

39°33'00"N, long. 110°55'00"W, thence southwest to lat. 39°04'00"N, long. 112°27'30"W, thence northwest to lat. 39°48'00"N, long. 112°50'00"W, thence west via lat. 39°48'00"N, to the east edge of Restricted Area R-6402A, and on the west by the east edge of Restricted Area R-6402A, Restricted Area R-6402B and Restricted Area R-6406B and long. 113°00'03"W; excluding the portion within the Price, UT and the Delta, UT, airspace areas; that airspace east of Salt Lake City extending upward from 11,000 feet MSL bounded on the northwest by the southeast edge of V-32, on the southeast by the northwest edge of V-235, on the southwest by the northeast edge of V-101 and on the west by long. 111°25'33"W; excluding that airspace within the Evanston, WY, 1,200-foot Class E airspace area; that airspace southeast of Salt Lake City extending upward from 13,500 feet MSL bounded on the northeast by the southwest edge of V-484, on the south by the north edge of V-200 and on the west by long. 111°25'33"W; excluding the portion within Restricted Area R-6403 and the Bonneville, UT Class E airspace area.

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Issued in Seattle, Washington, on December 8, 1995.

Richard E. Prang,

Acting Assistant Manager, Air Traffic Division, Northwest Mountain Region.

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FEDERAL TRADE COMMISSION

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: Repeal of rule.

SUMMARY: The Federal Trade Commission announces the repeal of the Trade Regulation Rule concerning the Failure to Disclose the Lethal Effects of Inhaling Quick-Freeze Aerosol Spray Products Used for Frosting Cocktail Glasses. The Commission has reviewed the rulemaking record and determined that, because federal law prohibits the sale or distribution of the products that were the subject of the Quick-Freeze Spray Rule, the Rule no longer serves the public interest and should be repealed. This document contains a Statement of Basis and Purpose for repeal of the Rule.

EFFECTIVE DATE: December 21, 1995.

ADDRESSES: Requests for copies of the Statement of Basis and Purpose should be sent to Public Reference Branch, Room 130, Federal Trade Commission,

6th Street & Pennsylvania Avenue N.W., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Lemuel W. Dowdy or George Brent Mickum IV, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, D.C. 20580, (202) 326-2981, (202) 326-3132.

SUPPLEMENTARY INFORMATION:

Statement of Basis and Purpose

I. Background

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), 16 CFR Part 417, was promulgated on February 20, 1969 (34 FR 2417). 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.

On May 23, 1995, the Commission published an Advance Notice of Proposed Rulemaking (ANPR) 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 (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 on Commerce, Trade and Hazardous Materials, United States House of Representatives. The comment period closed on June 22, 1995. The Commission received no comments.

On September 18, 1995, the Commission published a Notice of Proposed Rulemaking (NPR) initiating a proceeding to consider whether the Quick-Freeze Spray Rule should be repealed or remain in effect (60 FR 48073).¹ This rulemaking proceeding was undertaken as part of the Commission's ongoing program of evaluating trade regulation rules and industry guides to ascertain their effectiveness, impact, cost and need. This proceeding also responded to President Clinton's National Regulatory Reinvention Initiative, which, among other things, urges agencies to eliminate obsolete or unnecessary regulations. In

¹ In accordance with Section 18 of the FTC Act, 15 U.S.C. 57a, the Commission submitted the 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.

the NPR, the Commission announced its determination, pursuant to 16 CFR 1.20, to use expedited procedures in this proceeding.² The comment period closed on October 18, 1995. The Commission received no comments and no requests to hold an informal hearing.

II. Basis for Repeal of Rule

The Commission has determined to repeal the Quick-Freeze Spray Rule for the following reasons:

1. The active ingredient in quick-freeze spray products was Fluorocarbon 12. The Clean Air Act, 42 U.S.C. 7401 *et seq.*, and its implementing regulations, ban chlorofluorocarbons in aerosols and foams for non-essential uses because they are ozone depleting agents. The ban, which includes Fluorocarbon 12, became effective on January 17, 1994.³ A number of aerosol products containing fluorocarbons have been exempted from the ban, but glass-frosting aerosols are not among them.

2. Based on a 1989 review of the Rule, the Commission determined that the last known producer of glass-frosting products was Ronco, Inc. Ronco last produced its glass-frosting machines in 1980. The product was last sold to retailers in 1982. Ronco has none of the product in its warehouse and has sold the tooling machinery that was used to manufacture the product.⁴

3. Commission staff was unable to locate any glass-frosting products for sale anywhere in the country.⁵

4. Poison treatment centers have reported no cases involving the product.⁶

Because the products addressed by this Rule are no longer available and cannot be sold or distributed legally, the Quick-Freeze Spray Rule has become obsolete and should be repealed.

III. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601-11, requires an analysis of the anticipated impact of the repeal of the Rule on small businesses. The reasons for repeal of the Rule have been explained in this Notice. Repeal of the

² These procedures included: publishing a Notice of Proposed Rulemaking; soliciting written comments on the Commission's proposal to repeal the Rule; holding an informal hearing, if requested by interested parties; receiving a final recommendation from Commission staff; and announcing final Commission action in the Federal Register.

³ 40 CFR 82.64 (1994).

⁴ See Rulemaking Record, Staff Submissions: Letter from Donna Wellington, Executive Vice President, Ronco, Inc., dated April 18, 1995, to Mr. Lemuel W. Dowdy.

⁵ See Rulemaking Record, Staff Submissions: Memorandum to File, George Brent Mickum IV, dated April 18, 1995.

⁶ *Id.*