

## V. Requests for Public Hearings

Because there does not appear to be any dispute as to the material facts or issues raised by this proceeding and because written comments appear adequate to present the views of all interested parties, a public hearing has not been scheduled. If any person would like to present testimony at a public hearing, he or she should follow the procedures set forth in the **DATES** and **ADDRESSES** sections of this Notice.

## VI. Preliminary Regulatory Analysis

The Regulatory Flexibility Act ("RFA", 5 U.S.C. 601-11) requires an analysis of the anticipated impact of the proposed repeal of the Rule on small businesses.<sup>4</sup> The analysis must contain, as applicable, a description of the reasons why action is being considered, the objectives of and legal basis for the proposed action, the class and number of small entities affected, the projected reporting, recordkeeping and other compliance requirements being proposed, any existing federal rules which may duplicate, overlap or conflict with the proposed action, and any significant alternatives to the proposed action that accomplish its objectives and, at the same time, minimize its impact on small entities.

A description of the reasons why action is being considered and the objectives of the proposed repeal of the Rule have been explained elsewhere in this Notice. Repeal of the Rule would appear to have little or no effect on any small business. Further, the Commission is not aware of any existing federal laws or regulations that would conflict with repeal of the Rule.

For all these reasons, the Commission certifies, pursuant to section 605 of RFA, 5 U.S.C. 605, that if the Commission determines to repeal the Rule, that action will not have a significant impact on a substantial number of small entities. To ensure that no substantial economic impact is being overlooked, however, the Commission requests comments on this issue. After

<sup>4</sup>Section 22 of the FTC Act, 15 U.S.C. 57b-3, also requires the Commission to issue a preliminary regulatory analysis relating to proposed rules when the Commission publishes a notice of proposed rulemaking. The Commission has determined that a preliminary regulatory analysis is not required by section 22 and this proceeding because the Commission has no reason to believe that repeal of the Rule: (1) Will have an annual effect on the national economy of \$100,000,000 or more; (2) will cause a substantial change in the cost or price of goods or services that are used exclusively by particular industries, that are supplied extensively in particular geographical industries, or that are acquired in significant quantities by the Federal Government; or (3) otherwise will have a significant impact upon persons subject to regulation under the Rule or upon consumers.

reviewing any comments received, the Commission will determine whether it is necessary to prepare a final regulatory flexibility analysis.

## VII. Paperwork Reduction Act

The Fiberglass Curtain Rule does not impose "information collection requirements" under the Paperwork Reduction Act ("PRA"), 44 U.S.C. 3501 *et seq.* Although the Rule contains disclosure requirements, these disclosures are not covered by the Act because the disclosure language is mandatory and provided by the government. Repeal of the Rule, however, would eliminate any burdens on the public imposed by these disclosure requirements.

## VIII. Additional Information for Interested Persons

### A. Motions or Petitions

Any motions or petitions in connection with this proceeding must be filed with the Secretary of the Commission.

### B. Communications by Outside Parties to Commissioners or Their Advisors

Pursuant to Rule 1.18(c) of the Commission's Rules of Practice, 16 CFR 1.18(c), communications with respect to the merits of this proceeding from any outside party to any Commissioner or Commissioner's advisor during the course of this rulemaking shall be subject to the following treatment. Written communications, including written communications from members of Congress, shall be forwarded promptly to the Secretary for placement on the public record. Oral communications, not including oral communications from members of Congress, are permitted only when such oral communications are transcribed verbatim or summarized at the discretion of the Commissioner or Commissioner's advisor to whom such oral communications are made, and are promptly placed on the public record, together with any written communications relating to such oral communications. Memoranda prepared by a Commissioner or Commissioner's advisor setting forth the contents of any oral communications from members of Congress shall be placed promptly on the public record. If the communication with a member of Congress is transcribed verbatim or summarized, the transcript or summary will be placed promptly on the public record.

### List of Subjects in 16 CFR Part 413

Fiberglass curtains and curtain fabric, Trade practices.

**Authority:** 15 U.S.C. 41-58.

By direction of the Commission.

**Donald S. Clark,**  
*Secretary.*

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## 16 CFR Part 417

### Trade Regulation; Rule Concerning the Failure to Disclose the Lethal Effects of Inhaling Quick-Freeze Aerosol Spray Products Used for Frosting Cocktail Glasses

**AGENCY:** Federal Trade Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Federal Trade Commission ("Commission") announces the commencement of a rulemaking proceeding for the trade regulation rule concerning the "Failure to Disclose the Lethal Effects of Inhaling Quick-Freeze Aerosol Spray Products Used for Frosting Cocktail Glasses" ("Quick-Freeze Spray Rule" or "Rule"), 16 CFR Part 417. The proceeding will address whether or not the Quick-Freeze Spray Rule should be repealed. This notice includes a description of the procedures to be followed, an invitation to submit written comments, a list of questions and issues upon which the Commission particularly desires comments, and instructions for prospective witnesses and other interested persons who desire to participate in the proceeding.

**DATES:** Written comments must be submitted on or before October 18, 1995.

Notifications of interest in testifying must be submitted on or before October 18, 1995. If interested parties request the opportunity to present testimony, the Commission will publish a notice of the **Federal Register** stating the time and place at which the hearings will be held and describing the procedures that will be followed in conducting the hearings. In addition to submitting a request to testify, interested parties who wish to present testimony must submit, on or before October 18, 1995, a written comment or statement that describes the issues on which the party wishes to testify and the nature of the testimony to be given.

**ADDRESSES:** Written comments and requests to testify should be submitted to Office of the Secretary, Federal Trade Commission, Room H-159, Sixth Street and Pennsylvania Avenue, NW., Washington, DC 20580, telephone number (202) 326-2506. Comments and requests to testify should be identified as "16 CFR Part 417—Comment—Quick

Freeze Spray Rule" and "16 CFR Part 417—Request to Testify—Quick Freeze Spray Rule," respectively. If possible, submit comments both in writing and on a personal computer diskette in Word Perfect or other word processing format (to assist in processing, please identify the format and version used). Written comments should be submitted, when feasible and not burdensome, in five copies.

**FOR FURTHER INFORMATION CONTACT:** Lemuel W. Dowdy or George Brent Mickum IV, Attorneys, Federal Trade Commission, Bureau of Consumer Protection, Division of Enforcement, 601 Pennsylvania Ave., NW., Washington, DC 20004, (202) 326-2981 or (202) 326-3132.

**SUPPLEMENTARY INFORMATION:**

**I. Introduction**

On May 23, 1995 the Commission published an Advance Notice of Proposed Rulemaking ("ANR") seeking comment on the proposed repeal of the Quick-Freeze Spray Rule (60 FR 27244). In accordance with section 18 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. 57a, the ANPR was sent to the Chairman of the Committee on Commerce, Science, and Transportation, United States Senate, and the Chairman of the Subcommittee of Commerce, Trade and Hazardous Materials, United States House of Representatives. The ANR comment period closed on June 22, 1995. The Commission received no public comments.

Pursuant to the FTC Act, 15 U.S.C. 41-58, and the Administrative Procedure Act, 5 U.S.C. 551-59, 701-06, by this Notice of Proposed Rulemaking ("NPR") the Commission initiates a proceeding to consider whether the Quick-Freeze Spray Rule should be repealed or remain in effect.<sup>1</sup> The Commission is undertaking this rulemaking proceeding as part of the Commission's ongoing program of evaluating trade regulation rules and industry guides to determine their effectiveness, impact, cost and need. This proceeding also responds to President Clinton's National Regulatory Reinvention Initiative, which, among other things, urges agencies to eliminate obsolete or unnecessary regulations.

<sup>1</sup> In accordance with section 18 of the FTC Act, 15 U.S.C. 57a, the Commission submitted this NPR to the Chairman of the Committee on Commerce, Science, and Transportation, United States Senate, and the Chairman of the Subcommittee on Commerce, Trade and Hazardous Materials, United States House of Representatives, 30 days prior to its publication.

**II. Background Information**

The Quick-Freeze Spray Rule requires a clear and conspicuous warning on aerosol spray products used for frosting beverage glasses. The warning states that the contents should not be inhaled in concentrated form and that doing so may cause injury or death. Glass frosting products contain a compound known as Fluorocarbon 12 (dichlorodifluoromethane).

The Rule was promulgated on February 20, 1969 (34 FR 2417). The Statement of Basis and Purpose for the Rule stated that, although the product is not harmful when used as directed, there has been several instances where the intentional misuse of this product by inhaling its vapors resulted in death. Consequently, the Commission concluded that it was in the public interest to caution purchasers who may not otherwise be aware of the lethal effects of inhaling the product.

On October 25, 1989, the Commission published a notice in the **Federal Register** soliciting public comments on the Rule's impact on small entities (54 FR 43435). No comments were received in response to the notice. The Commission determined, however, that a small amount of quick-freeze aerosol products are still available for sale. Therefore, the Commission determined that because the Rule's safety warnings, if followed, could prevent physical harm and loss of life, the Rule should be retained.

Earlier in 1995, the Commission conducted an investigation to determine if there was a continuing need for the Rule. Based on this investigation, which was conducted prior to the issuance of the ANPR, the Commission determined that glass frosting products are no longer produced, can no longer be found in the marketplace, and are precluded by the Clean Air Act from being reintroduced into the market place.<sup>2</sup>

**III. Rulemaking Procedures**

The Commission finds that the public interest will be served by using expedited procedures in this proceeding. First, there do not appear to be any material issues of disputed fact to resolve in determining whether to repeal the Rule. Second, the use of expedited procedures will support the Commission's goal of eliminating obsolete or unnecessary regulations

<sup>2</sup> 42 U.S.C.A. 7401, 7671i (West Supp. 1995). Regulations promulgated by the Environmental Protection Agency implementing the Clean Air Act ban chlorofluorocarbons in aerosols and foams for non-essential uses. 40 CFR 82.64 (1994). The ban, which includes fluorocarbon 12, became effective on January 17, 1994. See also Rulemaking Record, Category B, Staff Submissions.

without an undue expenditure of resources, while ensuring that the public has an opportunity to submit data, views and arguments on whether the Commission should repeal the Rule.

The Commission therefore, has determined, pursuant to 16 CFR 1.20, to use the procedures set forth in this notice. These procedures include: (1) Publishing this Notice of Proposed Rulemaking; (2) soliciting written comments on the Commission's proposal to repeal the Rule; (3) holding an informal hearing, if requested by interested parties; (4) obtaining a final recommendation from staff; and (5) announcing final Commission action in a notice published in the **Federal Register**.

**IV. Invitation to Comment and Question for Comment**

Interested persons are requested to submit written data, views or arguments on any issue of fact, law or policy they believe may be relevant to the Commission's decision on whether to repeal the Rule. The Commission requests that commenters provide representative factual data in support of their comments. Individual firms' experiences are relevant to the extent they typify industry experience in general or the experience of similar-sized firms. Commenters opposing the proposed repeal of the Rule should explain the reasons they believe the Rule is still needed and, if appropriate, suggest specific alternatives. Proposals for alternative requirements should include reasons and data that indicate why the alternatives would better protect consumers from unfair or deceptive acts or practices under section 5 of the FTC Act, 15 U.S.C. 45.

Although the Commission welcomes comments on any aspect of the proposed repeal of the Rule, the Commission is particularly interested in comments on questions and issues raised in this notice. All written comments should state clearly the question or issue that the commenter is addressing.

Before taking final action, the Commission will consider all written comments timely submitted to the Secretary of the Commission and testimony given on the record at any hearings scheduled in response to requests to testify. Written comments submitted will be available for public inspection in accordance with the Freedom of Information Act, 5 U.S.C. 552, and Commission regulations, on normal business days between the hours of 8:30 a.m. to 5:00 p.m. at the Federal Trade Commission, Public Reference Room, Room H-130, Federal Trade

Commission, Sixth Street and Pennsylvania Avenue, NW., Washington, DC 20580, telephone number (202) 326-2222.

### Questions

- (1) Is any manufacturer currently manufacturing quick-freeze spray products?
- (2) Is any individual or business entity currently marketing quick-freeze spray products?
- (3) Do any retail stores or suppliers still maintain stocks of quick-freeze spray products for resale?
- (4) What are the benefits and the costs of the Rule to firms subject to the Rule's requirements?
- (5) What are the benefits and the costs of the Rule to consumers?
- (6) Has technology changed so that the Rule is no longer needed?
- (7) Does regulation of this product by the Environmental Protection Agency render the Rule unnecessary?
- (8) Are there any other federal or state laws or regulations, or private industry standards, that eliminate the need for the Rule?
- (9) Should the Rule be kept in effect or should it be repealed?

### V. Request for Public Hearings

Because there does not appear to be any dispute as to the material facts or issues raised by this proceeding and because written comments appear adequate to present the views of all interested parties, a public hearing has not been scheduled. If any person would like to present testimony at a public hearing, he or she should follow the procedures set forth in the **DATES** and **ADDRESSES** sections of this Notice.

### VI. Preliminary Regulatory Analysis

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601-11, requires an analysis of the anticipated impact of the proposed repeal of the Rule on small businesses.<sup>3</sup> The analysis must contain, as applicable, a description of the reasons why action is being considered, the objectives of and legal basis for the proposed action, the class and number of small entities affected, the projected reporting, recordkeeping and other compliance requirements being proposed, any existing federal rules

<sup>3</sup>Section 22 of the FTC Act, 15 U.S.C. 57b-3, also requires the Commission to perform "regulatory impact analyses" of proposed rule, but only if the rule will have certain "significant" economic or regulatory effects. The commission has determined that a preliminary regulatory analysis is not required by section 22 in this proceeding because the Commission has no reason to believe that repealing the Rule will have a "significant" economic or regulatory impact, either beneficial or detrimental, upon persons subject to the Rule or upon consumers.

which may duplicate, overlap or conflict with the proposed action, and any significant alternatives to the proposed action that accomplish its objectives and, at the same time, minimize its impact on small entities.

A description of the reasons why action is being considered and the objectives of the proposed repeal of the Rule have been explained elsewhere in this Notice. Repeal of the Rule would appear to have little or no effect on any small business. The Commission is not aware of any existing federal laws or regulations that would conflict with repeal of the Rule.

For all these reasons the Commission certifies, pursuant to section 605 of RFA, 5 U.S.C. 605, that, if the Commission determines to repeal the Rule, that action will not have a significant impact on a substantial number of small entities. To ensure that no substantial economic impact is being overlooked, however, the Commission requests comments on this issue. After reviewing any comments received, the Commission will determine whether it is necessary to prepare a final regulatory flexibility analysis.

### VII. Paperwork Reduction Act

The Quick-Freeze Spray Rule does not impose "information collection requirements" under the Paperwork Reduction Act ("PRA"), 44 U.S.C. 3501 *et seq.* Although the Rule contains disclosure requirements, these disclosures are not covered under the Act because the disclosure language is mandatory and provided by the government. Repeal of the Rule, however, would eliminate any burdens on the public imposed by these disclosure requires.

### VIII. Additional Information For Interested Persons

#### A. Motions or Petitions

Any motions or petitions in connection with this proceeding must be filed with the Secretary of the Commission.

#### B. Communications by Outside Parties to Commissioners or Their Advisors

Pursuant to Rule 1.18(c) of the Commission Rules of Practice, 16 CFR 1.18(c), communications with respect to the merits of this proceeding from any outside party to any Commissioner or Commissioner's advisor during the course of this rulemaking shall be subject to the following treatment. Written communications, including written communications from members of Congress, shall be forwarded promptly to the Secretary for placement

on the public record. Oral communications, not including oral communications from members of Congress, are permitted only when such oral communications are transcribed verbatim or summarized at the discretion of the Commissioner or Commissioner's advisor to whom such oral communications are made, and are promptly placed on the public record, together with any written communications relating to such oral communications. Memoranda prepared by a Commissioner or Commissioner's advisor setting forth the contents of any oral communications from members of Congress shall be placed promptly on the public record. If the communication with a member of Congress is transcribed verbatim or summarized, the transcript or summary will be placed promptly on the public record.

### List of Subjects in 16 CFR Part 417

Quick-freeze aerosol spray trade practices.

**Authority:** 15 U.S.C. 41-58.

By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

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### 16 CFR Part 418

#### Rule Concerning Deceptive Advertising and Labeling as to Length of Extension Ladders

**AGENCY:** Federal Trade Commission.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** The Federal Trade Commission ("Commission") announces the commencement of a rulemaking proceeding for the trade regulation rule concerning Deceptive Advertising and Labeling as to Length of Extension Ladders ("Extension Ladder Rule" or "Rule"), 16 CFR Part 418. The proceeding will address whether or not the Extension Ladder Rule should be repealed. The Commission invites interested parties to submit written date, views, and arguments on how the Rule has affected consumers, businesses and others, and on whether there currently is a need for the Rule. This notice includes a description of the procedures to be followed, an invitation to submit written comments, a list of questions and issues upon which the Commission particularly desires comments, and instructions for prospective witnesses and other interested persons who desire to participate in the proceeding.

**DATES:** Written comments must be submitted on or before October 18, 1995.