veloped by each of these stations were on a per-lot or per-entry basis. Weighted averages were then developed for the cost estimate by multiplying the time or cost factors in each State by the number of entries estimated or lots quarantined as appropriate. Where a station did not separate out an item, that is, individual shipment, the item was estimated using weighted percentages calculated from the data from States where the item was separated out.

Hourly employee costs were calculated using the average hourly costs for each category of employee, i.e., veterinary medical officer, animal health technician, and bioaid from each State to develop a weighted average cost per man-hour for the eight States, involved. Man-hour costs for bioaids were only available from California and Hawaii. The California figure per man-hour was used for all States except Hawaii because this figure is believed to approximate the hourly employee costs for other mainland States.

The cost estimate for processing laboratory samples was based on data taken from the actual cost of operating the section of the National Veterinary Services Laboratories concerned with tests for VVND. The total cost of testing specimens for VVND was averaged by the number of specimens tested during fiscal year 1977.

After the above estimates for hourly employee costs were calculated, each was increased by 7.05 percent to account for the Federal pay raise of October 1977. A surcharge of 1.5 percent of the base cost plus pay raise was added to cover the cost of initial inspections of stations necessary for initial "approval" and routine inspections, necessary when stations are vacant for maintaining approval.

The resulting totals were increased by 19.09 percent, the percentage of Animal and Plant Health Inspection Service's fiscal year 1977 funds used for overhead. The overhead includes all administration costs such as regional and area offices, headquarters staff, Office of the Deputy Administrator and Administrator and all support functions such as budget and personnel operations.

Fiscal year 1977 was determined to be the base year because it is the most recent complete year for which figures are available and should approximate the costs to be expected during fiscal year 1979. These approximate costs were $251.56 for entry of each shipment of birds; $1,834.04 for quarantine and inspection of each lot; security was $5.30 per hour; and laboratory costs were $11.76 per sample, plus actual shipping charges. Further, if work is performed outside the regular tour of duty of the employee providing the required services, overtime charges must be paid in accordance with the provisions of 9 CFR Part 97.

Accordingly, Part 92, Title 9 Code of Federal Regulations, is amended in the following respects:

In § 92.11, a new paragraph (g) is added and the second sentence of paragraph (f) is amended to read:

§ 92.11 Quarantine requirements.

* * * * *

(f) *Standards for approved quarantine facilities and handling procedures for importation of birds.* * * * The cost of the facility and all costs associated with the maintenance and operations of such facility shall be borne by the importer in accordance with the provisions of § 92.11(g) and § 92.12 (a) and (c).

* * * * *

(g) *Charges for services.* The charges to be borne by importers for services provided for quarantine facilities approved in accordance with § 92.11(f) of this part shall be:

(1) The total Veterinary Services employee's time at the appropriate GS hourly rate of such employee to actually perform the service, including his travel time and his travel expenses; *Provided, however,* Such time and travel expense shall not exceed the time and travel expense to and from his offical duty station; [14]

(2) Laboratory costs at $11.76 per sample, plus shipping charges per sample, and;

(3) A surcharge for overhead based on the most current historical data available showing the percentage of APHIS funds expended for administrative support.

These amendments should be made effective on October 1, 1978, to be of maximum benefit to affected persons.

Done at Washington, D.C., this 8th day of August 1978.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

J. K. ATWELL,
*Acting Deputy Administrator, Veterinary Services.*

[FR Doc. 78-22429 Filed 8-8-78; 11:59 am]

[14] If work is done outside the regular tour of duty of the employee providing the service, overtime charges must be paid in accordance with 9 CFR Part 97.

[6750-01]

## Title 16—Commercial Practices

## CHAPTER I—FEDERAL TRADE COMMISSION

### SUBCHAPTER A—ORGANIZATION, PROCEDURES, AND RULES OF PRACTICE

### PART 1—GENERAL PROCEDURES

### Subpart B—Rulemaking Procedures

INDIVIDUAL PROCEDURES

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission hereby revises its rules of practice to afford the Commission the greatest flexibility in fashioning rulemaking procedures tailored to individual proceedings. Such procedures will, of course, comply with the requirements of the Magnuson-Moss Warranty Act.

EFFECTIVE DATE: August 11, 1978.

FOR FURTHER INFORMATION CONTACT:

Barry R. Rubin, Office of General Counsel, Federal Trade Commission, Washington, D.C. 20580, 202-523-3520.

Accordingly, 16 CFR 1.20 is revised to read as follows:

§ 1.20 Alternative procedures.

If the Commission determines at the commencement of a rulemaking proceeding to employ precedures other than those established in the remainder of this subpart, it may do so by announcing those procedures in the FEDERAL REGISTER notice commencing the rulemaking proceeding.

(15 U.S.C. 46(g) and 57a.)

By direction of the Commission, dated August 1, 1978.

CAROL M. THOMAS,
*Secretary.*

[FR Doc. 78-22464 Filed 8-10-78; 8:45 am]

[6750-01]

### PART 4—MISCELLANEOUS RULES

### Commission Meetings

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: This rule delegates to the General Counsel of the Federal Trade Commission the authority to release nonexempt portions of transcripts or minutes of closed Commission meetings and to exercise discretion as to material that is exempt from mandatory disclosure under the Government

in the Sunshine Act (5 U.S.C. 552b(c)). This delegation is designed to expedite the processing of minutes and transcripts that are produced to satisfy the requirements of that Act (5 U.S.C. 552b(f)(1)). The delegation does not affect minutes taken at the Commission's executive sessions to consider oral arguments in cases under its review. As to those minutes, the Commission will continue to determine which portions may be released.

EFFECTIVE DATE: August 11, 1978.

ADDRESS: Portions of minutes and transcripts determined by the General Counsel or the Commission to be appropriate for release will be available for public inspection in room 130 of the Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Barry R. Rubin, Office of General Counsel, Federal Trade Commission, Washington, D.C. 20580, 202-523-3520.

Accordingly, 16 CFR Part 4 is amended to read as follows:

**§ 4.15 Commission meetings.**

* * * * *

(c) * * *

(3) Closed meeting transcripts or minutes required by 5 U.S.C. 552b(f)(1) will be released to the public insofar as they contain information that either is not exempt from disclosure under 5 U.S.C. 552b(c), or, although exempt, should be disclosed in the public interest. The Commission will determine whether to release, in whole or in part, the minutes of its executive sessions to consider oral arguments. With regard to all other closed meetings, the General Counsel, without power of redelegation, shall have the authority to determine which portions of the transcripts or minutes may be released. In unusual or difficult cases the General Counsel may, in his sole discretion, refer the question of release to the Commission for determination.

By direction of the Commission dated July 28, 1978.

CAROL M. THOMAS,
*Secretary.*

[FR Doc. 78-22467 Filed 8-10-78; 8:45 am]

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[6750-01]

## SUBCHAPTER G—RULES, REGULATIONS, STATEMENTS AND INTERPRETATIONS UNDER THE MAGNUSON-MOSS WARRANTY ACT

## PART 702—PRESALE AVAILABILITY OF WRITTEN WARRANTY TERMS

### National Association of Home Builders

AGENCY: Federal Trade Commission.

ACTION: Advisory opinion.

SUMMARY: The Federal Trade Commission issues an advisory opinion on certain situations that arise in the homebuilding industry. The advisory opinion relates to written warrantees and is issued in response to a request from counsel for the National Association of Home Builders, Washington, D. C.

DATE: Effective immediately.

FOR FURTHER INFORMATION CONTACT:

Jeffrey Karp, Attorney, Divison of Product Reliability, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, 202-523-1753.

SUPPLEMENTARY INFORMATION: By letter of September 28, 1977, the firm of Colton and Boykin requested on behalf of its client the National Association of Home Builders ("NAHB"), an interpretation of section 102(b) of the Magnuson-Moss Warranty Act, 15 U.S.C. 2302(b), and the Commission's rule on the presale availability of written warranty terms, 16 CFR Part 702, as they apply to certain situations that arise in the homebuilding industry. NAHB also requested an opinion concerning the applicability of section 111(d) of the Magnuson-Moss Warranty Act, 15 U.S.C. 2311(d), to a warranty required on all FHA/VA financed housing.

The Commission responded to NAHB's request as follows.

HERBERT S. COLTON, ESQ.,
*Colton and Boykin, 1133 15th Street NW., Washington, D.C. 20005.*

DEAR MR. COLTON: This is in reply to your request of September 28, 1977, on behalf of the National Association of Home Builders, for an advisory opinion concerning sections 102(b), and 111(d) of the Magnuson-Moss Warranty Act, 15 U.S.C. 2301 et seq., and the Commission's rule on the presale availability of written warranty terms, 16 CFR Part 702, as they apply to the homebuilding industry.

Your request contains five topics of discussion, each posing questions for Commission consideration. The Commission has rephrased your request in eight questions in order to clarify the issues posed. It has determined that the rephrased questions numbered 1 through 3 (below) are not appropriate for an advisory opinion under Part 1, Subpart A of the Commission's rules of practice; instead these questions are treated as a request for an exemption from Rule 702, 16 CFR part 702. Where the Commission has granted an exemption from Rule 702, that exemption applies to all affected homebuilders and wholesale suppliers.

The rephrased questions and the Commission's answers are as follows:

1. When a builder gives the purchaser an allowance to select various fixtures or appliances (consumer products) from a third party supplier, is it the builder or the third party who must comply with the presale availability of warranties requirements for "sellers" under 16 CFR part 702.3(a) in each of the following situations:

(a) The purchaser makes selections from stock purchased wholesale by, and in the possession of, the builder, and makes payment to the builder for any items selected in excess of the allowance.

(b) The purchaser makes selections in the showroom of the builder's supplier, from items not yet purchased by the builder, and makes payments to the builder for any items selected in excess of the allowance.

(c) The purchaser makes selections from items not yet purchased by the builder, and makes payment directly to the supplier for any items selected in excess of the allowance.

2. What are a custom builder's duties as a "seller" under 16 CFR part 702 when the purchaser can choose from among virtually all brands of appliances available in the marketplace?

3. If the builder has made the presale warranty information available to the purchaser for all appliances from which the purchaser can choose, does the builder have any obligation under 16 CFR Part 702 to make warranty information available, after a contract is signed, for substitute appliances which the purchaser must select due to a manufacturer's discontinuation or replacement of the appliance initially chosen by the purchaser?

4. Does the Magnuson-Moss Warranty Act require that all builders' warranties contain a clause assigning the manufacturers' warranties on consumer products to the purchaser, or does the act have the effect of automatically making all manufacturers' warranties on such appliances run to the ultimate purchaser?

5. Is the builder or the purchaser the proper party to complete and return the warranty registration cards for consumer products installed in the home?

6. Does section 111(d) exempt the mandatory FHA/VA warranty from the requirements of the Magnuson-Moss Warranty Act?

7. Is a builder who gives only the mandatory FHA/VA warranty required to comply with 16 CFR Part 702 for those consumer products sold with warranties that are covered by the act?

8. If a builder both gives the mandatory FHA/VA warranty, and voluntarily offers an additional warranty not required by any Federal law (e.g., a one year warranty against defects in materials and workmanship), to what extent is the additional warranty subject to the Magnuson-Moss Warranty Act?

The Commission has carefully considered the matters set forth in your letter. It is the Commission's determination that:

1. (a) When a builder gives a purchaser an allowance to select consumer products, and the purchaser makes selections directly