corrected to subparagraphs "(5)(i) through (5)(iii)."

g. In 12 CFR 11.5(m)(2)(ii), the reference to subparagraph "(2)(iii)" is corrected to subparagraph "(1)(ii)."

h. In 12 CFR 11.5(m)(6)(iii)(D), the reference to subparagraph "(6)(ii)(c)" is corrected to subparagraph "(6)(iii)(C)."

i. In 12 CFR 11.5(n)(3), the reference to paragraphs "(l)(3)–(6)" is corrected to paragraphs "(l)(7)–(9)."

j. In 12 CFR 11.5(n)(6)(i), the reference to "Form F–14 (12 CFR 11.55)" is corrected to "Form F–12 (12 CFR 11.53)."

k. In 12 CFR 11.5(n)(6)(ii)(A), the reference to "Form F–14" is corrected to "Form F–12."

l. In 12 CFR 11.5(n)(6)(ii)(B), the reference to "Form F–14" is corrected to "Form F–12."

(m) In 12 CFR 11.5(n)(7), the reference to "Form F–14 (12 CFR 11.55)" is corrected to "Form F–12 (12 CFR 11.53)" and the reference to "Form F–14" is corrected to "Form F–12."

n. In 12 CFR 11.5(n)(7)(i), the reference to "Form F–14" is corrected to "Form F–12."

o. In 12 CFR 11.5(n)(8), the reference to "Form F–14" is corrected to "Form F–12."

p. In 12 CFR 11.5(n)(9)(i)(C), the reference to "this paragraph" is corrected to "paragraphs (n)(6)–(11)."

q. In 12 CFR 11.5(o)(6), the reference to "paragraph (a) of this section" is corrected to "subparagraph (5) of this paragraph."

Dated: September 9, 1981.

Charles E. Lord,

Acting Comptroller of the Currency.

[FR Doc. 81-26765 Filed 9-14-81; 8:45 am]

BILLING CODE 4810-33-M

FEDERAL TRADE COMMISSION

16 CFR Parts 3 and 4

Organization, Procedures, and Rules of Practice; Disqualification of Commissioners

AGENCY: Federal Trade Commission.

ACTION: Final rules.

SUMMARY: The Commission has amended its Rules of Practice and Procedure to specify procedures to be followed when a participant in a Commission proceeding believes a Commissioner ought to be disqualified from further participation in that proceeding. Conforming changes have been made to other sections of the Rules of Practice.

EFFECTIVE DATE: September 15, 1981.

FOR FURTHER INFORMATION CONTACT: Bruce G. Freedman (202) 523–3865, Office of General Counsel, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: On December 17, 1980, at 45 FR 82956, the Commission published for comment a proposed amendment to its Rules of Practice and Procedure to specify procedures to be followed when a participant in a Commission proceeding believes that a Commissioner ought to be disqualified from that proceeding. The proposed rule was to apply to both adjudicative and rulemaking proceedings.

The proposed rule, which would add a new § 4.16 to the rules of practice, responded to Recommendation 80–4, Decisional Officials' Participation in Rulemaking Proceedings, adopted by the Administrative Conference of the United States at its last plenary session. The proposed rule did not attempt to prescribe the substantive standards governing disqualification and, instead, codified existing procedures. In proposing the rule, the Commission observed that because such standards have evolved in the context of particular cases, and such evolution can be expected to continue, it believed it advisable not to attempt to fix such standards in its rules, but rather to incorporate by general reference the legal standards applicable to the given proceeding.

Two comments were filed. One, submitted by the Office of the Chairman of the Administrative Conference of the United States, urged the Commission to adopt the guidelines set forth in Recommendation 80–4 with respect to conflicts of interest, decorum, and expression of views. Nevertheless, existing practice already provides guidance with respect to decorum and important safeguards against the potential for financial or nonfinancial conflicts of interest touched upon in the recommendation.

Moreover, the question of prejudgment of fact in rulemaking has been addressed with respect to this agency in a recent case, see *Association of Nat'l Advertisers, Inc.* v. *FTC*, 627 F.2d 1151 (D.C. Cir. 1979), *cert. denied*, 447 U.S. 921 (1980). Because the significance of the difference between the formulation for prejudgment of fact embodied in Recommendation 80–4 and the Court of Appeals' test is not entirely clear and the D.C. Circuit decision is so recent, the Commission continues to believe it advisable to incorporate in its rule only a general reference to applicable legal standards. The Commission, however, regards Recommendation 80–4, and the accompanying report by Professor Strauss, see *Disqualifications of Decisional Officials in Rulemaking*, 80 *Colum. L. Rev.* 990 (1980), as useful steps toward clarification of standards for decisionmakers in rulemaking and will take them into account if further issues arise with respect to disqualification of Commissioners in rulemaking.

The other comment (Sullivan & Cromwell) similarly urges that the rule include substantive standards for disqualification in rulemaking and also contends that substantive standards should be included for adjudication. The comment suggests that the rule incorporate 28 U.S.C. 455, one of the provisions in the Judicial Code governing disqualification of federal judges. As noted, the Commission continues to believe that the rule should not embody substantive standards governing disqualification. Even if substantive standards were to be prescribed, standards applicable to federal judges would not take account of the special characteristics of rulemaking which call for standards different from those applied in adjudications conducted by courts and administrative agencies. See *ANA*, 627 F.2d at 1168–75; Strauss, 80 *Colum. L. Rev.* at 993–97, 1027 *et seq.*

Nor do we see any need to codify standards for disqualification in adjudicatory proceedings. The Ethics in Government Act and the Commission's Standards of Conduct already include provisions, similar to those included in 28 U.S.C. 455, to prevent conflicts of interest. We are not persuaded at this time that certain of the other standards are appropriate to administrative adjudication.

Finally, the comment urges deletion of the proposed requirement that motions to disqualify "be filed at the earliest practicable time." The comment observes that "[t]he requirement that a motion to disqualify be filed in a timely manner is considered important at the federal court trial level because of its potential for substantial delay if filed after the start of trial, since the judge's recusal is automatic upon the filing of such a motion (see 28 U.S.C. 144). The rationale for this timeliness requirement is not present in FTC proceedings." However, a timeliness requirement has been applied to motions filed under 28 U.S.C. 455, which, unlike 28 U.S.C. 144, does not provide for automatic disqualification. See *United States* v. *Daley*, 564 F.2d 645, 651 (2d Cir. 1977), *cert. denied*, 435 U.S. 933 (1978). Moreover, it is well established that this

timeliness requirement is "normally applicable to the federal judiciary and administrative agencies alike * * *." *Marcus* v. *Director, Office of Workers' Compensation Programs*, 548 F.2d 1044 (D.C. Cir. 1976); see also *Duffield* v. *Charleston Area Medical Center, Inc.*, 503 F.2d 512, 515 (4th Cir. 1974). The rule is designed to avoid disruption that can result from motions that are not filed at the earliest practicable time. The disruptiveness of an untimely motion is not cured because the motion only seeks to disqualify a Commissioner from further proceedings. Rather, such a motion may interfere with or delay the Commission's consideration of other aspects of the same proceeding. The Commission's consideration of the appeal from an initial decision can be delayed unnecessarily by a tardy disqualification motion. Similar disruption can result from untimely motions during pretrial and trial proceedings because the Commission may at any point be asked to review an ALJ's interlocutory ruling.

As a result of the additions to the Rules of Practice announced in 45 FR 36338 (May 29, 1980) and 46 FR 26284 (May 12, 1981), proposed § 4.16 has been redesignated as § 4.17.

The Commission has also determined to amend § 3.22(a) of the rules of practice to provide that motions to disqualify a Commissioner shall be addressed to the Commission and § 3.42(g) to add a requirement that motions to disqualify administrative law judges be timely filed, similar to the requirement set forth in new § 4.17 (b)(2).

Accordingly, the Commission amends 16 CFR Chapter I as follows:

PART 3—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

1. By revising § 3.22(a) to read as follows:

§ 3.22 Motions.

(a) *Presentation and Disposition.* During the time a proceeding is before an Administrative Law Judge, all motions therein, except those filed under §§ 3.42(g) or 4.17, shall be addressed to the Administrative Law Judge, and if within his authority shall be ruled upon by him. Any motion upon which the Administrative Law Judge has no authority to rule shall be certified by him to the Commission, with his recommendation where he deems it appropriate. Such recommendation may contain a proposed disposition of the motion or other relevant comments or observations. Where the Commission believes that a recommendation or an amplification thereupon would assist it in its deliberations, it may order the Administrative Law Judge to file a recommendation. All written motions shall be filed with the Secretary of the Commission and all motions addressed to the Commission shall be in writing.

* * * * *

2. By adding a new § 3.42(g)(3) to read as follows:

§ 3.42 Presiding officials.

* * * * *

(g) * * *

(3) Such motion shall be filed at the earliest practicable time after the participant learns, or could reasonably have learned, of the alleged grounds for disqualification.

* * * * *

PART 4—MISCELLANEOUS RULES

3. By adding a new § 4.17 to read as follows:

§ 4.17 Disqualification of Commissioners.

(a) *Applicability.*—This section applies to all motions seeking the disqualification of a Commissioner from any adjudicative or rulemaking proceeding.

(b) *Procedures.*—(1) Whenever any participant in a proceeding shall deem a Commissioner for any reason to be disqualified from participation in that proceeding, such participant may file with the Secretary a motion to the Commission to disqualify the Commissioner, such motion to be supported by affidavits and other information setting forth with particularity the alleged grounds for disqualification.

(2) Such motion shall be filed at the earliest practicable time after the participant learns, or could reasonably have learned, of the alleged grounds for disqualification.

(3)(i) Such motion shall be addressed in the first instance by the Commissioner whose disqualification is sought.

(ii) In the event such Commissioner declines to recuse himself or herself from further participation in the proceeding, the Commission shall determine the motion without the participation of such Commissioner.

(c) *Standards.*—Such motion shall be determined in accordance with legal standards applicable to the proceeding in which such motion is filed.

(15 U.S.C. 46(g))

By direction of the Commission dated August 26, 1981.

Carol M. Thomas,

Secretary.

[FR Doc. 81-26754 Filed 9-14-81; 8:45 am]

BILLING CODE 6750-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1201

Safety Standard for Architectural Glazing Materials; Statement of Policy and Interpretation

AGENCY: Consumer Product Safety Commission.

ACTION: Statement of policy and interpretation.

SUMMARY: The Commission's safety standard for architectural glazing materials applies to several products, including bathtub and shower doors and enclosures. The Commission is issuing an interpretation of the standard that clarifies that the terms "bathtub doors and enclosures" and "shower door and enclosure" do not include glazing materials in a window located over a bathtub or within a shower stall and in the exterior wall of a building. The interpretation is intended to resolve questions which have arisen among firms whose activities are subject to regulation by the standard.

DATE: The statement of policy and interpretation will become effective on October 15, 1981.

FOR FURTHER INFORMATION CONTACT: Wade Anderson, Directorate for Compliance and Administrative Law, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (301) 492-6400.

SUPPLEMENTARY INFORMATION: In January 1977 the Consumer Product Safety Commission issued a safety standard to reduce unreasonable risks of injury associated with architectural glazing materials and certain products incorporating those materials (42 FR 1428; 16 CFR Part 1201). The standard prescribes tests to ensure that the glazing materials either do not break when impacted with a specified energy or break with such characteristics that they are less likely than other glazing materials to present an unreasonable risk of injury. The standard became effective on July 6, 1977.

The standard is applicable to glazing materials used in six specific products and to the products themselves. These products, each defined in the standard, are doors, storm doors, bathtub doors