



[BILLING CODE 6750-01S]

FEDERAL TRADE COMMISSION

16 CFR Part 300

Rules and Regulations under the Wool Products Labeling Act of 1939

AGENCY: Federal Trade Commission.

ACTION: Advance notice of proposed rulemaking; request for public comment.

SUMMARY: The Federal Trade Commission (“FTC” or “Commission”) systematically reviews all its rules and guides to ensure that they continue to achieve their intended purpose without unduly burdening commerce. As part of this systematic review, the Commission requests public comment on the overall costs, benefits, necessity, and regulatory and economic impact of, and possible modifications to, the Rules and Regulations under the Wool Products Labeling Act of 1939 (“Wool Rules” or “Rules”). The Commission also seeks comment on how it should modify the Rules to implement the Wool Suit Fabric Labeling Fairness and International Standards Conforming Act, and on the costs and benefits of certain provisions of the Wool Products Labeling Act of 1939.

DATES: Comments must be submitted by March 26, 2012.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write “Wool Rules, 16 CFR Part 300, Project No. P124201” on your comment, and file your comment online at <https://ftcpublic.commentworks.com/ftc/woolanpr> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the

Secretary, Room H-113 (Annex Q), 600 Pennsylvania Avenue, NW, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Robert M. Frisby, Attorney, (202) 326-2098, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background

The Wool Products Labeling Act of 1939 (“Wool Act”), 15 U.S.C. 68-68j, requires marketers to attach a label to each wool product disclosing: (1) the percentages by weight of the wool, recycled wool, and other fibers accounting for 5% or more of the product, and the aggregate of all other fibers; (2) the maximum percentage of the total weight of the wool product of any nonfibrous matter; (3) the name under which the manufacturer or other responsible company does business or, in lieu thereof, the registered identification number (“RN number”) of such company; and (4) the name of the country where the wool product was processed or manufactured.¹ The Wool Act also contains advertising and record-keeping provisions.

Additionally, the Wool Act authorizes the Commission to “make rules and regulations for the manner and form of disclosing information required by this subchapter . . . and to make such further rules and regulations under and in pursuance of the terms of this subchapter as may be necessary and proper for administration and enforcement.”² Pursuant to this provision, the Commission promulgated the Wool Rules.³

¹ 15 U.S.C. 68b(a).

² 15 U.S.C. 68d(a).

³ 16 CFR Part 300.

The Commission completed its last comprehensive review of the Rules in 1998, and modified the Rules twice in 1998 and again in 2000. Specifically, as a result of the 1998 review,⁴ the Commission, among other things, streamlined the labeling requirements and incorporated the definition of “trimmings” set forth in § 303.12 of the Rules and Regulations Under the Textile Fiber Products Identification Act (“Textile Rules”).⁵ Later in 1998, the Commission amended the Rules to update Commission addresses.⁶ In 2000, it amended the Rules to clarify that the Commission will assign only one RN number to a qualified applicant and to clarify the country-of-origin disclosure requirements.⁷ At that time the Commission also amended certain provisions of the Textile Rules that the Wool Rules incorporate. In particular, the Commission revised the RN number application process set forth in the Textile Rules and amended the Textile Rules to reference an updated version of International Organization for Standardization ISO 2076: 1999(E), “Textiles—Man-Made Fibres—Generic Names,” the standard currently set forth in § 303.7 of the Textile Rules.⁸

⁴ *Federal Trade Commission: Rules and Regulations Under the Textile Fiber Products Identification Act, the Wool Products Labeling Act, and the Fur Products Labeling Act: Final Rule*, 63 FR 7508 (Feb. 13, 1998).

⁵ 16 CFR Part 303. The Wool Rules provide that the term “trimmings” has the meaning set forth in § 303.12 of the Textile Rules. 16 CFR 300.1(k).

⁶ *Federal Trade Commission: Miscellaneous Rules: Final Rule*, 63 FR 71582 (Dec. 29, 1998).

⁷ *Federal Trade Commission: Rules and Regulations Under the Textile Fiber Products Identification Act; Rules and Regulations Under the Wool Products Labeling Act of 1939, Final Rule*, 65 FR 75154 (Dec. 1, 2000).

⁸ The Wool Rules provide that the application for RN numbers or to update information pertaining to existing RN numbers is found in § 303.20(d) of the Textile Rules. 16 CFR 300.4(e). The Wool Rules also provide that the generic names of manufactured fibers established in § 303.7 of the Textile Rules shall be used in disclosing fiber content. 16 CFR

In 2006, Congress amended the Wool Act by passing the Wool Suit Fabric Labeling Fairness and International Standards Conforming Act (“Conforming Act”).⁹ This legislation declared that specified wool products manufactured on or after January 1, 2007, including cashmere, are misbranded if the average diameter of their fibers does not meet certain standards. The Commission seeks comment on how it should modify the Wool Rules to implement the Conforming Act.

The Conforming Act sets the maximum average diameter for 18 different “Super” designations of wool products by average fiber diameter. For example, a wool product is misbranded if it is identified as “Super 80's” or “80's” unless the average diameter of the wool fibers in the product is 19.75 microns or finer.¹⁰ The Conforming Act also authorizes the Commission to adopt additional standards or deviations for these wool products.¹¹

II. Regulatory Review Program

Since 1992, the Commission has systematically reviewed its regulations to ensure that they continue to achieve their intended goals without unduly burdening commerce. The Commission schedules its regulations and guides for review on a ten-year cycle; *i.e.*, all rules

300.8(b).

⁹ Public Law 109-428 (Dec. 20, 2006), *codified* at 15 U.S.C. 68b(a)(5)-(6).

¹⁰ 15 U.S.C. 68b(a)(5)(A).

¹¹ 15 U.S.C. 68b(a)(5). In addition, the Conforming Act provides that a product is misbranded as cashmere if: (1) it does not consist of the fine (dehaired) undercoat fibers produced by a cashmere goat; (2) the average diameter of the fiber exceeds 19 microns; or (3) it contains more than 3% by weight of cashmere fibers with average diameters exceeding 30 microns. 15 U.S.C. 68b(a)(6)(A) - (C). Furthermore, the average fiber diameter for each cashmere product may be subject to a coefficient of variation around the mean that does not exceed 24 percent. 15 U.S.C. 68b(a)(6).

and guides are scheduled to be reviewed ten years after implementation and ten years after the completion of each review. The Commission publishes this schedule annually, with adjustments in response to public input, changes in the marketplace, and resource demands.¹²

When the Commission reviews a rule or guide, it publishes a notice in the Federal Register seeking public comment on the continuing need for the rule or guide as well as its costs and benefits to consumers and businesses. Based on this feedback, the Commission may modify or repeal the rule or guide to address public concerns or changed conditions, or to reduce undue regulatory burden. As part of this process, the Commission now solicits comments on, among other things, the economic impact of, and the continuing need for, the Wool Rules; the benefits of the Rules to consumers; and the burdens the Rules place on business.¹³

III. Specific Issues of Interest to the Commission

As part of this process, the Commission seeks comment on several issues. Specifically, the Commission seeks comment on whether it should clarify or modify certain Rule provisions and/or its business and consumer education materials to improve industry and consumer understanding of the Rules. Additionally, the Commission seeks comment on whether it could otherwise improve the Rules.¹⁴ These issues are explained below, along with two other issues

¹² *Federal Trade Commission: Notice Announcing Ten-year Regulatory Review Schedule and Request for Public Comment on the Federal Trade Commission's Regulatory Review Program*, 76 FR 41150 (Jul. 13, 2011).

¹³ See questions 1 through 12 in Section IV below.

¹⁴ In its review of the Textile Rules, the Commission has solicited comment on provisions of the Textile Rules that the Wool Rules incorporate. *Federal Trade Commission: Rules and Regulations under the Textile Fiber Products Identification Act: Advance Notice of Proposed Rulemaking; Request for Public Comment*, 76 FR 68690 at 68692 (Nov. 7, 2011). For example, the International Organization for Standardization developed ISO 2076: 2010, an updated

involving the benefits and costs of certain provisions of the Wool Act.¹⁵

First, some of the definitions in the Rules may warrant modification. For example, § 300.23 requires fiber content disclosures for certain trimmings, such as those containing or purporting to contain wool. Section 300.1(k) incorporates by reference the definition of “trimmings” from § 303.12 of the Textile Rules, which provides that trimmings may include elastic material added to a product in minor proportion for holding, reinforcing or similar structural purposes. However, § 303.12 of the Textile Rules lists product components or parts that *may* qualify as trim without otherwise defining the term “trimmings.” Moreover, neither the Wool Rules nor the Textile Rules define or elaborate on the term “minor proportion.”

Second, the disclosure of fiber content percentages in multiple languages may warrant modification of the Rules or other action such as addressing the issue in business education materials. Section 300.7 requires label disclosures in English, but allows disclosures in other languages. However, § 300.10(b) provides that such “non-required” information “shall not minimize, detract from, or conflict with required information and shall not be false, deceptive, or misleading.” The Commission seeks comment on the voluntary practice of disclosing required information in multiple languages. In particular, the Commission seeks comment on whether voluntary multilingual labeling causes consumer confusion, and if so, how to avoid such confusion while maintaining the benefits of such disclosures.

version of ISO 2076: 1999(E), “Textiles—Man-made fibres—Generic Names,” referenced in § 303.7 of the Textile Rules and incorporated into the Wool Rules in 16 CFR 300.8(b). This development may warrant modifying § 303.7 to incorporate the updated version of ISO 2076, which would in turn affect disclosure requirements under the Wool Rules.

¹⁵ The Commission sought comment on issues similar to those explained below in its review of the Textile Rules. *Id.*

Third, the Commission would benefit from comment on ways it might clarify or otherwise improve its consumer and business education materials to make them more useful and better ensure compliance with the Wool Act and Rules. Furthermore, comment on whether the Commission should continue to print paper copies of its consumer and business education materials could help the Commission allocate its resources more effectively.

In addition, comment on the benefits and costs of several Wool Act provisions could assist the Commission in its administration of the Wool program. The Commission is considering the benefits and costs of the requirement that businesses identify themselves on labels using either their names or identifiers issued by the FTC (*i.e.*, RN numbers).¹⁶ Specifically, the Commission seeks comment on whether allowing alternative identifiers, such as numbers issued by other nations (*e.g.*, Canadian CA numbers), would benefit businesses without imposing undue costs on consumers and law enforcement.¹⁷

Finally, the Wool Act provides that no person shall be guilty of misbranding a wool product if he obtains a guaranty, received in good faith and signed by the manufacturer or supplier residing in the United States, that a wool product is not misbranded.¹⁸ The Commission seeks comment on the extent to which retailers obtain guaranties and continuing guaranties under the Rules. The Commission also seeks comment on the costs of obtaining guaranties for wool products and whether changes in the extent and manner of importation indicate that the guaranty provisions of the Wool Act and Rules should be modified.

¹⁶ See 15 U.S.C. 68b(a)(2)(C) and 16 CFR 300.3(a)(3).

¹⁷ See questions 13 through 19 in Section IV below.

¹⁸ 15 U.S.C. 68g.

IV. Request for Comment

The Commission solicits comments on the following specific questions related to the Wool Rules.

- (1) Is there a continuing need for the Rules as currently promulgated? Why or why not?
- (2) What benefits have the Rules provided to, or what significant costs have the Rules imposed on, consumers? Provide any evidence supporting your position.
- (3) What modifications, if any, should the Commission make to the Rules to increase their benefits or reduce their costs to consumers?
 - (a) How would these modifications affect the costs and benefits of the Rules for consumers and businesses, particularly small businesses?
 - (b) Provide any evidence supporting your proposed modifications.
- (4) What impact have the Rules had in promoting the flow of truthful information to consumers and preventing the flow of deceptive information to consumers? Provide any evidence supporting your position.
- (5) What benefits, if any, have the Rules provided to, or what significant costs, including costs of compliance, have the Rules imposed on businesses, particularly small businesses? Provide any evidence supporting your position.
- (6) What modifications, if any, should be made to the Rules to increase their benefits or reduce their costs to businesses, particularly small businesses?
 - (a) How would these modifications affect the costs and benefits of the Rules

- for consumers and businesses, particularly small businesses?
- (b) Provide any evidence supporting your proposed modifications.
- (7) Provide any evidence concerning the degree of industry compliance with the Rules. Does this evidence indicate that the Rules should be modified? If so, why and how? If not, why not?
- (8) Provide any evidence concerning whether any of the Rules' provisions are no longer necessary. Explain why these provisions are unnecessary.
- (9) What potentially unfair or deceptive practices concerning wool labeling, not covered by the Rules, are occurring in the marketplace?
- (a) With reference to such practices, should the Rules be modified? If so, why and how? If not, why not?
 - (b) Provide any evidence, such as empirical data, consumer perception studies, or consumer complaints, demonstrating the extent of such practices.
 - (c) Provide any evidence demonstrating whether such practices cause consumer injury.
- (10) What modifications, if any, should be made to the Rules to account for current or impending changes in technology or economic conditions?
- (a) How would these modifications affect the costs and benefits of the Rules for consumers and businesses, particularly small businesses?
 - (b) Provide any evidence supporting the proposed modifications.
- (11) Do the Rules overlap or conflict with other federal, state, or local laws or rules,

such as those enforced by U.S. Customs and Border Protection? If so, how?

- (a) With reference to the asserted conflicts, should the Rules be modified? If so, why and how? If not, why not?
 - (b) Have the Rules assisted in promoting national consistency with respect to wool labeling and advertising?
 - (c) Provide any evidence supporting your position.
- (12) Are there foreign or international laws, regulations, or standards with respect to wool labeling or advertising that the Commission should consider as it reviews the Rules? If so, what are they?
- (a) Should the Rules be modified in order to harmonize with these international laws, regulations, or standards? If so, why and how? If not, why not?
 - (b) How would such harmonization affect the costs and benefits of the Rules for consumers and businesses, particularly small businesses?
 - (c) Provide any evidence supporting your position.
- (13) How should the Commission modify the Rules to address the amendments to the Wool Act set forth in the 2006 Wool Suit Fabric Labeling Fairness and International Standards Conforming Act?
- (a) How would these modifications affect the costs and benefits of the Rules for consumers and businesses, particularly small businesses?
 - (b) Should the Commission adopt additional standards or deviations from average fiber diameters, or does the limited deviation for cashmere

products as provided in the amendments adequately achieve the purpose of the amendments? If so, why? If not, why not? How should the Commission address this issue? How should any allowable deviations be determined or measured? Identify any tests or methodologies that the Commission should consider in addressing this issue.

- (c) Provide any evidence supporting your proposed modifications.
- (14) Should the Commission modify the Rules to add or clarify definitions of terms set forth in the Rules, such as the definition of “trimmings in § 300.1(k), which incorporates by reference Section 303.12 of the Textile Rules? If so, why and how? If not, why not?
- (a) How would these modifications affect the costs and benefits of the Rules for consumers and businesses, particularly small businesses?
 - (b) Provide any evidence supporting your position.
- (15) Should the Commission modify Section 300.10 or consider any additional measures regarding non-required information such as the voluntary use of multilingual labels? In particular, do multilingual labels pose the potential to confuse consumers and, if so, how could such confusion be avoided while providing the benefits of disclosures in multiple languages?
- (a) How would these modifications affect the costs and benefits of the Rules for consumers and businesses, particularly small businesses?
 - (b) Provide any evidence supporting your position.
- (16) Is our business compliance guidance and consumer education about the Rules

useful? Can it be improved? If so, how?

- (a) Should the Commission consider consumer education or other measures to help non-English-speaking consumers obtain the information that must be disclosed under the Wool Act and Rules?
 - (b) Should the Commission print copies of consumer education materials, or is a downloadable pdf at www.business.ftc.gov sufficient for your needs?
- (17) Regarding the requirement that businesses identify themselves on labels using either their names or identifiers issued by the FTC, what are the benefits and costs to consumers and businesses of allowing businesses to use alternative identifiers, such as numbers issued by other nations? Provide any evidence supporting your position.
- (18) To what extent do retailers obtain valid separate or continuing guaranties that comply with the requirements of the Wool Act and Rules, *i.e.*, guaranties signed by a person residing in the United States and, in the case of continuing guaranties, signed under the penalty of perjury?
- (a) Do retailers who obtain such guaranties obtain them for all, most, some, or few of the wool products they sell?
 - (b) Why do retailers decline to obtain such guaranties?
 - (c) Have changes in technology, such as the use of electronic documents, affected the ability of retailers to obtain valid separate or continuing guaranties? If so, why and how? If not, why not?
 - (d) Provide any evidence supporting your position.

- (19) How many and what proportion of wool products sold in the U.S. are imported? How many and what proportion of imported products are imported directly by retailers, including products shipped to consumers directly from foreign sources after the consumers purchase them online from U.S. retailers? What proportion are imported by businesses located in the United States for resale or distribution to retailers? How have these proportions changed since the Wool Act and Rules became effective?
- (a) Have changes in the extent or manner in which wool products are imported affected the ability of retailers to obtain valid separate or continuing guaranties? If so, does the ability of retailers to obtain such guaranties differ depending on whether the wool products are imported directly by retailers versus imported by businesses for resale or distribution to retailers?
- (b) Identify and explain the costs of obtaining valid guaranties for imported wool products and the impact of such costs on the ability of retailers to obtain valid guaranties.
- (c) Do the costs or difficulty of obtaining guaranties for imported wool products create a problem for retailers? If so, why and how? If not, why not?
- (d) Do changes in the extent or manner in which wool products are imported indicate that the Wool Act and Rules should be modified? If so, why and how? If not, why not?

(e) Provide any evidence supporting your position.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before March 26, 2012. Write “Wool Rules, 16 CFR Part 300, Project No. P124201” on your comment. Your comment – including your name and your state – will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Website, at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission tries to remove individuals’ home contact information from comments before placing them on the Commission Website. Because your comment will be made public, you are solely responsible for making sure that your comment doesn’t include any sensitive personal information, such as anyone’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. You are also solely responsible for making sure that your comment doesn’t include any sensitive health information, like medical records or other individually-identifiable health information. In addition, don’t 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 FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, don’t include competitively-sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you must follow the procedure

explained in FTC Rule 4.9(c), 16 CFR 4.9(c).¹⁹ Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/woolanpr> by following the instructions on the web-based form. If this Notice appears at <http://www.regulations.gov/#!home>, you also may file a comment through that website.

If you file your comment on paper, write “Wool Rules, 16 CFR Part 300, Project No. P124201” on your comment and on the envelope and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex Q), 600 Pennsylvania Avenue, NW, Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Website at <http://www.ftc.gov> to read this Notice and the news release describing it. The FTC Act and other laws that 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 on or before March 26, 2012. You can find more information, including routine uses permitted by the Privacy Act, in the Commission’s privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

¹⁹ In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

By direction of the Commission.

Donald S. Clark
Secretary.

8:45 am; Publication Date: 01/30/2012]

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