

[BILLING CODE: 6750-01-S]

FEDERAL TRADE COMMISSION

16 CFR PART 303

Rules and Regulations Under the Textile Fiber Products Identification Act

AGENCY: Federal Trade Commission (“FTC” or “Commission”).

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

SUMMARY: The 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 the FTC’s Rules and Regulations pursuant to the Textile Fiber Products Identification Act. The Commission specifically requests comment on whether it should: (1) modify the provision addressing generic fiber names so that the reference to the international standard for manufactured fibers reflects the updated standard; (2) clarify the provisions addressing textile products containing elastic material and “trimmings”; (3) address the use of multiple languages in making required disclosures; (4) clarify disclosure requirements applicable to written advertising, including Internet advertising; (5) clarify or revise the list of exclusions from the Textile Fiber Products Identification Act; (6) add or clarify definitions of terms set forth in the Rules; and (7) modify its consumer and business education materials and continue printing paper copies of these materials. In addition, the Commission seeks comment on: (1) the benefits and costs of the requirement of the Textile Fiber Products Identification Act that, under certain circumstances, businesses use identification issued by the FTC; and (2) the extent to which retailers obtain guarantees and continuing guarantees for textile

products and whether the extent or manner of importation indicates that the guarantee provisions of the Act and Rules should be modified.

DATES: Comments must be received on or before January 3, 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 “Textile Rules, 16 CFR Part 303, Project No. P948404” on your comment, and file your comment online at <https://ftcpublic.commentworks.com/ftc/textilerulesanpr> 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 G), 600 Pennsylvania Avenue, NW, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Robert M. Frisby, Attorney, (202) 326-2098, or Edwin Rodriguez, Attorney, (202) 326-3147, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background

The Textile Fiber Products Identification Act (“Textile Act”), 15 U.S.C. 70-70k, requires marketers to 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 registered identification number (“RN number”) of such company; and (3) the name of the country where the product was processed or manufactured. The Textile Act also contains advertising and record-keeping provisions.

Section 7(c) of the Textile Act authorizes the Commission to “make such rules and regulations, including the establishment of generic names of manufactured fibers . . . as may be necessary and proper for administration and enforcement.” 15 U.S.C. 70e(c). Pursuant to the Textile Act, the Commission promulgated the Rules and Regulations Under the Textile Fiber Products Identification Act (“Textile Rules” or “Rules”), 16 CFR Part 303.

The Commission completed its last review of the Rules in 1998, and modified the Rules nine times during the period 1998 to 2009. Specifically, as a result of the 1998 review, the Commission, among other things, streamlined the labeling requirements and approved additional generic fiber names through the incorporation of ISO 2076: 1998, “Textiles—Man-made fibres—Generic Names” in Section 303.7.¹ Later in 1998, the Commission amended the Rules to update Commission addresses.² In 2000, it amended the Rules to revise the RN number application process, to reference an updated version of ISO 2076 (ISO 2076: 1999(E) — the standard currently set forth in Section 303.7), and to clarify the country-of-origin disclosure requirements.³ In 2005, the Commission amended the Rules to implement changes mandated by Congress to the country-of-origin disclosure requirements for socks.⁴ In addition, during the

¹ *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).

² *Federal Trade Commission: Miscellaneous Rules: Final Rule*, 63 FR 71582 (Dec. 29, 1998).

³ *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).

⁴ *Federal Trade Commission: Rules and Regulations Under the Textile Fiber Products Identification Act: Final Rule*, 70 FR 73369 (Dec. 12, 2005).

1998-2009 period, the Commission amended the Rules five times in response to petitions from textile fiber manufacturers to recognize new generic fiber names or subclasses thereof.⁵

II. Regulatory Review Program

Since 1992, the Commission's regulatory review program has systematically reviewed Commission 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 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.⁶

When the Commission reviews a rule or guide, it publishes a notice in the Federal Register seeking public comment on the continuing need of 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

⁵ *Federal Trade Commission: Rules and Regulations Under the Textile Fiber Products Identification Act: Final Rule*, 63 FR 36171 (Jul. 2, 1998) (new generic fiber names "melamine" and "fluoropolymer"); *Federal Trade Commission: Rules and Regulations Under the Textile Fiber Products Identification Act: Final Rule*, 67 FR 4901 (Feb. 1, 2002) (new generic fiber name "PLA"); *Federal Trade Commission: Rules and Regulations Under the Textile Fiber Products Identification Act: Final Rule*, 67 FR 70835 (Nov. 27, 2002) (new generic fiber name "elasterell-p" as subclass of generic fiber name "polyester"); *Federal Trade Commission: Rules and Regulations Under the Textile Fiber Products Identification Act: Final Rule*, 68 FR 3813 (Jan. 27, 2003) (new generic fiber name "lastol" as subclass of generic fiber name "olefin"); *Federal Trade Commission: Rules and Regulations Under the Textile Fiber Products Identification Act: Final Rule*, 74 FR 13099 (Mar. 26, 2009) (new generic fiber name "trixta" as subclass of generic fiber name "polyester").

⁶ *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).

regulatory burden. Therefore, the Commission now solicits comments on, among other things, the economic impact of, and the continuing need for, the Textile Rules; the benefits of the Rules to consumers purchasing products covered by them; and the burdens the Rules place on businesses.⁷

III. Specific Issues of Interest to the Commission

As part of this process, the Commission seeks comment on several specific issues stemming from informal inquiries received by Commission staff. These inquiries suggest that clarification or modification of certain Rule provisions, as well as the Commission’s consumer and business education materials explaining them, could improve industry and consumer understanding of the requirements of the Textile Act and the Rules or otherwise improve the Rules. Such improvements could foster greater compliance with the Rules and help the FTC implement the Textile Act more effectively. These issues are explained below.

First, the International Standards Organization developed ISO 2076: 2010, an updated version of ISO 2076: 1999(E), “Textiles—Man-made fibres—Generic Names,” referenced in Section 303.7. This development may warrant modifying Section 303.7 to incorporate the updated version of ISO 2076.

Second, inquiries regarding the disclosure requirements for products containing elastic material and trimmings suggest a possible need to clarify Sections 303.10 and 303.12 of the Rules.⁸ For example, Section 303.10 requires disclosure of elastic material fiber content, yet

⁷ See questions 1 through 12 in Section IV below.

⁸ Section 303.1(n) defines “elastic material” as a fabric composed of yarn consisting of an elastomer or a covered elastomer. The Textile Act does not apply to trimmings, 15 U.S.C. 70j(a)(5), but does not define the term.

Section 303.12 states that trimmings (for which the disclosure requirements do not apply) may include elastic material added to a product in minor proportion for holding, reinforcing or similar structural purposes. The Rules do not define or elaborate on the term “minor proportion.” In addition, Section 303.12 lists product components or parts that *may* qualify as trim without otherwise defining the term “trimmings.”

Third, inquiries regarding the disclosure of fiber content percentages in multiple languages also suggest a possible need to clarify the Rules. Section 303.4 requires label disclosures in English. Labels may include disclosures in other languages; however, Section 303.16(c) provides that such “non-required” information “shall not minimize, detract from, or conflict with required information and shall not be false, deceptive, or misleading.” Commission staff have received reports that some labels provide fiber content information in English plus other languages. 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 practices cause consumer confusion, and if so, how to avoid such confusion while providing the benefits of disclosures in multiple languages.

Fourth, inquiries regarding the disclosure requirements applicable to written advertising, including Internet advertising,⁹ set forth in Sections 303.41 and 303.42, suggest a possible need

⁹ Internet advertisers must comply with the Rules’ advertising disclosure requirements. In 2009, the Commission announced four law enforcement actions involving the use of the word “bamboo” in lieu of the generic fiber name “rayon” in Internet advertising for textile products, in violation of the Textile Rules. See <http://www.ftc.gov/opa/2009/08/bamboo.shtm>. Last year, the Commission sent warning letters to 78 retailers of textile products, including many on-line marketers, addressing the use of “bamboo” in lieu of the generic fiber name “rayon.” See <http://www.ftc.gov/opa/2010/02/bamboo.shtm>.

for clarification. For example, the Rules do not require the disclosure of fiber content percentages in advertising but perhaps could state this more clearly.¹⁰

Fifth, inquiries regarding whether the Textile Act and Rules apply to certain products suggest a possible need to clarify Section 303.45. That section excludes all textile fiber products from the operation of the Textile Act except for those products specifically listed as covered under the Rules.¹¹ The Commission's education materials provide additional guidance on the Rules' coverage by identifying specific items that fall into product categories covered by the Textile Act and Rules, such as "bedding" and "floor coverings," and by identifying specific items not covered by the Textile Act and Rules.¹² The Commission is considering clarifying or modifying the Rules to indicate with greater specificity the products either covered by or excluded from the requirements of the Textile Act and Rules.

¹⁰ The Textile Act addresses this issue clearly. It requires disclosure of fiber content information in certain advertising, "except that the percentages of the fiber present in the textile fiber product need not be stated." 15 U.S.C. 70b(c).

¹¹ The Textile Act and Rules apply to textile fiber products with certain exceptions. Covered products include household textile articles made from yarn or fabric and fibers used or intended for use in such articles. The Textile Act provides that the term "household textile articles" means articles of wearing apparel, costumes and accessories, draperies, floor coverings, furnishings, beddings, and other textile goods of a type customarily used in a household regardless of where used in fact. *See* 15 U.S.C. 70(g) and (h). Thus, whether the Textile Act and Rules apply to a particular textile product may depend in part on whether it is customarily used in a household. In addition, the Commission has authority to exclude products which have an insignificant or inconsequential textile fiber content and products for which a fiber content disclosure is unnecessary to protect the ultimate consumer. *See* 15 U.S.C. 70j(b).

¹² *See* "Threading Your Way Through the Labeling Requirements Under the Textile and Wool Acts" at <http://business.ftc.gov/documents/bus21-threading-your-way-through-labeling-requirements-und-er-textile-and-wool-acts>.

Sixth, the Rules include a number of undefined textile-related terms. The Commission seeks comment on whether it needs to add or clarify any definitions.

Seventh, the Commission seeks comment on whether it needs to clarify or otherwise modify its consumer and business education materials addressing the Rules. It also seeks comment on whether it should continue to print paper copies of its consumer and business education materials.

In addition, the Commission seeks comment on the benefits and costs of the Textile Act requirement that businesses identify themselves on labels using either their names or identifiers issued by the FTC (*i.e.*, RN numbers).¹³ 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 costs on consumers and law enforcement that outweigh those benefits.¹⁴

Finally, the Commission seeks comment on the extent to which retailers obtain guarantees and continuing guarantees. It also seeks comment on the costs of obtaining guarantees for textile products and whether changes in the extent and manner of importation indicate that the guarantee provisions of the Act and Rules should be modified.

¹³ *See* 15 U.S.C. 70b(b)(3).

¹⁴ *See* questions 13 through 23 in Section IV below.

IV. Request for Comment

The Commission solicits comments on the following specific questions related to the Textile 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) Provide any evidence supporting your proposed modifications.
 - (b) How would these modifications affect the costs and benefits of the Rules for consumers and businesses, particularly small businesses?
- (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) Provide any evidence supporting your proposed modifications.
 - (b) How would these modifications affect the costs and benefits of the Rules for consumers and businesses, particularly small businesses?

- (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 textile labeling, not covered by the Rules, are occurring in the marketplace?
 - (a) Provide any evidence, such as empirical data, consumer perception studies, or consumer complaints, demonstrating the extent of such practices.
 - (b) Provide any evidence demonstrating whether such practices cause consumer injury.
 - (c) With reference to such practices, should the Rules be modified? If so, why and how? If not, why not?
- (10) What modifications, if any, should be made to the Rules to account for current or impending changes in technology or economic conditions?
 - (a) Provide any evidence supporting the proposed modifications.
 - (b) How would these modifications affect the costs and benefits of the Rules for consumers and businesses, particularly small businesses?
- (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) Provide any evidence supporting your position.

- (b) With reference to the asserted conflicts, should the Rules be modified? If so, why and how? If not, why not?
 - (c) Provide any evidence concerning whether the Rules have assisted in promoting national consistency with respect to textile labeling and advertising.
- (12) Are there foreign or international laws, regulations, or standards with respect to textile 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) Should the Commission modify Section 303.7 to address the development of ISO 2076: 2010, “Textiles—Man-made fibres—Generic names,” an updated version of ISO 2076: 1999(E), “Textiles—Man-made fibres—Generic Names,” referenced in Section 303.7? If so, why and how? If not, why not?
 - (a) Provide any evidence supporting your position.
 - (b) How would the modification affect the costs and benefits of the Rules for consumers and businesses, particularly small businesses?

- (14) Should the Commission modify Section 303.1(n), 303.10, or 303.12 to clarify the disclosure requirements relating to products containing elastic material? If so, why and how? If not, why not?
- (a) Provide any evidence supporting your position.
 - (b) How would these modifications affect the costs and benefits of the Rules for consumers and businesses, particularly small businesses?
- (15) Should the Commission modify Section 303.12 to revise the description and list of examples of “trimmings”? If so, why and how? If not, why not?
- (a) Provide any evidence supporting your position.
 - (b) How would these modifications affect the costs and benefits of the Rules for consumers and businesses, particularly small businesses?
- (16) Should the Commission modify Section 303.16(c) 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) Provide any evidence supporting your position.
 - (b) How would these modifications affect the costs and benefits of the Rules for consumers and businesses, particularly small businesses?
- (17) Should the Commission modify Section 303.41 or 303.42 to clarify or otherwise revise the disclosure requirements applicable to written advertising, including Internet advertising? If so, why and how? If not, why not?
- (a) Provide any evidence supporting your position.

- (b) How would these modifications affect the costs and benefits of the Rules for consumers and businesses, particularly small businesses?
- (18) Should the Commission modify Section 303.45 to clarify or otherwise revise the list of exclusions from the Textile Act and Rules? If so, why and how? If not, why not?
 - (a) Provide any evidence supporting your position.
 - (b) How would these modifications affect the costs and benefits of the Rules for consumers and businesses, particularly small businesses?
- (19) Should the Commission modify the Rules to add or clarify definitions of terms set forth in the Rules? If so, why and how? If not, why not?
 - (a) Provide any evidence supporting your position.
 - (b) How would these modifications affect the costs and benefits of the Rules for consumers and businesses, particularly small businesses?
- (20) 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 Textile Act and Rules?
 - (b) Should the Commission print copies of consumer education materials, or is a pdf at www.business.ftc.gov sufficient for your needs?
- (21) Regarding the Textile Act requirement in 15 U.S.C. 70b(b)(3) that businesses identify themselves on labels using either their names or identifiers issued by the FTC, what are the benefits and costs of allowing businesses to use alternative

identifiers, such as numbers issued by other nations? Provide any evidence supporting your position.

- (22) To what extent do retailers obtain valid separate or continuing guarantees that comply with the requirements of the Textile Act and Rules, *i.e.* guarantees signed by a person residing in the United States and, in the case of continuing guarantees, signed under the penalty of perjury?
- (a) Do retailers who obtain such guarantees obtain them for all, most, some, or few of the textile products they sell?
 - (b) Why do retailers decline to obtain such guarantees?
 - (c) Have changes in technology, such as the use of electronic documents, affected the ability of retailers to obtain valid separate or continuing guarantees? If so, why and how? If not, why not?
 - (d) Provide any evidence concerning the extent to which retailers obtain such guarantees and the reasons why retailers decline to obtain them.
- (23) What proportion of textile products sold in the U.S. are imported? What proportion of imported products are imported directly by 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 Textile Act and Rules became effective?
- (a) Have changes in the extent or manner in which textile products are imported affected the ability of retailers to obtain valid separate or continuing guarantees? If so, does the ability of retailers to obtain such guarantees differ depending on whether the textile products are imported

directly by retailers versus imported by businesses for resale or distribution to retailers?

- (b) Provide any evidence concerning the costs of obtaining valid guarantees for imported textile products and the impact of such costs on the ability of retailers to obtain valid guarantees.
- (c) Do changes in the extent or manner in which textile products are imported indicate that the Textile Act and Rules should be modified? If so, why and how? If not, why not?

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before January 3, 2012. Write “Textile Rules, 16 CFR Part 303, Project No. P948404” 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).¹⁵ 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/textilerulesanpr> 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 "Textile Rules, 16 CFR Part 303, Project No. P948404" 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 G), 600 Pennsylvania Avenue, NW, Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

¹⁵ 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).

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 January 3, 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>.

List of Subjects in 16 CFR Part 303

Advertising, Labeling, Recordkeeping, Textile fiber products.

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

By direction of the Commission.

Donald S. Clark
Secretary.