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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 (RFA), 5 U.S.C. 601 to 612, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, title II of Public Law 104-121, 110 Stat. 847. The Commission's agenda follows guidelines and procedures issued June 21, 2005, 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 (October 4, 1993), as amended by Executive Order No. 13258 of February 26, 2002, 67 FR 9385 (February 28, 2002). This edition of the Unified Agenda of 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 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 Smokeless Tobacco Rules, 16 CFR part 307; (2) the Pay-Per-Call Rule, 16 CFR part 308; (3) the Telemarketing Sales Rule, 16 CFR part 310; (4) Children's Online Privacy Protection Rule, 16 CFR part 312; (5) Privacy of Consumer Financial Information, 16 CFR part 313; (6)

Controlling the Assault of Non-Solicited Pornography and Marketing Act (CAN-SPAM) Rules, 16 CFR part 316; (7) Deceptive Advertising as to Sizes of Viewable Pictures Shown by Television Receiving Sets Rule, 16 CFR part 410; (8) the Franchise and Business Opportunities Rule, 16 CFR part 436; (9) the Funeral Rule, 16 CFR part 453; (10) certain rules adopted pursuant to the Fair and Accurate Credit Transactions Act of 2003, 16 CFR parts 602, 603, 604, 610, 611, 613, 614, 682, and 698; and (11) rulemakings pursuant to the Energy Policy Act of 2005.

In addition, the Agency has responded to the optional information question that corresponds to Executive Order 13132, "Federalism," of August 4, 1999, 64 FR 43255 (August 10, 1999), which does not apply to independent regulatory agencies. The Commission believes to the extent that any of the rules in this agenda may have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government" within the meaning of E.O. 13132, it has consulted with the affected entities. 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.

Additionally, the Commission's submission references the Web site www.regulations.gov in the rule abstracts where appropriate. This is the Governmentwide Web site where members of the public can find, review, and submit comments on Federal rulemakings that are open for comment and published in the **Federal Register**, the Government's legal newspaper.

Some of the rulemakings listed on 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 10 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 Identifier Number
4053	Regulatory Review	3084-AA47
4054	Regulations Under the Comprehensive Smokeless Tobacco Health Education Act of 1986	3084-AA48
4055	Trade Regulation Rule on Funeral Industry Practices	3084-AA82
4056	Children's Online Privacy Protection Rule	3084-AB00
4057	Deceptive Advertising as to Sizes of Viewable Pictures Shown by Television Receiving Sets Rule	3084-AB01

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Federal Trade Commission—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4058	Trade Regulation Rule on Franchising and Business Opportunity Ventures	3084-AA63
4059	Premerger Notification Rules and Report Form	3084-AA91
4060	Fair and Accurate Credit Transactions Act of 2003	3084-AA94
4061	Rules Implementing the CAN-SPAM Act of 2003	3084-AA96
4062	Telemarketing Sales Rule	3084-AA98
4063	The Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA)	3084-AA99
4064	Rulemakings Pursuant to Energy Policy Act of 2005	3084-AB03

Federal Trade Commission—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
4065	Trade Regulation Rule Pursuant to the Telephone Disclosure and Dispute Resolution Act of 1992	3084-AA78
4066	Privacy of Consumer Financial Information	3084-AA97

Federal Trade Commission—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4067	Trade Regulation Rule Concerning the Labeling and Advertising of Home Insulation	3084-AA60

Federal Trade Commission (FTC)

Prerule Stage

4053. 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 continues 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. 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. On January 12, 2005, the Commission published a notice announcing the rules it plans to review in 2005 and modifying the 10-year

schedule for its regulatory review program (70 FR 2074).

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	01/17/03	68 FR 2465
Notice of Rules and Guides To Review in 2004	01/27/04	69 FR 3867
Notice of Rules and Guides To Review in 2005	01/12/05	70 FR 2074
Notice of Rules and Guides to Review in 2006	01/00/06	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

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RIN: 3084-AA47

4054. 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

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out the provisions for the size, color, typeface, and rotation of the statutory warnings at 51 FR 40005. 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 during the spring of 2006.

Timetable:

Action	Date	FR Cite
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)	04/00/06	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3084-AA48

4055. 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 decided to retain the rule, 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 rather than in 1999 as originally planned under its 10-year schedule for reviewing all Commission rules and guides. The Commission published a notice soliciting public comment in May 1999. 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
Initial Notice Requesting Public Comment	05/05/99	64 FR 24250
Extension of Comment Period	07/02/99	64 FR 35965
Close of Comment Period (Extended)	08/11/99	64 FR 35965
Public Workshop	11/18/99	64 FR 56717
Recommendation to Commission	12/00/05	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3084-AA82

4056. CHILDREN'S ONLINE PRIVACY PROTECTION RULE

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 6501 et seq

CFR Citation: 16 CFR 312

Legal Deadline: None

Abstract: The Children's Online Privacy Protection Act (COPPA) was enacted on October 21, 1998. COPPA required the Commission to issue rules that prohibit unfair and deceptive acts and practices in connection with the collection and use of personal information from and about children under the age of 13 on the Internet. The Commission issued rules, effective April 21, 2000, that required commercial websites, and online service providers (operators), with certain exceptions, to obtain verifiable parental consent before collecting, using, or disclosing personal information from or about children. An operator must make reasonable efforts, in light of available technology, to ensure that the person providing consent is the child's parent. On January 12, 2005, the Commission announced it was seeking comment on a proposal to make permanent a temporary provision in the rule allowing operators of websites and online services that collect personal information from children only for internal use to obtain verifiable parental consent via e-mail plus an additional step to verify that the person consenting is the child's parent. The comment period closed on February 14, 2005. The Commission issued a final rule, 70 FR 21104, effective April 21, 2005, extending the temporary e-mail verification provision indefinitely until the conclusion of the Commission's rule review described below.

As required by the statute, the Commission initiated a rulemaking review proceeding not later than 5 years after the effective date of the regulation to evaluate the implementation of this rule—including the effect on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and the availability of web sites directed to children—and then report to Congress on the results of this review. This review proceeding is also being conducted as part of the Commission's ongoing Regulatory Review of each regulation every 10

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years. The Commission issued a Federal Register notice requesting comments about the rule on April 22, 2005 (70 FR 21107). The comment period ended on June 27, 2005. Staff plans to forward its recommendation to the Commission in late 2005.

Timetable:

Action	Date	FR Cite
NPRM	01/14/05	70 CFR 2580
NPRM Comment Period End	02/14/05	
Final Rule (E-Mail Verification)	04/22/05	70 FR 21104
Final Rule Effective (E-Mail Verification)	04/21/05	
Request for Comments (Rule Review)	04/22/05	70 FR 21107
Recommendation to Commission (Rule Review)	12/00/05	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

URL For More Information:

http://www.regulations.gov/agcy_federaltradecommission.cfm

URL For Public Comments:

http://www.regulations.gov/agcy_federaltradecommission.cfm

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Related RIN: Related to 3084-AA84

RIN: 3084-AB00

4057. DECEPTIVE ADVERTISING AS TO SIZES OF VIEWABLE PICTURES SHOWN BY TELEVISION RECEIVING SETS RULE

Priority: Substantive, Nonsignificant

Legal Authority: 15 USC 41 to 58

CFR Citation: 16 CFR 410

Legal Deadline: None

Abstract: This rule, also known as the Picture Tube Rule, became effective in 1967. The rule sets forth appropriate methods for measuring television screens when that measure is included in any advertisement or promotional material for the television set. If the measurement of the screen size is based on a measurement other than the horizontal dimension of the actual viewable picture area, the method of measurement must be clearly and conspicuously disclosed in close proximity to the size designation. On April 7, 2005, the Commission requested comments on the rule, as part

of the Commission's systematic review of all current Commission rules and guides. The Commission sought 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 (70 FR 17623). The comment period ended June 6, 2005, and staff plans to forward its recommendation to the Commission in late 2005.

Timetable:

Action	Date	FR Cite
Request for Comments	04/07/05	70 FR 17623
Comment Period End	06/06/05	
Staff Recommendation to Commission	12/00/05	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3084-AB01

Federal Trade Commission (FTC)

Proposed Rule Stage

4058. 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 3 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 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.

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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 issued a report on August 25, 2004. The staff report sets forth the staff's recommendations to the Commission on various proposed amendments to the Franchise Rule. The Commission made the report available and published a request for comments on September 2, 2004 (69 FR 53661). The Commission did not review or approve the staff report prior to its issuance. The comment period ended on November 11, 2004. Staff anticipates forwarding its recommendations to the Commission in late 2005.

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 57294
NPRM Comment Period End	12/21/99	
NPRM Rebuttal Comment Period End	01/31/00	
Staff Report Released	08/25/04	
Request for Comments on the Staff Report	09/02/04	69 FR 53661
Comment Period End Staff Recommendation to the Commission	11/12/04	
	12/00/05	

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

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RIN: 3084-AA63

4059. 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 (HSR Rules or 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.

On April 8, 2004, the Commission issued a notice of proposed rulemaking (NPRM) to reconcile, as far as practical, the current disparate treatment of corporations, partnerships, limited liability companies and other types of noncorporate entities under the rules (69 FR 18686). On February 22, 2005, the Commission issued its final rule, which was effective on April 7, 2005 (70 FR 11502; March 8, 2005). Among other things, the amendments address acquisitions of interests in unincorporated entities; formations of unincorporated entities; and the application of certain exemptions, including the intraperson exemption. On August 15, 2005, the Commission published an NPRM that would amend 16 CFR part 803 to allow filing parties to provide Internet links to certain documents in lieu of paper copies (70 FR 47733). The proposed rule change also addresses the issue of "stale filings" in which parties make the Premerger Notification filings but fail within 18 months of the initial filing to comply with a Request for Additional Information and Documentary Material. Under the proposed rule, such filings would expire 18 months after the initial filing. The comment period closed on October 14, 2005, and the Commission staff is assessing comments. Finally, staff anticipates forwarding a

recommendation to the Commission by the end of 2005 about updating the base year used in Item 5 of the Premerger Notification Form Response from 1997 to 2002 and the proposed rule on Internet Links and "Stale" Filings.

Timetable:

Action	Date	FR Cite
NPRM (Rule Change)	02/01/01	66 FR 8723
Interim Rule I (Statutory Changes)	02/01/01	66 FR 8680
Interim Rule II (Rules of Practice)	02/01/01	66 FR 8720
Interim Final Rule With Request for Comments (Change From 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
NPRM (Noncorporate Entities)	04/08/04	69 FR 18686
Final Rule (Noncorporate Entities)	03/08/05	70 FR 11502
Effective Date (Final Rule on Noncorporate Entities)	04/07/05	
NPRM (Internet Links and "Stale" Filings)	08/15/05	70 FR 47733
NPRM Comment Period End	10/14/05	
Recommendation to Commission (Update HSR Report Form)	12/00/05	
Recommendation to Commission on Internet Links and "Stale" Filings	12/00/05	

Regulatory Flexibility Analysis**Required:** No**Government Levels Affected:** None**URL For Public Comments:**

www.regulations.gov

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Related RIN: Previously reported as 3084-AA23

RIN: 3084-AA91

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Proposed Rule Stage

4060. FAIR AND ACCURATE CREDIT TRANSACTIONS ACT OF 2003**Priority:** Substantive, Nonsignificant**Legal Authority:** PL 108–159, 117 Stat 1952**CFR Citation:** 16 CFR 602; 16 CFR 603; 16 CFR 604; 16 CFR 610; 16 CFR 611; 16 CFR 613; 16 CFR 614; 16 CFR 682; 16 CFR 698; . . .**Legal Deadline:** Final, Statutory, December 31, 2003, Effective Date for FACTA Provisions Affecting FCRA and State Laws.

Final, Statutory, February 11, 2004, Rules Specifying Effective Dates of FACTA Provisions Where Statute Does Not Specify Dates.

Final, Statutory, March 3, 2004, Rules Prohibiting Consumer Reporting Agencies From Circumventing FACTA Provisions.

Final, Statutory, June 3, 2004, Rules Concerning Free Consumer Credit Reports.

Final, Statutory, September 4, 2004, Rules Allowing Consumers To Opt Out of Marketing by Affiliates.

Abstract: The Fair and Accurate Credit Transactions Act of 2003 (the FACT Act or FACTA or the Act) was enacted on December 4, 2003. The Act requires that the Commission undertake a number of rulemakings and studies. Effective Dates —

The FACT Act required that the FTC, together with the Governors of the Federal Reserve System (the Federal Reserve), jointly adopt the effective dates of portions of the statute where the effective dates are not prescribed within 2 months of enactment of the Act. On December 24, 2003, the Federal Reserve and the FTC jointly adopted Interim Final Rules that established December 31, 2003, as the effective date for provisions of the Act that determine the relationship between the Fair Credit Reporting Act and State laws and provisions that authorize rulemakings or other implementing actions by agencies (68 FR 74467). On December 24, 2003, the Federal Reserve and FTC also issued a notice of proposed rulemaking (NPRM) requesting comments and specifying the effective dates for the other provisions of the FACT Act for which the statute does not specify an effective date (68 FR 74529). On February 11, 2004, the Commission and the Federal Reserve published joint final rules that established a schedule of effective dates

for many of the provisions of the FACT Act for which the Act itself did not specifically provide an effective date. The Agencies also made final what had previously been interim; namely, establishing December 31, 2003, as the effective date for provisions of the Act that determine the relationship between the Fair Credit Reporting Act and State laws and provisions that authorize rulemakings or other implementing actions by agencies (69 FR 6526).

The FACT Act also requires that the Commission adopt rules concerning credit reports and credit scores and related issues to be conducted jointly with the banking agencies, including the National Credit Union Administration (NCUA). The rulemaking mandates are detailed below. Additional rule requirements are either mandatory with no specified deadline or discretionary. These will be addressed once the mandatory rulemakings with deadlines are completed.

Credit Reports and Reporting Agencies Circumvention —

With respect to Credit Reports, the Act requires that the Commission issue rules by March 3, 2004, on preventing corporate and technological circumvention of the obligations imposed on nationwide consumer reporting agencies. On February 24, 2004, the FTC published an interim final rule prohibiting consumer reporting agencies from treatment as nationwide consumer reporting agencies and requested comments on this measure (69 FR 8532). The interim final rule became effective on March 3, 2004, and the comment period closed on April 23, 2004. Staff is reviewing the comments.

Free Credit Reports —

The FACT Act required that the Commission issue rules concerning: (1) A centralized source for free consumer reports by nationwide consumer reporting agencies and nationwide specialty consumer reporting agencies; (2) the provision of free credit reports by nationwide consumer reporting agencies and nationwide specialty consumer reporting agencies; and (3) a streamlined process for consumers to obtain free credit reports from specialized bureaus. On March 19, 2004, the Commission requested comments on a proposed rule that would establish a centralized source, a

standardized form, and a streamlined process through which consumers may request a free annual file disclosure from each nationwide specialty consumer reporting agency (69 FR 13192). On June 24, 2004, the Commission published a final rule effective on December 1, 2004, for the provision of free reports to consumers, including (1) a central source whereby consumers can make one request and receive their consumer report from each of the three major nationwide consumer reporting agencies and (2) rules with respect to the provision of free consumer reports by “nationwide specialty consumer reporting agencies,” as defined in new FCRA section 603(w) (69 FR 35468).

Information Sharing Between Affiliates —

The Commission, along with the banking agencies, the NCUA, and the Securities and Exchange Commission (SEC), is required to issue rules to implement the Act’s provisions allowing consumers to opt out of marketing by affiliates. The Commission issued an NPRM on June 15, 2004 (69 FR 33324). The extended comment period closed on August 16, 2004. The agencies are now assessing the comments.

Enhancement of Opt Out Notice (Prescreen Rule) -

The Commission, in consultation with the banking agencies and the NCUA, was also required to issue rules concerning the enhancement of notices to consumers about their right to opt out of prescreened solicitations. FACTA calls for these notices to be presented in a format and in a type, size, and manner that is simple and easy to understand. The Commission published an NPRM on October 28, 2004 (69 FR 58861), and subsequently published the final rule on January 31, 2005 (70 FR 5022). The prescreen rule was effective on August 1, 2005.

Disposal of Credit Report Information —

By December 4, 2004, the Commission was required, in coordination with the banking agencies, NCUA, and the SEC, to issue rules concerning the proper disposal of credit report information and records. On April 20, 2004, the Commission published an NPRM and Request for Comments (69 FR 21388). The Commission and the other agencies published a Final Disposal Rule on

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Proposed Rule Stage

November 24, 2004 (69 FR 68690). The Disposal Rule was effective on June 1, 2005.

Other Required and Discretionary Actions on Credit Reports and Information —

(1) With respect to credit reports and related issues, on November 3, 2004, the Commission issued an NPRM seeking comments on rules effecting fair and reasonable fees for credit scores. 69 FR 64698. The comment period closed on January 5, 2005, and the staff is currently reviewing comments. (2) The Act requires the Commission jointly with the Federal Reserve to issue rules addressing the form, content, time, manner, definitions, exceptions, and model of the risk-based pricing notice. (3) The Commission is required, in coordination with the banking agencies and NCUA, to issue guidelines and rules concerning credit report accuracy and rules relating to the ability of consumers to dispute information directly with furnishers as well as rules regarding reconciling addresses. (4) Finally, the Commission may issue rules regarding the compilation and submission to nationwide consumer reporting agencies of all complaints of inaccurate or incomplete files and the treatment of medical information in credit reporting agency files.

Identity Theft

The Act requires the Commission to promulgate a summary of consumers' identity theft rights and to mount a public education campaign regarding consumers' new identity theft rights. The Commission issued proposed summaries and notices of consumers' identity theft rights on July 16, 2004 (69 FR 42616). The Commission issued final model notices on November 30, 2004 (69 FR 69776). FACTA requires the Commission to define certain terms that are relevant to consumers' new identity theft rights and to promulgate the length of time for active duty/military alerts, the "Identity Theft Definitions Rule." On April 28, 2004, the Commission published an NPRM proposing rules that would establish definitions for "identity theft" and "identity theft report"; the duration of an "active duty alert"; and the "appropriate proof of identity" for purposes of sections 605A (fraud alerts and active duty alerts), 605B (consumer report information blocks), and 609(a)(1) (truncation of Social Security

numbers) of the FCRA, as amended by the FACT Act (69 FR 23370). The Commission published an Identity Theft Definitions Rule on November 3, 2004 (69 FR 63922).

FACTA also requires the Commission in consultation with the Federal banking agencies and NCUA to develop a model form and procedures to be used by identity theft victims for contacting and informing creditors and consumer reporting agencies of the fraud. On April 27, 2005, the Commission issued notice of its publication of guidance containing such model forms and procedures (70 FR 21792). This guidance, Take Charge: Fighting Back Against Identity Theft, is available at www.consumer.gov/idtheft or by writing to FTC, Consumer Response Center, Room 130-B, 600 Pennsylvania Avenue NW, Washington, DC 20580. The Commission is also required to jointly promulgate with banking regulators identity theft "red flag" guidelines and rules to implement these guidelines (the "ID theft red flag rule") and an address change rule (the "address change rule"). The ID theft red flag rule would, among other things, require card issuers to investigate requests for card changes. The address change rule would require credit report users to investigate when the address on a credit report differs from the address on a credit application.

Miscellaneous -

On May 20, 2004, the Commission issued a final rule effective on June 21, 2004, making technical changes to earlier rules, establishing a general organizational scheme for subchapter F of chapter I of title 16 of the Code of Federal Regulations, and setting forth general provisions applicable to all FTC rules under the FCRA (69 FR 29061).

Timetable:

Action	Date	FR Cite
Joint Interim Final Rules (Effective Date FACT Act Provisions)	12/24/03	68 FR 74467
NPRM (Effective Date FACT Act Provisions)	12/24/03	68 FR 74529
Joint Final Rules (Effective Date FACT Act Provisions)	02/11/04	69 FR 6526

Action	Date	FR Cite
Interim Final Rule/Request for Comments (Prohibition Against Circumvention)	02/24/04	69 FR 8532
NPRM/Request for Comments (Free Annual Credit File Disclosures)	03/19/04	69 FR 13192
Final Rule (Free Annual Credit File Disclosures)	06/24/04	69 FR 35468
NPRM – Request for Comments (Information Sharing Between Affiliates)	06/15/04	69 FR 33324
Comment Period Extended (NPRM on Information Sharing Between Affiliates)	07/21/04	69 FR 43546
NPRM (Prescreen Opt Out Disclosure)	10/28/04	69 FR 58861
Final Rule (Prescreen Opt Out Disclosure)	01/31/05	70 FR 5022
NPRM – Request for Comments (Disposal of Consumer Report Information)	04/20/04	69 FR 21388
Final Rule (Disposal of Consumer Report Information)	11/24/04	69 FR 68690
Effective Date for Disposal Rule	05/01/05	
ANPRM (Credit Score Fees)	11/08/04	69 FR 64698
Proposed Summaries and Notices (Model Disclosures for Identity Theft Rights)	07/16/04	69 FR 42616
Final Action (Model Disclosures for Identity Theft Rights)	11/30/04	69 FR 69776
Effective Date (Model Disclosures for Identity Theft Rights)	01/31/05	
Notice of Publication (Guidance for Identity Theft Victims)	04/27/05	70 FR 21792
NPRM (Identity Theft Definitions Rule)	04/28/04	69 FR 23370
Final Rule (Identity Theft Definitions Rule)	11/03/04	69 FR 63922
Effective Date (Identity Theft Definitions Rule)	12/01/04	
Final Rule (Miscellaneous Technical Amendments)	05/20/04	69 FR 29061
NPRM	10/00/05	

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

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RIN: 3084-AA94**4061. RULES IMPLEMENTING THE CAN-SPAM ACT OF 2003**

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

Legal Authority: 15 USC 7701 to 7713; 18 USC 1037

CFR Citation: 16 CFR 316

Legal Deadline: Final, Statutory, April 14, 2004, Marks for sexually explicit e-mail.

Final, Statutory, December 16, 2004, Final rule defining criteria to determine "primary purpose" of an e-mail.

Abstract: The Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (the CAN-SPAM Act or the Act) Public Law No. 108-187, 15 U.S.C. 7701 to 7703, 18 U.S.C. 1307, was enacted on December 16, 2003. The Act required that the Commission issue regulations: (1) Prescribing marks for e-mail messages containing sexually oriented material within 120 days of enactment, on April 14, 2004, and (2) defining the relevant criteria to facilitate the determination of the "primary purpose" of an electronic message within 12 months of enactment or by December 16, 2004. On April 13, 2004, the Commission announced its final rule prescribing a mark to be included in commercial e-mail that contains sexually oriented materials (Final Rule) (69 FR 21024; April 19, 2004); (NPRM) (69 FR 4263; January 29, 2004). The final rule on abels went into effect on May 19, 2004. On March 11, 2004, the Commission published an advance notice of proposed rulemaking (ANPRM) and requested comments on how to determine an electronic mail message's primary purpose, including comment on criteria that would facilitate this determination in the mandatory portion of the rulemaking pursuant to the Act

(69 FR 11776). The Commission announced the final rule regarding an electronic mail message's primary purpose on December 16, 2004 (Final Rule) (70 FR 3110; January 19, 2005); (NPRM) (69 FR 50091; August 13, 2004). The rule became effective on March 28, 2005.

The CAN-SPAM Act also provided the Commission with discretionary rulemaking authority in several other areas identified below. The Commission published an NPRM on May 12, 2005, that proposed rule provisions on five topics: (1) Defining the term "person," a term used repeatedly throughout the Act but not defined there; (2) modifying the definition of "sender" to make it easier to determine which of multiple parties advertising in a single e-mail message will be responsible for complying with the Act's "opt-out" requirements; (3) clarifying that opt Office boxes and private mailboxes established pursuant to United States Postal Service regulations constitute "valid physical postal addresses" within the meaning of the Act; (4) shortening from 10 days to 3 the time a sender may take before honoring a recipient's opt-out request; and (5) clarifying that to submit a valid opt-out request, a recipient cannot be required to pay a fee, provide information other than his or her e-mail address and opt-out preferences, or take any steps other than sending a reply e-mail message or visiting a single Internet Web page (NPRM) (70 FR 25426; May 12, 2005); (ANPRM) (69 FR 11776; March 11, 2004). The comment period closed on June 27, 2005, and staff is currently reviewing and analyzing the 151 comments received in response to the NPRM in order to formulate a final recommendation to the Commission before the end of calendar year 2005.

Timetable:

Action	Date	FR Cite
NPRM - Labels	01/29/04	69 FR 4263
Final Rule on CAN-SPAM Labels	04/19/04	69 FR 21024
Final Rule Effective (Labels)	05/19/04	
ANPRM Request for Comment on Primary Purpose and Discretionary Rules	03/11/04	69 FR 11776
Extension of Comment Period (Primary Purpose and Discretionary Rules)	04/09/04	69 FR 18851

Action	Date	FR Cite
ANPRM Comment Period End (Primary Purpose and Discretionary Rules)	04/20/04	
NPRM (Primary Purpose)	08/13/04	69 FR 50091
Final Rule (Primary Purpose)	01/19/05	70 FR 3110
NPRM (Discretionary Rules)	05/12/05	70 FR 25426
Recommendation to Commission (Discretionary Rules)	12/00/05	

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

www.regulations.gov/agcy_federaltradecommission.cfm

URL For Public Comments:

www.regulations.gov/agency_federaltradecommission.cfm

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RIN: 3084-AA96**4062. TELEMARKETING SALES RULE****Priority:** Substantive, Nonsignificant**Legal Authority:** 15 USC 6101 to 6108**CFR Citation:** 16 CFR 310**Legal Deadline:** None

Abstract: This rulemaking is related to RIN 3084-AA86. In 1995, the Commission issued the Telemarketing Sales Rule (TSR), 16 CFR part 310, under the Telemarketing and Consumer Fraud and Abuse Prevention Act (TSR Act), 15 U.S.C. 6101 to 6108. The TSR requires telemarketers to disclose information; prohibits misrepresentations; limits the times telemarketers may call consumers; prohibits calls to consumers who ask

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not to be called again; and sets payment restrictions for the sale of certain goods and services. In the fall 2003 Agenda, the Commission reported that it had completed its review of the TSR as required by the TSR Act. Among other changes, the amended TSR established the National Do-Not-Call Registry, enabling consumers to register their preference not to receive telemarketing calls (68 FR 4580; January 29, 2003). To date, consumers have registered over 100 million telephone numbers on the Registry, which accepts home land line and personal cell phone numbers at <http://www.donotcall.gov> or 1-888-382-1222.

On July 31, 2003, the Commission published a Final Rule further amending the TSR by establishing the fees that would be charged to entities engaged in telemarketing that access the National Do-Not-Call Registry (68 FR 45134).

The Consolidated Appropriations Act of 2004, Public Law No. 188-199, 188 Stat. 3, Division B, title V (Appropriations Act), required that the Federal Trade Commission amend the TSR within 60 days of enactment to require telemarketers subject to the TSR to obtain from the FTC the list of telephone numbers on the National Do-Not-Call Registry once a month. After notice and comment, the Federal Trade Commission amended the TSR on March 23, 2004, requiring that telemarketers subject to the Rule access the National Do-Not-Call Registry and purge numbers on the registry from their call lists every month, instead of every quarter as the Rule originally required, and also allowing a consumer to assert a valid "do-not-call" complaint 30 days after entering his or her number rather than waiting 3 months as originally required (69 FR 16368; March 29, 2004)(Final Rule); (69 FR 7330; February 13, 2004)(NPRM).

In the Appropriations Act, Congress also authorized the Commission to collect fees of \$23.1 million in fiscal year 2004 to implement and enforce the amended TSR. On July 30, 2004, the Commission published a final rule revising the fees charged for industry access to the National Do-Not-Call Registry (69 FR 45580) (Final Rule); (69 FR 23701; April 30, 2004) (NPRM). On April 22, 2005, the Commission published a new NPRM to revise the fees charged the industry for access to

the National Do-Not-Call Registry (70 FR 20848). The comment period ended on June 1, 2005, and the Commission thereafter announced a revised fee schedule that became effective on September 1, 2005 (70 FR 43273; July 27, 2005). The Commission's final rule revised the fee structure so that entities are required to pay \$56 per area code (formerly \$40), or \$15,400 for any entity accessing 280 area codes or more (formerly \$11,000). Entities will still be able to obtain the first five area codes of data at no cost, and "exempt" entities may still access the Registry for free.

In response to a series of requests for advisory opinions, the Commission also published an NPRM on November 17, 2004, proposing to permit prerecorded message telemarketing when there is an established business relationship between the caller and a consumer as long as a consumer has the opportunity to make a do not call request at the outset of the message. At the same time and in response to a request for reconsideration on the FTC's calculation of the percentage of abandoned calls for each day, the NPRM also requested comments and factual information supporting a requested switch from the current policy of measuring the 3 percent abandoned call ratio from a per day calculation to an average of calls abandoned over a 30-day period. The NPRM also stated that, pending completion of the rulemaking, the FTC would not enforce the TSR's current call abandonment provisions against callers who engage in prerecorded message telemarketing when there is an established business relationship provided that callers comply with the proposed requirements. The comment period closed on January 10, 2005, and staff anticipates forwarding its recommendation to the Commission by October 2005.

Timetable:

Action	Date	FR Cite
NPRM – Monthly Access Requirement	02/13/04	69 FR 7330
Final Rule Announced	03/23/04	
Final Rule (31-Day Access Requirement)	03/29/04	69 FR 16368
Final Action Effective (31-Day Access Requirement)	01/01/05	
Amended Fees NPRM	04/30/04	69 FR 23701

Action	Date	FR Cite
Final Rule (Revised Fee Schedule)	07/30/04	69 FR 45580
Effective Date of New Fee Schedule	09/01/04	
NPRM (Fee Changes)	04/22/05	70 FR 20848
NPRM Comment Period End (Fee Changes)	06/01/05	
Final Rule (Fee Changes)	07/27/05	70 FR 43273
Effective Date of New Fee Schedule	09/01/05	
NPRM on Call Abandonment and Prerecorded Messages	11/17/04	69 FR 67287
NPRM Comment Period End (Call Abandonment)	01/10/05	
Staff Recommendation to Commission (Call Abandonment)	10/00/05	

Regulatory Flexibility Analysis

Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

URL For More Information:

www.ftc.gov/opa/2004/11/tsramend.htm

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Related RIN: Related to 3084-AA86

RIN: 3084-AA98

4063. THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991 (FDICIA)

Priority: Substantive, Nonsignificant

Legal Authority: 12 USC 1811 et seq

CFR Citation: Not Yet Determined

Legal Deadline: None

Abstract: This rulemaking is related to RIN 3084-AA44, which was withdrawn in 2000. The FDICIA assigns to the FTC responsibilities for certain non-federally insured depository institutions (DIs). The FTC is required to prescribe by regulation or order the manner and

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content of certain disclosures required of DIs that lack Federal deposit insurance. The Departments of Commerce, Justice, State, and Related Agencies Appropriations Act of 1993, containing the Commission's appropriation for 1993, provided that none of the funds were available for expenses authorized by section 151 of FDICIA. Legislation containing the Commission's appropriation for fiscal years 1994 to 2003 contained the same provision. However, the Consolidated Appropriations Act of 2004 and 2005 did not include the provision prohibiting the FTC from spending funds on the tasks imposed by section 151 of FDICIA. The Commission published a notice of proposed rulemaking (NPRM) requesting public comments on proposed disclosure requirements to implement section 151 on March 16, 2005 (70 FR 12823). The comment period ended on June 15, 2005. Staff anticipates forwarding its recommendation to the Commission by early 2006.

Timetable:

Action	Date	FR Cite
NPRM	03/16/05	70 FR 12823
NPRM Comment Period End	06/15/05	
Staff Recommendation to Commission	02/00/06	

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

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Related RIN: Related to 3084-AA44**RIN:** 3084-AA99**4064. • RULEMAKINGS PURSUANT TO ENERGY POLICY ACT OF 2005****Priority:** Substantive, Nonsignificant**Legal Authority:** PL 109-58, 119 Stat 594**CFR Citation:** Not Yet Determined

Legal Deadline: Appliance Labeling Effectiveness—must initiate rulemaking within 90 days of enactment and then complete the rulemaking within 2 years. Ceiling Fan Labeling—must complete rulemaking within 18 months of enactment.

Abstract: The Energy Policy Act of 2005, was enacted on August 8, 2005, and among other things, sets forth an energy research and development program that would examine issues related to: (1) energy efficiency; (2) renewable energy; (3) oil and gas; (4) coal; (5) Indian energy; (6) nuclear matters and security; (7) vehicles and motor fuels, including ethanol; (8) hydrogen; (9) electricity; and (10) energy tax incentives. The Act requires the Commission to complete two rulemakings while authorizing other discretionary rulemaking actions.

Mandatory

Section 137(a) of the Act requires the Commission to initiate a rulemaking within 90 days of enactment examining the effectiveness of the energy efficiency related consumer products labeling program (the Appliance Labeling Effectiveness Rulemaking). The Commission was given 2 years from enactment to complete this rulemaking.

Section 137(a) of the Act also mandates that, within 18 months of enactment,

the Commission issue by rule labeling requirements for the electricity used by ceiling fans to circulate air in a room (Ceiling Fan Labeling Rulemaking).

Discretionary

Section 137(b) of the Act authorizes the Commission or the Secretary for the Department of Energy (DOE), as appropriate, to require labels for a number of products like battery chargers, external power supplies, refrigerated beverage machines, exit signs, transformers, traffic signals, etc. (Discretionary Labels). The Commission is consulting with DOE and after such consultation will decide how to proceed in this area.

Section 1287 of the Act gives the Commission the authority to issue retail electricity rules related to slamming, cramming, and privacy (Discretionary Electricity Rules).

Miscellaneous

The statute amends the statutory definitions of some covered lighting products. The Commission may have to make some minor conforming changes to the definitions in the FTC labeling rule.

Timetable:

Action	Date	FR Cite
NPRM (Appliance Labeling Effectiveness)	12/00/05	
NPRM (Ceiling Fan Labeling)	12/00/05	

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

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RIN: 3084-AB03

Federal Trade Commission (FTC)

Long-Term Actions

4065. TRADE REGULATION RULE PURSUANT TO THE TELEPHONE DISCLOSURE AND DISPUTE RESOLUTION ACT OF 1992

Priority: Substantive, Nonsignificant

CFR Citation: 16 CFR 308

Timetable:

Action	Date	FR Cite
Request for Comments	03/12/97	62 FR 11750
Comment Period End	05/12/97	
Public Workshop	06/19/97	
Public Workshop	06/20/97	
NPRM	10/30/98	63 FR 58524
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	

Action Date FR Cite

Public Workshop	05/20/99	
Public Workshop	05/21/99	
Recommendation to Commission	10/00/06	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3084–AA78

4066. PRIVACY OF CONSUMER FINANCIAL INFORMATION

Priority: Substantive, Nonsignificant

CFR Citation: 16 CFR 313

Timetable:

Action Date FR Cite

Public Workshop	12/04/01	
ANPRM	12/30/03	68 FR 75164
ANPRM Comment Period End	03/29/04	
Next Action		Undetermined

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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Related RIN: Related to 3084–AA85, Related to 3064–AC77, Related to 1550–AB86

RIN: 3084–AA97

Federal Trade Commission (FTC)

Completed Actions

4067. 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. On May 31, 2005, the Commission issued the final rule, effective on November 28, 2005. Among other things, the amendments require disclosures that will make it easier to ensure that the correct amount of loose-fill insulation is installed in homes; update the required tests for some insulation products; delete disclosures for insulation products no longer sold; and eliminate duplicative disclosure requirements for sellers of do-it-yourself home insulation.

Timetable:

Action Date FR Cite

Request for Comments	04/06/95	60 FR 17492
Commission Action/Part I	03/28/96	61 FR 13659
ANPRM	09/01/99	64 FR 48024
ANPRM Comment Period End	11/15/99	
NPRM	07/15/03	68 FR 41872
NPRM Comment Period End	09/22/03	
Final Rule	05/31/05	70 FR 31258
Final Rule Effective	11/28/05	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: Businesses

Government Levels Affected: None

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RIN: 3084–AA60

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