

restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Tina O'Hern at the Council (see **ADDRESSES**) at least 5 working days prior to the meeting.

Dated: July 29, 2009.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E9-18403 Filed 7-31-09; 8:45 am]

BILLING CODE 3510-22-S

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 09-C0022]

Downeast Concepts, 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 Downeast Concepts, Inc., containing a civil penalty of \$30,000.00.

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 August 18, 2009.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 09-C0022, Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Room 502, Bethesda, Maryland 20814-4408.

FOR FURTHER INFORMATION CONTACT: M. Reza Malihi, Trial Attorney, Division of Compliance, Office of the General Counsel, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814-4408;

telephone (301) 504-7733 or Neal S. Cohen, Trial Attorney, (same address); telephone (301) 504-7504.

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

Dated: July 28, 2009.

Todd A. Stevenson,
Secretary.

United States of America—Consumer Product Safety Commission

In the Matter of Downeast Concepts, Inc., CPSC Docket No. 09-C0022.

Settlement Agreement

1. In accordance with 16 CFR 1118.20, Downeast Concepts, Inc. ("*Downeast*") and the staff ("*Staff*") of the United States Consumer Product Safety Commission ("*CPSC*" or the "*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. 2051-2089 ("*CPSA*").

3. Downeast is a corporation organized and existing under the laws of Maine, with its principal offices located in Yarmouth, Maine. At all times relevant hereto, Downeast imported and/or sold painted metal water bottles.

Staff Allegations

4. Between February 2006 and February 2007, Downeast imported into the United States about 18,000 units of metal water bottles, marketed under the "Backyard and Beyond" brand and painted with assorted animal and insect graphics on the exterior (Model Numbers: 60442, 60448, 67402, 67404, 67442, 67444, 67742, 67744, 67746 and 67748 ("*Bottle(s)*"). Downeast distributed most of the subject products to major retailers, gift shops, convenience stores, mass merchandise and drug stores nationwide from February 2006 through January 2008 and said products were then sold for about \$8.00 per unit.

5. The Bottles are "consumer product(s)," and, at all times relevant hereto, Downeast was a "manufacturer" of those consumer product(s), which were "distributed in commerce," as those terms are defined in CPSA sections 3(a)(3), (5), (8), and (11), 15 U.S.C. §§ 2052(a)(3), (5), (8), and (11).

6. The Bottles are articles intended to be entrusted to or for use by children, and, therefore, are subject to the requirements of the Commission's Ban of Lead-Containing Paint and Certain Consumer Products Bearing Lead-Containing Paint, 16 CFR part 1303 (the "*Ban*"). Under the Ban, toys and other children's articles must not bear "lead-containing paint," defined as paint or other surface coating materials whose lead content is more than 0.06 percent of the weight of the total nonvolatile content of the paint or the weight of the dried paint film. 16 CFR 1303.2(b)(1).

7. Downeast reported to CPSC on January 25, 2008 that recent testing of samples of the Bottles by an independent laboratory had demonstrated that various colors of paints used to create the designs on the outside surface of the Bottles contained a total lead content ranging from 0.07 percent to as high as 59.78 percent. These levels of lead are in excess of the permissible 0.06 percent limit set forth in the Ban.

8. On March 25, 2008, the Commission and Downeast announced a consumer-level recall of about 18,000 units of the Bottles because "Surface paint on the metal water bottles contains excessive levels of lead, violating the Federal lead paint standard."

9. Although Downeast reported no incidents or injuries associated with the Bottles, it failed to take adequate action to ensure that none would bear or contain lead-containing paint, thereby creating a risk of lead poisoning and adverse health effects to children.

10. The Bottles constitute "banned hazardous products" under CPSA section 8 and the Ban, 15 U.S.C. 2057 and 16 CFR 1303.1(a)(1), 1303.4(b), in that they bear or contain paint or other surface coating materials whose lead content exceeds the permissible limit of 0.06 percent of the weight of the total nonvolatile content of the paint or the weight of the dried paint film.

11. Between February 2006 and January 2008, Downeast manufactured for sale, distributed in commerce, or imported into the United States, or caused one or more of such acts, with respect to the aforesaid banned hazardous Bottles, in violation of section 19(a)(1) of the CPSA, 15 U.S.C. 2068(a)(1). Downeast committed these prohibited acts "knowingly," as that term is defined in section 20(d) of the CPSA, 15 U.S.C. 2069(d).

12. Pursuant to section 20 of the CPSA, 15 U.S.C. 2069, Downeast is subject to civil penalties for the aforementioned violations.

Downeast's Responsive Allegations

13. Downeast denies the Staff's allegations set forth above that Downeast knowingly violated the CPSA.

Agreement of the Parties

14. Under the CPSA, the Commission has jurisdiction over this matter and over Downeast.

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

16. In settlement of the Staff's allegations, Downeast shall pay a civil penalty in the amount of thirty thousand dollars (\$30,000.00). The civil penalty shall be paid within twenty (20) calendar days of service of the Commission's final Order accepting the Agreement. The payment shall be made by check payable to the order of the United States Treasury.

17. 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

16 CFR 1118.20(e). In accordance with 16 CFR 1118.20(f), 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**.

18. Upon the Commission's final acceptance of the Agreement and issuance of the final Order, Downeast 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 Downeast 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.

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

20. The Agreement and Order shall apply to, and be binding upon, Downeast and each of its successors and assigns.

21. The Commission issues the Order under the provisions of the CPSA, and violation of the Order may subject Downeast and each of its successors and assigns to appropriate legal action.

22. 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 its 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.

23. If 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 Downeast agree that severing the provision materially affects the purpose of the Agreement and Order.

Downeast Concepts, Inc.

Dated: 3/18/09.

By:

Frederick H. Palmer,
President, Downeast Concepts, Inc., 86
Downeast Drive, Yarmouth, ME 04096.

Dated: 3/20/09.

By:

David W. Bertoni, Esq.,
Brann & Isaacson, 184 Main Street, P.O. Box
3070, Lewiston, ME 04243, Counsel for
Downeast Concepts, Inc.

U.S. Consumer Product Safety Commission
Staff.

Cheryl A. Falvey,
General Counsel, Office of the General
Counsel.

Ronald G. Yelenik,
Assistant General Counsel, Office of the
General Counsel.

Dated: 4/14/09.

By:

M. Reza Malihi,
Trial Attorney, Office of the General Counsel.

By:

Neal S. Cohen,
Trial Attorney, Office of the General Counsel.

United States of America—Consumer Product Safety Commission

In the Matter of Downeast Concepts, Inc.,
CPSC Docket No. 09–C0022.

Order

Upon consideration of the Settlement Agreement entered into between Downeast Concepts, Inc. (“*Downeast*”) and the U.S. Consumer Product Safety Commission (“*Commission*”) staff, and the Commission having jurisdiction over the subject matter and over Downeast, and it appearing that the Settlement Agreement and Order are in the public interest, it is

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

Further ordered, that Downeast shall pay a civil penalty in the amount of thirty thousand dollars (\$30,000.00). The civil penalty shall be paid within twenty (20) calendar days of service of the Commission's final Order accepting the Agreement. The payment shall be made by check payable to the order of the United States Treasury. Upon the failure of Downeast to make the foregoing payment when due, interest on the outstanding balance shall accrue and be paid by Downeast at the Federal legal rate of interest set forth at 28 U.S.C. 1961(a) and (b).

Provisionally accepted and provisional Order issued on the 8th day of July, 2009.

By Order of the Commission.

Todd A. Stevenson,
Secretary, U.S. Consumer Product Safety
Commission.

[FR Doc. E9–18520 Filed 7–31–09; 8:45 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 09–C0026]

First Learning Company Limited, 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 First Learning Company Limited, containing a civil penalty of \$50,000.00.

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 August 18, 2009.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 09–C0026, Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Room 502, Bethesda, Maryland 20814–4408.

FOR FURTHER INFORMATION CONTACT: M. Reza Malihi, Trial Attorney, Division of Compliance, Office of the General Counsel, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814–4408; telephone (301) 504–7733.

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

Dated: July 28, 2009.

Todd A. Stevenson,
Secretary.

United States of America—Consumer Product Safety Commission

In the Matter of First Learning Company
Limited CPSC Docket No. 09–C0026.

Settlement Agreement and Order

1. In accordance with 16 CFR 1118.20, First Learning Company Limited (“*First Learning*”) and the staff (“*Staff*”) of the United States Consumer Product Safety Commission (“*CPSC*” or the “*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. 2051–2089 (“*CPSA*”).

3. First Learning is a corporation organized and existing under the laws of Hong Kong, People's Republic of China (PRC), with its principal offices located in Kowloon, Hong Kong, PRC. First Learning's network of manufacturer representatives conduct business on its behalf through offices located in the United States. At all times relevant hereto, First Learning manufactured and/or sold toys and other children's products, among other merchandise.

Staff Allegations

4. Between April 2006 and August 2006, First Learning manufactured in China for sale in the United States about 9,400 units of certain “Soldier Bear” toys, including the Soldier Bear Wooden Pull-Along Learning Blocks Wagon, style number 6320, UPC code number 834162002158; the Soldier Bear Time Teacher, style #6231, UPC #834162002646; and the Soldier Bear Wooden Riding Horse, style number 6349, and UPC code number 834162003698 (collectively, “*Soldier Bear Toy(s)*”). From August 2006 through October 2007, First Learning offered the Soldier Bear Toys for