

6-6-1983

Federal Trade Commission 16 CFR Part 457

Federal Trade Commission

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FEDERAL TRADE COMMISSION
WASHINGTON, D. C. 20580

(The following has been reprinted from the Federal Register of June 6, 1983 - 48 FR 25218.)

FEDERAL TRADE COMMISSION

16 CFR Part 457

Standards and Certification

AGENCY: Federal Trade Commission.

ACTION: Publication of Presiding Officer's Report and Invitation for Comment.

SUMMARY: Federal Trade Commission's Presiding Officer has released to the public the Presiding Officer's Report in the rulemaking proceeding on Standards and Certification. The report contains a recommended decision based upon the Presiding Officer's findings and conclusions as to all relevant and material evidence, taking into account the Final Staff Report. Interested persons and the public are invited to submit written comment on both the Final Staff Report of April 8, 1983, and the Presiding Officer's Report, and other matters described in this notice. The Commission has not reviewed or adopted the Presiding Officer's Report. The Commission's final determination in this matter will be based upon the entire rulemaking record, including comments received in response to this notice.

DATE: Written comment will be received for a period of 90 days following publication of this notice or until September 6, 1983. Rebuttal comments on new material presented during this post record comment period will be accepted for 45 days commencing on September 7, 1983, and ending October 21, 1983.

Both post record comments and rebuttal comments should be submitted on 8½ by 11 inch paper, and those in excess of four pages in length should be accompanied by three copies.

ADDRESSES: Copies of the Presiding Officer's Report and of the Final Staff Report are available at the Public Reference Branch, Room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580. Telephone: 202-523-3598.

FOR FURTHER INFORMATION CONTACT: Henry B. Cabell, Presiding Officer, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580. Telephone: 202-724-1045.

SUPPLEMENTARY INFORMATION: The Presiding Officer's Report in the Standards and Certification rulemaking proceeding has been placed on the rulemaking record (Public Record No. 215-61). During the post record comment period which will end on September 6, 1983, the public, including persons interested in this proceeding, is invited to submit comments on this report and upon the Final Staff Report of April 8, 1983.

Such comments should be confined to: (1) Information already in the rulemaking record; (2) Information on the impact of Office of Management and Budget (OMB) Circular A-119, "Federal Participation in the Development and Use of Voluntary Standards," 45 FR 4326, January 21, 1980, and revised and superseded by OMB Circular A-119, published in 47 FR 49496, November 1, 1982; (3) Issues relevant to this rulemaking proceeding, including those raised in the Conference Report to accompany H.R. Rep. 2313, Federal Trade Commission Improvements Act of 1980, H.R. Rep. No. 96-917, 96th Cong., 2d Sess. (1980) at pgs. 29-30 (These issues include the advisability of issuing voluntary rules and guidelines in the area of standards and certification as an alternative to a trade regulation rule, and whether or not Commission action is necessary in the light of the activities of other interested Federal agencies in the interest of avoiding inconsistent or duplicative activity); and (4) current information relating solely to the nature and effectiveness of any changes standard developers and certifiers have made in their procedures for processing and disposing of complaints (including complaints made before January 15, 1980) since the rulemaking record closed on January 15, 1980. Information as to the number of complaints received since that date and how they were handled will also be relevant. The information on any changes in complaint handling procedures is intended to be responsive to the views expressed by the Commission Staff, in its final report at pages 360-65, that the decision of the Supreme Court in *American Society of Mechanical Engineers v. Hydrolevel Corp.*, — U.S. —, 102 S.Ct. 1935 (1982), and other factors or events subsequent to January 15, 1980, may have prompted standard developers to institute changes in their procedures to insure that their standards actions have not or will not

result in an unreasonable restraint of trade, thereby reducing or obviating the need for a trade regulation rule.

The inclusion in comments of further evidence or factual material not germane to the subjects listed in (2), (3), and (4) of the previous paragraph, or in further support or rebuttal of testimony or other information previously included in the rulemaking record would be neither helpful nor relevant to the central issue of whether or not standard developers and certifiers have changed and improved their complaint handling procedures. Accordingly, the inclusion of such irrelevant material in a post record comment may result in rejection of the comment as a whole.

Immediately following the close of the post record comment period on September 6, 1983, the record will remain open for a period of 45 days for the receipt of rebuttal comment to new information or evidence presented during the post record comment period. The period for the submission of such rebuttal comment will end on October 21, 1983.

The Commission has not yet reviewed the rulemaking record in this proceeding or determined whether or not to promulgate a rule. Any decision by the Commission in this matter will be based solely upon the contents of the rulemaking record, including the material submitted in response to this notice. Publication of the Presiding Officer's Report should not be interpreted as representing the views of the Commission or of any individual Commissioner.

List of Subjects in 16 CFR Part 475

Trade practices, Product standards.

Issued: June 6, 1983.

Henry B. Cabell,
Presiding Officer.

[FR Doc. 83-14897 Filed 6-3-83; 8:45 am]

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