**SUPPLEMENTARY INFORMATION:** For the 1978 marketing year, section 703 of the National Wool Act of 1954, as amended (7 U.S.C. 1782) and 7 CFR 1472.1503 and 1472.1521 provide that the support price for shorn wool shall be 85 percent of the amount calculated according to the formula set forth in section 703, and for pulled wool shall be at a level comparable to the support price of shorn wool which the Secretary determines will maintain normal marketing practices for pulled wool. On December 1, 1977, the Secretary announced a price support rate of 108 cents per pound for 1978 marketings of shorn wool.

The payment rates for shorn wool and pulled wool are determined in accordance with section 704 of the Wool Act, as amended (7 U.S.C. 1783), and 7 CFR 1472.1505 and 1472.1521. The rate of payment for wool for each year is based on the difference between the annual national average price received for wool and the previously announced support price. The rate of payment for pulled wool is at a comparable rate to that of shorn wool.

Section 708 of the Wool Act, as amended (7 U.S.C. 1787), authorizes the Secretary of Agriculture to enter into agreements with marketing cooperatives, trade associations and others engaged or whose members are engaged in the handling of wool, mohair, sheep, or goats, or the products thereof. These agreements can provide for deductions from support payments to producers to conduct advertising and sales promotion and programs for the development and dissemination of information for wool, mohair, sheep or goats or their products. Increased deductions from incentive payments to producers for the 1978–1981 marketing years of 2.5 cents per pound for shorn wool and 12.5 cents per hundredweight for unshorn lambs were authorized in the agreement between the American Sheep Producers Council Inc., and the Secretary of Agriculture approved by producers in a referendum held during August 1978.

This rule merely announces the payment and deduction rates for shorn wool and unshorn lambs (pulled wool) for the 1978 marketing year. There is no latitude in the regulations for determining the payment rate and the deduction rate is the rate authorized in the agreement between the American Sheep Producers Council Inc., and the Secretary. A delay in the effective date of this amendment would only delay payments to producers who completed marketings of shorn wool and unshorn lambs during 1978. Therefore, the provisions of 5 U.S.C. 553 concerning notice of proposed rulemaking, public procedure and 30-day effective date and the 60-day comment period required by Executive Order 12044 do not apply.

**Rule**

In consideration of the foregoing, Part 1472 is amended by adding new paragraphs (c) to § 1472.1505 and to § 1472.1521 and a new paragraph (b) to § 1472.1546 as follows:

1. Section 1472.1505 is amended by adding the following new paragraph (c):

**§ 1472.1505 Price support payments.**

* * * * *

(c) *1978 marketing year.* The national average price received by producers for shorn wool marketed during the 1978 marketing year was 74.5 cents a pound, grease basis, which was 33.5 cents a pound below the 1978 support price of 108 cents for that year. Therefore, the rate of payment for the 1978 marketing year is 45.0 percent.

2. Section 1472.1521 is amended by adding the following new paragraph (c):

**§ 1472.1521 Price support payments.**

* * * * *

(c) *1978 marketing year.* The rate of payment on unshorn lambs sold during the 1978 marketing year is $1.34 per hundredweight of live lambs based on a difference of 33.5 cents a pound between the price support level of 108 cents and the national average price of 74.5 cents a pound received by producers for shorn wool during the 1978 marketing year (§ 1472.1505(c)).

3. Section 1472.1546 is amended by adding "(a)" at the beginning of the paragraph and a new paragraph (b) as follows:

**§ 1472.1546 Deductions for promotion.**

* * * * *

(b) For the 1978 marketing year, a deduction will be made from each shorn wool payment at the rate of 2.5 cents a pound of wool, grease basis, and from each unshorn lamb payment at the rate of 12.5 cents per hundredweight of live lambs as announced in the Department of Agriculture press release issued December 27, 1978. Those funds will be used to finance the advertising and sales promotion program approved by the Department of Agriculture pursuant to section 708 of the National Wool Act of 1954, as amended.

**Note.**—This rule has been determined not significant under the USDA criteria implementing Executive Order 12044. An approved impact analysis is available from the Emergency and Indemnity Programs Division, Room 4095 South Building, P.O. Box 2415, Washington, D.C. 20013.

(Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 702–708, 68 Stat. 910–912, as amended (7 U.S.C. 1781–1787).)

Signed at Washington, D.C., on April 5, 1979.

Ray Fitzgerald,
*Executive Vice President, Commodity Credit Corporation.*

[Amdt. 1]

[FR Doc. 79-11180 Filed 4-10-79; 8:45 am]

BILLING CODE 3410-05-M

## SMALL BUSINESS ADMINISTRATION

### 13 CFR Part 120

### Business Loan Policy; Small Contractors

**AGENCY:** Small Business Administration.

**ACTION:** Final rule.

**SUMMARY:** This amendment to Part 120 establishes the Rules and Regulations for loans to small contractors. This amendment is necessary to implement Section 301 of Pub. L. 95–89. SBA's proposed rule was published October 17, 1978, and provided for a 60 day comment period. This final rule considers the responses to the proposed rule.

**EFFECTIVE DATE:** April 11, 1979.

**FOR FURTHER INFORMATION CONTACT:** Richard L. Wray, Financial Analyst, Small Business Administration, 1441 L St., NW., Washington, D.C. 20416 (202) 653–6470.

**SUPPLEMENTARY INFORMATION:** SBA received four (4) written responses to its proposed rule; two from SBA offices and two from the public. While the 36 months maturity, plus the estimated construction/renovation period, was considered generally adequate one responder asked for flexibility to handle delinquencies caused by unforeseen circumstances. The Small Business Act allows loan servicing personnel a wide latitude in the extension of loans or other servicing actions to effect collection of any SBA loan. The Agency does not believe it is appropriate to write loan servicing procedures into the rules for making a loan and this suggestion is not adopted.

One responder read into the proposed rule that the contractor has the right to pay operating costs of rental property with loan proceeds. This interpretation of our rule is incorrect. while SBA may allow the constructed/ renovated property to be rented in some situations, SBA loan funds can only be used for the acquisition, construction or renovation of the real estate. The costs related to renting and operating the property must be paid with funds from other sources.

SBA was criticized for prohibiting a sale of the property to an affiliate. The responder contended that the contractor cannot realize the full profit on a project without the continuing right to income and depreciation over the long term. It has been a long-standing policy that SBA loan funds cannot be used for speculation or investment purposes. Pub. L. 95–89 stated that the construction or renovation of real estate for sale does not represent speculation. A transfer of title to an affiliate means the contractor is retaining an ownership interest in the property and a sale has not been consummated. SBA will retain the requirement that the sale be to an unaffiliated third party.

One response stated that the phrase "to free other funds" was too vague. This phrase has been in SBA Rules and Regulations for years without any lack of understanding by applicants.

A responder suggested raising the limit on the amount of a loan that can be used for purchase of vacant land to 40–49 percent and that the limit should be applied only to the guaranteed portion of the loan. Raising the limitation to the level suggested would provide a means for 100 percent financing, which SBA has found to be an unsound credit practice. Also, statutory interpretation has held that the entire loan, not just the guaranteed portion, is the SBA loan and all restrictions apply to the entire loan.

Two responses were received about the letters required from a mortgage lender, real estate broker and architect, appraiser or engineer. One comment was that requiring separate letters from a lender that is capable of providing the necessary information is unnecessary paperwork. SBA concurs and the final rule allows the participating lender to provide the information itself. All direct loans, and participation loans at the lender's choice, must have all three letters to assure SBA that the mortgage lenders have loan funds, that the project site is located in an area where a demand for property exists as well as the demand for the type of architecture and that SBA funds controls comply with outstanding legislation. Without such letters for direct loans the processing and disbursement periods would be excessively long. SBA personnel would have to delay processing until these factors could be investigated and disbursements would have to be delayed until qualified SBA personnel could visit the project site and determine how the loan funds are being used.

One response pointed out that our limitations on off-site improvements would prevent using this program for subdivision projects. SBA is prohibited from duplicating any Housing and Urban Development (HUD) programs and HUD has a loan program for subdivisions. SBA programs, therefore, must be structured to avoid any duplication and the limitation on off-site improvements is not being changed.

Pursuant to the authority contained in Section 5(b)(6) of the Small Business Act, 15 U.S.C. 634, § 120.2(d)(7) of Part 120 is amended to read as follows:

**§ 120.2 Business loans and guarantees.**

* * * * *

(d) Financial assistance will not be granted by SBA.

* * * * *

(7) As a general rule, if the purpose of the financial assistance is to finance the acquisition, construction, improvement, or operation of real property which is, or is to be, held primarily for sale or investment and is not to be used in connection with the applicant's otherwise eligible business: *Provided, however,* That financial assistance may be provided for residential or commercial construction or rehabilitation for sale to applicants which comply with all the following conditions:

(i) Any such financial assistance must be repayable within 36 months (plus the period of construction or rehabilitation);

(ii) An eligible applicant must be a construction contractor, contractor or homebuilder who has demonstrated managerial and technical ability in constructing or renovating projects of comparable size.

(iii) The financial assistance must be used to finance the construction or rehabilitation of residential or commercial real property, or the acquisition and prompt and significant rehabilitation (costing more than one-third of the purchase price) of residential or commercial real property, for sale on completion for the applicant's account. Not more the twenty percent (20%) of any financial assistance is to be used for the purchase of unimproved (vacant) land. No part of such financing may be used to purchase, or free other funds to purchase, building sites or other vacant land, or to operate or hold residential or commercial rental property for the account of the applicant or an affiliate for investment or speculative purposes, except that applicant may, with the written permission of the SBA, rent the constructed or rehabilitated property pending sale.

(iv) Applicant must submit, to the participating lender or SBA (or the lender may provide the required information to SBA), letters from (*a*) a mortgage lender, (*b*) an independent licensed real estate broker, and (*c*) an independent architect, appraiser or engineer. The mortgage lender shall advise whether permanent mortgage money is usually available to qualified borrowers to purchase real property in the project area for property similar to or comparable with the property to be constructed or rehabilitated by the applicant. The broker shall advise whether a sales market exists for the type of building to be constructed or rehabilitated by the applicant and whether the proposed construction or renovation would be compatible with the other buildings in terms of monetary and architectural values; the broker must truthfully state that he has at least three (3) years experience in real estate sales for similar property in the project area. The architect, appraiser or engineer shall agree to make all construction inspections and certifications necessary to support interim construction disbursements. The cost of such inspections may be paid by applicant from its own funds or may be added to the loan amount.

(v) The financial assistance must be secured with not less than a second lien on the land and improvements to be acquired, constructed or rehabilitated: *Provided,* That all liens must permit the release of individual parcels of property upon payment of a predetermined amount of money and provide for transfer of clear title to the buyer; *And provided further,* That the total amount of all liens cannot exceed eighty percent (80%) of the fair market value of the completed project.

(vi) Proceeds of any such financing may not be used as a construction loan to be repaid from permanent financing with the applicant or an affiliate retaining title.

(vii) The terms "construction" and "rehabilitation" are intended to include only on-site repair, alteration, conversion, extension, renovation, rehabilitation, new construction, or other improvement of residential or commercial buildings; and on-site underground connections to water, sewer, or gas mains, underground or above ground connections for electric or telephone service, septic tank construction, and landscaping of the property: *Provided,* That not more than five percent (5%) of the SBA financing may be used for streets, curbs, open spaces, or construction of public water and sewer mains, or of waste disposal facilities, or cost of community improvements that benefit more than the

structure(s) constructed or rehabilitated with SBA financial assistance.

* * * * *

Dated: March 23, 1979.

A. Vernon Weaver,
*Administrator.*

[Rev. 6, Amdt. 21]

[FR Doc. 79-11205 Filed 4-10-79; 8:45 am]
BILLING CODE 8025-01-M

## FEDERAL TRADE COMMISSION

### 16 CFR Part 1

### Industry Guidance; Advisory Opinions Rule Amendment

**AGENCY:** Federal Trade Commission.

**ACTION:** Final rule.

**SUMMARY:** This amendment of the agency's advisory opinion procedures seeks to expedite advice and guidance to the public, especially small businesses, about enforcement of the laws and regulations administered by the Commission. The change is intended to clarify §§ 1.1 through 1.4 of the Rules of Practices so as to indicate the circumstances in which Commission or staff advice will be issued. Commission opinions will be issued where the question involves a substantial or novel question, or a proposed merger. In other cases the Commission's staff will respond, with advice or with a statement reflecting present staff enforcement intentions. Such staff advice would be rendered without prejudice to the right of the Commission later to rescind it. The changes also delete the present provision under which advisory opinions may not be rendered with respect to ongoing courses of action.

This change was published for comment on January 8, 1979 (44 FR 1753). No comments were received and no changes have been made from the original proposal.

**DATE:** Effective April 11, 1979.

**FOR FURTHER INFORMATION CONTACT:** Barry R. Rubin, Assistant General Counsel, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3520.

**SUPPLEMENTARY INFORMATION:** Since 1962, the Commission has rendered formal advisory opinions about the legality of proposed courses of action. See 16 CFR § 1.1 *et seq.;* 16 CFR § 15.1 *et seq.*

Under the amendment, the Commission will continue to issue formal opinions where the matter involves a substantial or novel question and there is no clear precedent; where a proposed merger or acquisition is involved; or where the subject matter is of significant public interest. Advice will be given on *both* proposed and current courses of action. The Commission will also continue to advise whether proposed conduct will violate an outstanding cease and desist order under § 3.61 of the Rules of Practice.

In other circumstances, the staff is expressly authorized to render advice. The vast majority of requests from the public are already handled informally by the staff of the Office of General Counsel or the bureaus. In the recent past, the Commission has averaged only about 16 formal opinions per year, about half of these involving compliance with trade regulation rules, other Commission rules, or outstanding cease and desist orders. Not only is informal advice provided by General Counsel staff letters, the bureaus constantly are answering mail and telephone inquiries. Small businesses and others tend to receive the quickest and most helpful advice in this manner. Thus, the proposal reduces to writing what is already routine present practice.

For these reasons, the Commission amends its Rules of Practice, §§ 1.1–1.4, to read as follows:

### Part 1—General Procedures

#### § 1.1 Policy.

(a) Any person, partnership, or corporation may request advice from the Commission with respect to a course of action which the requesting party proposes to pursue. The Commission will consider such requests for advice and inform the requesting party of the Commission's views, where practicable, under the following circumstances.

(1) The matter involves a substantial or novel question of fact of law and there is no clear Commission or court precedent;

(2) A proposed corporate merger or acqusition is involved; or

(3) The subject matter of the request and consequent publication of Commission advice is of significant public interest.

(b) The Commission has authorized its staff to consider all requests for advice and to render advice, where practicable, in those circumstances in which a Commission opinion would not be warranted. Hypothetical questions will not be answered, and a request for advice will ordinarily be considered inappropriate where (1) the same or substantially the same course of action is under investigation or is or has been the subject of a current proceeding involving the Commission or another governmental agency, or (2) an informed opinion cannot be made or could be made only after extensive investigation, clinical study, testing, or collateral inquiry.

#### § 1.2 Procedure.

(a) Application. The request for advice or interpretation should be submitted in writing (one original and two copies) to the Secretary of the Commission and should (1) state clearly the question(s) that the applicant wishes resolved; (2) cite the provision of law under which the question arises; and (3) state all facts which the applicant believes to be material. In addition, the identity of the companies and other persons involved should be disclosed. Letters relating to unnamed companies or persons may not be answered. Submittal of additional facts may be requested prior to the rendering of any advice.

(b) Compliance matters. If the request is for advice as to whether the proposed course of action may violate an outstanding order to cease and desist issued by the Commission, such request will be considered as provided for in § 3.61 of these Rules.

#### § 1.3 Advice.

(a) On the basis of the materials submitted, as well as any other information available, and if practicable, the Commission or its staff will inform the requesting party of its views.

(b) Any advice given by the Commission is without prejudice to the right of the Commission to reconsider the questions involved and, where the public interest requires, to rescind or revoke the action. Notice of such rescission or revocation will be given to the requesting party so that he may discontinue the course of action taken pursuant to the Commission's advice. The Commission will not proceed against the requesting party with respect to any action taken in good faith reliance upon the Commission's advice under this section, where all the relevant facts were fully, completely, and accurately presented to the Commission and where such action was promptly discontinued upon notification of rescission or revocation of the Commission's approval.

(c) Advice rendered by the staff is without prejudice to the right of the Commission later to rescind the advice and, where appropriate, to commence an enforcement proceeding.

#### § 1.4 Public disclosure.

Written advice rendered pursuant to this Section and requests therefor,

including names and details, will be placed in the Commission's public record immediately after the requesting party has received the advice, subject to any limitations on public disclosure arising from statutory restrictions, the Commission's rules, and the public interest. A request for confidential treatment of information submitted in connection with the questions should be made separately.

By direction of the Commission dated March 30, 1979.

Carol M. Thomas,
*Secretary.*

[FR Doc. 79-11237 Filed 4-10-79; 8:45 am]
BILLING CODE 6750-01-M

## CONSUMER PRODUCT SAFETY COMMISSION

### 16 CFR Part 1700

### Poison Prevention Packaging; Exemption from Child Resistant Packaging Standards for Anhydrous Cholestyramine in Powder Form

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document the Commission issues a final amendment under the Poison Prevention Packaging Act (PPPA) to exempt anhydrous cholestyramine in powder form from the special packaging requirements imposed by the act. The Commission is taking this action because of the low incidence of accidental ingestions of this drug by children as well as the lack of potential for serious illness or injury from the drug.

**EFFECTIVE DATE:** This amendment is effective April 11, 1979.

**FOR FURTHER INFORMATION CONTACT:** Sandra Eberle, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207, (301) 492-6400.

**SUPPLEMENTARY INFORMATION:**

#### Background

Regulations issued under the Poison Prevention Packaging Act of 1970 (PPPA) (15 U.S.C. 1471-1476) establish child-protection packaging requirements for human oral prescription drugs in order to protect children from serious personal injury or illness resulting from handling, using, or ingesting these substances.

On February 11, 1974 the Commission proposed an exemption from the child-resistant packaging regulation for oral prescription drugs (16 CFR 1700.14(a)(10)), in response to a petition (PP 74-17) from Mead Johnson Laboratories, for anhydrous cholestyramine in powder form (marketed by Mead Johnson as Questran), a chloride salt of a basic anion-exchange resin (39 FR 5197). In proposing the exemption, the Commission also stayed the special packaging regulations for prescription drugs as it applied to cholestyramine pending issuance of a final exemption.

Anhydrous cholestyramine in a powder form, a noneffervescent powder which is intended to be suspended in water or other liquids prior to consumption, is used to lower cholesterol levels in the blood. The Commission proposed the exemption due to the low incidence of accidental ingestions by children as well the lack of potential for serious injury or illness from the drug.

It should be noted that the **Federal Register** document in which the Commission proposed to exempt cholestyramine also included proposed exemptions for several other substances. (39 FR 5197). The final rule contained herein, however, applies only to anhydrous cholestyramine in powder form and does not address the exemptions for these other substances.

#### Response to Comments

Fifteen comments were received by the Commission in response to the proposed exemptions, although only one discussed the specific issue of whether cholestyramine should be exempted. Some of the comments addressed the proposed exemptions of the other drugs listed in the February 11, 1974 **Federal Register** notice; these comments will not be discussed here. Five comments discussed the general issue of whether any exemptions to the special packaging requirements should be granted.

The one comment that dealt specifically with cholestyramine was from the American Academy of Pediatrics' Committee on Drugs, which noted a report stating that overdoses of the drug may cause nausea, diarrhea and constipation. Commission staff reviewed the pharmacology of the drug in regard to these overdose side effects and found that mild and transient constipation was reported to occur more often than nausea and diarrhea. It has also been found that high dosage levels and advanced age appear to predispose individuals to constipation. The Commission notes that these side effects are associated with normal therapy and cannot be viewed as indicative of any potential for serious personal injury or illness in children.

As noted above, five commenters were concerned about exemptions in general. One commenter noted that exemptions should be granted only "with restraint" and that criteria other than toxicological issues should be examined. Two commenters suggested that manufacturers should be required to inform the public, through advertising and product labeling, of which drugs have been exempted and in what amounts. Other commenters envisioned the difficulties pharmacists might face in filling prescriptions for exempted drugs, in particular, in determining what quantities of a drug may be in regular packaging and what quantities require child-protection closures. Other respondents simply opposed any exemptions from the PPPA's requirements, citing the possibility of individual reactions, long term effects, and errors in compounding prescriptions as justification for safety packaging for all oral prescription drugs. Some commenters expressed concern that consumers would be confused over the two categories of drug containers in the home; others felt that non-complying packaging will increase health care costs.

A summary of these comments and the Commission's detailed responses were published in the **Federal Register** on January 31, 1979 (44 FR 6340). In brief, the Commission determined that none of the general comments were convincing as to the point that exempting specific drugs which cannot cause serious personal injury or illness to children from the PPPA's special packaging requirements is unsafe or ill-advised.

#### Injury Data

The Commission bases its decision to issue a final exemption for anhydrous cholestyramine in powder form, in part, on the lack of significant adverse human experience data reported by the National Clearinghouse for Poison Control Centers (NCPCC). During the years 1969-76, no accidental ingestions of cholestyramine by children younger than five years of age were reported to NCPCC. An examination of the Commission's Poison Control Center data during 1976-77 also revealed no accidental ingestions of cholestyramine by children under five years old.

Toxicity data submitted by the petitioner, Mead Johnson Laboratories, show the substance to be relatively safe. No deaths or signs of toxicity in mice were observed during the seven days following oral administration of 10 grams per kilogram of body weight of the drug. Using the 10 kilogram child, this would extrapolate to an extremely