

Proposed Rules

Federal Register

Vol. 64, No. 109

Tuesday, June 8, 1999

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL TRADE COMMISSION

16 CFR Part 23

Guides for the Jewelry, Precious Metals and Pewter Industries

AGENCY: Federal Trade Commission.

ACTION: Proposed rule; request for public comments.

SUMMARY: In response to a petition from the Jewelers Vigilance Committee and the Diamond Manufacturers and Importers Association of America, jewelry trade associations, the Federal Trade Commission (Commission) is requesting public comments on proposed revisions to two sections of the Guides for the Jewelry, Precious Metals and Pewter Industries (Jewelry Guides or Guides) to provide for the disclosure to consumers of laser-drilling of diamonds. One section addresses disclosure of treatments to diamond jewelry products. The other section addresses disclosure of treatments to gemstone jewelry products.

DATES: Written comments will be accepted until July 8, 1999.

ADDRESSES: Comments should be directed to: Secretary, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Room H-159, Washington, DC 20580. Comments about these proposed changes to the Guides should be identified as "Guides for the Jewelry, Precious Metals and Pewter Industries—16 CFR Part 23—Comment."

FOR FURTHER INFORMATION CONTACT: Robin Rosen Spector, Attorney, Federal Trade Commission, Washington, DC 20580, (202) 326-3740, <jewelry@ftc.gov>.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Guides for the Jewelry, Precious Metals and Pewter Industries, 16 CFR Part 23, address claims made about precious metals, diamonds, gemstones and pearl products. The Guides also provide guidance as to when certain disclosures should be made about

certain products if the failure to make such disclosure would be an unfair or deceptive trade practice.¹ On May 30, 1996 (61 FR 27212), the Commission announced comprehensive revisions to the Jewelry Guides. These revisions included new sections providing for the disclosure of certain treatments to diamond jewelry products (§ 23.13) and the disclosure of certain treatments to gemstone jewelry products (§ 23.22).²

On December 9, 1998, the Jewelers Vigilance Committee (JVC), a jewelry trade association, in conjunction with the Diamond Manufacturers and Importers Association of America (DMIA), petitioned the Commission to revise § 23.13 to provide for the additional disclosure of a diamond treatment called laser-drilling.³ The Guides currently state that it is not unfair or deceptive to fail to disclose this treatment. The Commission solicits comment on proposed changes to this provision of the Guides. The Commission also solicits comment on proposed changes to § 23.22 of the Guides that addresses gemstone treatments.

II. Proposed Changes to § 23.13

The JVC petition requests an amendment to § 23.13 of the Guides to provide for disclosure of laser-drilling of diamonds. Laser-drilling involves the use of a laser beam to improve the appearance of diamonds having black inclusions. The laser beam is directed at the black inclusion and then acid is forced through the tunnel made by the laser beam to remove the inclusion or alter it so it is not visible to the naked eye. The Commission determined, based on the record before it in 1996, that the failure to disclose laser-drilling was not unfair or deceptive. Therefore, § 23.13 of the Guides, which discusses diamond

treatments, does not provide for disclosure of laser-drilling.

The JVC petition asserts that the Guides should be amended to provide for disclosure of laser-drilling for several reasons. Although previously various segments of the industry held different views regarding the appropriateness of disclosure, there is now industry consensus in favor of disclosure. Sixteen trade associations joined the JVC in endorsing mandatory disclosure.⁴ In addition, according to the petition, the jewelry industry has adopted policies requiring the disclosure of laser-drilling at all levels of the transaction up to the point of sale to the consumer. Because of these policies, disclosure of laser-drilling to consumers would not be costly for retailers and would not inhibit advertising or result in additional costs passed on to consumers. Although industry self-regulation could also address consumer disclosure, the petition asserts that providing for disclosure in the Guides is important because, due to industry reliance on the guides, it would promote greater industry compliance.

The JVC petition explains that laser-drilling technology has improved in recent years making it increasingly difficult for consumers to detect the process, especially when diamonds are mounted in jewelry.⁵ In addition, according to the petition, the majority of diamonds sold are smaller stones, from .35 to .75 carats, and laser-drilling is especially difficult to detect in such stones. Further, smaller stones such as these are typically sold without grading reports that might otherwise reveal any laser drilling.

According to the petition, consumers may suffer economic injury from the

¹ The Federal Trade Commission issues industry guides to provide guidance for the public to conform with legal requirements. Industry guides are administrative interpretations of the laws the FTC administers. Industry guides explain how to describe products truthfully and non-deceptively and identify practices the Commission considers unfair or deceptive.

² Diamond and gemstone jewelry products are often treated or enhanced to improve their beauty or durability.

³ This petition is on the public record and copies are available by contacting the Public Reference Branch, Room 130, Federal Trade Commission, Washington, DC 20580. A copy of the petition also has been posted on the Commission's website at <www.ftc.gov>.

⁴ The trade associations that joined the petition are: World Federation of Diamond courses; Diamond Manufacturers and Importers Association of America; International Diamond Manufacturers Association; Diamond Promotion Services; Diamond Dealers Club of New York; Gemological Institute of America; International Society of Appraisers; Jewelers of America; American Gemstone Society; American Gem Society; United States Carat Club; International Confederation of Jewelry, Silverware, Diamonds, Pearls and Stones; American Gemstone Trade Association; Manufacturing Jewelers and Suppliers of America; International Standards Organization; and Diamond High Council.

⁵ New technology results in smaller, shorter, thinner tunnels that are far harder to detect under a loupe, which a consumer might use to examine a stone.

purchase of laser-drilled stones. The petition explains that laser-drilling affects the diamond's value, and a laser-drilled stone is worth less than a non-treated stone of the same clarity rating. The petition explains that because laser-drilling is not being disclosed, some consumers may falsely believe that a laser-drilled stone is as valuable as a non-treated stone of the same clarity rating.

Finally, the petition notes that the Guides provide for disclosure of other permanent process because they are non-natural, artificial procedures that affect the value of the product. For example, the Guides provide that cultured pearls be identified as such. A cultured pearl is created by a mollusk, but with human intervention. As a result of this human intervention, cultured pearls are worth less than natural pearls and the fact that the pearl is cultured must be disclosed. The petition asserts that the Guides should recognize the same distinction between untreated and laser-drilled diamonds.

The Commission has tentatively concluded that the petition demonstrates, contrary to the record before the Commission in 1996, that the failure to disclose laser-drilling is an unfair or deceptive trade practice. The Commission therefore proposes revising § 23.13 of the Jewelry Guides to provide that it is unfair or deceptive to fail to disclose laser-drilling. The Commission also proposes adding a phrase to § 23.13 regarding the permanence of the treatments enumerated in the section that should be disclosed. Currently, § 23.13 provides that certain treatments should be disclosed and the fact that the treatment "is or may not be permanent" also should be disclosed. The Commission therefore proposes adding the phrase "if such is the case" after "permanent" in this section. If this phrase is not added the Guides would provide for disclosure that laser-drilling is not permanent, when in fact it is permanent.

III. Proposed Changes to § 23.22

Section 23.22 of the Guides provides that it is unfair or deceptive to fail to disclose that a gemstone has been treated in any manner that is not permanent or that creates special care requirements and to fail to disclose that the treatment is not permanent, if such is the case. In light of the petition's evidence about laser-drilling, the Commission is seeking public comment on whether consumers may be injured by non-disclosure of permanent gemstone treatments that do not create special care requirements in the same manner that they may be injured by

nondisclosure of laser-drilling. The Commission is seeking comment on whether there are treatments that create a disparity in the value of treated stones as compared to non-treated stones, and, whether consumers, acting reasonably under the circumstances, can detect such treatments.

The Commission seeks comment on whether § 23.22 of the Jewelry Guides should be revised to advise that permanent treatments that do not require special care should be disclosed if the treatment has a significant effect on the stone's value, and if a consumer, acting reasonably under the circumstances, could not ascertain that the stone has been treated.

IV. Request for Comment

The Commission seeks public comment on the proposed changes to §§ 23.13 and 23.22 of the Guides discussed above. The Commission also requests comment on the following specific questions:

1. Is it a prevalent practice in the jewelry industry to require disclosure of laser-drilling at all levels of the transaction up to the point of sale to the consumer?

2. Would a provision in the Jewelry Guides to disclose laser-drilling to consumers inhibit advertising or create additional costs for retailers that could be passed on to consumers in the form of significantly higher prices?

3. Is there a disparity in value between a laser-drilled diamond and a non-treated diamond of the same clarity rating?

4. Should the Jewelry Guides provide guidance as to how laser-drilling should be disclosed to consumers? If so, what guidance should be provided?

5. Gemstone treatments that are permanent and do not create special care requirements currently do not have to be disclosed under the Jewelry Guides. Is there a disparity in value between a gemstone treated in a manner that is permanent and does not require special care and one that is not treated? How many different gemstones and gemstone treatments fall into this category?

6. Does industry policy provide for disclosure of permanent gemstone treatments that do not create special care requirements?

7. Would guidance in the Jewelry Guides calling for disclosure of permanent gemstone treatments that do not require special care inhibits advertising or create additional costs for retailers that could be passed on to consumers in the form of significantly higher prices? Would this guidance

adversely impact competition in the jewelry industry in any way?

List of Subject in 16 CFR Part 23

Advertising, Labeling, Trade practices, Watches and jewelry.

The Commission proposes to amend Chapter I of Title 16 of the Code of Federal Regulations as follows:

PART 23—GUIDES FOR THE JEWELRY, PRECIOUS METALS, AND PEWTER INDUSTRIES

1. The authority citation for part 23 continues to read as follows:

Authority: Sec. 6, 5, 38 Stat. 721, 719; 15 U.S.C. 46, 45.

2. Revise § 23.13 to read as follows:

§ 21.13 Disclosing existence of artificial coloring, infusing, etc.

If a diamond has been treated by artificial coloring, tinting, coating, irradiating, heating, by the use of nuclear bombardment, by the introduction or infusion of any foreign substance, or by laser-drilling, it is unfair or deceptive not to disclose that the diamond has been treated and that the treatment is not or may not be permanent, if such is the case.

3. Revise § 23.22 to read as follows:

§ 23.22 Deception as to gemstones.

It is unfair or deceptive to fail to disclose that a gemstone has been treated in any manner that is not permanent or that creates special care requirements, and to fail to disclose that the treatment is not permanent, if such is the case. The following are examples of treatments that should be disclosed because they are usually not permanent or create special care requirements: coating, impregnation, irradiating, heating, use of nuclear bombardment, application of colored or colorless oil or epoxy-like resins, wax, plastic, or glass, surface diffusion, or dyeing. This disclosure may be made at the point of sale, except that disclosure should be made in any solicitation where the product can be purchased without viewing (e.g., direct mail catalogs, on-line services), and in the case of televised shopping programs, on the air. If special care requirements for a gemstone arise because the gemstone has been treated, it is recommended that the seller disclose the special care requirements to the purchaser. Permanent treatments that do not create special care requirements should be disclosed if the treatment has a significant effect on the stone's value, and if a consumer, acting reasonably under the circumstances, could not ascertain that the stone has been treated.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 99-14505 Filed 6-7-99; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Chapter IX

[Docket No. FR-4423-N-04]

Negotiated Rulemaking Committee on Capital Fund Allocation; Meetings

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Negotiated Rulemaking Committee meetings.

SUMMARY: This document announces the fourth, fifth, and sixth meetings of the Negotiated Rulemaking Committee on Capital Fund Allocation. These meetings are sponsored by HUD for the purpose of discussing and negotiating a proposed rule that would change the current method of determining the payment of capital funds to public housing agencies (PHAs).

DATES: The fourth committee meeting will be held on June 17 and June 18, 1999. The fifth committee meeting will be held on June 23 and June 24, 1999. The sixth committee meeting will be held on July 8 and July 9, 1999.

On the first day of each meeting, the meeting will begin at approximately 9:30 am and run until completion. On the second day of each meeting, the meeting will begin at approximately 9:00 am and run until approximately 5:00 pm.

ADDRESSES: The fourth and fifth committee meetings will take place at the Channel Inn Hotel, 650 Water Street, SW., Washington, DC 20024; telephone 1-800-368-5668 or (202) 554-2400.

The sixth committee meeting will take place at the Hyatt Dulles Hotel, 2300 Dulles Corner Boulevard, Herndon, VA 22071.

FOR FURTHER INFORMATION CONTACT: William Flood, Director, Office of Capital Improvements, Public and Indian Housing, Room 4134, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500; telephone (202) 708-1640 ext. 4185 (this telephone number is not toll-free). Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free federal Information Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION: On April 26, 1999 (64 FR 20234), HUD announced in the **Federal Register** the establishment of the Negotiated Rulemaking Advisory Committee on Capital Fund Allocation. The purpose of the committee is to discuss and negotiate a proposed rule that would change the current method of determining the allocation of capital funds to public housing agencies (PHAs).

The fourth, fifth, and sixth meetings of the negotiated rulemaking committee will take place as described in the **DATES** and **ADDRESSES** section of this document.

The agenda planned for the committee meetings includes: (1) Discussion of issues related to the development of a Capital Fund formula; (2) development of draft regulatory language; (3) development of agenda for future meetings; and (4) the scheduling of future meetings.

In accordance with the General Services Administration (GSA) regulations implementing the Federal Advisory Committee Act, HUD normally publishes a **Federal Register** meeting announcement at least 15 calendar days before the date of an advisory committee meeting). The GSA regulations, however, also provide that an agency may give less than 15 days notice if the reasons for doing so are included in the **Federal Register** meeting announcement. (See 41 CFR 101-6.1015(b).) Due to the difficulty in obtaining suitable hotel and conference room accommodations in the Washington, DC area during June, 1999, it has not been possible for HUD to announce the date and location of the fourth committee meeting before today. Given the October 1, 1999 statutory deadline for implementation of the Capital Fund formula, HUD believes it is imperative that the negotiations for development of the formula not be delayed. Failure to publish the Capital Fund final rule on a timely basis will delay the provision of capital subsidies to PHAs. Accordingly, rather than defer the negotiations, HUD has decided to proceed with the fourth committee meeting on June 17 and June 18, 1999.

The meetings will be open to the public without advance registration. Public attendance may be limited to the space available. Members of the public may make statements during the meeting, to the extent time permits, and file written statements with the committee for its consideration. Written statements should be submitted to the address listed in the **FOR FURTHER INFORMATION** section of this document. Summaries of committee meetings will

be available for public inspection and copying at the address in the same section.

Dated: June 2, 1999.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 99-14455 Filed 6-7-99; 8:45 am]

BILLING CODE 4210-33-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Chapter IX

[Docket No. FR-4459-N-05]

Negotiated Rulemaking Committee on Section 8 Housing Certificate Fund Rule; Meetings

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Negotiated Rulemaking Committee meetings.

SUMMARY: On May 18, 1999, HUD announced in the **Federal Register** the second, third, fourth, and fifth meetings of the Negotiated Rulemaking Committee on Section 8 Tenant-based Contract Renewal Allocation. At that time, HUD was not yet able to provide the locations for the third, fourth and fifth committee meetings. The purpose of this document is to announce the location of these meetings.

DATES: The meeting dates announced in the May 18, 1999 document remain unchanged. The third committee meeting will be held on June 21 and June 22, 1999. The fourth committee meeting will be held on July 19 and July 20, 1999. The fifth committee meeting will be held on August 19 and 20, 1999. All meetings will begin at approximately 9:00 am and conclude at approximately 5:00 pm.

ADDRESSES: The third, fourth, and fifth committee meeting will take place at the Hilton Washington Dulles Airport Hotel, 13869 Park Center Road, Herndon, VA 20171; telephone (703) 478-2900 (this is not a toll-free telephone number).

FOR FURTHER INFORMATION CONTACT: Robert Dalzell, Senior Program Advisor, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Room 4204, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410-0500; telephone (202) 708-1380 (this is not a toll-free telephone number). Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal