

§ 1115.3

death, immediately to inform the Commission, unless the manufacturer (including an importer), distributor or retailer has actual knowledge that the Commission has been adequately informed of such failure to comply, defect, or risk. This provision indicates that a broad spectrum of safety related information should be reported under section 15(b) of the CPSA.

(c) Sections 15 (c) and (d) of the CPSA, (15 U.S.C. 2064(c) and (d)), empower the Commission to order a manufacturer (including an importer), distributor, or retailer of a consumer product distributed in commerce that presents a substantial product hazard to give various forms of notice to the public of the defect or the failure to comply and/or to order the subject firm to elect either to repair, to replace, or to refund the purchase price of such product. However, information which should be reported under section 15(b) of the CPSA does not automatically indicate the presence of a substantial product hazard, because what must be reported under section 15(b) are failures to comply with consumer product safety rules or voluntary standards upon which the Commission has relied under section 9, defects that could create a substantial product hazard, and products which create an unreasonable risk of serious injury or death. (See § 1115.12.)

(d) The provisions of this part 1115 deal with all consumer products (including imports) subject to regulation under the Consumer Product Safety Act, as amended (15 U.S.C. 2051-2081) (CPSA), and the Refrigerator Safety Act (15 U.S.C. 1211-1214) (RSA). In addition, the Commission has found that risks of injury to the public from consumer products subject to regulation under the Flammable Fabrics Act (15 U.S.C. 1191-1204) (FFA), the Federal Hazardous Substances Act (15 U.S.C. 1261-1274) (FHSA), and the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471-1476) (PPPA) cannot be eliminated or reduced to a sufficient extent in a timely fashion under those acts. Therefore, pursuant to section 30(d) of the CPSA (15 U.S.C. 2079(d)), manufacturers (including importers), distributors, and retailers of consumer products which are subject to regula-

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tion under provisions of the FFA, FHSA, and PPPA must comply with the reporting requirements of section 15(b).

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§ 1115.3 Definitions.

In addition to the definitions given in section 3 of the CPSA (15 U.S.C. 2052), the following definitions apply:

(a) *Adequately informed* under section 15(b) of the CPSA means that the Commission staff has received the information requested under §§ 1115.12 and/or 1115.13 of this part insofar as it is reasonably available and applicable or that the staff has informed the subject firm that the staff is adequately informed.

(b) *Commission meeting* means the joint deliberations of at least a majority of the Commission where such deliberations determine or result in the conduct or disposition of official Commission business. This term is synonymous with "Commission meeting" as defined in the Commission's regulation issued under the Government in the Sunshine Act, 16 CFR part 1012.

(c) *Noncompliance* means the failure of a consumer product to comply with an applicable consumer product safety rule or with a voluntary consumer product safety standard upon which the Commission has relied under section 9 of the CPSA.

(d) A *person* means a corporation, company, association, firm, partnership, society, joint stock company, or individual.

(e) *Staff* means the staff of the Consumer Product Safety Commission unless otherwise stated.

(f) *Subject firm* means any manufacturer (including an importer), distributor, or retailer of a consumer product.

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§ 1115.4 Defect.

Section 15(b)(2) of the CPSA requires every manufacturer (including an importer), distributor, and retailer of a consumer product who obtains information which reasonably supports the conclusion that the product contains a