

§ 1115.14

16 CFR Ch. II (1-1-04 Edition)

the possession of distributors, in the possession of retailers, and in the possession of consumers.

(10) An explanation of any changes (e.g., designs, adjustments, and additional parts, quality control, testing) that have been or will be effected to correct the defect, failure to comply, or risk and of the steps that have been or will be taken to prevent similar occurrences in the future together with the timetable for implementing such changes and steps.

(11) Information that has been or will be given to purchasers, including consumers, about the defect, noncompliance, or risk with a description of how this information has been or will be communicated. This shall include copies or drafts of any letters, press releases, warning labels, or other written information that has been or will be given to purchasers, including consumers.

(12) The details of and schedule for any contemplated refund, replacement, or repair actions, including plans for disposing of returned products (e.g., repair, destroy, return to foreign manufacturer).

(13) A detailed explanation and description of the marketing and distribution of the product from the manufacturer (including importer) to the consumer (e.g., use of sales representatives, independent contractors, and/or jobbers; installation of the product, if any, and by whom).

(14) Upon request, the names and addresses of all distributors, retailers, and purchasers, including consumers.

(15) Such further information necessary or appropriate to the functions of the Commission as is requested by the staff.

[43 FR 34998, Aug. 7, 1978, as amended at 57 FR 34229, Aug. 4, 1992]

§ 1115.14 Time computations.

(a) *General.* Weekends and holidays are excluded from the computation of the time periods in this part.

(b) *Imputing knowledge.* In evaluating whether or when a firm should have reported, the Commission shall impute to the subject firm knowledge of product safety related information received by an official or employee of a subject firm capable of appreciating the sig-

nificance of the information. Under ordinary circumstances, 5 days should be the maximum reasonable time for information to reach the Chief Executive Officer or the official or employee responsible for complying with the reporting requirements of section 15(b) of the CPSA. The Commission will impute knowledge possessed by the Chief Executive Officer or by the official or employee responsible for complying with the reporting requirements of section 15(b) of the CPSA simultaneously to the subject firm.

(c) *Time when obligation to report arises.* The obligation to report under section 15(b) of the CPSA may arise upon receipt by a subject firm of the first information regarding a noncompliance, or a potential hazard presented by a product defect, or an unreasonable risk. Information giving rise to a reporting obligation may include, but is not limited to, complaints, injury reports, quality control and engineering data. A subject firm should not await complete or accurate risk estimates before reporting under section 15(b) of CPSA. However, if information is not clearly reportable, a subject firm may spend a reasonable time for investigation and evaluation. (See § 1115.14(d).)

(d) *Time for investigation and evaluation.* A subject firm may conduct a reasonably expeditious investigation in order to evaluate the reportability of a death or grievous bodily injury or other information. This investigation and evaluation should not exceed 10 days unless a firm can demonstrate that a longer period is reasonable. The Commission will deem that, at the end of 10 days, a subject firm has received and considered all information which would have been available to it had a reasonable, expeditious, and diligent investigation been undertaken.

(e) *Time to report.* Immediately, that is, within 24 hours, after a subject firm has obtained information which reasonably supports the conclusion that its consumer product fails to comply with an applicable consumer product safety rule or voluntary consumer product safety standard, contains a defect which could create a substantial risk of injury to the public, or creates an unreasonable risk of serious injury

or death, the firm should report. (See § 1115.13.) If a firm elects to conduct an investigation in order to evaluate the existence of reportable information, the 24-hour period begins when the firm has information which reasonably supports the conclusion that its consumer product fails to comply with an applicable consumer product safety rule or voluntary consumer product safety standard upon which the Commission has relied under section 9, contains a defect which could create a substantial product hazard, or creates an unreasonable risk of serious injury or death. Thus, a firm could report to the Commission before the conclusion of a reasonably expeditious investigation and evaluation if the reportable information becomes known during the course of the investigation. In lieu of the investigation, the firm may report the information immediately.

[43 FR 34998, Aug. 7, 1978, as amended at 57 FR 34230, Aug. 4, 1992]

§ 1115.15 Confidentiality and disclosure of data.

(a) *General.* The Commission does not routinely make reports available to the public until the staff has made a preliminary hazard determination. Copies of reports will not be available to the public in the Commission's public reading room, and information contained in reports will not ordinarily be disclosed to the public in the absence of a formal request.

(b) *Freedom of Information Act.* Any person who submits information to the Commission who believes that any portion of the information is entitled to exemption from public disclosure under the provisions of the Freedom of Information Act, as amended (15 U.S.C. 552(b)), of the CPSA, as amended, or of another Federal statute must accompany the submission with a written request that the information be considered exempt from disclosure or indicate that a written request will be submitted within 10 working days of the submission. The request shall (1) identify the portions of the information for which exemption is claimed, which may include the identity of the reporting firm and the fact that it is making a report, and (2) state the facts and reasons which support the claimed ex-

emption. After the staff has made its preliminary hazard determination, and regardless of whether or not the staff preliminarily determines that a product presents a substantial product hazard, the Commission will no longer honor requests for exempt status for the identity of the reporting firm, the identity of the consumer product, and the nature of the reported alleged defect or noncompliance. This information, together with the staff's preliminary hazard determination, will be made available to the public in the Commission's public reading room. Information for which exempt status is claimed (such as alleged trade secrets, confidential commercial or financial information, or information the disclosure of which would constitute an unwarranted invasion of personal privacy) shall not be released to the public except in accordance with the applicable statute or the Commission's Freedom of Information Act regulations (16 CFR part 1015).

(c) *Section 6(b) of the CPSA.* The Commission believes that the first two sentences in section 6(b)(1) of the CPSA (15 U.S.C. 2055(b)(1)) apply to affirmative dissemination of information by the Commission (such as press releases or fact sheets distributed to the public) from which the public may ascertain readily the identity of the product's manufacturer and/or private labeler. Manufacturers and private labelers will ordinarily be given 30 days' notice before the Commission makes such affirmative disseminations. However, this 30-day notice will not apply if the Commission finds that a lesser notice period is required in the interest of public health and safety.

Subpart B—Remedial Actions and Sanctions

§ 1115.20 Voluntary remedial actions.

As appropriate, the Commission will attempt to protect the public from substantial product hazards by seeking one or more of the following voluntary remedies:

(a) *Corrective action plans.* A corrective action plan is a document, signed by a subject firm, which sets forth the remedial action which the firm will voluntarily undertake to protect the