

**ADDRESSES:** The meetings will be held at the Crowne Plaza New Orleans, 333 Poydras Street, New Orleans, LA 70130; telephone: 504-525-9444.

*Council address:* Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

**FOR FURTHER INFORMATION CONTACT:** Steven Atran, Population Dynamics Statistician, Gulf of Mexico Fishery Management Council; telephone: 813-228-2815.

**SUPPLEMENTARY INFORMATION:** The RSAP, consisting of recreational and commercial red snapper fishermen, will review stock assessments of gag and vermilion snapper that were prepared by NMFS and reports from the Council's Reef Fish Stock Assessment Panel and Socioeconomic Panel that include biological, social, and economic information related to the range of acceptable biological catch (ABC). Based on these reports, the RSAP may recommend levels of total allowable catch (TAC) for red snapper in 1999 and appropriate management measures.

The SSC, consisting of economists, biologists, sociologists, and natural resource attorneys, will also review the above reports, comment on their scientific adequacy, and may make recommendations regarding red snapper TAC and management measures.

Although other issues not on the agenda may come before the RSAP and SSC for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. The RSAP's and SSC's actions will be restricted to those issues specifically identified in the agenda listed as available by this notice.

#### **Special Accommodations**

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by October 27, 1998.

Dated: October 13, 1998.

**Richard W. Surdi,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
[FR Doc. 98-27973 Filed 10-16-98; 8:45 am]

**BILLING CODE 3510-22-F**

#### **DEPARTMENT OF COMMERCE**

##### **National Oceanic and Atmospheric Administration**

[I.D. 100998D]

##### **Western Pacific Fishery Management Council; Public Meeting**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of public meeting.

**SUMMARY:** The Western Pacific Fishery Management Council will hold a meeting of its Precious Corals Plan Team.

**DATES:** The meeting will be held on November 9, 1998, from 9:00 a.m. to noon.

**ADDRESSES:** The meeting will be held at the NMFS Laboratory, 2570 Dole Street, Room 112, Honolulu, HI; telephone: 808-983-5300.

*Council address:* Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813.

**FOR FURTHER INFORMATION CONTACT:** Kitty M. Simonds, Executive Director; telephone: 808-522-8220.

**SUPPLEMENTARY INFORMATION:** The Precious Corals Plan Team will discuss the findings of recent precious corals research conducted in the Northwestern Hawaiian Islands and other issues as required.

Although other issues not on the agenda may come before this Team for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions will be restricted to those issues specifically identified in the agenda listed as available by this notice.

#### **Special Accommodations**

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808-522-8220 (voice) or 808-522-8226 (fax), at least 5 days prior to meeting date.

Dated: October 9, 1998.

**Richard W. Surdi,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
[FR Doc. 98-27974 Filed 10-16-98; 8:45 am]

**BILLING CODE 3510-22-F**

#### **CONSUMER PRODUCT SAFETY COMMISSION**

[CPSC Docket No. 99-C0002]

##### **The Neiman Marcus Group, Inc., a Corporation; Provisional Acceptance of a Settlement Agreement and Order**

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice.

**SUMMARY:** It is the policy of the Commission to publish settlements which it provisionally accepts under the Flammable Fabrics Act in the **Federal Register** in accordance with the terms of 16 CFR 1118.20(e). Published below is a provisionally-accepted Settlement Agreement with the Neiman Marcus Group, Inc., a corporation, containing a civil penalty of \$112,500.

**DATES:** Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by November 3, 1998.

**ADDRESSES:** Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 99-C0002, Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

**FOR FURTHER INFORMATION CONTACT:** Ronald G. Yelenik, Trail Attorney, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504-0626, 1351.

**SUPPLEMENTARY INFORMATION:** The text of the Agreement and Order appears below.

Dated: October 14, 1998.

**Sadye E. Dunn,**  
*Secretary.*

#### **Settlement Agreement and Order**

1. This Settlement Agreement and Order, entered into between The Neiman Marcus Group, Inc. (hereinafter, "Neiman Marcus" or "Respondent"), a corporation, and the staff of the Consumer Product Safety Commission (hereinafter, "staff"), pursuant to the procedures set forth in 16 CFR 1118.20, is a compromise resolution of the matter described herein, without a hearing or determination of issues of law and fact.

##### *I. The Parties*

2. The "staff" is the staff of the Consumer Product Safety Commission (hereinafter, "Commission"), an independent federal regulatory agency of the United States government established by Congress pursuant to section 4 of the Consumer Product

Safety Act (hereinafter, "CPSA"), as amended, 15 U.S.C. § 2053.

3. Respondent Neiman Marcus is a corporation organized and existing under the laws of the State of Delaware with its principal corporate offices located in Chestnut Hill, MA. Respondent is a retailer of women's and men's apparel and other products.

## II. Allegations of the Staff

### A. Violations of the FFA

4. Between December 1998 and February 1997, Respondent sold or offered for sale, in commerce, approximately 6,300 EGERIA cotton terry cloth bathrobes for men and women (hereinafter, the "robes" or "robe").

5. The robes identified in paragraph 4 above are subject to the Standard for the Flammability of Clothing Textiles (hereinafter, "Clothing Standard"), 16 CFR 1610, issued under section 4 of the Flammable Fabrics Act (FFA), 15 U.S.C. § 1193.

6. On or about February 19, 1997, Neiman Marcus, after receiving reports of several incidents in which the robes identified in paragraph 4 above caught fire, tested samples of this robe model for compliance with the requirements of the Clothing Standard. See 16 CFR 1610.3, 1610.4. The test results showed that the robes did not comply with the requirements of the Clothing Standard and, therefore, were dangerously flammable and unsuitable for clothing because of their rapid and intense burning.

7. Respondent knowingly sold, or offered for sale, in commerce, the robes identified in paragraph 4 above, as the term "knowingly" is defined in section 5(e)(4) of the FFA, 15 U.S.C. 1194(e)(4), in violation of section 3 of the FFA, 15 U.S.C. § 1192, for which a civil penalty may be imposed pursuant to section 5(e)(1) of the FFA, 15 U.S.C. § 1194(e)(1).

### B. Violations of the CPSA

8. The allegations contained in paragraphs 4 through 7 above are repeated and realleged, as applicable.

9. Respondent is subject to section 15(b) of the CPSA, 15 U.S.C. § 2064(b), which requires a retailer of a consumer product who, *inter alia*, obtains information that reasonably supports the conclusion that the product contains a defect which would create a substantial product hazard, or creates an unreasonable risk of serious injury or death, to immediately inform the Commission of the defect or risk.

10. Between December 1988 and February 1997, Respondent sold certain

robes through its retail stores nationwide. The robe is a "consumer product" and Neiman Marcus is a "retailer" of a "consumer product" which is "distributed in commerce" as those terms are defined in sections 3(a)(1), (6), (11) of the CPSA, 15 U.S.C. §§ 2052(a)(1), (6), (11).

11. The robes are flammable in nature as evidenced by the failing test results under the Clothing Standard and the incidents described in paragraph 12 below. If a robe were to ignite, it could cause serious burn injuries or death.

12. Between June 1996 and February 1997, Neiman Marcus received reports of five incidents in which the robes caught fire, including two incidents which resulted in minor burn injuries.

13. On March 5, 1997, when Neiman Marcus received the test results referenced in paragraph 6 above, it voluntarily filed a "Full Report" with the Commission pursuant to section 15(b) of the CPSA and 15 CFR 1115.13, which stated that the robes may present a flammability risk.

14. Although Neiman Marcus had obtained sufficient information to reasonably support the conclusion that the robes contained a defect which could create a substantial product hazard, or created an unreasonable risk of serious injury or death, it failed to immediately report such information to the Commission in a timely manner, as required by section 15(b) of the CPSA. This is a violation of section 19(a)(4) of the CPSA.

15. Neiman Marcus' failure to report to the Commission, as required by section 15(b) of the CPSA, was committed "knowingly," as that term is defined in section 20(d) of the CPSA, and Respondent is subject to civil penalties under section 20 of the CPSA.

### III. Response of Neiman Marcus

16. Neiman Marcus specifically denies that it knowingly sold or offered for sale the robes described in paragraph 4 above in violation of the requirements of the Clothing Standard or reporting requirements of the Consumer Product Safety Act.

17. Neiman Marcus purchased the robes identified in paragraph 4 above subject to a provision contained on the back of the merchandise purchase order form which provides that such robes comply with all applicable government regulations including the Flammable Fabrics Act and the Consumer Product Safety Act.

18. Prior to the time of the first reported incident, Neiman Marcus sold the robes described in paragraph 4 above, supplied by the same vendor, or

over 10 years without any flammability problem.

19. Immediately upon receipt of what Neiman Marcus perceived to be the first confirmed report of an unexplained flammability incident, Neiman Marcus tested the product for compliance with the Clothing Standard.

20. Immediately upon receipt of test results indicating that the robes described in paragraph 4 above did not meet the requirements of the Clothing Standard, Neiman Marcus suspended all sales of the garment, promptly filed a written report to the CPSC, and implemented a voluntary recall of the garments.

21. Neiman Marcus promptly and diligently assisted the Commission staff in its efforts to implement the voluntary recall or the robes described in paragraph 4 above.

22. Neiman Marcus has received no reports of serious consumer injury resulting from the use of any robes described in paragraph 4 above. The only injuries reported to Neiman Marcus involving these robes were two minor burns.

### IV. Agreement of the Parties

23. The Commission has jurisdiction over this matter under the CPSA, 15 U.S.C. §§ 2051 *et seq.*, the FFA, 15 U.S.C. §§ 1191 *et seq.*, and the Federal Trade Commission Act (FTCA), 15 U.S.C. § 41 *et seq.*

24. Neiman Marcus agrees to pay to the Commission a civil penalty in the amount of one hundred twelve thousand five hundred dollars (\$12,500), in settlement of this matter, payable within twenty (20) days after service of the Final Order of the Commission accepting this Settlement Agreement.

25. Respondent knowingly, voluntarily, and completely waives any rights it may have in this matter (1) to an administrative or judicial hearing, (2) to judicial review or other challenge or contest of the validity of the Commission's Order, (3) to a determination by the Commission as to whether Respondent failed to comply with the FFA, as alleged, or the CPSA, as alleged, (4) to a settlement of findings of fact and conclusions of law, and (5) to any claims under the Equal Access to Justice Act.

26. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, this Settlement Agreement and Order shall be placed on the public record and shall be published in the **Federal Register** in accordance with the procedures set forth in 16 CFR 1118.20(e). If the Commission does not receive any written request not to accept

the Settlement Agreement and order within 15 days, the Settlement Agreement and Order shall be deemed finally accepted on the 16th day after the date it is published in the **Federal Register** in accordance with 16 CFR 1118.20(f).

27. This Settlement Agreement and Order becomes effective upon its final acceptance by the Commission and service upon Respondent.

28. For purposes of section 6(b) of the CPSA, 15 U.S.C. § 2055(b), this matter shall be treated as if a complaint had issued, and the Commission may publicise the terms of the Settlement and Order.

(29) The provisions of this Settlement Agreements and Order shall apply to Respondent, its successors and assigns, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other business entity, or through any agency, device or instrumentality.

30. Neiman Marcus agrees to immediately inform the Commission if it learns of any additional incidents or flammability information about the robes.

31. This Settlement Agreement may be used in interpreting the Order. Agreements, understandings, representations, or interpretations made outside of this Settlement Agreement and Order may not be used to vary or contradict its terms.

Dated: August 19, 1998.

Eric P. Geller,

*Senior Vice President and General Counsel,  
The Neiman Marcus Group, Inc., Chestnut Hill, MA.*

The Consumer Product Safety Commission.

Alan H. Schoem,

*Assistant Executive Director, Office of Compliance.*

Eric L. Stone,

*Director, Legal Division, Office of Compliance.*

Dated: September 18, 1998.

Ronald G. Yelenik,

*Trial Attorney, Legal Division, Office of Compliance.*

## Order

Upon consideration of the Settlement Agreement between Respondent The Neiman Marcus Group, Inc., a corporation, and the staff of the Consumer Product Safety Commission, and the Commission having jurisdiction over the subject matter and over The Neiman Marcus Group, Inc., and it appearing the Settlement Agreement is in the public interest, it is

*Ordered*, that the Settlement Agreement be and hereby is accepted, and it is

*Ordered*, that within 20 days of the service of the Final Order upon Respondent. The Neiman Marcus Group, Inc. shall pay to the order of the U.S. Treasury a civil penalty in the amount of one hundred and twelve thousand five hundred dollars (\$112,500).

*Further ordered*, The Neiman Marcus Group, Inc. shall immediately inform the Commission if it learns of any additional incidents or flammability information about the products identified in the Settlement Agreement herein.

Provisionally accepted and Provisional Order issued on the 14th day of October, 1998.

By Order of the Commission.

Sadye E. Dunn,

*Secretary, Consumer Product Safety Commission.*

[FR Doc. 98-27990 Filed 10-16-98; 8:45 am]

BILLING CODE 6355-01-M

## DEPARTMENT OF DEFENSE

### Department of the Army

#### Intent To Grant an Exclusion License to RSI Industries

**AGENCY:** U.S. Army Legal Services Agency, DoD.

**ACTION:** Notice of intent.

**SUMMARY:** In compliance with 37 CFR 404 et seq., the Department of the Army hereby gives notice of its intent to grant to RSI Industries and Pharmaceuticals, Inc., a corporation having its principal place of business at 5051 Edison Avenue, P.O. Box 1168, Chino, CA 91708, an exclusive license under U.S. Patent Number 5,714,515, issued February 3, 1998. This Patent relates to a food product for and a method for enhancing cellular phosphorylation potential.

**FOR FURTHER INFORMATION CONTACT:** Mr. Werten F.W. Bellamy, Intellectual Property Law Division, ATTN: JALS-IP, 901 North Stuart Street, Arlington, VA 22203-1837. Phone: (703) 696-8119.

**SUPPLEMENTARY INFORMATION:** Objections along with supporting evidence, if any, should be filed within 60 days from the date of this notice and submitted to the above address.

**Gregory D. Showalter,**

*Army Federal Register Liaison Officer.*

[FR Doc. 98-27931 Filed 10-16-98; 8:45 am]

BILLING CODE 3710-08-M

## DEPARTMENT OF DEFENSE

### Department of the Army, Corps of Engineers

#### Intent To Prepare a Draft Environmental Impact Statement/ Environmental Impact Report (DEIS/ EIR) for the Upper Newport Bay Environmental Restoration Feasibility Study; City of Newport, Orange County, CA

**AGENCY:** U.S. Army Corps of Engineers, Los Angeles District, DoD.

**ACTION:** Notice of intent.

**SUMMARY:** Newport Bay is located on the southern California coast approximately 40 miles south of Los Angeles and 75 miles north of San Diego. The Pacific Coast Highway divides the Bay into two distinct bodies of water referred to as the "Upper" and "Lower" sections. Excessive sedimentation in the 752-acre Upper Newport Bay Ecological Reserve, and shoaling in navigation channels have resulted in habitat changes, disruption of boat traffic, and an overall decrease in water circulation in the Bay. Sediments and nutrients transported from the Newport Bay/San Diego Creek watershed to the bay will continue to degrade water quality and habitat quality within the bay. These conditions have caused a concern among local interest groups and resource agencies regarding the potential adverse impacts on the biota in the Bay ecosystem. The Corps is preparing a feasibility study to determine the Federal interest in restoring and enhancing the marine biological productivity of the Upper Bay and a long-term management plan to permit continued maintenance efforts in the Bay. The goal of the feasibility study is to preserve optimized structure, function, integrity and viability of the ecosystem.

**ADDRESSES:** Commander, U.S. Army Corps of Engineers, Los Angeles District, Environmental Planning Section, P.O. Box 532711, Los Angeles, CA 90053-2325.

**FOR FURTHER INFORMATION CONTACT:** Mr. Russell L. Kaiser, Environmental Manager, phone (213) 452-3846.

#### SUPPLEMENTARY INFORMATION:

##### 1. Authorization

This study was authorized by Section 841 of the Water Resources Development Act of 1986, Pub. L. 99-662.

##### 2. Background

The Corps along with several other Federal, state and local agencies and interested parties representing different