

**FEDERAL TRADE COMMISSION  
16 CFR Part 429**

**Trade Regulation Rule Concerning  
Cooling-Off Period for Sales Made at Homes  
or at Certain Other Locations**

**AGENCY:** Federal Trade Commission (“FTC” or “Commission”).

**ACTION:** Request for public comment.

**SUMMARY:** The Commission requests public comment on its Trade Regulation Rule Concerning Cooling-Off Period for Sales Made at Homes or at Certain Other Locations (“Cooling-Off Rule” or “Rule”). The Commission is soliciting public comment as part of the FTC’s systematic review of all current Commission regulations and guides.

**DATES:** Written comments concerning the Cooling-Off Rule must be received no later than June 22, 2009.

**ADDRESSES:** Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to “Cooling-Off Rule Regulatory Review, 16 CFR 429, Comment, Project No. P087109” to facilitate the organization of comments. Please note that your comment – including your name and your state – will be placed on the public record of this proceeding, including on the publicly accessible FTC website, at <http://ftc.gov/os/publiccomments.shtm>.

Because comments will be made public, they should not include any sensitive personal information, such as an individual’s Social Security Number; date of birth; driver’s license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include

any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include any “[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential . . . ,” as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and Commission Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled “Confidential,” and must comply with FTC Rule 4.9(c).<sup>1</sup>

A comment filed in paper form should include the “Cooling-Off Rule Regulatory Review, 16 CFR 429, Comment, Project No. P087109” reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/Office of the Secretary, Room H-135 (Annex M), 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

You also may consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by following the instructions on the web-based form at the weblink <https://secure.commentworks.com/ftc-cooling-offrulereview>. To ensure that the Commission considers an electronic comment, you must file it on that web-based form. If this Notice appears at <http://www.regulations.gov/search/index.jsp>, you also may file an electronic

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<sup>1</sup> See also FTC Rule 4.2(d), 16 CFR 4.2(d). The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission’s General Counsel, consistent with applicable law and the public interest. See Commission Rule 4.9(c), 16 CFR 4.9(c).

comment through that website. The Commission will consider all comments that regulations.gov forwards to it. You also may visit the FTC website at <http://www.ftc.gov> to read the Notice and the news release describing it.

The Federal Trade Commission Act (“FTC Act”) and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. To read our policy on how we handle the information you submit – including routine uses permitted by the Privacy Act – please review the FTC’s privacy policy, at <http://www.ftc.gov/ftc/privacy.shtm>.

**FOR FURTHER INFORMATION CONTACT:** Sana Coleman Chriss, Attorney, (404) 656-1364, Federal Trade Commission, Southeast Region, 225 Peachtree Street, NE, Suite 1500, Atlanta, Georgia 30303.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Cooling-Off Rule was promulgated by the Commission on October 26, 1972, and it was last amended on October 20, 1995.<sup>2</sup> The Rule, as amended, declares it an unfair and

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<sup>2</sup> 37 FR 22933 (Oct. 26, 1972); 60 FR 54180 (Oct. 20, 1995).

deceptive practice for a seller engaged in a “door-to-door sale”<sup>3</sup> of consumer goods or services, with a purchase price of \$25 or more, to fail to provide the buyer with certain oral and written disclosures regarding the buyer’s right to cancel the contract within three business days from the date of the sales transaction.<sup>4</sup> The Rule also requires such sellers, within 10 business days after receipt of a valid cancellation notice from a buyer, to honor the buyer’s cancellation by refunding all payments made under the contract, returning any traded-in property, cancelling and returning any security interests created in the transaction, and notifying the buyer whether the seller intends to repossess or abandon any shipped or delivered goods.

In addition, the Rule requires door-to-door sellers to furnish the buyer with a completed receipt, or a copy of the sales contract, containing a summary notice informing the buyer of the right to cancel the transaction, which must be in the same language as that principally used in the oral sales presentation. Door-to-door sellers also must provide the buyer with a completed cancellation form, in duplicate, captioned either “Notice of Right to Cancel” or “Notice of Cancellation,” one copy of which can be returned by the buyer to the seller to effect cancellation.

The Rule provides for certain exemptions and excludes certain transactions from the definition of the term “door-to-door sale.” Specifically, the Rule exempts: (1) sellers of automobiles, vans, trucks or other motor vehicles sold at auctions, tent sales or other temporary

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<sup>3</sup> A “door-to-door sale” includes sales made at a place other than the place of business of the seller (*e.g.*, sales at the buyer’s residence or at facilities rented on a temporary or short term basis, such as hotel or motel rooms, convention centers, fairgrounds and restaurants, or sales at the buyer’s workplace or in dormitory lounges). 16 CFR 429.0(a).

<sup>4</sup> As a basis for promulgating the Rule, the Commission identified five categories of complaints directed to the industries utilizing door-to-door marketing techniques: (1) deceptive tactics for getting in the door; (2) high pressure sales tactics; (3) misrepresentation of price, quality, and characteristics of the product; (4) high prices for low quality merchandise; and (5) the nuisance created by the uninvited salesperson. 37 FR 22937-940 (Oct. 26, 1972).

places of business, provided that the seller is a seller of vehicles with a permanent place of business; and (2) sellers of arts and crafts sold at fairs or similar places. The Rule also excludes certain transactions, including, for example, transactions conducted and consummated entirely by mail or telephone, and without any other contact between the buyer and seller or its representative prior to the delivery of goods or performance of services; transactions pertaining to the sale or rental of real property, to the sale of insurance, or to the sale of securities or commodities by a broker-dealer registered with the Securities and Exchange Commission; and transactions in which the consumer is accorded the right of rescission by the provisions of the Consumer Credit Protection Act (15 U.S.C. 1635) or its regulations.

Finally, the Rule expressly preempts any state laws or municipal ordinances that are directly inconsistent with the Rule, including, for example, state laws or ordinances that impose a fee or penalty on the buyer for exercising his or her right under the Rule, or that do not require the buyer to receive a notice of his or her right to cancel the transaction in substantially the same form as provided in the Commission's Rule.

## **II. Regulatory Review of the Cooling-Off Rule**

The Commission periodically reviews each of its rules and guides to seek information about their costs and benefits and their regulatory and economic impact. The information obtained during these periodic reviews assists the Commission in identifying rules and guides that either should be retained without modification, amended, or rescinded. This Notice commences the Commission's review of the Cooling-Off Rule.

As part of its review, the Commission seeks comment on a number of general issues, including the continuing need for the Rule, its economic impact, and the effect of any technological, economic, or industry changes on the Rule.

### **III. Issues for Comment**

The Commission requests written comment on any or all of the following questions. The Commission asks commenters to make their responses as specific as possible and to include both a reference to the question being answered and any references to empirical data or other evidence wherever available and appropriate.

- (1) Is there a continuing need for the Rule? Why or why not?
- (2) Are there practices addressed by the Rule for which regulation is no longer needed? If so, explain and provide supporting evidence.
- (3) What benefits has the Rule provided to consumers? What evidence supports the asserted benefits?
- (4) What modifications, if any, should be made to the Rule to increase its benefits to consumers?
  - (a) What evidence supports the proposed modifications?
  - (b) How would these modifications affect the costs and benefits of the Rule for consumers?
  - (c) How would these modifications affect the costs and benefits of the Rule for businesses, and in particular for small businesses?
- (5) What impact has the Rule had on the flow of truthful information to consumers and on the flow of deceptive information to consumers? What evidence supports the impact that you have identified?
- (6) What significant costs has the Rule imposed on consumers? What evidence supports the asserted costs?

- (7) Should any modifications be made to the Rule to reduce the costs imposed on consumers?
  - (a) What evidence supports the proposed modifications?
  - (b) How would these modifications affect the costs and benefits of the Rule for consumers?
  - (c) How would these modifications affect the costs and benefits of the Rule for businesses, and in particular for small businesses?
- (8) Is the cancellation notice language provided in the Rule easy for consumers to read and understand? Why or why not? Should the language be modified in any way to improve consumers' understanding of their rights and obligations under the Rule? If so, how?
- (9) What benefits has the Rule provided to businesses, and in particular to small businesses? What evidence supports the asserted benefits?
- (10) Should any modifications be made to the Rule to increase its benefits to businesses, and in particular to small businesses?
  - (a) What evidence supports your proposed modifications?
  - (b) How would these modifications affect the costs and benefits of the Rule for consumers?
  - (c) How would these modifications affect the costs and benefits of the Rule for businesses?
- (11) What significant costs, including costs of compliance, has the Rule imposed on businesses, and in particular on small businesses? What evidence supports the asserted costs?

- (12) Should any modifications be made to the Rule to reduce the costs imposed on businesses, and in particular on small businesses?
  - (a) What evidence supports the proposed modifications?
  - (b) How would these modifications affect the costs and benefits of the Rule for consumers?
  - (c) How would these modifications affect the costs and benefits of the Rule for businesses?
- (13) What evidence is available concerning the degree of industry compliance with the Rule?
- (14) Should the Rule be modified to reflect any technological changes in communications methods or methods for buying and selling goods and services, including, for example, changes in the use of the Internet, electronic mail, or mobile communications? If so, how? What evidence supports the proposed modification?
- (15) Have there been any significant industry or economic changes since 1995 that warrant modifying the types of sellers that are exempt from the Rule?
- (16) What potentially unfair or deceptive door-to-door sales practices, if any, are not covered by the Rule that should be? Provide evidence to support the assertion.
- (17) Does the Rule overlap or conflict with other federal, state, or local laws or regulations? If so, how?
  - (a) What evidence supports the asserted conflicts?
  - (b) With reference to the asserted conflicts, should the Rule be modified? If so, why, and how? If not, why not?



(c) Is there evidence concerning whether the Rule has assisted in promoting national consistency with respect to the regulation of door-to-door sales?

If so, please provide that evidence.

(18) Have there been any significant changes since 1995 in U.S. consumer credit protection laws or other laws that warrant modification of the Rule? If so, explain and provide evidence to support the proposed modification.

**List of Subjects in 16 CFR Part 429**

Sales Made at Homes or at Certain Other Locations; Trade practices.

**Authority:** Sections 1-23, FTC Act, 15 U.S.C. 41-58.

By direction of the Commission.

Donald S. Clark  
Secretary