

## Consumer Product Safety Commission

## § 1015.19

*www.cpsc.gov* promptly after the briefing package has been transmitted to the Commissioners by the Office of the Secretariat. Such packages will be marked to indicate that they have not been acted upon by the Commission.

(d) The exemptions contained in 5 U.S.C. 552(b) will be interpreted in accordance with the applicable law at the time a request for production or disclosure is considered.

[82 FR 37010, Aug. 8, 2017]

### §§ 1015.16–1015.17 [Reserved]

#### § 1015.18 Information submitted to the Commission; request for treatment as exempt material.

(a) A person who is submitting information to the Commission, after being notified by the Commission of his/her opportunity to request confidential treatment for information, must accompany the submission with a request that the information be considered exempt from disclosure or indicate that a request will be submitted within 10 working days of the submission. The failure to make a request within the prescribed time limit will be considered an acknowledgment that the submitter does not wish to claim exempt status.

(b) A person who has previously submitted information to the Commission, that is now the subject of a Freedom of Information request, after being notified by the Commission of his/her opportunity to request confidential treatment for the information, must submit a request that the information be considered exempt from disclosure within 5 working days from receipt of notification. The failure to make a request within the prescribed time limit will be considered an acknowledgment that the submitter does not wish to claim exempt status.

(c) Each request for exemption from disclosure under 5 U.S.C. 552(b)(4) as a trade secret or privileged or confidential commercial or financial information must:

(1) Specifically identify the exact portion(s) of the document claimed to be confidential;

(2) State whether the information claimed to be confidential has ever been released in any manner to a per-

son who was not an employee or in a confidential relationship with the company;

(3) State whether the information so specified is commonly known within the industry or is readily ascertainable by outside persons with a minimum of time and effort;

(4) State how release of the information so specified would be likely to cause substantial harm to the company's competitive position; and

(5) State whether the submitter is authorized to make claims of confidentiality on behalf of the person or organization concerned.

(d) Material received with a request that it be considered exempt shall not be maintained in a public file. If, in complying with a request for the disclosure of records, it is determined that some or all of the material relative to the request has been claimed to be exempt from disclosure, the requester will be supplied with a list of this material and informed that those portions found not to be exempt will be made available as soon as possible.

(e) No request for exemption from disclosure under 5 U.S.C. 552(b)(4) should be made by any person who does not intend in good faith to assist the Commission in the defense of any judicial proceeding that might thereafter be brought to compel the disclosure of information which the Commission has determined to be a trade secret or privileged or confidential commercial or financial information.

#### § 1015.19 Decisions on requests for exemption from disclosure under 5 U.S.C. 552(b)(4).

(a) The Commission generally will not decide whether material received with a request for exemption from disclosure under 5 U.S.C. 552(b)(4) is entitled to be withheld until a request for production or disclosure is made for that information. The determination will be based on the most authoritative judicial interpretations available at the time a request for disclosure or production is considered. Any reasonably segregable portion of a record will be disclosed to any person requesting such record after deletion of any portions determined to be exempt under 5 U.S.C. 552(b)(4). The requester will be