

**Federal Trade Commission
Regulatory Review Plan:
Ensuring FTC Rules Are Up-to-Date, Effective, and Not Overly Burdensome
September 2011**

I. Executive Summary of Regulatory Review Plan

The Federal Trade Commission (“FTC”) has long recognized the many benefits of periodic regulatory review. In a rapidly changing marketplace, agency regulations can become outdated, ineffectual, and unduly burdensome. Therefore, it is important to systematically review regulations to ensure that they continue to achieve their intended goals without unduly burdening commerce. Since 1992, the FTC’s regulatory review program has done just that. The FTC schedules its regulations and guides for review on a ten-year cycle; i.e., all rules and guides are scheduled to be reviewed ten years after implementation and ten years after completion of a regulatory review. Pursuant to this program, the FTC has rescinded 37 rules and guides promulgated under the FTC’s general authority and updated dozens of other since the early 1990s. In all, the FTC has repealed roughly half of its discretionary trade regulatory rules and industry guides that were in effect when the program began in 1992.

The President recently issued Executive Orders 13563 and 13579, which call upon federal agencies including independent agencies such as the FTC, to prepare plans for the periodic review of existing regulations in order to determine whether those regulations should be modified, streamlined, expanded, or repealed.

The FTC shares these goals and, in light of the Executive Orders, has taken a fresh look at its longstanding regulatory review process. The FTC is taking a number of steps to ensure that its rules and guides are up-to-date and effective.

II. Scope of Regulatory Review Plan

The FTC's regulatory review plan covers all of the agency's existing regulations and industry guides. The agency administers and enforces 15 "trade regulation rules" authorized by the FTC Act and 35 rules authorized by other statutes. In addition, the FTC currently publishes 16 industry guides to assist businesses in understanding their compliance obligations. The guides identify practices that the FTC considers unfair or deceptive under Section 5 of the FTC Act and help clarify the line between deceptive

16 C.F.R. PART	TOPIC	YEAR TO REVIEW
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240 Guides for Advertising Allowances and Other

Using this feedback, the FTC determines whether there is continuing need for the rule or guide, and, if so, whether it still serves its intended purpose without unduly burdening commerce. After Commission staff analyze the comments and make a recommendation to the Commission, the Commission either initiates a proceeding to modify or repeal the regulation or guide in question, or determines no changes are warranted.

If the FTC determines that a rule should be modified, it issues either an Advance Notice of Proposed Rulemaking or a Notice of Proposed Rulemaking, in which it summarizes the public comments, sets forth the proposed modifications, explains the costs and benefits of the proposed modifications and why they are justified, and seeks additional public comment. At the same time, it also publishes a burden estimate under the Paperwork Reduction Act and seeks comment on that estimate. The FTC actively looks for means to reduce burden while preaden while

Agency (“EPA”) and DOE, on EnergyGuide labels for qualified products to ease burdens on businesses and provide consumers with additional information to facilitate product comparisons. By leveraging the expertise of other expert agencies and harmonizing regulatory requirements, the Rule facilitates consumer choice without imposing conflicting mandates on industry.

C. Harmonization with other federal agencies

The FTC works with other federal agencies to harmonize rules and avoid duplicative or conflicting requirements. For example, in connection with its rule concerning the Alternative Fuels Rule, the FTC recently issued an enforcement policy to “help eliminate consumer confusion and industry burden caused by inconsistent FTC and [EPA] requirements for cruising range disclosures” for electric vehicles. Specifically, the FTC announced it would forbear from enforcing current FTC labeling requirements for electric vehicles (including plug-in hybrid electric vehicles) that are labeled in accordance