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U.S. CONSUMER PRODUCT SAFETY COMMISSION

WASHINGTON, D.C. 20207

July 1, 1976

Christopher Smith, Esq.
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RECEIVED OFFICE OF CONSUMER PRODUCT SAFETY COMMISSION JUL 2 11 12 AM '76

Dear Mr. Smith:

This letter is in response to your correspondence of June 17, 1976 in which you inquired whether the installation provisions of the swimming pool slide safety standard, 16 CFR section 1207.6, apply to pool slides manufactured before the effective date of the standard, July 17, 1976, but installed after the effective date.

As a preface to our response to your inquiry, it should be noted that the installation provisions of the swimming pool slide safety standard are recommendations only, since the Commission believes that it does not have the authority to directly require that pool slides be installed in a particular location. This issue was discussed in the preamble to the swimming pool slide standard, (41 FR 2742-2743). Since the installation provisions are recommendations, failure to install a slide as recommended in the standard would not be a prohibited act under section 19 of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2068). However, the Commission's standard does require, under the authority of section 7(a)(2) of the CPSA (15 U.S.C. 2056(a)(2)), that slides shall be delivered to the user-installer with a set of detailed installation instructions which includes the data and illustrations specified in section 1207.6. This provision is enforceable under the authority of section 19(a)(1) of the CPSA.

ADVISORY OPINION

In regard to your specific inquiry, it is the view of the Office of the General Counsel that under section 9(d) of the CPSA (15 U.S.C. 2058(d)), the standard for swimming pool slides (16 CFR section 1207), including the recommended installation provisions of the standard, do not apply to pool slides manufactured prior to the effective date of the standard but installed after that date.

The statements in this letter represent the current interpretation of the law by the Office of the General Counsel. Our opinions could be subsequently modified or withdrawn at any time by action of the Commission.

Sincerely,

Margaret A. Freeston

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Assistant General Counsel

Arent, Fox, Kintner, Plotkin & Kahn

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June 17, 1976

HAND DELIVERED

Margaret A. Freeston, Esquire
Assistant General Counsel
Office of General Counsel
Consumer Product Safety Commission
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Dear Ms. Freeston:

On June 9, 1976, the Consumer Product Safety Commission published an amendment to the safety standard for swimming pool slides (12 C.R.F. Part 1207) to clarify that "the standard applies only to those swimming pool slides manufactured after the effective date of the standard, July 17, 1976." 41 Fed. Reg. 23186-87.

In view of the June 9 amendment, do the installation provisions of the swimming pool slide safety standard, 16 C.F.R. §1207.6, apply to pool slides manufactured before the effective date of the standard, July 17, 1976, but installed after the July 17 effective date? For example, would the installation provisions of the swimming pool slide safety standard apply to a pool slide manufactured on July 1, 1976, but installed on September 15, 1976?

Since the swimming pool slide safety rule takes effect in one month, I would very much appreciate a response to the question set forth above at your earliest convenience.

Yours very truly,

Christopher Smith

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