

Consumer Product Safety Commission

§ 1115.11

considered by staff in making the determination of whether and what type of corrective action may be required.

[71 FR 42030, July 25, 2006]

§ 1115.9 [Reserved]

§ 1115.10 Persons who must report and where to report.

(a) Every manufacturer (including importer), distributor, or retailer of a consumer product that has been distributed in commerce who obtains information that such consumer product contains a defect which could create a substantial risk of injury to the public shall immediately notify the Office of Compliance, Division of Corrective Actions, Consumer Product Safety Commission, Washington, DC 20207 (telephone: 301-504-0608), or such other persons as may be designated. Manufacturers (including importers), distributors, and retailers of consumer products subject to regulation by the Commission under provisions of the FFA, FHSA, PPPA, as well as consumer products subject to regulation under the CPSA and RSA, must comply with this requirement.

(b) Every manufacturer (including importer), distributor, or retailer of a consumer product that has been distributed in commerce who obtains information that such consumer product fails to comply with an applicable consumer product safety standard or ban issued under the CPSA shall immediately notify the Commission's Office of Compliance and Enforcement, Division of Corrective Actions or such other persons as may be designated. A subject firm need not report a failure to comply with a standard or regulation issued under the provisions of the RSA, FFA, FHSA, or PPPA unless it can be reasonably concluded that the failure to comply results in a defect which could create a substantial product hazard. (See paragraph (a) of this section.)

(c) Every manufacturer (including importer), distributor, and retailer of a consumer product that has been distributed in commerce who obtains information that such consumer product fails to comply with a voluntary consumer product safety standard upon which the Commission has relied under

section 9 of the CPSA, shall immediately notify the Commission's Office of Compliance and Enforcement, Division of Corrective Actions or such other persons as may be designated.

(d) Every manufacturer (including importer), distributor, and retailer of a consumer product that has been distributed in commerce who obtains information that such consumer product creates an unreasonable risk of serious injury or death shall immediately notify the Commission's Office of Compliance and Enforcement, Division of Corrective Actions or such other persons as may be designated. This obligation applies to manufacturers, distributors and retailers of consumer products subject to regulation by the Commission under the Flammable Fabrics Act, Federal Hazardous Substances Act, Poison Prevention Packaging Act, and Refrigerator Safety Act as well as products subject to regulation under the CPSA.

(e) A distributor or retailer of a consumer product (who is neither a manufacturer nor an importer of that product) is subject to the reporting requirements of section 15(b) of the CPSA but may satisfy them by following the procedure detailed in § 1115.13(b).

(f) A manufacturer (including an importer), distributor, or retailer need not inform the Commission under section 15(b) of the CPSA if that person has actual knowledge that the Commission has been adequately informed of the defect or failure to comply. (See section 15(b) of the CPSA.)

[43 FR 34998, Aug. 7, 1978, as amended at 57 FR 34229, Aug. 4, 1992; 62 FR 46667, Sept. 4, 1997]

§ 1115.11 Imputed knowledge.

(a) In evaluating whether or when a subject firm should have reported, the Commission will deem a subject firm to have obtained reportable information when the information has been received by an official or employee who may reasonably be expected to be capable of appreciating the significance of the information. (See § 1115.14(b).)

(b) In evaluating whether or when a subject firm should have reported, the Commission will deem a subject firm to know what a reasonable person acting in the circumstances in which the firm finds itself would know. Thus, the