

any other submission to the Commission during the course of an investigation. Such a request shall only be granted if the Secretary finds that such information is nondisclosable confidential business information as defined in §201.6(a)(2) of this chapter. The request will be granted or denied not later than thirty (30) days (ten (10) days in a preliminary phase investigation) after the date on which the request is filed.

(2) *Request for exemption.* A request for exemption from disclosure must be filed with the Secretary in writing with the reasons therefor. At the same time as the request is filed, one copy of the business proprietary information in question must be lodged with the Secretary solely for the purpose of obtaining a determination as to the request. The business proprietary information for which exemption from disclosure is sought shall remain the property of the requester, and shall not become or be incorporated into any agency record until such time as the request is granted. A request should, when possible, be filed two business days prior to the deadline, if any, for filing the document in which the information for which exemption from disclosure is sought is proposed to be included. If the request is denied, the copy of the information lodged with the Secretary shall promptly be returned to the requester. Such a request shall only be granted if the Secretary finds that such information is privileged information, classified information, or specific information of a type for which there is a clear and compelling need to withhold from disclosure. The Secretary shall promptly notify the requester as to whether the request has been approved or denied.

(3) *Procedure if request is approved.* If the request is approved, the person shall file three versions of the submission containing the nondisclosable confidential business information in question. One version shall contain all business proprietary information, bracketed in accordance with §201.6 of this chapter and §207.3. The other two versions shall conform to and be filed in accordance with the requirements of §201.6 of this chapter and §207.3, except that the specific information as to

which exemption from disclosure was granted shall be redacted from the submission.

(4) *Procedure if request is denied.* If the request is denied, the copy of the information lodged with the Secretary shall promptly be returned to the requester. The requester may file the submission in question without that information, in accordance with the requirements of §207.3.

[44 FR 76468, Dec. 26, 1979, as amended at 59 FR 66723, Dec. 28, 1994; 61 FR 37829, July 22, 1996]

**§207.8 Questionnaires to have the force of subpoenas; subpoena enforcement.**

Any questionnaire issued by the Commission in connection with any investigation under title VII of the Act may be issued as a subpoena and subscribed by a Commissioner, after which it shall have the force and effect of a subpoena authorized by the Commission. Whenever any party or any other person fails to respond adequately to such a subpoena or whenever a party or any other person refuses or is unable to produce information requested in a timely manner and in the form required, or otherwise significantly impedes an investigation, the Commission may:

- (a) Use the facts otherwise available in making its determination;
- (b) Seek judicial enforcement of the subpoena pursuant to 19 U.S.C. 1333;
- (c) Make inferences adverse to such person's position, if such person is an interested party that has failed to cooperate by not acting to the best of its ability to comply with a request for information; and
- (d) Take such other actions as necessary to obtain needed information.

[61 FR 37831, July 22, 1996]

**Subpart B—Preliminary Determinations**

SOURCE: 56 FR 11927, Mar. 21, 1991, unless otherwise noted.

**§207.10 Filing of petition with the Commission.**

- (a) *Filing of the petition.* Any interested party who files a petition with