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FEDERAL TRADE COMMISSION

[Project No. P944509]

Reopening and Extension of Time for Comments Concerning Proposal to Rescind Guidance Concerning the Current Cigarette Test Method

AGENCY: Federal Trade Commission

ACTION: Notice of extension of comment period.

SUMMARY: The Federal Trade Commission (“FTC” or “Commission”) has extended the date by which comments must be submitted concerning its proposal to rescind Commission guidance that it is generally not a violation of the FTC Act to make factual statements of the tar and nicotine yields of cigarettes when statements of such yields are supported by testing conducted pursuant to the Cambridge Filter Method. This document informs prospective commenters of this change and sets a new date of September 12, 2008.

DATES: Comments must be submitted on or before September 12, 2008.

ADDRESSES: Interested parties are invited to submit comments. Comments should refer to “Cigarette Test Method, [P944509]” to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered, with two complete copies, to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex L), 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Because paper mail in the Washington area and at the Commission is subject to delay, please consider submitting your comments in electronic form, as described below. However, if the comment contains any material for which confidential treatment is

requested, it must be filed in paper form, and the first page of the document must be clearly labeled “Confidential.”¹

Comments filed in electronic form should be submitted by following the instructions on the web-based form at <https://secure.commentworks.com/ftc-CigaretteTestMethod>. To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the <https://secure.commentworks.com/ftc-CigaretteTestMethod> weblink. If this Notice appears at www.regulations.gov, you may also file an electronic comment through that web site. The Commission will consider all comments that [regulations.gov](http://www.regulations.gov) forwards to it.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments, whether filed in paper or electronic form, will be considered by the Commission, and will be available to the public on the FTC web site, to the extent practicable, at www.ftc.gov. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC’s privacy policy at <http://www.ftc.gov/ftc/privacy/htm>.

¹ Commission Rule 4.2(d), 16 CFR 4.2(d). The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission’s General Counsel, consistent with applicable law and the public interest. See Commission Rule 4.9(c), 16 CFR 4.9(c).

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be addressed to Rosemary Rosso, Senior Attorney, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, (202) 326-2174.

SUPPLEMENTARY INFORMATION: On July 14, 2008, the Commission published in the Federal Register a Request for Comments on its proposal to rescind the FTC's guidance concerning the current cigarette test method.² That guidance, announced in 1966, indicates that factual statements of tar and nicotine yields based on the Cambridge Filter Method generally will not violate the FTC Act.³ If the Commission withdraws this guidance, advertisers should not use terms such as "per FTC Method" or other phrases that state or imply FTC endorsement or approval of the Cambridge Filter Method or other machine-based test methods. The Federal Register Notice ("Notice") sought public comment on its proposal as well as comment on the effects the proposal would likely have on smokers' purchases of cigarettes and/or their smoking behavior. Pursuant to this Federal Register Notice, the current comment period is scheduled to end on August 13, 2008.

Philip Morris USA has requested that the Commission extend the comment period for an additional 60 days, or through October 14, 2008. According to Philip Morris, the extension will allow it and other interested parties to prepare more considered and comprehensive comments.

² 73 Fed. Reg. 40,350 (Jul. 14, 2008).

³ For some time, the Commission has been concerned that the machine-measured yields determined by the Cambridge Filter Method may be misleading to individual consumers who rely on the yields as indicators of the amount of tar, nicotine, and carbon monoxide they actually will get from smoking a particular cigarette. In fact, the current yields tend to be relatively poor indicators of tar, nicotine, and carbon monoxide exposure, and do not provide a good basis for comparison among cigarettes.

The Commission appreciates the need to provide adequate opportunity for commenters to submit timely comments. The Commission likewise recognizes the need to obtain comments from parties directly affected by the proposal. The Commission believes that an additional 30 days is sufficient to allow commenters to provide considered and comprehensive comments. Accordingly, the Commission has decided to extend the deadline for comments until September 12, 2008.

By direction of the Commission.

Donald S. Clark
Secretary