

CONSUMER PRODUCT SAFETY COMMISSION

[CPS Cocket No. 03-C0004]

Blue Coral-Slick-50, 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. Published below is a provisionally-accepted Settlement Agreement with Blue Coral-Slick-50, Inc., containing a civil penalty of \$150,000.00.

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 September 24, 2003.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 03-C0004, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Belinda V. Bell, Trial Attorney, Office of Compliance, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504-7592.

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

Dated: September 3, 2003.

Todd A. Stevenson,
Secretary.

Settlement Agreement and Order

1. Blue Coral-Slick 50, Inc. (hereinafter, "Blue Coral" or "Respondent"), enters into this Settlement Agreement and Order (hereinafter, "Settlement Agreement" or "Agreement") with the staff of the Consumer Product Safety Commission, and agrees to the entry of the attached Order incorporated by reference herein. The purpose of the Settlement Agreement is to settle the staff's allegations that Blue Coral knowingly failed to comply with section 3 of the Poison Prevention Packaging Act (PPPA) and violated sections 4(a) and (c) of the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1263(a) and (c).

The Parties

2. The Commission is an independent federal regulatory agency responsible for

the enforcement of the Federal Hazardous Substances Act ("FHSA"), 15 U.S.C. 1261-1278, and the Poison Prevention Packaging Act ("PPPA"), 15 U.S.C. 1471-76.

3. Blue Coral is a corporation, organized and existing under the laws of the State of Delaware, with its principal office located at 700 Milam Street, Houston, Texas.

Staff Allegations

4. On numerous occasions between September 1998 and August 2001, Blue Coral introduced or caused the introduction into interstate commerce; and received in interstate commerce and delivered or proffered delivery thereof for pay or otherwise, approximately 1 million Rain-X® brand products containing 6% methanol in non-child resistant containers. These products are described as follows: Rain-X® Super Glass Cleaner Concentrate in 10 oz and 16.9 oz bottles; Rain-X® Washer Fluid Concentrate in 10 oz, 16.9 oz, and 1.2 oz pouches; and Rain-X® Washer Fluid Additive in 2 oz pouches.

5. The products identified in paragraph 4 above failed to comply with the Commission's Poison Prevention Packaging Regulation which requires that household substances in liquid form containing 4 percent or more of methanol must be packaged in child resistant packaging. See 16 CFR 1700.14(A)(8).

6. The subject products are misbranded hazardous substances pursuant to section 2(p) of the FHSA, 15 U.S.C. 1261.

7. These misbranded hazardous substances presented in ingesting hazard which could cause blindness, serious illness or death to children.

8. Blue Coral knowingly introduced or caused the introduction into interstate commerce; and received in interstate commerce and delivered or proffered delivery thereof for pay or otherwise, the misbranded hazardous substances, described in paragraph 4 above, as the term knowingly is defined in section 5(c)(5) of the FHSA, in violation of sections 4(a) and (c) of the FHSA, 15 U.S.C. 1263(a) and (c) and is subject to civil penalties under section 5(c)(1) of the FHSA.

Response of Blue Coral

9. Blue Coral denies the staff allegations in paragraph 4 through 8, above. Blue Coral denies that it violated the FHSA, the PPPA or any other law, regulation or other requirement.

10. Blue Coral states that it notified the Commission and undertook a voluntary recall in this matter, in cooperation with the Commission,

promptly upon learning of the alleged failures described in paragraph 4-8, and took action to ensure that the products are packaged in accordance with the PPPA.

Agreement of the Parties

11. The Consumer Product Safety Commission has jurisdiction over Blue Coral and the subject matter of this Settlement Agreement and Order under the FHSA, 15 U.S.C. 1261-1278.

12. This Agreement is entered into for settlement purposes only and does not constitute an admission by Blue Coral or a determination by the Commission that Blue Coral knowingly violated the FHSA or the PPPA.

13. Blue Coral agrees to pay to the U.S. Treasury a civil penalty in the amount of one hundred fifty thousand and 00/100 dollars (\$150,000.00), in full settlement of this matter, payable within twenty (20) calendar days of receiving service of the final Settlement Agreement and Order.

14. Blue Coral knowingly, voluntarily and completely waives any rights it may have in the above captioned case (i) to the issuance of a Complaint in this matter; (ii) to an administrative or judicial hearing with respect to the staff allegations cited herein; (iii) to judicial review or other challenge or contest of the validity of the Settlement Agreement or the Commission's Order; (iv) to a determination by the Commission as to whether a violation has occurred with respect to Section 4 of the FHSA, 15 U.S.C. 1263; (v) to a statement of findings of fact and conclusions of law with regard to the staff allegations; and (vi) to any claims under the Equal Access to Justice Act.

15. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, this Settlement Agreement and Order shall be placed in the public record and shall be published in the **Federal Register** in accordance with 16 CFR 1118.20. If the Commission does not receive any written requests not to accept the Settlement Agreement and Order within 15 days, the Settlement Agreement and Order shall be deemed finally accepted on the 16th day after the date it is published in the **Federal Register**, in accordance with 16 CFR 1118.20(f).

16. The Settlement Agreement and Order shall become effective upon its final acceptance by the Commission and service of the final Order upon Blue Coral.

17. Upon provisional acceptance by the Commission, the Commission may publicize the terms of the Settlement Agreement and Order.

18. Blue Coral agrees to the entry of the attached Order, which is incorporated herein by reference, and agrees to be bound by its terms.

19. 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 provision shall be fully severable. The rest of the Settlement Agreement and Order shall remain in full effect, unless the Commission and Blue Coral determine that severing the provision materially affects the purpose of the Settlement Agreement and Order.

20. This Settlement Agreement and Order shall not be waived, changed, amended, modified, or otherwise altered, except in writing executed by the party against whom such amendment, modification, alteration, or waiver is sought to be enforced and approved by the Commission.

21. 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.

22. The provisions of this Agreement and Order shall apply to, and inure to the benefit of, Respondent, its successors and assigns, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other business entity, or through any agency, device or instrumentality.

Dated: August 5, 2003.

Blue Coral-Slick 50, Inc.

Duncan J. Palmer,
Vice President and Chief Financial Officer.

Eric A. Rubel,
Respondent's Attorney.

The Consumer Product Safety Commission.

Alan H. Schoem,
Director, Office of Compliance.

Eric L. Stone,
Director, Legal Division, Office of Compliance.

Dated: August 26, 2003.

Belinda V. Bell,
Trial Attorney, Legal Division, Office of Compliance.

Order

Upon consideration of the Settlement Agreement between Respondent Blue Coral-Slick 50 Inc., a corporation, and the staff of the Consumer Products Safety Commission, and the Commission having jurisdiction over the subject matter and over Blue Coral, and it appearing that the Settlement Agreement is in the public interest, it is

Ordered that the Settlement Agreement be, and hereby is, accepted and it is Further Ordered that Blue-Coral Slick 50 Inc. shall pay the United States Treasury a civil penalty in the amount of one hundred fifty thousand and 00/100 dollars, (\$150,000.00), payable within twenty (20) days of the service of the Final Order upon Blue Coral-Slick 50.

Provisionally accepted and Provisional Order issued on the 3rd day of September, 2003.

By Order of the Commission:

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 03-22962 Filed 9-8-03; 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 reinstatement of a 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 November 10, 2003.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Office of the Under Secretary of Defense (Personnel and Readiness), ODUSD (PI)/Defense Human Resources Activity, ATTN: Ms. Heidi Boyd, 4040 Fairfax Boulevard, Suite 200, Arlington VA 22203.

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 (703) 696-0404.

Title, Associated Form and OMB Control Number: Application for Department of Defense Common Access Card—DEERS Enrollment, DD Form 1172-2 OMB Number 0704-0415.

Needs and Uses: This information collection requirement is needed to obtain the necessary data to establish eligibility for the DoD Common Access Card for those individuals not pre-enrolled in the DEERS, and to maintain a centralized database of eligible individuals. This information is used to establish eligibility for the DoD Common Access Card for individuals either employed by or associated with the Department of Defense; is used to control access to DoD facilities and systems; and it provides a source of data for demographic reports and mobilization dependent support.

Affected Public: Individuals or households.

Annual Burden Hours: 100,000.

Number of Respondents: 300,000.

Responses Per Respondent: 1.

Average Burden Per Response: 20 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collected

The Department of Defense, over the past three years, has been taking requisite measures to enhance physical and information security and applying prudent countermeasures for all potential vulnerabilities focusing on security actions to address the changes in today's threat environment. The Assistant Secretary of Defense for Command, Control, Communications and Intelligence (C3I) August 12, 2000 memorandum, Subject: Department of Defense (DoD) Public Key Infrastructure (PKI), directed use of a common, integrated, interoperable DoD PKI to enable security services at multiple levels of assurance. PKI is a key and certificate management infrastructure designed to support confidentiality, integrity, availability, authorization, and access control in computer networks. It is imperative to the security of the nation's defense that the systems of the Department of Defense be PKI-enabled as soon as possible. This data collection is essential to the effort to prohibit access to the Departments' systems to those not authorized. Public Law 106-65, Section 373 directed the Department to develop and implement a Smart Card