

FOR FURTHER INFORMATION CONTACT: Jean A. Webb, (202) 418-5100 or <http://www.cftc.gov>.

Jean A. Webb,

Secretary of the Commission.

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CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 02-2]

Daisy Manufacturing Company, Provisional Acceptance of Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: The Commission publishes in the **Federal Register** settlements that it provisionally accepts under the Consumer Product Safety Act, in accordance with 16 CFR. 1115.20. Published below is a provisionally-accepted Settlement Agreement with Daisy Manufacturing Co., Inc. Referenced exhibits are available at the Office of the Secretary or at <http://www.cpsc.gov>.

DATE: Any interested person may request the Commission not to accept this agreement by December 26, 2003.

ADDRESS: Send written requests to CPSC Docket No. 02-2, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Todd A. Stevenson, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 504-7923; e-mail: tstevenson@cpsc.gov.

SUPPLEMENTARY INFORMATION: The text of the Consent Agreement and Order appears below.

Consent Agreement and Order

1. This Consent Agreement and Order is a settlement proposal by Daisy Manufacturing Company (hereinafter "Respondent" or "Daisy") pursuant to provisions set forth in 16 CFR 1025.26. It proposes a compromise resolution of the matter described herein, without a hearing or a determination of issues of law and fact.

2. Respondent Daisy Manufacturing Company is a corporation organized and existing under the laws of the State of Delaware. Its office is located at 400 West Stribling Drive, Rogers, Arkansas 72756. Respondent is a manufacturer of Daisy brand airguns and Powerline airguns.

The Complaint

3. A description of the alleged hazards, as set forth in the complaint is attached hereto as Exhibit A.

The Position of Respondent

4. Respondent denies all of the staff's allegations as set forth in the complaint as set forth in the Answer attached hereto as Exhibit B.

5. Respondent denies that the airguns described in the complaint contain a defect which creates or could create a substantial product hazard under section 15 of the CPSA, 15 U.S.C. 2064 and section 15 of the FHSA, 15 U.S.C. 1274.

The Proposed Settlement

6. Respondent admits all of the jurisdictional facts as set forth in the complaint herein.

7. Upon final acceptance of this Consent Agreement by the Commission and the issuance of the Final Order herein, Respondent knowingly, voluntarily and expressly waives any rights it may have in this matter (1) To an administrative or judicial hearing, (2) to judicial review or other challenge or contest of the validity of the Commission's actions, (3) to a determination by the Commission as to whether Respondent failed to comply with the CPSA and FHSA, as alleged, (4) to a statement of findings of fact and conclusions of law, and all further procedural steps and all rights to seek judicial review or otherwise to contest the validity of the Commission Order approving this Consent Agreement and (5) to any claims under the Equal Access to Justice Act.

8. The allegations of the complaint herein are resolved by this settlement consisting of a Consent Agreement and Order.

9. This Consent Agreement is entered into for settlement purposes only and does not constitute an admission by Respondent or a determination by the Commission, and settles any claim raised in the complaint by the Commission under Section 15(a) and (d) of the CPSA, and under Section 15 of the FHSA.

10. Upon provisional acceptance of this Consent Agreement and Order by the Commission, this Consent Agreement and Order shall be placed on the public record and shall be published in the **Federal Register** in accordance with the procedures set forth in 16 CFR 1115.20(b).

11. The Commission and Respondent propose to take the following action to settle this proceeding:

A. The following issues raised by the complaint in this proceeding, namely:

(i) The possibility of uniform industry standards for loading and feeding of BB's in all multishot airguns to insure that an airgun, when operated in accordance with the manufacturer's operating instructions, will load, feed or fire properly.

(ii) What is the appropriate age for intended users of airguns that fire projectiles at more than 350 feet per second? (The parties recognize that the present standard is 16 years of age.) shall be submitted for resolution to ASTM Subcommittee F15.06 for the purpose of consideration and determination, in the sole discretion of the Subcommittee, of the extent to which, if at all, they shall be addressed in the voluntary standards ASTM F589 and F590.

The remaining allegations in the complaint are withdrawn and resolved.

B. Respondent will undertake an intensive campaign to instruct users in the safe handling and use of its airguns, at its sole cost and expense during each of the next five (5) years, under the title "Take Aim At Safety". The campaign will include:

(i) a comprehensive media advertising effort titled "Take Aim at Safety". It will be conducted in each year, which began in 2002/2003, for five (5) years, at a cost to Respondent of in excess of \$300,000 per year, for a total of \$1,500,000. The campaign is described in detail in Exhibit C annexed hereto.

(ii) Daisy will promote safety by the publication and distribution of ten important safety rules, which, if followed, would eliminate every incident, injury or death associated with Daisy's high velocity airguns. Consumers will be encouraged to visit Daisy's Web site to learn Daisy's ten shooting safety rules and earn a safety certificate. They will be eligible to enter a contest to win a VIP tour of the USA Shooting Team Training facility in Colorado Springs, Colorado, annexed as Exhibit D. Each participant will receive a free copy of Daisy's shooting safety rules.

(iii) A sample ad, to be placed in trade and consumer publications, is annexed as Exhibit E.

(iv) Respondent will apply a "Take Aim At Safety" label to the face of all Daisy brand and Powerline brand long gun packaging. The objectives, audiences, and strategies of the media and packaging campaign to be conducted by Respondent is broadly outlined in Exhibit F.

(v) In February 2004 and in each of the four succeeding years thereafter, Daisy will advise the U.S. Consumer Product Safety Commission in writing