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]

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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.