

## § 201.18

### § 201.18 Denial of requests, appeals from denial.

(a) Written requests for inspection or copying of records shall be denied only by the Secretary or Acting Secretary, or, for records maintained by the Office of Inspector General, the Inspector General. Denials of written requests shall be in writing, shall specify the reason therefor, and shall advise the person requesting of the right to appeal to the Commission. Oral requests may be dealt with orally, but if the requester is dissatisfied he shall be asked to put the request in writing.

(b) An appeal from a denial of a request must be received within sixty days of the date of the letter of denial and shall be made to the Commission and addressed to the Chairman, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. Any such appeal shall be in writing, and shall clearly indicate both on the envelope and in the letter that it is a "Freedom of Information Act Appeal."

(c) Except when expedited treatment is requested and granted, appeals will be decided in the order in which they are filed, but in any case within twenty days (excepting Saturdays, Sundays, and legal holidays) unless an extension, noticed in writing with the reasons therefor, has been provided to the person making the request. Notice of the decision on appeal and the reasons therefor will be made promptly after a decision. Requests for expedited treatment should conform with the requirements in § 201.17(c) of this part.

(d) The extensions of time mentioned in paragraphs (a) and (b) of this section shall be made only for one or more of the following reasons:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are requested in a single communication; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determina-

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tion of the request or among two or more components of the agency having a substantial subject-matter interest therein.

(e) The extensions of time mentioned in paragraphs (a) and (b) of this section shall not exceed ten working days in the aggregate.

[40 FR 8328, Feb. 27, 1975, as amended at 54 FR 13678, Apr. 5, 1989; 60 FR 37336, July 20, 1995; 63 FR 29348, May 29, 1998]

### § 201.19 Notification regarding requests for confidential business information.

(a) *In general.* Business information provided to the Commission by a business submitter which the Commission has designated as "confidential business information" will not be disclosed pursuant to a Freedom of Information Act (FOIA) request except in accordance with this section.

(b) *Definitions.* The following definitions are to be used in reference to this section:

*Confidential business information* means commercial or financial information that has been designated as confidential business information by the Commission under § 201.6 of this part.

*Submitter* means any person or entity who provides confidential business information, directly or indirectly, to the Commission. The term includes, but is not limited to, corporations, producers, importers, and state and foreign governments.

(c) *Notice to submitters.* Except as provided for in paragraph (e) of this section, the Commission will, to the extent permitted by law, provide a submitter with prompt written notice of a FOIA request or administrative appeal encompassing its confidential business information whenever required under paragraph (d) of this section, in order to afford the submitter an opportunity to object to disclosure pursuant to paragraph (f) of this section. Such written notice will describe the nature of the confidential business information requested. The requester will also be notified that notice and opportunity to object to are being provided to a submitter.

(d) *When notice is required.* Notice will be given to a submitter in writing at

submitter's last known address whenever:

(1) The information the subject of the FOIA request or appeal has been designated by the Commission as confidential business information; and

(2) The Commission has reason to believe that the information may not be protected from disclosure under FOIA Exemptions 3 or 4.

(e) *Exceptions to notice requirement.* The notice requirements of paragraph (c) of this section will not apply if:

(1) The Commission determines that the information should not be disclosed;

(2) The information lawfully has been published or has been officially made available to the public; or

(3) Disclosure of the information is required by law (other than 5 U.S.C. 552).

(f) *Opportunity to object to disclosure.* In general, the Commission has 10 working days in which to respond to a FOIA request. Through the notice described in paragraph (c) of this section, the Commission will afford a submitter an opportunity, within the period afforded to the Commission to make its decision in response to the FOIA request, to provide the Commission with a detailed written statement of any objection to disclosure. Such statement shall be filed at least one working day before the Commission is required to respond to the FOIA request, and it shall specify all grounds for withholding any of the information under any exemption of FOIA. In the case of FOIA Exemptions 3 or 4, it shall demonstrate why the information should continue to be considered confidential business information within the meaning of §201.6 of this part and should not be disclosed. The submitter's claim of continued confidentiality should be supported by a certification by an officer or authorized representative of the submitter. Information provided by a submitter pursuant to this paragraph may itself be subject to disclosure under FOIA.

(g) *Notice of intent to disclose.* The Commission will consider carefully a submitter's objections and specific grounds for nondisclosure prior to determining whether to disclose the information. Whenever the Commission

decides to disclose such information over the objection of a submitter, the Commission will forward to the submitter a written notice which will include:

(1) A statement of the reasons for which the submitter's disclosure objections were not sustained;

(2) A description of the information to be disclosed; and

(3) A specified disclosure date.

Such notice of intent to disclose will be forwarded to the submitter a reasonable number of days prior to the specified disclosure date and the requester will be notified likewise.

(h) *Notice of FOIA lawsuit.* Whenever a requester brings suit seeking to compel disclosure of information that the Commission has designated as confidential business information, the Commission will promptly notify the submitter at its last known address. For the purpose of this paragraph, the Secretary may assume such address to be that given on the submission.

[54 FR 13678, Apr. 5, 1989]

#### § 201.20 Fees.

(a) *In general.* Fees pursuant to 5 U.S.C. 552 shall be assessed according to the schedule contained in paragraph (b) of this section for services rendered by agency personnel in responding to and processing requests for records under this subpart. All fees so assessed shall be charged to the requester, except where the charging of fees is limited under paragraph (c) of this section or where a waiver or reduction of fees is granted under paragraph (d) of this section. The Secretary will collect all applicable fees. Requesters shall pay fees by check or money order made payable to the Treasury of the United States.

(b) *Charges.* In responding to requests under this subpart, the following fees shall be assessed, unless a waiver or reduction of fees has been granted pursuant to paragraph (d) of this section:

(1) *Search.* (i) No search fee shall be assessed with respect to requests by educational institutions, noncommercial scientific institutions, and representatives of the news media as defined in paragraphs (j) (6), (7), and (8) of this section, respectively. Search fees