

the table. One set of legs is composed of two individual legs that are affixed together by one or more cross-braces using welds or fastening hardware. In contrast, folding metal tables have legs that mechanically fold independently of one another, and not as a set.

(2) Assembled and unassembled folding chairs made primarily or exclusively from steel or other metal ("folding metal chairs"). Folding metal chairs include chairs with one or more cross-braces, regardless of shape or size, affixed to the front and/or rear legs with rivets, welds or any other type of fastener. Folding metal chairs include: Those that are made solely of steel or other metal; those that have a back pad, a seat pad, or both a back pad and a seat pad; and those that have seats or backs made of plastic or other materials. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded from the scope of folding metal chairs are the following:

- a. Folding metal chairs with a wooden back or seat, or both;
- b. Lawn furniture;
- c. Stools;
- d. Chairs with arms; and
- e. Child-sized chairs.

The subject merchandise is currently classifiable under subheadings 9401710010, 9401710030, 9401790045, 9401790050, 9403200010, 9403200030, 9403708010, 9403708020, and 9403708030 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the merchandise is dispositive.

These amended final results of this new shipper review and notice are in accordance with sections 751(h) and 777(i) of the Act and 19 CFR 351.224(e).

Dated: January 11, 2005.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E5-209 Filed 1-19-05; 8:45 am]

BILLING CODE 3510-DS-P

## CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 05-C0005]

### Polaris Industries Inc., Provisional Acceptance of a Settlement Agreement and Order

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice.

**SUMMARY:** It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1118.20(e). Published below is a provisionally-accepted Settlement Agreement with Polaris Industries Inc., containing a civil penalty of \$950,000.00.

**DATES:** Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by February 7, 2005.

**ADDRESSES:** Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 05-C005, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

**FOR FURTHER INFORMATION CONTACT:** Seth B. Popkin, Trial Attorney, Office of Compliance, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504-7612.

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

Dated: January 13, 2005.

**Todd A. Stevenson,**  
*Secretary.*

### Settlement Agreement and Order

1. In accordance with 16 CFR 1118.20, Polaris Industries Inc. ("Polaris") and the staff ("Staff") of the United States Consumer Product Safety Commission ("Commission") enter into this Settlement Agreement ("Agreement"). The Agreement and the incorporated attached Order ("Order") settle the Staff's allegations set forth below.

### Parties

2. The Commission is an independent federal regulatory agency established pursuant to, and responsible for the enforcement of, the Consumer Product Safety Act, 15 U.S.C. 2051-2084 ("CPSA").

3. Polaris is a corporation organized and existing under the laws of the state of Minnesota. Its principal offices are located at 2100 Highway 55, Medina, MN 55340. Polaris designs and manufactures all terrain vehicles (ATVs) and other vehicles.

### Staff Allegations

#### Throttle Control

4. From December 1998 through July 2000, Polaris manufactured and/or sold a total of approximately 13,600 units of certain 1999 Scrambler 400, Sport 400, and Xplorer 400 ATVs, and of certain

2000 Scrambler 400 and Xplorer 400 ATV's ("400cc ATVs").

5. Each 400cc ATV is a "consumer product" that Polaris "distributed in commerce," and Polaris is a "manufacturer" of a consumer product, as those terms are defined in sections 3(a)(1), (4), (11), and (12) of the CPSA, 15 U.S.C. 2052(a)(1), (4), (11), and (12).

6. The throttle on the 400cc ATVs could stick as a result of the throttle cable becoming caught on the throttle control cover, preventing the ATVs from slowing down or stopping when riders released the throttle lever. A stuck throttle can cause an ATV rider to lose control and crash, possibly resulting in severe injury or death.

7. From December 1998 to May 2000, Polaris received 88 reports of 400cc ATV throttles that stuck as a direct or apparent result of the cable becoming caught on the throttle control cover. In 19 of the 88 reports, the stuck throttle caused crashes, other accidents, or damage, and in 7 of the 88 reports, the stuck throttle caused injuries. The injuries included, among others, a dislocated hip, a broken shoulder, and torn back muscles.

8. From September 1999 to May 2000, Polaris obtained knowledge about the 400cc ATVs' throttle defect, hazard, and risk, and Polaris made 3 engineering changes to address the defect. As of the end of September 1999, Polaris had received 47 of the 88 stuck throttle reports, it had received several reports from dealers who specifically noted the defect's characteristics, and it had begun engineering changes to address the defect. As of January 2000, Polaris had received additional reports, made 2 engineering changes, decided on a further engineering change, and successfully tested revised parts.

9. By September 30, 1999, Polaris had obtained information that reasonably supported the conclusion that the 400cc ATVs contained a defect that could create a substantial product hazard or that they created an unreasonable risk of serious injury or death. Sections 15(b)(2) and (3) of the CPSA, 15 U.S.C. 2064(b)(2) and (3), required Polaris to immediately inform the Commission of such defect or risk.

10. Polaris did not report to the Commission regarding the 400cc ATVs until May 23, 2000, thereby failing to immediately inform the Commission as required by sections 15(b)(2) and (3) of the CPSA, 15 U.S.C. 2064(b)(2) and (3). This failure violated section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4).

11. Polaris knowingly failed to immediately inform the Commission of the 400cc ATVs' defect or risk, as the term "knowingly" is defined in section

20(d) of the CPSA, 15 U.S.C. 2069(d). Pursuant to section 20 of the CPSA, 15 U.S.C. 2069, this failure subjected Polaris to civil penalties.

#### *Oil Line*

12. From January 1999 through August 2000, Polaris manufactured and/or sold a total of approximately 55,500 units of 2000 and 2001 Xpedition 325, Trail Boss 325, and Magnum 325 ATVs ("325cc ATVs").

13. Each 325cc ATV is a "consumer product" that Polaris "distributed in commerce," and Polaris is a "manufacturer" of a consumer product, as those terms are defined in sections 3(a)(1), (4), (11), and (12) of the CPSA, 15 U.S.C. 2052(a)(1), (4), (11), and (12).

14. The oil lines on the 325cc ATVs disconnected, blew off, loosened, or leaked, spraying or otherwise discharging hot pressurized oil. The discharging oil could cause the ATV and its surroundings to catch on fire, and the hot oil and fires could cause severe injury or death.

15. From March 1999 to February 2001, Polaris received at least 1,447 reports of 325cc ATV oil lines that disconnected, blew off, loosened, or leaked. In 61 of the 1,447 reports, the discharging hot oil caused smoke, fire, melting, or accidents, and in 42 of those 61 reports the discharging hot oil caused the 325cc ATVs and/or their surroundings to catch on fire. In 18 of the 1,447 reports, the discharging hot oil caused injuries, including 2nd and 3rd degree burns and scarring.

16. From February 2000 to January 2001, Polaris acquired extensive knowledge about the 325cc ATV's oil line defect, hazard and risk. Polaris monitored claim reports, conducted engineering analyses, and made 4 engineering changes to address the defect.

17. From May 2000 to January 2001, Polaris sent at least 5 alerts to its dealers about the 325cc ATVs' oil line defect.

18. By February 2000, Polaris had obtained information that reasonably supported the conclusion that the 325cc ATVs contained a defect that could create a substantial product hazard or that they created an unreasonable risk of serious injury or death. Sections 15(b)(2) and (3) of the CPSA, 15 U.S.C. 2064(b)(2) and (3), required Polaris to immediately inform the Commission of such defect or risk.

19. Polaris did not report to the Commission regarding the 325cc ATVs until after the Staff requested a report in December 2000. Polaris submitted a report in February 2001. As a result, Polaris failed to immediately inform the Commission as required by sections

15(b)(2) and (3) of the CPSA, 15 U.S.C. 2064(b)(2) and (3). This failure violated section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4).

20. Polaris knowingly failed to immediately inform the Commission of the 325cc ATVs' defect or risk, as the term "knowingly" is defined in section 20(d) of the CPSA, 15 U.S.C. 2069(d). Pursuant to section 20 of the CPSA, 15 U.S.C. 2069, this failure subjected Polaris to civil penalties.

#### **Polaris Response**

21. Polaris vigorously contests and denies the Staff's allegations set forth above in this Agreement. Polaris enters into this Agreement to resolve the Staff's claims without the expense and distraction of litigation. By agreeing to this settlement, Polaris does not admit any of the allegations set forth above in this Agreement, or any fault, liability, or statutory or regulatory violation.

#### **Agreement of the Parties**

22. Under the CPSA, the Commission has jurisdiction over this matter and over Polaris.

23. The parties enter into this Agreement for settlement purposes only. The Agreement does not constitute an admission by Polaris, or a determination by the Commission, that Polaris has violated the CPSA.

24. In settlement of the Staff's allegations, Polaris shall pay a civil penalty in the amount of nine hundred and fifty thousand dollars (\$950,000.00) within twenty (20) calendar days of service of the Commission's final Order accepting this Agreement. The payment shall be by check payable to the order of the United States Treasury.

25. Upon the Commission's provisional acceptance of the Agreement, the Agreement shall be placed on the public record and published in the **Federal Register** in accordance with the procedures set forth in the 16 CFR 1118.20(e). If the Commission does not receive any written request not to accept the Agreement within fifteen (15) days, the Agreement shall be deemed finally accepted on the sixteenth (16th) day after the date it is published in the **Federal Register**.

26. Upon the Commission's final acceptance of the Agreement and issuance of the final Order, Polaris knowingly, voluntarily, and completely waives any rights it may have in this matter to the following: (1) An administrative or judicial hearing; (2) judicial review or other challenge or contest of the validity of the Commission's Order or actions; (3) a determination by the Commission of

whether Polaris failed to comply with the CPSA and its underlying regulations; (4) a statement of findings of fact and conclusions of law; and (5) any claims under the Equal Access to Justice Act.

27. The Commission may publicize the terms of the Agreement and Order.

28. The Agreement and Order shall apply to, and be binding upon, Polaris and each of the successors and assigns.

29. The Commission issues the Order under the provisions of the CPSA, and violation of the Order may subject Polaris to appropriate legal action.

30. The Agreement may be used in interpreting the Order. Understandings, agreements, representations, or interpretations apart from those contained in the Agreement and Order may not be used to vary or contradict their terms. The Agreement shall not be waived, amended, modified, or otherwise altered, except in a writing that is executed by the party against whom such waiver, amendment, modification, or alteration is sought to be enforced, and that is approved by the Commission.

31. If after the effective date hereof, any provision of the Agreement and Order is held to be illegal, invalid, or unenforceable under present or future laws effective during the terms of the Agreement and Order, such provision shall be fully severable. The balance of the Agreement and Order shall remain in full force and effect, unless the Commission and Polaris determine that severing the provision materially affects the purpose of the Agreement and Order.

Polaris Industries Inc.

Dated: December 13, 2004.

Mary P. McConnell,

*Vice President and General Counsel, Polaris Industries Inc., 2100 Highway 55, Medina, MN 55340.*

Granta Y. Nakayama, Esq.,

*Kirkland & Ellis LLP, 655 Fifteenth Street, NW., Suite 1200, Washington, DC 20005, Counsel for Polaris Industries Inc.*

U.S. Consumer Product Safety Commission Staff.

Nicholas V. Marchica,

*Acting Assistant Executive Director, Office of Compliance.*

Eric L. Stone,

*Director, Legal Division, Office of Compliance.*

Dated: December 14, 2004.

Seth B. Popkin,

*Trial Attorney, Legal Division, Office of Compliance.*

**Order**

Upon consideration of the Settlement Agreement entered into between Polaris Industries Inc. ("Polaris") and the U.S. Consumer Product Safety Commission ("Commission") staff, and the Commission having jurisdiction over the subject matter and over Polaris, and it appearing that the Settlement Agreement and Order is in the public interest, it is

Ordered, that the Settlement Agreement be, and hereby is, accepted; and it is

Further ordered, that Polaris shall pay a civil penalty in the amount of nine hundred and fifty thousand dollars (\$950,000.00) within twenty (20) calendar days of service of the final Order upon Polaris. The payment shall be made by check payable to the order of the United States Treasury. Upon the failure of Polaris to make the foregoing payment when due, interest on the unpaid amount shall accrue and be paid by Polaris at the federal legal rate of interest set forth in the provisions of 28 U.S.C. 1961(a) and (b).

Provisionally accepted and Provisional Order issued on the 13th day of January, 2005.

By order of the Commission.

**Todd A. Stevenson,**

*Secretary, Consumer Product Safety Commission.*

[FR Doc. 05-1049 Filed 1-19-05; 8:45 am]

**BILLING CODE 6355-01-M**

needs of the Department of Defense. At these meetings, the Defense Science Board Task Force will examine the oversight function with respect to Title 10 and military department regulations to ensure that proper checks and balances exist. The Task Force will review whether simplification of the acquisition structure could improve both efficiency and oversight.

**FOR FURTHER INFORMATION CONTACT:**

LtCol Scott Dolgoff, Defense Science Board, 3140 Defense Pentagon, Room 3D865, Washington, DC 20301-3140, via e-mail at [scott.dolgoff@osd.mil](mailto:scott.dolgoff@osd.mil), or via phone at (703) 695-4158.

**SUPPLEMENTARY INFORMATION:** Members of the public who wish to attend the meeting must contact LtCol Dolgoff no later than January 21, 2005, and for further information about admission as seating is limited. Additionally, those who wish to make oral comments or deliver written comments should also request to be scheduled, and submit a written text of the comments by January 21, 2005, to allow time for distribution to Task Force members prior to the meeting. Individual oral comments will be limited to five minutes, with the total oral comment period not exceeding 30 minutes.

Dated: January 13, 2005.

**Jeannette Owings-Ballard,**

*OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 05-1052 Filed 1-19-05; 8:45 am]

**BILLING CODE 5001-06-M**

be to evaluate force protection in the context of post major combat operations that have been conducted in Iraq and Afghanistan. In the operations, loss of national treasure—military and civilian, U.S. and other nations—has resulted from actions executed by non-state and rogue actors. The threat and capabilities these insurgent, terrorist and criminal actions present post a most serious challenge to our ability to achieve unified action.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92-463, as amended (5 U.S.C. App. 2), it has been determined that these Defense Science Board Task Force meetings concern matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, these meetings will be closed to the public.

Dated: January 11, 2005.

**Jeannette Owings-Ballard,**

*OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 05-1053 Filed 1-19-05; 8:45 am]

**BILLING CODE 5001-06-M**

**DEPARTMENT OF DEFENSE****Department of the Air Force****Privacy Act of 1974; System of Records**

**AGENCY:** Department of the Air Force, DoD.

**ACTION:** Notice to amend systems of records.

**SUMMARY:** The Department of the Air Force is amending three systems of records notices in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

**DATES:** This proposed action will be effective without further notice on February 22, 2005 unless comments are received which result in a contrary determination.

**ADDRESSES:** Send comments to the Air Force Privacy Act Manager, Office of the Chief Information Officer, AF-CIO/P, 1155 Air Force Pentagon, Washington, DC 20330-1155.

**FOR FURTHER INFORMATION CONTACT:** Ms. Eugenia Harms at (703) 696-6280.

**SUPPLEMENTARY INFORMATION:** The Department of the Air Force systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth

**DEPARTMENT OF DEFENSE****Office of the Secretary****Defense Science Board**

**AGENCY:** Department of Defense.

**ACTION:** Notice of Advisory Committee meeting.

**SUMMARY:** The Defense Science Board Task Force on Management Oversight of Acquisition Organizations will meet in open session on January 27-28, 2005, at SAIC, 4001 N. Fairfax Drive, Arlington, VA. This Task Force should assess whether all major acquisition organizations within the Department have adequate management and oversight processes, including what changes might be necessary to implement such processes where needed.

The missions of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived

**DEPARTMENT OF DEFENSE****Office of the Secretary****Defense Science Board**

**AGENCY:** Department of Defense.

**ACTION:** Notice of Advisory Committee Meeting.

**SUMMARY:** The Defense Science Board Task Force on Force Protection in Urban and Unconventional Environments will meet in closed session on January 25-26, 2005, at SAI, 3601 Wilson Boulevard, Arlington, VA. This Task Force will review and evaluate force protection capabilities in urban and unconventional environments and provide recommendations to effect change to the future Joint Force.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. Specifically, the Task Force's foci will