

§210.19

may permit affidavits to be supplemented or opposed by depositions, answers to interrogatories, or further affidavits. When a motion for summary determination is made and supported as provided in this section, a party opposing the motion may not rest upon the mere allegations or denials of the opposing party's pleading, but the opposing party's response, by affidavits, answers to interrogatories, or as otherwise provided in this section, must set forth specific facts showing that there is a genuine issue of fact for the evidentiary hearing under §210.36(a)(1) or (2). If the opposing party does not so respond, a summary determination, if appropriate, shall be rendered against the opposing party.

(d) *Refusal of application for summary determination; continuances and other orders.* Should it appear from the affidavits of a party opposing the motion that the party cannot, for reasons stated, present by affidavit facts essential to justify the party's opposition, the administrative law judge may refuse the application for summary determination, or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is appropriate, and a ruling to that effect shall be made a matter of record.

(e) *Order establishing facts.* If on motion under this section a summary determination is not rendered upon the whole case or for all the relief asked and a hearing is necessary, the administrative law judge, by examining the pleadings and the evidence and by interrogating counsel if necessary, shall if practicable ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. The administrative law judge shall thereupon make an order specifying the facts that appear without substantial controversy and directing such further proceedings in the investigation as are warranted. The facts so specified shall be deemed established.

(f) *Order of summary determination.* An order of summary determination shall constitute an initial determination of the administrative law judge.

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§210.19 Intervention.

Any person desiring to intervene in an investigation or a related proceeding under this part shall make a written motion. The motion shall have attached to it a certificate showing that the motion has been served upon each party to the investigation or related proceeding in the manner described in §201.16(b) of this chapter. Any party may file a response to the motion in accordance with §210.15(c) of this part, provided that the response is accompanied by a certificate confirming that the response was served on the proposed intervenor and all other parties. The Commission, or the administrative law judge by initial determination, may grant the motion to the extent and upon such terms as may be proper under the circumstances.

§210.20 Declassification of confidential information.

(a) Any party may move to declassify documents (or portions thereof) that have been designated confidential by the submitter but that do not satisfy the confidentiality criteria set forth in §201.6(a) of this chapter. All such motions, whether brought at any time during the investigation or after conclusion of the investigation shall be addressed to and ruled upon by the presiding administrative law judge, or if the investigation is not before a presiding administrative law judge, by the chief administrative law judge or such administrative law judge as he may designate.

(b) Following issuance of a public version of the initial determination on whether there is a violation of section 337 of the Tariff Act of 1930 or an initial determination that would otherwise terminate the investigation (if adopted by the Commission), the granting of a motion, in whole or part, to declassify information designated confidential shall constitute an initial determination, except as to that information for which no submissions in opposition to declassification have been filed.

§210.21 Termination of investigations.

(a) *Motions for termination.* (1) Any party may move at any time prior to the issuance of an initial determination on violation of section 337 of the