

NIST will review the recommendation and if found acceptable will subject it to a letter ballot of the Committee. Approval by three-fourths of the members of the Committee eligible to vote will constitute acceptance by the Committee and by NIST. Notice of the Committee decision will be published in the FEDERAL REGISTER.

(f) If the appeal is to NIST and the attempt to resolve the appeal informally under paragraph (c) of this section is not successful, the Deputy Director of NIST will schedule a hearing with an appeals panel at an appropriate location. Announcement of the hearing shall be made to members of the Standard Review Committee or Standing Committee and all acceptors of record, when appropriate, as well as to other known interests. Notice of the hearing shall be published in the FEDERAL REGISTER.

(g) The Deputy Director of NIST will name two other persons, who have not been directly involved in the matter in dispute and who will not be directly or materially affected by any decision made or to be made in the dispute, to sit on the panel with the Deputy Director, who will act as presiding officer. The presiding officer will have the right to exercise such authority as necessary to ensure the equitable and efficient conduct of the hearing and to maintain an orderly proceeding.

(h) The hearing will be an informal, nonadversary proceeding at which there will be no formal pleadings or adverse parties. The hearing will be open to the public. Witnesses shall submit a written presentation for the record seven days prior to the hearing. A record will be made of the hearing. Copies of the written statements and the record of the hearing will be available at cost.

(i) The appeals panel will make a recommendation to the Director of NIST. The Director's decision on the appeal will be announced within 60 days following the hearing and will be communicated to the complainant and other interested parties by letter. Notice of the Director's decision shall be published in the FEDERAL REGISTER.

[51 FR 22497, June 20, 1986, as amended at 55 FR 38315, Sept. 18, 1990]

#### § 10.15 Interpretations.

(a) An interpretation of a Voluntary Product Standard may be obtained through the submission of a written request. The request shall identify the specific section of the standard involved.

(b) In the case of PS 20-70, the "American Softwood Lumber Standard," interpretations shall be made by the American Lumber Standards Committee (ALSC) under the procedures developed by the ALSC and found acceptable to NIST.

(c) In the case of the other Voluntary Product Standards, interpretations shall be made by the appropriate Standing Committees under procedures developed by those committees and found acceptable to NIST.

[51 FR 22497, June 20, 1986, as amended at 55 FR 38315, Sept. 18, 1990]

#### § 10.16 Effect of procedures.

Nothing contained in these procedures shall be deemed to apply to the development, publication, revision, amendment, or withdrawal of any standard which is not identified as a "Voluntary Product Standard" by the Department. The authority of the Department with respect to engineering standards activities generally, including the authority to publish appropriate recommendations not identified as "Voluntary Product Standards," is not limited in any way by these procedures.

### PART 11—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS

AUTHORITY: Section 213, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646, 84 Stat. 1894 (42 U.S.C. 4601) as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, Title IV of Pub. L. 100-17, 101 Stat. 246-256 (42 U.S.C. 4601 note).

#### § 11.1 Uniform relocation and real property acquisition.

Regulations and procedures for complying with the Uniform Relocation

Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646, 84 Stat. 1894, 42 U.S.C. 4601), as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Title IV of Pub. L. 100-17, 101 Stat. 246-255, 42 U.S.C. 4601 note) are set forth in 49 CFR Part 24.

[52 FR 48018, Dec. 17, 1987 and 54 FR 8912, 8913, Mar. 2, 1989]

## PART 12—FAIR PACKAGING AND LABELING

Sec.

12.1 Introduction.

12.2 Undue proliferation.

12.3 Development of voluntary product standards.

12.4 Report to the Congress.

AUTHORITY: Secs. 5(d), 5(e), 80 Stat. 1298, 15 U.S.C. 1454; sec. 3, Dept. Order 177 (31 FR 6746), as amended (32 FR 3110).

SOURCE: 32 FR 11074, July 29, 1967, unless otherwise noted.

### § 12.1 Introduction.

(a) These procedures apply to the discharge of the responsibility given to the Secretary of Commerce by sections 5(d) and 5(e) of the Fair Packaging and Labeling Act (Pub. L. 89-755, 80 Stat. 1299), hereinafter called the "Act". The word "Secretary", as used hereinafter, shall refer to the Secretary of Commerce or his authorized delegate.

(b) The Secretary does not have the responsibility or the authority under the Act to issue any regulations governing the packaging or labeling practices of private industry.

(c) The Secretary does have the responsibility and authority to:

(1) Determine whether the reasonable ability of consumers to make value comparisons with respect to any consumer commodity or reasonably comparable consumer commodities is impaired by undue proliferation of the weights, measures, or quantities in which such commodity or commodities are being distributed in packages for sale at retail.

(2) Request manufacturers, packers, and distributors, where a determination of undue proliferation has been made, to participate in the development of a voluntary product standard under the procedures governing the De-

partment's voluntary standards program.

(3) Report to Congress with a recommendation as to whether legislation providing regulatory authority should be enacted, when after 1 year following the date private industry has been requested to participate in the development of a voluntary product standard it is determined that such a standard will not be published, or when following the publication of such a standard it is determined that the standard has not been observed.

(d) The Act does not furnish a detailed, definitive explanation of "undue proliferation". It does, however, point out that the condition of "undue proliferation" must be one which "impairs the reasonable ability of consumers to make value comparisons" with respect to consumer commodities. Generally, therefore, the Department will determine "undue proliferation" on a case-by-case basis, and, accordingly, is establishing by these procedures an orderly process for such determinations.

(e) As used hereinafter the term "undue proliferation" shall refer to such undue proliferation—of the weights, measures or quantities in which any consumer commodity or reasonably comparable consumer commodities are being distributed for sale at retail—as impairs the reasonable ability of consumers to make value comparisons with respect to such consumer commodity or commodities, as set out in section 5(d) of the Act.

### § 12.2 Undue proliferation.

(a) *Information as to possible undue proliferation.* Any person or group, including a State or local governmental entity, is invited to communicate information to the Secretary concerning the possible existence of undue proliferation. Such communications should be in writing and include supporting information and explanations.

(b) *Initiation of inquiry as to undue proliferation.* Upon receipt of information regarding the possible existence of undue proliferation, the Secretary will determine whether there has been a showing of good cause warranting an inquiry. If the Secretary determines that good cause exists, he shall initiate an inquiry for the purpose of finding