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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL TRADE COMMISSION

16 CFR Part 432

Request for Comments Concerning Rule Relating To Power Output Claims for Amplifiers Utilized in Home Entertainment Products

AGENCY: Federal Trade Commission.

ACTION: Request for public comments.

SUMMARY: The Federal Trade Commission ("Commission") is requesting public comments on its Rule relating to Power Output Claims for Amplifiers Utilized in Home Entertainment Products ("Amplifier Rule" or "Rule"). The Commission, as a part of its systematic review of all current Commission regulations and guides, is requesting comments about the overall costs and benefits of the Rule and its overall regulatory and economic impact. The Commission further seeks information about whether certain requirements of the Rule should be modified in light of technological and other changed circumstances. Lastly, the Commission requests information about issues involving amplified sound systems such as powered speakers for home computers and other home sound systems and sound amplifiers utilized in automobile entertainment products.

DATES: Written comments will be accepted until June 6, 1997.

ADDRESSES: Comments should be directed to: Secretary, Federal Trade Commission, Room H-159, Sixth and Pennsylvania Ave., NW., Washington, DC 20580. Comments about the Amplifier Rule should be identified "16 CFR Part 432—Comments."

FOR FURTHER INFORMATION CONTACT: Robert E. Easton, Esq., Special Assistant, Division of Enforcement, Bureau of Consumer Protection, (202) 326-3029 or Dennis Murphy, Economist, Division of Consumer Protection, Bureau of Economics, Federal Trade Commission, Washington, DC 20580, (202) 326-3524.

SUPPLEMENTARY INFORMATION: The Commission has determined, as part of

its oversight responsibilities, to review its rules and guides periodically. These reviews seek information about the costs and benefits of the Commission's rules and guides and their regulatory and economic impact. The reviews also seek information on whether technological developments impact upon the rules. The information obtained assists the Commission in identifying rules and guides that warrant modification or rescission.

A. Background

The Amplifier Rule was promulgated on May 3, 1974 (39 FR 15387), to assist consumers in purchasing power amplification equipment for home entertainment purposes by standardizing the measurement and disclosure of various performance characteristics of the equipment. Prior to the Rule, sellers were making power, distortion and other performance claims based on many different technical test procedures, or on no recognized test procedures. The Rule establishes uniform test standards and disclosures so that consumers can make more meaningful comparisons of performance attributes.

The products within the scope of the Rule are defined as:

Sound power amplification equipment manufactured or sold for home entertainment purposes, such as for example, radios, record and tape players, radio-phonograph and/or tape combinations, component audio amplifiers and the like.¹

The Rule makes it an unfair method of competition and an unfair or deceptive act or practice for manufacturers and sellers of sound power amplification equipment for home entertainment purposes to fail to disclose certain performance information in connection with direct or indirect representations of power output, power band, frequency or distortion characteristics.²

These disclosures must be made clearly, conspicuously and more prominently than any other representation or disclosures.³ The Rule also sets out standard test conditions for performing the measurements that

support the required performance disclosures.⁴ Further, the Rule prohibits representations of performance characteristics if they are not obtainable when the equipment is operated by the consumer in the usual and ordinary manner without the use of extraneous aids,⁵ e.g., cooling fans.

When the Rule was promulgated in 1974, there were very few self-amplified (powered) speakers for use with home computers or home entertainment systems or external amplifiers for home computers used for home entertainment purposes. In 1997, however, there are numerous and sophisticated systems of this nature. The Commission has tentatively determined that while such systems are not specifically mentioned in the Rule, such amplified (powered) speakers and other similar sound amplification equipment when used for home entertainment purposes are within the scope and purpose of the Rule. The Commission has further tentatively determined that such equipment falls within the definition used in the Rule and is sufficiently similar to the examples given in the Rule as to alert manufacturers and sellers of the coverage. The Commission, however, seeks additional information concerning its tentative determinations, and addresses several questions below to these issues.

In 1974, amplified sound systems for automotive use were also in the formative stages of development. By 1997, such automotive amplified sound systems achieved a stage of technical sophistication on a par with many home entertainment sound amplification systems. Advertising for automotive sound amplification systems in recent years has often referred to the claimed power output (in watts) of the system using a variety of terms, including "Peak Power," "Total Power," and "RMS." Because the Commission wishes to learn whether the non-uniform disclosure of power output is resulting in consumer deception, confusion, and inability to make informed decisions, the Commission addresses several questions below to this issue.

¹ 16 CFR 432.1.

² Id. at 432.2. The required disclosures relate to: Minimum sine wave continuous average power output; load impedance in Ohms; rated power band or frequency response; and rated percentage of maximum total harmonic distortion.

³ Id.

⁴ Id. at 432.3.

⁵ Id. at 432.5.

B. Issues for Comment

At this time, the Commission solicits written public comments on the following questions:

(1) Is there a continuing need for the Rule?

(a) What benefits has the Rule provided to purchasers of the products or services affected by the Rule?

(b) Has the Rule imposed costs on purchasers?

(2) What changes, if any, should be made to the Rule to increase the benefits of the Rule to purchasers?

(a) How would these changes affect the costs the Rule imposes on firms subject to its requirements?

(3) What significant burdens or costs, including costs of compliance, has the Rule imposed on firms subject to its requirements?

(a) Has the Rule provided benefits to such firms?

(4) What changes, if any, should be made to the Rule to reduce the burdens or costs imposed on firms subject to its requirements?

(a) How would these changes affect the benefits provided by the Rule?

(5) Does the Rule overlap or conflict with other federal, state, or local laws or regulations?

(6) Since the Rule was issued, what effects, if any, have changes in relevant technology or economic conditions had on the Rule?

(7) The following questions relate to § 432.3 of the Rule, which specifies standard test conditions for measuring continuous power:

(a) Are there other widely used protocols for testing continuous power that could provide a satisfactory alternative to the § 432.2 requirements?

(b) Given the problems that manufactures may experience with the test specifications in § 432.3(c) requiring that amplifiers be preconditioned for one hour at one-third power, should there be any modifications to § 432.3(c)?

(8) The Rule currently requires disclosure of maximum harmonic distortion, power bandwidth, and impedance whenever a power claim is made in any advertising, including advertising by retail stores, direct mail merchants, and manufacturers.

(a) Is there a continued need for the Rule to require disclosure of maximum rated harmonic distortion in media advertising, or should such disclosure be required only when maximum rated harmonic distortion exceeds a specified threshold level, such as one percent?

(b) Should certain types of advertising, such as that commonly used by retail stores to present information on prices and basic features

for numerous models of amplification equipment in a limited amount of print space, be exempted from some or all of the power bandwidth, distortion, and impedance disclosures?

(c) If so, what developments have occurred that make these disclosures no longer necessary in such advertising?

(d) If so, which of these disclosures should be exempted from such advertising and why?

(e) Should any such exemptions be extended to advertising by direct mail resellers, who would not have retail outlets where consumers could obtain more detailed pre-purchase information on amplifier specifications?

(9) The Rule currently governs power output claims relating to "sound power amplification equipment manufactured or sold for home entertainment purposes. . . ." The Commission has tentatively concluded that the Rule covers (A) self-powered speakers for use with (i) home computers, (ii) home sound systems, and (iii) home multimedia systems; and (B) other sound power amplification equipment for home computers.

(a) Are there any reasons why power output claims for such equipment should be considered outside the scope of the Rule? If so, please explain.

(b) Are manufacturers and distributors of these products aware that these products are, as the Commission has tentatively determined, within the scope of the Rule? If not, is there a need for the Commission to undertake business and consumer education efforts to publicize the coverage?

(c) Are the standard test conditions set out in the Rule appropriate for such equipment?

(10) Current promotional materials and labeling for self-powered speakers and other sound amplification equipment for home computers systems contain power output claims expressed in a variety of terms, including "Peak Power," "Peak Music Output Power," "Total Power," and "RMS" power.

(a) What test protocols provide the basis for each of these power measurements?

(b) How do power ratings obtained using these protocols compare with the power rating that would be obtained using the FTC continuous power output protocol?

(c) Do power output claims in promotional material and labeling for such self-powered computer speakers rely on measurement methods other than those listed above?

(d) How do any such power claims under (c) above compare with the corresponding FTC power output rating?

(11) The Rule governs sound amplification equipment intended for home entertainment purposes. Thus, the Rule does not apply to automotive sound amplification products. Current promotional materials and labeling for automotive sound amplification equipment contain power output claims expressed in a variety of terms, including "Peak Power," "Total Power," and "RMS" power.

(a) What test protocols provide the basis for each of these power measurements?

(b) How do power ratings obtained using these protocols compare with the power rating that would be obtained using the FTC continuous power output protocol?

(c) Do power output claims in promotional material and labeling for automotive stereo equipment rely on measurement methods other than those listed above?

(d) How do any such power claims under (c) above compare with the corresponding FTC power output rating?

(e) Do any of the sound power claims being made in connection with the sale and advertising of automotive sound amplification products inhibit meaningful comparisons of performance attributes by consumers? If so, please: (i) Identify any such claims and furnish copies of advertising and other material containing such claims, and (ii) supply information establishing how prevalent such claims are (i.e., how widespread and serious the problem is).

(f) If there is a need to take action to increase the ability of consumers to make meaningful comparisons of performance characteristics for automotive sound amplification products, what is the most appropriate vehicle for accomplishing this goal (e.g., voluntary industry standards, consumer education, business education, industry/government public workshops, amending the Amplifier Rule, etc.)?

(g) Regardless of the method favored to improve consumers' ability to compare performance characteristics, would any of the Rule's current testing or disclosure requirements for home sound amplification products have to be modified for use with automotive sound amplification products due to any differences in technology, marketing considerations, or other reasons?

List of Subjects in 16 CFR Part 432

Amplifiers; Home entertainment products; Trade practices.

Authority: 15 U.S.C. 41-58.

By Direction of the Commission.

Donald S. Clark,
Secretary.

[FR Doc. 97-8795 Filed 4-4-97; 8:45 am]

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DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 848]

RIN 1512-AA07

Mendocino Ridge Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF), is considering the establishment of a viticultural area located within the boundaries of Mendocino County, California to be known as "Mendocino Ridge," under 27 CFR part 9. This proposal is the result of a petition submitted by Mr. Steve Alden on behalf of the Mendocino Ridge Quality Alliance. The entire proposed area consists of about 262,400 acres or approximately 410 square miles with the actual proposed "Mendocino Ridge" viticultural area starting at the 1200 feet elevation line, and encompassing all areas at or above 1200 feet in elevation. Because of the 1200 foot elevation, this proposed area is unique from other coastal viticultural areas. Of the total 262,400 acres, the petitioner estimates that less than one-third, or 87,466 acres, lies above 1200 feet elevation. Of these 87,466 acres, the petitioner asserts that approximately 1500 to 2000 acres or 2% of the narrow timber covered ridge-tops are suitable for grape production. According to the petitioner, there are approximately 75 acres of grapes currently growing within the boundaries of the proposed viticultural area. This 75 acres of grapes is divided among six wineries.

DATES: Written comments must be received by May 22, 1997.

ADDRESSES: Send written comments to: Chief, Wine, Beer, and Spirits Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091-0221 (Attn: Notice No. 848). Copies of the petition, the proposed regulations, the appropriate maps, and written comments will be available for public inspection during normal business hours at: ATF Public Reading Room,

Office of Public Affairs and Disclosure, Room 6480, 650 Massachusetts Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: David W. Brokaw, Wine, Beer and Spirits Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW, Washington, DC 20226, (202) 927-8230.

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR part 4. These regulations allow the establishment of definitive viticultural areas. The regulations allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements. On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which added a new part 9 to 27 CFR, providing for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographic features, the boundaries of which have been delineated in subpart C of part 9.

Section 4.25a(e)(2), Title 27, CFR, outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include:

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical characteristics (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale, and;

(e) A copy (or copies) of the appropriate U.S.G.S. map(s) with the proposed boundaries prominently marked.

Petition

Mr. Steve Alden of Alden Ranch Vineyards has petitioned ATF on behalf

of the Mendocino Ridge Quality Alliance to propose the establishment of a new viticultural area located within the boundaries of Mendocino County, California, to be known as "Mendocino Ridge." There are currently six producing vineyards in the proposed "Mendocino Ridge" viticultural area.

The evidence submitted by the petitioner is discussed in detail below. Given the unusual nature of the proposed area, ATF is requesting public comment on specific questions regarding the supporting evidence. It should be noted that the proposed viticultural area would include only the land above a certain elevation within the boundaries described. Thus, ATF wishes to solicit public comment on the following questions about the geographic distinctiveness of the non-contiguous areas in the petition:

1. Do the non-contiguous sites in the proposed viticultural area have such similar climate, soil, and other characteristics that they can be considered as a single or common grape growing region?

2. Is the actual land included within the proposed viticultural area at the 1200 feet (and above) elevation line reasonably distinguishable from the adjacent land that is not included?

3. Does the totality of the geographic evidence regarding the proposed viticultural area support the application of a reasonable proximity rule to exclude widely scattered but otherwise similar locations from being included within the proposed grape-growing region?

Evidence That the Name of the Area is Locally or Nationally Known

The petitioner asserts that, the name Mendocino Ridge has been chosen as the name of the proposed viticultural area because the region has been known as producing some of the best and most distinctive Zinfandel wine in the world. In this regard, the petitioner asserts that many books and magazines have historically referred to the proposed viticultural area as the Mendocino Ridge. For example, in 1988 the winery, Kendall-Jackson, wrote: "* * * the vines in the Mariah vineyard are subject to the same complicated climatic variables that have caused wine experts to hail the *Mendocino Coastal Ridge* as one of the world's greatest Zinfandel regions." More recently, in an article published in the February 1994 issue of *Gourmet Magazine*, wine writer Gerald Asher wrote:

In Mendocino there's an equally wide divide between the tense and concentrated Zinfandels produced from old vines planted by turn-of-the-century Italian immigrants