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CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, D.C. 20207

OCT 1 5 1974

Ms. Gladys M. Kiernan
Vice President
Association of General
Merchandise Chains
1625 Eye Street, N.W.
Washington, D. C. 20006

Dear Ms. Kiernan:

This is in response to your letter of September 20, 1974, concerning the notice-posting requirements of the repurchase regulations under section 15 of the Federal Hazardous Substances Act.

The notice-posting requirements for retail dealers were intended to be complied with when the retail dealer received notice from the manufacturer or distributor that a particular product was a banned hazardous substance. Therefore, although a retail dealer who sells or has sold a banned hazardous substance is obligated to repurchase such substance from any person to whom it was sold, the dealer is not required to commence the posting of notices until notification is received from the manufacturer or distributor as provided for under section 1500.202(f)(1) of the regulations. Normally, notification from any other source will not be sufficient to require the dealer to post notices. However, should the distributor or manufacturer be out of business, it may become necessary for the Commission to directly notify the dealer.

Please contact me if you have any further questions regarding this matter.

Sincerely,

Michael A. Brown
General Counsel

ADVISORY OPINION

Agmc

ASSOCIATION OF GENERAL MERCHANDISE CHAINS, INC.
1625 Eye Street, N.W., Washington, D.C. 20006 • (202) 785-2060

September 20, 1974

Mr. Steven Lenberg
Office of the General Counsel
Consumer Product Safety Commission
1750 K Street, N. W.
Washington, DC

Gentlemen:

We shall appreciate your advice on the following question relating to the obligation of a retailer to place a banned article or substance on the "Banned Articles or Substances List" required under the Hazardous Substances Act.

It is our understanding that a retailer is obligated to place an article or substance on the "Banned Articles or Substances List" only when he receives actual notice of such banning from the actual manufacturer of the article or substance. It is our understanding that this provision applies both to private brand merchandise and nonprivate brand merchandise.

The issuance of an order banning numerous types of aerosol household products effective October 7, 1974, makes it imperative that almost immediate decisions be made as to the handling of such products. We shall therefore appreciate an answer as soon as possible.

Sincerely,

Gladys M. Kiernan

Gladys M. Kiernan
Vice President

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Consumer Product Safety Commission
Office of the General Counsel