Secretary

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CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, D.C. 20207

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25 OCT 1974

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No Mfrs Identified
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Lowell R. Bowen, Esquire
Miles & Stockbridge
10 Light Street
Baltimore, Maryland 21202

Dear Mr. Bowen:

This is in reply to your letter of September 26, 1974 regarding the applicability of the notification requirement of section 15(b) of the Consumer Product Safety Act and the regulations promulgated thereunder.

Your letter describes a situation in which a manufacturer determined that one of his products could result in serious injury to the user. The manufacturer conducted a notification, recall and repair campaign resulting in removing or correcting 62% of the dangerous units. All of this occurred prior to May 14, 1973, the date on which the Consumer Product Safety Commission was activated. Subsequent to the activation of the Commission, the manufacturer has received information regarding one personal injury resulting from malfunction of the product and the manufacturer has received 12 guaranty registration cards indicating that defective units are still being sold to consumers.

It is our opinion that the manufacturer should make a section 15(b) report to the Commission. As the Commission noted in its responses to the comments regarding the section 15 regulations: "[E]very manufacturer, distributor, or retailer who obtains information after May 14, 1973, which reasonably supports the conclusion that a consumer product, which has been distributed in commerce and which has come or could come into the hands of the consuming public, contains a defect or a failure to comply with an applicable consumer product safety rule, is required to notify the Commission in accordance with section 15(b) and the regulation promulgated below."

ADVISORY OPINION

According to the situation described above, the manufacturer has received information that defective products are still coming into the hands of the consuming public and that the product is continuing to result in personal injury. For the Commission to determine if further corrective action is necessary to protect the public, it needs the section 15(b) report from the manufacturer.

As we pointed out in our letter to Emerson Electric Co. to which you referred, notification under section 15(b) of the regulation does not necessarily indicate that a substantial product hazard does exist or that further remedial action is necessary. In reporting under section 15(b), the manufacturer should describe the history of the matter, including a description of the corrective steps already taken by the manufacturer. Such information will be useful to the Commission in determining if a substantial product hazard exists and if further remedial action is indicated.

Sincerely,

Michael A. Brown
General Counsel