

§ 50.7

28 CFR Ch. I (7-1-04 Edition)

where there has been full and true disclosure at the time of presenting the request.

10. (a) Simultaneously upon notifying the requesting party of and Division action described in paragraph 8, the business review request, and the Division's letter in response shall be indexed and placed in a file available to the public upon request.

(b) On that date or within thirty days after the date upon which the Division takes any action as described in paragraph 8, the information supplied to support the business review request and any other information supplied by the requesting party in connection with the transaction that is the subject of the business review request, shall be indexed and placed in a file with the request and the Division's letter, available to the public upon request. This file shall remain open for one year, after which time it shall be closed and the documents either returned to the requesting party or otherwise disposed of, at the discretion of the Antitrust Division.

(c) Prior to the time the information described in subparagraphs (a) and (b) is indexed and made publicly available in accordance with the terms of that subparagraph, the requesting party may ask the Division to delay making public some or all of such information. However the requesting party must: (1) Specify precisely the documents or parts thereof that he asks not be made public; (2) state the minimum period of time during which nondisclosure is considered necessary; and (3) justify the request for nondisclosure, both as to content and time, by showing good cause therefor, including a showing that disclosure would have a detrimental effect upon the requesting party's operations or relationships with actual or potential customers, employees, suppliers (including suppliers of credit), stockholders, or competitors. The Department of Justice, in its discretion, shall make the final determination as to whether good cause for nondisclosure has been shown.

(d) Nothing contained in subparagraphs (a), (b) and (c) shall limit the Division's right, in its discretion, to issue a press release describing generally the identity of the requesting party or parties and the nature of action taken by the Division upon the request.

(e) This paragraph reflects a policy determination by the Justice Department and is subject to any limitations on public disclosure arising from statutory restrictions, Executive Order, or the national interest.

11. Any requesting party may withdraw a request for review at any time. The Division remains free, however, to submit such comments to such requesting party as it deems appropriate. Failure to take action after receipt of documents or information whether submitted pursuant to this procedure or otherwise, does not in any way limit or stop the Division from taking such action at such

time thereafter as it deems appropriate. The Division reserves the right to retain documents submitted to it under this procedure or otherwise and to use them for all governmental purposes.

[42 FR 11831, Mar. 1, 1977]

§ 50.7 Consent judgments in actions to enjoin discharges of pollutants.

(a) It is hereby established as the policy of the Department of Justice to consent to a proposed judgment in an action to enjoin discharges of pollutants into the environment only after or on condition that an opportunity is afforded persons (natural or corporate) who are not named as parties to the action to comment on the proposed judgment prior to its entry by the court.

(b) To effectuate this policy, each proposed judgment which is within the scope of paragraph (a) of this section shall be lodged with the court as early as feasible but at least 30 days before the judgment is entered by the court. Prior to entry of the judgment, or some earlier specified date, the Department of Justice will receive and consider, and file with the court, any written comments, views or allegations relating to the proposed judgment. The Department shall reserve the right (1) to withdraw or withhold its consent to the proposed judgment if the comments, views and allegations concerning the judgment disclose facts or considerations which indicate that the proposed judgment is inappropriate, improper or inadequate and (2) to oppose an attempt by any person to intervene in the action.

(c) The Assistant Attorney General in charge of the Land and Natural Resources Division may establish procedures for implementing this policy. Where it is clear that the public interest in the policy hereby established is not compromised, the Assistant Attorney General may permit an exception to this policy in a specific case where extraordinary circumstances require a period shorter than 30 days or a procedure other than stated herein.

[Order No. 529-73, 38 FR 19029, July 17, 1973]