

**[Billing Code: 6750-01-S]**

**FEDERAL TRADE COMMISSION**

**16 CFR Part 300**

**[RIN 3084-AB29]**

**RULES AND REGULATIONS UNDER THE  
WOOL PRODUCTS LABELING ACT OF 1939**

**AGENCY:** Federal Trade Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission amends 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 amended rules and regulations under the Textile Fiber Products Identification Act (“Textile Rules”).

**DATES:** The amended Rules are effective on **[insert date 30 days after publication in FEDERAL REGISTER]**.

**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**

As part of its ongoing regulatory review program, the Commission published an Advance Notice of Proposed Rulemaking and Request for Public Comment (“ANPR”) in January 2012<sup>1</sup> 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”),<sup>2</sup> and the costs and benefits of certain provisions of the Wool Products Labeling Act of 1939 (“Wool Act”).<sup>3</sup>

The Wool Act and Rules<sup>4</sup> 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; and (4) the name of the country where the wool product was processed or manufactured.<sup>5</sup>

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<sup>1</sup>77 FR 4498 (Jan. 30, 2012).

<sup>2</sup>Pub. L. No. 109-428, 120 Stat. 2913.

<sup>3</sup>15 U.S.C. 68-68j.

<sup>4</sup>Commission’s Rules and Regulations under the Wool Products Labeling Act, 16 CFR Part 300, which implement the Wool Act.

<sup>5</sup>15 U.S.C. 68b(a).

The Commission received six comments<sup>6</sup> in response to its ANPR. Based on these comments, the Commission issued a Notice of Proposed Rulemaking (“NPRM”) proposing amendments to conform to the requirements of the Conforming Act and to align with the proposed amendments to the Textile Rules.<sup>7</sup>

The Commission received seven comments<sup>8</sup> in response: a joint comment from the Cashmere and Camel Hair Manufacturers Institute, International Wool Textile Organization, and the National Council of Textile Organizations<sup>9</sup>; and one each from the American Apparel & Footwear Association<sup>10</sup>; the International Wool Textile Organization<sup>11</sup>; the United States Fashion Industry Association<sup>12</sup>; the Australian Government<sup>13</sup>; James Francis Casale of The Detweiler House<sup>14</sup>; and David Trumbull of Agathon Associates.<sup>15</sup> This Federal Register Notice summarizes the comments, explains the amendments to the Wool Rules, provides the analyses

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<sup>6</sup>The comments are posted at <http://www.ftc.gov/policy/public-comments/initiative-418>. The Commission also considered one comment filed in the Textile rulemaking by Adam Varley. *See* <http://www.ftc.gov/policy/public-comments/comment-00003-30>.

<sup>7</sup>78 FR 57808 (Sept. 20, 2013). The Commission amended the Textile Rules in March 2014. The amendments take effect on May 5, 2014. *See* 79 FR 18766 (Apr 4, 2014).

<sup>8</sup>These comments are posted at <http://www.ftc.gov/policy/public-comments/initiative-507>. 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 or country, followed by the number assigned by the Commission.

<sup>9</sup>Joint Comment (3).

<sup>10</sup>AAFA (14).

<sup>11</sup>IWTO (12).

<sup>12</sup>USFIA (8).

<sup>13</sup>Australia (7).

<sup>14</sup>Casale (11).

<sup>15</sup>Trumbull (13).

required by the Regulatory Flexibility Act and the Paperwork Reduction Act, and sets forth the amended Rule provisions.

## **II. SUMMARY OF COMMENTS**

In this section, the Commission summarizes the main points made by the comments. Comments addressing the issue favored amending the Rules to implement the Conforming Act but urged the Commission to limit the use of “Super” and “S” to describe certain very fine wool products. The comments also generally favored aligning the Rules with the amended Textile Rules or were silent on this issue.<sup>16</sup> Moreover, the comments generally agreed with the proposed amendments relating to hang-tags, with the exception of the proposed hang-tag disclosures. One comment opposed the proposed annual renewal for continuing guaranties.

### **A. Very Fine Wool Products**

Four comments addressed implementation of the Conforming Act by adding the Act’s definitions of very fine wool. 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,” etc.) are misbranded unless the wool fibers are a certain average diameter or finer. The commenters urged the Commission to limit the use of “Super” and “S” numbers.<sup>17</sup> Three comments urged the Commission to study

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<sup>16</sup>For example, AAFA and USFIA supported the proposal to amend the Rules 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 shall be the country where the product was processed or manufactured. Australia had no objection to this proposal, and none of the other comments addressed it. This amendment tracks the recent amendment to the Textile Rules.

<sup>17</sup>Two comments agreed with the Commission that fiber from the cashmere goat should be labeled as wool if it does not meet the Conforming Act’s definition of “cashmere.” *See* Joint comment and Trumbull. Three comments agreed with the Commission’s decision not to propose additional deviations or tolerances for “Super” or “S” numbers used to describe very fine wool products. *See* Joint comment, IWTO, and Trumbull.

how consumers interpret “Super” and “S” numbers.<sup>18</sup> The Joint comment also argued that consumers interpret “Super” numbers to mean that the garment contains wool of the corresponding diameter, and that the Conforming Act prohibits labeling that describes suits containing no wool as “Super.”<sup>19</sup> IWTO stated that “S” numbers should not be used to describe non-wool products. Two comments favored amending the Rules to allow the use of the word “Super” to describe only pure wool because this practice is common in the weaving industry and the use of “Super” to describe blends could cause confusion.<sup>20</sup>

## **B. Hang-Tag Disclosures**

Three comments expressed support for the Commission’s proposal to allow certain hang-tags identifying a fiber even though they do not disclose a product’s full fiber content.<sup>21</sup> Two of these comments, however, questioned or opposed a blanket requirement for hang-tag disclosures (*e.g.*, “See label for the product’s full fiber content”) for products containing multiple fiber types. AAFA questioned whether the disclosure was necessary and requested clarification on how to make the disclosure clearly and conspicuously. USFIA urged the Commission to eliminate the disclosure requirement unless there is a demonstrable danger of deception, such as a circumstance where a product contains only a small amount of the fiber described in the hang-

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<sup>18</sup>Joint comment, IWTO, and Trumbull. Trumbull stated that he agreed with the Joint comment on issues relating to the use of the term “super” to describe wool.

<sup>19</sup>The Joint comment also urged the Commission to address in the Rules how one should label a wool product where the warp yarn diameter differs from the filler yarn diameter. It noted that many in the wool trade average the diameters.

<sup>20</sup>IWTO and Australia.

<sup>21</sup>AAFA, IWTO, and USFIA. Also, Australia advised that it has no concerns about the hang-tag proposal.

tag.<sup>22</sup>

### **C. Continuing Guaranties**

Two comments addressed issues relating to continuing guaranties. AAFA opposed the proposal to have continuing guaranties expire after one year unless revoked earlier. It disagreed with the Commission's assertion that requiring annual renewal of continuing guaranties would impose minimal costs on industry. One AAFA member estimates spending 5-8 hours on each continuing guaranty it files. AAFA explained that most companies file dozens of such guaranties and many file hundreds. As a result, AAFA argued, the requirement may be unmanageable for many companies. AAFA also noted that filing guaranties is not the only relevant cost. It stated that vendors face a "clerical nightmare of keeping up with the guaranties" and buyers have difficulty obtaining guaranties from the Commission in a timely fashion. None of the comments expressed support for amending the Rules to have continuing guaranties expire after one year.

Another comment opposed the automatic incorporation of a recent amendment to the Textile Rules replacing the requirement that guarantors sign continuing guaranties under penalty of perjury with a certification requirement.<sup>23</sup> The Wool Rules reference the amended provision of the Textile Rules, thereby incorporating the change to the Textile Rules without further action by the Commission. Although the comment favored the new certification requirement, it opposed dropping the signing under penalty of perjury requirement because doing so would dilute confidence in guaranties. The comment argued that the certification would not be as

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<sup>22</sup>USFIA noted that, because fiber suppliers may not know the product's fiber content, they will have to include the disclosure on all hang-tags, which could mislead consumers if the fiber described in the hang-tag is the only fiber type.

<sup>23</sup>Casale.

reliable or as well understood as signing under penalty of perjury, and that by its own terms it does not apply to the initial product submission. None of the other comments addressed these issues.

### **III. AMENDMENTS**

The record supports modifying and clarifying the Rules as the Commission proposed, except for the proposal that continuing guaranties expire after one year unless revoked earlier.<sup>24</sup> In particular, the Wool Rules should reflect the Wool Act as amended in 2006 by the Conforming Act and align with the recently amended Textile Rules.<sup>25</sup> Indeed, the Commission lacks the discretion not to amend the Rules to implement the Conforming Act.<sup>26</sup> Accordingly, the Commission amends the Rules regarding fiber content disclosures, country-of-origin disclosures, and wool guaranties.<sup>27</sup>

#### **A. Fiber Content Disclosures**

The Commission amends the Rules' fiber content disclosure provisions to: (1) incorporate the Wool Act's new definitions for cashmere and very fine wools; (2) clarify § 300.20's descriptions of products containing virgin or new wool; and (3) revise §§ 300.8(d) and

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<sup>24</sup> The Commission also amends § 300.3(a)(1) of the Rules to correct a citation to the Wool Act.

<sup>25</sup> 78 FR 29263 (May 20, 2013).

<sup>26</sup> 15 U.S.C. 68d(a).

<sup>27</sup> The Commission recently amended several provisions of the Textile Rules that the Wool Rules incorporate. For example, § 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). The ISO standard has been updated and is now identified as ISO 2076: 2010(E). The Commission amended § 303.7 to incorporate the revised ISO standard. *See* 79 FR 18766 (Apr. 4, 2014). AAFA, IWTO, and Australia favored incorporation of the revised ISO standard. None of the comments opposed it.

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 amendments conform the Wool Rules to the amended Wool Act.

#### **a. Cashmere**

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.<sup>28</sup> Accordingly, the Commission proposed incorporating the statutory definition of “cashmere” into § 300.19.<sup>29</sup> The Commission adopts this amendment.

In the NPRM, the Commission stated that fibers from the cashmere goat should be labeled as wool if they do not meet the Conforming Act's definition of cashmere. The two comments addressing this issue agreed with the Commission.<sup>30</sup>

#### **b. Very Fine Wools**

The Conforming Act defined the average diameter of fibers required when labeling “very fine wools.” The Commission proposed to add a new § 300.20a to incorporate these definitions.

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<sup>28</sup>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.*

<sup>29</sup>The incorporated language appears as new paragraph (a). The Commission also redesignates 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).

<sup>30</sup>Joint comment and Trumbull.



Four commenters raised additional issues regarding the labeling of such wools, but the record provides an insufficient basis for proposing further changes to the Rules. The Commission addresses the labeling of very fine wool below.

(1) 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 average diameter or finer. 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.<sup>31</sup>

To make the Rules consistent with the amended Wool Act, the Commission adds a new § 300.20a, entitled “Labeling of very fine wool.” This section provides 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.”<sup>32</sup> Based on the comments filed in response to the NPRM, the Commission did not propose any additional standards or deviations. The Joint comment and Trumbull agreed with this decision. None of the comments disagreed.

(3) Limiting the Use of “Super” and “S” Numbers

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<sup>31</sup>See 15 U.S.C. 68b(a)(5)(A)-(R).

<sup>32</sup>See 15 U.S.C. 68b(a)(5).

The Commission adopts the proposed amendments implementing the Conforming Act with regard to the use of “Super” and “S” numbers.<sup>33</sup> The Commission declines the comments’ request to propose limits on the use of “Super” and “S” numbers to describe non-wool products and wool blends for several reasons. The Wool Act and Rules apply to products containing wool or purporting to contain wool. Therefore, if the use of a “Super” or “S” number describing a product falsely implies that the product contains wool, the Act and Rules apply and the use of the “Super” or “S” numbers on the label would violate them. The Commission lacks sufficient information, however, to conclude that the mere use of a “Super” or “S” number implies that a product contains wool. Moreover, even if the Wool Act and Rules do not apply to a suit or other garment described using “Super” or “S” numbers, the Textile Act and Rules would still require disclosure of the product’s fiber content. Thus a consumer could check the label to determine the actual fiber content. The record does not suggest that disclosure of the product’s fiber content fails to correct potential deception regarding use of “Super” or “S” numbers. Thus amendments to the Wool Rules are not warranted.

The Commission also lacks authority to prohibit the use of “Super” or “S” numbers where the wool fiber of a wool blend product meets the “Super” or “S” criteria in the Act. As the Commission explained in the NPRM, the Conforming Act precisely defines the various categories of superfine wool fibers without distinguishing between pure wool fabrics and fabrics containing wool and other fibers. 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 100% wool.

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<sup>33</sup>The Commission also declines to conduct a workshop or a consumer perception study of “Super” and “S” numbers at this time. The Commission currently lacks sufficient evidence of deception to justify such a workshop or study.

Of course, the use of “Super” or “S” numbers to deceptively describe the fiber content of a wool product 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.<sup>34</sup> The Rules further require that non-required information on labels, 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.”<sup>35</sup> However, none of the commenters provided evidence that would support limiting the use of “Super” or “S” numbers or to require disclosures to prevent consumer deception.

In addition, the Commission declines to amend the Rules to address wool fibers of differing fineness used in the warp and filling yarns of a fabric.<sup>36</sup> The Joint comment urged the Commission to address how to determine “Super” or “S” numbers where the diameter of the warp yarns differ from the diameter of the filling yarns, and noted that many industry members average the diameter of the fibers to determine the fineness. The record does not include any evidence regarding consumer understanding of “Super” or “S” numbers in this context. Moreover, the Commission does not currently have reason to believe that the practice of averaging the diameter of warp and filling yarns to determine overall fineness is deceptive. Of course, the Commission could challenge the practice if it obtains evidence of deception in a particular case.

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<sup>34</sup>15 U.S.C. 68b(a)(1).

<sup>35</sup>16 CFR 300.10(b).

<sup>36</sup>In fabric, the warp yarns run vertically or lengthwise, while the weft or filling yarns run horizontally or crosswise.

## **2. Clarification of § 300.20 on “Virgin” or “New” Wool**

The Commission proposed amending § 300.20 so that it 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. None of the comments opposed this proposal, which involves a non-substantive clarification of the provision. The Commission recently adopted a similar amendment to the Textile Rules.<sup>37</sup> Accordingly, the Commission adopts this amendment without change for the reasons explained in the NPRM.

## **3. Disclosure Requirements Applicable To Hang-Tags**

The Commission amends §§ 300.8(d) and 300.24(b) as proposed to allow certain hang-tags with fiber trademarks and performance information, even if they do not disclose the product’s full fiber content. The Commission recently adopted a similar amendment to the Textile Rules.<sup>38</sup> IWTO supported the proposal and Australia had no concerns. AAFA and USFIA generally supported the proposal, but expressed concerns. None of the remaining four comments addressed the proposal.

AAFA and USFIA raised concerns about the proposed requirement that hang-tags for products with multiple fiber types disclose clearly and conspicuously that the hang-tag does not provide the product’s full fiber content. AAFA questioned whether the disclosure is necessary, and sought clarification regarding how companies should make the disclosure clearly and conspicuously. USFIA explained that, in practice, all hang-tags will have to make the disclosure because suppliers will not know in advance whether the product contains other fibers. It suggested requiring the disclosure only where there is a demonstrable danger of deception, such

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<sup>37</sup>See 79 FR 18766 (Apr. 4, 2014).

<sup>38</sup>*Id.*

as a circumstance where the product contains only a small amount of the fiber described in the hang-tag.

Accordingly, the Commission adopts the amendment to allow hang-tags that do not disclose full fiber content, which was unopposed, for two reasons. First, requiring full fiber percentages on hang-tags is redundant because the Rules mandate this information on the required textile label. Second, the requirement likely impedes the flow of truthful information to consumers because it effectively prevents suppliers and other marketers from identifying fibers and describing their performance on a hang-tag unless they know the full fiber content of the finished product.

Although AAFA and USFIA questioned the need for a disclosure on at least some hang-tags that do not disclose full fiber content, neither submitted any evidence regarding how consumers would interpret such hang-tags. The Commission continues to believe that, without the disclosure, some consumers would mistakenly assume that the hang-tag discloses full fiber content. Such consumers would have no reason to search for and examine the label disclosing full fiber content if the hang-tag leads them to believe that the product does not contain fibers other than those touted on the hang-tag. The Commission plans to provide informal guidance on how to make the disclosure clearly and conspicuously through its business education materials and by providing staff advice.

#### **B. Additional Proposed Amendments to Align Wool and Textile Rules**

The Commission amends the Wool Rules as proposed to conform the country of origin disclosures and provisions discussing “invoice or other paper” with the recently amended Textile Rules. The Commission also declines to adopt its proposed amendment regarding the duration of continuing guaranties, which will conform the Wool Rules to the recently amended Textile

Rules, because the Commission lacks sufficient evidence to conclude that any benefits of the amendment would exceed the costs. Again, aligning the two Rules will serve the public interest by reducing compliance burdens and making fiber content disclosures more consistent.

### **1. Country-of-Origin Disclosures**

To promote consistency with the Textile Rules, the Commission proposed 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 proposed 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.

AAFA and USFIA supported this proposal, and Australia had no objection to it. None of the four remaining comments addressed it. Accordingly, the Commission adopts this amendment for the reasons explained in the NPRM.

### **2. Invoice or Other Paper**

To conform the Wool Rules to the amended Textile Rules, the Commission adopts its proposed revisions of 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). Furthermore, the Commission's 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 proposed 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 proposed 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 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 recently amended the definition in Textile Rules § 303.1(h) to clarify that invoices and other documents may be preserved electronically. None of the comments addressed these issues. Accordingly, the Commission adopts these amendments for the reasons explained in the NPRM.

### **3. Continuing Guaranties**

As in the final Textile Rules, the Commission declines to amend the duration of continuing guaranties in § 300.33(a)(3).<sup>39</sup> Furthermore, although the Commission is not amending the Wool Rules to revise the continuing guaranty form, it recently amended the Textile Rules form (FTC Form 31-A) referenced by § 300.33 of the Wool Rules by replacing the requirement that filers sign under penalty of perjury with a certification requirement. Because the form set forth in the Textile Rules is also used for Wool guaranties, this amendment to the Textile Rules automatically revised the Wool Rules continuing guaranty form by incorporation.

The Commission proposed amending § 300.33(a)(3) to provide that continuing guaranties remain in effect for one year unless revoked earlier.<sup>40</sup> AAFA strongly opposed this proposal. None of the other comments addressed it. Specifically, AAFA disputed the Commission's assertion that requiring annual renewal of continuing guaranties would impose minimal costs on

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<sup>39</sup>See 79 FR 18766 at 18768-18769 (Apr. 4, 2014). In addition, § 300.33(b) states that the continuing guaranty form is found in § 303.38(b) of the Textile Rules.

<sup>40</sup>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. 15 U.S.C. 68g. 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.

industry. One AAFA member company reported spending five to eight hours on each continuing guaranty that it files. AAFA explained that most companies file dozens of continuing guaranties and many file hundreds. As a result, AAFA argued, the requirement may be unmanageable for many companies. AAFA also noted that filing guaranties is not the only relevant cost. It stated that vendors face a “clerical nightmare of keeping up with the guaranties,” and buyers have difficulty obtaining guaranties from the Commission in a timely fashion.<sup>41</sup>

As noted above, the Commission decided not to adopt a similar amendment to the Textile Rules. As was the case for the Textile Rules, the Commission lacks sufficient evidence to conclude that annual renewal would increase the reliability of continuing guaranties. Assuming, *arguendo*, that the requirement would increase the reliability of continuing guaranties, the Commission lacks sufficient evidence to conclude that the benefits of imposing this requirement would exceed the costs. Accordingly, the Commission has decided not to adopt the proposed amendment.

The Commission amended § 303.38(b) of the Textile Rules to modify the continuing guaranty form by replacing the requirement that sellers sign 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).<sup>42</sup> Because § 300.33(b) of the Wool Rules incorporates this form, this amendment effectively revised the Wool Rules.<sup>43</sup>

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<sup>41</sup> The Commission strives to process such requests promptly. Unfortunately, the Commission cannot respond to this complaint because AAFA did not identify the guaranties at issue or the dates that its members requested assistance.

<sup>42</sup>The certification provides: “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.” *See* 79 FR 18766 at 18773 (Apr. 4, 2014).



One comment addressed this certification requirement. It supported the requirement, but opposed dropping the requirement that guarantors sign under penalty of perjury.<sup>44</sup> It argued that doing so would dilute confidence in guaranties. It stated that the certification would not be as reliable or as well understood as signing under penalty of perjury, and that by its own terms it does not apply to the initial product submission. The Commission disagrees with the statement that the certification does not apply to an initial product submission. The certification states that the guarantor “guarantees that any wool product it sells, ships, or delivers will not be misbranded.” Any wool product means all wool products, regardless of the date of sale or shipment.

Nonetheless, the Commission continues to share the commenter’s concern about the reliability of continuing guaranties once guarantors no longer sign them under penalty of perjury. If the Commission obtains evidence that continuing guaranties have become less reliable, it will revisit this issue and consider amending the Rules’ continuing guaranty provisions accordingly.

#### **IV. REGULATORY FLEXIBILITY ACT**

The Regulatory Flexibility Act (“RFA”)<sup>45</sup> requires that the Commission conduct an initial and final analysis of the anticipated economic impact of the amendments on small entities. Section 605 of the RFA<sup>46</sup> 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.

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<sup>43</sup>*Id.* The Commission also revised the form to include similar certifications for products subject to the Textile Act and the Fur Products Labeling Act. 15 U.S.C. 69-69k.

<sup>44</sup>Casale.

<sup>45</sup>5 U.S.C. 601-612

<sup>46</sup>5 U.S.C. 605.

The Commission believes that the amendments will not have a significant economic impact upon small entities that manufacture or import wool products, although they may affect a substantial number of small businesses. The amendments conform the Rules to the Wool Act as amended by the Conforming Act, clarify the Rules, provide more options for disclosing fiber trademarks and performance information on hang-tags, and update the Rules' guaranty provisions. Therefore, the Commission certifies that amending the Rules will not have a significant economic impact on a substantial number of small businesses. The Commission has nonetheless determined that it is appropriate to publish the following final regulatory flexibility analysis in order to ensure that the impact of the Rules on small entities is fully addressed.

**A. Need for and Objective of the Amendments**

The objective of the amendments is to 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. The Wool Act authorizes the Commission to implement its requirements through the issuance of rules.

**B. Significant Issues Raised in Public Comments**

In the NPRM's Initial Regulatory Flexibility Analysis, the Commission concluded 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. None of the comments disputed the Initial Regulatory Flexibility Analysis, with the exception of one comment from AAFA objecting to the proposal to amend §300.33(a)(3) to provide that continuing guaranties are effective for one year unless revoked earlier. AAFA questioned the Commission's assertion that the proposed amendment would enhance the reliability of guaranties

and contended that it would impose substantial unnecessary costs on industry. For the reasons explained above, the Commission has decided not to adopt this proposal. The Commission did not receive any comments from the Small Business Administration.

### **C. Small Entities to Which the 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.<sup>47</sup> A substantial number of these entities likely qualify as small businesses. The Commission estimates that the amendments will not have a significant impact on small businesses because they have an existing obligation to comply with statutory labeling requirements, and the amendments provide covered entities with additional labeling options without imposing 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. The change from "invoice or other paper" to "invoice or other document" makes the affected sections of the Rules format-neutral and gives covered entities, including small businesses, more flexibility in terms of compliance.

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<sup>47</sup>*Federal Trade Commission: Agency Information Collection Activities; Proposed Collection; Comment Request*, 76 FR 77230 (Dec. 12, 2011).

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

As noted earlier, the amendments conform the Rules to the Wool Act as amended by the Conforming Act, clarify the Rules, provide more options for disclosing fiber trademarks and performance information on hang-tags, and update the Rules' guaranty provisions. They do not impose any new reporting, recordkeeping, or disclosure requirements. The small entities potentially covered by the amendments will include all such entities subject to the Rules. The professional skills necessary for compliance with the Rules as modified by the amendments would include office and administrative support supervisors to determine label content and clerical personnel to draft and obtain labels and keep records.

**E. Significant Alternatives to the Amendments**

The Commission has not proposed any specific small entity exemption or other significant alternatives, as the 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. The amendment relating to hang-tags will allow greater compliance flexibility, and might reduce the cost of providing consumers with truthful, non-deceptive information about fiber content and performance. 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 amendments.

## **V. 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”).<sup>48</sup> As discussed above, the amendments: (a) conform the Rules to the Wool Act as amended by the Conforming Act by revising § 300.19 and adding § 300.20a; (b) clarify the Rules, including §§ 300.1(j), 300.20, 300.25(d) and (f), 300.32(a), and 300.33(c); and (c) amend §§ 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.

These amendments do not impose any 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.

## **VI. 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:

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<sup>48</sup>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.

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 § 300.3 by revising paragraph (a)(1) to read as follows:

**§ 300.3 Required label information.**

(a) \* \* \*

(1) The fiber content of the product specified in section 4(a)(2)(A) of the Act. The generic names and percentages by weight of the constituent fibers present in the wool product, exclusive of permissive ornamentation, shall appear on such label with any percentage of fiber or fibers designated as “other fiber” or “other fibers” as provided by section 4(a)(2)(A)(4) of the Act appearing last.

\* \* \* \* \*

4. 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.”

\* \* \* \* \*

5. 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.

6. 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.

7. 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.

8. 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.”

9. Amend § 300.25 by revising paragraphs (d) and (f) to 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.

10. 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.

11. Amend § 300.33 by revising paragraph (c) to read as follows:

**§ 300.33 Continuing guaranty filed with Federal Trade 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.