



U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, DC 20207

Todd A. Stevenson
Deputy Secretary and
Freedom of Information Officer
Office of the Secretary

Tel: 301-504-0785X1239
Fax: 301-504-0127
Email: tstevenson@cpsc.gov

October 20, 1999

CERTIFIED MAIL

Ms. Susan A. Longacre
Longacre and Associates, Inc.
8401 Corporate Drive, Suite 425
Landover, MD 20785

Re: FOIA Request S9070136: Daisy Manufacturing Company BB Guns, Corrective Action Files and Complaints, Reported Incidents and Investigation Reports

Dear Ms. Longacre:

This is the final response to your Freedom of Information Act (FOIA) request seeking information from the Commission. The remaining records from the Commission files responsive to your request have been processed and copies of the releasable responsive records are enclosed.

The enclosed records include file information generated by the Commission itself or its contractors for regulatory or enforcement purposes. These records are in file RP950029 (Daisy BB Pistol, Model 179) and are identified as hazard assessment memoranda, and other memoranda, correspondence, notes and documents. The Commission has established management systems under which supervisors are responsible for reviewing the work of their employees or contractors. The file information materials are final and have been prepared and accepted by the Commission's staff under such review systems. The Commission believes that it has taken reasonable steps to assure the accuracy of the information. Please note that the Commission's staff, not the Commissioners themselves, made the preliminary determination that this product presented a substantial risk of injury to the public as defined by the Consumer Product Safety Act (CPSA).

The enclosed records also include twenty-six Epidemiologic Investigation Reports with the underlying and supporting documentation and two Medical Examiner and Coroner Alert Project Reports. The Commission has received this information from its formal investigation systems. Through these systems the Commission hopes to learn when specific products are associated with illness, injury or death. The Commission believes that it has taken reasonable

steps to assure the accuracy of this information. While conducting the interviews for the investigation reports, Commission staff or contractors have spoken with the individuals involved or with others who witnessed or are familiar with the incidents. Where possible, Commission staff have examined the products reportedly involved in the incidents. Although the Commission has investigated the incidents described in the investigation reports, the Commission has not necessarily determined the cause of the incidents.

Also enclosed are records pertaining to eight product complaints and reported incidents that were submitted to the Commission by consumers and others. The consumers or submitters have confirmed the accuracy of the information in the complaints and reported incidents. The Commission has neither investigated the incidents nor conducted or obtained any evaluations of the products that corroborate the substance of the information contained in the complaints and reported incidents. In some of the complaints and reported incidents we have removed the identities of the complainants at their request.

We must withhold other records responsive to your request, specifically, the preliminary determination form, from the Commission's Office of Compliance's law enforcement investigatory file RP950029 (Daisy BB Pistol, Model 179) pursuant to the Exemptions 5 and 7(E) of the FOIA, 5 U.S.C. §§ 552(b)(5) and (b)(7)(E). Exemption 5 provides for the withholding from disclosure of inter-agency and intra-agency memoranda which would not be available by law to a party in litigation with the agency. FOIA Exemption 7(E) provides for the withholding from disclosure records or information compiled for law enforcement purposes, to the extent that the production of such law enforcement records or information would disclose techniques and procedures for law enforcement investigations or prosecutions or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law.

The records being withheld consist of an internal memoranda containing recommendations, opinions, suggestions and analyses of the Commission's technical and legal staffs. The records constitute both predecisional and deliberative discussion that clearly falls within the attorney-client and attorney-work product privileges. Any factual materials in the records not covered by some other exemption are inextricably intertwined with exempt materials or the disclosure of the factual materials would itself expose the deliberative process. We have determined that the disclosure of these certain law enforcement investigatory records responsive to your request would be contrary to the public interest. It would not be in the public interest to disclose these materials because disclosure would (1) impair the frank exchange of views necessary with respect to such matters, and (2) reveal the techniques, guidelines and strategies utilized by the investigative and legal staff in developing the information regarding this investigation and other on-going investigations, which if disclosed would significantly risk circumvention of the statutes and regulations that the Commission administers.

Finally, we must withhold from disclosure another corrective action or recall file (designated PI990086, Daisy Powerline 990 airgun or air rifle) from the Commission's Office of Compliance's active law enforcement investigatory files, pursuant to the FOIA Exemptions 5 and 7(A), 5 U.S.C. §§ 552(b)(5) and (b)(7)(A). Exemption 7(A) provides for the withholding from

disclosure records or information compiled for law enforcement purposes, to the extent that the production of such law enforcement records or information could reasonably be expected to interfere with enforcement proceedings.

The records being withheld consist of internal staff memoranda and correspondence containing recommendations, opinions, suggestions and analyses of the Commission's technical and legal staffs. The records constitute both predecisional and deliberative discussion that clearly falls within the attorney-client and attorney-work product privileges. Any factual materials in the records not covered by some other exemption are inextricably intertwined with exempt materials or the disclosure of the factual materials would itself expose the deliberative process. We have determined that the disclosure of these certain law enforcement investigatory records responsive to your request would be contrary to the public interest. It would not be in the public interest to disclose these materials because disclosure would (1) impair the frank exchange of views necessary with respect to such matters, and (2) prematurely reveal information used in the investigation, thereby interfering with this and other matters by disclosing the government's basis for pursuing this matter.

According to the Commission's regulations implementing the FOIA at 16 C.F.R. § 1015.7, a partial denial of access to records may be appealed to the General Counsel of the Commission within thirty (30) days of your receipt of this letter. An appeal must be in writing and addressed to: FOIA APPEAL, General Counsel, ATTN: Office of the Secretary, U.S. Consumer Product Safety Commission, Washington, D.C. 20207.

Regarding your letter dated October 13, 1999, about discrepancies on the numbers of reports being released, we did not keep a record of the precise materials released to Ms. Resendez by our August 11, 1998 letter. However, with this release to you, we have released all reports we could locate about the Daisy BB guns, using the file search of 1981 through July 1999, in addition to the older reports that were in the Daisy litigation materials.

Processing this request, performing the file searches and reviewing the information, cost the Commission \$100.00. In this instance, we have decided to waive all of the charges.

Sincerely,

Todd A. Stevenson

Enclosures



U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, DC 20207

Todd A. Stevenson
Deputy Secretary and
Freedom of Information Officer
Office of the Secretary

Tel. 301-504-0785X1239
Fax: 301-504-0127
Email tstevenson@cpsc.gov

October 20, 1999

CERTIFIED MAIL

Sonia I. Lopez
Law Offices of Ramon Garcia
222 West University
Edinburg, TX 78539

Re: FOIA Request S9100049 (formerly S9080055): Daisy Manufacturing Company
Powerline Air Rifles / Complaints, Reported Incidents, Investigations of Incidents, and
Corrective Action or Recall Files

Dear Ms. Lopez:

Thank you for your Freedom of Information Act (FOIA) request to the Commission. . The records from the Commission files responsive to your request have been processed and copies are enclosed. The enclosed records include file information generated by the Commission itself or its contractors for regulatory or enforcement purposes. These records are in files RP990127 (Daisy Powerline 990 Air Rifle) and CA940002 (Daisy Powerline 880 Airguns) and are identified as hazard assessment and other memoranda, correspondence, notes and documents. The Commission has established management systems under which supervisors are responsible for reviewing the work of their employees or contractors. The file information materials are final and have been prepared and accepted by the Commission's staff under such review systems. The Commission believes that it has taken reasonable steps to assure the accuracy of the information.

The materials being released from the file CA940002 (Daisy Powerline 880 Airguns), are in accordance with the records approved for release by the Court of Appeals in *Daisy Manufacturing Company, Inc., v. Consumer Product Safety Commission.* Note that the materials include many investigation reports and reported incidents. To assist your understanding of the withheld materials, I have enclosed a response to a previous request that explains the withholdings as approved by the Court of Appeals.

The enclosed records also include twenty-six Epidemiologic Investigation Reports with the underlying and supporting documentation and two Medical Examiner and Coroner Alert Project Reports. The Commission has received this information from its formal investigation systems. Through these systems the Commission hopes to learn when specific products are

associated with illness, injury or death. The Commission believes that it has taken reasonable steps to assure the accuracy of this information. While conducting the interviews for the investigation reports, Commission staff or contractors have spoken with the individuals involved or with others who witnessed or are familiar with the incidents. Where possible, Commission staff have examined the products reportedly involved in the incidents. Although the Commission has investigated the incidents described in the investigation reports, the Commission has not necessarily determined the cause of the incidents.

Also enclosed are records pertaining to eight product complaints and reported incidents that were submitted to the Commission by consumers and others. The consumers or submitters have confirmed the accuracy of the information in the complaints and reported incidents. The Commission has neither investigated the incidents nor conducted or obtained any evaluations of the products that corroborate the substance of the information contained in the complaints and reported incidents. In some of the complaints and reported incidents we have removed the identities of the complainants at their request.

We must withhold other records responsive to your request, specifically, the preliminary determination form, from the Commission's Office of Compliance's law enforcement investigatory file RP990127 (Daisy Powerline 990 Air Rifle) pursuant to the Exemptions 5 and 7(E) of the FOIA, 5 U.S.C. §§ 552(b)(5) and (b)(7)(E). Exemption 5 provides for the withholding from disclosure of inter-agency and intra-agency memoranda which would not be available by law to a party in litigation with the agency. FOIA Exemption 7(E) provides for the withholding from disclosure records or information compiled for law enforcement purposes, to the extent that the production of such law enforcement records or information would disclose techniques and procedures for law enforcement investigations or prosecutions or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law.

The records being withheld consist of an internal memoranda containing recommendations, opinions, suggestions and analyses of the Commission's technical and legal staffs. The records constitute both predecisional and deliberative discussion that clearly falls within the attorney-client and attorney-work product privileges. Any factual materials in the records not covered by some other exemption are inextricably intertwined with exempt materials or the disclosure of the factual materials would itself expose the deliberative process. We have determined that the disclosure of these certain law enforcement investigatory records responsive to your request would be contrary to the public interest. It would not be in the public interest to disclose these materials because disclosure would (1) impair the frank exchange of views necessary with respect to such matters, and (2) reveal the techniques, guidelines and strategies utilized by the investigative and legal staff in developing the information regarding this investigation and other on-going investigations, which if disclosed would significantly risk circumvention of the statutes and regulations that the Commission administers.

Finally, we must withhold from disclosure another corrective action or recall file (designated PI990086, Daisy Powerline 990 airgun or air rifle) from the Commission's Office of Compliance's active law enforcement investigatory files, pursuant to the FOIA Exemptions 5 and 7(A), 5 U.S.C. §§ 552(b)(5) and (b)(7)(A). Exemption 7(A) provides for the withholding from

disclosure records or information compiled for law enforcement purposes, to the extent that the production of such law enforcement records or information could reasonably be expected to interfere with enforcement proceedings.

The records being withheld consist of internal staff memoranda and correspondence containing recommendations, opinions, suggestions and analyses of the Commission's technical and legal staffs. The records constitute both predecisional and deliberative discussion that clearly falls within the attorney-client and attorney-work product privileges. Any factual materials in the records not covered by some other exemption are inextricably intertwined with exempt materials or the disclosure of the factual materials would itself expose the deliberative process. We have determined that the disclosure of these certain law enforcement investigatory records responsive to your request would be contrary to the public interest. It would not be in the public interest to disclose these materials because disclosure would (1) impair the frank exchange of views necessary with respect to such matters, and (2) prematurely reveal information used in the investigation, thereby interfering with this and other matters by disclosing the government's basis for pursuing this matter.

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Processing this request, performing the file searches and reviewing the information, cost the Commission \$150.00. In this instance, we have decided to waive all of the charges.

Sincerely,

Todd A. Stevenson

Enclosures

(Product Defect Continued)

B. Cause of Defect (for example, design, quality control, materials, production error):

C. Date Discovered, How and by Whom (name of person and title):

D. When were Affected Products Produced (and how determined):

E. Estimated Proportion of Affected Products in Total Number of Products Involved (and how determined):

F. Injury and Property Damage: *No injuries reported.*

(1) Nature and severity of injury/property damage:

(2) Number and type of injuries or incidents reported to date:

G. Total Number of Products Involved:

Number with manufacturer/importer: *14 in inventory.*

Number with Distributors: *Has requested back*

Number with retailers: *1,479 pieces which*

Number with consumers: *were on their way to a customer. No units*

H. Geographical Distribution: *in stock now.*

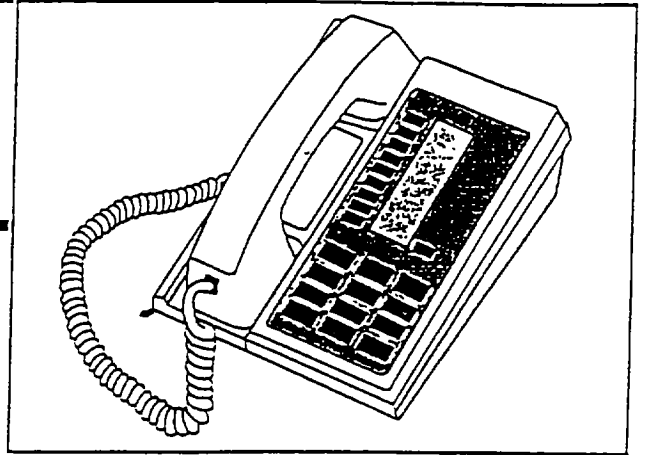
Low / less than 70 ffs

Two ^{other} units exhibited same characteristics as consumer described on page 1 under III A.

22,000 1992-93

v

MEMORANDUM OF
TELEPHONE
CALL



DATE: 3-17-95
TIME: 2pm

NAME AND TITLE: Aaron Locker
FIRM: Locker, Greenberg + Brennan
TELEPHONE: 212 594-7000
SUBJECT: Daisy BB Gun pistol - 179
COMPLIANCE CONTACT: DeMarco

w/ Retailer + Consumer
since recall began
under 1500 units

Aaron will get me up to by
Tues/ of next week
3/21/95

IV. MANUFACTURER/IMPORTER (if different from "Reporting Firm")

- A. Name:
- B. Address:
- C. Telephone Number: ()
- D. Contact and Title:
- E. If an Imported Product, Names of Other Importers of Product (if known)

V. DISTRIBUTOR/PRIVATE LABELER (if manufacturer unknown or if large company; for example, Penney, Sears Ward)

- A. Name:
- B. Address:
- C. Telephone Number: ()
- D. Contact and Title:

VI. COMPONENT PART MANUFACTURER (if applicable)

- A.
- B.
- C.
- D.
- E.

JAg -

I took this
"instead" report on
Friday.
Locker will be
sending a Report
via mail.

Zelma
11/7/54

I made copies for
Johnie (Back up #110)
Nancy and the
Regional Office (w)

VII. PRODUCT DOES NOT COMPLY WITH CPSA RULE OR STANDARD UNDER TRANSFERRED ACTS

- A. Act Involved:
- B. Standard or Ban Involved:
- C. Description of Noncompliance:
- D. Date Discovered and How:

VIII. CORRECTIVE ACTION

- A. Notification to:
 - Distributors
Date:
Method:
 - Retailers
Date:
Method:
 - Consumers
Date:
Method:
- B. Recall (and date begun):
- C. Repurchase, Refund, Repair (and date begun):
- D. Technical Fix:
- E. Disposition of Returned Units:

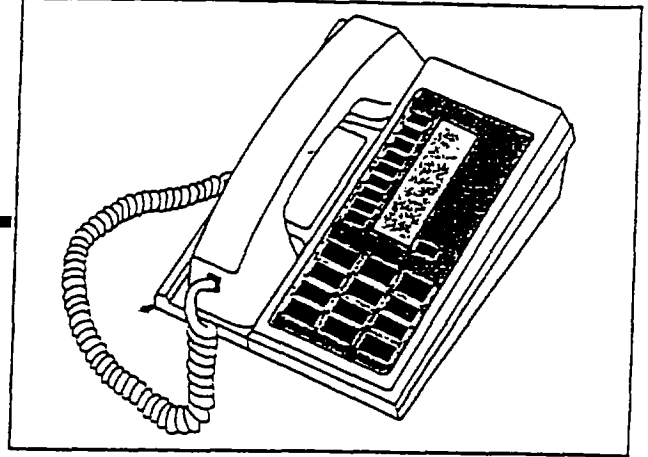
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LX. REMINDERS AND STAFF REQUESTS

- Exemption Claimed for Fact and Content of Report--
Explanation That This Confidentiality Lapses With
Preliminary Staff Determination Re Hazard
- Exemption Claimed as Proprietary Data--Detailed
Written Request to Follow
- Written Verification of Initial Telephone Report
Within 48 Hours
- Written Full Report Requested, Attn: Hazard Evaluation
Branch (to be requested of manufacturers and importers
only)
- Copy Area Office
- Sample Request (only where have prior approval from
small purchases)

6

MEMORANDUM OF
TELEPHONE
CALL



DATE: 3-17-95
TIME: 2pm

NAME AND TITLE: Aaron Locken
FIRM: Locher, Greenberg + Brennan
TELEPHONE: 212 594-7000
SUBJECT: Daisy BB Gun pistol - 179
COMPLIANCE CONTACT: DeMarco

w/ Retailer + Consumer
since recall began
under 1500 units

Aaron will get me up to by
Tues/ of next week

3/21/95

THIS SHEET IS USED TO CLOSE FILES IN THE COMPUTER

FILE NUMBER RP950029

DATED CLOSED (YYMMDD) 3-22-95

TOTAL UNITS CORRECTED 3950/4218 94%

REMARKS

Class D less than SPH

Where this file is stored:

LOCATION

ACCESSION 424-95-000 6

BOX 6

Incident data sent to EPI

Identify/Mark pages that have incident data to be sent to EPI

No incident data for EPI in this file

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U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, D.C. 20207

OFFICE OF COMPLIANCE
AND ENFORCEMENT

MAR 23 1995

Division of
Corrective Actions
Tel: 301-504-0608
Fax: 301-504-0359

Certified Mail/Telecopy

Aaron Locker, Attorney
Locker, Greenberg & Brainin
One Penn Plaza
New York, NY 10119

Re: CPSC RP950029
Daisy Manufacturing Co.
BB Pistol- Model 179

Dear Mr. Locker:

The staff of the Office of Compliance and Enforcement, U.S. Consumer Product Safety Commission, has completed its review of the information concerning the Daisy Model 179 BB Pistol, which could accidentally misfire when the hammer is cocked and without the trigger being pulled, which you reported under section 15(b) of the Consumer Product Safety Act (CPSA), 15 U.S.C. § 2064(b). While the staff believes it was appropriate for you to report to the Commission, based upon the information currently available, the staff does not believe the nature and degree of the risk of injury presented by this product necessitate action by the Commission under Section 15 of the CPSA.

Should the firm receive any information that indicates that the risk of injury or hazard presented by the product is greater than or different from that indicated by the information it has already supplied the Commission, it must report that information to the Division of Corrective Actions pursuant to section 15(b) of the CPSA immediately.

The firm has previously indicated that it has voluntarily implemented a corrective action plan to address the reported problem. The staff acknowledges the actions which Daisy Manufacturing Co. has taken willingly and voluntarily. Such actions by firms add greatly to the level of safety of consumer products in the market.

The Commission publishes a list of product recalls and other corrective actions initiated by firms in an Annual Report to Congress. This information is also occasionally used in lists for specific product categories. A summary of the firm's corrective action is enclosed. Because the corrective action is being taken voluntarily and in the absence of a preliminary staff

A

determination that this product presents a substantial product hazard, the firm's agreement to include its corrective action in Commission publications is purely voluntary on the firm's part. Unless the firm notifies the staff by telephone or letter within thirty (30) days of the date of this letter, the staff will assume the information in the enclosed summary is accurate and that the firm does not object to its publication. Please reference the CPSC file number in your response.

If you have any questions concerning this letter, you may contact James A. DeMarco, Compliance Officer, Division of Corrective Actions, U.S. Consumer Product Safety Commission, 4330 East West Highway, Room 613, Washington, D.C. 20207-0001, telephone: (301) 504-0608 extension 1353. Thank you for your cooperation in this matter.

Sincerely yours,



Marc J. Schoem
Director
Division of Corrective Actions

Enclosures

Corrective Action Summary

cc: Consumer Product Safety Commission
Central Regional Center
Suite 2945
230 S. Dearborn St.
Chicago, IL 60604

Judith Hayes, CECA

Joseph Scott
Director of Administration
Daisy Manufacturing Co.
Box 220
Rogers, AR 72757-0220

10

Voluntary Corrective Action Plans Under Section 15
of the Consumer Product Safety Act and
Section 15 of the Federal Hazardous Substances Act

The following is a list of voluntary corrective action plans recently accepted by the Commission (or the staff acting under authority delegated by the Commission). A firm's taking corrective action does not constitute admission by the firm that a substantial product hazard exists.

Space does not permit the staff to give a complete list of the specific model numbers of the products involved in each of these corrective actions. Consumers who believe that they have a product affected by one of these actions should follow the instructions given in this list or contact either the manufacturer or the Commission to determine if their product is one of those affected.

Voluntary Corrective Action Plans Under
Section 15 of the Consumer Product Safety Act and
Section 15 of the Federal Hazardous Substances Act

Date	Firm and Product	Alleged Hazard	Remedy
03/95	Daisy Manufacturing Co. Rogers, ARK 72757- 0220 BB Pistol- Model 179	Eye injury or bruising of the skin. No penetration.	Notice to dealers and some consumers by dealers via mail. Retrofit of all production. 93% corrected as of 3/21/95.

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U.S. CONSUMER PRODUCT SAFETY COMMISSION

WASHINGTON, D.C. 20207

OFFICE OF COMPLIANCE
AND ENFORCEMENT

MAR 23 1995

Division of
Corrective Actions
Tel: 301-504-0608
Fax: 301-504-0359

Certified Mail/Telecopy

Aaron Locker, Attorney
Locker, Greenberg & Brainin
One Penn Plaza
New York, NY 10119

Re: CPSC RP950029
Daisy Manufacturing Co.
BB Pistol- Model 179

Dear Mr. Locker:

The staff of the Office of Compliance and Enforcement, U.S. Consumer Product Safety Commission, has completed its review of the information concerning the Daisy Model 179 BB Pistol, which could accidentally misfire when the hammer is cocked and without the trigger being pulled, which you reported under section 15(b) of the Consumer Product Safety Act (CPSA), 15 U.S.C. § 2064(b). While the staff believes it was appropriate for you to report to the Commission, based upon the information currently available, the staff does not believe the nature and degree of the risk of injury presented by this product necessitate action by the Commission under Section 15 of the CPSA.

Should the firm receive any information that indicates that the risk of injury or hazard presented by the product is greater than or different from that indicated by the information it has already supplied the Commission, it must report that information to the Division of Corrective Actions pursuant to section 15(b) of the CPSA immediately.

The firm has previously indicated that it has voluntarily implemented a corrective action plan to address the reported problem. The staff acknowledges the actions which Daisy Manufacturing Co. has taken willingly and voluntarily. Such actions by firms add greatly to the level of safety of consumer products in the market.

The Commission publishes a list of product recalls and other corrective actions initiated by firms in an Annual Report to Congress. This information is also occasionally used in lists for specific product categories. A summary of the firm's corrective action is enclosed. Because the corrective action is being taken voluntarily and in the absence of a preliminary staff

determination that this product presents a substantial product hazard, the firm's agreement to include its corrective action in Commission publications is purely voluntary on the firm's part. Unless the firm notifies the staff by telephone or letter within thirty (30) days of the date of this letter, the staff will assume the information in the enclosed summary is accurate and that the firm does not object to its publication. Please reference the CPSC file number in your response.

If you have any questions concerning this letter, you may contact James A. DeMarco, Compliance Officer, Division of Corrective Actions, U.S. Consumer Product Safety Commission, 4330 East West Highway, Room 613, Washington, D.C. 20207-0001, telephone: (301) 504-0608 extension 1353. Thank you for your cooperation in this matter.

Sincerely yours,



Marc J. Schoem
Director
Division of Corrective Actions

Enclosures
Corrective Action Summary

cc: Consumer Product Safety Commission
Central Regional Center
Suite 2945
230 S. Dearborn St.
Chicago, IL 60604

Judith Hayes, CECA

Joseph Scott
Director of Administration
Daisy Manufacturing Co.
Box 220
Rogers, AR 72757-0220

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Voluntary Corrective Action Plans Under Section 15
of the Consumer Product Safety Act and
Section 15 of the Federal Hazardous Substances Act

The following is a list of voluntary corrective action plans recently accepted by the Commission (or the staff acting under authority delegated by the Commission). A firm's taking corrective action does not constitute admission by the firm that a substantial product hazard exists.

Space does not permit the staff to give a complete list of the specific model numbers of the products involved in each of these corrective actions. Consumers who believe that they have a product affected by one of these actions should follow the instructions given in this list or contact either the manufacturer or the Commission to determine if their product is one of those affected.



**Voluntary Corrective Action Plans Under
Section 15 of the Consumer Product Safety Act and
Section 15 of the Federal Hazardous Substances Act**

Date	Firm and Product	Alleged Hazard	Remedy
03/95	Daisy Manufacturing Co. Rogers, ARK 72757- 0220 BB Pistol- Model 179	Eye injury or bruising of the skin. No penetration.	Notice to dealers and some consumers by dealers via mail. Retrofit of all production. 93% corrected as of 3/21/95.

DAISY MANUFACTURING COMPANY,

INCORPORATED



ROGERS - ARKANSAS U.S.A.

December 5, 1994

Box 220
Rogers, AR 72757-0220
U S A

(501) 636-1200
Fax (501) 636-1601
Telex 53-6476

Mr. Marc J. Schoem
Acting Director
Division of Corrective Actions
Office of Compliance and Enforcement
U. S. Consumer Product Safety Commission
Washington, D. C. 20207

Re: CPSC RP 950029
Daisy Manufacturing Company, Inc.
BB Pistol #179

Dear Mr. Schoem:

Enclosed please find six (6) Model 179 BB pistols which are furnished in connection with "Full Report" information requested by your office. The report itself will arrive under separate cover.

Two guns #1 and #2, are as initially assembled, have not been repaired - these two guns do not exhibit the defect. Two guns #3 and #4, are as initially assembled and have not been repaired - these two guns do exhibit the defect (although not always). Two guns #5 and #6, have been repaired in accordance with the procedures accompanying this report.

The information forwarded is confidential to the company and is to be treated as exempt from disclosure under the provisions of the Freedom of Information Act and Section 6 of Consumer Product Safety Act (15 U.S. C. Section 2055 and 16 CFR Part 1101) of the Commission's regulations.

The company further treats this information as information submitted under Section 15 of the Consumer Product Safety Act and confidentiality is therefore claimed pursuant to the provisions of Section 6 (b)(5) of the Consumer Product Safety Act and 16 CFR Part 1101.61, et. seq.



DAISY AIR RIFLES
WORLD'S LARGEST AND OLDEST MANUFACTURER OF NON-POWDER GUNS AND AMMO



Pursuant to the provisions of Section 6 (b) of the Consumer Product Safety, the disclosure of information is barred if a disclosure is not fair in the circumstances.

Disclosure of this information requested by the Commission and supplied in confidence would not be fair in the circumstances.

Sincerely,

A handwritten signature in cursive script that reads "Joseph Scott".

**Joseph Scott
Director of Administration**

enc.

cc: Aaron Locker

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LOCKER GREENBERG & BRAININ, P.C.
ATTORNEYS AT LAW

AARON LOCKER
THEODORE M GREENBERG
FREDERICK B LOCKER
JEFFREY M LOCKER
CAROLYN Z SLOVIS

DAVID N BRAININ
OF COUNSEL

ONE PENN PLAZA, NEW YORK, N Y. 10119
(212) 594-7000
TELECOPIER (212) 594-7356

November 9, 1994

Ms. Terri Rogers
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD. 20814

Re: Daisy Model 179 BB Pistol

Dear Terri:

This will confirm the initial telephone report pursuant to Section 15(b) of the Consumer Product Safety Act filed with your office by the undersigned on November 4, 1994.

- (1) An identification and description of the product.

Daisy Manufacturing Company, Inc. Model 179 BB Pistol - "Spittin Image BB Pistol"

- (2) The name and address of the manufacturer (or importer) or, if the manufacturer or importer is not known, the names and addresses of all known distributors and retailers of the product.

Daisy Manufacturing Company, Inc.
Box 220
Rogers, AR. 72757-0220

- (3) The nature and extent of the possible defect or the failure to comply with an applicable consumer product safety rule.

On November 3, 1994, the Company was notified that a consumer had returned a Model No. 179 that did not function properly. The malfunction in the pistol returned by the consumer was accidental discharge of the BB after the hammer was cocked, without the trigger being pulled. The BB would not be discharged at

RECEIVED

NOV 14 P.M.

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LOCKER GREENBERG & BRAININ
ATTORNEYS AT LAW

Ms. Terri Rogers
November 9, 1994
Page Two

full velocity and at the fired velocity, would not cause a laceration or penetration of skin.

- (4) The nature and extent of the injury or risk of injury associated with the product.

Potential projectile hazard.

- (5) The name and address of the person informing the Commission.

Aaron Locker, Esq.
Locker Greenberg & Brainin, P.C.
One Penn Plaza
New York, NY 10119
(212)594-7000

Please address all communications directly to the undersigned with a copy to:

Mr. Joe Scott
Daisy Manufacturing Company, Inc.
Box 220
Rogers, AR. 72757-0220

The Company does not believe this product to be defective or violative of CPSC federal regulations contained in 16 CFR 1500, et seq. or any applicable voluntary standard for the manufacture of this product and is reporting as a precaution to avoid a potential timeliness penalty for failure to file a timely report.

This report contains confidential and proprietary information pursuant to the provisions of Section 6 (b) of the Consumer Product Safety Act. The report is further submitted under a claim of exemption from disclosure which applies to reports submitted pursuant to Section 15 of the CPSA. No release of any material contained herein is authorized by anyone unless pursuant to the express provisions of the Consumer Product Safety Act or the regulations issued pursuant thereto for reports filed under Section 15 of the Consumer Product Safety Act.

Very truly yours,


Aaron Locker

AL:ja

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FOR OFFICIAL USE ONLY

U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, D.C. 20207

OFFICE OF COMPLIANCE
AND ENFORCEMENT

NOV 16 1994

Division of
Corrective Actions
Tel: 301-504-0608
Fax: 301-504-0359

Certified Mail

Aaron Locker, Attorney
Locker, Greenberg & Brainin
One Penn Plaza
New York, NY 10119

Re: CPSC RP950029
Daisy Manufacturing Co.
BB Pistol #179

Dear Mr. Locker:

Thank you for your telephone report of November 4, 1994 under section 15(b) of the Consumer Product Safety Act, as amended (CPSA), 15 U.S.C. § 2064(b). In your report, you indicated that a Model #179 Daisy BB Pistol could accidentally fire when the hammer is cocked and the user does not pull the trigger, resulting in injury to the user or a bystander.

Enclosed for your information are the Consumer Product Safety Act and the Commission's regulation entitled, "Substantial Product Hazard Reports," 16 C.F.R. Part 1115. These documents explain the Commission's authority and policy with regard to products which may present substantial product hazards and also explain the firm's rights and obligations under the Act.

One of the responsibilities of the Compliance staff is to determine preliminarily whether a defect is present in a product and, if so, whether that defect rises to the level of a substantial product hazard as defined by section 15(a) of the Consumer Product Safety Act (CPSA), 15 U.S.C. § 2064(a).


Information Requested

For the staff to assess accurately the potential hazard associated with the firm's product, if any, it requires certain information from the manufacturer or importer of this product. Please provide the "Full Report" information specified by 16 C.F.R. § 1115.13(d) (1-14) on pages 200-201 of the enclosed Federal Register notice. In your response, please reference each question number (1-14).

In addition to providing the information requested in 16 C.F.R. §1115.13(d) (1-14), paragraph 15 of the "Full Report" requests any additional information needed by the staff. In accordance with paragraph 15 (see page 201), please also provide the following additional information:

- 15a. Copies of all test reports, analyses, and evaluations, including premarket tests and reports of tests and any analyses related to the reported problem. Include the date and place such tests and analyses were conducted by or on behalf of the firm and the identity of the persons involved in the testing and analyses.
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- 15e. Provide six samples of the product, including retail packaging and instructions for assembly and use. Also provide a few samples of the "fix", if such has been made, with instructions to be given to consumers. If there is a cost associated with these samples, notify us prior to sending the samples.
- 15f. A copy of the firm's catalog depicting the product.
- 15g. Copies of any notice, warnings or bulletins the firm has issued as a result of this problem or defect.

If the consumer complaints and the other documents requested in Paragraph 15d above are unavailable, please indicate the reason for such unavailability, and provide a summary of the requested items containing the name, address and telephone number of the claimant, or the name address and telephone number of the plaintiff's attorney.



Staff Assessment

After receiving the firm's response, the Commission's Compliance staff will make a preliminary determination as to whether it believes the product presents a substantial product hazard. See 16 C.F.R. § 1115.12(a). Therefore, it is of primary importance that the firm now provide all of the requested information so that the staff can make an accurate assessment of the potential safety hazard associated with the product.

Information Disclosure

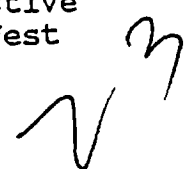
The Commission often receives requests for information provided by firms under section 15(b) of the CPSA. Section 6(b)(5) of the CPSA, 15 U.S.C. § 2055(b)(5), prohibits the release of such information unless a remedial action plan has been accepted in writing, a complaint has been issued or a firm consents to such release. (See section 6(b) of the CPSA, as amended (enclosed)).

In addition to the above, if the firm submits any information that it considers to be a trade secret, or confidential commercial or financial information, it must mark it "confidential" in accordance with section 6(a)(3) of the CPSA, as amended, 15 U.S.C. § 2055(a)(3) and 16 C.F.R. § 1015.18. The Commission is prohibited from disclosing to the public information that is in fact trade secret or proprietary commercial or financial data. If the firm does not request confidential treatment at the time of its submission or within ten days thereafter, the staff will assume that it does not consider information in the submission to be a trade secret or otherwise exempt from disclosure under section 6(a) of the CPSA and the Freedom of Information Act, 5 U.S.C. § 552(b)(4).

Continuing Obligation

Please note that the firm has a continuing obligation to supplement or correct its "Full Report" as new or different information becomes known. For instance, if after filing the "Full Report" the firm receives or learns of information concerning other incidents or injuries, or information that affects the scope, prevalence or seriousness of the defect or hazard, it must report that information to this Division immediately.

The Division of Corrective Actions requests that the firm provide a response within 10 working days of your receipt of this letter. **Please reference the CPSC file number in your response.** If you seek assistance or if you have any questions, you may contact James A. DeMarco, Project Officer, Division of Corrective Actions, U.S. Consumer Product Safety Commission, 4330 East West



Highway, Room 613, Washington, D.C. 20207-0001, telephone: (301) 504-0608 ext. 1353. Thank you for your cooperation in reporting under section 15 of the Consumer Product Safety Act.

Sincerely,

Marc J. Schoem
Director
Division of Corrective Actions

Enclosures

Compilation of CPSC Statutes
Substantial Product Hazard Regulations
FOIA Regulations
Information Disclosure Sheet
Recall Handbook

cc: Consumer Product Safety Commission
Central Regional Center
Suite 2945
230 S. Dearborn St.
Chicago, IL 60604

Daisy Manufacturing Compnay
PO Box 220
Rogers, ARK 72757-0220

24



~~FOR OFFICIAL USE ONLY~~

U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, D.C. 20207

OFFICE OF COMPLIANCE
AND ENFORCEMENT

NOV 16 1994

Division of
Corrective Actions
Tel: 301-504-0608
Fax: 301-504-0359

Certified Mail

Aaron Locker, Attorney
Locker, Greenberg & Brainin
One Penn Plaza
New York, NY 10119

Re: CPSC RP950029
Daisy Manufacturing Co.
BB Pistol #179

Dear Mr. Locker:

Thank you for your telephone report of November 4, 1994 under section 15(b) of the Consumer Product Safety Act, as amended (CPSA), 15 U.S.C. § 2064(b). In your report, you indicated that a Model #179 Daisy BB Pistol could accidentally fire when the hammer is cocked and the user does not pull the trigger, resulting in injury to the user or a bystander.

Enclosed for your information are the Consumer Product Safety Act and the Commission's regulation entitled, "Substantial Product Hazard Reports," 16 C.F.R. Part 1115. These documents explain the Commission's authority and policy with regard to products which may present substantial product hazards and also explain the firm's rights and obligations under the Act.

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Information Requested

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✓

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- 15e. Provide six samples of the product, including retail packaging and instructions for assembly and use. Also provide a few samples of the "fix", if such has been made, with instructions to be given to consumers. If there is a cost associated with these samples, notify us prior to sending the samples.
- 15f. A copy of the firm's catalog depicting the product.
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If the consumer complaints and the other documents requested in Paragraph 15d above are unavailable, please indicate the reason for such unavailability, and provide a summary of the requested items containing the name, address and telephone number of the claimant, or the name address and telephone number of the plaintiff's attorney.

Staff Assessment

After receiving the firm's response, the Commission's Compliance staff will make a preliminary determination as to whether it believes the product presents a substantial product hazard. See 16 C.F.R. § 1115.12(a). Therefore, it is of primary importance that the firm now provide all of the requested information so that the staff can make an accurate assessment of the potential safety hazard associated with the product.

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Highway, Room 613, Washington, D.C. 20207-0001, telephone: (301) 504-0608 ext. 1353. Thank you for your cooperation in reporting under section 15 of the Consumer Product Safety Act.

Sincerely,

Marc J. Schoem
Director
Division of Corrective Actions

Enclosures

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FOIA Regulations
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Recall Handbook

cc: Consumer Product Safety Commission
Central Regional Center
Suite 2945
230 S. Dearborn St.
Chicago, IL 60604

Daisy Manufacturing Compnay
PO Box 220
Rogers, ARK 72757-0220

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LOCKER GREENBERG & BRAININ, P.C.
Attorneys at Law
ONE PENN PLAZA
NEW YORK, N.Y. 10119
Telephone: (212) 594-7000
Facsimile: (212) 594-7356

FACSIMILE COVER PAGE

TO: James DeMarco
FROM: Aaron Locker
DATE: November 14, 1994
FAX NO.:
NO. OF PAGES (including cover): 3

If you do not receive legible copies of all pages, please call (212)594-7000

CONFIDENTIAL AND PRIVILEGED

The information contained in this facsimile is privileged and confidential information intended for the sole use of the addressee. If the reader of this facsimile is not the intended recipient or agent responsible for delivering it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this FAX in error, please immediately notify the person listed above, and return the original message to the sender.

COMMENTS:



LOCKER GREENBERG & BRAININ, P.C.
ATTORNEYS AT LAW

AARON LOCKER
THEODORE M. GREENBERG
FREDERICK B. LOCKER
JEFFREY M. LOCKER
CAROLYN Z. SLOVIS

ONE PENN PLAZA, NEW YORK, N.Y. 10119
(212) 594-7000
TELECOPIER (212) 594-7356

DAVID N. BRAININ
OF COUNSEL

November 9, 1994

Ms. Terri Rogers
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD. 20814

Re: Daisy Model 179 BB Pistol

Dear Terri:

This will confirm the initial telephone report pursuant to Section 15(b) of the Consumer Product Safety Act filed with your office by the undersigned on November 4, 1994.

- (1) An identification and description of the product.

Daisy Manufacturing Company, Inc. Model 179 BB Pistol - "Spittin Image BB Pistol"

- (2) The name and address of the manufacturer (or importer) or, if the manufacturer or importer is not known, the names and addresses of all known distributors and retailers of the product.

Daisy Manufacturing Company, Inc.
Box 220
Rogers, AR. 72757-0220

- (3) The nature and extent of the possible defect or the failure to comply with an applicable consumer product safety rule.

On November 3, 1994, the Company was notified that a consumer had returned a Model No. 179 that did not function properly. The malfunction in the pistol returned by the consumer was accidental discharge of the BB after the hammer was cocked, without the trigger being pulled. The BB would not be discharged at

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LOCKER GREENBERG & BRAININ
ATTORNEYS AT LAW

Ms. Terri Rogers
November 9, 1994
Page Two

full velocity and at the fired velocity, would not cause a laceration or penetration of skin.

- (4) The nature and extent of the injury or risk of injury associated with the product.

Potential projectile hazard.

- (5) The name and address of the person informing the Commission.

Aaron Locker, Esq.
Locker Greenberg & Brainin, P.C.
One Penn Plaza
New York, NY 10119
(212)594-7000

Please address all communications directly to the undersigned with a copy to:

Mr. Joe Scott
Daisy Manufacturing Company, Inc.
Box 220
Rogers, AR. 72757-0220

The Company does not believe this product to be defective or violative of CPSC federal regulations contained in 16 CFR 1500, et seq. or any applicable voluntary standard for the manufacture of this product and is reporting as a precaution to avoid a potential timeliness penalty for failure to file a timely report.

This report contains confidential and proprietary information pursuant to the provisions of Section 6 (b) of the Consumer Product Safety Act. The report is further submitted under a claim of exemption from disclosure which applies to reports submitted pursuant to Section 15 of the CPSA. No release of any material contained herein is authorized by anyone unless pursuant to the express provisions of the Consumer Product Safety Act or the regulations issued pursuant thereto for reports filed under Section 15 of the Consumer Product Safety Act.

Very truly yours,


Aaron Locker

AL:ja

31

Certified Mail

Aaron Locker, Attorney
Locker, Greenberg & Brainin
One Penn Plaza
New York, NY 10119

Re: CPSC RP950029
Daisy Manufacturing Co.
BB Pistol #179

Dear Mr. Locker:

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Staff Assessment

39

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34

504-0608 ext. 1353. Thank you for your cooperation in reporting under section 15 of the Consumer Product Safety Act.

Sincerely,

Marc J. Schoem
Director
Division of Corrective Actions

Enclosures

Compilation of CPSC Statutes
Substantial Product Hazard Regulations
FOIA Regulations
Information Disclosure Sheet
Recall Handbook

cc: Consumer Product Safety Commission
Central Regional Center
Suite 2945
230 S. Dearborn St.
Chicago, IL 60604

Daisy Manufacturing Compnay
PO Box 220
Rogers, ARK 72757-0220

35

Discussion with T. Caton abt results of his PSA study
on 2/2/95

"The sear mechanism nesting area is too wide - main spring can't function right. Some grease was omitted and this situation along with how these units were assembled may cause an unexpected firing when the hammer is pulled back and without the trigger being pulled."

"Fix is adequate".

"These guns aren't made anymore, then a re-design came out but is now stopped...if they are going to make it again will have to re-machine a part".

36

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38

RECEIVED

LOCKER GREENBERG & BRAININ, P.C.
ATTORNEYS AT LAW

DEC - 8 1994

Compliance and Enforcement
CPSC

ONE PENN PLAZA, NEW YORK, N.Y. 10119
(212) 594-7000
TELECOPIER (212) 594-7356

AARON LOCKER
THEODORE M GREENBERG
FREDERICK B LOCKER
JEFFREY M LOCKER
CAROLYN Z. SLOVIS

DAVID N BRAININ
OF COUNSEL

December 6, 1994

Mr. Marc Schoem
Director
Division of Corrective Actions
U. S. Consumer Product Safety Commission
4330 East West Highway
Washington, D. C. 20207-0001

Re: CPSC RP950029
Daisy Manufacturing Co.
BB Pistol No. 179

Dear Mr. Schoem:

I enclose herewith full report pursuant to the provisions of Section 15 (b) of the Consumer Product Safety Act.

Please address all communications with respect to the above matter to the undersigned with a copy to:

Joseph Scott
Daisy Manufacturing Company
Box 220
Rogers, AR 72757-0220

Very truly yours,


Aaron Locker

AL:dd

39

Daisy Manufacturing Company, Inc.
Post Office Box 220
Rogers, Arkansas 72757-0220

FULL REPORT
CPSC RP950029
BB Pistol #179

The information forwarded is confidential to the company and is to be treated as exempt from disclosure under the provisions of the Freedom of Information Act and Section 6 of the Consumer Product Safety Act (15 U. S. C. Section 2055 and 16 CFR Part 1101) of the Commissions regulations.

The company further treats this information as information submitted under Section 15 of the Consumer Product Safety Act and confidentiality is therefore claimed pursuant to the provisions of Section 6 (b)(5) of the Consumer Product Safety Act and 16 CFR Part 1101.61. et seq.

Pursuant to the provisions of Section 6 (b) of the Consumer Product Safety Act, the disclosure of information is barred if a disclosure is not fair in the circumstances.

Disclosure of this information requested by the Commission and supplied in confidence would not be fair in the circumstances.

1. Marvin W. Griffin, Jr.
President & CEO
Post Office Box 220
Rogers, Arkansas 72757-0220

2. Manufacturer: Daisy Manufacturing Company, Inc.
Post Office Box 220
Rogers, Arkansas 72757-0220

3. Daisy Model 179 BB Pistol - "Spittin' Image BB Pistol".
It utilizes the design of propelling the BB through the barrel by the contact force of a torsion spring released under tension when the trigger is pulled. It does not use air to propel the BB as other type air guns do.

The Model 179 BB pistol was included with a Model 1894 air rifle as a combination set (12-03-1879 or 13-03-1879), with a retail price of approximately \$39.00. Although the Model 179 BB pistol was not sold separately during the period of this combination set promotion, if it had been offered as a separate item, it would have carried a retail price estimated at \$15.00.

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The Model 179 BB pistol has a serial number stamped on the butt of the pistol grip, starting with a number 2 or 3, followed by a letter and five digits. A Daisy logo is on the left side of the receiver and the company name and address, along with the model number is on the right side of the barrel.

Samples of the Model 179 BB pistol were sent under separate cover.

4. The nature of the defect was that on a few of the Model 179 BB pistols, the sear may not fully engage which may permit it to discharge at less than full velocity, without pulling the trigger. Refer to tests and drawing provided in response to item 15.

The identified cause of the problem or defect which occurs on some guns, is that the spread at the upper sear pin nest is over tolerance (Print call out is $.132 \pm .005$ and part is .141), causing the sear to not fully engage the main spring. Also, the main spring retaining screw may not be thoroughly tightened.

5. There have been no reported injuries resulting from the above condition. The BB is discharged at less than full velocity and will not penetrate the skin.

The risk of a possible injury, is that if the BB were to strike the eye, it may damage the eye.

6. First notice or indication of a possible problem or malfunction of the Model 179 BB pistol was on November 3, 1994, based on the examination of a Model 179 BB pistol returned to the Daisy Customer Service department.

Subsequently, we received three phone reports of the aforementioned problem or malfunction- one on November 8, 1994 and two on November 9, 1994. All were purchased from The Sportsman's Guide, a catalog order house. (Copies of Customer Service forms attached).

A chronological account of facts or events leading up to the "Initial Report" under section 15 (b) is as follows:

Thursday - November 3, 1994 - First notice or indication of a possible problem (or malfunction) of the Model 179 BB pistol. This was based on the examination of a Model 179 BB pistol returned to the Daisy Customer Service department purported to malfunction. It was subsequently determined that the gun could fire without the trigger being pulled.

7. The number of units of the Model 179 BB pistol sold (net of returns) is as follows:

Combo Pack 12-03-1879

1992 - Wal-Mart Stores, Inc.		21,755
------------------------------	--	--------

Combo Pack 13-03-1879

1993 - United Merchandising Co.		1,728
---------------------------------	--	-------

1994 - The Sportsman's Guide	2,503	
Rochester Imports, Inc.	120	
Wheatbelt	<u>36</u>	<u>2,659</u>
		26,142

Customer Service Department - Sales & Samples		<u>34</u>
		26,176

Because this is a condition that manifests itself at once upon operation of the product, any guns sold by Wal-Mart or United Merchandising Company that had this defect would have been returned to stores then to Daisy for credit in 1993 or early 1994. These returned guns would have been scrapped without examination. No complaints are known of from the shipments to Wal-Mart in 1992, or the United Merchandising Company in 1993.

Production personnel believe that the first produced Model 179's (in 1992) went to Wal-Mart and United Merchandising Company, and that the last produced Model 179's (in 1993) are the guns in question now. This could account for the non-tight screw and the lack of grease, due to improper assembly by different personnel. The tightening of the screw and greasing of the sear will correct this problem; where applicable, the die cast posts (nest) were brought into tolerance as an insurance.

Because of this it is believed that the only units involved are the 2,503 shipped to The Sportsman's Guide, the 120 shipped to Rochester Imports and the 36 shipped to Wheatbelt, TOTAL = 2,659*

*Currently an additional 1,493 in inventory are being repaired.

Refer to response to item 7 above as to dates of manufacture and sale by Daisy Manufacturing Company. It is believed that the items would have sold at retail within a year.

Handwritten mark resembling a stylized '4' or 'y' with a vertical line above it.

9. The number of units of the Model 179 BB pistol in the possession of each of the following, as of November 28, 1994:

Manufacturer	-	1,493
Private labelers	-	None
Distribution	-	None
Retailers	-	1,985
Consumers	-	674

NOTE - These quantities relate to the Model 179 BB pistol shipped in 1994. Reference response to item 7 above.

10. The subject Model 179 BB pistol is currently out of production and was only manufactured in 1992 and 1993. If the gun were to enter production again, the design tolerance of the upper sear pin nest would be reduced on the plus side.

The retrofit of the gun is (1) use special staking tool and stake sear pin holding nest while sear and pin are in place(eliminates excessive movement), (2) check and tighten as applicable, the main spring retaining screw, (3) grease sear at main spring latch area and at hammer cam area

Also, in the event of new production, improved supervision and adherence to assembly procedures would be implemented.

The condition resulting in the malfunction occurs during the assembly operation, and does not relate to time or usage of the product. For this reason, it is a condition that manifests itself at once upon operation of the product. Also, it appears that there were some different assembly personnel in 1993 than in 1992, resulting in occasional non-compliance of assembly procedures.

11. As to the 2,659 units of the Model 179 BB pistol sold in 1994, only three customers were involved - The Sportsman's Guide, Rochester Imports, Inc. and Wheatbelt (shipped to 3 locations). All these customers were contacted by phone and procedures implemented as follows:

The Sportsman's Guide (catalog house) - Contacted The Sportsman's Guide on November 4, 1994 to discontinue shipping. Their inventory was subsequently repaired by Daisy personnel. Requested and received their customer listing of names and addresses of all purchasers of the gun. A letter requesting the return of the Model 179 BB pistol, how to return it and why, was mailed

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to each of their 513 customers on November 22, 1994. (Copy of letter dated November 21, 1994 enclosed).

Rochester Imports, Inc. - Phone inquiry noted no units in inventory, all sold at auction or through flea markets. No record of customers and no record of returns or complaints.

Wheatbelt - Phone inquiry and confirming letter to three ship to locations for return of inventory in stock (18 units) for full reimbursement. (Reference enclosed three letters dated 11/23/94).

12. Reference response and enclosures to preceding paragraph #11. As to the 1994 shipments, customers were instructed to return any inventory stock for credit, or Daisy personnel corrected the problem in their warehouse. Any returned guns to Daisy will be corrected as previously noted (paragraph #10).

Consumer guns for which we have been provided names and addresses, have been informed by letter to return the guns for repairs at no cost.

13. As noted, the Model 179 BB pistol was included with a Model 1894 air rifle as a combination set. The set assembled in 1992 was item #12-03-1879 and was shipped only to a retailer, Wal-Mart Stores, Inc. in 1992. This was a one time promotion for them and was not in our airgun catalog or advertised by Daisy.

The set assembled in 1993 was item 13-03-1879 as over-run of parts on the prior year promotion. These units were closed-out to one customer in 1993 and as previously noted, three customers in 1994. All the customers were retailers and no advertising or marketing assistance was provided by Daisy.

The contact for the sales, would have been finalized by our manufacturing representative or our Vice President of Sales & Marketing.

14. If requested, we can provide the names and addresses of all retailers and the 513 consumers whose names were supplied to us by The Sportsman's Guide.

15. In accordance with paragraph 15, the following information is provided as requested:

- 15a. Reference responses to preceding items and list of enclosures at the end of paragraph 15.

- 15b. Drawing E-03089 assembly
Drawing E-2960 Rt. Frame (3 sheets)

- 15c. **Joseph Scott, Director of Administration.**
First notice or indication of a possible problem or malfunction was on November 3, 1994, based on an examination of a malfunctioning Model 179 BB pistol returned to the Customer Service department. On the same date, November 3, 1994, Joseph Scott notified Ron Joyce of engineering. Following a test of 14 units of the Model 179 BB pistol still in inventory, with two units exhibiting the described condition, Joseph Scott notified various company personnel, including the President & CEO, Marvin W. Griffin.
- 15d. **The only consumer complaints are enclosed and referenced to item 6 also. To date, five safety related consumer complaints have been received.**

No reports of injuries have been received and no claims or court complaints have been received related to the Model 179 BB pistol with the referenced condition.

- 15e **Sent under separate cover are six samples of the product, including packaging and instructions (No cost). Two guns # 1 and #2, are as initially assembled, have not been repaired - These two guns do not exhibit the defect. Two guns #3 and #4, are as initially assembled and have not been repaired - these two guns do exhibit the defect. (although not always). Two guns #5 and #6, have been repaired in accordance with the procedures accompanying this report.**
- 15f. **The Model 179 BB pistol was included with a Model 1894 air rifle as a combination set for a major customer promotion in 1992. As such it did not appear in a catalog and no advertising was done by Daisy.**
History of the Model 179 BB Pistol

The BB pistol was designed in our Research and Engineering Department with first production in 1960. It utilizes the design of propelling the BB through the barrel by the contact force of a torsion spring released under tension when the trigger is pulled. It does not use air to propel the BB as other type air guns do.

Total shipments of the Model 179 BB pistol since introduction in 1960 through 1985, when production was discontinued, is estimated at 1,750,000 units. There was no production of the Model 179 BB pistol from 1986 to 1992.

In August 1992, the Model 179 BB pistol was reintroduced as part of a combination kit, including the 1894 air rifle. Twenty six thousand, one hundred seventy six (26,176) units (net) of the Model 179 BB pistol have been shipped through November 28, 1994.

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- 15g. The company has not issued any notices or bulletins as a result of this problem or defect, other than the letters to known retailers and consumers enclosed with reference to item 11.

LIST OF ACCOMPANYING MATERIAL

Six (6) Model 179 BB pistols (Ref. 15e).(Sent under separate cover).

Memo of 11/03/94 - Test of 14 guns in inventory

Memo of 11/04/94 - HMT Marketing, Inc. to The Sportsman's Guide.

Memo of 11/08/94 - Teresa McCoy to Joe Scott, Re. - Model 179 BB pistol audit.

Memo of 11/08/94 - Mike Small to Joe Scott, Re. Problem and Repair Procedure.

Test Request 11/08/94 - Three (3) guns to 500 shots, after repair.

Five (5) Customer complaints 11/02/94 - 11/09/94.

Memo to Joe Scott & Joe Carr from Mike Small Re. Progress report from 11/04/94 - 11/21/94.

11/21/94 - Consumer letter to The Sportsman's Guide customers.

11/23/94 - Three (3) letters to Wheatbelt retail stores, Mimbach Fleet Supply, C & H Supply and Parker Cassidy Supply.

179 Final Inspection Procedure 02/23/94 (In effect for 1992 production in temporary status before final approval.

Test Job #159 - Test BB feeding, dated 01/26/93.

Drawings - E03089 Assembly
E2960 Right Frame (3 sheets)