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John Hayward, Esquire
20 Garden Street
Cambridge, Massachusetts 02138

Dear Mr. Hayward:

This letter is in response to your telephone call on November 15, 1974 in behalf of Consumers Union of America. You inquired whether Consumers Union could incorporate by reference various provisions of voluntary standards into the recommended standard for power lawn mowers being developed by them under section 7 of the Consumer Product Safety Act (15 U.S.C. 205).

Although incorporation by reference of voluntary standards is not specifically precluded by the regulations issued under section 7 of the Act (16 CFR 1105), or the Agreement entered into between Consumers Union and the Consumer Product Safety Commission, we believe an incorporation by reference should be avoided wherever possible. A recommended standard submitted to the Commission by an offeror should be complete in one document. This will facilitate access to the complete recommended standard by interested persons. It will also eliminate the possibility of persons encountering difficulty or delay in obtaining copies of those portions of a standard that have been incorporated by reference. In this regard, 1 CFR 51.4(c) specifies that the Director of the Federal Register will approve an incorporation by reference only when the matter incorporated is in fact available to the extent necessary to afford fairness and uniformity in the administrative process. Accordingly, we believe an offeror should avoid incorporation by reference of provisions of a recommended standard to be submitted to the Commission.

Sincerely,

Original signed by
David Schneltzer

David Schneltzer
Acting Deputy General Counsel

ADVISORY OPINION