

## Determinations

For the reasons discussed in this document and in previously identified supporting documents, NMFS has determined that the impact of pile driving and other activities associated with construction of the East Span Project may result in the Level B harassment of small numbers of California sea lions, Pacific harbor seals, harbor porpoises, and potentially gray whales that inhabit or visit SFB in general and the vicinity of the SF-OBB in particular. While behavioral modifications, including temporarily vacating the area around the construction site, may be made by these species to avoid the resultant visual and acoustic disturbance, the availability of alternate areas within SFB and haul-out sites (including pupping sites) and feeding areas within the Bay has led NMFS to determine that this action will have a negligible impact on California sea lions, Pacific harbor seals, harbor porpoises, and gray whale populations along the California coast.

In addition, no take by Level A harassment (injury) or death is anticipated or authorized and Level B harassment takes should be at the lowest level practicable due to incorporation of the mitigation measures mentioned previously in this document.

## Authorization

For the reasons previously discussed, NMFS has issued an IHA for a 1-year period to take small numbers of harbor seals, California sea lions, harbor porpoises, and gray whales, by Level B harassment incidental to construction of a replacement bridge for the East Span of the San Francisco-Oakland Bay Bridge in California, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. NMFS has determined that the activity would result in the harassment of only small numbers of harbor seals, California sea lions, harbor porpoises, and possibly gray whales and will have no more than a negligible impact on these marine mammal stocks.

Dated: April 27, 2006.

**James H. Lecky,**

*Director, Office of Protected Resources,  
National Marine Fisheries Service.*

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BILLING CODE 3510-22-S

## CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 06-C0003]

### West Bend Housewares, LLC, a Limited Liability 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 West Bend Housewares, LLC, a Limited Liability Corporation, containing a civil penalty of \$100,000,000.

**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 May 23, 2006.

**ADDRESSES:** Persons wishing to comment on this Settlement Agreement should send written comments to Comment 06-C0003, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

**FOR FURTHER INFORMATION CONTACT:** Dennis C. Kacoyanis, Trial Attorney, Office of Compliance, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504-7587.

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

Dated: May 2, 2006.

**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 West Bend Housewares, LLC ("West Bend"), a limited liability corporation, in accordance with 16 CFR 1118.20 of the Commission's Procedures for Investigations, Inspections, and Inquires under the Consumer Product Safety Act ("CPSA"). This Settlement Agreement and the incorporated 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 Consumer

Product Safety Act, 15 U.S.C. 2051-2084.

3. West Bend is a limited liability corporation organized and existing under the laws of the State of Delaware with its principal corporate offices located at 2845 Wingate Street, West Bend, WI 53095. West Bend is a subsidiary of Focus Products Group, LLC of Vernon Hills, IL. West Bend is a manufacturer and internet retailer of small electrical appliances.

### III. Allegations of the Staff

4. Between August 2004 and February 2005, West Bend manufactured and sold nationwide approximately 14,322 10-Cup Automatic Coffeemakers, Item 56870 and Replacement Carafes, Item No. 5815.

5. The 10-Cup Automatic Coffeemakers and the Replacement Carafes are "consumer products" and West Bend is a "manufacturer" and "retailer" of "consumer products," which are "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 10-Cup Automatic Coffeemaker, Item No. 56870 is a programmable automatic coffeemaker with a glass carafe that has a plastic black handle. The 10-Cup Replacement Carafe, Item No. 5815 was distributed as a replacement carafe for the 10-Cup Automatic Coffeemaker, Item No. 56870. The carafe's handle can unexpectedly loosen or break, resulting in the carafe falling. If this should occur, consumers may sustain burn injuries from hot coffee or lacerations from broken glass.

7. In October and November 2004, West Bend received several reports from consumers alleging failures of carafe handles. On or about November 30, 2004, West Bend's Product Safety Committee ("safety committee") met and decided to monitor the carafe failures and to have consumers return the broken handles for further evaluation.

8. In December 2004, West Bend acquired a couple of samples of broken handles for evaluation. A brief evaluation of these handles revealed a problem with the plastic material and/or the processing. West Bend asked the foreign manufacturer to investigate the breakage problem and to make the necessary corrections.

9. On or about February 2, 2005, the foreign manufacturer advised West Bend that the materials used in the handles was "not so good." At that time, West Bend retained an outside plastics expert who found that the material used in the broken handle did not meet West

Bend's specifications. West Bend placed all inventory on hold, but did not report the problem to the Commission.

10. Beginning in April 2005, West Bend audited each container of carafes to determine whether the handles were made in accordance with West Bend's specifications. On or about April 8, 2005, West Bend received a call from a consumer who spilled coffee on his legs and feet when the carafe's handle broke. West Bend sent the consumer a replacement carafe, but still did not report to the Commission.

11. West Bend resumed shipments of the 10-Cup Automatic Coffeemaker, Item No. 56870 or on about April 11, 2005. On May 31, 2005, West Bend received a report from a consumer who allegedly sustained minor burns and cuts when the carafe handle fell off the carafe. West Bend still did not report.

12. West Bend reported to the Commission on or about July 15, 2005. At the time of its report, West Bend had received at least 169 reports of handle breakage and at least two (2) reports of minor burns and/or cuts as a result of the handle breakage.

13. As indicated in paragraphs 4 through 13 above, by February 2005, West Bend obtained information which reasonably supported the conclusion that the 10-Cup Automatic Coffeemaker, Item 56870 and its Replacement Carafe, Item 5815 contained a defect which could create a substantial product hazard, but failed to report such information in a timely manner as required by section 15(b)(2) of the CPSA, 15 U.S.C. 2064(b)(2).

14. By failing to furnish information as required by section 15(b) of the CPSA, 15 U.S.C. 2064(b), West Bend violated section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4).

15. West Bend committed this failure to timely report to the Commission "knowingly" as the term "knowingly" is defined in section 20(d) of the CPSA, 15 U.S.C. 2069(d), subjecting West Bend to civil penalties under section 20 of the CPSA, 15 U.S.C. 2069.

#### IV. West Bend's Response

16. West Bend denies the staff's allegations that it violated the CPSA as set forth in paragraphs 4 through 15 above.

17. West Bend specifically contests and denies that the timing of its voluntary report to the CPSC was "knowingly" in violation of the CPSA's reporting requirements. West Bend is a recently formed small business that had no prior experience dealing with the U.S. Consumer Product Safety Commission when the issues with the carafe arose. West Bend was aware of

the CPSA and its reporting regulations. Acting in good faith to interpret and understand those regulations, West Bend did not believe that the issues with the carafe handles presented either a substantial product hazard or an unreasonable risk of serious injury or death, as those terms are used in the CPSA and its implementing regulations.

18. By agreeing to this settlement, West Bend does not admit to any of the staff's allegations set forth in the settlement document.

#### V. Agreement of the Parties

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

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

21. In settlement of the staff's allegations, West Bend agrees to pay a civil penalty in the amount of \$100,000 within twenty (20) calendar days of receiving service of the Final Order of the Commission accepting this Settlement Agreement. This payment shall be made by check payable to the order of the United States Treasury.

22. Upon provisional acceptance of this Agreement by the Commission, this Agreement shall be placed on the public record and shall be published in the **Federal Register** in accordance with the procedures set forth in 16 CFR 1118.20(e). If the Commission does not receive any written objections within 15 days, the Agreement will be deemed finally accepted on the 16th day after the date it is published in the **Federal Register**.

23. Upon final acceptance of the Agreement by the Commission and issuance of the Final Order, West Bend knowingly, voluntarily, and completely waives any rights it may have in this matter (1) to an administrative or judicial hearing, (2) to judicial review or other challenge or contest of the validity of the Commission's actions, (3) to a determination by the Commission as to whether West Bend failed to comply with the CPSA and the underlying regulations, (4) to a statement of findings of fact or conclusions of law, and (5) to any claims under the Equal Access to Justice Act.

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

25. This Settlement Agreement and Order shall apply to, and be binding upon West Bend and each of its successors and assigns.

26. 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 West Bend to appropriate legal action.

27. This Settlement Agreement may be used in interpreting the Order. Agreements, understandings, representations, or interpretations apart from those contained in this Settlement Agreement and Order may not be used to vary or contradict its terms.

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

29. 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 the Settlement Agreement and Order shall remain in full effect, unless the Commission and West Bend determine that severing the provision materially changes the purpose of the Settlement Agreement and Order.

#### West Bend Housewares, LLC

Dated: March 28, 2006.

Michael L. Carpenter,  
President, West Bend Housewares, LLC, 2845  
Wingate Street, P.O. Box 2780, West Bend,  
WI 53095.

Dated: March 29, 2006.

Erika Z. Jones,  
Attorney for West Bend Housewares, LLC,  
Mayer, Brown, Rowe, & Maw, LLP, 1909 K  
Street, NW., Washington, DC 20006–1101.

#### 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: April 3, 2006.

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

#### Order

Upon consideration of the Settlement Agreement entered into between West Bend Housewares, LLC and the staff of

the Consumer Product Safety Commission; and the Commission having jurisdiction over the subject matter and West Bend Housewares, LLC; 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 upon final acceptance of the Settlement Agreement and Order, West Bend Housewares, LLC shall pay to the Commission a civil penalty in the amount of \$100,000 within twenty (20) days after service upon West Bend of this Final Order of the Commission.

Provisionally accepted and Provisional Order issued on the 2nd day of May 2006.

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

[FR Doc. 06-4291 Filed 5-5-06; 8:45 am]

BILLING CODE 6355-01-M

## CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

### Information Collection; Submission for OMB Review, Comment Request

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Notice.

**SUMMARY:** The Corporation for National and Community Service (hereinafter the "Corporation"), has submitted a public information collection request (ICR) entitled Requests for Budget Amendment Related to Disaster Relief Effort, to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995, Public Law 104-13, (44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Corporation for National and Community Service, AmeriCorps, Amy Borgstrom, Associate Director of Policy, (202) 606-6930, or by e-mail at [ABorgstrom@cns.gov](mailto:ABorgstrom@cns.gov). Individuals who use a telecommunications device for the deaf (TTY-TDD) may call (202) 606-3472 between 8:30 a.m. and 5 p.m. eastern time, Monday through Friday.

**ADDRESSES:** Comments may be submitted, identified by the title of the information collection activity, to Office of Information and Regulatory Affairs, Attn: Ms. Rachel Potter, OMB Desk Officer for the Corporation for National and Community Service, by any of the

following two methods within 30 days from the date of publication in this

#### Federal Register:

(a) By fax to: (202) 395-6974, Attention: Ms. Rachel Potter, OMB Desk Officer for the Corporation for National and Community Service; and

(b) Electronically by e-mail to: [Rachel\\_F.\\_Potter@omb.eop.gov](mailto:Rachel_F._Potter@omb.eop.gov).

**SUPPLEMENTARY INFORMATION:** The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

#### Current Action

*Description:* This submission includes one set of instructions for current grantees to submit requests for budget amendment in order to carry out disaster relief efforts. The instructions were approved on the basis of an emergency request submitted on September 29, 2005 and approved October 5, 2005, with OMB Control Number 3045-0113 and expiration date of March 31, 2006. They were approved for an extension on March 17, 2006, with OMB Control Number 3045-0113 and expiration date of August 31, 2006.

*Type of Review:* Renewal.

*Agency:* Corporation for National and Community Service.

*Title:* Requests for Budget Amendment Related to Disaster Relief Efforts.

*OMB Number:* 3045-0113.

*Agency Number:* None.

*Affected Public:* States and nonprofit organizations.

*Total Respondents:* 111 for Budget Amendment Requests.

*Frequency:* Each grantee is only eligible to use these instructions once. The Corporation plans to continue to engage in disaster relief efforts using these instructions after the date that the

emergency approval expires, hence this request for regular clearance.

*Average Time Per Response:* Budget Amendment Request: 1 hour.

*Estimated Total Burden Hours:* 111 hours for Budget Amendment Requests.

*Total Burden Cost (capital/startup):* None.

*Total Burden Cost (operating/maintenance):* None.

Dated: May 1, 2006.

**Elizabeth D. Seale,**

*Interim Director, AmeriCorps State and National, COO, Corporation for National and Community Service.*

[FR Doc. E6-6908 Filed 5-5-06; 8:45 am]

BILLING CODE 6050-SS-P

## ELECTION ASSISTANCE COMMISSION

### Notice of Sunshine Act Meeting

**AGENCY:** United States Election Assistance Commission.

**ACTION:** Notice of public meeting for EAC Board of Advisors.

**DATE AND TIME:** Tuesday, May 23, 2006, 12 noon-5:30 p.m. and Wednesday, May 24, 2006, 8:30 a.m.-5 p.m.

**PLACE:** Hamilton Crowne Plaza, 1001 14th Street, NW. (14th and K Streets, NW.), Washington, DC 20005, (202) 682-0111.

**PURPOSE:** The U.S. Election Assistance Commission (EAC) Board of Advisors, as required by the Help America Vote Act of 2002, will meet and receive updates on EAC research projects and activities and discuss other relevant matters pertaining to the administration of Federal elections. The Board will receive an update regarding recent work conducted by the National Institute of Standards and Technology (NIST) on the voluntary voting system guidelines. The Board will elect officers and consider the appointment of a proxy committee and the appointment of a resolutions committee. The Board will receive reports of committees and discuss other administrative matters.

This meeting will be open to the public.

**FOR FURTHER INFORMATION CONTACT:** Bryan Whitener, Telephone: (202) 566-3100.

**Thomas R. Wilkey,**

*Executive Director, U.S. Election Assistance Commission.*

[FR Doc. 06-4293 Filed 5-3-06; 4:11 pm]

BILLING CODE 6820-KF-M