

NAO216\_6\_TOC.pdf, and the Council on Environmental Quality implementation regulations, [http://ceq.eh.doe.gov/nepa/regs/ceq/toc\\_ceq.htm](http://ceq.eh.doe.gov/nepa/regs/ceq/toc_ceq.htm). Consequently, as part of an applicant's package, and under their description of their program activities, applicants are required to provide detailed information on the activities to be conducted, locations, sites, species and habitat to be affected, possible construction activities, and any environmental concerns that may exist (e.g., the use and disposal of hazardous or toxic chemicals, introduction of non-indigenous species, impacts to endangered and threatened species, aquaculture projects, and impacts to coral reef systems). In addition to providing specific information that will serve as the basis for any required impact analyses, applicants may also be requested to assist NOAA in drafting of an environmental assessment, if NOAA determines an assessment is required. Applicants will also be required to cooperate with NOAA in identifying feasible measures to reduce or avoid any identified adverse environmental impacts of their proposal. The failure to do so shall be grounds for not selecting an application. In some cases if additional information is required after an application is selected, funds can be withheld by the Grants Officer under a special award condition requiring the recipient to submit additional environmental compliance information sufficient to enable NOAA to make an assessment on any impacts that a project may have on the environment.

#### **The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements**

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of December 30, 2004 (69 FR 78389), are applicable to this solicitation.

#### **Paperwork Reduction Act**

This document contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The use of Standard Forms 424, 424A, 424B, and SF-LLL and CD-346 has been approved by the Office of Management and Budget (OMB) under the respective control numbers 0348-0043, 0348-0044, 0348-0040, 0348-0046, and 0605-0001.

Notwithstanding any other provision of law, no person is required to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of

information displays a currently valid OMB control number.

#### **Executive Order 12866**

This notice has been determined to be not significant for purposes of Executive Order 12866.

#### **Executive Order 13132 (Federalism)**

It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

#### **Administrative Procedure Act/Regulatory Flexibility Act**

Prior notice and an opportunity for public comment are not required by the Administrative Procedure Act or any other law for rules concerning public property, loans, grants, benefits, and contracts (5 U.S.C. 553(a)(2)). Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements for the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis has not been prepared.

Dated: December 5, 2005.

**Helen Hurcombe,**

*Director, NOAA Acquisitions and Grants, U.S. Department of Commerce.*

[FR Doc. E5-7101 Filed 12-8-05; 8:45 am]

**BILLING CODE 3510-KC-P**

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### **CONSUMER PRODUCT SAFETY COMMISSION**

[CPSC Docket No. 06-C0001]

#### **SMC Marketing Corp., a Corporation, 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 SMC Marketing Corp., a corporation, containing a civil penalty of \$500,000.00.

**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 December 27, 2005.

**ADDRESSES:** Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 06-C0001, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

**FOR FURTHER INFORMATION CONTACT:** Howard N. Tarnoff, Trial Attorney, Office of Compliance, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504-7589.

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

Dated: December 6, 2005.

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

#### **Settlement Agreement and Order**

1. This Settlement Agreement is made by and between the staff (the "staff") of the U.S. Consumer Product Safety Commission (the "Commission") and SMC Marketing Corp. ("SMC"), a corporation, in accordance with 16 CFR 1118.20 of the Commission's procedures for Investigations, Inspections, and Inquiries under the Consumer Product Safety Act ("CPSA"). This Settlement Agreement and the incorporated attached Order settle the staff's allegations set forth below.

#### **The Parties**

2. The Commission is an independent federal regulatory agency responsible for the enforcement of the Consumer Product Safety Act, 15 U.S.C. 2051-2084.

3. SMC is a corporation organized and existing under the laws of the State of Texas with its principal corporate office located in Grand Prairie, Texas. At all times relevant herein, SMC imported, sold, and marketed oscillating floor fans, ceiling fans, vacuum cleaners, and DVD players, among other consumer products. SMC is a wholly-owned subsidiary of Shell Electric Mfg. (Holdings) Co. Ltd. ("Shell Electric Holdings"), a foreign corporation.

#### **Staff Allegations**

4. From April 1998 through April 2001, SMC imported into the United States and sold approximately 2,342 Model SR-18 Fans. From January 1997 through October 2001, Shell Electric Mfg. (China) Co. Ltd., a foreign corporation and also a wholly-owned subsidiary of Shell Electric Holdings, exported to the United States approximately 2.2 million 18-inch pedestal oscillating floor fans with model numbers SR-18 and SP-18 bearing the SMC label ("the Fans").

5. The Fans are "consumer products" and, at the times relevant herein, SMC was a "manufacturer" or "retailer" or "consumer products," which were "distributed in commerce" as those terms are defined in sections 3(a)(1), (4), (6), (11), and (12) of the CPSA, 15 U.S.C. 2052(a)(1), (4), (6), (11), and (12).

6. The Fans are defective because the electric power cord can be damaged by the oscillation motion of the fan. The damage to the cord can result in a short circuit and possible ignition of the plastic case, posing a fire hazard.

7. Between November 29, 1999 and January 7, 2004, SMC learned about at least 46 incidents of malfunction with the Fans which resulted in allegations of either fire or smoke damage to consumers' homes, and one alleged personal injury. SMC did not inform the Commission about the full extent of these incidents until June 6, 2004, when it submitted a Section 15 report, and December 14, 2004, when it submitted additional information.

8. During a CPSC staff inspection of SMC on December 23, 2002, SMC provided a CPSC investigator with information about only 2 incidents with the Fans, despite the fact that SMC was aware of numerous incidents of malfunction with the Fans which allegedly caused fire or smoke damage to consumers' homes. When the CPSC staff conducted a second inspection of SMC on August 5, 2003, SMC did not provide the CPSC investigator with any additional incidents, despite the fact that it was aware of additional incidents involving the Fans that allegedly caused fire or smoke damage to homes.

9. Although SMC had obtained sufficient information to reasonably support the conclusion that the Fans contained a defect which could create a substantial product hazard, or created an unreasonable risk of serious injury or death, long before June 6, 2004, it failed to immediately inform the Commission of such defect or risk as required by Sections 15(b)(2) and (3) of the CPSA, 15 U.S.C. 2064(b)(2) and (3). In failing to do so, SMC "knowingly" violated Section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4), as the term "knowingly" is defined in Section 20(d) of the CPSA, 15 U.S.C. 2069(d).

10. Pursuant to Section 20 of the CPSA, 15 U.S.C. 2069, SMC is subject to civil penalties for its failure to make a timely report pursuant to Section 15(b) of the CPSA, 15 U.S.C. 2064(b).

#### Response of SMC

11. SMC denies the allegations of the staff that the Fans contain a defect which could create a substantial product hazard, or create an

unreasonable risk of serious injury or death, and denies that it violated the reporting requirements of Section 15(b) of the CPSA, 15 U.S.C. 2064(b). SMC further did not "knowingly" violate any reporting requirements under the CPSA.

12. At all times when the Commission staff conducted its inspections, SMC attempted to cooperate fully by providing samples of claims and samples of products, and believed it was both responsive to all inspectors' requests and voluntarily cooperative.

13. Upon the request of the CPSC staff, SMC filed a report pursuant to Section 15(b) of the Consumer Product Safety Act 15, U.S.C. 2064(b), voluntarily met with the staff to discuss the potential problem with the Fans, and additionally cooperated fully with the Commission in voluntarily recalling the Fans beginning in June 2004.

#### Agreement of the Parties

14. The Commission has jurisdiction over this matter and over SMC under the CPSA, 15 U.S.C. 2051–2084.

15. In settlement of the staff's allegations, SMC agrees to pay a civil penalty of five hundred thousand dollars (\$500,000) in three installments. The first installment of one hundred sixty-six thousand dollars (\$166,000) shall be paid within thirty (30) calendar days of service of the Final Order of the Commission accepting this Settlement Agreement. The second installment of one hundred sixty-seven thousand dollars (\$167,000) shall be paid within sixty (60) calendar days of service of the Final Order of the Commission accepting this Settlement Agreement. The third installment of one hundred sixty-seven thousand dollars (\$167,000) shall be paid within ninety (90) calendar days of service of the Final Order of the Commission accepting this Settlement Agreement. These payments shall be made by check payable to the order of the United States Treasury.

16. The parties enter into this Settlement Agreement for settlement purposes only. The Settlement Agreement does not constitute an admission by SMC or a determination by the Commission that SMC has violated the CPSA's reporting requirements.

17. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, the Commission shall place this Agreement and Order on the public record and shall publish it in the **Federal Register** in accordance with the procedure set forth in 16 CFR

1118.20(e). If the Commission does not receive any written request not to accept the Settlement Agreement and Order within 15 days, the Agreement and

Order shall be deemed finally accepted on the 16th day after the date it is published in the **Federal Register**.

18. Upon final acceptance of this Settlement Agreement by the Commission and issuance of the Final Order, SMC knowingly, voluntarily and completely waives any rights it may have in this matter to the following: (i) An administrative or judicial hearing; (ii) judicial review or other challenge or contest of the validity of the Commission's actions; (iii) a determination by the Commission as to whether SMC failed to comply with the CPSA and its underlying regulations; (iv) a statement of findings of fact and conclusions of law; and (v) any claims under the Equal Access to Justice Act.

19. The Commission may publicize the terms of the Settlement Agreement and Order.

20. This Settlement Agreement and Order shall apply to, and be binding upon, SMC and each of its successors and assigns.

21. The Commission's Order in this matter is issued under the provisions of the CPSA, 15 U.S.C. 2051–2084, and a violation of the Order may subject SMC to appropriate legal action.

22. This Settlement Agreement may be used in interpreting the Order. Agreements, understandings, representations, or interpretations made outside of this Settlement Agreement and Order may not be used to vary or contradict its terms.

23. This Settlement Agreement and Order shall not be waived, changed, amended, modified, or otherwise altered without written agreement thereto executed by the party against whom such amendment, modification, alteration, or waiver is sought to be enforced and approval by the Commission.

24. If, after the effective date hereof, any provision of this Settlement Agreement and Order is held to be illegal, invalid, or enforceable under present or future laws effective during the terms of the Settlement Agreement and Order, such provision shall be fully severable. The rest of the Settlement Agreement and Order shall remain in full effect, unless the Commission and SMC determine that severing the provision materially changes the purpose of the Settlement Agreement and Order.

SMC Marketing Corp.

Dated: October 31, 2005.

David Leung,  
Senior Vice President—Marketing & Sales,  
SMC Marketing Corp., 1931 North Great  
Southwest Parkway, Grand Prairie, Texas  
75050.

Dated: October 31, 2005.

James E. Singer, Esq.,  
 Bovis, Kyle & Burch, LLC, 53 Perimeter  
 Center East, Third Floor, Atlanta, GA  
 30346-2298, Counsel for SMC Marketing  
 Corp.

U.S. Consumer Product Safety Commission.

John Gibson Mullan,  
 Director, Office of Compliance.

Ronald G. Yelenik,  
 Acting Director, Legal Division, Office of  
 Compliance.

Dated: November 7, 2005.

Howard N. Parnoff,  
 Trial Attorney, Legal Division, Office of  
 Compliance.

## Order

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

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

II. *Further Ordered* that SMC shall pay a civil penalty of five hundred thousand dollars (\$500,000) in three installments. The first installment of one hundred sixty-six thousand dollars (\$166,000) shall be paid within thirty (30) calendar days of service of the Final Order of the Commission accepting the Settlement Agreement. The second installment of one hundred sixty-seven thousand dollars (\$167,000) shall be paid within sixty (60) calendar days of service of the Final Order of the Commission accepting the Settlement Agreement. The third installment of one hundred sixty-seven thousand dollars (\$167,000) shall be paid within ninety (90) calendar days of service of the Final Order of the Commission accepting the Settlement Agreement. These payments shall be made by check payable to the order of the United States Treasury. Upon the failure of SMC to make a payment or upon the making of a late payment, (i) the entire amount of the civil penalty shall become due and payable, and (ii) interest on the outstanding balance shall accrue and be paid at the federal legal rate of interest under the provisions of 28 U.S.C. 1961(a) and (b).

Provisionally accepted and Provisional Order issued on the 6th day of December, 2005.

By order of the Commission.

**Todd A. Stevenson,**  
 Secretary, Consumer Product Safety  
 Commission.

[FR Doc. 05-23875 Filed 12-8-05; 8:45 am]

BILLING CODE 6355-01-M

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Proposed Collection; Comment Request

**AGENCY:** Office of the Under Secretary of Defense (Personnel and Readiness), DoD

**ACTION:** Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Under Secretary of Defense (Personnel and Readiness) announces the following proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Consideration will be given to all comments received by February 7, 2006.

**ADDRESSES:** Written comment and recommendations on the proposed information collection should be sent to the Department of Defense Education Activity (DoDEA), 4040 N. Fairfax Drive, 9th Floor, Arlington, VA 22203, ATTN: Sandra Embler.

**FOR FURTHER INFORMATION CONTACT:** To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address or call at (703) 588-3175.

*Title, Form, and OMB Control Number:* Department of Defense Education Activity (DoDEA) Non-Sponsored Research Program; DoDEA Form 1: OMB Control Number 0704-TBD.

*Needs and Uses:* The Department of Defense Education Activity (DoDEA) is a DoD field activity operating under the direction, authority, and control of the Deputy Under Secretary of Defense, Military Community and Family Policy. The DoDEA operates 223 schools in 16 districts located in 13 foreign countries, seven states, Guam, and Puerto Rico. The DoDEA receives requests from researchers to conduct non-DoDEA sponsored research studies in DoDEA schools, districts, and/or areas. To

review the proposed research requests, DoDEA developed Form 1, "Research Study Request," in Administrative Instruction 2071.3 (DoDEA AI 2071.3), to collect information about the researcher, the research project, audience, timeline, and the statistical analyses that will be conducted during the proposed research study. This information is needed to ensure that the proposed non-DoDEA sponsored research does not unduly interfere with the classroom instructional process or the regular operations of the school, district, and/or areas.

*Affected Public:* Individuals or households; business or other for-profit; not-for-profit institutions; and state, local, or tribal government.

*Annual Burden Hours:* 75.

*Number of Respondents:* 75.

*Responses Per Respondent:* 1.

*Average Burden Per Response:* 1 hour.

*Frequency:* On occasion.

#### SUPPLEMENTARY INFORMATION:

##### Summary of Information Collection

The DoDEA Administrative Instruction 2071.3 (DoDEA AI 2071.3) follows DoD Directive 3216.2, "Protection of Human Subjects and Adherence to Ethical Standards in DoD-Supported Research," March 25, 2002, that states "The rights and welfare of human subjects in research supported or conducted by the DoD Components shall be protected. This protection encompasses basic respect for persons, beneficence, and justice in the selection of subjects." To ensure that all non-DoDEA sponsored research conducted in the DoDEA school system complies with these guidelines, DoDEA developed Form 1, "Research Study Request," to collect information from researchers that will be used to evaluate the proposed research study. The data collected is analyzed to determine whether the research unduly interferes with the classroom instructional process or the regular operations of the school, and/or areas. Information collected on the DoDEA "Research Study Request" includes the researcher's name, address, telephone number, e-mail address, FAX number (if available), school affiliation (if applicable), the study title, an abstract of the proposed study, an explanation of how the research study (1) is aligned with the DoDEA Community Strategic Plan, and (2) the impact of the study in the researcher's field of study, the major hypothesis(es) or question(s) to be tested, the population and/or sample to be studied, a description and copy of instruments, other data collection activities, the timetable for the study, and the