

FEDERAL TRADE COMMISSION

16 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Trade Commission.
ACTION: Semiannual Regulatory Agenda.

SUMMARY: The Federal Trade Commission (FTC or Commission) is publishing its semiannual regulatory agenda 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. The Commission's agenda follows guidelines and procedures issued February 20, 2024, by the Office of Management and Budget in accordance with the provisions of Executive Order 12866, "Regulatory Planning and Review," of September 30, 1993, 58 FR 51735 (Oct. 4, 1993).

The Government-wide Unified Agenda of Federal Regulatory and Deregulatory Actions includes a list of all regulatory actions under development or review and is scheduled for publication in its entirety on www.reginfo.gov and www.regulations.gov in a format that offers users a greatly enhanced ability to obtain information from the agenda database.

The RFA requires publication in the Federal Register of agenda entries for rules that are likely to have a significant impact on a substantial number of small entities (5 U.S.C. 602) and any such rules that the agency has identified for periodic review under section 610 of the RFA. For spring 2024, the Commission has one rule, the newly issued Non-Compete Clause Rule which will be codified at 16 CFR 910, that meets the RFA's publication requirements. In addition, the Commission has three rules or rulemakings that would be a "significant regulatory action" under the definition in Executive Order 12866: the proposed amendments to the Premerger Notification Rules and Report Form, found at 16 CFR 801-803 and

relating to substantive HSR form changes, including implementing congressionally-mandated reporting requirements on foreign subsidiaries; the recently promulgated Combating Auto Retail Scams Trade Regulation Rule, which will be codified at 16 CFR 463; and the newly issued Non-Compete Clause Rule, which will be codified at 16 CFR 910.

The Commission has identified rulemakings that are likely to have some impact on small entities, but do not meet the RFA's publication requirements. The current rulemakings that are likely to have some impact on small entities are: (1) the Energy Labeling Rule, 16 CFR 305; (2) the Alternative Fuels Rule, 16 CFR 309; (3) the Telemarketing Sales Rule, 16 CFR 310; (3) the Children's Online Privacy Protection Rule, 16 CFR 312; (4) the Safeguards Rule, 16 CFR 314; (5) the Health Breach Notification Rule, 16 CFR 318; (6) the Care Labeling Rule, 16 CFR 423; (7) the Negative Option Rule, 16 CFR 425; (8) the Cooling-Off Rule, 16 CFR 429; (9) the Amplifier Rule, 16 CFR 432; (10) the Franchise Rule, 16 CFR 436; (11) the Business Opportunity Rule, 16 CFR 437; (12) the Funeral Rule, 16 CFR 453; (13) the Eyeglass Rule, 16 CFR 456; (14) the newly promulgated Trade Regulation Rule on Impersonation of Government and Businesses 16 CFR 461; (15) the newly promulgated Combating Auto Retail Scams Trade Regulation Rule, 16 CFR 463; (16) the Identity Theft Rules, 16 CFR 681; (17) the newly issued Non-Compete Clause Rule, to be codified at 16 CFR 910; (18) the newly proposed Trade Regulation Rule on Earnings Claims; (19) the potential Trade Regulation Rule on Commercial Surveillance; (20) the newly proposed Trade Regulation Rule Concerning Reviews and Endorsements; and (21) the newly proposed Trade Regulation Rule on Unfair and Deceptive Fees. The Commission's rulemaking review process carefully considers regulatory burdens and streamlines rules when feasible and appropriate.

The majority of the rulemakings listed in the agenda are being conducted as

part of the Commission's systematic review of all of its regulations and guides on a rotating basis. Under the Commission's program, rules are reviewed on a 10-year schedule. In each rule review, the Commission requests public comments on, among other things, the economic impact and benefits of the 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. 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 FTC staff's assessment that the specified event will occur this year. No final determination by the staff or the Commission respecting the need for or the substance of a rule 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 information in this agenda may change as new information, changes of circumstances, or changes in the law occur.

FOR FURTHER INFORMATION CONTACT: For information about specific regulatory actions listed in the agenda, call, email, or write the contact person listed for each particular proceeding. General comments or questions about the agenda should be directed to G. Richard Gold; Attorney, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580, telephone: (202) 326-3355; email: rgold@ftc.gov.

By direction of the Commission.

April J. Tabor, Secretary.

FEDERAL TRADE COMMISSION—FINAL RULE STAGE

Table with 3 columns: Sequence No., Title, Regulation Identifier No. Row 1: 358, Non-Compete Clause Rule, 3084-AB74

FEDERAL TRADE COMMISSION (FTC)

Final Rule Stage

358. Non-Compete Clause Rule [3084-AB74]

Legal Authority: 15 U.S.C. 41 to 58
Abstract: On January 19, 2023, the Commission proposed the Non-Compete Clause Rule. 88 FRS 3482 (Jan. 19, 2023). The comment period as extended closed on April 19, 2023, 88 FR 20441 (Apr. 6, 2023), and the Commission received over 26,000 public comments. The Commission issued a final rule on May 7, 2024. 89 FR 38342 (May 7, 2024). The Non-Compete Clause Rule provides that it is an unfair method of competition and therefore a violation of Section 5 of the Federal Trade Commission Act for persons to, among other things, enter into or attempt to

enter into non-compete clauses with workers on or after the final rule’s effective date. With respect to existing non-compete clauses, *i.e.*, non-compete clauses entered into before the effective date, the final rule adopts a different approach for senior executives than for other workers. For senior executives, existing non-compete clauses can remain in force, while existing non-compete clauses with other workers are not enforceable after the effective date. The final rule becomes effective on September 4, 2024.

Timetable:

Action	Date	FR Cite
NPRM	01/19/23	88 FR 3482
NPRM Comment Period Extended.	04/06/23	88 FR 20441

Action	Date	FR Cite
NPRM Extended Comment Period End.	04/19/23	
Final Rule	05/07/24	89 FR 38342
Final Rule Effective.	09/04/24	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Karuna Patel, Attorney, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580, *Phone:* 202 326-2510, *Email:* kpatel1@ftc.gov.

RIN: 3084-AB74

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