



Federal Register

**Monday,
December 22, 2003**

Part LVIII

**Federal Trade
Commission**

Semiannual Regulatory Agenda

FEDERAL TRADE COMMISSION (FTC)

FEDERAL TRADE COMMISSION

16 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Trade Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following agenda of Commission proceedings is published in accordance with section 22(d)(1) of the Federal Trade Commission Act, 15 U.S.C. 57b-3(d)(1), and the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, title II of Pub. L. 104-121, 110 Stat. 847. The Commission's agenda follows guidelines and procedures issued July 31, 2003, by the Office of Management and Budget in accordance with the provisions of Executive Order No. 12866, "Regulatory Planning and Review" of September 30, 1993. 58 FR 51735 (Oct. 4, 1993). This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions includes The Regulatory Plan, which appears in part II of this issue of the Federal Register. The Federal Trade Commission's Statement of Regulatory Priorities is included in part II.

The Commission has identified a rulemaking that is related to the events of September 11, 2001, because the USA PATRIOT Act, Pub.L. 107-56, 115 Stat. 272, amended the Telemarketing and Consumer Fraud and Abuse Prevention Act, 16 USC 6101-6108, and thus affects the Telemarketing Sales Rule, 16 CFR part 310.

The Commission has responded to the optional information requirement to identify rulemakings that are likely to have some impact on small entities but are not subject to the requirements of the RFA. The current rulemakings that are likely to have some impact on small entities include: (1) the Hobby

Protection Rules, 16 CFR part 304; (2) the Smokeless Tobacco Rules, 16 CFR part 307; (3) the Pay-Per-Call Rule, 16 CFR part 308; (4) the Labeling Requirements for Alternative Fuels and Alternative-Fueled Vehicles, 16 CFR part 309; (5) the Telemarketing Sales Rule, 16 CFR part 310; (6) the Franchise and Business Opportunities Rule, 16 CFR part 436; (7) the Funeral Rule, 16 CFR part 453; (8) the Trade Regulation Rule on Ophthalmic Practice Rules, 16 CFR part 456; and (9) the Rule on Labeling and Advertising of Home Insulation, 16 CFR part 460.

In addition, the agency has responded to the optional information requirement that corresponds to the requirements of Executive Order 13132, "Federalism" of August 4, 1999. 64 FR 43255 (Aug. 10, 1999). The Commission believes that none of the rules in this Agenda has "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and the responsibilities among the various levels of government" within the meaning of E.O. 13132. The Commission continues to work closely with the States and other governmental units in its rulemaking process, which explicitly considers the effect of the agency's rules on these governmental entities.

Further, the agency has responded to the optional information requirement that corresponds to the requirements of Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use." 66 FR 28355 (May 22, 2001). The Commission believes that none of the rules in this agenda meets this Executive Order's criteria requiring preparation of a Statement of Energy Effects.

Most of the reviews listed in the following agenda are being conducted as

part of the Commission's plan to review and seek information about all of its regulations and guides, including their costs and benefits, and regulatory and economic impact every ten years. These reviews incorporate and expand upon the review required by the RFA and regulatory reform initiatives directing agencies to conduct a review of all regulations and eliminate or revise those that are outdated or otherwise in need of reform.

Except for notice of completed actions, the information in this agenda represents the judgment of Commission staff, based upon information now available. Each projected date of action reflects an assessment by the FTC staff of the likelihood that the specified event will occur during the coming year. No final determination by the staff or the Commission respecting the need for, or the substance of, a trade regulation rule or any other procedural option should be inferred from the notation of projected events in this agenda. In most instances, the dates of future events are listed by month, not by a specific day. The acquisition of new information, changes of circumstances, or changes in the law may alter this information.

FOR FURTHER INFORMATION CONTACT: For information about specific regulatory actions listed in the agenda, contact the agency contact listed for each particular proceeding. Comments or inquiries of a general nature about the Agenda should be directed to Sandra M. Vidas, Attorney, telephone: (202) 326-2456; e-mail: svidas@ftc.gov; or G. Richard Gold, Attorney, telephone: (202) 326-3355; e-mail: rgold@ftc.gov, Federal Trade Commission, 600 Pennsylvania Avenue NW., Washington, DC 20580.

By direction of the Commission.

Shira Pavis Minton,
Acting Secretary.

Federal Trade Commission—Prerule Stage

Sequence Number	Title	Regulation Identification Number
4243	Regulatory Review	3084—AA47
4244	Regulations Under the Comprehensive Smokeless Tobacco Health Education Act of 1986	3084—AA48
4245	Trade Regulation Rule Pursuant to the Telephone Disclosure and Dispute Resolution Act of 1992	3084—AA78
4246	Trade Regulation Rule on Ophthalmic Practice Rules	3084—AA80
4247	Labeling Requirements for Alternative Fuels and Alternative—Fueled Vehicles	3084—AA89
4248	Rules and Regulations Under the Hobby Protection Act	3084—AA90

FTC

Federal Trade Commission—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
4249	Trade Regulation Rule Concerning the Labeling and Advertising of Home Insulation	3084—AA60
4250	Trade Regulation Rule on Franchising and Business Opportunity Ventures	3084—AA63

Federal Trade Commission—Final Rule Stage

Sequence Number	Title	Regulation Identification Number
4251	Premerger Notification Rules and Report Form	3084—AA91

Federal Trade Commission—Long—Term Actions

Sequence Number	Title	Regulation Identification Number
4252	Trade Regulation Rule on Funeral Industry Practices	3084—AA82

Federal Trade Commission—Completed Actions

Sequence Number	Title	Regulation Identification Number
4253	Telemarketing Sales Rule	3084—AA86
4254	Appliance Labeling Rule	3084—AA93

Federal Trade Commission (FTC)

Prerule Stage

4243. REGULATORY REVIEW

Priority: Other Significant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 1 et seq

Legal Deadline: None

Abstract: The Commission is continuing its review of current rules and guides to identify any that should be modified or rescinded. The Commission will continue to consider ways to streamline and improve the review program. On March 4, 2002, the Commission published a tentative timetable for its regulatory review program under which all of the Commission's rules and guides are reviewed over a ten year period. 67 FR 9630 (Mar. 4, 2002). On January 17, 2003, the Commission announced that it will review one rule, two guides, and the statements of general policy or interpretations under the Fair Credit

Reporting Act during 2003. 68 FR 2465 (Jan. 17, 2003). No determination about whether to modify or rescind a rule, guide or interpretation or any other procedural option should be inferred from the Commission's decision to publish a request for comments. In certain instances, the reviews may also address other specific matters or issues, such as proposed amendments. Finally, the Commission may modify the rule review timetable as circumstances warrant.

Timetable:

Action	Date	FR Cite
Notice of Rules and Guides to Review in 2000	01/19/00	65 FR 2912
Notice of Rules and Guides to Review in 2002	03/04/02	67 FR 9630

Action	Date	FR Cite
Notice of Rules and Guides to Review in 2003	01/17/03	68 FR 2465
Notice of Rules and Guides to Review in 2004	01/00/04	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Neil Blickman, Attorney, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580
 Phone: 202 326—3038
 Email: nblickman@ftc.gov

RIN: 3084—AA47

FTC

Prerule Stage

4244. REGULATIONS UNDER THE COMPREHENSIVE SMOKELESS TOBACCO HEALTH EDUCATION ACT OF 1986**Priority:** Substantive, Nonsignificant**Legal Authority:** 15 USC 4401**CFR Citation:** 16 CFR 307**Legal Deadline:** None

Abstract: The Comprehensive Smokeless Tobacco Health Education Act of 1986 requires health warnings on all packages and advertisements for smokeless tobacco. The Act directs the Commission to issue implementing Rules governing the format and display of the warnings. On November 4, 1986, the Commission issued its Rules setting out the provisions for the size, color, typeface, and rotation of the statutory warnings. In FY 2000, the Commission undertook a periodic review of the Rules. The purpose of the review was to determine whether the Rules continue to effectively meet the goals of the Act and to seek information concerning the Rules, particularly their economic impact, in order to decide whether they should be amended. Staff plans to forward its recommendations to the Commission this year.

Timetable:

Action	Date	FR Cite
Recommendation to the Commission Regarding ANPRM (Regulatory Review)	01/27/00	
ANPRM (Regulatory Review)	03/07/00	65 FR 11944
Comment Period End (Regulatory Review)	04/24/00	
Comment Period Extended (Regulatory Review)	05/08/00	65 FR 26534
Extended Comment Period End (Regulatory Review)	07/21/00	
Reopening and Extension of Comment Period	10/13/00	65 FR 60899
Extended Comment Period End	10/16/00	
Recommendation to Commission (Regulatory Review)	02/00/04	
Commission Action	05/00/04	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** Businesses**Government Levels Affected:** None**Agency Contact:** Rosemary Rosso, Attorney, Federal Trade Commission,

Division of Advertising Practices,
Bureau of Consumer Protection,
Washington, DC 20580
Phone: 202 326-2174
Email: rrosso@ftc.gov

RIN: 3084-AA48**4245. TRADE REGULATION RULE PURSUANT TO THE TELEPHONE DISCLOSURE AND DISPUTE RESOLUTION ACT OF 1992****Priority:** Substantive, Nonsignificant**Legal Authority:** 15 USC 5701 et seq; 15 USC 5714(1)**CFR Citation:** 16 CFR 308**Legal Deadline:** None

Abstract: Congress enacted the Telephone Disclosure and Dispute Resolution Act of 1992 (TDDRA) to curtail certain unfair and deceptive practices perpetrated by some pay-per-call businesses, and to encourage the growth of the legitimate pay-per-call industry. TDDRA mandated that the FTC promulgate a rule to curb these practices; the Pay-Per-Call or 900-Number Rule (Rule) became effective on November 1, 1993. TDDRA granted the Commission limited jurisdiction over common carriers for purposes of the Rule. The Rule requires that advertisements for 900-numbers contain certain disclosures; requires that anyone who calls a 900-number service be given the opportunity to hang up at the conclusion of the preamble without incurring any charge for the call; and establishes procedures for resolving billing disputes for 900-number calls and other telephone-billed purchases. The Rule itself required the Commission to initiate a review of the Rule prior to November 1997. As part of this review, the Commission published a notice in the Federal Register on March 12, 1997, requesting comments on, among other things, the economic impact of and the continuing need for the Rule, and the effect on the Rule of any technological or industry changes. The Commission also sought comments, pursuant to authority granted under the Telecommunications Act of 1996, on whether to expand the Rule to govern other similar audio information and entertainment services. Staff held a public workshop on June 19-20, 1997, during which members of the industry discussed issues raised in the comments, including billing and collection issues and possible ways to

expand the definition of "pay-per-call services." Many commenters reported that the Rule has been successful in reducing the abuses that led to the passage of TDDRA. Despite the success of the Rule in correcting the abuses in the 900-number industry, complaints about other types of audiotext services (accessed via dialing patterns other than 900 numbers) are being reported. The majority of complaints now involve 800 numbers, international numbers, or other dialing patterns that do not use the 900-number prefix. Many consumer and law enforcement agencies also have been receiving complaints from consumers who have discovered unexplained charges (in some cases, recurring charges) on their telephone bills for services that were never authorized, ordered, received, or used, a practice known as "cramming." On October 30, 1998, the Commission published an NPRM that would expand the definition of "pay-per-call" services beyond 900 numbers and that would implement measures to combat telephone bill cramming. The proposed revisions would: (1) require the express authorization of the person to be billed for the purchase of any "telephone-billed purchases" that cannot be blocked by 900-number blocking; (2) prohibit vendors from billing consumers for monthly or other recurring charges for pay-per-call services unless the vendor had entered into a "presubscription agreement" with the person to be billed and had sent the consumer a written copy of the agreement; and (3) give consumers legal recourse to dispute unauthorized charges crammed on phone bills and have those charges removed. The comment period was extended to March 10, 1999, and a workshop-conference was held on May 20-21, 1999. At the workshop, participants discussed issues raised by the comments, such as the meaning of "express authorization" and the requirements for a presubscription agreement. Staff plans to forward a recommendation to the Commission by early 2004.

Timetable:

Action	Date	FR Cite
Request for Comments	03/12/97	62 FR 11749
Comment Period End	05/12/97	
Public Workshop	06/19/97	
Public Workshop	06/20/97	

FTC

Prerule Stage

Action	Date	FR Cite
Recommendation to Commission	09/08/98	
NPRM	10/30/98	63 FR 58523
Comment Period Extended	01/04/99	64 FR 61
Comment Period End	01/08/99	
Public Workshop—Conference	02/25/99	
Extended Comment Period End	03/10/99	
Public Workshop	05/20/99	
Public Workshop	05/21/99	
Recommendation to Commission	04/00/04	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** Businesses**Government Levels Affected:** None

Agency Contact: Elizabeth Hone, Attorney, Federal Trade Commission, Division of Marketing Practices, Bureau of Consumer Protection, Washington, DC 20580

Phone: 202 326—3207

Email: ehone@ftc.gov

RIN: 3084-AA78

4246. TRADE REGULATION RULE ON OPHTHALMIC PRACTICE RULES**Priority:** Substantive, Nonsignificant**Legal Authority:** 15 USC 41 et seq**CFR Citation:** 16 CFR 456**Legal Deadline:** None

Abstract: Issued in 1978, the Trade Regulation Rule on Ophthalmic Practice Rules, also known as the Prescription Release Rule, provides that an optometrist or ophthalmologist must give the patient, at no extra cost, a copy of the eyeglass prescription immediately after the examination is completed. The Rule also prohibits optometrists and ophthalmologists from conditioning the availability of an eye examination, as defined by the Rule, on a requirement that the patient agrees to purchase ophthalmic goods from the optometrist or ophthalmologist, and from placing on the prescription, or delivering to the patient, certain disclaimers or waivers of liability. The Rule does not require an optometrist or ophthalmologist to release a contact lens prescription to a patient after an eye exam. As part of its systematic review of all Commission rules and guides, the Commission has requested comments on the economic impact of, and the continuing need for, this Rule,

possible conflict between the Rule and State, local, or other Federal laws, and the effect on the Rule of any technological, economic, or other industry changes. Staff is evaluating the comments received and formulating a recommendation as to whether the Commission should retain the Rule or initiate a rulemaking to revise or repeal it.

Timetable:

Action	Date	FR Cite
Request for Comments	04/03/97	62 FR 15865
Notice of Comment Period Extension	05/29/97	62 FR 29088
Comment Period End	09/02/97	
Recommendation to Commission	04/00/04	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** Businesses**Government Levels Affected:** None

Agency Contact: Kial Young, Federal Trade Commission, Division of Advertising Practices, Bureau of Consumer Protection, Washington, DC 20580

Phone: 202 326—3525

Email: kyoung@ftc.gov

Matthew Daynard, Federal Trade Commission, Division of Advertising Practices, Bureau of Consumer Protection, Washington, DC 20580

Phone: 202 326—3291

Email: mdaynard@ftc.gov

RIN: 3084-AA80

4247. LABELING REQUIREMENTS FOR ALTERNATIVE FUELS AND ALTERNATIVE—FUELED VEHICLES**Priority:** Substantive, Nonsignificant**Legal Authority:** 42 USC 13232(a)**CFR Citation:** 16 CFR 309**Legal Deadline:** None

Abstract: The Rule, which became effective on November 20, 1995, requires disclosure of appropriate cost and benefit information to enable consumers to make reasonable purchasing choices and comparisons between nonliquid alternative fuels as well as alternative—fueled vehicles. As part of its ongoing systemic review of all Federal Trade Commission rules and guides, the Commission requested comments on, among other things, the economic impact and benefits of this

Rule; possible conflict between the Rule and State, local, or other Federal laws or regulations; and the effect on the Rule of any technological, economic, or other industry changes. The Commission also requested comments on specific options for modifying the Rule's alternative—fueled vehicle label in light of new Environmental Protection Agency tailpipe emissions standards. No Commission determination on the need for or the substance of the Rule should be inferred from the intent to publish requests for comments. The staff expects to forward its recommendation on a final rule to the Commission during 2003 and expects Commission action early in 2004.

Timetable:

Action	Date	FR Cite
Request for Comments	05/08/03	68 FR 24669
Comment Period End	06/23/03	
Recommendation to Commission	12/00/03	
Commission Action	04/00/04	

Regulatory Flexibility Analysis**Required:** No**Small Entities Affected:** Businesses**Government Levels Affected:** None

Agency Contact: Neil Blickman, Attorney, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580

Phone: 202 326—3038

Email: nblickman@ftc.gov

RIN: 3084-AA89

4248. RULES AND REGULATIONS UNDER THE HOBBY PROTECTION ACT**Priority:** Substantive, Nonsignificant**Legal Authority:** 15 USC 2101 et seq**CFR Citation:** 16 CFR 304**Legal Deadline:** None

Abstract: The Rule, which became effective on February 6, 1975; prescribes the required markings on imitation political and numismatic items, specifying the sizes and dimensions of the type, the location of the marking, and how to mark incusable (those that can be impressed with a stamp) and nonincusable items. Specifically, imitation political items — such as buttons, posters, coffee mugs and the like — must be marked with

FTC

Prerule Stage

the calendar year they were manufactured, and imitation numismatic items — including coins, tokens and paper money — must be marked with the word “copy.” As part of its ongoing systematic review of all Federal Trade Commission rules and guides, the Commission has requested public comments on, among other things, the economic impact and benefits of the Rule; possible conflict between the Rule and State, local, or other Federal laws or regulations; and the effect on the Rule of any technological, economic, or other industry changes. 68 FR 9856 (Mar. 3, 2003). For example, the Federal Register notice asks for comments on

whether changes in the relevant technology, such as e—mail and the Internet, affects the Rule since it was issued. No Commission determination on the need for or the substance of the Rule should be inferred from the intent to publish requests for comments. The staff expects to forward a recommendation to the Commission during 2003 and expects Commission action early in 2004.

Timetable:

Action	Date	FR Cite
Notice of Intent to Request Comments	01/17/03	68 FR 2465
Request for Comments	03/03/03	68 FR 9856
Comment Period End	05/02/03	

Action	Date	FR Cite
Recommendation to Commission	12/00/03	
Commission Action	02/00/04	

Regulatory Flexibility Analysis Required: No**Small Entities Affected:** Businesses**Government Levels Affected:** None

Agency Contact: Neil Blickman, Attorney, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580
Phone: 202 326—3038
Email: nblickman@ftc.gov
RIN: 3084—AA90

Federal Trade Commission (FTC)

Proposed Rule Stage

4249. TRADE REGULATION RULE CONCERNING THE LABELING AND ADVERTISING OF HOME INSULATION**Priority:** Substantive, Nonsignificant**Legal Authority:** 15 USC 41 et seq**CFR Citation:** 16 CFR 460**Legal Deadline:** None

Abstract: The Federal Trade Commission’s Trade Regulation Rule Concerning the Labeling and Advertising of Home Insulation (Rule) became effective on September 29, 1980. The Rule is designed to assist consumers in evaluating and comparing the thermal performance characteristics of competing home insulation products by specifically requiring manufacturers of home insulation products to provide information about the product’s degree of resistance to the flow of heat (R—Value). The Rule also establishes uniform standards for testing, information disclosure, and substantiation of product performance claims. As part of the systematic review of its rules and guides, the Commission requested comments on, among other things, the economic impact of and the continuing need for this Rule, possible conflicts between the Rule and State, local and other Federal laws, and the effect on the Rule of any technological, economic, or other industry changes. In response to the comments received, the Commission issued an advance notice of proposed rulemaking (ANPRM) seeking comment on whether it should initiate a rulemaking proceeding to

amend the Rule to recognize technological advances in R—Value testing and specimen preparation procedures, and to clarify and streamline the Rule’s requirements. The Commission reviewed the comments received on the ANPRM and issued a notice of proposed rulemaking (NPRM), which proposed a number of amendments to the Rule. The staff expects to forward its recommendation to the Commission by March 2004.

Timetable:

Action	Date	FR Cite
Request for Comments	04/06/95	60 FR 17492
Commission Action/Part I	03/28/96	61 FR 13659
Commission Action/ANPRM	09/01/99	64 FR 48023
ANPRM Comment Period End	11/15/99	
Request for Comments (NPRM)	07/15/03	68 FR 41872
NPRM Comment Period End	09/22/03	
Recommendation to Commission	03/00/04	

Regulatory Flexibility Analysis Required: No**Small Entities Affected:** Businesses**Government Levels Affected:** None

Agency Contact: Hampton Newsome, Attorney, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580
Phone: 202 326—2889

Email: hnewsome@ftc.gov

RIN: 3084—AA60**4250. TRADE REGULATION RULE ON FRANCHISING AND BUSINESS OPPORTUNITY VENTURES****Priority:** Substantive, Nonsignificant**Legal Authority:** 15 USC 41 to 58**CFR Citation:** 16 CFR 436**Legal Deadline:** None

Abstract: The Federal Trade Commission’s Trade Regulation Rule on Franchising and Business Opportunity Ventures (Franchise Rule) became effective on October 21, 1979. The Rule is designed to reduce deceptive and unfair practices in the sale of franchises and business opportunities by requiring the pre—sale disclosure of material information about the franchise. For example, the Rule requires franchisors to disclose their business background and litigation history, as well as the number of failed and terminated franchise units. The Rule also requires the disclosure of material terms of the franchise relationship, such as recurring fees and termination and renewal rights. The Rule further requires the franchisor to provide an audited financial statement for the most recent three fiscal years. Finally, the Rule requires any franchisor who makes earnings representations to provide the prospective franchisee with an earnings claims document that substantiates those claims. On February

FTC

Proposed Rule Stage

28, 1997, the Commission published an advance notice of proposed rulemaking (ANPRM) contemplating amendments that would address new technologies and market practices and at the same time, reduce unnecessary regulatory burdens. The Commission specifically requested comments on whether to revise the Rule to more closely align Federal and State disclosure requirements governing franchise sales, and to address changes in the marketing of franchises, such as the sale of franchises internationally and through the Internet. Six public workshops were held in five cities during 1997 to promote discussions about the issues; allow the public to make statements on the record; and assist Commission staff in drafting a

proposed amended Rule. On October 22, 1999, the Commission published a notice of proposed rulemaking (NPRM) with a text of the revised Rule. Comments were accepted until December 21, 1999, and rebuttal comments were accepted until January 31, 2000. Commission staff is now preparing a staff report.

Timetable:

Action	Date	FR Cite
ANPRM	02/28/97	62 FR 9115
ANPRM Comment Period End	12/31/97	62 FR 28822
Recommendation to Commission	03/26/99	
NPRM	10/22/99	64 FR 57293
NPRM Comment Period End	12/21/99	

Action	Date	FR Cite
NPRM Rebuttal Comment Period End	01/31/00	
Staff Report	03/00/04	

Regulatory Flexibility Analysis Required: No**Small Entities Affected:** Businesses**Government Levels Affected:** State

Agency Contact: Steven Toporoff, Attorney, Federal Trade Commission, Division of Marketing Practices, Bureau of Consumer Protection, Washington, DC 20580
Phone: 202 326—3135
Email: stoporoff@ftc.gov

RIN: 3084-AA63

Federal Trade Commission (FTC)

Final Rule Stage

4251. PREMERGER NOTIFICATION RULES AND REPORT FORM**Priority:** Substantive, Nonsignificant**Legal Authority:** 15 USC 18a Clayton Act**CFR Citation:** 16 CFR 801 to 803**Legal Deadline:** None

Abstract: The Premerger Notification Rules (Rules) and the Antitrust Improvements Act Notification and Report Form (HSR Form) were adopted pursuant to section 7A of the Clayton Act. Section 7A requires firms of a certain size contemplating mergers or acquisitions of a specified size to file notification with the Federal Trade Commission (FTC) and the U.S. Department of Justice (DOJ) and to wait a designated period of time before consummating the transaction. It also requires the FTC, with the concurrence of the U.S. Assistant Attorney General for Antitrust, to promulgate rules requiring that notification be in a form and contain information necessary to enable the FTC and DOJ to determine whether the proposed acquisition may, if consummated, violate the antitrust laws. These rules are continually reviewed in order to improve the program's effectiveness and to reduce the paperwork burden on the business community. The Commission proposed modifications to the HSR Form on June 14, 1994. 59 FR 30545.

Changes requiring the use of the North American Industrial Classification System (NAICS) to replace the Standard Industrial Classification (SIC) codes in completing items 5—8 on the HSR Form became effective on July 1, 2001.

On February 1, 2001, the Commission published interim and proposed rules amending the Hart—Scott—Rodino Rules (HSR Rules) contained in 16 CFR parts 801, 802 and 803. The interim rules took effect upon publication and implemented statutory amendments to section 7A of the Clayton Act that had been enacted on December 21, 2000. The proposed rules set forth other changes improving and updating the HSR Rules.

Both the interim and proposed rules invited public comment. The Commission received seventeen public comments addressing the interim rules (66 FR 8679) and the proposed rules (66 FR 8723). The proposed rules were revised and changes to parts 801 and 802 were made final effective April 17, 2002 (67 FR 11898). Interim rule 802.21 was revised and made final in a separate rulemaking and made effective on February 2, 2002 (67 FR 11904). On January 17, 2003, the Commission responded to issues raised by the comments received on the interim rules and issued final amendments to parts 801 and 803 (68 FR 2425). The

Commission also received a number of comments that were not relevant to the changes promulgated by either set of rules. These additional comments remain under consideration and may be addressed by future rulemaking.

By the end of 2003, the Commission anticipates amending the HSR rules to allow parties to file the premerger notification and report form electronically via the Internet. The Commission also expects to issue a notice of proposed rulemaking during the spring or summer of 2004 to revise its treatment of noncorporate entities.

Timetable:

Action	Date	FR Cite
NPRM (Rule Change)	02/01/01	66 FR 8723
Interim Rule I (Statutory Changes)	02/01/01	66 FR 8679
Interim Rule II (Rules of Practice)	02/01/01	66 FR 8720
Comment Period End (Interim and Proposed Rules)	03/19/01	
NPRM (Change form SIC to NAICS)	05/09/01	66 FR 23561
Effective Date (Change from SIC to NAICS)	07/01/01	
Final Rule Part 802.21	03/18/02	67 FR 11904
Final Rules Parts 801 and 802	03/18/02	67 FR 11898
Final Rules Parts 801 and 803	01/17/03	68 FR 2425
Final Rule NPRM	12/00/03	
	07/00/04	

FTC

Final Rule Stage

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Marian Bruno, Assistant Director, Federal Trade Commission, Premerger Notification Office, Washington, DC 20580

Phone: 202 326—2846
Email: mbruno@ftc.gov

RIN: 3084—AA91

Federal Trade Commission (FTC)

Long-Term Actions

4252. TRADE REGULATION RULE ON FUNERAL INDUSTRY PRACTICES

Priority: Substantive, Nonsignificant

CFR Citation: 16 CFR 453

Timetable:

Action	Date	FR Cite
Recommendation to Commission Regarding Initial Notice for Comment	04/17/99	

Action	Date	FR Cite
Initial Notice for Public Comment	05/05/99	64 FR 24249
Close of Comment Period (Extended)	08/11/99	64 FR 35965
Public Workshop	11/18/99	64 FR 56717
Recommendation to Commission	03/00/05	
Commission Action	07/00/05	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: None

Agency Contact: Carole I. Danielson
Phone: 202 326—3115
Email: cdanielson@ftc.gov

RIN: 3084—AA82

Federal Trade Commission (FTC)

Completed Actions

4253. TELEMARKETING SALES RULE

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 6101 to 6108

CFR Citation: 16 CFR 310

Legal Deadline: Other, Statutory, December 31, 2000. Begin Rule Review and Report to Congress

Abstract: In 1995, the Commission issued the Telemarketing Sales Rule (TSR or Rule), 16 CFR part 310, under the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 USC 6101—6108. TSR requires telemarketers to disclose information; prohibits misrepresentations; limits the times telemarketers may call consumers; prohibits calls to a consumer who has asked not to be called again; and sets payment restrictions for the sale of certain goods and services.

The Commission was required to begin review of the TSR to evaluate the Rule's operation and report to Congress. The Commission issued a request for public comment on the Rule, its overall costs, benefits and its regulatory and economic impact since its adoption in 1995. As part of the review, the Commission held a public forum on January 11, 2000, addressing the operation of the Rule's "do—not—call" provision. Another public forum to discuss other provisions of TSR was held on July 27—28, 2000. The review

is summarized in the Statement of Basis and Purpose for the "do—not—call" Rule. 68 FR 4580 (Jan. 29, 2003).

On October 25, 2001, President Bush signed the USA PATRIOT Act, P.L. 107—56, into law, with provisions that have significant impact on TSR. Section 1101 of the 2001 Act amends the Telemarketing Act to extend the coverage of TSR to charitable fund raising conducted by for—profit telemarketers for, or on behalf of, charitable organizations.

On January 22, 2002, the Commission announced its proposal to amend the Rule and to publish a notice of proposed rulemaking (NPRM). Among other things, the proposed Rule would establish a centralized national "do not call" registry, would prohibit telemarketers from receiving or sharing a consumer's billing information with anyone else, and would prohibit telemarketers from blocking "Caller ID" information. In addition, as mandated by Sec. 1011 of the USA PATRIOT Act, also referred to as the Crimes Against Charitable Americans Act of 2001, 15 USC 6101 note, the Commission's proposal would add certain disclosures and other requirements applicable to for—profit telemarketers who solicit charitable donations. Staff held a three—day public workshop from June

5—7, 2002, to discuss these and other proposed changes to the Rule. On May 24, 2002, the Commission also issued a related NPRM proposing that user fees be imposed on telemarketers and their seller or telemarketer clients for access to the national "do not call" registry in order to establish and maintain the registry. See 67 FR 37362 (May 29, 2002). The Commission announced the final amended Rule on December 18, 2002. On October 1, 2003, affected parties must be in full compliance with (1) Sec. 310.4(b)(1)(iv)(the prohibition of abandoned calls); (2) Sec. 310.4(b)(4)(the safe harbor for call abandonment as well as any record keeping requirements associated with the safe harbor); and (3) Sec. 310.4(b)(1)(iii)(B) (the national "do not call" registry provisions of the amended Rule). 68 FR 16414 (Apr. 4, 2003). Full compliance is required for Sec. 310.4(a)(7) (the caller identification provisions) on January 29, 2004; and March 31, 2003, was the date required for full compliance with all other provisions of the amended TSR.

As noted above, among other things, the final amended Rule establishes a national "do not call" registry, requires telemarketers to transmit Caller ID information, prohibits abandoned calls, prohibits unauthorized billing, requires express authorization when certain

FTC

Completed Actions

payment mechanisms are used, requires express informed consent in certain types of transactions, requires disclosures when the offer involves a negative option feature, and requires disclosures and prohibits misrepresentations in solicitations for charitable contributions. The amended Rule provides an exemption from the do-not-call registry for businesses with which consumers have an established business relationship. The Rule also exempts from the do-not-call registry for-profit telemarketers making charitable solicitations.

The National Do Not Call Registry opened on June 27, 2003. Consumers can register for free in two ways: online at DONOTCALL.GOV or by telephone at 1 (888) 382-1222. As of October 1, 2003, it became illegal for most telemarketers to call a number listed on the national registry.

On February 20, 2003, the Congress authorized the agency to collect fees sufficient to implement and enforce the "do not call" provisions of the TSR (P.L. 108-7). On April 3, 2003, the Commission issued a Revised Notice of Proposed Rulemaking (Revised Fee NPRM) to amend the TSR by adding a new section that would impose fees on entities accessing the national "do not call" registry. 68 FR 16238 (Apr. 3, 2003). The Commission issued the Final Fee Rule on July 31, 2003. 68 FR 45134. The Final Rule will among other things: require only sellers to pay the annual fee for access to the national registry; impose an annual fee of \$25 per area code, with a maximum annual fee of \$7,375; allow access to up to five area codes for free; and, set October 1, 2003, as the effective date for the "do-not-call" provisions of the amended TSR.

Additional revisions to the amended TSR will allow more entities to access the "do not call" registry for the purpose of scrubbing their lists, even if they are entities that are exempt from the FTC's jurisdiction. However, the FTC emphasizes strongly that the information in the national registry may be used for no purpose other than to stop unwanted telemarketing calls.

To comply with the amended TSR's "do not call" provisions by the

effective date of October 1, 2003, all covered sellers are required to access the registry for the first time between September 1 and September 30, 2003.

Timetable:

Action	Date	FR Cite
Announcement of Public Forum re: "Do-Not-Call" Provision	11/24/99	64 FR 66124
Public Forum re "Do-Not-Call" Provision	01/11/00	
Request for Comments	02/28/00	65 FR 10428
Comment Period End	04/27/00	
Extension of Comment Period	05/05/00	65 FR 26161
Extended Comment Period End	05/30/00	
Public Forum	07/27/00	
Public Forum	07/28/00	
USA Patriot Act Enacted	10/25/01	
NPRM	01/30/02	67 FR 4492
NPRM Comment Period End	03/29/02	
Extension of Comment Period	04/03/02	67 FR 15767
Extended Comment Period End	04/15/02	
Related NPRM—User Fees	05/29/02	67 FR 37362
Public Forum	06/05/02	
Public Forum	06/06/02	
Public Forum	06/07/02	
NPRM—User Fees Comment Period End	06/28/02	
Recommendation to Commission	11/08/02	
Final Commission Action Announced	12/18/02	
Final Amended Rule Published	01/29/03	68 FR 4580
Revised Fee NPRM	04/03/03	68 FR 16238
Stay of Compliance	04/04/03	68 FR 16414
Rev'd. User Fee NPRM Comment Period End	05/01/03	
Final Rule on User Fees	07/31/03	68 FR 45134

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

Agency Contact: David M Torok, Attorney, Federal Trade Commission, Division of Marketing Practices, Bureau of Consumer Protection, Washington, DC 20580
Phone: 202 326-3075
Email: dtorok@ftc.gov

Carole I. Danielson, Senior Investigator, Federal Trade Commission, Division of Marketing Practices, Bureau of Consumer Protection, Washington, DC 20580
Phone: 202 326-3115
Email: cdanielson@ftc.gov

RIN: 3084-AA86

4254. • APPLIANCE LABELING RULE

Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

Legal Authority: 42 USC 6291 et seq

CFR Citation: 16 CFR 305

Legal Deadline: None

Abstract: The Commission issued the Rule concerning disclosures regarding energy consumption and water use of certain home appliances (Appliance Labeling Rule) in 1979, 44 FR 66466 (Nov. 19, 1979) in response to a directive in the Energy Policy and Conservation Act of 1975 (EPCA), 42 U.S.C. 6294. The rule requires manufacturers of all covered appliances to disclose specific energy consumption or efficiency information (derived from the DOE test procedures) at the point of sale in the form of an EnergyGuide label and in catalogs.

New energy conservation standards and a new DOE test procedure for clothes washers will become effective on January 1, 2004. Application of the new test procedure (the J1 test) will likely produce energy consumption figures different from those yielded by the old test procedure (the J test). Because these test results are used to determine energy use information that appears on the FTC EnergyGuide label, consumers may not be able effectively to compare the energy performance of clothes washers if the labels are based on two different test procedures.

To ease the transition to the new energy efficiency standard and new (J1) test procedure, the Association of Home Appliance Manufacturers (AHAM) wrote to FTC staff on February 7, 2003, requesting permission to begin using that test for labeling clothes washers during 2003, before the test becomes effective. In addition, AHAM's letter requested that the Commission allow its members to provide special wording on the EnergyGuide labels for these

FTC

Completed Actions

models to help consumers in distinguishing washers tested under the new (J1) procedure from those tested under the old (J) procedure. AHAM proposed a modified label that would display a banner across the top stating: "This Model has been Tested to the 2004 Test Procedure. Compare only with Models with this Notice." AHAM requested that the Commission allow its members to begin using the new (J1) test and modified labels on May 1, 2003, and that the labeling changes be made permanent.

To grant AHAM's request, the Commission would have to grant an exemption from certain EnergyGuide testing and labeling requirements for the remainder of the calendar year of 2003 and issue rule amendments to make the requested labeling changes a permanent requirement for all manufacturers after January 1, 2004. On April 4, 2003, the Commission sought

comments on AHAM's proposals. 68 FR 16231. The Commission received four comments; three of which supported the conditional exemption and rule change. In a Federal Register notice issued on June 18, 2003, the Commission granted a conditional exemption from certain EnergyGuide testing and labeling requirements for the remainder of the calendar year of 2003 to allow manufacturers to use the new (J1) test procedure immediately instead of waiting until the beginning of 2004. The Commission also amended the Rule to require explanatory language on EnergyGuide labels for all models beginning January 1, 2004. 68 FR 36458.

Timetable:

Action	Date	FR Cite
NPRM	04/03/03	68 FR 16231
Final Rule and Conditional Exemption	06/18/03	68 FR 36458

Regulatory Flexibility Analysis Required: No**Small Entities Affected:** No**Government Levels Affected:** None**URL For More Information:**

www.ftc.gov/bcp/online/edcams/eande/index.html

URL For Public Comments:

www.ftc.gov/os/comments/appliancecomments/index.html

Agency Contact: Hampton Newsome, Attorney, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, 601 New Jersey Avenue NW., Washington, DC 20580
Phone: 202 326-2889
Email: hnewsome@ftc.gov

RIN: 3084-AA93

[FR Doc. 03-24018 Filed 12-19-03; 8:45 am]

BILLING CODE 6750-01-S