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Part LVI

**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, 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 February 12, 2002, 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).

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 Regulatory Flexibility Act (RFA). The current rulemakings that are likely to have some impact on small entities include: (1) Smokeless Tobacco Rules, 16 CFR part 307; (2) the Pay-Per-Call, 16 CFR part 308; (3) the Children's Online Privacy Protection Rule, 16 CFR part 312; (4) the rulemaking pursuant to title V section 501(b) of the Gramm-Leach-Bliley Act: Privacy of Consumer Information — Security, to establish security standards to safeguard customer information to be codified in 16 CFR part 314; (5) the Franchise and Business Opportunities Rule, 16 CFR part 436; (6) the Funeral Rule, 16 CFR

part 453; (7) the Trade Regulation Rule on Ophthalmic Practice Rules, 16 CFR part 456; and (8) 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.

In addition, 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" of May 18, 2001. 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.

The agency also is conducting reviews of the Pay-Per-Call Rule as provided in the Rule and of the Telemarketing Sales Rule as required by the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 USC 6101-6108. Most of the other 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 contact person 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.

Donald S. Clark,
Secretary.

Federal Trade Commission—Prerule Stage

Sequence Number	Title	Regulation Identification Number
3914	Regulatory Review	3084-AA47
3915	Regulations Under the Comprehensive Smokeless Tobacco Health Education Act of 1986	3084-AA48
3916	Trade Regulation Rule Concerning the Labeling and Advertising of Home Insulation	3084-AA60
3917	Trade Regulation Rule on Funeral Industry Practices	3084-AA82

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Federal Trade Commission—Proposed Rule Stage

Sequence Number	Title	Regulation Identification Number
3918	Trade Regulation Rule on Franchising and Business Opportunity Ventures	3084-AA63
3919	Trade Regulation Rule Pursuant to the Telephone Disclosure and Dispute Resolution Act of 1992	3084-AA78
3920	Telemarketing Sales Rule	3084-AA86
3921	Privacy of Consumer Information—Security	3084-AA87

Federal Trade Commission—Long-Term Actions

Sequence Number	Title	Regulation Identification Number
3922	Trade Regulation Rule on Ophthalmic Practice Rules	3084-AA80

Federal Trade Commission—Completed Actions

Sequence Number	Title	Regulation Identification Number
3923	Premerger Notification Rules and Report Form	3084-AA23
3924	Amended Federal Deposit Insurance Corporation Improvement Act	3084-AA44
3925	Trade Regulation Rule Concerning Power Output Claims for Amplifiers Utilized in Home Entertainment Products ...	3084-AA81
3926	Children's Online Privacy Protection Rule	3084-AA88

Federal Trade Commission (FTC)

Prerule Stage

3914. 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 is currently devoting significant resources to both rulemakings required by statute and completing rule and guide reviews previously announced. 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, and announced that it will review one rule and one guide during 2002. 67 FR 9630 (Mar. 4, 2002). 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
Notice of Rules and Guides to Review in 2003	01/00/03	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

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RIN: 3084-AA47

3915. 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 advertising 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

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Prerule Stage

of the Act and to seek information concerning the Rules or economic impact of the Rules in order to decide whether it should be amended. Staff plans to forward its recommendations to the Commission shortly.

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)	07/00/02	
Commission Action	10/00/02	

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

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RIN: 3084-AA48**3916. 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.

Specifically, the Rule requires 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 its systematic review of all Commission 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. The Commission is considering the comments received in two parts. In part I, the Commission reviewed comments that addressed the current benefits, burdens, and need for the Rule, and determined to retain the Rule. The Commission also adopted nonsubstantive amendments that: (1) allow the optional use of the additional R-Value test procedure; and (2) require use in the future of revised, current versions of other test procedures cited in the Rule. In part II, the Commission is considering the comments recommending that the Commission adopt substantive revisions to the Rule. 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. In the ANPRM, the Commission proposed amendments to recognize technological advances in R-Value testing and specimen preparation procedures, and to clarify and streamline the Rule's requirements. The comment period on the ANPRM ended on November 15, 1999. Based on the ANPRM record, the Commission will determine whether to initiate a rulemaking proceeding.

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
Comment Period End	11/15/99	
Recommendation to Commission	07/00/02	
Commission Action	10/00/02	

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

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RIN: 3084-AA60**3917. TRADE REGULATION RULE ON FUNERAL INDUSTRY PRACTICES****Priority:** Substantive, Nonsignificant**Legal Authority:** 15 USC 45; 15 USC 46(g); 15 USC 57(a)**CFR Citation:** 16 CFR 453**Legal Deadline:** None

Abstract: The Funeral Industry Practices Rule (Funeral Rule or Rule), which became effective in 1984, requires sellers of funeral goods and services to give price lists to consumers who visit a funeral home, and to disclose price and other information to callers who request it over the telephone. The Rule enables consumers to select and purchase only the goods and services they want, and requires funeral providers to seek authority before performing some services such as embalming. The Rule also requires funeral providers to make disclosures regarding any required purchases and prohibits misrepresentations regarding requirements and other aspects of funeral goods and services. In its 1994 review of the Rule, the Commission determined to retain the Rule and amended it to prohibit funeral providers from charging a "casket handling fee" in addition to any non-declinable basic-services fee and deleted certain affirmative telephone disclosure requirements. The Commission responded to requests to address emerging issues in the funeral industry by beginning a review of the Rule in 1998. The Commission previously had scheduled a review of the Rule in 1999, under its ten-year schedule for reviewing all Commission rules and guides. The Commission published a notice soliciting public comment in May 1999. In response to requests of industry members and consumer groups, the Commission extended the comment period.

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Prerule Stage

Commission staff conducted a public workshop conference on November 18, 1999, to discuss and explore openly issues raised in written comments. Staff is evaluating the comments and preparing a recommendation to the Commission.

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	11/00/02	
Commission Action	03/00/03	

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

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RIN: 3084-AA82

Federal Trade Commission (FTC)

Proposed Rule Stage

3918. 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 past 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 28, 1997, the Commission published an advance notice of proposed rulemaking (ANPRM) contemplating amendments that would address any new technologies and market practices and at the same time, reduce any unnecessary regulatory burden. Specifically, the Commission 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. The Commission extended the comment period to December 31, 1997. 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
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	
NPRM Rebuttal Comment Period End	01/31/00	
Staff Report	09/00/02	

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

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RIN: 3084-AA63**3919. 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

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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 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 the 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 this year.

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	
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-Conference Date Rescheduled	05/20/99	
Recommendation to Commission	06/00/02	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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3920. 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.

As required by the 1995 Act, the Commission is reviewing TSR to evaluate the Rule's operation and report to Congress. The Commission has issued a request for public comment on the Rule, its overall costs, benefits and its regulatory and economic impact since its adoption in 1995. The Commission also 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. Public forums provide the Commission staff and interested parties an opportunity to discuss these issues and any other topics that emerge from the public comments.

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 the USA Patriot Act, the Commission's proposal adds certain disclosures and other requirements applicable to for-profit telemarketers who solicit charitable donations.

Staff intends to hold a three-day public workshop on June 5-7, 2002, to discuss these and other proposed changes to the Rule. Staff plans to complete its

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Proposed Rule Stage

review and forward its recommendation to the Commission by fall 2002.

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
Comment Period End	03/29/02	
Extension of Comment Period	04/03/02	67 FR 15767
Extended Comment Period End	04/15/02	
Public Forum	06/05/02	
Public Forum	06/06/02	
Public Forum	06/07/02	
Recommendation to Commission	08/00/02	
Commission Action	09/00/02	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3084-AA86

3921. PRIVACY OF CONSUMER INFORMATION—SECURITY

Priority: Other Significant

Legal Authority: PL 106-102, sec 501(b)

CFR Citation: 16 CFR 314

Legal Deadline: None

Abstract: On November 12, 1999, the Gramm-Leach-Bliley Act (G-L-B) was enacted. The Act repealed the key provision of the Glass-Steagall Act, that among other things, required the separation of banking, insurance, and securities institutions. Subtitle A (Disclosure of Nonpublic Person Information) of title V (Privacy) limits the ability of the newly authorized financial institutions to disclose nonpublic personal information about consumers to nonaffiliated third parties, and requires them to disclose to consumers their privacy policies and practices respecting information shared with both affiliates and nonaffiliated third parties. The Commission issued the statutorily mandated Rule on the Privacy of Consumer Financial Information (Privacy Rule), 16 CFR part 313, on May 12, 2000. The Privacy Rule took effect on November 13, 2000, and full compliance was required on or before July 1, 2001.

In addition to the Privacy Rule, section 501 of subtitle A requires the agencies to establish appropriate standards for financial institutions to safeguard nonpublic personal information. In particular, section 501(b) of the Act requires the Commission to "establish appropriate standards for the financial institutions [subject to its jurisdiction] relating to administrative, technical,

and physical safeguards." Section 501(b) sets out the objectives of these standards: (1) to insure the security and confidentiality of customer records and information; (2) to protect against any anticipated threats or hazards to the security or integrity of such records; and (3) to protect against unauthorized access to or use of such records of information which could result in substantial harm or inconvenience to any customer. On September 7, 2000, the Commission issued an advance notice of proposed rulemaking (ANPRM) and a request for comments (ANPRM) and a request for comments reopening its Safeguards Rule (to be codified at part 314). On August 7, 2001, the Commission published an NPRM. This comment period ended on October 9, 2001. Staff plans to forward its recommendation to the Commission during spring 2002.

Timetable:

Action	Date	FR Cite
ANPRM and Request for Comments	09/07/00	65 FR 54186
Extension of Comment Period	10/06/00	65 FR 59766
Comment Period End	10/10/00	
Extended Comment Period End	10/24/00	
Commission Action	07/30/01	
NPRM	08/07/01	66 FR 41162
NPRM Comment Period End	10/09/01	
Recommendation to Commission	05/00/02	
Commission Action	05/00/02	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3084-AA87

Federal Trade Commission (FTC)

Long-Term Actions

3922. TRADE REGULATION RULE ON OPHTHALMIC PRACTICE RULES

Priority: Substantive, Nonsignificant

CFR Citation: 16 CFR 456

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	04/00/03	

FTC

Long-Term Actions

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

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Federal Trade Commission (FTC)

Completed Actions

3923. 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 Department of Justice (DOJ) and to wait a designated period before consummating the transaction. It also requires the FTC, with the concurrence of the 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 reduce the paperwork burden on the business community. The Commission proposed modifications to the HSR Form on June 14, 1994. 59 FR 30545.

The Commission has issued Interim Rules based on comments received in response to this Notice, as well as on some changes in HSR reporting requirements necessitated by the recent amendments to Section 7(A) of the Clayton Act. The President signed the statutory amendments into law on December 21, 2000. Both the statutory amendments and the interim rules became effective on February 1, 2001. The Commission also published a notice of proposed rulemaking (NPRM) updating examples in several rules and revising others. The comment period for the interim rules and the NPRM ended on March 19, 2001. These rules became effective on April 17, 2002. 67

FR 11898 (Mar. 18, 2002). The Commission recently also issued final rule 802.21. This rule became effective on March 18, 2002, and will be applied retroactively to February 2, 2002. 67 FR 11904 (Mar. 18, 2002). In addition, 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 were made effective July 1, 2001. In the future, staff expects to propose additional rule changes as appropriate.

Timetable:

Action	Date	FR Cite
NPRM (Rule Changes)	02/01/01	66 FR 8722
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 from SIC to NAICS)	05/09/01	66 FR 23561
Effective Date (Change from SIC to NAICS)	07/01/01	
Final Rule Parts 801 and 802	03/18/02	67 FR 11898
Final Rule 802.21	03/18/02	67 FR 11904
Correction to Final Rule 802.51	03/26/02	67 FR 13716

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: None

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RIN: 3084-AA23

3924. AMENDED FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1811 et seq

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: The Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) assigns to the FTC responsibilities for certain non-federally insured depository institutions (DIs) and private deposit insurers of such DIs. The FTC is required to prescribe, by regulation or order, the manner and content of certain disclosures required of DIs that lack Federal deposit insurance. The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993, containing the Commission's appropriation for fiscal year 1993, provided that none of the funds were available for expenses authorized by section 151 of the FDICIA. Legislation containing the Commission's appropriation for fiscal years 1994 to 2002 contains the same provision. Thus, the Commission implementation of FDICIA is on hold. Pursuant to the February 12, 2002 OMB Memorandum, the Commission has determined to withdraw this rulemaking.

Timetable:

Action	Date	FR Cite
Withdrawn	03/15/02	

Regulatory Flexibility Analysis

Required: No

Government Levels Affected: State

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RIN: 3084-AA44

3925. TRADE REGULATION RULE CONCERNING POWER OUTPUT CLAIMS FOR AMPLIFIERS UTILIZED IN HOME ENTERTAINMENT PRODUCTS

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 et seq

CFR Citation: 16 CFR 432

Legal Deadline: None

Abstract: The Trade Regulation Rule Concerning Power Output Claims for Amplifiers Utilized in Home Entertainment Products (Amplifier Rule or Rule) was promulgated in 1974 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. The Amplifier Rule establishes uniform test standards and disclosures so that consumers can make more meaningful comparisons of performance attributes. The Rule makes it 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. The Rule also sets out standard test conditions for performing the measurements that support the required performance disclosures. 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.

To determine whether changes in technology that occurred since the Rule was issued necessitated any Rule revisions, the Commission requested comments on the Rule. Among other things, the Commission asked about the economic impact of, and the continuing need for, this Rule; and any possible conflict between the Rule and State, local and other Federal laws. Based upon the regulatory review, the Commission determined that the Rule applies to self-powered speakers for use with home computers and home sound systems but that the Rule should not be extended to automobile sound systems. The Commission also determined to issue an ANPRM seeking comment on whether it should amend the Rule. Based on the ANPRM record, the Commission issued an NPRM to seek public comment on whether the Commission should amend the Rule to reduce the preconditioning power output requirement from one-third of rated power to a lower figure; exempt sellers who make power output claims in media advertising from the

requirement to disclose total rated harmonic distortion and the associated power bandwidth and impedance ratings; and clarify the manner in which the Rule's testing procedures apply to self-powered subwoofer-satellite combination speaker systems. Based on the NPRM record, the Commission amended the Rule as proposed in the NPRM. At the same time, the Commission issued a supplemental notice of proposed rulemaking (SNPRM) to seek public comment on proposed testing procedures for "home theater" receivers with five or more channels. The comment period for the SNPRM ended on March 30, 2001. On January 15, 2002, the Commission announced its decision to keep the rulemaking record open but to defer action on the proposed supplemental rule to allow an industry working group time to establish a voluntary consensus standard of measuring the power output of multichannel receivers and amplifiers. The Commission has determined to withdraw this item from the Unified Agenda because the Commission does not anticipate any further action in this supplemental rulemaking proceeding in the near future.

Timetable:

Action	Date	FR Cite
Request for Comments	04/07/97	62 FR 16500
Comment Period End	06/06/97	
ANPRM	07/09/98	63 FR 37238
Final Rule (Nonsubstantive Technical Changes)	07/09/98	63 FR 37234
Comment Period End	09/08/98	
NPRM	07/19/99	64 FR 38610
Comment Period End	10/15/99	64 FR 51087
SNPRM	12/22/00	65 FR 80798
Commission Action (Final Rule)	12/22/00	65 FR 81232
Comment Period End	02/23/01	
Reopen Comment Period	03/01/01	66 FR 12915
Comment Period End	03/30/01	
Recommendation to Commission	11/06/01	
Notice Deferring Rulemaking	01/15/02	67 FR 1915
Withdrawn	03/15/02	

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

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RIN: 3084-AA81**3926. CHILDREN'S ONLINE PRIVACY PROTECTION RULE****Priority:** Other Significant**Legal Authority:** 15 USC 6501 et seq**CFR Citation:** 16 CFR 312**Legal Deadline:** None

Abstract: As part of the effort to protect children's online privacy, Congress enacted the Children's Online Privacy Act of 1998, 15 USC 6501 et seq. (COPPA), to prohibit unfair or deceptive acts or practices in connection with the collection, use, or disclosure of personally identifiable information from children on the Internet. On October 20, 1999, the Commission issued its final Rule implementing COPPA, which became effective on April 21, 2000. See 16 CFR part 312. The Rule imposes certain requirements on operators of websites or online services directed to children under thirteen years of age, or other websites or online services that have actual knowledge that they have collected information from a child under thirteen years of age. Among other things, the Rule requires that website operators obtain verifiable parental consent prior to collecting, using, or disclosing personal information from children under thirteen years of age.

The Rule provides that, "[a]ny method to obtain verifiable parental consent must be reasonably calculated, in light of available technology, to ensure that the person providing consent is the child's parent." 16 CFR 312.5(b)(1). In order to allow time for reliable electronic methods of verification to become widely available and affordable, the Rule sets forth a sliding scale approach for obtaining verifiable parental consent, which depends upon the uses for which the personal information is collected. The sliding scale was set to expire on April 21, 2002, at which time website operators must obtain verifiable parental consent using the more reliable methods set out by the Rule for all uses of personal information. 16 CFR 312.5(b)(2).

At the time it issued the final rule during 1999, the Commission anticipated that the sliding scale was necessary only in the short term because the more reliable methods of obtaining verifiable parental consent would soon be widely available and affordable. Thereafter, however, it appeared that the expected progress in available technology had not occurred. Therefore, during October 2001, the Commission proposed to amend the Rule to extend the sliding scale mechanism for an additional two years to April 21, 2004 and requested comment on the proposed extension and several questions concerning the current and anticipated availability and affordability of secure electronic mechanisms or infomediary services for obtaining parental consent. (See 66 FR 54963.) Twenty-one comments were received in response to the NPRM. On April 17, 2002, the Commission issued

a final rule amending COPPA. The amendment extends until April 21, 2005, a sliding scale approach, including the use of an e-mail message from the parent, coupled with additional steps, to obtain verifiable parental consent to collect personal information from children for internal use by the website operator.

Timetable:

Action	Date	FR Cite
NPRM	10/31/01	66 FR 54963
NPRM Comment Period End	11/30/01	
Final Rule	04/17/02	67 FR 18818

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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