the Commissioners. An appeal by a bureau or office director shall be in writing addressed to the Chairman. If an appeal is taken by a bureau or office director, the Secretary will not disclose the document. The Commissioner's action on appeal shall be in accordance with §1015.7(d).

(b) If a Commissioner believes that it is not in the public interest to disclose a Commission record prepared by himself/herself or by his/her office personnel, the Commissioner shall so inform the Secretary and shall specify in writing why the release would be against the public interest. The Secretary shall notify the requester in writing of the denial in accordance with §1015.6(b). Any appeal by a requester shall be in accordance with §1015.7 except the provisions for reconsideration by the Secretary is not applicable. On appeal, the Commissioner who withheld the document shall not participate in the decision.

[42 FR 10490, Feb. 22, 1977, as amended at 45 FR 22023, Apr. 3, 1980]

### § 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 person 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