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11 FEB 1974

Professor Roy M. Carter
Department of Wood and
Paper Science
North Carolina State University
School of Forest Resources
Box 5488
Raleigh, North Carolina 27607

Dear Professor Carter:

This is in response to your letter of November 26, 1973 forwarded to our office by Mr. Ron Eisenberg on December 18, 1973, in which you inquired about the latest policies and requirements regarding a manufacturer's product liability.

The Consumer Product Safety Commission is concerned with a manufacturer's product liability only to the extent that a consumer product which a manufacturer produces violates a consumer product safety rule adopted by the Commission, or contains a defect which could create a substantial product hazard.

In this regard, section 15(b) of the Consumer Product Safety Act requires manufacturers, distributors and retailers of consumer products who obtained information which reasonably supports the conclusion that such product fails to comply with a consumer product safety rule or contains a defect which creates a substantial risk of injury to immediately report this information to the Commission. Pursuant to section 15(c) of the Act, if the Commission determines, after an appropriate hearing, that a product distributed in commerce presents a substantial product hazard and that notification is required in order to adequately protect the public from such hazard, the Commission may order the manufacturer, or any distributor or retailer of the product to take any of the following actions:

(1) to give public notice of the defect or failure to comply,

(2) to mail notice to each person who is a manufacturer, distributor, or retailer of such product,

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(3) to mail notice to every person to whom the person required to give notice knows such product was delivered or sold.

Under section 15(d), if the Commission determines, after an appropriate hearing, that a product distributed in commerce presents a substantial product hazard it may, if it believes it is in the public interest, order the manufacturer, or any distributor or retailer of such product to take whichever of the following actions the person to whom the order is directed elects:

(1) to bring the product into conformity with the requirements of an applicable product safety rule or to repair the defect in the product.

(2) to replace the product with a like or equivalent product which complies with an applicable consumer product safety rule or which does not contain the defect.

(3) to refund the purchase price of the product (less a reasonable allowance for use, if such product has been in the possession of a consumer for one year or more.

In addition, section 23 of the Act (15 U.S.C. 2072) allows any person injured as a result of any knowing (including willful) violation of a consumer product safety rule or order issued by the Commission to sue any person who knowingly (including willfully) violated any such rule or order in the appropriate United States district court. This remedy is in addition to any other remedy provided by common law or Federal or State law. Further, any interested person, may, pursuant to section 24 of the Act, (15 U.S.C. 2074) bring an action in the appropriate U.S. district court to enforce a consumer product safety rule - provided 30 days notice by registered mail is given to the Commission, to the United States Attorney General, and to the person against whom the action is directed.

A copy of our Act is enclosed for your information. If we may be of further assistance please let me know.

Sincerely,
Original signed by
Michael A. Brown

Michael A. Brown
General Counsel

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Enclosure

MABrown:dmg:2/7/74

bc: S. Dunn

F. Barrett
R. Eisenberg
A. Schoem

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