confidential treatment must be accompanied at the time of filing by a statement justifying non-disclosure and referring to the specific legal authority claimed.

(b) The Department may refuse to accept as business confidential any information or material it considers not intended to be protected under the legal authority claimed by the applicant, or under other applicable legal authority. Any such information or material so refused shall be promptly returned to the submitter and will not be considered. However, such information or material may be resubmitted as non-confidential in which case it will be made part of the public record.

§ 705.7 Conduct of an investigation.

(a) If the Department determines that it is appropriate to afford interested parties an opportunity to present information and advice relevant and material to an investigation, a public notice shall be published in the FEDERAL REGISTER soliciting from any interested party written comments, opinions, data, information or advice relative to the investigation. This material shall be submitted as directed within a reasonable time period to be specified in the notice. All material shall be submitted with 6 copies. In ad-

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dition, public hearings may be held pursuant to § 705.8 of this part.

(b) All requests and applications filed and all material submitted by interested parties, except information on material that is classified or determined to be confidential as provided in § 705.6 of this part, will be available for public inspection and copying in the Bureau of Export Administration Freedom of Information Records Inspection Facility, Room H-4525, U.S. Department of Commerce, Washington, DC 20230, in accordance with regulations published in part 4 of title 15, Code of Federal Regulations.

(c) Further information may be requested by the Department from other sources through the use of questionnaires, correspondence, or other appropriate means.

(d) The Department shall, as part of an investigation, seek information and advice from, and consult with, appropriate officers of the United States or their designees, as shall be determined. The Department shall also consult with the Secretary of Defense regarding the methodological and policy questions raised in the investigation. Upon the request of the Secretary, the Secretary of Defense shall provide the Secretary with an assessment of the defense requirements of the article in question. Communications received from agencies of the U.S. government or foreign governments will not be made available for public inspection.

(e) Any request or application that is filed while an investigation is in progress, concerning imports of the same or related article and raising similar issues, may be consolidated with the request, application or motion that initiated the investigation.

[47 FR 14693, Apr. 6, 1982. Redesignated at 54 FR 601, Jan. 9, 1989 and amended at 54 FR 19355, May 5, 1989; 63 FR 31623, June 10, 1998]

§ 705.8 Public hearings.

(a) If it is deemed appropriate by the Department, public hearings may be held to elicit further information.

(1) A notice of hearing shall be published in the FEDERAL REGISTER describing the date, time, place, the subject matter of each hearing and any