

Summary of Request

On September 30, 2003, NMFS received a request from BPXA for a renewal of an LOA issued on September 18, 2000 (65 FR 58265, September 28, 2000) and reissued on December 14, 2001 (66 FR 65923, December 21, 2001), and December 9, 2002 (67 FR 77750, December 19, 2002) for the taking of marine mammals incidental to oil production operations at Northstar, under section 101(a)(5)(A) of the MMPA. This request (BPXA, 2003) contains information in compliance with 50 CFR 216.209, which updates information provided in BPXA's original application for takings incidental to construction and operations at Northstar. The current LOA for the taking of marine mammals incidental to oil production at the Northstar facility will expire on December 9, 2003.

Impacts on marine mammals may occur through noise from barge, helicopter traffic, drilling, and other noise sources on the island facility. Impacts may also result if there is an oil spill resulting from production. While noise impacts on marine mammals will be low (activities on Northstar Island will make less noise than that from standard jack-up rigs, the concrete island drilling structure, or seismic activity), bowhead whales will likely hear the noise at distances up to 10 km (6.2 mi) from the island. In addition, there may be some harassment, injury, or mortality of ringed seals during winter ice-road construction. Noise impacts may result in Level B harassment of approximately 765 bowheads (i.e., the LOA authorizes up to 765 bowheads annually, with a maximum of 1,533 in 2 out of 5 seasons, and a total of 3,585 in 5 years), 5 gray whales and 91 beluga whales. Year-round operations at Northstar may result in the harassment of up to approximately 191 ringed seals, 10 bearded seals, and 5 spotted seals being harassed and the incidental mortality of up to 5 ringed seal pups. No take is authorized for an oil spill. NMFS and BPXA believe that these estimates remain conservative since, for example, monitoring between November, 2001 and October, 2002 indicate that approximately 110 ringed seals, 1 bearded seal and 10–20 beluga whales were present in the area and potentially may have been affected (Moulton *et al.*, 2003). MacLean and Williams (2003) and Moulton *et al.* (2003) indicate that Northstar production probably had little or no effect on most of the seals and no seals were injured or killed by activities along the ice road or operations at

Northstar Island during the late 2002 through early 2003 ice-covered season.

The best estimates of the numbers of bowhead whales displaced offshore by 2 km (1.2 mi) or more during the autumn migrations of 2001 and 2002 were approximately 13 and 19 respectively (Moulton *et al.*, 2003). Presumably, a larger number of bowheads was displaced by less than 2 km (1.2 mi), but current monitoring methods are not capable of quantifying displacement over distances shorter than 2 km (BPXA, 2003). These estimates are based on acoustic monitoring of bowhead whales passing Northstar in the fall, 2001 and 2002 (Greene *et al.*, 2002, 2003). It is possible that the apparent offshore deflection of a small number of bowheads was, at least in part, attributable to a change in calling behavior rather than an actual deflection (BPXA, 2003).

As oil spills are highly unlikely, impacts on marine mammals from an oil spill are also unlikely to take place. However, in order to mitigate the potential for impacts on bowheads and the subsistence use of bowheads, BPXA will not drill into oil-bearing strata during periods of open water or broken ice, essentially the time period between June 13 and ending with the presence of 18 inches of continuous ice cover for one-half mile in all directions. This mitigation is warranted because oil spill cleanup methods are currently inadequate. Additional mitigation has been proposed by BPXA to the North Slope Borough native community to ensure that, in the event that an oil spill does occur, it will not have an unmitigable adverse impact on the subsistence use of the bowhead whale.

Monitoring and Reporting

Monitoring and reporting requirements are contained in the Northstar regulations (50 CFR 216.206) and described on May 25, 2000 (65 FR 34014). Additional information was provided on December 21, 2001 (66 FR 65923) when NMFS issued an LOA to BPXA for oil production at Northstar. Monitoring reports are submitted annually as required by the regulations and the LOA and plans and reports are peer-reviewed as required by the MMPA and regulations. A list of these reports is available upon request (see ADDRESSES). In June, 2003, a peer-review meeting was held in Seattle, WA. Participants at that meeting recommended that the future characteristics of the project be reviewed in early- to mid-2004 by a technical committee, which might be constituted and convened under the auspices of the North Slope Borough's

Science Advisory Committee. BPXA plans to continue monitoring in 2003/2004 as suggested by the Seattle peer-review panel and accepted by NMFS.

Determinations

Accordingly, NMFS issued an LOA to BPXA on December 4, 2003, authorizing the taking of marine mammals incidental to oil production operations at the Northstar offshore oil and gas facility in state and federal waters in the U.S. Beaufort Sea. Issuance is based on findings, described in the preamble to the final rule (65 FR 34014, May 25, 2000), that the activities described in the LOA will result in the taking of no more than small numbers of bowhead whales, beluga whales, ringed seals, and, possibly California gray whales, bearded seals and spotted seals and that the total taking will have a negligible impact on these marine mammal stocks and would not have an unmitigable adverse impact on the availability of these species or stocks for taking for subsistence uses. NMFS also prescribed the means for effecting the least practicable adverse impact on these stocks. As the results from the monitoring program carried out since 1999 have not indicated that the determinations made in 2000 and 2001 were in error, nor that estimated levels of incidental harassment have been exceeded, and as the activity that was reviewed in 2001 (oil production activities) has not changed, these determinations remain valid.

Dated: December 4, 2003.

Stephen L. Leathery,

*Acting Director, Office of Protected Resources,
National Marine Fisheries Service.*

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COMMODITIES FUTURE TRADING COMMISSION

Sunshine Act Meetings

AGENCY: Commodity Futures Trading

TIME AND DATE: 1 p.m., Wednesday, December 17, 2003.

PLACE: 1155 21st St., NW., Washington, DC, Room 1012.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hold a hearing to receive testimony from industry participants relating to the Commission's consideration of the application of U.S. Futures Exchange, LLC, for contract market designation.

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

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 03-30712 Filed 12-8-03; 1:07 pm]

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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