

## § 1025.54

(f) *Reply brief.* A reply brief shall be limited to rebuttal of matters presented in answering briefs, including matters raised in cross-appeals. A reply brief shall be filed and served within fourteen (14) days after service of an answering brief, or on the day preceding the oral argument, whichever comes first.

(g) *Oral argument.* The purpose of an oral argument is to emphasize and clarify the issues. The Commission may order oral argument upon request of any party or upon its own initiative. A transcript of oral arguments shall be prepared. A Commissioner absent from an oral argument may participate in the consideration of and decision on the appeal.

### § 1025.54 Review of initial decision in absence of appeal.

The Commission may, by order, review a case not otherwise appealed by a party. Should the Commission so order, the parties shall, and participants may, file briefs in accordance with § 1025.53, except that the Commission may, in its discretion, establish a different briefing schedule in its order. The Commission shall issue its order within forty (40) days after issuance of the Initial Decision. The order shall set forth the issues which the Commission will review and may make provision for the filing of briefs. If the filing of briefs is scheduled by the Commission, the order shall designate which party or parties shall file the initial brief and which party or parties may thereafter file an answering brief, or the order may designate the simultaneous filing of briefs by the parties.

### § 1025.55 Final decision on appeal or review.

(a) *Consideration of record.* Upon appeal from or review of an Initial Decision, the Commission shall consider the record as a whole or such parts of the record as are cited or as may be necessary to resolve the issues presented and, in addition, shall, to the extent necessary or desirable, exercise all the powers which it could have exercised if it had made the Initial Decision.

(b) *Rendering of final decision.* In rendering its decision, the Commission

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shall adopt, modify, or set aside the findings, conclusions, and order contained in the Initial Decision, and shall include in its Final Decision a statement of the reasons for its action and any concurring or dissenting opinions. The Commission shall issue an order reflecting its Final Decision.

(c) Except as otherwise ordered by the Commission, the Commission shall endeavor to file its Decision within ninety (90) days after the filing of all briefs or after receipt of transcript of the oral argument, whichever is later.

### § 1025.56 Reconsideration.

Within twenty (20) days after issuance of a Final Decision and Order by the Commission, any party may file a petition for reconsideration of such decision or order, setting forth the relief desired and the grounds in support of the petition. Any petition filed under this section must be confined to new questions raised by the decision or order upon which the petitioner had no previous opportunity to argue. Any party desiring to oppose such a petition shall file an opposition to the petition within ten (10) days after service of the petition. The filing of a petition for reconsideration shall not stay the effective date of the Final Decision and Order or toll the running of any statutory time period affecting the Decision or Order unless specifically ordered by the Commission.

### § 1025.57 Effective date of order.

(a) *Orders in proceedings arising under the Consumer Product Safety Act.* An order of the Commission in proceedings arising under the Consumer Product Safety Act becomes effective upon receipt, unless otherwise ordered by the Commission.

(b) *Orders in proceedings arising under the Flammable Fabrics Act—(1) Consent orders.* An order in proceedings arising under the Flammable Fabrics Act, which has been issued following the Commission's acceptance of an offer of settlement in accordance with § 1025.26 of these rules, becomes effective upon receipt of notice of Commission acceptance, unless otherwise ordered by the Commission.

(2) *Litigated orders.* All other orders in proceedings arising under the Flammable Fabrics Act become effective upon the expiration of the statutory period for court review specified in Section 5(c) of the Federal Trade Commission Act, title 15, United States Code, section 45(c), or, if a petition for review has been filed, upon a court's affirmation of the Commission's order.

(c) *Consequences of failure to comply with effective order.* A respondent against whom an order has been issued who is not in compliance with such order on or after the date the order becomes effective is in violation of such order and is subject to an immediate action for the civil or criminal penalties provided for in the applicable statute.

#### § 1025.58 Reopening of proceedings.

(a) *General.* Any proceedings may be reopened by the Commission at any time, either on its own initiative or upon petition of any party to the proceedings.

(b) *Exception.* Proceedings arising under the Flammable Fabrics Act shall not be reopened while pending in a United States court of appeals on a petition for review after the transcript of the record has been filed, or while pending in the Supreme Court of the United States.

(c) *Commission-originated reopening—*  
(1) *Before effective date of order.* At any time before the effective date of a Commission order, the Commission may, upon its own initiative and without prior notice to the parties, reopen any proceedings and enter a new decision or order to modify or set aside, in whole or in part, the decision or order previously issued.

(2) *After effective date of order.* Whenever the Commission is of the opinion that changed conditions of fact or law or the public interest may require that a Commission decision or order be altered, modified, or set aside in whole or in part, the Commission shall serve upon all parties to the original proceedings an order to show cause, stating the changes the Commission proposes to make in the decision or order and the reasons such changes are deemed necessary. Within thirty (30) days after service of an order to show

cause, any party to the original proceedings, may file a response. Any party not responding to the order to show cause within the time allowed shall be considered to have consented to the proposed changes.

(d) *Petition for reopening.* Whenever any person subject to a final order is of the opinion that changed conditions of fact or law require that the decision or order be altered, modified, or set aside, or that the public interest so requires, that person may petition the Commission to reopen the proceedings. The petition shall state the changes desired and the reasons those changes should be made, and shall include such supporting evidence and argument as will, in the absence of any opposition, provide the basis for a Commission decision on the petition. The petition shall be served upon all parties to the original proceedings. Within thirty (30) days after service of the petition, Complaint Counsel shall file a response. Any other party to the original proceedings also may file a response within that period.

(e) *Hearings—*(1) *Unopposed.* Where an order to show cause or petition to reopen is not opposed, or is opposed but the pleadings do not raise issues of fact to be resolved, the Commission, in its discretion, may decide the matter on the order to show cause or petition and responses, or it may serve upon the parties a notice of hearing containing the date when the matter will be heard. The proceedings normally will be limited to the filing of briefs but may include oral argument when deemed necessary by the Commission.

(2) *Factual issues.* When the pleadings raise substantial factual issues, the Commission may direct such hearings as it deems appropriate. Upon conclusion of the hearings, and after opportunity for the parties to file post-hearing briefs containing proposed findings of fact and conclusions of law, as well as a proposed order, the Presiding Officer shall issue a Recommended Decision, including proposed findings and conclusions, and the reasons, as well as a proposed Commission order. If the Presiding Officer recommends that the Commission's original order be reopened, the proposed order shall include appropriate provisions for the alteration, modification or setting aside