

or stocks for subsistence use. There are no relevant subsistence uses of marine mammals in the study area (deep, offshore waters of the central-western Bering Sea) that implicate MMPA section 101(a)(5)(D).

### Endangered Species Act

Of the species of marine mammals that may occur in the survey area, several are listed as endangered under the ESA, including the North Pacific right, humpback, sei, fin, blue, and sperm whales, as well as the western stock of Steller sea lions. The eastern stock of Steller sea lions is listed as threatened. Under section 7 of the ESA, USGS initiated formal consultation with the NMFS, Office of Protected Resources, Endangered Species Division, on this seismic survey. NMFS's Office of Protected Resources, Permits, Conservation and Education Division, also initiated formal consultation under section 7 of the ESA with NMFS's Office of Protected Resources, Endangered Species Division, to obtain a Biological Opinion (BiOp) evaluating the effects of issuing the IHA on threatened and endangered marine mammals and, if appropriate, authorizing incidental take. In August 2011, NMFS issued a BiOp and concluded that the action and issuance of the IHA are not likely to jeopardize the continued existence of the North Pacific right, humpback, sei, fin, blue, and sperm whales, and Steller sea lions. The BiOp also concluded that designated critical habitat for these species does not occur in the action area and would not be affected by the survey. USGS must comply with the Relevant Terms and Conditions of the Incidental Take Statement (ITS) corresponding to NMFS's BiOp issued to both USGS and NMFS's Office of Protected Resources. USGS must also comply with the mitigation and monitoring requirements included in the IHA in order to be exempt under the ITS in the BiOp from the prohibition on take of listed endangered marine mammal species otherwise prohibited by section 9 of the ESA.

### NEPA

With its complete application, USGS provided NMFS an EA analyzing the direct, indirect, and cumulative environmental impacts of the specified activities on marine mammals including those listed as threatened or endangered under the ESA. The EA, prepared by LGL on behalf of USGS, is entitled "Environmental Assessment of a Marine Geophysical Survey by the R/V *Marcus G. Langseth* in the central-western Bering Sea, August 2011." After NMFS

reviewed and evaluated the USGS EA for consistency with the regulations published by the Council of Environmental Quality (CEQ) and NOAA Administrative Order 216-6, Environmental Review Procedures for Implementing the National Environmental Policy Act, NMFS adopted the USGS EA and issued a Finding of No Significant Impact (FONSI).

### Authorization

NMFS has issued an IHA to USGS for the take, by Level B harassment, of small numbers of marine mammals incidental to conducting a marine geophysical survey in the central-western Bering Sea, August 2011, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: August 5, 2011.

**James H. Lecky,**

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

[FR Doc. 2011-20461 Filed 8-10-11; 8:45 am]

**BILLING CODE 3510-22-P**

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## CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 11-C0009]

### Perfect Fitness, 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 Perfect Fitness, containing a civil penalty of \$425,000.00.

**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 26, 2011.

**ADDRESSES:** Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 11-C0009, Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Room 820, Bethesda, Maryland 20814-4408.

**FOR FURTHER INFORMATION CONTACT:** Jennifer C. Argabright, Trial Attorney,

Division of Compliance, Office of the General Counsel, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814-4408; telephone (301) 504-7808.

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

Dated: August 8, 2011.

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

## United States of America Consumer Product Safety Commission

### Settlement Agreement

1. In accordance with 16 CFR 1118.20, Perfect Fitness and staff ("Staff") of the United States Consumer Product Safety Commission ("Commission") hereby enter into this Settlement Agreement ("Agreement") under the Consumer Product Safety Act ("CPSA"). The Agreement and the incorporated attached Order resolve Staff's allegations set forth below.

### The Parties

2. Staff is the staff of the Commission, an independent federal regulatory agency established pursuant to, and responsible for, the enforcement of the CPSA, 15 U.S.C. 2051-2089.

3. Perfect Fitness is a privately-held Limited Liability Company, organized and existing under the laws of the State of California, with its principal corporate office located at 1750 Bridgeway, Suite A100, Sausalito, California 94965.

### Staff Allegations

4. Between January 2008 and August 2008, Perfect Fitness manufactured and distributed approximately ten thousand (10,000) "Perfect Pullup" exercise equipment ("Subject Products"). Retailers continued to sell the Subject Products until they were recalled on February 17, 2011. The Subject Products sold for approximately \$80-\$100 through major sporting goods stores, online retailers, and through direct television marketing.

5. The Subject Products are "consumer products" and, at all relevant times, Perfect Fitness was a "manufacturer" of these consumer products, which were "distribute[d] in commerce," as those terms are defined or used in sections 3(a)(5), (8), and (11) of the CPSA, 15 U.S.C. 2052(a)(5), (8), and (11).

6. The Subject Products are defective because the handle can break during use, resulting in consumers falling to the floor.

7. Perfect Fitness received its first complaint involving handle breakage in

May 2008. In response, Perfect Fitness initiated an internal review. The internal review revealed that an unusual number of purchasers were returning or requesting replacement Subject Products. Some purchasers of the returned products indicated that the handles had broken during use.

8. In June 2008, Perfect Fitness began re-testing the handle design. The firm preliminarily concluded that the handle design was defective because the material used to make the handles was not strong enough to withstand the pressure load needed to perform properly.

9. In July 2008, Perfect Fitness redesigned the Subject Products in an effort to correct the design defect.

10. By August 2008, Perfect Fitness received additional confirmation through a testing agency that the original design would experience handle failure at an average load of 158.3 pounds. The testing agency additionally confirmed that the redesigned handles would be able to withstand a higher pressure load without handle breakage.

11. On August 1, 2008, Perfect Fitness began production of the redesigned Subject Product, and discontinued distribution of the Subject Products without notifying the Commission of the problems associated with handle breakage.

12. By the end of August 2008, Perfect Fitness received at least eleven (11) more reports of handles breaking, resulting in injuries to consumers.

13. On March 30, 2010, Perfect Fitness posted a notice on its Web site indicating that consumers could replace the Subject Products free of charge. In communications with consumers, representatives of Perfect Fitness represented that the original handles were "inferior" and could result in an "accident." By this date, Perfect Fitness was aware of at least twenty-three (23) incidents of handle breakage causing injury.

14. Despite knowledge of the information set forth in paragraphs 5–13, Perfect Fitness did not report to the Commission until December 20, 2010. By that time, Perfect Fitness was aware of at least forty-five (45) specific complaints of injury due to handle breakage and had received over two thousand (2,000) requests for replacement of the Subject Product.

15. Although Perfect Fitness had obtained sufficient information to reasonably support the conclusion that the Subject Product contained a defect which could create a substantial product hazard, or created an unreasonable risk of serious injury or

death, Perfect Fitness failed to inform the Commission immediately of such defect or risk, as required by sections 15(b)(3) and (4) of the CPSA, 15 U.S.C. § 2064(b)(3) and (4). In failing to inform the Commission immediately of the defect or advising that the defect involved the Subject Product, Perfect Fitness 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).

16. Pursuant to section 20 of the CPSA, 15 U.S.C. 2069, Perfect Fitness is subject to civil penalties for its knowing failure to report, as required under section 15(b) of the CPSA, 15 U.S.C. 2064(b).

#### Response of Perfect Fitness

17. Perfect Fitness denies the allegations of Staff that the Subject Products contain a defect which could create a substantial product hazard or create an unreasonable risk of serious injury or death, and denies that it knowingly violated the reporting requirements of Section 15(b) of the CPSA, 15 U.S.C. 2064(b).

#### Agreement of the Parties

18. Under the CPSA, the Commission has jurisdiction over this matter and over Perfect Fitness.

19. In settlement of Staff's allegations, Perfect Fitness shall pay a civil penalty in the amount of four hundred twenty-five thousand dollars (\$425,000.00) within twenty (20) calendar days of receiving service of the Commission's final Order accepting the Agreement. The payment shall be made electronically to the CPSC via <http://www.pay.gov>.

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

21. Upon provisional acceptance of the Agreement by the Commission, 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). If the Commission does not receive any written request not to accept the Agreement within fifteen (15) calendar days, the Agreement shall 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 the Commission's final acceptance of the Agreement and issuance of the final Order, Perfect

Fitness knowingly, voluntarily, and completely waives any rights it may have in this matter to the following: (a) An administrative or judicial hearing; (b) judicial review or other challenge or contest of the Commission's actions; (c) a determination by the Commission of whether Perfect Fitness failed to comply with the CPSA and the underlying regulations; (d) a statement of findings of fact and conclusions of law; and (e) any claims under the Equal Access to Justice Act.

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

24. The Agreement and the Order shall apply to, and be binding upon, Perfect Fitness and each of its successors and/or assigns until the obligations described in Paragraph 19 have been fulfilled to the satisfaction of the Commission.

25. The Commission issues the Order under the provisions of the CPSA, and a violation of the Order may subject Perfect Fitness and each of its successors and/or assigns to appropriate legal action until the obligations described in Paragraph 19 have been fulfilled to the satisfaction of the Commission.

26. The Agreement may be used in interpreting the Order. Understandings, agreements, representations, or interpretations apart from those contained in the Agreement and the Order may not be used to vary or contradict the terms or the Agreement and the Order. The Agreement shall not be waived, amended, modified, or otherwise altered without written agreement thereto, executed by the party against whom such waiver, amendment, modification, or alteration is sought to be enforced.

27. If any provision of the Agreement or the Order is held to be illegal, invalid, or unenforceable under present or future laws effective during the terms of the Agreement and the Order, such provision shall be fully severable. The balance of the Agreement and the Order shall remain in full force and effect, unless the Commission and Perfect Fitness agree that severing the provision materially affects the purpose of the Agreement and Order.

#### Perfect Fitness LLC

Dated: July 28, 2011

By: \_\_\_\_\_  
Alden Mills, *Chief Executive Officer*  
Perfect Fitness  
1750 Bridgeway  
Suite A100  
Sausalito, California 94965

Dated: July 28, 2011

By: \_\_\_\_\_  
Mark Friedman, *President*

Perfect Fitness  
1750 Bridgeway  
Suite A100  
Sausalito, California 94965

Dated: July 29, 2011

By:

Paul Rubin, Esq.  
Patton Boggs LLP  
2550 M Street, NW.,  
Washington, DC 20037  
Counsel for Perfect Fitness

U.S. CONSUMER PRODUCT SAFETY  
COMMISSION STAFF

Cheryl A. Falvey, *General Counsel*

Mary B. Murphy, *Assistant General Counsel*

Dated: August 4, 2011

By:

Jennifer C. Argabright, *Trial Attorney*  
Division of Compliance  
Office of the General Counsel

### United States of America

*Consumer Product Safety Commission*

### Order

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

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

*Further ordered*, that Perfect Fitness shall pay a civil penalty in the amount of four hundred and twenty-five thousand dollars (\$425,000.00) within twenty (20) days of service of the Commission's final Order accepting the Settlement Agreement upon counsel for Perfect Fitness identified in the Settlement Agreement. The payment shall be made electronically to the CPSC via <http://www.pay.gov>. Upon the failure of Perfect Fitness to make the foregoing payment when due, interest on the unpaid amount shall accrue and be paid by Perfect Fitness 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 August, 2011.

By Order of the Commission.

Todd A. Stevenson, *Secretary*  
U.S. Consumer Product Safety Commission  
[FR Doc. 2011-20463 Filed 8-10-11; 8:45 am]

BILLING CODE 6355-01-P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Strategic Environmental Research and Development Program Scientific Advisory Board Meeting

AGENCY: Department of Defense.

ACTION: Notice.

**SUMMARY:** This Notice is published in accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463). The topic of the meeting on October 12-13, 2011 is to review new start research and development projects requesting Strategic Environmental Research and Development Program (SERDP) funds in excess of \$1M. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the Scientific Advisory Board at the time and in the manner permitted by the Board.

**DATES:** Wednesday, October 12, 2011 from 9 a.m. to 5 p.m. & Thursday, October 13, from 9 a.m. to 5 p.m.

**ADDRESSES:** SERDP Office Conference Center, 901 North Stuart Street, Suite 804, Arlington, VA 22203.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jonathan Bunker, SERDP Office, 901 North Stuart Street, Suite 303, Arlington, VA or by telephone at (703) 696-2126.

Dated: August 8, 2011.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2011-20398 Filed 8-10-11; 8:45 am]

BILLING CODE 5001-06-P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

[Docket ID DOD-2011-OS-0089]

#### Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, Department of Defense.

ACTION: Notice to alter a system of records.

**SUMMARY:** The Office of the Secretary of Defense proposes to alter a system of records in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

**DATES:** This proposed action would be effective without further notice on September 9, 2011 unless comments are received which result in a contrary determination.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301-1160.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Ms. Cindy Allard, Chief, OSD/JS Privacy Office, Freedom of Information Directorate, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301-1155, or by phone at (703) 588-6830.

**SUPPLEMENTARY INFORMATION:** The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT**.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on August 5, 2011, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A-130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: August 5, 2011.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

### DHA 14

#### SYSTEM NAME:

Computer/Electronics Accommodations Program for People with Disabilities (June 21, 2006, 71 FR 35632).

#### CHANGES:

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