Secretary and the Secretary shall notify the Commission of the proposed response. If no Commissioner objects within three days following the Commission's receipt of such notification, the Secretary shall inform the Bureau Director that he or she may proceed.

[48 FR 41374, Sept. 15, 1983, as amended at 50 FR 53304, Dec. 31, 1985; 65 FR 67259, Nov. 9, 2000]

§2.2 Request for Commission action.

(a) Any individual, partnership, corporation, association, or organization may request the Commission to institute an investigation in respect to any matter over which the Commission has jurisdiction.

(b) Such request should be in the form of a signed statement setting forth the alleged violation of law with such supporting information as is available, and the name and address of the person or persons complained of. No forms or formal procedures are required.

(c) The person making the request is not regarded as a party to any proceeding which might result from the investigation.

(d) It is the general Commission policy not to publish or divulge the name of an applicant or complaining party except as required by law or by the Commission's rules. Where a complaint is by a consumer or consumer representative concerning a specific consumer product or service, the Commission, in the course of a referral of the complaint or of an investigation, may disclose the identity of the complainant or complainants. In referring any such consumer complaint, the Commission specifically retains its right to take such action as it deems appropriate in the public interest and under any of the statutes which it administers.

[32 FR 8446, June 13, 1967, as amended at 35 FR 10146, June 20, 1970]

§2.3 Policy as to private controversies.

The Commission acts only in the public interest and does not initiate an investigation or take other action when the alleged violation of law is merely a matter of private controversy and does not tend adversely to affect the public.

[32 FR 8446, June 13, 1967]

§2.4 Investigational policy.

The Commission encourages voluntary cooperation in its investigations. Where the public interest requires, however, the Commission may, in any matter under investigation adopt a resolution authorizing the use of any or all of the compulsory processes provided for by law.

[45 FR 36341, May 29, 1980]

§2.5 By whom conducted.

Inquiries and investigations are conducted under the various statutes administered by the Commission by Commission representatives designated and duly authorized for the purpose. Such representatives are ''examiners'' or ''Commission investigators'' within the meaning of the Federal Trade Commission Act and are authorized to exercise and perform the duties of their office in accordance with the laws of the United States and the regulations of the Commission. Included among such duties is the administration of oaths and affirmations in any matter under investigation by the Commission.

[45 FR 36341, May 29, 1980]

§2.6 Notification of purpose.

Any person under investigation compelled or requested to furnish information or documentary evidence shall be advised of the purpose and scope of the investigation and of the nature of the conduct constituting the alleged violation which is under investigation and the provisions of law applicable to such violation.

[46 FR 26290, May 12, 1981; 46 FR 27634, May 21, 1981]

§2.7 Compulsory process in investigations.

(a) *In general.* The Commission or any member thereof may, pursuant to a Commission resolution, issue a subpoena or a civil investigative demand directing the person named therein to appear before a designated representative at a designated time and place to

testify or to produce documentary evidence, or both, or, in the case of a civil investigative demand, to provide a written report or answers to questions relating to any matter under investigation by the Commission. Material for which a civil investigative demand has been issued shall be made available for inspection and copying at the principal place of business of the person or at such other place or in such other manner as the person and the custodian designated pursuant to § 2.16 agree.

(b) *Civil investigative demands.* Civil investigative demands shall be the only form of compulsory process issued in investigations with respect to unfair or deceptive acts or practices within the meaning of FTC Act section 5(a)(1).

(1) Civil investigative demands for the production of documentary material shall describe each class of material to be produced with such definiteness and certainty as to permit such material to be fairly identified, prescribe a return date or dates which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction, and identify the custodian to whom such material shall be made available. Production of documentary material in response to a civil investigative demand shall be made in accordance with the procedures prescribed by section 20(c)(11) of the Federal Trade Commission Act.

(2) Civil investigative demands for tangible things will describe each class of tangible things to be produced with such definiteness and certainty as to permit such things to be fairly identified, prescribe a return date or dates which will provide a reasonable period of time within which the things so demanded may be assembled and submitted, and identify the custodian to whom such things shall be submitted. Submission of tangible things in response to a civil investigative demand shall be made in accordance with the procedures prescribed by section 20(c)(12) of the Federal Trade Commission Act.

(3) Civil investigative demands for written reports or answers to questions shall propound with definiteness and certainty the reports to be produced or the questions to be answered, prescribe a date or dates at which time written reports or answers to questions shall be submitted, and identify the custodian to whom such reports or answers shall be submitted. Response to a civil investigative demand for a written report or answers to questions shall be made in accordance with the procedures prescribed by section 20(c)(13) of the Federal Trade Commission Act.

(4) Civil investigative demands for the giving of oral testimony shall prescribe a date, time, and place at which oral testimony shall be commenced, and identify a Commission investigator who shall conduct the investigation and the custodian to whom the transcript of such investigation shall be submitted. Oral testimony in response to a civil investigative demand shall be taken in accordance with the procedures prescribed by section 20(c)(14) of the Federal Trade Commission Act.

(c) The Bureau Director, Deputy Directors and Assistant Directors of the Bureaus of Competition and Economics, the Director, Deputy Directors and Associate Directors of the Bureau of Consumer Protection, Regional Directors, and Assistant Regional Directors, are authorized to negotiate and approve the terms of satisfactory compliance with subpoenas and civil investigative demands and, for good cause shown, may extend the time prescribed for compliance. Specifically, the subpoena power conferred by Section 329 of the Energy Policy and Conservation Act (42 U.S.C. 6299) is included within this delegation.

(d) *Petitions to limit or quash*—(1) *General.* Any petition to limit or quash any investigational subpoena or civil investigative demand shall be filed with the Secretary of the Commission within twenty (20) days after service of the subpoena or civil investigative demand, or, if the return date is less than twenty (20) days after service, prior to the return date. Such petition shall set forth all assertions of privilege or other factual and legal objections to the subpoena or civil investigative demand, including all appropriate arguments, affidavits and other supporting documentation.

(2) *Statement.* Each petition shall be accompanied by a signed statement

representing that counsel for the petitioner has conferred with counsel for the Commission in an effort in good faith to resolve by agreement the issues raised by the petition and has been unable to reach such an agreement. If some of the matters in controversy have been resolved by agreement, the statement shall specify the matters so resolved and the matters remaining unresolved. The statement shall recite the date, time, and place of each such conference between counsel, and the names of all parties participating in each such conference.

(3) *Extensions of time.* Bureau Directors, Deputy Directors, and Assistant Directors in the Bureaus of Competition and Economics, the Bureau Director, Deputy Directors and Associate Directors in the Bureau of Consumer Protection, Regional Directors and Assistant Regional Directors are delegated, without power of redelegation, the authority to rule upon requests for extensions of time within which to file such petitions.

(4) *Disposition.* A Commissioner, to be designated by the Chairman, is delegated, without power of redelegation, the authority to rule upon petitions to limit or quash an investigational subpoena or civil investigative demand, but the designated Commissioner may, in his or her sole discretion, refer a petition to the full Commission for determination.

(e) *Stay of compliance period.* The timely filing of a petition to limit or quash any investigational subpoena or civil investigative demand shall stay the time permitted for compliance with the portion challenged. If the petition is denied in whole or in part, the ruling will specify a new return date.

(f) *Review.* Any petitioner, within three days after service of a ruling by the designated Commissioner denying all or a portion of the relief requested in its petition, may file with the Secretary of the Commission a request that the full Commission review the ruling. The timely filing of such a request shall not stay the return date specified in the ruling, unless otherwise specified by the Commission.

(g) *Public disclosure.* All petitions to limit or quash investigational subpoenas or civil investigative demands and the responses thereto are part of the public records of the Commission, except for information exempt from disclosure under §4.10(a) of this chapter.

[45 FR 36342, May 29, 1980, as amended at 46 FR 26290, May 12, 1981; 48 FR 41375, Sept. 15, 1983; 49 FR 6089, Feb. 17, 1984; 50 FR 42672, Oct. 22, 1985; 60 FR 37747, July 21, 1995]

§2.8 Investigational hearings.

(a) Investigational hearings, as distinguished from hearings in adjudicative proceedings, may be conducted in the course of any investigation undertaken by the Commission, including rulemaking proceedings under subpart B of part 1 of this chapter, inquiries initiated for the purpose of determining whether or not a respondent is complying with an order of the Commission or the manner in which decrees in suits brought by the United States under the antitrust laws are being carried out, the development of facts in cases referred by the courts to the Commission as a master in chancery, and investigations made under section 5 of the Export Trade Act.

(b) Investigational hearings shall be conducted by any Commission member, examiner, attorney, investigator, or other person duly designated under the FTC Act, for the purpose of hearing the testimony of witnesses and receiving documents and other data relating to any subject under investigation. Such hearings shall be stenographically reported and a transcript thereof shall be made a part of the record of the investigation.

(c) Unless otherwise ordered by the Commission, investigational hearings shall not be public. In investigational hearings conducted pursuant to a civil investigative demand for the giving of oral testimony, the Commission investigators shall exclude from the hearing room all other persons except the person being examined, his counsel, the officer before whom the testimony is to be taken, and the stenographer recording such testimony. A copy of the transcript shall promptly be forwarded by the Commission investigator to the custodian designated in §2.16.

[32 FR 8446, June 13, 1967, as amended at 45 FR 36342, May 29, 1980; 61 FR 50645, Sept. 26, 1996]