(7) Financial/Management Assistance Officer—Minneapolis, MN D.O. (before initial disbursement)

(e) In Section B, paragraph 3 is amended by adding paragraph g. as follows:

g. Financial/Management Assistance Officer—Minneapolis, MN D.O. (on wholly undisbursed loans)

4. *Part IV—Portfolio Management (PM) Program.*

In Section A, paragraph 1d is amended by renumbering existing paragraphs (7) through (10) as (8) through (11) and adding a new paragraph (7) as follows:

(7) Financial/Management Assistance Officer—Minneapolis, MN D.O.

5. *Part V—Claims Review Committee.*

In Section A, paragraph 1 is amended by adding to the existing list of persons constituting the District Claims Review Committee the following:

Financial/Management Assistance Officer—Minneapolis, MN D.O.

6. *Part VII—Minority Small Business and Capital Ownership Development Program (MSB–COD).*

Section A, paragraph 1 is amended by adding paragraph g as follows:

g. Financial/Management Assistance Officer—Minneapolis, MN D.O.

Dated: October 3, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-31750 Filed 10-09-80; 8:45 am]

BILLING CODE 8025-01-M

13 CFR Part 101

[Rev. 2, Amdt. 15]

Delegations of Authority To Conduct Program Activities in the Field

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: SBA is delegating authority to the Senior Contract Specialist for the negotiation, administration and completion of contract and subcontract awards in the Region X 8a program. Other changes include a monetary limitations change in contracting authority (only) for all District Contract Specialists, formerly identified as Region X Contract Specialists.

These changes allow the Senior Contract Specialist to operate most effectively as a representative of the Assistant Regional Administrator for Minority Small Business and Capital Ownership Development in Region X.

EFFECTIVE DATE: October 10, 1980.

FOR FURTHER INFORMATION CONTACT: Ronald Allen, Paperwork Management Branch, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416, Telephone (202) 653–6703.

SUPPLEMENTARY INFORMATION: Part 101 consists of rules relating to the Agency's organization and procedures; therefore, notice of proposed rulemaking and public participation thereon as prescribed in 5 U.S.C. 553 is not required and this amendment to Part 101 is adopted without resort to those procedures.

§ 101.3–2 [Amended]

Accordingly, 13 CFR 101.3–2 is amended as follows:

Part VII—Minority Small Business and Capital Ownership Development Program (MSB–COD)

1. In Section B, paragraph 1 is amended by deleting existing subparagraph k. and adding a new subparagraph k. and adding a new subparagraph n. as follows:

k. All District Contract Specialists, Region X only—$250,000

n. Senior Contract Specialist, Region X only—$1,000,000

2. In Section B, paragraph 2 is amended by deleting existing subparagraph k. and adding a new subparagraph k. and adding a new subparagraph n. as follows:

k. All District Contract Specialists, Region X only—$250,000

n. Senior Contract Specialist, Region X only—$1,000,000

3. In Section B, paragraph 3 is amended by deleting existing subparagraph l. and adding a new subparagraph l. and adding a new subparagraph o. as follows:

l. All District Contract Specialists, Region X only—$250,000

o. Senior Contract Specialist, Region X only—$1,000,000

(Sec. 5(b)(6) of the Small Business Act, 15 U.S.C. 634)

Dated: October 3, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-31749 Filed 10-9-80; 8:45 am]

BILLING CODE 8025-01-M

FEDERAL TRADE COMMISSION

16 CFR Parts 1 and 3

Penalties for Violation of Appliance Labeling Rule

AGENCY: Federal Trade Commission.

ACTION: Final rules.

SUMMARY: The Federal Trade Commission, pursuant to 42 U.S.C. 6303, 15 U.S.C. 46(g), and 5 U.S.C. 553, revises its Rules of Practice to provide procedures for the assessment of civil penalties for violations of the provisions of the Energy Policy and Conservation Act ("EPCA") pertaining to labeling and advertising of consumer appliances and the Commission's rules promulgated thereunder.

EFFECTIVE DATE: October 10, 1980.

FOR FURTHER INFORMATION CONTACT: Jonathan W. Cuneo, Office of General Counsel, Federal Trade Commission, Washington, D.C. 20580, (202) 523–3970.

SUPPLEMENTARY INFORMATION: On September 12, 1979, the Commission published proposed rules for administrative assessment of civil penalties under section 333 of EPCA, 42 U.S.C. 6303, as amended on November 9, 1978, by the National Energy Conservation Policy Act, Pub. L. 95–619. 44 FR 53088 (1979).[1] During the sixty-day comment period, the Commission received four comments. The Commission has considered the comments and has made appropriate modifications in the proposed rules.

The Commission's purpose in promulgating these rules is to provide fair and clear procedural rules for use in assessment of civil penalties, while retaining flexibility with respect to the procedures that it will employ in a section 1.94 determination. Thus, in proposing the general rules, the Commission provided that its rules governing adjudicative proceedings, 16 CFR 3.1 *et seq.*, would govern assessment of civil penalties in Commission adjudicative proceedings unless otherwise directed, and signaled its intent to publish in the **Federal Register** any significant alterations in the rules. One commentator urged that the Commission require itself to use the procedures in 16 CFR 3.1 *et seq.* In light of the flexibility that the Commission wishes to retain, the Commission declines to adopt this suggestion at this time. The Commission does recognize, however, a potential respondent's need to know, at the time of election under § 1.93(b), what procedures the Commission would employ if the potential respondent were to choose to have its case adjudicated under § 1.94. Accordingly, the Commission has modified the notice provisions of § 1.93(a) to require that the Commission specify its procedures at the time of the notice of proposed penalty, if the Commission will use procedures other than those of Part 3.

[1] The Commission published in final form substantive rules to which these procedural rules relate on November 19, 1979. 44 FR 66465 (1979).

In addition, one commentator urged that the Commission modify § 1.93(a) to require the Commission to accompany a notice of proposed penalty with a proposed complaint, and another commentator urged that the Commission always include either a complaint or a statement of material facts. As one commentator correctly asserted, "[W]ithout this kind of information, no intelligent election of procedures can be made." Accordingly, the Commission alters its proposed Rule 1.93 to require either a statement of material facts or a proposed complaint. The Commission does not require a proposed complaint in every case because a statement of the material facts would adequately protect a potential respondent's interest in receiving adequate notice. To require a proposed complaint would be unduly formalistic. The essence of the respondent's interest and the Commission's requirement is the information itself, not the form that the information may take.

One commentator, the Administrative Conference of the United States ("ACUS"), proposed that the Commission adopt specific criteria to assess the amount of civil penalties, and suggested that the Commission attempt to establish particular formulas for assessing violations. The Commission recognizes that there is a need to make determinations on penalty amounts by reference to standard criteria. Further, the criteria that ACUS has suggested would largely appear appropriate in a Commission assessment of civil penalties. Therefore, the Commission has modified § 1.97 to include most of the factors suggested by ACUS. On the other hand, because the Commission is lacking in experience in enforcing EPCA, it would be premature for the Commission to allocate precise numerical weights to the factors or establish fixed formulas for penalty assessment at this time.

Finally, a number of the commentators asked that the Commission establish an enforcement moratorium and adopt a two-year statute of limitations. With respect to the enforcement moratorium, the Commission has previously considered and granted in part two applications; 45 FR 43162 (June 26, 1980); 45 FR 40974 (June 17, 1980). The Commission believes that no further relief is warranted in connection with the promulgation of the procedural rules.

Similarly, the Commission believes that adoption of a two-year statute of limitations would not be appropriate because many violations may go undetected for a substantial period of time. One factor that the Commission will take into account in assessing the amount of penalties is the age of the violations. See Rule 1.97. In light of this protection, the Commission will not establish an absolute fixed statute of limitations at this time.

Accordingly, the Commission amends its rules of practice as follows:

PART I—GENERAL PROCEDURES

1. By adding a new Subpart K to read as follows:

Subpart K—Penalties for Violation of Appliance Labeling Rules

Sec.
1.92 Scope.
1.93 Notice of proposed penalty.
1.94 Commission proceeding to assess civil penalty.
1.95 Procedures upon election.
1.96 Compromise of penalty.
1.97 Amount of penalty.

Subpart K—Penalties for Violation of Appliance Labeling Rules

§ 1.92 Scope.

The rules in this subpart apply to and govern proceedings for the assessment of civil penalties for the violation of section 332 of the Energy Policy and Conservation Act, 42 U.S.C. 6302, and the Commission's Rules on Labeling and Advertising of Consumer Appliances, 16 CFR 305, promulgated under sections 324 and 326 of the Energy Policy and Conservation Act, 42 U.S.C. 6294 and 6296.

§ 1.93 Notice of proposed penalty.

(a) *Notice.* Before issuing an order assessing a civil penalty under this subpart against any person, the Commission shall provide to such person notice of the proposed penalty. This notice shall

(1) Inform such person of the opportunity to elect in writing within 30 days of receipt of the notice of proposed penalty to have procedures of § 1.95 (in lieu of those of § 1.94) apply with respect to such assessment; and

(2) Include a copy of a proposed complaint conforming to the provision of §§ 3.11(b)(1) and (2) of the Commission's Rules of Practice, or a statement of the material facts constituting the alleged violation and the legal basis for the proposed penalty; and

(3) Include the amount of the proposed penalty; and

(4) Include a statement of the procedural rules that the Commission will follow if respondent elects to proceed under § 1.94 unless the Commission chooses to follow subparts B, C, D, E and F of Part 3 of this chapter.

(b) *Election.* Within 30 days of receipt of the notice of proposed penalty, the respondent shall, if it wishes to elect to have the procedures of § 1.95 apply, notify the Commission of the election in writing. The notification, to be filed in accordance with § 4.2 of this chapter, may include any factual or legal reasons for which the proposed assessment order should not issue, should be reduced in amount, or should otherwise be modified.

§ 1.94 Commission proceeding to assess civil penalty.

If the respondent fails to elect to have the procedures of § 1.95 apply, the Commission shall determine whether to issue a complaint and thereby commence an adjudicative proceeding in conformance with section 333(d)(2)(A) of the Energy Policy and Conservation Act, 42 U.S.C. 6303(d)(2)(A). If the Commission votes to issue a complaint, the proceeding shall be conducted in accordance with Subparts B, C, D, E and F of Part 3 of this chapter, unless otherwise ordered in the notice of proposed penalty. In assessing a penalty, the Commission shall take into account the factors listed in § 1.97.

§ 1.95 Procedures upon election.

(a) After receipt of the notification of election to apply the procedures of this section pursuant to § 1.93, the Commission shall promptly assess such penalty as it deems appropriate, in accordance with § 1.97.

(b) If the civil penalty has not been paid within 60 calendar days after the assessment order has been issued under paragraph (a) of this section, the General Counsel, unless otherwise directed, shall institute an action in the appropriate district court of the United States for an order enforcing the assessment of the civil penalty.

(c) Any election to have this section apply may not be revoked except with the consent of the Commission.

§ 1.96 Compromise of penalty.

The Commission may compromise any penalty or proposed penalty at any time, with leave of court when necessary, taking into account the nature and degree of violation and the impact of a penalty upon a particular respondent.

§ 1.97 Amount of penalty.

All penalties assessed under this subchapter shall be in the amount of $100 for each violation as described in section 333(a) of the Energy Policy and Conservation Act, 42 U.S.C. 6303(a), unless the Commission shall otherwise direct. In considering the amount of penalty, the Commission shall take into account: (a) respondent's size and

ability to pay; (b) respondent's good faith; (c) any history of previous violations; (d) the deterrent effect of the penalty action; (e) the length of time involved before the Commission was made aware of the violation; (f) the gravity of the violation, including the amount of harm to consumers and the public caused by the violation; and (g) such other matters as justice may require.

PART 3—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

2. By revising § 3.2 to read as follows:

§ 3.2 Nature of adjudicative proceedings.

Adjudicative proceedings are those formal proceedings conducted under one or more of the statutes administered by the Commission which are required by statute to be determined on the record after opportunity for an agency hearing. The term includes hearings upon objections to orders relating to the promulgation, amendment, or repeal of rules under sections 4, 5 and 6 of the Fair Packaging and Labeling Act and proceedings for the assessment of civil penalties pursuant to § 1.94 of this chapter. It does not include other proceedings such as negotiations for the entry of consent orders; investigational hearings as distinguished from proceedings after the issuance of a complaint; requests for extensions of time to comply with final orders or other proceedings involving compliance with final orders; proceedings for the promulgation of industry guides or trade regulation rules; proceedings for fixing quantity limits under section 2(a) of the Clayton Act; investigations under section 5 of the Export Trade Act; rulemaking proceedings under the Fair Packaging and Labeling Act up to the time when the Commission determines under § 1.26(g) of this chapter that objections sufficient to warrant the holding of a public hearing have been filed; or the promulgation of substantive rules and regulations, determinations of classes of products exempted from statutory requirements, the establishment of name guides, or inspections and industry counseling, under sections 4(d) and 6(a) of the Wool Products Labeling Act of 1939, sections 7, 8(b), and 8(c) of the Fur Products Labeling Act, and sections 7(c), 7(d), and 12(b) of the Textile Fiber Products Identification Act.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-31769 Filed 10-9-80; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[Docket No. C-3041]

Tingley Rubber Corp.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a South Plainfield, N.J. manufacturer of molded rubber footwear to cease withholding cooperative advertising credits or allowances, or in any way limiting or restricting dealers from participating in any cooperative advertising program because of the resale price at which the dealer has advertised or sold a product; or because the dealer has used price comparisons in the advertising and sale of a product.

DATES: Complaint and order issued September 12, 1980.[1]

FOR FURTHER INFORMATION CONTACT: Paul W. Turley, Director, 3R, Chicago Regional Office, Federal Trade Commission, 55 East Monroe St., Suite 1437, Chicago, Ill. 60603 (312) 353-4423.

SUPPLEMENTARY INFORMATION: On Tuesday, July 1, 1980, there was published in the **Federal Register**, 45 FR 44322, a proposed consent agreement with analysis In the Matter of Tingley Rubber Corporation, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Delaying or Withholding Corrections, Adjustments or Action Owed: § 13.675 Delaying or withholding corrections, adjustments or action owed.

[1] Copies of the Complaint and the Decision and Order filed with the original document.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended; (15 U.S.C. 45)).

Carol M. Thomas,

Secretary.

[FR Doc. 80-31668 Filed 10-9-80; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 77N-0404]

Food Labeling; Protein Products; Warning Labeling; Withdrawal of Final Rule

AGENCY: Food and Drug Administration.

ACTION: Withdrawal of final rule.

SUMMARY: The Food and Drug Administration (FDA) is announcing withdrawal of the final rule establishing protein products label warning requirements. This action is taken as a result of a court remand. The final rule was due to become effective on August 4, 1980, and would have established label warning requirements for products prepared in whole or in part from protein, protein hydrolysates, amino acid mixtures, or combinations of these, and that may be used to reduce weight. The agency considers the regulations published on April 4, 1980, to be without force or effect.

EFFECTIVE DATE: October 10, 1980.

FOR FURTHER INFORMATION CONTACT: Victor P. Frattali, Bureau of Foods (HFF-261), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1064.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 4, 1980 (45 FR 22904), FDA published a final rule requiring that the label and labeling of any food product that derives more than 50 percent to its total caloric value from either whole protein, protein hydrolysates (degradation products of the chemical or enzymatic treatment of protein), amino acid mixtures, or a combination of these and is promoted for use to reduce weight bear the following warning:

Warning—Very low calorie protein diets (below 800 calories per day) may cause serious illness or death. DO NOT USE FOR WEIGHT REDUCTION WITHOUT MEDICAL SUPERVISION. Use with particular care if you are taking medication. Not for use by infants, children, or pregnant or nursing women.