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FEDERAL TRADE COMMISSION

16 CFR Part 303

RIN 3084-AB28

Rules and Regulations Under the Textile Fiber Products Identification Act

AGENCY: Federal Trade Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Trade Commission (“FTC” or “Commission”) proposes amending the Rules and Regulations under the Textile Fiber Products Identification Act (“Textile Rules” or “Rules”) to incorporate the most recent ISO 2076 standard for generic fiber names. The proposed amendment should reduce compliance costs and increase flexibility for firms providing textile fiber information to consumers.

DATES: Written comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Interested parties may file a comment online or on paper by following the instructions in the Request for Comments part of the **SUPPLEMENTARY**

INFORMATION section below. Write “Textile Rules, 16 CFR part 303, Project No.

P948404” on your comment, and file your comment online through

<https://www.regulations.gov> by following the instructions on the web-based form. If you prefer to file your comment on paper, write “Textile Rules, 16 CFR part 303, Project No. P948404” on your comment and on the envelope and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex C), Washington, DC 20580, or deliver your comment to the

following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex C), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Jock Chung (202-326-2984), Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Textile Fiber Products Identification Act (“Textile Act”)¹ and Rules require marketers to, among other things, attach a label to each covered textile product disclosing: (1) the generic names and percentages by weight of the constituent fibers in the product; (2) the name under which the manufacturer or other responsible company does business or, in lieu thereof, the company’s registered identification number; and (3) the name of the country where the product was processed or manufactured.²

Section 303.7 of the Textile Rules (generic names and definitions for manufactured fibers) establishes the generic names for manufactured fibers that must be used in the required fiber content disclosures by: (1) listing the generic names and definitions the Commission has established through its textile petition process,³ and (2)

¹ 15 U.S.C. 70 *et seq.*

² *See* 15 U.S.C. 70b(b).

³ To establish a generic name under 16 CFR 303.8, the petitioner must submit evidence that: (1) the fiber has a chemical composition radically different from other fibers, and that the distinctive chemical composition results in distinctive physical properties of significance to the general public; (2) the fiber is in active commercial use or such use is immediately foreseen; and (3) the grant of the generic name is of importance to the consuming public at large. 38 FR 34112, 34114 (Dec. 11, 1973). The Commission must then review the evidence, solicit public comment on a proposed amendment to the Rules to add the generic name, and issue a final amendment to the Rules.

incorporating by reference the generic names and definitions set forth in the ISO 2076 standard.

The Commission incorporated the ISO 2076:1989 standard into § 303.7 in 1998 so that a “manufacturer or other marketer of a fiber not listed in [16 CFR 303.7] but recognized in ISO’s 1989 standard need not petition the Commission for recognition of the fiber name, but may simply use the ISO established name.”⁴ The Commission stated that it “may accommodate future changes in the ISO Standard by amending the Textile Rules to incorporate the new Standard without going through the petition process.”⁵ It also recommended that “...manufacturers seeking recognition of new fiber names first seek recognition from the ISO,”⁶ noting that “FTC recognition of new fibers by ISO in the future ... can be accomplished easily by amending the Textile Rules to incorporate the most recent ISO standard.”⁷ The Commission subsequently incorporated the updated 2076:1999(E) standard into § 303.7 in 2000,⁸ and incorporated the updated 2076:2010(E) standard in 2014.⁹

During these proceedings, commenters strongly supported incorporating the latest ISO 2076 standard in the Rule by asserting that doing so would expedite the use of new fiber names,¹⁰ benefit businesses by establishing an international consensus that removes unnecessary barriers to trade, and help manufacturers develop labeling that satisfies the

⁴ 63 FR 7508, 7510 (Feb. 13, 1998).

⁵ *Id.*, fn. 25.

⁶ *Id.* at 7511.

⁷ *Id.*

⁸ 65 FR 75154 (Dec. 1, 2000).

⁹ 79 FR 18766 (Apr. 4, 2014).

¹⁰ 63 FR 7508, 7510.

requirements of multiple countries.¹¹ Commenters further stated that incorporating updated ISO standards in the Rule reduces potential Customs challenges and helps forestall nationally biased standards that can create barriers to trade and hinder efficient supply-chain management.¹²

II. Proposed Amendment

The Commission proposes to incorporate the most recent version of the relevant standard, ISO 2076:2013(E), “Textiles—Man-made fibres—Generic names,” Sixth edition, November 15, 2013 (ISO 2076:2013(E)), in § 303.7 of the Textile Rule. The updated 2013 standard adds seven generic fiber names not defined in the 2010 standard: “chitin,” “ceramic,” “polybenzimidazol,” “polycarbamide,” “polypropylene/polyamide bicomponent,” “protein,” and “trivinyln.”

Commission staff has received several inquiries from manufacturers interested in initiating a proceeding to amend the Commission’s list of approved generic fiber names under 16 CFR 303.8 to add “chitin,” a name recognized in ISO 2076:2013(E). Therefore, incorporating that standard into the Textile Rules will resolve the current requests, save the Commission and the manufacturers resources, and harmonize the two standards without the need to address other ISO recognized names individually.

III. Request for Comments

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]. Write “Textile Rules, 16 CFR part 303, Project No. P948404” on your comment. Your comment—including your name and

¹¹ 78 FR 29263, 29265 (May 20, 2013).

¹² *Id.*

your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the <https://www.regulations.gov> website.

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 through <https://www.regulations.gov>, by following the instruction on the web-based form provided.

If you file your comment on paper, write “Textile Rules, 16 CFR part 303, Project No. P948404” on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex C), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex C), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible website, <https://www.regulations.gov>, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else’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 does not include any sensitive health information, such as medical

records or other individually identifiable health information. In addition, your comment should not include any “trade secret or any commercial or financial information which . . . is privileged or confidential” – as provided by 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) – including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled “Confidential,” and must comply with FTC Rule 4.9(c). 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). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at <https://www.regulations.gov> – as legally required by FTC Rule 4.9(b) – we cannot redact or remove your comment, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website to read this NPRM 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 [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. For information on the Commission’s privacy policy, including routine

uses permitted by the Privacy Act, see <https://www.ftc.gov/site-information/privacy-policy>.

The Commission invites members of the public to comment on the costs and benefits to industry members and consumers, as well as any issues or concerns they believe are relevant or appropriate to the Commission's consideration of the proposed amendment to the Textile Rules. The Commission requests that comments provide factual data upon which they are based.

IV. Communications to Commissioners and Commissioner Advisors by Outside Parties

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding from any outside party to any Commissioner or Commissioner's advisor will be placed on the public record.¹³

V. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA")¹⁴ requires that the Commission conduct an analysis of the anticipated economic impact of the proposed amendment on small entities. The purpose of a regulatory flexibility analysis is to ensure that an agency considers potential impacts on small entities and examines regulatory alternatives that could achieve the regulatory purpose while minimizing burdens on small entities. The RFA requires that the Commission provide an Initial Regulatory Flexibility Analysis ("IRFA") with a proposed rule and a Final Regulatory Flexibility Analysis ("FRFA")

¹³ See 16 CFR 1.26(b)(5).

¹⁴ 5 U.S.C. 601–612.

with a final rule, if any, unless the Commission certifies that the rule will not have a significant economic impact on a substantial number of small entities.¹⁵

The Commission believes that the proposed amendment would not have a significant economic impact upon small entities, although it may affect a substantial number of small businesses. In the Commission's view, the proposed amendment should not increase the costs of small entities that manufacture or import textile fiber products. Therefore, based on available information, the Commission certifies that amending the Rules as proposed will not have a significant economic impact on a substantial number of small businesses. Although the Commission certifies under the RFA that the proposed amendment would not, if promulgated, have a significant impact on a substantial number of small entities, the Commission has determined, nonetheless, that it is appropriate to publish an IRFA to inquire into the impact of the proposed amendment on small entities. Therefore, the Commission has prepared the following analysis:

A. Description of the Reasons that Action by the Agency Is Being Taken

The Commission proposes amending the Rules to incorporate an updated version of the standard establishing generic fiber names to provide covered entities with greater flexibility in complying with the Rules' disclosure requirements.

B. Statement of the Objectives of, and Legal Basis for, the Proposed Amendment

The Textile Act authorizes the Commission to implement its requirements through the issuance of rules. The proposed amendment would incorporate the updated ISO standard 2076:2013(E) into the Textile Rules, and provide covered entities with additional labeling options (*i.e.*, to market products covered by the Textile Rules that are

¹⁵ 5 U.S.C. 605.

made from generic fibers defined in ISO 2076:2013(E) but not otherwise defined) without imposing new burdens or additional costs.

C. Small Entities to Which the Proposed Amendments Will Apply

The Rules apply to various segments of the textile fiber product industry, including manufacturers and wholesalers of textile apparel products. Under the Small Business Size Standards issued by the Small Business Administration, textile apparel manufacturers qualify as small businesses if they have 500 or fewer employees. Clothing wholesalers qualify as small businesses if they have 100 or fewer employees. The Commission's staff has estimated that approximately 10,744 textile fiber product manufacturers and importers are covered by the Rules' disclosure requirements.¹⁶ A substantial number of these entities likely qualify as small businesses. The Commission estimates that the proposed amendment will not have a significant impact on small businesses because it imposes no new obligations.

D. Projected Reporting, Recordkeeping, and Other Compliance Requirements, Including Classes of Covered Small Entities and Professional Skills Needed To Comply

As explained earlier in this document, the proposed amendment would incorporate the updated ISO standard 2076:2013(E) into the Textile Rules, thus providing greater flexibility to companies covered by the Rules. The proposed amendment would impose no new reporting, recordkeeping, or other compliance requirements. The small entities potentially covered by the proposed amendment will include all such entities subject to the Rules.

E. Duplicative, Overlapping, or Conflicting Federal Rules

¹⁶ 83 FR 2992, 2993 (Jan. 22, 2018).

The Commission has not identified any other federal statutes, rules, or policies that would duplicate, overlap, or conflict with the proposed amendment.

F. Significant Alternatives to the Proposed Amendment

The Commission has not proposed any specific small entity exemption or other significant alternatives because the proposed amendment would not impose any new requirements or compliance costs.

VI. Paperwork Reduction Act

The Rules contain reporting requirements that constitute information collection requirements under the Paperwork Reduction Act (PRA).¹⁷ The Office of Management and Budget (OMB) has approved the Rule's existing information collection requirements through May 31, 2021 (OMB Control No. 3084-0101). The proposed amendment does not impose any additional collection of information requirements.

IX. Incorporation by Reference

Consistent with 5 U.S.C. 552(a) and 1 CFR part 51, the Commission proposes to incorporate the specifications of the following standard issued by the International Organization of Standardization (ISO): ISO 2076:2013(E), which lists the generic names used to designate the different categories of man-made fibres, based on a main polymer, currently manufactured on an industrial scale for textile and other purposes, together with the distinguishing attributes that characterize them.

This ISO standard is reasonably available to interested parties. Members of the public can obtain copies of ISO 2076:2013(E) from the American National Standards Institute, 25 West 43rd Street, Fourth Floor, New York, NY 10036-7417; (212)

¹⁷ 44 U.S.C. 3501 *et seq*; 5 CFR 1320.3(c).

642-4900; isot@ansi.org; <https://www.ansi.org>. This ISO standard is also available for inspection at the FTC Library, (202) 326-2395, Federal Trade Commission, Room H-630, 600 Pennsylvania Avenue NW, Washington, DC 20580.

VIII. Proposed Rule Language

List of Subjects in 16 CFR Part 303

Advertising, Incorporation by reference, Labeling, Recordkeeping, Textile fiber products.

PART 303—RULES AND REGULATIONS UNDER THE TEXTILE FIBER PRODUCTS IDENTIFICATION ACT

1. The authority citation for part 303 continues to read:

Authority: 15 U.S.C. 70 *et seq.*

2. Amend § 303.7 by revising the introductory text to read as follows:

§ 303.7 Generic names and definitions for manufactured fibers

Pursuant to the provisions of section 7(c) of the Act, the Commission hereby establishes the generic names for manufactured fibers, together with their respective definitions, set forth in this section, and the generic names for manufactured fibers, together with their respective definitions, set forth in International Organization for Standardization ISO 2076:2013(E), “Textiles—Man-made fibres—Generic names.” International Organization for Standardization ISO 2076:2013(E), “Textiles—Man-made fibres—Generic names,” Sixth edition, November 15, 2013, is incorporated by reference into this section with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Federal Trade Commission must publish notice of change in the Federal Register and

the material must be available to the public. All approved material is available for inspection at the Federal Trade Commission, 600 Pennsylvania Ave. NW, Room H-630, Washington, DC 20580, (202) 326-2222, and is available from the American National Standards Institute, 25 West 43rd Street, Fourth Floor, New York, NY 10036-7417; (212) 642-4900; isot@ansi.org; <https://www.ansi.org>. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email fedreg.legal@nara.gov, or go to <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

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By direction of the Commission.

April J. Tabor,

Acting Secretary.

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