

## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act Meetings

**TIME AND DATE:** 11 a.m., Friday, November 30, 2007.

**PLACE:** 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance Matters.

**CONTACT PERSON FOR MORE INFORMATION:** Sauntia S. Warfield, 202-418-5084.

**David A. Stawick,**

*Secretary of the Commission.*

[FR Doc. 07-5183 Filed 10-16-07; 4:41 pm]

**BILLING CODE 6351-01-M**

## CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 08-C0001]

### TAP Enterprises, Inc., d/b/a Cummins Industrial Tools, 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 TAP Enterprises, Inc., d/b/a Cummins Industrial Tools, a corporation, containing a civil penalty of \$100,000.

**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 November 5, 2007.

**ADDRESSES:** Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 08-C0001, Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Room 502, Bethesda, Maryland 20814-4408.

**FOR FURTHER INFORMATION CONTACT:** Dennis C. Kacoyanis, Trial Attorney, Office of Compliance and Field Operations, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814-4408; telephone (301) 504-7587.

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

Dated: October 15, 2007.

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

### I. 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 TAP Enterprises, Inc., d/b/a/ Cummins Industrial Tools. (“TAP”), a corporation, in accordance with the Commission’s Procedures for Investigations, Inspections, and Inquiries under the Consumer Product Safety Act (“CPSA”), 16 CFR 1118.20. This Settlement Agreement and the incorporated attached Order settle the staff’s allegations set forth below.

### II. The Parties

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

3. TAP is a corporation organized and existing under the laws of the State of Kansas with its principal corporate office located at 650 North Lincoln, Spring Hill, KS 66083. TAP is an importer and retailer of consumer products.

### III. Allegations of the Staff

4. Between June 2004 and March 2006, TAP imported and sold nationwide approximately 11,300 Mini 2-Gallon Pancake Compressors (“air compressor(s)”), Model Number 2112.

5. The air compressors are “consumer products” and at the times relevant herein, TAP was a “manufacturer” and a “retailer” of those 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 air compressors are defective because they contain an undersized power cord which can overheat and pose a fire hazard. In addition, improper assembly of the power cord strain relief component and improper routing of internal conductors can cause a shock hazard to consumers.

7. On or about October 15, 2004, TAP learned from an insurance company of an October 12, 2004 incident, in which a consumer’s workshop/studio caught fire as a result of an allegedly defective air compressor. The fire caused \$30,000 in property damage.

8. On or about June 30, 2005, the Commission’s Clearinghouse sent TAP

the investigational report of the October 12, 2004 incident conducted by a Commission investigator.

9. In September 2005, TAP received an incident report in which a consumer alleged that smoke was coming out of his air compressor. Moreover, before September 2005, TAP became aware of a number of warranty claims involving the air compressors, which appear to relate to the defects described in paragraph 6.

10. Although TAP obtained sufficient information to reasonably support the conclusion that the air compressors contained a defect which could create a substantial product hazard or created an unreasonable risk of serious injury or death, TAP 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).

11. By failing to furnish information as required by section 15(b) of the CPSA, 15 U.S.C. 2064(b), TAP 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).

12. Pursuant to section 20 of the CPSA, 15 U.S.C. 2069, TAP is subject to civil penalties for its failure to report under section 15(b) of the CPSA, 15 U.S.C. 2064(b).

### III. TAP’s Response

13. TAP denies the staff’s allegations that it violated the CPSA as set forth in paragraphs 4 through 12 above.

14. TAP asserts that for purposes of this Settlement Agreement and Order, it is a “manufacturer” as defined by section 3(a)(4) of the CPSA, 15 U.S.C. 2052(a)(4), solely because it is an importer of the subject air compressors. TAP asserts, however, that it did not manufacture the air compressors, nor has it manufactured other consumer products.

15. TAP specifically contests and denies the allegations that it became aware of a number of safety-related warranty claims involving the air compressor before September 2005. Rather, TAP asserts that prior to September 2005, it had received warranty claim requests from consumers that identified only performance-related problems with the compressor (e.g., “not working,” “motor froze,” “won’t build pressure,” “etc.”). These warranty claim requests identified typical performance issues associated with compressors, and they did not infer that there were any potential safety-related issues associated with the product.

16. TAP further asserts that the CPSC did not provide TAP with a copy of a March 28, 2005, CPSC investigational

report, which documented the fire investigator's simulated test of the compressor, until January 20, 2006. TAP did not have sufficient information to reasonably support the conclusion that it should file a section 15(b) report until January 20, 2006.

17. TAP enters into this Settlement Agreement and Order to avoid incurring additional legal costs and expenses. In settling this matter, TAP does not admit any fault, liability, or statutory or regulatory violation, and this Settlement Agreement and Order do not constitute and are not evidence of any fault or wrongdoing on the part of TAP.

#### IV. Agreement of the Parties

18. The Commission has jurisdiction over this matter and over TAP under the Consumer Product Safety Act, 15 U.S.C. 2051–2084.

19. In settlement of the staff's allegations, TAP agrees to pay a civil penalty in the amount of \$100,000.00 as set forth in the attached incorporated Order.

20. The parties enter this Settlement Agreement for settlement purposes only. The Settlement Agreement does not constitute an admission by TAP or a determination by the Commission that TAP violated the CPSA's reporting requirements in accordance with 16 CFR 1118.20(f).

21. Upon provisional acceptance of this Settlement Agreement 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 procedures set forth in 16 CFR 1118.20(e). Unless the Commission receives a written request not to accept the Settlement Agreement and Order within 15 calendar days, the Agreement will be deemed finally accepted on the 16th calendar day after the date it is published in the **Federal Register** in accordance with 16 CFR 1118.20(f).

22. Upon final acceptance of this Settlement Agreement by the Commission and issuance of the Final Order, TAP 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 TAP failed to comply with the CPSA and the underlying regulations; (iv) a statement of findings of fact or conclusions of law; and (v) any claims under the Equal Access to Justice Act.

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

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

25. 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 this Order may subject TAP to appropriate legal action.

26. 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.

27. This Settlement Agreement shall not be waived, changed, amended, modified, or otherwise altered without written agreement thereto executed by TAP and approved by the Commission.

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

TAP Enterprises, Inc.  
d/b/a Cummins Industrial Tools.

Dated: September 6, 2007.

Christopher K. Lyon,  
Vice President, TAP Enterprises, Inc., d/b/a  
Cummins Industrial Tools, 650 North  
Lincoln, Spring Hill, KS 66083.

Dated: September 14, 2007.

Jill M. Zucker, Esquire,  
Bryan Cave, LLP,  
Attorney for TAP Enterprises, Inc., d/b/a  
Cummins Industrial Tools, 700 Thirteenth  
Street, NW., Washington, DC 20005–3906.

Consumer Product Safety Commission.  
John Gibson Mullan,  
Assistant Executive Director, Office of  
Compliance and Field Operations,  
Consumer Product Safety Commission,  
4330 East West Highway, Bethesda, MD  
20814.

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

Dated: September 17, 2007.

Dennis C. Kacoyanis,  
Trial Attorney, Legal Division, Office of  
Compliance and Field Operations.

#### Order

Upon consideration of the Settlement Agreement entered into between TAP Enterprises, Inc., d/b/a Cummins Industrial Tools ("TAP") and the staff of the Consumer Product Safety

Commission ("the Commission"); and the Commission having jurisdiction over the subject matter and TAP; 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 TAP shall pay a civil penalty of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) to the United States Treasury in four installments as follows: TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) shall be paid within twenty (20) calendar days of service of the Final Order upon TAP; TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) shall be paid within 180 days of service of the Final Order upon TAP; TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) shall be paid within 270 days of service of the Final Order upon TAP; and TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) shall be paid within 365 days of service of the Final Order upon TAP. Upon the failure of TAP to make any of the foregoing payments when due, the entire amount of the civil penalty shall become due and payable, and 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 15th day of October, 2007.

By Order of the Commission,  
Todd A. Stevenson,  
Secretary, Consumer Product Safety  
Commission.

[FR Doc. 07–5152 Filed 10–18–07; 8:45 am]

BILLING CODE 6355–01–M

## DEPARTMENT OF DEFENSE

### Office of the Secretary

[Transmittal Nos. 08–03]

#### 36(b)(1) Arms Sales Notification

**AGENCY:** Department of Defense, Defense Security Cooperation Agency.

**ACTION:** Notice.

**SUMMARY:** The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

**FOR FURTHER INFORMATION CONTACT:** Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.