[Billing Code: 6750-01-S]

FEDERAL TRADE COMMISSION

RIN: 3084-AB29

16 CFR Part 300

Rules and Regulations Under the Wool Products Labeling Act of 1939

AGENCY: Federal Trade Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Based on comments received in response to its Advance Notice of Proposed Rulemaking, the Federal Trade Commission (the "Commission" or "FTC") proposes amending its rules and regulations under the Wool Products Labeling Act of 1939 ("Wool Rules" or "Rules") to: (1) conform to the requirements of the Wool Suit Fabric Labeling Fairness and International Standards Conforming Act, which revised the labeling requirements for cashmere and certain other wool products; and (2) align with the proposed amended rules and regulations under the Textile Fiber Products Identification Act ("Textile Rules"). The Commission seeks comment on these proposals and several other issues.

DATES: Written comments must be received on or before November 25, 2013.

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/woolrulesnprm 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, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. INTRODUCTION

The Wool Products Labeling Act of 1939 ("Wool Act")[1] and Rules[2] require marketers to, among other things, attach a label to each covered 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 non-fibrous 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;[3] and (4) the name of the country where the wool product was processed or manufactured.[4] As part of its ongoing regulatory review program, the Commission published an Advance Notice of Proposed Rulemaking and Request for Public Comment

[1]15 U.S.C. 68-68j.

[2]Commission's Rules and Regulations under the Wool Products Labeling Act, 16 CFR Part 300, which implement the Wool Act.

[3]Prior to issuing this NPRM, the Commission's staff provided guidance stating that a business located outside the United States can comply with the business name label disclosure requirement by disclosing the business name of the wool product manufacturer or the RN number or business name of a company in the United States that is directly involved with importing, distributing, or selling the product. For clarity, the Commission notes here that a business located outside the United States that engages in commerce subject to the Act (*e.g.*, an exporter engaged in the sale, offering for sale, advertising, delivery, or transportation of a covered wool product in the United States) may also comply with this requirement by disclosing its own business name on the label. *See* 15 U.S.C. 68a and 68b(a)(2)(C) and 16 CFR 300.3.

[4]15 U.S.C. 68b(a).

("ANPR") in January 2012[5] seeking comment on the economic impact of, and the continuing need for, the Wool Rules. The ANPR sought comment generally on the Rules' benefits to consumers and burdens on businesses. It also asked about specific issues, including how to modify the Rules to implement the Wool Suit Fabric Labeling Fairness and International Standards Conforming Act ("Conforming Act"),[6] and the costs and benefits of certain provisions of the Wool Act.

This Notice of Proposed Rulemaking ("NPRM") summarizes the comments received and explains the Commission's decision to retain the Wool Rules. It also explains why the Commission proposes certain amendments and why it declines to propose others. Additionally, it poses questions soliciting comment. Finally, the NPRM sets forth the Commission's regulatory analyses under the Regulatory Flexibility and Paperwork Reduction Acts, as well as the text of the proposed amendments.

II. SUMMARY OF COMMENTS

The Commission received six comments[7] in response to its ANPR: three from individuals;[8] one from the Bureau Veritas CPS;[9] one from the American Apparel & Footwear Association ("AAFA");[10] and a Joint Comment from five textile industry associations ("Joint

[5]77 FR 4498 (January 30, 2012).

[6]Public Law No. 109-428, 120 Stat. 2913.

[7]The comments are posted at http://www.ftc.gov/os/comments/woolanpr/index.shtm. The Commission has assigned each comment a number appearing after the name of the commenter and the date of submission. This notice cites comments using the last name of the individual submitter or the name of the organization, followed by the number assigned by the Commission.

[8]Anderson (6), Miller (7), Slavitt (4).

[9]Hargrave, Bureau Veritas (2).

[10]American Apparel & Footwear Association (5).

Comment").[11] In addition, the Commission has decided to consider a comment filed in the ongoing Textile Rulemaking because it raises issues relevant to the Wool Rules.[12]

A. General Comments

A number of commenters expressed general support for the Rules, citing their benefits or identifying deceptive practices that they address.[13] For example, the Joint Comment noted a Cashmere and Camel Hair Manufacturers Institute study finding that, between 2004 and 2009, false labeling of cashmere and other superfine wool had decreased.[14]

Several commenters, however, urged modification of the Rules. One suggested that the Commission remind firms "that they are responsible for carrying out all necessary tests concerning the raw material and its processing if they want to be sure of the quality, correct labeling, and compliance with the Rules."[15] Another advocated facilitating greater use of multi-lingual labeling without proposing any specific amendments.[16]

Two commenters favored harmonizing the regulation of wool and other textile products. One noted that having separate Textile and Wool Acts "leads to confusion and redundancy for U.S. companies."[17] Another advocated requiring disclosure of wool content only above a known

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[11] American Manufacturing Trade Action Coalition, American Sheep Industry Association, Cashmere and Camel Hair Manufacturers Institute, the National Council of Textile Organizations, and the National Textile Association (3).

[12] Varley (3), *available at* http://www.ftc.gov/os/comments/textilerulesanpr/index.shtm.

[13] AAFA (5), Anderson (6); Joint Comment (3).

[14] Joint Comment (3).

[15] *Id.*

[16] Miller (7).

[17] AAFA (5).

quantity, such as 3% or 5%, which "would bring the Wool Act closer in line with the Textile Fiber Products Identification Act requirements."[18] It also noted that doing so "would eliminate the need for declaring the wool content when we find wool in a decorative thread in a garment or . . . where the presence of wool is insignificant."[19]

B. Treatment of Particular Fibers

Several commenters focused on the Rules' treatment of particular fibers. One asked that the Rules cover yak fiber.[20] Similarly, as part of a proposal to standardize animal fiber names, the Joint Comment recommended defining wool to include fine animal fibers such as yak and guanaco.[21] The Joint Comment further asked that the Rules "provide for precise classification of fibers that have come into commercial use in recent years such as jangir."[22]

The Joint Comment also asked the Commission to clarify the labeling requirements for fiber from cashmere goats. In particular, it noted that the Act excludes "coarse" goat hair of a cashmere goat from the definition of "cashmere"[23] and recommended allowing such fiber to be labeled as "wool," "fur fiber," or "goat fiber."[24]

C. International Harmonization

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[18]Hargrave, Bureau Veritas (2).

[19]*Id.*

[20]Varley (Textiles, 3).

[21]Joint Comment (3) (proposing standardization regarding animal fiber names based on Annex I of the EU Regulation N. 1007/2011).

[22]*Id.*

[23]*See* 15 U.S.C. 68b(6).

[24]Joint Comment (3).

The comments from industry trade associations focused on harmonizing the Wool Rules with international labeling requirements. The AAFA noted that "lack of harmonization . . . forces products destined for multiple locations to contain a superfluous amount of information," which makes labeled clothing costly for manufacturers, and "confusing for consumers and uncomfortable to wear."[25]

The Joint Comment also endorsed harmonization, noting that the Conforming Act was "intended to conform U.S. labeling law for superfine wool to the International Wool Textile Organization (IWTO) Code of Practice." The Joint Comment thus recommended that the Rules: (1) reference the most recent version of the IWTO Code; (2) standardize animal fiber names to correspond to "actual use in the trade" as reflected in Annex I of the European Union Regulation N. 1007/2011; and (3) limit the use of "S" numbers to wool.[26] The Joint Comment, however, reported the lack of consensus in the trade regarding "how the S numbers apply in the case of blends" and suggested the Commission seek further comment and perhaps conduct an industry workshop.[27]

D. Testing

Two comments addressed testing issues. Slavitt noted that testing to determine fiber type is inherently subjective and that laboratory results for a product can vary for a number of reasons, especially for blended wool products containing multiple fiber types. This commenter explained that blended fabrics are difficult to test and that processing and dyeing can alter the fabric. It cited the results of a 2005 test conducted by the Cashmere and Camel Hair

[25]AAFA (5).

[26]Joint Comment (3).

[27]*Id.*

Manufacturer's Institute revealing that many laboratories misidentified fiber content. It noted that such imprecision has exposed manufacturers to "abusive" lawsuits.[28] The commenter thus advocated the Rules provide a user-fee funded label certification program in which importers and distributors of wool products would have the accuracy of their product labels certified by the FTC as compliant with the Wool Act, to establish a complete defense to false advertising claims under the Lanham Act as well as state law counterparts.[29] Slavitt also advocated that the Wool Rules permit labels to specify content at a disclosed point in time (*e.g.*, before dyeing).[30]

Another comment addressed testing to determine fiber diameter. Specifically, the Joint Comment suggested specifying ASTM D 2130 for determining wool fiber diameter, noting that it corresponds to ISO 137–projection microscope.[31]

III. PROPOSED AMENDMENTS

The record shows support for the Wool Rules from the textile industry and consumers. Among other things, these commenters stated the Rules benefit both businesses and consumers[32] and help consumers make informed purchasing decisions based on truthful information.[33] Indeed, no commenter opposed the Rules. There is no evidence that the Rules impose excessive costs on industry, including small businesses, or that the required disclosures are not important or material to consumers. On the basis of this record, the Commission concludes that a continuing

[28]Slavitt (4).

[29]Slavitt (4).

[30]*Id.*

[31]Joint Comment (3).

[32]AAFA (5), Joint Comment (3).

[33]AAFA (5), Anderson (6), Joint Comment (3).

need exists for the Wool Rules and that the public interest clearly requires retention of the Rules. Moreover, the Act directs the Commission to issue rules for the disclosure of information required by the Act.

Although the record supports retaining the Rules, it, along with the Commission's experience, supports modifying or clarifying a number of sections. In particular, the Wool Rules should reflect the Wool Act as amended in 2006 by the Conforming Act and align with the proposed amended Textile Rules.[34] Accordingly, the Commission proposes amending the Rules regarding fiber content disclosures, country-of-origin disclosures, and wool guaranties. In addition, as described below, the Wool Rules incorporate four provisions of the Textile Rules that the Commission has recently proposed amending, and thus would automatically incorporate any Textile Rules amendments the Commission adopts.

A. Fiber Content Disclosures

The Commission proposes the following amendments to the Rules' fiber content disclosure provisions: (1) incorporating the Wool Act's new definitions for cashmere and very fine wools; (2) clarifying § 300.20's descriptions of products containing virgin or new wool; and (3) revising §§ 300.8(d) and 300.24(b) to allow certain hang-tags disclosing fiber trademarks and performance even if they do not disclose the product's full fiber content.

1. Cashmere and Wool Products Made from Very Fine Wool

The Conforming Act amended the Wool Act by defining "cashmere" and wool products composed of very fine wool (*e.g.*, "super 80s"). The following proposed amendments conform the Wool Rules to the amended Wool Act.

a. Cashmere

[34] 78 FR 29263 (May 20, 2013).

The Wool Act now provides that a product "stamped, tagged, labeled, or otherwise identified as cashmere" is misbranded unless: (1) it is composed of fine (dehaired) undercoat fibers from a cashmere goat; (2) its fibers have an average diameter of no more than 19 microns; and (3) it contains no more than 3 percent cashmere fibers with average diameters that exceed 30 microns.[35] Accordingly, the Commission proposes incorporating the statutory definition of "cashmere" into § 300.19.[36]

Relatedly, the Joint Comment asked how to label fiber from the hair of the cashmere goat that no longer qualifies as "cashmere" under the amended Wool Act. The Joint Comment urged the Commission to allow the flexibility to label such fiber as "wool," "goat fiber," or "fur fiber." The Wool Act forecloses the Commission from allowing labels to describe fiber from a cashmere goat as anything other than "wool" or, in specified instances, "cashmere." The Act defines "wool" to include fiber from sheep, lambs, or angora or cashmere goats and provides that it may include fibers from camels, alpacas, llamas, and vicunas.[37] The Act further provides that fibers from the cashmere goat may be called "cashmere" only if they satisfy the three requirements outlined above.[38] The statute thus does not authorize the Commission to allow sellers to label fibers from cashmere goats that do not meet the definition of cashmere as "goat fiber," "fur fiber," or any other name besides "wool." Furthermore, such fibers cannot be labeled as "fur fiber" — consistent with the Act's definition of "wool," the term "fur fiber" is reserved for

[35]*See* 15 U.S.C. 68b(a)(6). The Act provides, however, that the average fiber diameter may be subject to a coefficient of variation around the mean that shall not exceed 24 percent. *Id*.

[36]The incorporated language would appear as new paragraph (a). The Commission also proposes redesignating the existing paragraphs (a) and (b) as paragraphs (b) and (c), respectively, with a conforming change to newly redesignated paragraph (b) to cross-reference the definition of "cashmere" in new paragraph (a).

[37]15 U.S.C. 68(b).

[38]15 U.S.C. 68b(a)(6).

fibers from animals other than the sheep, lamb, angora goat, cashmere goat, camel, alpaca, llama, and vicuna.[39] The Commission notes that nothing in the Act or the Rules would prohibit a label that properly discloses the product's wool content from also disclosing, in a non-deceptive manner, the type of animal that supplied the wool (*e.g.*, wool consisting of goat fiber).

b. Very Fine Wools

The Conforming Act defined the average diameter of fibers required when labeling "very fine wools." The Commission proposes to add a new § 300.20a to incorporate these definitions. Commenters raised additional issues regarding such wools, but the record provides an insufficient basis for proposing changes to the Rules or Act. Thus, the Commission seeks further comment.

(1) Proposed New § 300.20a

The Conforming Act provides that wool products described by certain terms (*e.g.*, "Super 80's" or "80's," "Super 90's" or "90's," "Super 100's" or "100's," "Super 110's" or "110's," "Super 120's" or "120's," "Super 130's" or "130's," *etc.*) are misbranded unless the wool fibers are of a certain fineness, defined in terms of the average diameter of the fiber. In essence, the amendment provides that any wool product described by one of these terms is misbranded unless the average diameter of the wool fiber is the number of microns specified in the Wool Act or finer.[40]

To make the Rules consistent with the amended Wool Act, the Commission proposes adding a new section, 300.20a, entitled "Labeling of very fine wool." This section would

[39] *See* 16 CFR 300.8(g).

[40] *See* 15 U.S.C. 68b(a)(5)(A)-(R).

provide that wool products described by certain terms are misbranded unless the wool fibers comport with the amended Wool Act.

(2) Standards and Deviations

The Conforming Act provides that, "in each such case, the average fiber diameter of such wool product may be subject to such standards or deviations as adopted by regulation by the Commission."[41] None of the commenters advocated that the Commission propose any such standards or deviations. Indeed, the Joint Comment noted that the Act already includes a tolerance for deviation because, for example, it defines "80's" as having an average fiber diameter of 19.75 microns even though the international wool trade understands "80's" to refer to an average diameter of 19.5 microns. Thus, the Joint Comment contended, the Rules should not provide any additional tolerance. Because none of the comments advocated setting any standards or deviations, the record does not support doing so.

(3) Incorporation of the International Wool Textile Organization Fabric Labeling Code of Practice

The Joint Comment suggested incorporating the most recent version of the Fabric Labeling Code of Practice of the International Wool Textile Organization ("IWTO") into the Rules and resolving any ambiguities in the Conforming Act. They argued that Congress intended to conform the United States labeling law for superfine wool to the Code of Practice, and that the latter has changed since the Conforming Act became law in 2006. After briefly describing the Code of Practice and the Joint Comment's reasons for incorporating it into the Wool Rules, the Commission explains why it declines to propose doing so.

[41] *See* 15 U.S.C. 68b(a)(5).

Unlike the Wool Act, the IWTO Code of Practice[42] distinguishes between "Pure Wool Fabrics" and "Wool Blend Fabrics" when using the word "Super." The Code of Practice provides that only Pure Wool Fabrics, which are made from pure new wool as well as wool blended with rare fibers (such as mohair, cashmere and alpaca) and silk, may be described by the word "Super."[43] By contrast, the Code of Practice states that Wool Blend Fabrics, which are other blended fabrics with wool content of at least 45%, can be described by the wool's "S" value (*e.g.*, "80's") but not by the word "Super."

The Joint Comment contended that the Code of Practice allows the use of "S" numbers to describe only the fineness of wool from sheep and lambs because other animal fibers with the same fineness may not have the same performance characteristics.[44] In addition, although the Code of Practice allows the use of "S" numbers, but not the word "Super," to describe Wool Blend Fabrics, the Joint Comment noted that the industry does not agree on how marketers should use "S" numbers to describe blends. Therefore, the Joint Comment recommended that the Commission conduct a thorough study of this issue, including opening an additional comment period and possibly a workshop, before amending the Rules to address the use of "S" numbers to describe blends.

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[42]The Joint Comment, filed with the Commission on March 26, 2012, did not include a copy of the Code of Practice or a link to the Code. The NPRM discusses the version of the IWTO Fabric Labeling Code of Practice printed from the Internet by Commission staff on May 23, 2012, available at http://www.ftc.gov/os/comments/woolanpr/130610woolcodepractice.pdf. The record does not indicate whether the version printed by Commission staff on May 23, 2012 is the same version of the Code as the one discussed in the Joint Comment.

[43]Such fabrics may include elasthane to give the fabric a stretch effect and up to 5% non-wool yarn for decoration.

[44]The Code of Practice does not appear to address this issue explicitly. In addressing the use of Super "S" descriptions for "Pure Wool Fabrics," the Code of Practice distinguishes between wool and "rare fibres (such as mohair, cashmere and alpaca)." The Act's definition of wool includes the hair of the Angora or Cashmere goat as well as the fibers from the hair of the camel, alpaca, llama, and vicuna. Thus, the Code of Practice appears to use the term "wool" more narrowly than does the Act.

Finally, the IWTO Code provides that the IWTO-8 (projection microscope) test method should be used to determine average fiber diameter.[45]

The Commission declines to conform the Rules to the current version of the IWTO Code of Practice for two reasons. First, the Commission lacks the legal authority to adopt many of the suggested amendments. The Conforming Act precisely defines the various categories of superfine wool fibers in wool products without distinguishing between "Pure Wool Fabrics" and "Wool Blend Fabrics" as defined in the Code of Practice. For example, the Act allows marketers to describe a wool product, which may include fibers other than wool, as "Super 80's" or "80's" where the diameter of the wool fiber averages 19.75 microns or finer, regardless of whether the fabric is "Pure Wool" or "Wool Blend." It does not prohibit the use of these terms to describe wool products containing non-wool fibers. Moreover, the Wool Act does not distinguish between wool from sheep and lambs and the other types of wool.[46] Thus, where the wool fiber of a product meets the "Super" or "S" criteria in the Act, the Commission lacks authority to prohibit, restrict, or require disclosures in connection with the use of "Super" or "S" numbers except where "misbranded."

Of course, the use of "Super" or "S" numbers to describe a wool product in a manner that deceives consumers regarding the product's fiber content could result in "misbranding" under the Wool Act, which provides that a wool product is misbranded if it is deceptively stamped, tagged, labeled, or otherwise identified.[47] The Rules require that non-required information on labels,

[45]Although the Code of Practice refers to the IWTO-8 test method and the Joint Comment stated that the Rules should conform to the Code of Practice, the Joint Comment also stated that ASTM D 2130 (corresponding to ISO 137 --- projection microscope) is the correct method for testing wool fiber. The record does not indicate whether and how the IWTO-8 test method differs from the ASTM D 2130 or ISO 137 tests.

[46]*See* 15 U.S.C. 68(b) (defining "wool" as fiber from the fleece of the sheep or lamb, hair of the Angora or Cashmere goat, and fibers from the hair of the camel, alpaca, llama, and vicuna).

[47]15 U.S.C. 68b(a)(1).

including "Super" or "S" numbers to indicate the fineness of the wool fibers in the wool product, "shall not minimize, detract from, or conflict with required information and shall not be false, deceptive, or misleading."[48] However, none of the commenters provided evidence regarding consumer understanding of the "Super" or "S" numbers. Thus, the Commission lacks any basis to propose amendments to restrict the use of "Super" or "S" numbers or to require disclosures to prevent consumer deception. The Commission seeks comment on whether and how wool products are being deceptively marketed using the "Super" or "S" numbers, and on the most effective way to amend the Rules to address any such deception, if it exists.

The Commission also declines to propose requiring the use of IWTO-8 (projection microscope) or any other test method to measure the diameter of wool fibers. The record does not provide any information about the IWTO test method, let alone whether it is the only suitable test. Nor does the record provide evidence on how requiring a single test would impact competition and innovation. Under the FTC Act, marketers may substantiate their fiber diameter claims using any method that is competent and reliable.[49]

Finally, the Commission declines to propose amendments addressing wool fibers of differing fineness used in the warp and filling yarns of a fabric.[50] Specifically, the Joint Comment urged the Commission to propose that the diameter of the fibers be averaged to determine the fineness. The record does not include any evidence, however, regarding consumer

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[48]16 CFR 300.10(b).

[49]*See* "FTC Policy Statement Regarding Advertising Substantiation," appended to *Thompson Medical Co.*, 104 F.T.C. 648, 839 (1984), *aff'd*, 791 F.2d 189 (D.C. Cir. 1986), *cert. denied*, 479 U.S. 1086 (1987), available at http://www.ftc.gov/bcp/guides/ad3subst.htm.

[50]In fabric the warp yarns run vertically or lengthwise, while the weft or filling yarns run horizontally or crosswise.

understanding of "Super" or "S" numbers in this context. Therefore, the Commission lacks any basis to propose the recommended amendments.

The Commission, however, seeks comment on consumer perception of "Super" or "S" numbers in these circumstances, and whether the Rules should address this issue. Moreover, the Commission notes that, although neither the Act nor the Rules require marketers to disclose the fineness of the wool fibers in wool products, they do prohibit using "Super" or "S" numbers on labels in a deceptive manner.

2. Clarification of § 300.20 on "Virgin" or "New" Wool

Section 300.20 states that the terms "virgin" or "new" should not be used to describe a product or any fiber or part thereof when the product or part so described is not wholly virgin or new. Although this section governs descriptions of any "product, or any *fiber* or part thereof," (emphasis added), it expressly allows the use of the terms "virgin" or "new" only in connection with "the product or part so described," not the "fiber."[51] In other words, this provision could be interpreted to prohibit truthful fiber-content claims for virgin or new fiber.

Prohibiting such truthful claims does not advance the goals of the Wool Act or protect consumers from deception, and prohibiting such claims was not the Commission's intent when it promulgated this provision. Although none of the commenters urged the Commission to clarify this section, informal inquiries received by the Commission staff suggest the need to do so. In addition, the Commission has proposed a similar clarification to § 303.35 of the Textile Rules. Ensuring the consistency of the two provisions likely would minimize confusion and reduce compliance costs.[52] Accordingly, the Commission proposes to amend § 300.20 by adding the

[51]For example, a product or part containing 50% new wool fibers could not be described as containing 50% "new" wool fibers because the product or part is not composed wholly of such fibers.

[52]78 FR at 29268.

word “fiber” as set forth in section IX below so that this section states that the terms virgin or new shall not be used when the product, fiber or part so described is not composed wholly of new or virgin fiber.

3. Disclosure Requirements Applicable To Hang-Tags

The Commission proposes to allow certain hang-tags with fiber trademarks and performance information, even if they do not disclose the product’s full fiber content. Section 300.8(d), like § 303.17(b) of the Textile Rules, requires that a label disclose full fiber content for a product if a fiber’s generic name or fiber trademark appears. In particular, § 300.8(d) provides that where a generic name or a fiber trademark is used on any label, the label shall make a full fiber content disclosure with percentages.[53]

As demonstrated by the Textile review record, there are two reasons why the Rules should not require a full fiber content disclosure on a product hang-tag that uses a fiber trademark.[54] First, requiring fiber percentages on hang-tags is redundant because the Rules mandate this information on the required textile label. Second, the requirement would likely impede the flow of truthful information to consumers. Fiber manufacturers who create hang-tags that provide important information about the performance characteristics of their fibers may not know the final composition of the fabric or wool product made with their fibers because the final composition is determined by fabric manufacturers or apparel assemblers. In such instances, the disclosure requirement could prevent manufacturers from providing useful information to consumers.

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[53]Similarly, § 300.24(b) provides that, where a word, coined word, symbol or depiction which connotes or implies the presence of a fiber is used on any label, the label shall make a full a fiber content disclosure with percentages.

[54]78 FR at 29267-29268.

The Commission notes, however, that consumers may mistakenly believe that the hang-tag provides full fiber content information. To address this concern, the Commission also proposes amending §§ 300.8(d) and 300.24(b) as set forth in section IX below to provide that hang-tags stating a fiber trademark or implying a fiber's presence without disclosing the product's full fiber content must disclose clearly and conspicuously that the hang-tag does not provide the product's full fiber content. The Commission seeks comment on this proposal, as well as on the most effective way to disclose that a hang-tag omits a product's full fiber content.

B. Additional Proposed Amendments to Align Wool and Textile Rules

The Commission also proposes amending the Wool Rules to conform the country of origin disclosures, provisions discussing "invoice or other paper," and continuing guaranties to those of the proposed amended Textile Rules. Again, aligning the two Rules will serve the public interest by reducing compliance burdens and making fiber content disclosures more consistent. The Commission seeks comments on whether there is any reason not to do so.

Finally, as discussed below, the Wool Rules incorporate two provisions of the Textile Rules that the Commission has recently proposed to amend. If finalized, these amendments will automatically change the provisions of the Wool Rules that incorporate the amended Textile Rules provisions.

1. Country-of-Origin Disclosures

Section 300.25 effectuates the Wool Act's requirement that wool products have labels disclosing the country where they were processed or manufactured. This provision is essentially identical to § 303.33 of the Textile Rules. Both sections provide sample label disclosures for products completely made in the United States, products made in the United States using imported materials, and products partially manufactured in a foreign country and partially

manufactured in the United States. To promote consistency with proposed changes to the Textile Rules, the Commission proposes to update § 300.25(d) to state that an imported product's country of origin as determined under the laws and regulations enforced by U.S. Customs and Border Protection ("Customs") shall be the country where the product was processed or manufactured. The Commission also proposes to update § 300.25(f) by removing the outdated reference to the Treasury Department and instead referencing any Tariff Act and the regulations promulgated thereunder.

These changes will also reduce potential conflict with the very detailed rules of origin in Customs law.[55] Customs law has changed since the Commission issued the Textile Rules, and the proposed amendment reflects this change.

Aside from issues relating to the determination of where an imported product was manufactured or processed, the Commission notes that, under some circumstances, the Act and the Rules require disclosures in addition to, but not in conflict with, those required by Customs. For example, if an imported product is partially manufactured in the United States, § 300.25(a)(4) requires the label to disclose the manufacturing process in the foreign country and in the United States.[56]

2. Invoice or Other Paper

The Commission proposes revising three sections of the Rules relating to the definition of "invoice or other paper" and the guaranty provisions that reference this term ─ 300.1(j), 300.32(a), and 300.33(c) ─ to conform to the proposed amended Textile Rules. The changes would clarify the Rules' application to electronic as well as paper documents. Furthermore, the

[55] *See* 19 U.S.C. § 3592 and 78 FR at 29268-29269.

[56] This provision lists several examples of such disclosures, such as "Made in [foreign country], finished in USA."

Commission's proposed amendments to the Textile Rules pertaining to guaranties and documents transmitted and preserved electronically affect the Wool Rules because the Wool Rules incorporate those sections by reference.

The Commission proposes amending the definition of "invoice or other paper" in Wool Rules § 300.1(j) by changing it to "invoice or other document." The Commission also proposes amending §§ 300.32(a) and 300.33(c), which relate to guaranties, to replace "invoice or other paper" with "invoice or other document" where these terms appear. These amendments would clarify the fact that the Rules apply to electronic as well as paper documents. Finally, § 300.1(j), which defines the above terms, currently incorporates the definition in § 303.1(h) of the Textile Rules and would continue to do so. The Commission has proposed amending the definition in Textile Rules § 303.1(h) to clarify that invoices and other documents may be preserved electronically. Specifically, the Commission proposed replacing the word "paper" with the word "document" in the defined terms "invoice" and "invoice or other document."[57] It also proposed revising the definition of these terms to clarify that they include documents capable of being accurately reproduced for later reference, whether in electronic or paper form.[58] The Commission seeks comment on other ways it could amend the Rules to better address electronic commerce subject to the Wool Act.

3. Continuing Guaranties

Consistent with its proposed amendments to the Textile Rules, the Commission proposes modifying § 300.33(a)(3) to address continuing guaranties.[59] Specifically, the Commission

[57]Section 303.1(h).

[58]*See* 78 FR at 29269-29270.

[59]In addition, § 300.33(b) states that the continuing guaranty form is found in § 303.38(b) of the Textile Rules.

proposed modifying the Textile Rules form (FTC Form 31-A) referenced by this section by replacing the requirement that filers sign under penalty of perjury with a certification requirement and by providing that such guaranties continue in effect for one year unless revoked earlier.[60]

The Wool Act provides that a business can avoid liability for selling a misbranded wool product if it in good faith receives a guaranty from a domestic supplier that the product is not misbranded.[61] One form of such guaranty is a continuing guaranty. These guaranties are set forth in a form filed with the Commission stating that the supplier guarantees that none of the wool products it handles are misbranded under the Wool Act and Rules. Like § 303.38(a)(2) of the Textile Rules, § 300.33(a)(3) of the Wool Rules provides that guaranties filed with the Commission continue in effect until revoked. The Commission has proposed amending § 303.38(b) of the Textile Rules to modify the continuing guaranty form set forth therein by replacing the requirement that sellers sign it under penalty of perjury with a requirement that they certify that they will actively monitor and ensure compliance with the applicable Act and Rules (the Textile, Wool, and/or Fur Acts). The Commission also has proposed modifying the provision so that the guaranty continues in effect for one year unless revoked earlier.[62] Because § 300.33(b) of the Wool Rules incorporates this form, adoption of this proposed amendment to the Textile Rules would effectively revise the Wool Rules without further Commission action.

The Commission proposes to eliminate the penalty-of-perjury requirement because swearing to future events is problematic and may present enforcement issues. In addition, the

[60]Thus, the proposed modification of the form also would revise the Wool Rules by incorporation.

[61]15 U.S.C. 68g provides that a person relying on a guaranty, received in good faith, that a product is not misbranded from a guarantor residing in the United States will not be liable under the Act.

[62]78 FR at 29270-29271.

Commission recognizes that many people who intend to comply with the Rules may be understandably reluctant to swear to a future event. However, continuing guaranties must provide sufficient indicia of reliability to permit buyers to rely on them on an ongoing basis. The perjury language was included to address this concern.

To address these concerns, the Commission proposes replacing the perjury language with a certification requirement. The Commission proposes requiring guarantors to acknowledge that providing a false guaranty is unlawful, and to certify that they will actively monitor and ensure compliance with the applicable law. This requirement should focus guarantors' attention on and underscore their obligation to comply, thereby increasing a guaranty's reliability. However, it would not impose additional burdens on guarantors because they would simply be acknowledging the statutory prohibition against false guaranties[63] and certifying to the monitoring in which they already must engage to ensure that they do not provide false guaranties. In addition, the required statements would benefit recipients of guaranties by bolstering the basis of their good-faith reliance on the guaranties. Finally, the acknowledgement and certification may facilitate enforcement action against those who provide false guaranties.

To further ensure the reliability of continuing guaranties, the Commission also proposes requiring them to be renewed annually by providing that they continue in effect for one year unless revoked earlier. Annual renewal should encourage guarantors to take regular steps to ensure that they remain in compliance with the Act and Rules over time and thereby increase the guaranties' reliability. This requirement would not likely impose significant costs because it

[63] The Textile Act provides that furnishing a false guaranty is unlawful, an unfair method of competition, and an unfair and deceptive act or practice under the FTC Act. 15 U.S.C. 70h(b). The Wool Act includes a similar provision. 15 U.S.C. 68g(b).

involves the sending of a relatively simple one-page form containing information very similar, if not identical, to that provided on the guarantor's last continuing guaranty form.

As noted above, to implement the new certification requirement, the Commission proposed revising FTC Form 31-A set forth in Textile Rules **§** 303.38(b) by including a certification applicable to Wool Act guaranties.[64] The Commission also proposed revising the form to include similar certifications for products subject to the Textile Act and the Fur Products Labeling Act.[65] Section 300.33(b) of the Wool Rules would continue to incorporate **§** 303.38(b) as amended. The Commission also proposes amending § 300.33(a)(3) to provide that these guaranties continue in effect for one year unless revoked earlier.

The Commission seeks comment on these proposals, including on whether the guaranties should expire and, if so, whether suppliers should have to renew them annually or at some other interval, and the wording of the above certification.[66]

4. Other Proposed Amendments to Textile Rules Incorporated by the Wool Rules

[64]The certification would provide: Under the Wool Products Labeling Act (15 U.S.C. §§ 68-68j): The company named above, which manufactures, markets, or handles wool products: (1) guarantees that any wool product it sells, ships, or delivers will not be misbranded; (2) acknowledges that furnishing a false guaranty is an unlawful unfair and deceptive act or practice pursuant to the Federal Trade Commission Act; and (3) certifies that it will actively monitor and ensure compliance with the Wool Products Labeling Act and rules and regulations issued under the Act during the duration of the guaranty." 78 FR at 29278.

[65]15 U.S.C. 69-69k.

[66]Based on its enforcement experience, the Commission finds it in the public interest to provide protections for retailers that: (1) cannot legally obtain a guaranty under the Act; (2) do not embellish or misrepresent claims provided by the manufacturer related to the Act or Rules; and (3) do not market the products as private label products; unless the retailers knew or should have known that the marketing or sale of the products would violate the Act or Rules. Such protections provide greater consistency for retailers regardless of whether they directly import products or use third-party domestic importers. Accordingly, on January 3, 2013, the Commission announced an enforcement policy statement providing that it will not bring enforcement actions against retailers that meet the above criteria. *See* Enforcement Policy Regarding Certain Imported Textile, Wool, and Fur Products, available at http://www.ftc.gov/opa/2013/01/eps.shtm.

The Commission has proposed amending two other provisions of the Textile Rules that the Wool Rules incorporate: § 303.7, which addresses generic names of manufactured fibers; and **§** 303.12, which addresses trimmings.[67]

Section 300.8(b) of the Wool Rules incorporates by reference the generic names and definitions for manufactured fibers in § 303.7 of the Textile Rules, including the names and definitions in the International Organization for Standardization ("ISO") standard titled ''Textiles—Man-made fibres—Generic names,'' 2076:1999(E). Since incorporating this standard in 2000, the ISO standard has been updated and is now identified as ISO 2076: 2010(E).

Based on the record in the Textile Rules regulatory review, the Commission proposed to amend **§** 303.7 to incorporate the revised ISO standard.[68] If the Commission does so, the change will apply to the Wool Rules automatically.

In addition, **§** 300.1(k), the definition of trimmings, incorporates Textile Rules **§** 303.12. The Commission has proposed clarifying **§** 303.12 in ways that would not appear to impact the Wool Rules because the Wool Act does not exempt trimmings from its disclosure requirements.

IV. AMENDMENTS THE COMMISSION DECLINES TO PROPOSE

A. Fiber Standardization Proposals

The Joint Comment, noting that Annex I of the EU Regulation N. 1007/2011 defines wool to include fiber from animals such as yak and guanaco not mentioned in the Wool Act, proposed including fiber from these animals in the definition of wool. [69] In addition, it explained that the "Rules do not now adequately provide for precise classification of fibers that have come

[67] *See* 78 FR at 29265-29267.

[68] *See* 78 FR at 29265-29266.

[69] Joint Comment (3). Another commenter similarly advocated amending the Rules to define yak fiber as wool. Varley (Textiles, 3).

into commercial use in recent years such as jangir."[70]

The Commission cannot amend the Rules to define yak, guanaco, jangir, or other fibers as wool. The Wool Act defines wool, and the Commission lacks authority to expand the Act's definition.[71]

B. Testing Methods and Label Certification

Two commenters suggested that the Commission either amend the Rules to specify test methods for identifying or measuring fibers or create a label certification program. For example, one proposed a user-fee funded "label certification program [that] would allow an importer or distributor of a wool product to establish the accuracy of its product labels either by the submission of fiber testing or by other means, such as through the submission of supply-chain documentation, sufficient to establish the fiber contents of the wool product and the accuracy of the label."[72]

The Commission declines to propose requiring a specific testing methodology for identifying fiber or measuring fiber diameter. As noted above, the record contains no credible evidence that the failure to specify the use of certain testing methods has resulted in deception or confusion. Moreover, the Commission's establishment of testing methods could impede competition and innovation by foreclosing the market from choosing the most effective or efficient testing methods available. Similarly, the record does not indicate that the benefits of a

[70]Joint Comment (3).

[71]15 U.S.C. 68(b) (The term "wool" means the fiber from the fleece of the sheep or lamb, hair of the Angora or Cashmere goat, and fibers from the hair of the camel, alpaca, llama, and vicuna).

[72]Slavitt (4); *see also* Joint Comment (recommending that the Rules "give precise indications as far as testing methods to assure conformity with the 2006 amendments" and stating that ASTM D 2130 (corresponding to ISO 137 — projection microscope) is the correct method).

label certification program would exceed the costs.

C. Other Suggested Changes

The Commission declines to propose modifying the Rules to create a *de minimis* wool content exception or change the Rules' treatment of language requirements.

Regarding the proposed *de minimis* wool content exception,[73] the Wool Act requires that labels disclose the wool content of any product that contains *any* wool.[74] Thus, the Act prevents the Commission from exempting products that contain even *de minimis* quantities of wool.

Another commenter suggested amending the Wool Act to facilitate multi-lingual labeling, but did not propose specific amendments to accomplish this goal.[75] Because only Congress has authority to amend a statute, the Commission interpreted this commenter as suggesting modifying the Wool Rules to facilitate such labeling. The Commission declines to propose amending the Rules to address this issue. As the commenter notes, the industry already has the option of using multi-lingual labels. The record provides no evidence that the Rules have impeded or discouraged the use of such labels. Furthermore, adoption of specific standards for voluntary disclosure of information in multiple languages might prevent firms from adjusting efficiently to new methods of labeling that could impede multi-lingual labels. For example, a specified format that takes up more space on a label than alternative formats could discourage marketers from disclosing fiber content in multiple languages. The Commission, however, will

[73]One commenter suggested that "[r]ather than the current requirement of having to declare even the slightest amount of wool if present, the verbiage could be changed to specify a known quantity such as 3% or 5%. That would eliminate the need for declaring the wool content when we find wool in a decorative thread in a garment or similar, where the presence of wool is insignificant." Hargrave, Bureau Veritas (2).

[74]15 U.S.C. 68(d) (The term "wool product" means any product which contains, purports to contain, or in any way is represented as containing wool or recycled wool).

[75]Miller (7).

continue to ensure that its educational materials regarding the Act and Rules stress the benefits of such labeling and, where possible, suggest ways of making multi-language disclosures in a non-deceptive manner.

V. 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 November 25, 2013**.** 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 does not 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 does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, do not include any "[t]rade secret or any commercial or financial information which is . . . privileged or confidential," as discussed in **§** 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, do not 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 have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[76] 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/woolrulesnprm, by following the instruction on the web-based form. If this Notice appears at http://www.regulations.gov, 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 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 November 25, 2013. 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.

The Commission invites members of the public to comment on any issues or concerns

[76] 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).

they believe are relevant or appropriate to the Commission's consideration of proposed amendments to the Textile Rules. The Commission requests that comments provide the factual data upon which they are based. In addition to the issues raised above, the Commission solicits public comment on the costs and benefits to industry members and consumers of each of the proposals as well as the specific questions identified below. These questions are designed to assist the public and should not be construed as a limitation on the issues on which public comment may be submitted.

Questions

1. General Questions on Amendments: To maximize the benefits and minimize the costs for buyers and sellers (including specifically small businesses), the Commission seeks views and data on the following general questions for each of the proposed changes described in this notice:

(A) What benefits would each proposed change confer and on whom? The Commission in particular seeks any information on the benefits each change would confer on consumers of wool products.

(B) What costs or burdens would each proposed change impose and on whom? The Commission in particular seeks any information on any burden each change would impose on small businesses.

(C) What regulatory alternatives to the proposed changes are available that would reduce the burdens of the proposed changes while providing the same benefits?

(D) What evidence supports your answers?

2. "Super" and "S" numbers:

(A) To what extent do labels use “Super” or “S” numbers to describe wool products containing very fine wool?

(B) How do consumers interpret “Super” and “S” numbers?

(C) Should the Commission amend the Rules to address labeling using the “Super” and “S” numbers to describe wool products containing very fine wool? If so, why and how? If not, why?

(D) What evidence supports your answers?

3. Hang-tags and Fiber Content Disclosures:

(A) Would the proposed amendments to **§§** 300.8 and 300.24 allowing hang-tags without full fiber content disclosures under certain circumstances affect the extent to which consumers are informed about the full fiber content of wool products? If so, how?

(B) Would the proposed disclosure (*i.e.*, “This tag does not disclose the product’s full fiber content” or “See label for the product’s full fiber content”) prevent deception or confusion regarding fiber content? If so, how? If not, why not? Should the Commission provide different or additional examples of the required hang-tag disclosures? If so, what?

(C) What evidence supports your answers?

4. Electronic Transmittal and Guaranties:

(A) Do the Wool Rules and the proposed changes to the guaranty provisions in **§§** 300.32 and 300.33 provide sufficient flexibility for compliance using electronic transmittal of guaranties? If so, why and how? If not, why not?

(B) Should the Commission adopt a certification requirement for continuing guaranties filed with the Commission pursuant to **§** 300.33? If so, why and how? If not, why not?

(C) Should the Rules require guarantors providing a continuing guaranty to renew the certification annually or at some other interval? If so, why? If not, why not? To what extent would requiring guarantors to renew certifications annually increase costs?

(D) What evidence supports your answers?

5. Conformity to the Textile Rules:

(A) Are there any differences between wool products and other textile fiber products suggesting that the Commission should not conform the Wool Rules to the Textile Rules as proposed?

(B) Are there any differences between wool products and other textile fiber products suggesting that the Commission should amend provisions of the Wool Rules incorporating provisions of the Textile Rules so that the Commission's proposed amendments to the Textile Rules do not modify these provisions of Wool Rules?

(C) What evidence supports your answers?

VI. 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.[77]

VII. REGULATORY FLEXIBILITY ACT

The Regulatory Flexibility Act ("RFA")[78] requires that the Commission conduct an analysis of the anticipated economic impact of the proposed amendments on small entities. The

[77] *See* CFR 1.26(b)(5).
[78] 5 U.S.C. 601-612

purpose of a regulatory flexibility analysis is to ensure that an agency considers the impacts on small entities and examines regulatory alternatives that could achieve the regulatory purpose while minimizing burdens on small entities. Section 605 of the RFA[79] provides that such an analysis is not required if the agency head certifies that the regulatory action will not have a significant economic impact on a substantial number of small entities.

The Commission believes that the proposed amendments would not have a significant or disproportionate economic impact upon small entities that manufacture or import wool products, including their compliance costs, although it may affect a substantial number of small businesses. The Commission proposes a few limited amendments designed to conform the Rules to the Wool Act as amended by the Conforming Act, clarify the Rule, provide more options for disclosing fiber trademarks and performance information on hang-tags, and update the Rules' guaranty provisions. 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 amendments 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 Initial Regulatory Flexibility Analysis to inquire into the impact of the proposed amendments on small entities. Therefore, the Commission has prepared the following analysis:

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[79] 5 U.S.C. 605.

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

In response to public comments, the Commission proposes amending the Rules to conform them to the Wool Act as amended by the Conforming Act and to respond to changed commercial practices.

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

The objective of the proposed amendments is to conform them to the Wool Act as amended by the Conforming Act; clarify the Rules; allow manufacturers and importers to disclose fiber trademarks and information about fiber performance on certain hang-tags affixed to wool products without including the product's full fiber content information on the hang-tag; and clarify and update the Rules' guaranty provisions. The Wool Act authorizes the Commission to implement its requirements through the issuance of rules.

C. Small Entities to Which the Proposed Amendments Will Apply

The Rules apply to various segments of the wool product industry, including manufacturers and wholesalers of wool products. Under the Small Business Size Standards issued by the Small Business Administration, wool 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 8,000 wool product manufacturers and importers are covered by the Rules' disclosure requirements.[80] A substantial number of these entities likely qualify as small businesses. The Commission estimates that the proposed amendments will not have a significant impact on small businesses because they have

[80] *Federal Trade Commission: Agency Information Collection Activities; Proposed Collection; Comment Request*, 76 FR 77230 (Dec. 12, 2011).

an existing obligation to comply with statutory labeling requirements, and the proposed amendments provide covered entities with additional labeling options without imposing significant new burdens or additional costs. For example, businesses that prefer not to affix a hang-tag disclosing a fiber trademark without disclosing the product's full fiber content need not do so. There is also no evidence that the proposal to make continuing guaranty certifications expire after one year would significantly burden businesses that choose to provide a guaranty. Providing a new continuing guaranty each year would likely entail minimal additional costs, especially if the business provides the guaranty electronically or as part of a paper invoice that it would have sent to the buyer in any event. In addition, the new guaranty would consist of a relatively simple one-page form including information very similar, if not identical, to that provided on the guarantor's last continuing guaranty form. Moreover, the change from "invoice or other paper" to "invoice or other document" makes that requirement format-neutral and gives covered entities, including small businesses, more flexibility in terms of compliance.

The Commission seeks comment and information with regard to the estimated number or nature of small business entities for which the proposed amendments would have a significant impact.

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

The small entities potentially covered by the proposed amendments will include all such entities subject to the Rules. The professional skills necessary for compliance with the Rules as modified by the proposed amendments would include office and administrative support

supervisors to determine label content and clerical personnel to draft and obtain labels and keep records. The Commission invites comment and information on these issues.

E. Duplicative, Overlapping, or Conflicting Federal Rules

The Commission has not identified any other federal statutes, rules, or policies that would duplicate, overlap, or conflict with the proposed amendments. The Commission notes that any failure to conform the Wool Rules to the Textile Rules would likely create compliance problems for businesses because their obligations could vary significantly depending on whether a product contains as little as one wool fiber. The Commission invites comment and information on this issue.

F. Significant Alternatives to the Proposed Amendments

The Commission has not proposed any specific small entity exemption or other significant alternatives, as the proposed amendments simply conform the Rules to the Wool Act as amended by the Conforming Act; clarify the Rules; allow manufacturers and importers to disclose fiber trademarks and information about fiber performance on certain hang-tags affixed to wool products without including the product's full fiber content information on the hang-tag; and clarify and update the Rules' guaranty provisions by, among other things, replacing the requirement that suppliers providing a guaranty sign under penalty of perjury with a certification requirement that must be renewed every year. Under these limited circumstances, the Commission does not believe a special exemption for small entities or significant compliance alternatives are necessary or appropriate to minimize the compliance burden, if any, on small entities while achieving the intended purposes of the proposed amendments.

Nonetheless, the Commission seeks comment and information on the need, if any, for alternative compliance methods that would reduce the economic impact of the Rules on small entities. If the comments filed in response to this NPRM identify small entities that would be

affected by the proposed amendments, as well as alternative methods of compliance that would reduce the economic impact of the proposed amendments on such entities, the Commission will consider the feasibility of such alternatives and determine whether they should be incorporated into the final Rules. As explained above, the Commission considered a number of alternative amendments advocated by commenters and decided not to propose them.

VIII. PAPERWORK REDUCTION ACT

The Rules contain various "collection of information" (*e.g.*, disclosure and recordkeeping) requirements for which the Commission has obtained OMB clearance under the Paperwork Reduction Act ("PRA").[81] As discussed above, the Commission proposes: (a) conforming the Rules to the Wool Act as amended by the Conforming Act by revising § 300.19 and adding § 300.20a; (b) clarifying the Rules, including §§ 300.1(j), 300.20, 300.25(d) and (f), 300.32(a), and 300.33(c); (c) amending §§ 300.8(d) and 300.24(b) to allow manufacturers and importers to disclose fiber generic names and trademarks and information about fiber performance on certain hang-tags affixed to wool products without including the product's full fiber content information on the hang-tag; and (d) amending § 300.33(a)(3) to provide that continuing guaranties filed with the Commission expire after one year.

These proposed amendments do not impose any significant additional collection of information requirements. For example, amending the Rules to conform to the Wool Act, as amended by the Conforming Act, would not impose any new requirements because businesses already must comply with the Wool Act. Businesses that prefer not to affix a hang-tag disclosing a fiber name or trademark without disclosing the product's full fiber content need not do so. The proposal that continuing guaranty certifications expire after one year would likely

[81] 44 U.S.C. 3501 *et seq*. On March 26, 2012, OMB granted clearance through March 31, 2015, for these requirements and the associated PRA burden estimates. The OMB control number is 3084-0100.

impose minimal additional costs on businesses that choose to provide a guaranty. Providing a new continuing guaranty each year would likely entail minimal costs, especially if the business provides the guaranty electronically or as part of a paper invoice that it would have sent to the buyer in any event.

IX. PROPOSED RULE LANGUAGE

List of Subjects in 16 CFR Part 300

Labeling, Trade practices, Wool Products Labeling Act

For the reasons set forth above, the Commission amends 16 CFR Part 300 as follows:

PART 300–RULES AND REGULATIONS UNDER THE WOOL PRODUCTS LABELING ACT OF 1939

1. Revise the Authority citation for Part 300 to read as follows:

Authority: 15 U.S.C. 68-68j

2. Amend § 300.1 by revising paragraphs (a) and (j) to read as follows:

§ 300.1 Terms defined.

(a) The term Act means the Wool Products Labeling Act of 1939, 15 U.S.C. **§** 68 *et seq*., as amended by Pub. L. 96-242, 94 Stat. 344, and Pub. L. 109-428, 120 Stat. 2913.

* * * * *

(j) The terms *invoice* and *invoice or other document* have the meaning set forth in § 303.1(h) of this chapter.

* * * * *

3. Amend § 300.8 by revising paragraph (d) to read as follows:

§ 300.8 Use of fiber trademark and generic names.

* * * * *

(d) Where a generic name or a fiber trademark is used on any label, whether required or non-required, a full fiber content disclosure with percentages shall be made in accordance with the Act and regulations. Where a generic name or a fiber trademark is used on any hang-tag attached to a wool product that has a label providing required information and the hang-tag provides non-required information, such as a hang-tag stating only a generic fiber name or trademark or providing information about a particular fiber's characteristics, the hang-tag need not provide a full fiber content disclosure; however, if the wool product contains any fiber other than the fiber identified by the generic fiber name or trademark, the hang-tag must disclose clearly and conspicuously that it does not provide the product's full fiber content; for example:

"This tag does not disclose the product's full fiber content."

or

"See label for the product's full fiber content."

* * * * *

4. Revise § 300.19 to read as follows:

§ 300.19 Use of terms "mohair" and "cashmere."

(a) In setting forth the required fiber content of a wool product, the term "cashmere" may be used for such fiber content only if: (1) such fiber consists of the fine (dehaired) undercoat fibers produced by a cashmere goat (capra hircus laniger); (2) the average diameter of such cashmere fiber does not exceed 19 microns; and (3) the cashmere fibers in such wool product contain no more than 3 percent (by weight) of cashmere fibers with average diameters that exceed 30

microns. The average fiber diameter may be subject to a coefficient of variation around the mean that shall not exceed 24 percent.

(b) In setting forth the required fiber content of a product containing hair of the Angora goat known as mohair or containing cashmere (as defined in paragraph (a) of this section), the term "mohair" or "cashmere," respectively, may be used for such fiber in lieu of the word "wool," provided the respective percentage of each such fiber designated as "mohair" or "cashmere" is given, and provided further that such term "mohair" or "cashmere" where used is qualified by the word "recycled" when the fiber referred to is "recycled wool" as defined in the Act. The following are examples of fiber content designations permitted under this rule:

50% mohair-50% wool

60% recycled mohair-40% cashmere

60% cotton-40% recycled cashmere

(c) Where an election is made to use the term "mohair" or "cashmere" in lieu of the term "wool" as permitted by this section, the appropriate designation of "mohair" or "cashmere" shall be used at any time reference is made to such fiber in either required or nonrequired information. The term "mohair" or "cashmere" or any words, coined words, symbols or depictions connoting or implying the presence of such fibers shall not be used in non-required information on the required label or on any secondary or auxiliary label attached to the wool product if the term "mohair" or "cashmere" as the case may be does not appear in the required fiber content disclosure.

* * * * *

5. Revise § 300.20 to read as follows:

§ 300.20 Use of the terms "virgin" or "new."

The terms “virgin” or “new” as descriptive of a wool product, or any fiber or part thereof, shall not be used when the product, fiber or part so described is not composed wholly of new or virgin fiber which has never been reclaimed from any spun, woven, knitted, felted, braided, bonded, or otherwise manufactured or used product.

* * * * *

6. Add a new § 300.20a to read as follows:

§ 300.20a Labeling of very fine wool.

A wool product stamped, tagged, labeled, or otherwise identified in the manner described below is mislabeled:

(a) “Super 80’s” or “80’s,” if the average diameter of wool fiber of such wool product does not average 19.75 microns or finer;

(b) “Super 90’s” or “90’s,” if the average diameter of wool fiber of such wool product does not average 19.25 microns or finer;

(c) “Super 100’s” or “100’s,” if the average diameter of wool fiber of such wool product does not average 18.75 microns or finer;

(d) “Super 110’s” or “110’s,” if the average diameter of wool fiber of such wool product does not average 18.25 microns or finer;

(e) “Super 120’s” or “120’s,” if the average diameter of wool fiber of such wool product does not average 17.75 microns or finer;

(f) “Super 130’s” or “130’s,” if the average diameter of wool fiber of such wool product does not average 17.25 microns or finer;

(g) “Super 140’s” or “140’s,” if the average diameter of wool fiber of such wool product does not average 16.75 microns or finer;

(h) “Super 150’s” or “150’s,” if the average diameter of wool fiber of such wool product does not average 16.25 microns or finer;

(i) “Super 160’s” or “160’s,” if the average diameter of wool fiber of such wool product does not average 15.75 microns or finer;

(j) “Super 170’s” or “170’s,” if the average diameter of wool fiber of such wool product does not average 15.25 microns or finer;

(k) “Super 180’s” or “180’s,” if the average diameter of wool fiber of such wool product does not average 14.75 microns or finer;

(*l*) “Super 190’s” or “190’s,” if the average diameter of wool fiber of such wool product does not average 14.25 microns or finer;

(m) “Super 200’s” or “200’s,” if the average diameter of wool fiber of such wool product does not average 13.75 microns or finer;

(n) “Super 210’s” or “210’s,” if the average diameter of wool fiber of such wool product does not average 13.25 microns or finer;

(*o*) “Super 220’s” or “220’s,” if the average diameter of wool fiber of such wool product does not average 12.75 microns or finer;

(p) “Super 230’s” or “230’s,” if the average diameter of wool fiber of such wool product does not average 12.25 microns or finer;

(q) “Super 240’s” or “240’s,” if the average diameter of wool fiber of such wool product does not average 11.75 microns or finer; and

(r) “Super 250’s” or “250’s,” if the average diameter of wool fiber of such wool product does not average 11.25 microns or finer.

* * * * *

7. Amend § 300.24 by revising paragraph (b) to read as follows:

§ 300.24 Representations as to fiber content.

* * * * *

(b) Where a word, coined word, symbol, or depiction which connotes or implies the presence of a fiber is used on any label, whether required or non-required, a full fiber content disclosure with percentages shall be made on such label in accordance with the Act and regulations. Where a word, coined word, symbol, or depiction which connotes or implies the presence of a fiber is used on any hang-tag attached to a wool product that has a label providing required information and the hang-tag provides non-required information, such as a hang-tag providing information about a particular fiber’s characteristics, the hang-tag need not provide a full fiber content disclosure; however, if the wool product contains any fiber other than the fiber identified on the hang-tag, the hang-tag must disclose clearly and conspicuously that it does not provide the product’s full fiber content; for example:

“This tag does not disclose the product’s full fiber content.”

or

“See label for the product’s full fiber content.

* * * * *

8. Amend § 300.25 by revising paragraphs (d) and (f) of read as follows:

§ 300.25 Country where wool products are processed or manufactured.

* * * * *

(d) The country of origin of an imported wool product as determined under the laws and regulations enforced by United States Customs and Border Protection shall be considered to be the country where such wool product was processed or manufactured.

* * * * *

(f) Nothing in this rule shall be construed as limiting in any way the information required to be disclosed on labels under the provisions of any Tariff Act of the United States or regulations promulgated thereunder.

* * * * *

9. Revise § 300.32 to read as follows:

§ 300.32 Form of separate guaranty.

(a) The following are suggested forms of separate guaranties under section 9 of the Act which may be used by a guarantor residing in the United States on or as part of an invoice or other document relating to the marketing or handling of any wool products listed and designated therein and showing the date of such invoice or other document and the signature and address of the guarantor:

(1) *General form.*

We guarantee that the wool products specified herein are not misbranded under the provisions of the Wool Products Labeling Act and rules and regulations thereunder.

(2) *Guaranty based on guaranty.*

Based upon a guaranty received, we guarantee that the wool products specified herein are not misbranded under the provisions of the Wool Products Labeling Act and rules and regulations thereunder.

NOTE: The printed name and address on the invoice or other document will suffice to meet the signature and address requirements.

(b) The mere disclosure of required information including the fiber content of wool products on a label or on an invoice or other document relating to its marketing or handling shall not be considered a form of separate guaranty.

* * * * *

10. Amend § 303.33 by revising paragraphs (a)(3) and (c) to read as follows:**§ 300.33 Continuing guaranty filed with Federal Trade Commission.**

(a)(1) * * *

(2) * * *

(3) Continuing guaranties filed with the Commission shall continue in effect for one year unless revoked earlier. The guarantor shall promptly report any change in business status to the Commission.

* * * * *

(c) Any person who has a continuing guaranty on file with the Commission may, during the effective dates of the guaranty, give notice of such fact by setting forth on the invoice or other document covering the marketing or handling of the product guaranteed the following:

Continuing Guaranty under the Wool Products Labeling Act filed with the Federal Trade Commission.

* * * * *

By direction of the Commission.

Donald S. Clark
Secretary.