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FEDERAL TRADE COMMISSION

16 CFR Ch. I

**NOTICE ANNOUNCING TEN-YEAR REGULATORY REVIEW SCHEDULE AND
REQUEST FOR PUBLIC COMMENT ON THE FEDERAL TRADE COMMISSION'S
REGULATORY REVIEW PROGRAM**

AGENCY: Federal Trade Commission.

ACTION: Notice of intent to request public comments, and request for information and comment.

SUMMARY: As part of its ongoing systematic review of all Federal Trade Commission rules and guides, the Commission announces a revised ten-year regulatory review schedule. No Commission determination on the need for, or the substance of, the rules and guides listed below should be inferred from the notice of intent to publish requests for comments. The Commission further invites written comments regarding the Commission's longstanding regulatory review program and how to improve the process.

DATES: Written comments must be submitted on or before September 6, 2011.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write "Regulatory Review Schedule" on your comment, and file your comment online at <https://ftcpublic.commentworks.com/ftc/regulatoryreviewschedule>, by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex N), 600 Pennsylvania Avenue, NW, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Jock Chung, (202) 326-2984, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Room M-8102B, 600 Pennsylvania Ave., NW, Washington, DC 20580, regarding the regulatory review schedule. Further details about particular rules or guides may be obtained from the contact person listed below for the rule or guide.

SUPPLEMENTARY INFORMATION: In a rapidly changing marketplace, agency regulations can become outdated, ineffectual, and unduly burdensome. Therefore, it is important to systematically review regulations to ensure that they continue to achieve their intended goals without unduly burdening commerce. Since 1992, the FTC's regulatory review program has done just that. The Commission schedules its regulations and guides for review on a ten-year cycle; *i.e.*, all rules and guides are scheduled to be reviewed ten years after implementation and ten years after completion of a regulatory review. The Commission publishes this schedule annually, with adjustments in response to public input, changes in the marketplace, and resource demands.

The FTC recently has accelerated review of three rules and a guide to account for changes in the marketplace and to reduce burdens on industry. Specifically, because of recent increases in the use of environmental marketing claims, in 2009 the Commission accelerated its review of its Guides for the Use of Environmental Marketing Claims, also known as the Green Guides, 16 CFR Part 260. In 2010, the Commission accelerated its reviews of the Children's Online Privacy Protection Rule, 16 CFR Part 312, to address rapid changes in technology and children's use of online media, and the Labeling Requirements for Alternative Fuels and Alternative Fueled Vehicles, 16 CFR Part 309, to address potentially unnecessary or duplicative labeling requirements and harmonize FTC rules with the rules of a sister agency. And most

recently, the Commission announced a new Premerger Notification and Report Form, which was the result of an acceleration in 2010 of the review of the Hart-Scott-Rodino Antitrust Improvements Act (“HSR”) Transmittal Rule, 16 CFR Part 803, to more rapidly alleviate any unnecessary burden on filers during these difficult economic times.

The Commission is now announcing acceleration of reviews of additional rules. First, the Commission is accelerating its review of portions of the HSR Coverage Rule, 16 CFR Part 801, from 2013 to 2011. Second, the Commission is accelerating review of the Appliance Labeling Rule, 16 CFR Part 305, from 2018 to 2012, to address rapid changes in appliance technology and the increasing cost of energy.

When the Commission reviews a rule or guide, it publishes a notice in the Federal Register seeking public comment on the continuing need for the rule or guide as well as the rule’s or guide’s costs and benefits to consumers and businesses. Based on this feedback, the Commission may modify or repeal the rule or guide to address public concerns or changed conditions, or to reduce undue regulatory burden. Using this process, the Commission has repealed 37 rules and guides, and updated dozens of others over the past two decades.

For the first time, this year the Commission is seeking input on ways to improve its regulatory review program and the procedure used for reviewing the agency’s rules and guides. Through comments suggesting improvements to its systematic regulatory review, the Commission seeks to ensure it is implementing a review process that accurately measures the effectiveness, efficiency, and consequences of its rules and guides in the face of changing marketplace conditions, evolving consumer behavior, and technological developments. To solicit such comments, this notice sets forth specific questions, and also invites all relevant

information and suggestions. The Commission will analyze these comments and consider whether changes to its regulatory review process are warranted.

Revised Ten-Year Schedule For Review of FTC Rules and Guides

The Commission currently has ongoing reviews relating to thirteen of its rules and guides.¹ For example, currently, the Commission is considering amendments to the Labeling Requirements for Alternative Fuels and Alternative Fueled Vehicles, 16 CFR Part 309, that would harmonize FTC rules with Environmental Protection Agency rules and eliminate the need for businesses to apply two redundant labels from different agencies to covered vehicles.

For 2011, the Commission intends to initiate a review of, and solicit public comments on, the following ten additional rules and guides.

(1) Guides for the Advertising of Warranties and Guaranties, 16 CFR 239. **Agency Contact:** Svetlana S. Gans, (202) 326-3708, Federal Trade Commission, Bureau of Consumer Protection, Division of Marketing Practices, 600 Pennsylvania Ave., NW, Washington, DC 20580.

¹Guides for Private Vocational and Distance Education Schools, 16 CFR Part 254; Guide Concerning Fuel Economy Advertising for New Automobiles, 16 CFR Part 259; Guides for the Use of Environmental Marketing Claims, 16 CFR Part 260; Automotive Fuel Ratings, Certification and Posting Rule, 16 CFR Part 306; Trade Regulation Rule Pursuant to the Telephone Disclosure and Dispute Resolution Act of 1992 [Pay Per Call Rule], 16 CFR Part 308; Labeling Requirements for Alternative Fuels and Alternative Fueled Vehicles Rule, 16 CFR Part 309; Children's Online Privacy Protection Rule, 16 CFR Part 312; Care Labeling of Textile Wearing Apparel and Certain Piece Goods as Amended Rule, 16 CFR. Part 423; Use of Prenotification Negative Option Plans Rule, 16 CFR Part 425; Rule Concerning the Cooling-Off Period for Sales Made at Homes or at Certain Other Locations, 16 CFR Part 429; Mail or Telephone Order Merchandise Rule, 16 CFR Part 435; Disclosure Requirements and Prohibitions Concerning Business Opportunities Rule, 16 CFR Part 437; and Used Motor Vehicle Trade Regulation Rule, 16 CFR Part 455.

(2) Rules and Regulations under the Wool Products Labeling Act of 1939, 16 CFR 300.

Agency Contact: Robert M. Frisby, (202) 326-2098, Federal Trade Commission, Bureau of Consumer Protection, Division of Enforcement, 600 Pennsylvania Ave., NW, Washington, DC 20580.

(3) Rules and Regulations under the Fur Products Labeling Act, 16 CFR 301. **Agency**

Contact: Matthew J. Wilshire, (202) 326-2976, Federal Trade Commission, Bureau of Consumer Protection, Division of Enforcement, 600 Pennsylvania Ave., NW, Washington, DC 20580.

(4) Rules and Regulations under the Textile Fiber Products Identification Act, 16 CFR 303. **Agency Contact:** Robert M. Frisby.

(5) Retail Food Store Advertising and Marketing Practices Rule [Unavailability Rule], 16 CFR Part 424. **Agency Contact:** Jock Chung, (202) 326-2984, Federal Trade Commission, Bureau of Consumer Protection, Division of Enforcement, 600 Pennsylvania Ave., NW, Washington, DC 20580.

(6) Interpretations of Magnuson-Moss Warranty Act, 16 CFR 700. **Agency Contact:** Svetlana S. Gans.

(7) Disclosure of Written Consumer Product Warranty Terms and Conditions, 16 CFR 701. **Agency Contact:** Svetlana S. Gans.

(8) Pre-Sale Availability of Written Warranty Terms, 16 CFR 702. **Agency Contact:** Svetlana S. Gans.

(9) Informal Dispute Settlement Procedures, 16 CFR 703. **Agency Contact:** Svetlana S. Gans.

(10) [Hart-Scott-Rodino Antitrust Improvements Act] Coverage Rules, 16 CFR 801.

Agency Contact: Robert Jones, (202) 326-2740, Federal Trade Commission, Bureau of Competition, 600 Pennsylvania Ave., NW, Washington, DC 20580.

Due to resource constraints, the Commission is postponing review of the following matters previously scheduled for 2011 review: Administrative Interpretations, General Policy Statements, and Enforcement Policy Statements, 16 CFR 14; the Guides for the Jewelry, Precious Metals, and Pewter Industries, 16 CFR 23; the Preservation of Consumers' Claims and Defenses Rule [Holder in Due Course Rule], 16 CFR Part 433; and the Credit Practices Rule, 16 CFR 444.

The Commission is removing the following nine matters from its regulatory review schedule because authority to modify or repeal them will be transferred to the Consumer Financial Protection Bureau ("CFPB") in 2011: Disclosure Requirements for Depository Institutions Lacking Federal Deposit Insurance, 16 CFR 320; Mortgage Assistance Relief Services Rule, 16 CFR 322; Statements of General Policy or Interpretations [of the Fair Credit Reporting Act Rules], 16 CFR 600; [Identity Theft] Definitions, 16 CFR 603; Free Annual File Disclosures Rule, 16 CFR 610; Prohibition Against Circumventing Treatment as a Nationwide Consumer Reporting Agency, 16 CFR 611; Duration of Active Duty Alerts, 16 CFR 613; Appropriate Proof of Identity, 16 CFR 614; and Procedures for State Application for Exemption From the Provisions of the [Federal Debt Collection Practices] Act, 16 CFR 901.²

²These nine matters transfer to CFPB pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, Sec. 1061(b)(5), 124 Stat. 2004 (July 21, 2010). To the extent they apply to motor vehicle dealers, the Commission will retain rulemaking authority for seven other rules that are being transferred to the CFPB pursuant to sections 1029(a) and (c) of the Act: Privacy of Consumer Financial Information Privacy Rule, 16 CFR 313; Duties of Creditors Regarding Risk-Based Pricing, 16 CFR 640; Duties of Users of

Finally, the Commission is removing Smokeless Tobacco Regulations, 16 CFR 307, from its review schedule because the Commission rescinded these regulations in 2010. 75 FR 59609 (September 28, 2010).

A copy of the Commission's revised regulatory review schedule for 2011 through 2020 is appended. The Commission, in its discretion, may modify or reorder the schedule in the future to incorporate new rules, or to respond to external factors (such as changes in the law) or other considerations.

REQUEST FOR COMMENT

Questions

We invite comment to help the Commission continue to improve its regulatory review process. All relevant comments will be considered, but we are particularly interested in obtaining your views on the following questions. When responding, please include any available evidence that supports your response.

- 1) Should the Commission continue to review its rules and guides every ten years? If not, what interval makes sense? Why?
- 2) Should different rules and guides be reviewed at different intervals? If so, which should be accelerated and which decelerated and on what basis?
- 3) In what other ways can the Commission modify its regulatory review program to make it more responsive to the needs of consumers and businesses?
- 4) What can the Commission do to streamline its regulatory review process?

Consumer Reports Regarding Address Discrepancies, 16 CFR 641; Prescreen Opt-Out Notice, 16 CFR 642; Duties of Furnishers of Information to Consumer Reporting Agencies, 16 CFR 660; Affiliate Marketing, 16 CFR 680; Model Forms and Disclosures, 16 CFR 698.

- 5) Are there any federal, state, or foreign agencies with regulatory review programs that the Commission should study to improve its own program? If so which agencies, and what do they do that is superior to the Commission's program?
- 6) How should the Commission identify those rules and guides that can and should be modified, streamlined, expanded, or repealed? What factors should the Commission consider in selecting and prioritizing rules and guides for review? Why?
- 7) Does the Commission have rules or guides that duplicate or conflict with other agencies' requirements? Does the Commission currently collect information that it does not need or use effectively to achieve regulatory objectives? If so, what information is not needed? Why not?
- 8) Are there rules or guides that have become unnecessary and can be withdrawn without impairing the Commission's regulatory programs? If so, which rules and guides? Why?
- 9) Are there rules or guides that have become outdated and, if so, how can they be modernized to better accomplish their regulatory objectives? If so, which rules and guides? Why are they outdated?
- 10) Are there rules or guides that are still necessary, but have not operated as well as expected such that a modified, stronger, or slightly different approach is justified? If so, which rules and guides? Why and how should they be changed?
- 11) Are there rules or guides that have been or will soon be overtaken by technological developments? If so, which rules or guides? Why? How can they be modified to accommodate or utilize such technologies?

Instructions

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before September 6, 2011. Write “Regulatory Review Schedule” on your comment. Your comment including your name and your state will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Website, at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission tries to remove individuals’ home contact information from comments before placing them on the Commission Website.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone’s Social Security number, date of birth, driver’s license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any “[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential,” as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure

explained in FTC Rule 4.9(c), 16 CFR 4.9(c).³ Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/regulatoryreviewschedule>, by following the instruction on the web-based form. If this Notice appears at

<http://www.regulations.gov/#!home>, you also may file a comment through that website.

If you file your comment on paper, write “Regulatory Review Schedule” on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex N), 600 Pennsylvania Avenue, NW, Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Website at <http://www.ftc.gov> to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or

³In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

before September 6, 2011. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

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

By direction of the Commission.

Donald S. Clark
Secretary.

APPENDIX
REGULATORY REVIEW
MODIFIED TEN-YEAR SCHEDULE

16 CFR PART	TOPIC	YEAR TO REVIEW
254	Guides for Private Vocational and Distance Education Schools	Under Review
259	Guide Concerning Fuel Economy Advertising for New Automobiles	Under Review
260	Guides for the Use of Environmental Marketing Claims	Under Review
306	Automotive Fuel Ratings, Certification and Posting Rule	Under Review
308	Trade Regulation Rule Pursuant to the Telephone Disclosure and Dispute Resolution Act of 1992 [Pay Per Call Rule]	Under Review
309	Labeling Requirements for Alternative Fuels and Alternative Fueled Vehicles Rule	Under Review
312	Children’s Online Privacy Protection Rule	Under Review
423	Care Labeling of Textile Wearing Apparel and Certain Piece Goods Rule	Under Review
425	Use of Prenotification Negative Option Plans Rule	Under Review
429	Rule Concerning the Cooling-Off Period for Sales Made at Homes or at Certain Other Locations	Under Review
435	Mail or Telephone Order Merchandise Rule	Under Review
437	Disclosure Requirements and Prohibitions Concerning Business Opportunities Rule	Under Review
455	Used Motor Vehicle Trade Regulation Rule	Under Review

16 CFR PART	TOPIC	YEAR TO REVIEW
239	Guides for the Advertising of Warranties and Guarantees	2011
300	Rules and Regulations under the Wool Products Labeling Act of 1939	2011
301	Rules and Regulations under Fur Products Labeling Act	2011
303	Rules and Regulations under the Textile Fiber Products Identification Act	2011
424	Retail Food Store Advertising and Marketing Practices Rule [Unavailability Rule]	2011
700	Interpretations of Magnuson-Moss Warranty Act	2011
701	Disclosure of Written Consumer Product Warranty Terms and Conditions	2011
702	Pre-Sale Availability of Written Warranty Terms	2011
703	Informal Dispute Settlement Procedures	2011
801	[Hart-Scott-Rodino Antitrust Improvements Act] Coverage Rules	2011
20	Guides for the Rebuilt, Reconditioned and Other Used Automobile Parts Industry	2012
23	Guides for the Jewelry, Precious Metals, and Pewter Industries	2012
233	Guides Against Deceptive Pricing	2012
238	Guides Against Bait Advertising	2012
251	Guide Concerning Use of the Word “Free” and Similar Representations	2012
240	Guides for Advertising Allowances and Other Merchandising Payments and Services	2012
305	Appliance Labeling Rule	2012

16 CFR PART	TOPIC	YEAR TO REVIEW
433	Preservation of Consumers' Claims and Defenses Rule [Holder in Due Course Rule]	2012
310	Telemarketing Sales Rule	2013
500	Regulations under Section 4 of the Fair Packaging and Labeling Act	2013
501	Exemptions from Requirements and Prohibitions under Part 500 [of the Fair Packaging and Labeling Act]	2013
502	Regulations under Section 5(c) of the Fair Packaging and Labeling Act	2013
503	Statements of General Policy or Interpretation [under the Fair Packaging and Labeling Act]	2013
802	[Hart-Scott-Rodino Antitrust Improvements Act] Exemption Rules	2013
304	Rules and Regulations under the Hobby Protection Act	2014
314	Standards for Safeguarding Customer Information	2014
315	Contact Lens Rule	2015
316	CAN-SPAM Rule	2015
456	Ophthalmic Practice Rules (Eyeglass Rule)	2015
460	Labeling and Advertising of Home Insulation	2016
682	Disposal of Consumer Report Information and Records	2016
410	Deceptive Advertising as to Sizes of Viewable Pictures Shown by Television Receiving Sets	2017
18	Guides for the Nursery Industry	2018
311	Test Procedures and Labeling Standards for Recycled Oil	2018

16 CFR PART	TOPIC	YEAR TO REVIEW
436	Disclosure Requirements and Prohibitions Concerning Franchising	2018
681	Identity Theft [Red Flag] Rules	2018
24	Guides for Select Leather and Imitation Leather Products	2019
453	Funeral Industry Practices Rule	2019
14	Administrative Interpretations, General Policy Statements, and Enforcement Policy Statements	2020
255	Guides Concerning Use of Endorsements and Testimonials in Advertising	2020
313	Privacy of Consumer Financial Information Rule	2020
317	Prohibition of Energy Market Manipulation Rule	2020
318	Health Breach Notification Rule	2020
432	Power Output Claims for Amplifiers Utilized in Home Entertainment Products Rule	2020
444	Credit Practices Rule	2020
640	Duties of Creditors Regarding Risk-Based Pricing	2020
641	Duties of Users of Consumer Reports Regarding Address Discrepancies	2020
642	Prescreen Opt-Out Notice	2020
660	Duties of Furnishers of Information to Consumer Reporting Agencies	2020
680	Affiliate Marketing	2020
698	Model Forms and Disclosures	2020
803	[Hart-Scott-Rodino Antitrust Improvements Act] Transmittal Rules	2020