

Proposed Rules

Federal Register

Vol. 77, No. 72

Friday, April 13, 2012

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL TRADE COMMISSION

16 CFR Chapter I

Notice of Intent to Request Public Comments

AGENCY: Federal Trade Commission.

ACTION: Notice of intent to request public comments.

SUMMARY: As part of its ongoing, systematic review of all Federal Trade Commission rules and guides, the Commission announces a modified ten-year regulatory review schedule. No Commission determination on the need for, or the substance of, the rules and guides listed below should be inferred from the notice of intent to publish requests for comments.

DATES: Effective April 13, 2012.

FOR FURTHER INFORMATION CONTACT:

Further details about particular rules or guides may be obtained from the contact person listed below for the rule or guide.

SUPPLEMENTARY INFORMATION: To ensure that its rules and industry guides stay relevant and are not unduly burdensome, the Commission reviews its rules and guides on a ten-year schedule. Each year the Commission publishes its review schedule, with adjustments in response to public input, changes in the marketplace, and resource demands.

When the Commission reviews a rule or guide, it publishes a notice in the **Federal Register** seeking public comment on the continuing need for the rule or guide as well as the rule's or guide's costs and benefits to consumers and businesses. Based on this feedback, the Commission may modify or repeal the rule or guide to address public concerns or changed conditions, or to reduce undue regulatory burden.

The Commission posts information about its review schedule on its Web site,¹ thereby facilitating comment about rules and guides, and providing links in

one location to comment requests, comment forms, and comments for rules and guides that are currently under review. The Web site also has a continuously updated review schedule, a list of rules and guides previously eliminated in the regulatory review process, and the Commission's regulatory review plan.

When the Commission published its regulatory review schedule for 2011–2020, it also sought input on ways to improve its regulatory review program.² The Commission received three comments in response.³

Two commenters, the Association of Home Appliance Manufacturers (“AHAM”) and Whirlpool Corporation (“Whirlpool”), urged the Commission to reconsider its earlier decision to accelerate review of the Appliance Labeling Rule to 2012. AHAM explained, and Whirlpool concurred, that the Commission should avoid frequent rule revisions unless existing requirements are outdated, overly burdensome, or deficient. However, the Appliance Labeling Rule warrants a comprehensive review at this time that will allow the Commission to consider burden reductions associated with existing reporting requirements, explore ways to reduce the number of labels missing in showrooms, improve access to label information on retail Web sites, and consider whether additional consumer products should have energy labels. Therefore, the Commission has proceeded with the scheduled review of the Appliance Labeling Rule, 16 CFR part 305.

The Chamber of Commerce of the United States of America submitted a comment that noted the Commission's commitment to regulatory review and reduction of unnecessary burdens on business, but did not address the questions posed by the Commission, or any other aspect of the Commission's regulatory review plan. Rather, it expressed various concerns, principally relating to transparency and scope, regarding Commission enforcement of Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45. The

² *Federal Trade Commission: Notice Announcing Ten-Year Regulatory Review Schedule and Request for Public Comment on the Federal Trade Commission's Regulatory Review Program*, 76 FR 41150 (July 13, 2011).

³ These comments are available on the Commission's Web site at <http://www.ftc.gov/os/comments/regulatoryreviewschedule/index.shtm>.

Commission notes that it is familiar with these concerns generally, has addressed them in various forums, and will continue to do so.

Modified Ten-Year Schedule for Review of FTC Rules and Guides

For 2012, the Commission intends to initiate reviews of, and solicit public comments on, the following guides:

(1) *Guides for the Rebuilt, Reconditioned and Other Used Automobile Parts Industry*, 16 CFR part 20. *Agency Contact:* Jonathan L. Kessler, (216) 263–3436, Federal Trade Commission, East Central Region, 1111 Superior Ave E # 200, Cleveland, OH 44114–2577.

(2) *Guides for the Jewelry, Precious Metals, and Pewter Industries*, 16 CFR part 23. *Agency Contact:* Reenah Kim, (202) 326–2272, Federal Trade Commission, Bureau of Consumer Protection, Division of Enforcement, 600 Pennsylvania Ave. NW., Washington, DC 20580.

(3) *Guides for Advertising Allowances and Other Merchandising Payments and Services*, 16 CFR part 240. *Agency Contact:* Michael Bloom, (202) 326–2475, Federal Trade Commission, Bureau of Competition, 600 Pennsylvania Ave. NW., Washington, DC 20580.

The Commission is currently reviewing 22 of the 65 rules and guides within its jurisdiction. Due to resource constraints caused by the large number of rules and guides under review, the Commission is postponing review of the following matters previously scheduled for review in 2012: Guides Against Deceptive Pricing, 16 CFR part 233; Guides Against Bait Advertising, 16 CFR part 238; Guides Concerning Use of the Word “Free” and Similar Representations, 16 CFR part 251; and the Preservation of Consumers' Claims and Defenses Rule [Holder in Due Course Rule], 16 CFR part 433. It is postponing the reviews of the three guides until 2017, and the review of the rule until 2013.

The Commission is also consolidating its review of the Hart-Scott-Rodino Antitrust Improvements Act Coverage Rules, 16 CFR part 801; and the Hart-Scott-Rodino Antitrust Improvements Act Exemption Rules, 16 CFR part 802, with its next review in 2020 of the Hart-

¹ <http://www.ftc.gov/ftc/regreview/index.shtml>.

Scott-Rodino Antitrust Improvement Act Transmittal Rules.⁴

A copy of the Commission's modified regulatory review schedule for 2012 through 2021 is appended. The Commission, in its discretion, may

modify or reorder the schedule in the future to incorporate new rules, or to respond to external factors (such as changes in the law) or other considerations.

Authority: 15 U.S.C. 41–58.

By direction of the Commission.

Donald S. Clark,

Secretary.

Appendix

REGULATORY REVIEW
MODIFIED TEN-YEAR SCHEDULE

16 CFR part	Topic	Year to review
239	Guides for the Advertising of Warranties and Guarantees	Currently Under Review.
254	Guides for Private Vocational and Distance Education Schools	Currently Under Review.
259	Guide Concerning Fuel Economy Advertising for New Automobiles	Currently Under Review.
260	Guides for the Use of Environmental Marketing Claims	Currently Under Review.
300	Rules and Regulations Under the Wool Products Labeling Act of 1939	Currently Under Review.
301	Rules and Regulations Under Fur Products Labeling Act	Currently Under Review.
303	Rules and Regulations Under the Textile Fiber Products Identification Act	Currently Under Review.
305	Appliance Labeling Rule	Currently Under Review.
306	Automotive Fuel Ratings, Certification and Posting	Currently Under Review.
308	Trade Regulation Rule Pursuant to the Telephone Disclosure and Dispute Resolution Act of 1992 [Pay Per Call Rule].	Currently Under Review.
309	Labeling Requirements for Alternative Fuels and Alternative Fueled Vehicles	Currently Under Review.
312	Children's Online Privacy Protection Rule	Currently Under Review.
423	Care Labeling of Textile Wearing Apparel and Certain Piece Goods	Currently Under Review.
424	Retail Food Store Advertising and Marketing Practices [Unavailability Rule]	Currently Under Review.
425	Use of Prenotification Negative Option Plans	Currently Under Review.
429	Rule Concerning the Cooling-Off Period for Sales Made at Homes or at Certain Other Locations	Currently Under Review.
435	Mail or Telephone Order Merchandise	Currently Under Review.
455	Used Motor Vehicle Trade Regulation Rule	Currently Under Review.
700	Interpretations of Magnuson-Moss Warranty Act	Currently Under Review.
701	Disclosure of Written Consumer Product Warranty Terms and Conditions	Currently Under Review.
702	Pre-Sale Availability of Written Warranty Terms	Currently Under Review.
703	Informal Dispute Settlement Procedures	Currently Under Review.
20	Guides for the Rebuilt, Reconditioned and Other Used Automobile Parts Industry	2012.
23	Guides for the Jewelry, Precious Metals, and Pewter Industries	2012.
240	Guides for Advertising Allowances and Other Merchandising Payments and Services	2012.
310	Telemarketing Sales Rule	2013.
433	Preservation of Consumers' Claims and Defenses [Holder in Due Course Rule]	2013.
500	Regulations Under Section 4 of the Fair Packaging and Labeling Act	2013.
501	Exemptions From Requirements and Prohibitions under Part 500	2013.
502	Regulations Under Section 5(c) of the Fair Packaging and Labeling Act	2013.
503	Statements of General Policy or Interpretation [under the Fair Packaging and Labeling Act]	2013.
304	Rules and Regulations Under the Hobby Protection Act	2014.
314	Standards for Safeguarding Customer Information	2014.
315	Contact Lens Rule	2015.
316	CAN-SPAM Rule	2015.
456	Ophthalmic Practice Rules (Eyeglass Rule)	2015.
460	Labeling and Advertising of Home Insulation	2016.
682	Disposal of Consumer Report Information and Records	2016.
233	Guides Against Deceptive Pricing	2017.
238	Guides Against Bait Advertising	2017.
251	Guide Concerning Use of the Word AFree@ and Similar Representations	2017.
410	Deceptive Advertising as to Sizes of Viewable Pictures Shown by Television Receiving Sets	2017.
18	Guides for the Nursery Industry	2018.
311	Test Procedures and Labeling Standards for Recycled Oil	2018.
436	Disclosure Requirements and Prohibitions Concerning Franchising	2018.
681	Identity Theft [Red Flag] Rules	2018.
24	Guides for Select Leather and Imitation Leather Products	2019.
453	Funeral Industry Practices	2019.
14	Administrative Interpretations, General Policy Statements, and Enforcement Policy Statements	2020.
255	Guides Concerning Use of Endorsements and Testimonials in Advertising	2020.
313	Privacy of Consumer Financial Information	2020.
317	Prohibition of Energy Market Manipulation Rule	2020.
318	Health Breach Notification Rule	2020.
432	Power Output Claims for Amplifiers Utilized in Home Entertainment Products	2020.
444	Credit Practices	2020.
640	Duties of Creditors Regarding Risk-Based Pricing	2020.

⁴ The Hart-Scott-Rodino ("HSR") program includes an ongoing review of all the HSR rules. In 2011, the Commission made significant changes to 16 CFR part 803 by overhauling the premerger notification form. The Commission also amended the definition of "associates" in 16 CFR part 801,

and made minor amendments to several exemption rules in 16 CFR part 802. See the Statement of Basis and Purpose, *Federal Trade Commission: Premerger Notification; Reporting and Waiting Period Requirements*, 76 FR 42471 (July 19, 2011) at [http://www.gpo.gov/fdsys/pkg/FR-2011-07-19/pdf/2011-](http://www.gpo.gov/fdsys/pkg/FR-2011-07-19/pdf/2011-17822.pdf)

[17822.pdf](http://www.gpo.gov/fdsys/pkg/FR-2011-07-19/pdf/2011-17822.pdf). As this review covered all sections of the HSR rules, it is appropriate to consolidate future reviews of these rules with the next scheduled review of 16 CFR part 803. The Commission will accelerate these reviews if necessary.

REGULATORY REVIEW—Continued
MODIFIED TEN-YEAR SCHEDULE

16 CFR part	Topic	Year to review
641	Duties of Users of Consumer Reports Regarding Address Discrepancies	2020.
642	Prescreen Opt-Out Notice	2020.
660	Duties of Furnishers of Information to Consumer Reporting Agencies	2020.
680	Affiliate Marketing	2020.
698	Model Forms and Disclosures	2020.
801	[Hart-Scott-Rodino Antitrust Improvements Act] Coverage Rules	2020.
802	[Hart-Scott-Rodino Antitrust Improvements Act] Exemption Rules	2020.
803	[Hart-Scott-Rodino Antitrust Improvements Act] Transmittal Rules	2020.
437	Disclosure Requirements and Prohibitions Concerning Business Opportunities	2021.

[FR Doc. 2012-8742 Filed 4-12-12; 8:45 am]

BILLING CODE 6750-01-P

DEPARTMENT OF LABOR

Office of the Secretary of Labor

29 CFR Part 15

Employment and Training Administration

20 CFR Parts 638 and 670

RIN 1290-AA25

Administrative Claims Under the Federal Tort Claims Act and Related Statutes

AGENCY: Office of the Secretary, Employment and Training Administration, Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: This amendment revises the Department of Labor's (DOL's) regulations governing administrative claims submitted to DOL pursuant to the Federal Tort Claims Act (FTCA), the Military Personnel and Civilian Employees' Claims Act (MPCECA), and for payment of claims arising out of the operation of the Job Corps. The regulations governing such claims were last revised in 1995. MPCECA has since been amended to allow payment of up to \$100,000 if the claim arose from an emergency or extraordinary circumstance. Further, the implementing authority for the Job Corps was changed to the Workforce Investment Act (WIA) since the last time the regulations were updated. These regulations are being amended to reflect those changes, improve the clarity and ease of use of the regulations, and to harmonize the regulations governing these claims between those regulations in titles 20 and 29 of the CFR, which includes deleting the references to these claims in 20 CFR part 638 as these revisions have rendered those sections

unnecessary. Finally, the regulations in title 20 have also been updated to reflect the recently revised regulations regarding claims of Job Corps students under the Federal Employees' Compensation Act (FECA).

DATES: Written comments must be received on or before June 12, 2012.

ADDRESSES: You may submit comments on the proposed rule, identified by Regulatory Information Number (RIN) 1290-AA25, by ONE of the following methods:

Federal e-Rulemaking Portal: The Internet address to submit comments on the rule is <http://www.regulations.gov>. Follow the Web site instructions for submitting comments.

Mail: Submit written comments to Catherine P. Carter, Counsel for Claims and Compensation, Office of the Solicitor, U.S. Department of Labor, Room S-4325, 200 Constitution Avenue NW., Washington, DC 20210. Because of security measures, mail directed to Washington, DC is sometimes delayed. We will only consider comments postmarked by the U.S. Postal Service or other delivery service on or before the deadline for comments.

Instructions: All comments must include the RIN 1290-AA25 for this rulemaking. Receipt of any comments, whether by mail or Internet, will not be acknowledged. Because DOL continues to experience delays in receiving postal mail in the Washington, DC area, commenters are encouraged to submit any comments by mail early.

Comments on the proposed rule will be available for public inspection during normal business hours at the address listed above for mailed comments.

Persons who need assistance to review the comments will be provided with appropriate aids such as readers or print magnifiers. Copies of this proposed rule may be obtained in alternative formats (e.g., large print, audiotape or disk) upon request. To schedule an appointment to review the comments and/or to obtain the proposed rule in an alternative format, contact DOL at 202-

693-5320 (this is not a toll-free number).

FOR FURTHER INFORMATION CONTACT:

Catherine P. Carter, Counsel for Claims and Compensation, Office of the Solicitor, U.S. Department of Labor, Room S-4325, 200 Constitution Avenue NW., Washington, DC 20210, Telephone: 202-693-5320 (this is not a toll-free number). Individuals with hearing or speech impairments may access this telephone number via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

I. Proposed Rule and Concurrent, Identical Direct Final Rule

Since this rule is not controversial and primarily concerns agency procedures, we have determined that the subject of this rulemaking is suitable for a direct final rule. No significant adverse comments are anticipated. Accordingly, concurrent with this proposed rule, a separate, identical direct final rule is published in today's issue of the **Federal Register**. The duplicate direct final rule will expedite rulemaking in the event no significant adverse comments are received and we withdraw this notice of proposed rulemaking. All interested parties should comment at this time because we will not initiate an additional comment period. If no significant adverse comments to the accompanying proposed rule are received on or before June 12, 2012, the direct final rule will become effective July 12, 2012 without further notice.

If significant adverse comments are received, we will publish a timely notice in the **Federal Register** withdrawing the direct final rule, and will then proceed with the rulemaking by addressing the comments and developing a final rule from this proposed rule. For purposes of withdrawing the direct final rule, a significant adverse comment is one that explains (1) why the direct final rule is