

## Consumer Product Safety Commission

## § 1115.13

(1) Information about engineering, quality control, or production data.

(2) Information about safety-related production or design change(s).

(3) Product liability suits and/or claims for personal injury or damage.

(4) Information from an independent testing laboratory.

(5) Complaints from a consumer or consumer group.

(6) Information received from the Commission or other governmental agency.

(7) Information received from other firms, including requests to return a product or for replacement or credit. This includes both requests made by distributors and retailers to the manufacturer and requests from the manufacturer that products be returned.

(g) *Evaluating substantial risk of injury.* Information which should be or has been reported under section 15(b) of the CPSA does not automatically indicate the presence of a substantial product hazard. On a case-by-case basis the Commission and the staff will determine whether a defect or noncompliance exists and whether it results in a substantial risk of injury to the public. In deciding whether to report, subject firms may be guided by the following criteria the staff and the Commission use in determining whether a substantial product hazard exists:

(1) *Hazard created by defect.* Section 15(a)(2) of the CPSA lists factors to be considered in determining whether a defect creates a substantial risk of injury. These factors are set forth in the disjunctive. Therefore, the existence of any one of the factors could create a substantial product hazard. The Commission and the staff will consider some or all of the following factors, as appropriate, in determining the substantiality of a hazard created by a product defect:

(i) *Pattern of defect.* The Commission and the staff will consider whether the defect arises from the design, composition, contents, construction, finish, packaging, warnings, or instructions of the product or from some other cause and will consider the conditions under which the defect manifests itself.

(ii) *Number of defective products distributed in commerce.* Even one defective product can present a substantial risk

of injury and provide a basis for a substantial product hazard determination under section 15 of the CPSA if the injury which might occur is serious and/or if the injury is likely to occur. However, a few defective products with no potential for causing serious injury and little likelihood of injuring even in a minor way will not ordinarily provide a proper basis for a substantial product hazard determination. The Commission also recognizes that the number of products remaining with consumers is a relevant consideration.

(iii) *Severity of the risk.* A risk is severe if the injury which might occur is serious and/or if the injury is likely to occur. In considering the likelihood of any injury the Commission and the staff will consider the number of injuries reported to have occurred, the intended or reasonably foreseeable use or misuse of the product, and the population group exposed to the product (e.g., children, elderly, handicapped).

(iv) *Other considerations.* The Commission and the staff will consider all other relevant factors.

(2) *Hazard presented by noncompliance.* Section 15(a)(1) of the CPSA states that a substantial product hazard exists when a failure to comply with an applicable consumer product safety rule creates a substantial risk of injury to the public. Therefore, the Commission and staff will consider whether the noncompliance is likely to result in injury when determining whether the noncompliance creates a substantial product hazard. As appropriate, the Commission and staff may consider some or all of the factors set forth in paragraph (f)(1) of this section in reaching the substantial product hazard determination.

[43 FR 34998, Aug. 7, 1978, as amended at 57 FR 34229, Aug. 4, 1992; 66 FR 54925, Oct. 31, 2001; 71 FR 42031, July 25, 2006]

### § 1115.13 Content and form of reports; delegations of authority.

(a) *Written reports.* The chief executive officer of the subject firm should sign any written reports to the Commission under section 15(b) of the CPSA unless this responsibility has

§ 1115.13

16 CFR Ch. II (1-1-11 Edition)

been delegated by filing a written delegation of authority with the Commission's Office of Compliance and Enforcement, Division of Corrective Actions. Delegations of authority filed with the Commission under §1115.9 of the previous regulations interpreting section 15 of the CPSA will remain in effect until revoked by the chief executive officer of the subject firm. The delegation may be in the following form:

DELEGATION OF AUTHORITY

(Name of company) \_\_\_\_\_  
I \_\_\_\_\_ hereby certify that I am Chief Executive Officer of the above-named company and that as such I am authorized to sign documents and to certify on behalf of said company the accuracy and completeness of information in such documents.

Pursuant to the power vested in me, I hereby delegate all or, to the extent indicated below, a portion of that authority to the person listed below.

This delegation is effective until revoked in writing. Authority delegated to:

(Name) \_\_\_\_\_  
(Address) \_\_\_\_\_  
(Title) \_\_\_\_\_

Extent of authority: \_\_\_\_\_

Signed:  
(Name) \_\_\_\_\_  
(Address) \_\_\_\_\_  
(Title) \_\_\_\_\_

(b) *Distributors and retailers.* A distributor or retailer of a product (who is neither a manufacturer nor an importer of that product) satisfies the initial reporting requirements either by telephoning or writing the Office of Compliance and Enforcement, Division of Corrective Actions, Consumer Product Safety Commission, Washington, DC 20207, phone 301-504-0608; by sending a letter describing the noncompliance, defect or risk of injury to the manufacturer (or importer) of the product and sending a copy of the letter to the Commission's Division of Corrective Actions; or by forwarding to the Commission's Division of Corrective Actions reportable information received from another firm. A distributor or retailer who receives reportable information from a manufacturer (or importer) shall report to the Commission unless the manufacturer (or importer) informs the distributor or retailer that a report has been made to the Commission. A report under this paragraph should contain the information detailed in paragraph (c) of this section insofar as

it is known to the distributor or retailer. Unless further information is requested by the staff, this action will constitute a sufficient report insofar as the distributor or retailer is concerned.

(c) *Initial report.* Immediately after a subject firm has obtained information which reasonably supports the conclusion that a product fails to comply with an applicable consumer product safety rule or a voluntary standard, contains a defect which could create a substantial risk of serious injury or death, the subject firm should provide the Division of Corrective Actions, Office of Compliance, Consumer Product Safety Commission, Washington, DC 20207 (telephone: 301-504-0608), with an initial report containing the information listed in paragraphs (c) (1) through (6) of this section. This initial report may be made by any means, but if it is not in writing, it should be confirmed in writing within 48 hours of the initial report. (See §1115.14 for time computations.) The initial report should contain, insofar as is reasonably available and/or applicable:

- (1) An identification and description of the product.
- (2) The name and address of the manufacturer (or importer) or, if the manufacturer or importer is not known, the names and addresses of all known distributors and retailers of the product.
- (3) The nature and extent of the possible defect, the failure to comply, or the risk.
- (4) The nature and extent of the injury or risk of injury associated with the product.
- (5) The name and address of the person informing the Commission.
- (6) To the extent such information is then reasonably available, the data specified in §1115.13(d).

(d) *Full report.* Subject firms which file initial reports are required to file full reports in accordance with this paragraph. Retailers and distributors may satisfy their reporting obligations in accordance with §1115.13(b). At any time after an initial report, the staff may modify the requirements detailed in this section with respect to any subject firm. If the staff preliminarily determines that there is no substantial product hazard, it may inform the firm that its reporting obligation has been

## Consumer Product Safety Commission

## § 1115.14

fulfilled. However, a subject firm would be required to report if it later became aware of new information indicating a reportable defect, noncompliance, or risk, whether the new information related to the same or another consumer product. Unless modified by staff action, the following information, to the extent that it is reasonably available and/or applicable, constitutes a "full report," must be submitted to the staff, and must be supplemented or corrected as new or different information becomes known:

(1) The name, address, and title of the person submitting the "full report" to the Commission.

(2) The name and address of the manufacturer (or importer) of the product and the addresses of the manufacturing plants for that product.

(3) An identification and description of the product(s). Give retail prices, model numbers, serial numbers, and date codes. Describe any identifying marks and their location on the product. Provide a picture or a sample of the product.

(4) A description of the nature of the defect, failure to comply, or risk. If technical drawings, test results, schematics, diagrams, blueprints, or other graphic depictions are available, attach copies.

(5) The nature of the injury or the possible injury associated with the product defect, failure to comply, or risk.

(6) The manner in which and the date when the information about the defect, noncompliance, or risk (e.g., complaints, reported injuries, quality control testing) was obtained. If any complaints related to the safety of the product or any allegations or reports of injuries associated with the product have been received, copies of such complaints or reports (or a summary thereof) shall be attached. Give a chronological account of facts or events leading to the report under section 15(b) of the CPSA, beginning with receipt of the first information which ultimately led to the report. Also included may be an analysis of these facts or events.

(7) The total number of products and units involved.

(8) The dates when products and units were manufactured, imported, distributed, and sold at retail.

(9) The number of products and units in each of the following: in the possession of the manufacturer or importer, in the possession of private labelers, in 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.