

manufacturer, this AD does not include that requirement.

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(b) Within 1 month after the effective date of this AD or concurrently with the replacement required by paragraph (a) of this

AD, whichever is first: Revise the Limitations and Normal Procedures sections of the AFM by inserting into the AFM a copy of all the applicable Cessna temporary revisions (TRs) listed in Table 1 of this AD.

1 When a statement identical to that in the applicable TR(s) listed in Table 1 of

this AD has been included in the general revisions of the AFM, the general revisions may be inserted into the AFM, and the copy of the applicable TR may be removed from the AFM.

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¹The 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. Commission Rule 4.9(c), 16 CFR 4.9(c).

² 68 FR 4580 (Jan. 29, 2003) (codified at 16 CFR pt. 310).

telemarketers are required to refrain from calling consumers who have placed their numbers on the registry.³ Telemarketers must periodically access the registry to remove from their telemarketing lists the telephone numbers of those consumers who have registered.⁴

Shortly after issuance of the Amended TSR, Congress passed the Do-Not-Call Implementation Act ("the Implementation Act").⁵ The Implementation Act gave the Commission the specific authority to "promulgate regulations establishing fees sufficient to implement and enforce the provisions relating to the 'do-not-call' registry of the [TSR]. * * * No amounts shall be collected as fees pursuant to this section for such fiscal years except to the extent provided in advance in appropriations Acts. Such amounts shall be available * * * to offset the costs of activities and services related to the implementation and enforcement of the [TSR], and other activities resulting from such implementation and enforcement."⁶

On July 29, 2003, pursuant to the Implementation Act and the Consolidated Appropriations Resolution, 2003,⁷ the Commission issued a Final Rule further amending the TSR to impose fees on entities accessing the National Do Not Call Registry ("the Original Fee Rule").⁸ Those fees were based on the FTC's best estimate of the number of entities that would be required to pay for access to the national registry, and the need to raise \$18.1 million in Fiscal Year 2003 to cover the costs associated with the implementation and enforcement of the "do-not-call" provisions of the Amended TSR. The Commission determined that the fee structure would be based on the number of different area codes of data that an entity wished to access annually. The Original Fee Rule established an annual fee of \$25 for each area code of data requested from the national registry, with the first five area codes of data provided at no cost.⁹ The

maximum annual fee was capped at \$7,375 for entities accessing 300 area codes of data or more.¹⁰

On July 30, 2004, pursuant to the Implementation Act and the Consolidated Appropriations Act, 2004 ("the 2004 Appropriations Act"),¹¹ the Commission issued a revised Final Rule further amending the TSR increasing fees on entities accessing the National Do Not Call Registry ("the Revised Fee Rule").¹² Those fees were based on the FTC's experience through June 1, 2004, its best estimate of the number of entities that would be required to pay for access to the national registry, and the need to raise \$18 million in Fiscal Year 2004 to cover the costs associated with the implementation and enforcement of the "do-not-call" provisions of the Amended TSR. The Commission determined that the fee structure would continue to be based on the number of different area codes of data that an entity wished to access annually. The Revised Fee Rule established an annual fee of \$40 for each area code of data requested from the national registry, with the first five area codes of data provided at no cost.¹³ The maximum annual fee was capped at \$11,000 for entities accessing 280 area codes of data or more.¹⁴

In the Consolidated Appropriations Act, 2005 ("the 2005 Appropriations Act"),¹⁵ Congress permitted the FTC to collect offsetting fees in the amount of \$21.9 million in Fiscal Year 2005 to implement and enforce the TSR.¹⁶ Pursuant to the 2005 Appropriations Act and the Implementation Act, as well as the Telemarketing Fraud and Abuse Prevention Act ("the Telemarketing Act"),¹⁷ the FTC is issuing this NPRM

initially selected, it would be required to pay for access to those additional area codes. For purposes of these additional payments, the annual period was divided into two semi-annual periods of six months each. Obtaining additional data from the registry during the first semi-annual, six month period required a payment of \$25 for each new area code. During the second semi-annual, six month period, the charge for obtaining data from each new area code requested during that six-month period was \$15. These payments for additional data would provide the entity access to those additional area codes of data for the remainder of its annual term.

¹⁰ 68 FR at 45141.

¹¹ Consolidated Appropriations Act, 2004, Pub. L. 108-199, 118 Stat. 3 (2004).

¹² 69 FR 45580 (July 30, 2004).

¹³ . at 45,584. The Revised Fee Rule has the same fee structure as the Original Fee Rule; however, fees were increased from \$25 to \$40 per area code, from \$15 to \$20 per area code for the second semi-annual six month period, and from a maximum of \$7,375 to \$11,000.

¹⁴ 69 FR at 45,584.

¹⁵ Consolidated Appropriations Act, 2005, Pub. L. 108-447, 118 Stat. 2809 (2004).

¹⁶ . at Division B, Title V.

¹⁷ 15 U.S.C. 6101-08.

to amend the fees charged to entities accessing the National Do Not Call Registry.

In the Original Fee Rule, the Commission estimated that 10,000 entities would be required to pay for access to the National Do Not Call Registry. The Commission based its estimate on the "best information available to the agency" at that time.¹⁸ It noted that this estimate was based on "a number of significant assumptions," about which the Commission had sought additional information during the comment period. The Commission noted, however, that it received virtually no comments providing information supporting or challenging these assumptions.¹⁹ As a result, the Commission anticipated "that these fees may need to be reexamined periodically and adjusted, in future rulemaking proceedings, to reflect actual experience with operating the registry."²⁰

In the Revised Fee Rule, the Commission reported that "[a]s of June 1, 2004, more than 65,000 entities had accessed the national registry. More than 57,000 of those entities had accessed five or fewer area codes of data at no charge, and 1,100 "exempt" entities also accessed the registry at no charge. Thus, more than 7,100 entities have paid for access to the registry, with over 1,200 entities paying for access to the entire registry."²¹ The Commission based its calculation of revised fees on this experience, with the expectation that the number of entities accessing the registry in Fiscal Year 2004 would be substantially the same as in Fiscal Year 2003. As in the Original Fee Rule, the Commission based its estimate on the best information available at the time, with the continuing intent to periodically reexamine and adjust the fees to reflect actual experience with operating the registry.

From March 1, 2004 through February 28, 2005, more than 60,800 entities have accessed all or part of the information in the registry. Approximately 1,300 of these entities are "exempt" and therefore have accessed the registry at no charge.²² An additional 52,700

¹⁸ 68 FR at 45140.

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²⁰ 68 FR at 45142.

²¹ 69 FR at 45584.

²² The Original Fee Rule and the Revised Fee Rule stated that "there shall be no charge to any person engaging in or causing others to engage in outbound telephone calls to consumers and who is accessing the National Do Not Call Registry without being required to under this Rule, 47 CFR 64.1200, or any

³ 16 CFR 310.4(b)(1)(iii)(B).

⁴ 16 CFR 310.4(b)(3)(iv). The TSR requires telemarketers to access the national registry at least once every thirty-one days, effective January 1, 2005.

⁵ Do-Not-Call Implementation Act, Pub. L. 108-10, 117 Stat. 557 (2003).

⁶ . at Section 2.

⁷ Consolidated Appropriations Resolution, 2003, Pub. L. 108-7, 117 Stat. 11 (2003).

⁸ 68 FR 45134 (July 31, 2003).

⁹ Once an entity requested access to area codes of data in the national registry, it could access those area codes as often as it deemed appropriate for one year (defined as its "annual period"). If, during the course of its annual period, an entity needed to access data from more area codes than those

other federal law.” 16 CFR 310.8(c). Such “exempt” organizations include entities that engage in outbound telephone calls to consumers to induce charitable contributions, for political fund raising, or to conduct surveys. They also include entities engaged solely in calls to persons with whom they have an established business relationship or from whom they have obtained express written agreement to call, pursuant to 16 CFR 310.4(b)(1)(iii)(B)(i) or (ii), and who do not access the national registry for any other purpose.

²³ Consolidated Appropriations Act, 2005, Pub. L. 108-447, 118 Stat. 2809, at Division B, Title V. The 2005 Appropriations Act permitted the Commission to collect offsetting fees of \$21.9 million for those purposes.

²⁴ Telemarketers were first able to access the national registry on September 2, 2003. As a result, the first year of operation did not conclude until August 31, 2004. Similarly, the second year of operation will not end until August 31, 2005. The Commission realizes that a small number of additional entities may access the national registry

registry to avoid calling consumers who do not wish to receive telemarketing calls, should not be charged for such

³⁰ 44 U.S.C. 3501–3520.
³¹ 5 U.S.C. 604(a).

³² 13 CFR 121.201.

³³ 69 FR at 23,704.
³⁴ the discussion and request for comments in Section II of this Notice.
³⁵ 69 FR at 45,583. See also, 68 FR at 16,243 n.53.

proposed by the Commission.”³⁶ The Commission also continues to believe that “such a system would present greater administrative, technical, and legal costs and complexities than the Commission’s current proposal which does not require any proof or verification of that status.”³⁷

Another alternative would be reducing the current number of free area codes, but this approach might, among other things, require additional expenditures to process and service an increased number of paid subscriptions. In any event, reducing the number of free area codes may increase, rather than decrease, compliance costs for small businesses, if they had to pay for certain area codes that they can currently access for free.

Accordingly, the Commission believes its current proposal balances the interests of reducing the burden for small businesses to the greatest extent possible, while achieving the goal of covering the necessary costs to implement and enforce the Amended TSR.

Despite these conclusions, the Commission welcomes comment on any significant alternatives that would further minimize the impact on small entities, consistent with the objectives of the Telemarketing Act, the 2005 Appropriations Act, and the Implementation Act.

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Telemarketing, Trade practices.

Accordingly, for the reasons stated in the preamble, the Federal Trade Commission proposes to amend part 310 of title 16 of the Code of Federal Regulations as follows:

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1. The authority citation for part 310 continues to read as follows:

15 U.S.C. 6101–6108.

2. Revise § 310.8(c) and (d) to read as follows:

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(c) The annual fee, which must be paid by any person prior to obtaining access to the National Do Not Call Registry, is \$56 per area code of data accessed, up to a maximum of \$15,400; however, that there shall be no charge for the first five area codes of

data accessed by any person, and that there shall be no charge to any person engaging in or causing others to engage in outbound telephone calls to consumers and who is accessing the National Do Not Call Registry without being required under this Rule, 47 CFR 64.1200, or any other federal law. Any person accessing the National Do Not Call Registry may not participate in any arrangement to share the cost of accessing the registry, including any arrangement with any telemarketer or service provider to divide the costs to access the registry among various clients of that telemarketer or service provider.

(d) After a person, either directly or through another person, pays the fees set forth in § 310.8(c), the person will be provided a unique account number which will allow that person to access the registry data for the selected area codes at any time for twelve months following the first day of the month in which the person paid the fee (“the annual period”). To obtain access to additional area codes of data during the first six months of the annual period, the person must first pay \$56 for each additional area code of data not initially selected. To obtain access to additional area codes of data during the second six months of the annual period, the person must first pay \$28 for each additional area code of data not initially selected. The payment of the additional fee will permit the person to access the additional area codes of data for the remainder of the annual period.

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By direction of the Commission.

[FR Doc. 05-8044 Filed 4-21-05; 8:45 am]

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Af C : Food and Drug Administration, HHS.

AC : Notice of public meeting; request for comments.

A : The Food and Drug Administration (FDA) is announcing a public meeting to elicit information on the current science related to foodborne illness associated with the consumption

of sprouts. In October 2004, FDA released a produce safety action plan entitled “Produce Safety from Production to Consumption: 2004 Action Plan to Minimize Foodborne Illness Associated with Fresh Produce Consumption” (Produce Action Plan). One item in the Produce Action Plan is to initiate rulemaking to minimize foodborne illness associated with the consumption of sprouted seeds. However, because of the complexities of the issues and the uncertainty about what the current science could support, FDA believes that it would be of value to hold a public meeting to gather information relevant to a possible regulation. We request that those who speak at the meeting, or otherwise provide FDA with their comments, focus on the questions relating to the microbial safety of seeds destined for sprouting and sprouted seeds set out in section II of this document.

A : The public meeting will be held in College Park, MD, on Tuesday, May 17, 2005, from 8:30 a.m. to 5 p.m. We request that everyone planning to attend the meeting register prior to the meeting. For security reasons and due to space limitations, we recommend that you register at least 5 business days before the meeting. You may register via the Internet and also by fax until close of business 5 days before the meeting, provided that space is available (see

A C AC)

In addition to participating in the public meeting, you may submit written or electronic comments until July 18, 2005.

A : The public meeting will be held at the Harvey W. Wiley Federal Bldg., Food and Drug Administration, Center for Food Safety and Applied Nutrition, 5100 Paint Branch Pkwy., College Park, MD 20740-3835.

Submit written comments to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to

A C AC :

Amy L. Green, Center for Food Safety and Applied Nutrition (HFS-306), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 301-436-2025, FAX: 301-436-2651, or e-mail:

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Since 1996, FDA has responded to 27 outbreaks of foodborne illness in the United States for which raw or lightly cooked sprouts were the confirmed or suspected vehicle for the illness. During

³⁶ 68 FR at 16,243 n.53.

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