

**FEDERAL TRADE COMMISSION****16 CFR Part 423****Concerning Trade Regulation Rule on Care Labeling of Textile Wearing Apparel and Certain Piece Goods; Conditional Exemption From Terminology Section of the Care Labeling Rule**

**AGENCY:** Federal Trade Commission.

**ACTION:** Interim rule, with request for public comments.

**SUMMARY:** The Federal Trade Commission (the "Commission") has reviewed the public comments on a proposed conditional exemption to its Trade Regulation Rule on Care Labeling of Textile Wearing Apparel and Certain Piece Goods ("the Care Labeling Rule" or "the Rule") and has decided to adopt the conditional exemption. The conditional exemption will permit the use of the system of care symbols developed by the American Society for Testing and Materials ("ASTM") and designated as ASTM Standard D5489-96c Guide to Care Symbols for Care Instructions on Consumer Textile Products, in lieu of words on the permanently attached care label, as long as explanatory information is provided to consumers for the first 18-month period after the effective date of the conditional exemption. The Commission seeks comments on the minor changes made in ASTM D5489 since the Commission last sought comment in November 1995.

**DATES:** This conditional exemption is effective July 1, 1997. The incorporation by reference of the ASTM standard is approved by the Director of the Federal Register effective July 1, 1997. Comments must be received by March 10, 1997.

**ADDRESSES:** Send comments to Secretary, Room 159, Federal Trade Commission, Washington, D.C. 20580. Comments should be identified as "16 CFR Part 423—Comment." Copies of this notice can be obtained through the Public Reference Branch, Room 130, Federal Trade Commission, Washington, D.C. 20580; (202) 326-2222; or through the Commission's homepage on the World Wide Web at <http://www.ftc.gov>.

**FOR FURTHER INFORMATION CONTACT:** Constance M. Vecellio or Edwin Rodriguez, Attorneys, Federal Trade Commission, Washington, DC 20580, (202) 326-2966 or (202) 326-3147.

**SUPPLEMENTARY INFORMATION:****I. Introduction**

On June 15, 1994, the Commission published a Federal Register notice ("FRN"), requesting comment on various aspects of the care Labeling Rule, including whether the Rule should be modified to permit the use of symbols in lieu of words.<sup>1</sup> On November 16, 1995, the Commission published a FRN, 60 FR 57552, announcing that the Commission had tentatively determined to adopt a proposed conditional exemption to the Care Labeling Rule to permit the use of certain care symbols in lieu of words on the permanently attached care label.<sup>2</sup> The Notice sought additional comment on the specifics of the proposal.

In particular, the November 1995 FRN stated that the Commission had tentatively decided to allow the use of the system of care symbols developed by ASTM and designated as ASTM Standard D5489 Guide to Symbols for Care Instructions on Consumer Textile Products, with one exception and addition.<sup>3</sup> Certain other modifications to that system were under consideration by ASTM at the time the FRN was published. The FRN described these possible modifications and sought comment on them.<sup>4</sup> In the FRN, the Commission noted that the proposed changes appeared to be useful, and, if these changes were adopted by ASTM, the Commission proposed adopting the ASTM system with those changes. These changes were adopted by ASTM, and were reflected in the standard designated ASTM Standard D5489-

<sup>1</sup> 59 FR 30733 (June 15, 1994). This notice sought comment about the overall costs and benefits of the Rule and its overall regulatory and economic impact as part of the Commission's systematic review of all its current rules and guides. This notice also sought comment on the use of symbols in lieu of words on care labels and on certain other issues.

<sup>2</sup> On December 28, 1995, the Commission published a notice, 60 FR 67102, seeking comment on other parts of the Rule and other proposed changes. The issues raised in the December 1995 notice will be addressed in a separate FRN at a later time.

<sup>3</sup> The Commission note that the ASTM "do not bleach" symbol (an empty triangle with an "X" through it) had a different meaning in Mexico. To avoid this conflict, the Commission tentatively decided to accept ASTM Standard D5489-93 with the exception of this "do not bleach" symbol and the addition of a shaded triangle with an "X" through it. The exception is no longer necessary because ASTM deleted the empty triangle with an "X" through it. Although ASTM replaced it with a shaded triangle with an "X" through it, ASTM subsequently changed the "do not bleach" symbol again as discussed in part III.A.1.a. of this Notice *infra*.

<sup>4</sup> These changes are described in part III.A.1.a. of this Notice *infra*.

96a.<sup>5</sup> Certain additional minor changes were made later in 1996, and these changes are embodied in the final standard designated ASTM Standard D5489-96c.<sup>6</sup>

After reviewing the 39 public comments that were submitted<sup>7</sup> concerning the proposed conditional exemption, the Commission has now decided to adopt the exemption and to allow the use of the symbol system designated as ASTM Standard D5489-96c.

**II. Background**

The Care Labeling Rule was promulgated by the Commission on December 16, 1971, 36 FR 23883 (1971), and amended on May 20, 1983, 48 FR 22733 (1983). The Rule makes it an unfair or deceptive act or practice for manufacturers and importers of textile wearing apparel and certain piece goods to sell these items without attaching care labels stating "what regular care is needed for the ordinary use of the product." (16 CFR 423.6 (a) and (b)) The Rule also requires that the manufacturer or importer possess, prior to sale, a reasonable basis for the care instructions. (16 CFR 423.6(c))

The "Terminology" section of the Rule, 16 CFR 423.2(b), currently requires that care instructions be stated in "appropriate terms," although it also states that "any appropriate symbols may be used on care labels or care instructions, in addition to the required appropriate terms so long as the terms

<sup>5</sup> The version of ASTM Standard D5489 discussed in the November 1995 FRN was adopted by ASTM in 1993 and officially referred to as ASTM Standard D5489-93. When ASTM changes a standard, the suffix is changed to reflect the year of the revision. Thus, when Standard D5489 was revised in early 1996, it was referred to as ASTM Standard D5489-96a.

<sup>6</sup> These minor changes are also described in parts III.A.1.a. and b. of this Notice *infra*.

<sup>7</sup> The commenters included consumers; public interest-related groups; fiber, textile, or apparel manufacturers, importers or sellers (or conglomerates); a federal government agency; textile and clothing educators; fiber, textile, or apparel manufacturers, importers or retailers trade associations, including two associations from foreign countries; one textile printing company; four label manufacturers; one association representing the leather apparel industry; one supplier of leather cleaning products and equipment; one Committee formed by industry members from the countries signatory to NAFTA; one appliance manufacturers trade association; two standards-related organizations; and three representatives from foreign nations. Each comment was assigned a number. The first time a comment is cited it is cited by the full name of the commenter and the assigned number; subsequently, it is cited by the number and a shortened form of the name. The comments are available for inspection in the Public Reference Room, room 130, Federal Trade Commission, 6th and Pennsylvania Ave., NW., Washington, DC, from 8:30 a.m. to 5:00 p.m., Monday through Friday, except federal holidays.

fulfill the requirements of this regulation." (Emphasis added).

The FRN the Commission published on June 15, 1994 stated that the North American Free Trade Agreement ("NAFTA") "has created industry interest in being permitted to use symbols in lieu of words to provide care instructions, and the Commission seeks comment on the costs and benefits of such a change." Based on the comments submitted in response to that notice, the Commission decided to give further consideration to the use of symbols. In a FRN published on November 16, 1995, the Commission proposed a conditional exemption to the "Terminology" section of the Rule to allow the use of care symbols without language. The Commission proposed that, for a 12 month period, care labels with information conveyed only in symbols must be accompanied by hangtags explaining the meaning of the symbols.

The Commission examined two existing symbol systems—the system of care symbols developed by the International Association for Textile Care Labeling ("Ginetex") and adopted by the International Organization for Standardization ("ISO") as International Standard 3758, and the system of care symbols developed by ASTM and designated as ASTM Standard D5489–93—to identify which conveys all or most of the information required by the Rule and meets other important criteria.<sup>8</sup> The Commission concluded that ASTM Standard D5489 provided symbols relating to the information required by the Rule and that it best met the needs of consumers and industry. The Commission also concluded that the ASTM system was compatible with the care symbol systems used in Canada and Mexico, and that any difference among the symbol systems used in these countries did not pose insurmountable problems.

The Commission determined that the use of ISO Standard 3758 was not appropriate for the United States for three reasons. The Commission concluded that the ISO/Ginetex system does not provide symbols for some of the basic information required by the Rule and, therefore, cannot convey all the information that the Commission

<sup>8</sup>The ASTM and Ginetex systems use the same five basic symbols: a washtub to indicate washing (with a hand in the washtub to indicate hand washing), a triangle to indicate bleaching, a square to indicate drying (and a circle within a square to indicate machine drying), an iron to indicate ironing, and a circle to indicate drycleaning. An "X" cancelling out the symbol warns against using the designated cleaning technique, e.g., "do not dryclean." The differences in the systems consist in the manner in which refinements to the basic processes are conveyed (or are not conveyed).

has found to be necessary to prevent the unfair and deceptive practices that the Rule was designed to prevent.<sup>9</sup> The Ginetex system also assumes that washing machines have internal mechanisms for heating water to a precise temperature, and it links symbols for cool-down rinse, reduced spin, and reduced mechanical action to precise temperature settings. In addition, it includes only normal and low temperature ranges for tumble drying. Both of these aspects of the Ginetex system are inconsistent with the technology of laundry equipment used in the United States. The Commission also determined that Ginetex's assertion of trademark rights relating to the ISO/Ginetex symbols weighed against adoption of that system.

### III. Analysis of Comments

The Commission received 39 comments in response to the November 16, 1995 FRN. These comments overwhelmingly support allowing the voluntary use of a system of symbols without language to communicate care instructions.<sup>10</sup> Only two comments

<sup>9</sup>The Commission noted that the ISO/Ginetex system has no symbols for natural drying, the use of non-chlorine bleach, or the use of steam in ironing, which are care practices addressed by the Rule. The Commission also noted that the ISO/Ginetex system's symbol for drycleaning does not address all the warnings required by the Rule for drycleaning. In the Ginetex system, an underlined circle warns professional drycleaners generally about potential harm from "mechanical action and/or drying temperature and/or water addition in the solvent." But the ISO/Ginetex system does not have a method for providing warnings about which specific parts of the drycleaning process should be avoided as required by Section 423.6(b)(2)(ii) of the Rule. Ginetex (14) stated at p.3 that a symbol that provides warnings about all potential problems would be very complicated and difficult to understand and that professional cleaners should know what drycleaning process is required depending on the textile article. But this position shifts the burden from the manufacturer or importer subject to the Rule to the cleaner. In adopting the Rule, the Commission determined that the manufacturer or importer was in the best position to obtain information about the components of a garment and how the garment should be cleaned.

<sup>10</sup>H.H. Cutler (1) p.1; Salant Corporation (2) p.1; Ardis W. Koester (3) p.1; National Association of Hosiery Manufacturers (4) p.1; Kirk's Suede-Life, Inc. (5); Consumers Union (7) p.1; Supreme International (8) p.1; Host Apparel, Inc. (9) p.1; Cranston Print Works Company (10) p.1; United States Association of Importers of Textiles and Apparel (11) p.2; Leather Apparel Association, Inc. (12); American Textile Manufacturers Institute (13) p.1; International Association for Textile Care Labeling (14) p.1; American Apparel Manufacturers Association (15) p.1; Trilateral Labeling Committee (16) p.2; Paxar Corporation (17) p.1; Robert D. Stiehler (18) p.1; Italian Federation of Associations of Textile and Clothing Industries (19) p.2; National Knitwear & Sportswear Association (20) p.1; Warnaco, Inc. (21) p.1; International Fabricare Institute (22) p.1; Springs Industries, Inc. (23) p.1; Scott Tag & Label Co., Inc. (25) p.1; Fieldcrest Cannon, Inc. (26) p.1; National Cotton Council of America (27) p.1; United States Environmental

opposed the voluntary use of symbols without language.<sup>11</sup>

Some comments noted the need for additional symbols not found in either of the symbol systems that were considered. Kirk's and Leather stated there was a need for symbols for the care of leather wearing apparel.<sup>12</sup> The Care Labeling Rule, however, applies to *textile* wearing apparel and certain piece goods. In the FRN published in December 1995, the Commission rejected a proposal to expand the coverage of the Rule to garments made completely of leather. 60 FR 67103 n.3 (Dec. 28, 1995). EPA noted the need for a symbol for professional wet cleaning.<sup>13</sup> In a separate proceeding, however, the Commission is considering whether to initiate a rulemaking to amend the Rule specifically to include professional wet cleaning. See 60 FR 67103 (Dec. 28, 1995). If the Commission later determines to amend the Rule to encompass professional wet cleaning, it may be appropriate to amend the conditional exemption to add a symbol for professional wet cleaning.

#### A. Comments Addressing Most Appropriate Symbols System

##### 1. The ASTM System

Seventeen comments support the use of the ASTM system of care symbols.<sup>14</sup> One comment, however, expressed concern about the procedures for amending the ASTM system: that ASTM will only review ASTM Standard D5489 every five years, and that, as a private party, ASTM may not respond to requests from the public regarding changes to the symbol system.<sup>15</sup> ASTM, however, can amend a standard at any time, not merely every five years, and it has already made changes to ASTM

Protection Agency (28) p.1; Association of Home Appliance Manufacturers (29) p.1, 2; Pittsfield Weaving Co., Inc. (30) p.1; Proctor & Gamble (31) p.1; Labelize, Inc. (32) p.1; The European Apparel and Textile Organization (33) p.1; Jo Ann Pullen (34) p.1; Industry Canada (35) p.1; ASTM Subcommittee D13.62 on Care Labeling (36) p.1; American Association of Family and Consumer Sciences (37) p.1; Embassy of Switzerland (38) p.1; European Commission, Directorate A (Industrial Policy) (39) p.1.

<sup>11</sup> Sheila Settles (6) p.1; Harriet Nelson (24) p.1.

<sup>12</sup> Comments 5 and 12, respectively.

<sup>13</sup> Comment 28, p.1.

<sup>14</sup> Cutler (1) p.1; Koester (3) p.1; NAHM (4) p.1; ATMI (13) p.1; AAMA (15) p.2; TLC (16) p.2; Stiehler (18) p.1; NKSA (20) p.1; IFI (22) p.1; Springs (23) p.1; Fieldcrest (26) p.1; NCCA (27) p.1; AHAM (29) p.1; Pittsfield (30) p.1; P&G (31) p.2; Pullen (34) p.1; ASTM (36) p.1. The comments stated that the ASTM system is more comprehensive, more consistent with American technology, and more flexible and easily amended than the Ginetex system. See NAHM (4) p.1; Pullen (34) p.1, 5.

<sup>15</sup> P&G (31) p.2.

Standard D5489 at the request of interested parties. Moreover, the Commission notes that the Commission itself must authorize changes to whatever system of symbols the Commission allows. In addition, the public may, at any time, file a petition with the Commission seeking to change the conditional exemption, and, if necessary, the Commission can adopt exceptions and additions to the ASTM system for the purposes of this Rule.

#### a. Changes Affecting the Manner in Which the ASTM Symbol System May Be Used To Comply With the Rule

The November 1995 FRN described a specific version of the ASTM system—ASTM Standard D5489–1993—and minor modifications that were being considered by ASTM to that system.<sup>16</sup> The FRN sought comment on these changes, which have already been made by ASTM.

Only Industry Canada addressed the proposed changes. Industry Canada stated that, for clarity, the proposed new symbol for “tumble dry, no heat (air only)” should be an empty circle rather than a blacked-in circle.<sup>17</sup> The Commission believes, however, that clarity is enhanced by the use of the blacked-in circle, as originally proposed. In addition, Industry Canada’s suggested change would not improve harmonization with the Canadian system, which requires that the tumble dry symbol be either green [to indicate normal heat] or yellow [to indicate low heat]. Industry Canada also opposed having a symbol that means “any heat,” stating that it believes a temperature should be given for tumble drying.<sup>18</sup> The Rule, however, allows manufacturers who are conveying instructions in words to omit a temperature instruction for drying if the hottest temperature for drying would not harm the garment; the symbol for “tumble dry, any heat” is thus consistent with the Rule.

Industry Canada also suggested a change to the ASTM “do not bleach” symbol. ASTM previously changed the “do not bleach” symbol from an empty

triangle with an “X” through it to a shaded triangle with an “X” through it to prevent confusion with other systems.<sup>19</sup> Industry Canada pointed out that confusion might nevertheless result because consumers may interpret the revised symbol as meaning “do not use non-chlorine bleach” rather than do not use any bleach.<sup>20</sup> This concern was addressed by ASTM, which changed the “do not bleach” symbol to a blacked-in triangle with an “X” through it to make clear that no bleach, whether chlorine or non-chlorine, should be used. The Commission welcomes public comment on this change and on the other minor modifications discussed below.

Many changes made by ASTM to Standard D5489 solve harmonization problems that were raised by commenters. The European Commission commented that water temperature indications in words—such as “very hot,” “warm,” and “cool/cold,”—may be linked to different specific temperatures in different countries.<sup>21</sup> Industry Canada also noted this problem, and pointed out that in the Canadian system “warm” is defined as 50 degrees Centigrade, whereas in the United States “warm” is defined as a maximum of 43 degrees Centigrade.<sup>22</sup> ASTM has changed ASTM Standard D5489 by deleting the water temperature *word* indicators in its explanatory chart. Thus, a consumer consulting the ASTM chart to find the meaning of one, two, or three dots, in the wash tub would be told the temperatures in Centigrade and Fahrenheit that correspond to one, two, or three dots rather than “cool,” “warm” or “hot.” This change in the ASTM chart solves the problem of, for example, a Canadian consumer interpreting warm to mean 50 degrees Centigrade.<sup>23</sup>

<sup>19</sup> See n.3 *supra*.

<sup>20</sup> Comment 35 at p.5.

<sup>21</sup> Comment 39 p.2. The comment, which was from the European Commission, Directorate A (Industrial Policy), Unit III A/1 (International Technology and Industrial Relations) responded to the November 16, 1995 FRN, described above, and to the December 28, 1995 FRN, which addressed certain other issues about the Care Labeling Rule, including definitions of temperatures. The comment was numbered comment 39 in response to the November 1995 notice.

<sup>22</sup> Comment 35 p.6; Care Labeling Rule Appendix A.1.b.

<sup>23</sup> The ISO/Ginetex system used in Europe conveys temperature for wash water by means of a specific centigrade temperature in the washtub (*e.g.*, 50 C). ASTM system allows temperature for wash water to be conveyed by one, two, or three dots; the Centigrade temperature can also be placed in the washtub. The dots were originally also defined as cool, warm, and hot, with a specific temperature range (identical to that in the Appendix to the Care Labeling Rule) to precisely define those terms. However, as noted above, ASTM deleted the word

The Commission notes that this change in the ASTM explanatory chart may mean that the chart does not communicate adequate information about temperature settings on washing machines to American consumers. Commission staff, industry members, and others, however, are coordinating a major educational campaign designed to educate consumers about the care symbols, and materials distributed through that campaign will explain the correlation of the temperature dot system to dial selections on washing and drying machines. Moreover, the conditional exemption requires that, for the first 18 months after the effective date of the conditional exemption, explanatory material “decoding” the care symbols used on a care label must be provided to the consumer purchasing the garment. If a “machine wash” symbol is used with a temperature indication (*e.g.*, one dot for cold), the explanatory material provided to the consumer would have to explain what washing machine cycle should be selected.<sup>24</sup>

Other recent ASTM changes simply clarify that the symbols used in the Canadian system of care symbols for a washtub and an iron are acceptable although they differ slightly in shape from the ASTM symbols.<sup>25</sup> In addition, ASTM modified the standard so as to make clear that instructions for “permanent press” or “gentle cycle” may be reported in symbols (*i.e.*,

indicators from its explanatory chart because of conflicting definitions of those terms in different countries.

ASTM also changed the definition of “one dot” from the definition in the Appendix to the Care Labeling Rule (a *maximum* of 85 Fahrenheit, with no minimum) to a *range* from 65 to 85 degrees Fahrenheit. The reason given for this change was to educate consumers that detergents “are not effective at lower temperatures.” ASTM Standard D5489–96c Note 5. In the advance notice of proposed rulemaking published on December 28, 1995 (60 FR 67102, 67103), the Commission noted that changes in the definitions of water temperature for “cold,” “warm,” and “hot” water may be necessary. The Commission will address this issue in a notice in a separate issue of the Federal Register.

<sup>24</sup> American washing machines set on “cool” may deliver water below 65 Fahrenheit in the winter in many parts of the United States; as noted above, the Commission will address the issue of whether the definition of cold water in the Appendix to the Care Labeling Rule needs to be revised in a later Federal Register Notice. Under the current provisions of the Rule, there is no requirement that consumers be advised that the cold water they use should not be below 65 Fahrenheit. However, the ASTM system encourages informing consumers that detergents are not effective at lower temperatures, and the Rule would not prohibit any such truthful information.

<sup>25</sup> The ASTM Standard now specifies that it allows the use, in addition to the ASTM symbols, of a washtub symbol without the representation of the water wave inside the tub and an iron symbol with a closed handle.

<sup>16</sup> These modifications were discussed in note 45 in the November 1995 FRN. They are: (1) two additions to the symbols for machine drying [a circle in the square with no dots to indicate any heat; a blacked-in circle to indicate air dry only (no heat)]; and, (2) a change to the refinements to the drycleaning symbol (a circle) so that lines indicating refinements to drycleaning are placed next to the circle at an acute angle; if all four refinements were used, the symbol would consist of a circle surrounded by four lines in a diamond formation rather than a square, which avoids conflict with the symbol for machine drying (a circle in a square).

<sup>17</sup> Comment 35 p.4–5.

<sup>18</sup> Comment 35 p.6.

underlining the washtub) or words on a label with the symbolic instructions for machine wash or machine dry. This option can be used by garment manufacturers who believe that the underlining might be confusing, especially to Canadian or Mexican consumers, whose existing symbol systems do not include underlining.

ASTM also removed the steam markings from the iron symbol and has clarified that the iron symbol may mean "Iron—dry or steam." This makes the ASTM system more compatible with the Canadian, Mexican, and European systems, none of which contain a separate symbol for steam ironing. ASTM, however, also created a symbol—an iron symbol with steam markings that have been canceled out by an "X"—that can be used for the warning "do not steam." Finally, ASTM added a statement to the text of the Standard explaining that "the iron symbol may be used with the drycleaning symbol to report how to restore the item by ironing after wearing."

#### b. Other Changes

Other recent ASTM changes relate to changes in the Standard that are not an integral part of the symbol system (e.g., the Table of Additional Words to Use with Care Symbols) or that involve additions to, or linguistic changes in, the explanatory text of the Standard or the text appearing under the symbols in the explanatory chart. These changes help explain the system but do not change its use. In addition, one change relates to the order in which the symbols should be used. This change is not relevant to the use of the ASTM system to fulfill the requirements of the Care Labeling Rule because the Rule does not require that instructions appear in any particular order (though of course they must be intelligible).

Finally, several changes relate to safety concerns raised by commenters. ASTM revised the text in Standard D5489 that explains the meaning of dots within the iron symbol to refer to *maximum* temperatures for the iron heat setting rather than simply to ironing temperatures. This at least partially addresses safety concerns raised by one commenter.<sup>26</sup> Another safety concern was raised by Industry Canada, which commented that, at least theoretically, the symbol for hand washing could be combined with the hottest water temperatures.<sup>27</sup> ASTM revised the text

<sup>26</sup> Stiehler (18) stated at p. 1 that the ASTM chart shows three iron symbols with indications for the use of steam at 200, 150, or 110 degrees Celsius and expressed the concern that the use of steam at these temperatures could be dangerous.

<sup>27</sup> Comment 35 p. 6.

of the Standard to state that the only water temperatures that may be used with the hand washing symbol are 40 C (105 F) or 30 C (85 F).

#### 2. The Ginetex/ISO System

Six comments stated that the Commission should adopt the Ginetex care symbol system to harmonize with the system used in Europe.<sup>28</sup> Two comments recommended either that the Commission allow "the use of GINETEX symbols supplemented by ASTM symbols for those care labeling elements required by the FTC but not conveyed by Ginetex symbols"<sup>29</sup> or allow the use of either the ASTM or the GINETEX systems until there is a consensus on an international system.<sup>30</sup>

Some comments also noted that trademark issues should not prevent the Commission from adopting the GINETEX system, but should become the focus of investigation and consultation.<sup>31</sup> One comment indicated that country-specific royalty waivers may be a possibility.<sup>32</sup> Despite this possibility, the Commission continues to have concerns about Ginetex's assertion of trademark rights over the ISO/Ginetex system.

After reviewing the comments, the Commission reaffirms its conclusion that the use of the ISO standard 3758 is not appropriate for the United States at this time.<sup>33</sup> The Commission's concerns with the comprehensiveness of the ISO/

<sup>28</sup> Cranston (10) p. 4; GINETEX (14) p. 5; FEDERTESSILE (19) p. 1-2; EURATEX (33) p. 1; Switzerland (38) p. 1-2; European Commission (39) p. 1-2. These comments noted that if the U.S. adopts the ASTM system, European Community manufacturers will be obliged to continue to use different care labels for goods intended for export to the U.S. and U.S. manufacturers would have to do the same for goods destined for export to Europe, which would diminish the utility of symbols.

<sup>29</sup> Warnaco (21) p. 2.

<sup>30</sup> USA-ITA (11) p. 2. However, the Commission has concluded that allowing the use of both systems at the same time in the United States would result in the inconsistent use of symbols by manufacturers and confusion on the part of consumers.

<sup>31</sup> FEDERTESSILE (19) p. 2, 3; Warnaco (21) p. 2; EURATEX (33) p. 2.

<sup>32</sup> Warnaco (21) p. 2.

<sup>33</sup> Switzerland (38) at p. 2 and European Commission (39) at pp. 1-2 stated that Article 2.4 of the Agreement on Technical Barriers to Trade requires that technical regulations be based on international standards and encouraged the Commission to adopt the Ginetex/ISO standard because the adoption of a different system could create technical barriers to trade. In the Federal Register notice of November 16, 1995, the Commission gave careful consideration to ISO Standard 3758, acknowledging that the Trade Agreements Act of 1979 encourages federal agencies to use international standards whenever possible. But the Commission also noted that the Trade Agreements Act explicitly identifies several reasons why basing a standard on an international standard may not be appropriate, including the prevention of deceptive practices and fundamental technological problems. 19 U.S.C. 2532(2)(B)(i).

Ginetex system, with the system's inconsistency with U.S. technology, and with trademark issues have not been adequately resolved. The Commission therefore has decided to adopt the ASTM Standard D5489-96c system of care symbols for the conditional exemption. The Commission agrees, however, that harmonization of the symbol system adopted in the United States with the system used in Europe is very important. The Commission is aware that representatives of ASTM and Ginetex have been discussing harmonization of the two systems, and a Commission representative has attended ISO and Ginetex meetings. The Commission intends to continue its liaison efforts with Ginetex and ISO in an effort to promote harmonization. But, the Commission does not believe it is necessary to wait for a consensus on an international system before it allows the use of symbols without words. Many countries—Canada, Mexico, and Japan, among them—allow the use of symbols without language in the absence of an international consensus. Efforts to harmonize the U.S. and European care symbol systems can continue even though the Commission has decided to adopt the ASTM system at this time.

#### B. Comments Responding to Questions Posed in the FRN

The November 16, 1995 FRN included the following questions about the possible introduction of the ASTM system in the United States:

1. Will the underlining of the washtub or the machine drying symbol be confusing to Canadian and Mexican consumers? Will the underlining be confusing to American consumers? If so, should the Commission "except" this part of the ASTM system from the conditional exemption? Will "excepting" the underlining of symbols reduce the benefit of symbols or impose costs on manufacturers?

A few comments stated that underlining (which denotes what cycle—i.e., "gentle" or "permanent press"—should be used) may be confusing to consumers, at least initially.<sup>34</sup> But most of the comments

<sup>34</sup> Koester (3) p. 1; USA-ITA (11) p.4; AAMA (15) p.2; TLC (16) p.2; Springs (23) p.1; NCCA (27) p.1. Paxar (17) stated at p.8 that consumers might find a color code easier to understand than underlining. Industry Canada (35) stated at p.2 that the use of underlining would probably confuse Canadian consumers, who would probably find written instructions for "Permanent Press" or "Delicate/Gentle" more helpful. The Care Labeling Rule presently allows the use of symbols and words together. The conditional exemption does not change that aspect of the Rule. Thus, "permanent

stated that the underlining of symbols will not be confusing and should not be an exception from the ASTM system.<sup>35</sup> Two comments stated that the elimination of the underlining would decrease the specificity and effectiveness of the symbol system.<sup>36</sup> For example, eliminating the underlining may lead some consumers to wash and dry apparel items in a normal cycle, which could damage the items,<sup>37</sup> or might require consumers to interpret the fiber content and finish of a garment to determine the specific cycle to use.<sup>38</sup> Some comments noted that deleting the underlining would require substituting written cycle instructions, probably in multiple languages, increasing the label size and imposing additional costs on manufacturers.<sup>39</sup> One comment stated that adopting a care symbol system in phases, with the basic symbols adopted at one time and the underlining at another, may confuse consumers.<sup>40</sup>

Based on these comments, the Commission has decided to allow the use of underlining. A comprehensive educational program, including the use of explanatory hangtags and other materials, should convey what the underlining means.<sup>41</sup>

2. Should the Commission specify the minimum size of the symbols or are existing requirements of legibility sufficient?

A few comments recommended that the Rule specify a point type size for symbols<sup>42</sup> in part because a legibility standard might allow arbitrary judgment concerning what is legible and what is not.<sup>43</sup> One comment stated that care instructions often become difficult to read after repeated cleanings and that therefore the printing used on care labels should be large enough to remain legible through several care cycles;<sup>44</sup>

press" or "gentle cycle" could be used with symbols, such as the washtub or drying symbol. (As noted above, ASTM's recent revision of Standard D5489 makes clear that these symbols can be used with words.)

<sup>35</sup> Koester (3) p.1; Cranston (10) p.2; USA-ITA (11) p.4; ATMI (13) p.1; AAMA (15) p.2; TLC (16) p.2; IFI (22) p.2; Springs (23) p.1; Fieldcrest (26) p.1; NCCA (27) p.1; Pittsfield (30) p.1; Pullen (34) p.1; AAFCS (37) p.1.

<sup>36</sup> Cranston (10) p.2; Pittsfield (30) p.1.

<sup>37</sup> Cranston (10) p.2.

<sup>38</sup> Pullen (34) p.1.

<sup>39</sup> ATMI (13) p.1; Springs (23) p.1; Pittsfield (30) p.1; Pullen (34) p.1.

<sup>40</sup> AAMA (15) p.2.

<sup>41</sup> Koester (3) p.1; USA-ITA (11) p.4; ATMI (13) p.1; AAMA (15) p.2; TLC (16) p.2; IFI (22) p.2; Springs (23) p.1; NCCA (27) p.1; Pullen (34) p.1; AAFCS (37) p.1.

<sup>42</sup> Koester (3) p.1; Paxar (17) p.3; Pittsfield (30) p.1.

<sup>43</sup> Paxar (17) p.14; Pittsfield (30) p.1. Paxar (17) stated at p.4 that a legibility standard may result in problems in the international transport of apparel.

<sup>44</sup> Koester (3) p.1.

specifying a minimum type size would help ensure that symbols on both printed and woven labels remain legible after repeated washings.<sup>45</sup> A few comments stated that using 20 point type<sup>46</sup> or a symbol height of not less than 5mm<sup>47</sup> would ensure legibility of the more complex symbols, prevent eye strain and help people with less than perfect eyesight and senior citizens. Another comment stated that, because of the different characteristics of printed and woven labels, care instructions on printed labels should be printed in a minimum 20 point type and instructions on woven labels should be printed in a minimum 25 point type.<sup>48</sup> One comment stated that the Commission should work with ASTM to determine the minimum size necessary to convey the symbols.<sup>49</sup>

Nevertheless, many other comments stated that the existing requirement of legibility is sufficient and that the Commission should not specify the minimum size of the symbols.<sup>50</sup> The GINETEX system does not require a minimum point size; it requires that the symbols be legible and proportional to the size of the textile article.<sup>51</sup> Industry Canada stated that Canada also follows a legibility standard and does not specify a minimum size for symbols.<sup>52</sup> A few comments stated that the marketplace will address the needs of the consumer so that specifying a minimum print size is not necessary.<sup>53</sup> Because different garments have different label size needs, some comments stated that requiring a minimum point size would unnecessarily restrict manufacturers.<sup>54</sup>

The Commission finds that the existing requirement of legibility is sufficient and that the interim conditional exemption should not specify a type size for symbols. The

<sup>45</sup> Pullen (34) p.2.

<sup>46</sup> Koester (3) p.1.

<sup>47</sup> Pittsfield (930) p.1; Pullen (34) p.2. Pittsfield (30) stated at pp.1-2 that symbol size becomes critical when both dots and a temperature designation are used inside the washtub symbol.

<sup>48</sup> Paxar (17) noted at p.4 that the use of any point size less than 25pt on woven labels would make the washing temperature and the lines that indicate steam in the ironing symbol difficult to read. The recommended minimum point sizes include only the basic symbols and not any underlining of symbols. Koester (3) at p.1 stated that a 20pt type size would make temperature indications in the washtub symbol legible, but did not distinguish between woven and printed labels.

<sup>49</sup> AHAM (20) p.1.

<sup>50</sup> Cranston (10) p.2; USA-ITA (11) p.4; ATMI (13) p.2; AAMA (15) p.2; TLC (16) p.2; NKSA (20) p.1; Springs (23) p.1; Fieldcrest (26) p.2; NCCA (27) p.1; AAFCS (37) p.1.

<sup>51</sup> GINETEX (14) p.4.

<sup>52</sup> Comment 35 p.2.

<sup>53</sup> ATMI (13) p.2; AAMA (15) p.2.

<sup>54</sup> ATMI (13) p.2; Springs (23) p.1.

Commission has no evidence that the existing legibility standard has caused problems with written instructions and no evidence that the legibility standard would cause problems with the comprehension of care symbols. The Commission agrees that the marketplace will provide incentives for manufacturers to print legible care symbols. In addition, the failure to provide legible symbols would be an unfair or deceptive practice, and a violation of the Rule for which the Commission could seek civil penalties.<sup>55</sup>

3. Should explanatory hangtags providing care information in language be required for more than one year? Less than one year? How long would it take for hangtags to be prepared and affixed to garments?

Some comments stated that requiring hangtags for at least a twelve month period is sufficient to introduce the care symbols<sup>56</sup> because one year would insure that products with a wide range of product distribution and life cycles would reach the market with the explanatory labels.<sup>57</sup> Other comments stated that one year is not enough for the public to learn the symbols and get used to doing without words.<sup>58</sup> Several comments stated that explanatory hangtags should be required for two years to help consumers learn the details of the system, such as the underlining, and to increase the chances that consumers who do not buy clothing frequently, such as the elderly, would encounter the hangtags explaining the care symbols.<sup>59</sup> One comment stated that explanatory hangtags should be required for at least five years.<sup>60</sup> Other comments, while supporting the use of hangtags did not specify a time period for their use.<sup>61</sup>

<sup>55</sup> See Section 5(m)(1)(A) of the Federal Trade Commission Act, 15 U.S.C. 45(m)(1)(A); and, the Care Labeling Rule, 16 CFR 423.1(a), 423.2, and 423.5.

<sup>56</sup> NAHM (4) p.2; Paxar (17) p.5; Warnaco (21) p.2; Pullen (34) p.2.

<sup>57</sup> ATMI (13) p.2.

<sup>58</sup> Consumers Union (7) p.2; GINETEX (14) p.4; IFI (22) p.2.

<sup>59</sup> Koester (3) p.1; Cranston (10) p.3; AAFCS (37) p.1.

<sup>60</sup> Salant (2) p.1.

<sup>61</sup> P&G (31) pp.2, 3. Consumers Union (7) stated, at p.2, that explanatory hangtags should be used until the public is fully aware of what the care symbols mean; the comment suggested that the Commission conduct a poll after one year to gauge public awareness, and issue another call for comments. Industry Canada (35) stated, at p.3, that the adequacy of the one year period can only be assessed in the context of the total campaign implemented to educate consumers about the symbols.

A few comments stated that hangtags may not be the most effective way of educating consumers in part because consumers tend to discard hangtags after purchasing apparel.<sup>62</sup> Many comments suggested that the Commission condition the use of symbols on the provision of explanatory information without specifying the means by which that information should be conveyed, to allow for the use of stickers, ultrasound and thermal labeling, and other labeling methods that are appropriate for different products.<sup>63</sup> One comment noted, for example, that the use of hangtags on packaged products is not practical and may require changes to manufacturing operations.<sup>64</sup>

After reviewing these comments, the Commission has determined that conditioning the exemption on the provision of explanatory information for 18 months after the effective date of the conditional exemption is sufficient to prevent the unfair or deceptive practices to which the Rule relates.<sup>65</sup> The conditional exemption does not require that manufacturers or importers print the whole chart on the explanatory information provided to the consumer.<sup>66</sup> The conditional exemption does not alter the requirements of the Care Labeling Rule, and the Rule only requires that the care instruction indicate "what regular care is needed for the ordinary use of the product." Section 423.6(b).

In addition, the Commission has determined that limiting the explanatory information to hangtags is

<sup>62</sup> Cranston (10) p.3; Pittsfield (30) p.2. FEDERTESSILE (19) stated, at p.2, that requiring explanatory hangtags would impose significant costs on manufacturers and that educating consumers through media outlets and "ad hoc activities at points of sale" would be more appropriate and equally effective. Labelize (32) p.1 also considered requiring hangtags an unnecessary burden on manufacturers.

<sup>63</sup> USA-ITA (11) p.5; ATMI (13) p.2; AAMA (15) p.1, 3; TLC (16) p.2; NKSA (20) p.1; Springs (23) p.1; Fieldcrest (26) p.2; Pittsfield (30) p.2.

<sup>64</sup> Springs (23) p.2.

<sup>65</sup> Consumers Union (7) p.1 and Paxar (17) p.1 recommended that care labels contain a combination of words and care symbols for the period during which explanatory information will be required because the explanatory hangtags or other information may get lost on the selling floor or misplaced in consumers' homes, leaving the consumers without a guide to interpret the symbols. The Care Labeling Rule permits the joint use of symbols and written instructions on a care label. The conditional exemption permits the use of symbols alone on care labels. The decision whether to use both words and symbols on the permanent care label during the 18 month period during which explanatory information is required has been left to the parties subject to the Rule.

<sup>66</sup> Paxar (17) at p.5 interpreted the requirement that manufacturers or importers provide explanatory information as a requirement that they print the whole care symbol chart.

not warranted because other methods of conveying the meaning of the symbols would be equally effective. Allowing manufacturers to determine the best way to convey the information—whether by hangtags, stickers, or by other means—would allow them to tailor the means of conveying the information to the textile item and its packaging.

4. What types of consumer education should be planned and to what extent are industry members willing to participate in such campaigns? How long would it take to develop and undertake such campaigns?

Many comments expressed the need for and willingness to participate in a strong, nationwide consumer education effort.<sup>67</sup> The comments emphasized the importance of coordinating consumer education efforts;<sup>68</sup> consumer education must include the participation of the textile and apparel industries, dry-cleaning and laundering industries, consumer groups, and the government.

The comments suggested many specific consumer education initiatives. Many comments suggested that home laundering equipment manufacturers include the symbol chart on new equipment and in instruction packages.<sup>69</sup> Laundry detergent

<sup>67</sup> Salant (2) p.1; Koester (3) p.2; NAHM (4) p.2; Cranston (10) p.3; TLC (16) p.2; Paxar (17) p.1, 6, 7; Warnaco (21) p.2; IFI (22) p.1, 2; Springs (23) p.2; Fieldcrest (26); NCCA (27) p.2; AHAM (29) p.2; P&G (31) p.3; Pullen (34) p.2; AAFCS (37) p.1, 2. Consumers Union (7) stated, at p.1, that it will publish an article in Consumer Reports explaining the symbols. ATMI (13) stated, at p.3, that it is willing to participate, by helping to plan an educational campaign, disseminating information, compiling a media contact list, providing limited printing services, and educating trade associations in Canada and Mexico. GINETEX (14) stated, at p.4, that, if the Ginetex and the ASTM systems could be harmonized closely, a common educational campaign could be developed that would strengthen the media impact of the new system. AAMA (15) stated, at p.3, that two of its members desired to know the scope and cost of an educational campaign before they would be willing to endorse it. Paxar stated, at p.7, that it intends "to conduct extensive educational programs through print, electronic and other means of distribution." NKSA (20) stated at p.1 that it "will assist in developing and promoting such a consumer information effort through our Association's normal publications, including the Knitting Times." AAFCS stated at p.1 that "[b]ecause of their expertise in both the areas of textiles and education, AAFCS members should be enlisted to provide nation-wide educational programs \* \* \*. Members of AAFCS can be of great assistance in educating the public through the communications channels they already have in place."

<sup>68</sup> Paxar (17) p.6; AHAM (29) p.2; Industry Canada (35) p.3.

<sup>69</sup> Koester (3) p.2; USA-ITA (11) p.5; Springs (23) p.2; Pittsfield (30) p.2. AHAM (29) stated at p.1 that "AHAM members likely will use ASTM-devised care symbols with equipment use and care booklets and on the actual washer and dryer equipment." AHAM also stated at pp.1-2 that iron manufacturers might place the care symbols on iron control dials so that consumers can refer to them

manufacturers could also print the symbol charts on laundry detergent containers.<sup>70</sup> A few comments focused on the importance of home economics extension programs and other school programs in educating consumers with the help of training materials provided by apparel, equipment, and detergent manufacturers.<sup>71</sup> Many comments stated that clothing retailers and cleaners can display and distribute educational information and can educate their employees to answer consumer questions about caring for clothing. Two comments recommended posting the care symbol chart at laundromats and apartment laundry rooms.<sup>72</sup>

The Commission agrees that a strong consumer education campaign will be necessary to educate consumers about the meaning of the symbols, and intends to work with all interested parties to plan and coordinate an educational campaign. The Commission's staff will contact all commenters (and any other relevant groups and associations) in the near future to announce a public meeting to coordinate an educational campaign.<sup>73</sup>

5. If the Commission were to grant a conditional exemption, when should it become effective?

Numerous comments stated that the conditional exemption should not become effective until interested parties have had the opportunity to prepare a consumer education campaign.<sup>74</sup> Several comments stated that it would take about 6 to 8 months to prepare explanatory labels and approximately six months to one year for manufacturers to dispose of existing inventory and to start affixing hangtags to apparel.<sup>75</sup>

to interpret the meaning of the ironing care symbols on garments; AHAM urged the Commission to consider the value of this measure.

<sup>70</sup> Koester (3) p.2; Consumers Union (7) p.1; Cranston (10) p.3; USA-ITA (11) p.5; Springs (23) p.2; Pittsfield (30) p.2. ATMI (13) suggested, at p.3, that home laundering product manufacturers provide stickers of the chart, so that consumers can place the chart on or near laundering appliances.

<sup>71</sup> Koester (3) p.2; ATMI (13) p.3; AAFCS (37) p.1. P&G (31) stated at p.3 that it has educated consumers on proper garment care through toll free 1-800 numbers and by providing publications to home economics teachers.

<sup>72</sup> Koester (3) p.2; ATMI (13) p.3.

<sup>73</sup> Parties who would like to participate in such a meeting but who have not submitted comments on the Rule in the past two years should contact staff listed in the information section of this Notice to receive information about the meeting.

<sup>74</sup> Cranston (10) p.3; ATMI (13) p.4; Paxar (17) p.6; IFI (22) p.2; Springs (23) p.2.

<sup>75</sup> ATMI (13) p.2-3; AAMA (15) p.3; Paxar (17) p.5, 6; IFI (22) p.2. Koester (3) at p.3 recommended that the exemption not become effective until 1½ years after the exemption is adopted to allow time for educators and manufacturers to prepare

A few comments noted that the conditional exemption does not impose any new labeling requirements and provides for the voluntary, not mandatory, use of care symbols, and that, therefore, the effective date of the exemption is important only in terms of the requirement that manufacturers and importers provide explanatory information for a certain period.<sup>76</sup> The Commission finds that approximately six months will be sufficient to allow manufacturers to prepare explanatory labels and to allow the coordination of a consumer education campaign. The Commission has therefore decided that the conditional exemption will become effective July 1, 1997.

6. Does ASTM's copyright pose a barrier to the use of the ASTM system?

A few comments stated that ASTM's copyright could pose problems to using the ASTM symbols if, for example, ASTM requires a reference to the copyright on clothing labels or hangtags or if it insists on royalty payments.<sup>77</sup> One comment stated that the utility of a symbol-based system would be reduced if Condition #2 of the Conditions for Republishing the ASTM Standard Care Symbol Chart<sup>78</sup> requires an ASTM credit line even when the entire chart is not used; however, the comment assumed correctly that no obligation to credit ASTM exists if the entire ASTM chart is not copied.<sup>79</sup> The same comment correctly assumed that Condition #3, which permits duplication of the ASTM chart royalty-free when the chart is affixed to goods, would also allow the duplication of the chart royalty-free for consumer education programs even though the chart is not attached to goods.<sup>80</sup>

Most comments stated that ASTM's copyright would not pose a barrier to the use of the ASTM system.<sup>81</sup> A few comments expressed the opinion that the five basic care symbols are non-proprietary and in the public domain

themselves. USA-ITA (11) stated at p.5 that its members indicated that it would not take longer than eight months to prepare explanatory labels. Industry Canada (35) stated at p.3 that conversion to the use of symbols may take several clothing seasons because manufacturers consider their existing label stock and the capacities of their printing equipment before they convert.

<sup>76</sup> Pittsfield (30) p. 2; Industry Canada (35) p. 3.

<sup>77</sup> Cranston (10) p. 4; AHAM (29) p. 2.

<sup>78</sup> See Conditions for Republishing the ASTM D5489 Care Symbol Chart, attached to this notice.

<sup>79</sup> Paxar (17) p. 7.

<sup>80</sup> Paxar (17) p. 7.

<sup>81</sup> Koester (3) p. 3; USA-ITA (11) p. 6; AAMA (15) p. 3; TLC (16) p. 2; IFI (22) p. 1; Springs (23) p. 2; Fieldcrest (26) p. 2; NCCA (27) p. 2; Pittsfield (30) p. 2; Pullen (34) p. 2. Industry Canada (35) stated at p. 4 that if Canadian manufacturers are able to use the ASTM symbols "license-free," ASTM's copyright would not pose a problem.

and could therefore not be copyrighted or trademarked in the U.S. and stated that ASTM's Conditions for Republishing the ASTM Standard D5489 Care Symbol Chart adequately addresses any concerns regarding ASTM's copyright for use of the symbol system chart.<sup>82</sup>

The Commission finds that the ASTM copyright is not an impediment to adopting the ASTM system. ASTM holds a copyright on ASTM Standard D5489 and on the ASTM Care Symbol Chart, but not on the ASTM symbols. Although ASTM has placed certain conditions on the use of its Care Symbol Chart, the conditional exemption does not require the use of ASTM's Care Symbol Chart. ASTM's Condition #1 would not allow modified charts or symbols to be represented as the ASTM Standard, but modified charts could be distributed under some other title, thus avoiding the credit line requirement of ASTM's Condition #2. In the event that manufacturers, or others, wish to use ASTM's chart, they must comply with its conditions. But the Commission does not believe that those conditions pose an impediment to adopting the system.

#### IV. Summary of Commission's Decision

Section 18(g)(2) of the Federal Trade Commission Act, 15 U.S.C. 57a(d)(2)(B), provides that "[i]f \* \* \* the Commission finds that the application of a rule prescribed under subsection (a)(1)(B) to any person or class of persons is not necessary to prevent the unfair or deceptive act or practice to which the rule relates, the Commission may exempt such person or class from all or part of such rule." The Commission now finds that the provision presently found in the Terminology section of the Care Labeling Rule, that appropriate care symbols may be used on care labels or care instructions only in addition to the required appropriate terms, is not necessary to prevent the unfair or deceptive act or practice to which the rule relates. Specifically, the Commission exempts manufacturers and importers of textile wearing apparel who use the system of care symbols designated ASTM Standard D5489-96c from the requirement that written care instructions accompany care instructions in symbols. The Commission has not specified a type size for the symbols, but they must be legible. The exemption is adopted on the condition that the parties subject to the Rule provide explanatory information with any garment offered

<sup>82</sup> ATMI (13) p. 4; Springs (23) p. 2; Fieldcrest (26) p. 2; Pullen (34) p. 2.

for sale in the period from July 1, 1997 to December 31, 1998 to consumers regarding the meaning of the care symbols that appear on the label of that garment. To implement this conditional exemption, the Commission revises Sections 423.2 and 423.8, the Terminology and Exemptions sections of the Rule, respectively.

The incorporation by reference of ASTM Standard D5489-96c was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of ASTM Standard D5489-96c Guide to Care Symbols for Care Instructions on Consumer Textile Products may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428, or may be inspected at the Federal Trade Commission, room 130, 600 Pennsylvania Avenue, N.W., Washington, DC, or at the Office of the Federal Register, suite 700, 800 North Capitol Street, N.W., Washington, DC.

Pursuant to the requirements of section 18(g) of the Federal Trade Commission Act, 15 U.S.C. 57a(g), and the provisions of the Administrative Procedure Act, 5 U.S.C. 553(b), the Commission published notices requesting comment on the proposed conditional exemption on June 15, 1994 (59 FR 30733) and November 16, 1995 (60 FR 57552). This conditional exemption is not subject to the requirements of the Paperwork Reduction Act, 44 U.S.C. 3501, because the conditional exemption does not create requirements for information collection; rather, it provide an alternative method of communicating information. The Regulatory Flexibility Act, 44 U.S.C. 601(2), does not apply to this conditional exemption because, pursuant to section 18(d)(2)(B) of the Federal Trade Commission Act, 15 U.S.C. 57a(d)(2)(B), an exemption to a rule under section 18(g) of the Federal Trade Commission Act, 15 U.S.C. 57(a)(g), shall not be treated as an amendment or repeal of a rule. The conditional exemption will become effective on July 1, 1997. The Commission welcomes comment on the minor changes that have been made in ASTM D5489 since the Commission last sought comment on this subject in November 1995. The Commission will consider further revision of this interim conditional exemption, as appropriate. Such comments may be filed with the Office of the Secretary until March 10, 1997.

**List of Subjects in 16 CFR Part 423**

Labeling; Incorporation by reference; Textiles; Trade practices.

**Appendix to the Preamble—Conditions for Republishing the ASTM D 5489 Care Symbol Chart**

Upon written request, ASTM will grant other organizations a royalty-free license for republication of the Care Symbol Chart provided the following conditions are agreed to:

1. Should the chart or the symbols be modified, then they may not be represented as being the ASTM standard.
  2. The following credit line shall appear on all copies made of the chart: "Copyright American Society for Testing and Materials, 1916 Race St., Philadelphia, PA 19103."
  3. Copies of the chart shall not be made available for sale except by separate license under which royalty payments to ASTM are required. This would not apply to copies of the chart affixed to goods such as appliances, cleaning agents, apparel, or home furnishings which are in fact sold. In these cases the chart is being used to convey information about the care symbol system to the ultimate consumer.
  4. The license for republishing the chart is for a specific number of copies and for a specific period of time which is to be agreed upon by ASTM and the licensee.
  5. The original standard or original art work for the symbols, if needed, may be purchased separately from ASTM.
- 6 September 1995, ASTM

**Text of Amendments**

Accordingly, the Commission amends 16 CFR Part 423 as follows:

**PART 423—[AMENDED]**

1. The authority citation for part 423 continues to read as follows:

Authority: 38 Stat. 717, as amended; (15 U.S.C. 41, et seq.)

2. Section 423.2 is amended by revising paragraph (b) to read as follows:

**§ 423.2 Terminology**

\* \* \* \* \*

(b) Any appropriate symbols may be used on care labels or care instructions,

in addition to the required appropriate terms so long as the terms fulfill the requirements of this regulation. See § 423.8(g) for conditional exemption allowing the use of symbols without terms.

\* \* \* \* \*

3. Section 423.8 is amended by adding paragraph (g) to read as follows:

**§ 423.8 Exemptions**

\* \* \* \* \*

(g) The symbol system developed by the American Society for Testing and Materials (ASTM) and designated as ASTM Standard D5489-96c, Standard Guide for Care Symbols for Care Instructions on Textile Products may be used on care labels or care instructions in lieu of terms so long as the symbols fulfill the requirements of this regulation. In addition, symbols from the symbol system designated as ASTM Standard D5489-96c may be combined with terms so long as the symbols and terms used fulfill the requirements of the regulation. Provided, however, that for the 18-month period following the effective date of this section, such symbols may be used on care labels in lieu of terms only if an explanation of the meaning of the symbols used on the care label in terms is attached to, or provided with, the item of textile wearing apparel. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of ASTM Standard D5489-96c, Standard Guide for Care Symbols for Care Instructions on Textile Products may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428, or may be inspected at the Federal Trade Commission, room 130, 600 Pennsylvania Avenue, N.W., Washington, DC, or at the Office of the Federal Register, suite 700, 800 North Capitol Street, N.W., Washington, DC.

Authority: 15 U.S.C. 41-58.

By direction of the Commission.  
Benjamin I. Berman,  
*Acting Secretary.*

Statement of Commissioner Christine A. Varney, Conditional Exemption to the Care Labeling Rule, December 16, 1996

I am voting today to support adopting a conditional exemption to the Care Labeling Rule to permit the use of symbols, without accompanying written instructions, to convey the care information required by the Rule. We live in an increasingly global marketplace, and, by allowing the use of symbols, the Commission has taken a positive step towards enhancing global harmonization.

In moving toward a symbol-based system, the Commission had the opportunity to decide which system would be permitted: the one developed by the American Society of Testing and Materials (ASTM), the one adopted by the International Standards Organization (ISO), currently in use in Europe, or a hybrid of the two. Although the two systems are very similar, they are not identical.

The Commission adopted the ASTM system over the ISO system because it believed ASTM was preferable for several reasons. The ISO system is trademarked, which could require U.S. companies to pay royalties, and the ISO system does not provide all of the information required by the Rule. The Commission also determined that allowing manufacturers to use either the ASTM system or the ISO system (at the manufacturer's choice) could confuse consumers.

Although I understand the Commission's rationale for selecting the ASTM system, I am not convinced that the differences between the two schemes are so great that some sort of accommodation could not have been reached. While I support the current proposal for achieving harmony with our NAFTA partners, I nonetheless believe we may have missed an opportunity to achieve global consistency.

I understand, however, that staff will continue to pursue further harmonization efforts through negotiations with the International Standards Organization. I strongly support such efforts.

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