

66 by
cleared
5/19/83
lat

FILE

- CPSA Sec. 3(a)(1)

#294



U.S. CONSUMER PRODUCT SAFETY COMMISSION

WASHINGTON, D. C. 20207

January 25, 1983

OFFICE OF THE
GENERAL COUNSEL

Mr. F. Roy O'Neal
Vice President
PRO/Inc.
4225 Pro Street
P.O. Box 9349
Shreveport, Louisiana 71109

Dear Mr. O'Neal:

Your letter of September 14, 1982, to Paul Galvydis of the Commission's Division of Regulatory Management has been forwarded to the Office of the General Counsel for a response since our office issues determinations of whether products are "consumer products" as defined in section 3(a)(1) of the Consumer Product Safety Act (CPSA), 15 U.S.C. § 2052(a)(1). We apologize for the delay in responding.

There have been no exemptions or deferments granted from the Safety Standard for Walk-Behind Power Lawn Mowers, 16 C.F.R. Part 1205, with respect to mowers that would be otherwise covered by the standard's terms. Section 1205.1 (c) of the standard (copy enclosed) expressly excludes certain large, heavy, and powerful mowers, and reel-type mowers, from the standard. In addition, it has been determined that certain mowers are not covered by the standard because their blades are not "rigid or semi-rigid" as specified in the definition of "blade" in § 1205.3(a)(1) of the standard. An example of this type of mower would be a mower using a thin monofilament cutting element.

Furthermore, in order to be included within the scope of the standard, a mower must be a "consumer product" as defined in section 3(a)(1) of the CPSA, a copy of which is enclosed for your information. See. § 1205.1(b) of the standard. The legislative history of the CPSA indicates that this definition does not include products that are not used more than occasionally by consumers. The "exemptions" that you refer to in your letter would appear to be determinations we have made in response to requests about particular mower models concerning whether, based on the information currently available concerning the use and distribution patterns for each model, we would consider the mowers of that model to be consumer products.

ADVISORY OPINION

Your letter requests that you be advised of the manufacturers and models involved in such determinations, and we have assembled the letters that we have written to various companies concerning this subject. However, before we can disclose the names of particular products or manufacturers, we are **required** by statute to comply with the provisions of section 6 of the CPSA (copy enclosed). Therefore, we have forwarded copies of these letters to the Commission's Freedom of Information Office. They will perform the necessary clearance procedures and then send you the materials that we can release.

I hope that this letter, and the additional materials that you will receive, **will** be fully responsive to your request. Please contact me if you have any additional questions.

Sincerely,


Harleigh Ewell
Attorney

Enclosures (3)

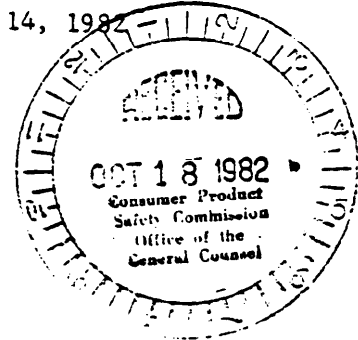


HIGH WHEEL MOWERS
EDGERS

PRO/ inc.
4225 PRO ST. / P. O. 80X 9349
PHONE A. C. 318 / 635-8184
SHREVEPORT, LOUISIANA 71109

*to OBE
Industrial in design
concern vs. commercial*

September 14, 1982



Mr. Paul J. Galvydis
Division of Regulatory Management
U. S. Consumer Product Safety Commission
Washington, D.C. 20207

Dear Mr. Galvydis :

We are both a manufacturer of high wheel rotary power mowers, utilizing a belt drive, and a distributor for another major brand of rotary mowers.

Our product is designed and produced primarily for the heavier, commercial type applications, and at the present time there seem to be many varying interpretations, and what may be classified as "rumors" in the industry concerning the status of the type equipment we manufacture.

We are certainly interested in making our mowers safe for the operator, but as you can imagine, also have to be concerned about a competitive advantage that other manufacturers of similar equipment might have, should they be granted an exemption or deferment.

Since we are presently aware of two manufacturers that have been granted an exemption at this time on some of their mowers, we will appreciate being advised of any manufacturers, the particular models, and the basis for the exemption and/or deferment that have been granted at this time. In order to target the area we are interested in more closely, we are primarily interested in walk behind mowers of less than 30 inch cut, utilizing a belt drive from the engine to the blade.

We appreciate your attention and will look forward to receiving this information.

Yours very truly,

PRO/ Inc.

F. Roy O'Neal
Vice President

cc: L. Johnson