

### Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

Small agricultural service firms, including shippers, exporters, and carriers, are defined by the Small Business Administration (SBA) as those having annual receipts of less than \$7,000,000, and small agricultural producers are defined as those having annual receipts of less than \$750,000 (13 CFR 121.201).

The industry estimates there are approximately 7,500 apple producers in the U.S. The National Agricultural Statistics Service reports the 2012 apple crop was valued at nearly \$3.1 billion. Assuming a normal distribution, most apple producers can be classified as small entities. According to industry statistics, there are approximately 60 apple exporters subject to regulation under the Act. Foreign Agricultural Service data estimates the value of fresh apple exports to Canada at approximately \$190 million. Assuming a normal distribution, the majority of apple exporters are small businesses. Based on the above calculations, it can be concluded that the majority of apple producers and exporters may be classified as small entities.

This rule is issued under the authority of the Export Apple Act, as amended (7 U.S.C. 581–590). This rule revises “Regulations Issued Under Authority of the Export Apple Act” (7 CFR part 33). In accordance with the provisions of section 10009 of the Agricultural Act of 2014, this action exempts apples shipped to Canada in bulk containers from the minimum requirements and inspection provisions issued under the Act. This action also adds the definition of “bulk container” as a container that contains a quantity of apples weighing more than 100 pounds.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0143, (Export Fruit Regulations). No changes in those requirements as a result of this action are necessary. Should any changes

become necessary, they would be submitted to OMB for approval.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large apple shippers, exporters, or carriers.

AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this interim rule.

Interested persons are invited to submit comments on this interim rule, including the regulatory and informational impacts of this action on small businesses. Any comments received will be considered prior to finalization of this rule.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This rule has to be implemented because of amendments by the Agricultural Act of 2014 to the Act; (2) this rule provides a 60-day comment period, and any comments received will be considered prior to finalization of this rule.

#### List of Subjects in 7 CFR Part 33

Apples, Exports, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 33 is amended as follows:

#### PART 33—REGULATIONS ISSUED UNDER AUTHORITY OF THE EXPORT APPLE ACT

- 1. The authority citation for 7 CFR part 33 continues to read as follows:

**Authority:** 48 Stat. 124; 7 U.S.C. 581–590.

- 2. Section 33.8 is added to read as follows:

##### § 33.8 Bulk container.

Bulk container means a container that contains a quantity of apples weighing more than 100 pounds.

- 3. In § 33.12, paragraph (d) is added to read as follows:

##### § 33.12 Apples not subject to regulation.

\* \* \* \* \*

(d) Apples shipped to Canada in bulk containers.

Dated: March 12, 2014.

**Rex A. Barnes,**

*Associate Administrator, Agricultural Marketing Service.*

[FR Doc. 2014–07543 Filed 4–3–14; 8:45 am]

**BILLING CODE P**

## FEDERAL TRADE COMMISSION

### 16 CFR Part 303

#### Rules and Regulations Under the Textile Fiber Products Identification Act

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

**ACTION:** Final rule.

**SUMMARY:** The Commission amends the rules and regulations under the Textile Fiber Products Identification Act (“Textile Rules” or “Rules”) to incorporate the updated International Organization for Standardization (“ISO”) standard 2076:2010(E); allow certain hang-tags that do not disclose the product’s full fiber content; better address electronic commerce by amending the definition of the terms “invoice” and “invoice or other paper”; update the guaranty provisions by, among other things, replacing the requirement that suppliers provide a guaranty signed under penalty of perjury with a certification, and revising the form used to file continuing guaranties with the Commission under the Textile, Fur, and Wool Acts accordingly; and clarify several other provisions.

**DATES:** The amended Rules are effective on May 5, 2014. The incorporation by reference of the ISO standard 2076:2010(E) is approved by the Director of the **Federal Register** as of May 5, 2014.

**ADDRESSES:** Requests for copies of the amended Rules should be sent to the Public Reference Branch, Room 130, Federal Trade Commission, Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** Robert M. Frisby, Attorney, (202) 326–2098, and Amanda B. Kostner, Attorney, (202) 326–2880, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, 600 Pennsylvania Avenue NW., Washington, DC 20580.

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

The Textile Fiber Products Identification Act (“Textile Act”)<sup>1</sup> and

<sup>1</sup> 15 U.S.C. 70 *et seq.*

Rules require marketers to, among other things, attach a label to each covered textile product disclosing: (1) The generic names and percentages by weight of the constituent fibers in the product; (2) the name under which the manufacturer or other responsible company does business or, in lieu thereof, the company's registered identification number ("RN number"); and (3) the name of the country where the product was processed or manufactured.<sup>2</sup> As part of its ongoing regulatory review program, the Commission published an Advance Notice of Proposed Rulemaking ("ANPR") in November 2011 seeking comment on the economic impact of, and the continuing need for, the Textile Rules; the benefits of the Rules to consumers; and the burdens the Rules place on businesses.<sup>3</sup> The ANPR also sought comment on specific issues, including whether the Commission should amend the Rules to incorporate the revised version of ISO standard entitled "Textiles—Man-made fibres—Generic names," 2076:1999(E); clarify disclosure requirements for products containing elastic material and trimmings; clarify disclosure requirements for written advertising; and modify the Rules' guaranty provisions.

The Commission received 17 comments in response to the ANPR.<sup>4</sup> Based on these comments, the Commission issued a Notice of Proposed Rulemaking ("NPRM") proposing several amendments addressing fiber content disclosures, country-of-origin disclosures, e-commerce and guaranties, and the Act's coverage and exemptions.<sup>5</sup>

The Commission received seven comments<sup>6</sup> in response to the NPRM, including four from trade associations representing industries affected by the Textile Rules<sup>7</sup> and one each from the

European Union,<sup>8</sup> a retailer,<sup>9</sup> and an individual.<sup>10</sup> The joint comment filed by AAFA, AFMA, CAF, NCTO, NRF, USA-ITA, and RILA and the comment filed by Trumbull supported the Commission's proposals to amend § 303.7 to incorporate the latest ISO standard on generic fiber names and to amend § 303.17(b) to allow certain hang-tags that do not provide full fiber content disclosures. These two comments did not address the Commission's other proposals. Three commenters, AAFA, NRF, and Shopbop.com, opposed the Commission's proposal to amend §§ 303.37 and 303.38(a) and (b) to provide that continuing guaranties expire after one year, although NRF supported the Commission's proposal to replace the requirements in §§ 303.37 and 303.38(b) that suppliers sign guaranties under penalty of perjury. These three comments did not address the Commission's other proposals. The Hosiery Association urged the Commission to eliminate the requirement that certain labels stating fiber content disclose "exclusive of decoration." The comment indicated that this disclosure is costly and unnecessary. This comment argued that consumers will know that the content disclosure refers to the basic product and not the decoration; however, the comment did not submit any evidence regarding consumer perception of such labels. The European Commission posed questions and sought clarification regarding the Rules' guaranty provisions and country-of-origin disclosure requirements.<sup>11</sup> Neither the Hosiery Association nor the European Commission appeared to directly address the Commission's proposals.

## II. Amendments

Based on its careful consideration of the record, the Commission amends the Rules' fiber content disclosures, country-of-origin disclosures, provisions addressing e-commerce and guaranties, and exemptions as explained below.

### A. Fiber Content Disclosures

The Commission proposed the following amendments to the Rules' fiber content disclosures: (1) Revising § 303.7 to incorporate the updated ISO

standard establishing generic fiber names for manufactured fibers; (2) clarifying § 303.12(a) concerning disclosures involving trimmings; (3) revising § 303.17(b) to allow certain hang-tags disclosing fiber names and trademarks, and performance information, without disclosing the product's full fiber content; and (4) clarifying § 303.35, describing products containing virgin or new wool, and §§ 303.41 and 303.42, addressing fiber content disclosures in advertising.

All of the comments addressing the proposed amendments to §§ 303.7 and 303.17(b) supported the amendments. For example, the joint comment stated that the incorporation of the updated ISO standard in § 303.7 would add clarity, afford significant efficiencies, and reduce costs. Moreover, it stated that the associations did not anticipate problems based on differences between ISO and § 303.7 definitions. Based on these comments, and for the reasons set forth in the NPRM, the Commission adopts the proposed amendment to § 303.7.

The joint comment also supported the proposed amendment to § 303.17(b). It stated that, by allowing hang-tags providing fiber information without disclosing the product's full fiber content, the amendment would afford consumers access to important fiber performance information at the point-of-sale and reduce the cost of providing such information. It also agreed with the Commission's proposal to require that any such hang-tag disclose that it does not provide the product's full fiber content, if the product contains any fiber other than the fiber identified on the hang-tag. The joint comment explained that the proposed disclosure requirement is an appropriate and useful action to prevent deception regarding fiber content. Based on the comments supporting this proposal, and for the reasons set forth in the NPRM, the Commission adopts the proposed amendment to § 303.17(b).

None of the comments addressed the proposed amendments to §§ 303.12(a), 303.35, 303.41, or 303.42, all of which involved clarifications rather than substantive changes to the Rules. Accordingly, the Commission adopts all of these proposed amendments without change for the reasons explained in the NPRM.

### B. Country-of-Origin Disclosures

The Commission proposed updating § 303.33(d) and (f). Specifically, the Commission proposed to update and clarify § 303.33(d) to state that an imported product's country-of-origin as determined under the laws and

<sup>2</sup> See 15 U.S.C. 70b(b).

<sup>3</sup> 76 FR 68690 (Nov. 7, 2011).

<sup>4</sup> The ANPR comments are posted at <http://www.ftc.gov/policy/public-comments/initiative-401>.

<sup>5</sup> 78 FR 29263 (May 20, 2013).

<sup>6</sup> The NPRM comments are posted at <http://www.ftc.gov/policy/public-comments/initiative-485>. The Commission has assigned each comment a number appearing after the name of the commenter and the date of submission. This notice cites comments using the last name of the individual submitter or the name of the organization, followed by the number assigned by the Commission.

<sup>7</sup> Seven associations filed a joint comment (8): the American Apparel and Footwear Association ("AAFA"), American Fiber Manufacturers Association, Inc. ("AFMA"), Canadian Apparel Federation ("CAF"), National Council of Textile Organizations ("NCTO"), National Retail Federation ("NRF"), U.S. Association of Importers of Textiles and Apparel ("USA-ITA"), and Retail Industry Leaders Association ("RILA"). Two of these

industry associations also filed separate comments: AAFA (9) and NRF (7). The Hosiery Association (2) also filed a comment.

<sup>8</sup> European Union (4).

<sup>9</sup> Shopbop.com (6).

<sup>10</sup> Trumbull, Agathon Associates (3).

<sup>11</sup> The Commission plans to address these questions when it updates its consumer and business education materials to reflect the amendments to the Rules.

regulations enforced by Customs shall be the country where the product was processed or manufactured. The Commission also proposed to update § 303.33(f) by dropping the outdated reference to the Treasury Department and instead refer to any Tariff Act and the regulations promulgated thereunder. These amendments would revise the Rules to clearly reflect the Commission's longstanding policy of ensuring the consistency of the Textile Rules and Customs regulations.

None of the comments addressed the proposed amendments to § 303.33. Accordingly, the Commission adopts these proposed amendments without change for the reasons explained in the NPRM.

The European Commission posed several questions regarding the Rules' country-of-origin disclosure requirements. The Commission plans to address these questions when it updates its consumer and business education materials to reflect the amendments to the Rules.

### C. E-Commerce and Textile Guaranties

To better address electronic commerce and concerns about the Rules' continuing guaranty provisions, the Commission proposed amending the definition of the terms *invoice* and *invoice or other paper* in § 303.1(h) and the continuing guaranty provisions in §§ 303.37 and 303.38. Specifically, the Commission proposed to amend § 303.1(h)<sup>12</sup> to: (1) Replace the word "paper" with the word "document"; (2) state explicitly that such documents can be issued electronically; and (3) acknowledge that E-SIGN<sup>13</sup> allows for the preservation of records "in a form that is capable of being accurately reproduced for later reference, whether by transmission, printing, or otherwise."<sup>14</sup> The Commission also proposed amending §§ 303.37 and 303.38(b) to replace the requirement that guarantors sign continuing guaranties under penalty of perjury with a requirement that they acknowledge that providing a false guaranty is unlawful, and certify that they will actively monitor and ensure compliance with the Textile Act and Rules. Finally, the Commission proposed amending §§ 303.37 and 303.38(a) and (b) of the Rules to provide that continuing guaranties are effective for one year unless revoked earlier.<sup>15</sup>

<sup>12</sup> This amendment would also require parallel revisions to §§ 303.21, 303.31, 303.36, 303.38(c), and 303.44.

<sup>13</sup> 15 U.S.C. 7001 *et seq.*

<sup>14</sup> 15 U.S.C. 7001(d)(1).

<sup>15</sup> The Commission also proposed to revise FTC Form 31-A set forth in § 303.38 so that it is

None of the comments addressed the proposed amendments to §§ 303.1(h), 303.21, 303.31, 303.36, and 303.38(c). Accordingly, the Commission adopts all of these proposed amendments without change for the reasons explained in the NPRM.

NRF favored the Commission's proposal to replace the requirement in §§ 303.37 and 303.38(b) that guarantors sign under penalty of perjury with the certification requirement described above. None of the other comments addressed this proposal. Accordingly, the Commission adopts this proposed amendment for the reasons explained in the NPRM.

Three commenters, AAFA, NRF, and Shopbop.com, opposed the Commission's proposal to amend §§ 303.37 and 303.38(a) and (b) to provide that continuing guaranties remain in effect for one year unless revoked earlier. None of the comments supported this proposal.

AAFA strongly disagreed with the Commission's assertion that requiring annual renewal of continuing guaranties would impose minimal costs on 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.

Similarly, NRF argued that the annual renewal requirement would add administrative costs for buyers and guarantors without making guaranties more reliable. It stated that, over the course of a retailer's relationship with a large network of vendors, even the addition of a one-page form annually is

consistent with the guaranty provisions as amended. Because this form is also used to provide guaranties under the Fur and Wool Acts and references these Acts, and because there is no reason to treat Fur and Wool guaranties differently than Textile guaranties, the Commission proposed to revise the form's references to Fur and Wool guaranties in the same way. The Commission explained this proposal in its Supplemental Notice of Proposed Rulemaking for the Fur Rules, 78 FR 36693 at 36695–36696 (June 19, 2013), and in its Notice of Proposed Rulemaking for the Wool Rules, 78 FR 57808 at 57812–57813 (Sept. 20, 2013). Section 301.48(a)(3) of the Fur Rules and § 300.33(b) of the Wool Rules provide that the prescribed form for continuing guaranties filed with the Commission is found in § 303.38(b) of the Textile Rules. See also Wool Products Labeling Act of 1939, 15 U.S.C. 68 *et seq.* and the Fur Products Labeling Act, 15 U.S.C. 69 *et seq.*

a major commitment which will have a significant impact on retailers and the rest of the supply chain.<sup>16</sup>

Like AAFA, Shopbop.com strongly opposed this proposal. It disagreed with the Commission's assertion that the annual renewal requirement would increase the reliability of guaranties. It argued that the mere yearly signing of the same form is unlikely to receive significant additional attention from a guarantor. Additionally, Shopbop.com argued that the requirement would impose significant costs on buyers that purchase products from a large number of sellers, such as most large retailers. It asserted that the process of obtaining guaranties can be extremely time-consuming and costly, and that a buyer can have thousands of sellers that it would need to contact individually. Finally, it noted that none of the comments filed in response to the ANPR advocated this amendment and that the Commission did not cite evidence from its enforcement record or empirical studies supporting the imposition of this requirement.

Two of the above comments disputed the Commission's assertion that an annual renewal requirement would increase the reliability of continuing guaranties, and all three disputed the Commission's assertion that the requirement would not impose significant compliance costs on industry. As noted above, none of the comments supported the proposal. Based on these comments, the Commission lacks sufficient evidence to conclude that the proposal 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 this proposed amendment.

Nonetheless, the Commission continues to have concerns that continuing guaranties remaining in effect indefinitely or until revoked may become less reliable over time, especially after the employees who originally provided the guaranty to a buyer or filed it with the Commission no longer work for the guarantor. If the Commission obtains evidence that continuing guaranties have become less reliable after this amendment takes effect, it will revisit this issue and

<sup>16</sup> NRF also reiterated its support for amending the Rules to include an alternative to guaranties for purchasers that obtain textile products directly from overseas suppliers that cannot provide guaranties. The Commission addressed this issue in the NPRM.

consider amending the Rules' continuing guaranty provisions accordingly.

#### *D. Coverage and Exemptions From the Act and Rules*

The Commission proposed clarifying § 303.45 so that paragraph (a) identifies the textile fiber product categories subject to the Act and regulations, with certain exceptions identified in paragraph (b) that are excluded from the Act's requirements. New paragraph (b) provides that all textile fiber products other than those identified in paragraph (a) are excluded. It also identifies a number of other exempted products, some of which fall within the general product categories listed in paragraph (a). The Commission also proposed revising current paragraphs (b) and (c) to reflect the above change and redesignating them as paragraphs (c) and (d), respectively. None of the comments addressed the proposed amendments to § 303.45. Accordingly, the Commission adopts all of these proposed amendments without change for the reasons explained in the NPRM.

### **III. Regulatory Flexibility Act Requirements**

The Regulatory Flexibility Act ("RFA")<sup>17</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>18</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.

The Commission believes that the amendments will not have a significant economic impact upon small entities that manufacture or import textile products, although they may affect a substantial number of small businesses. The amendments: (a) Clarify the Rules, including §§ 303.1(h),<sup>19</sup> 303.12(a), 303.33(d) and (f), 303.35, 303.41(a), 303.42(a), and 303.45; (b) amend § 303.7 to incorporate the updated version of ISO 2076, thereby establishing the generic names for the manufactured fibers set forth in the current ISO standard; (c) amend § 303.17(b) to allow manufacturers and importers to disclose fiber names and trademarks and information about fiber performance on certain hang-tags affixed to textile fiber products without including the product's full fiber content information

on the hang-tag; and (d) amend §§ 303.36, 303.37, and 303.38 to clarify and update the Rules' guaranty provisions by, among other things, replacing the requirement that suppliers that provide a guaranty sign under penalty of perjury with a certification requirement for continuing guaranties. Therefore, the Commission certifies that amending the Rules will not have a significant economic impact on a substantial number of small businesses.

#### *A. Need for and Objectives of the Amendments*

The objective of the amendments is to clarify the Rules; incorporate the updated version of ISO 2076, thereby establishing the generic names for the manufactured fibers set forth in the current ISO standard; allow manufacturers and importers to disclose fiber names and trademarks and information about fiber performance on certain hang-tags affixed to textile fiber products without including the product's full fiber content information on the hang-tag; and clarify and update the Rules' guaranty provisions by, among other things, replacing the requirement that suppliers that provide a guaranty sign under penalty of perjury with a certification requirement. The Textile Act authorizes the Commission to implement its requirements through the issuance of rules.

The amendments will clarify and update the Rules, and provide covered entities with additional labeling options without imposing significant new burdens or additional costs. For example, businesses that prefer not to affix a hang-tag disclosing a fiber trademark without disclosing the product's full fiber content need not do so. As revised, the Rules' continuing guaranty provisions will continue to provide for a simple one-page form including information very similar, if not identical, to that currently required.

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

None of the comments disputed the Initial Regulatory Flexibility Analysis in the NPRM, with the exception of the three comments objecting to the proposal to amend §§ 303.37 and 303.38(a) and (b) to provide that continuing guaranties are effective for one year unless revoked earlier. The comments 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.

#### *C. Small Entities to Which the Amendments Will Apply*

The Rules apply to various segments of the textile fiber product industry, including manufacturers and wholesalers of textile apparel products. Under the Small Business Size Standards issued by the Small Business Administration, textile apparel manufacturers qualify as small businesses if they have 500 or fewer employees. Clothing wholesalers qualify as small businesses if they have 100 or fewer employees. The Commission's staff has estimated that approximately 22,218 textile fiber product manufacturers and importers are covered by the Rules' disclosure requirements.<sup>20</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 do not impose any significant new obligations on them.

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

As explained earlier in this document, the amendments clarify the Rules; incorporate the updated version of ISO 2076, thereby establishing the generic names for the manufactured fibers set forth in the current ISO standard; allow manufacturers and importers to disclose fiber names and trademarks and information about fiber performance on certain hang-tags affixed to textile fiber products without including the product's full fiber content information on the hang-tag; and clarify and update the Rules' guaranty provisions by, among other things, replacing the requirement that suppliers that provide a guaranty sign under penalty of perjury with a certification requirement. The small entities potentially covered by these 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

<sup>17</sup> 5 U.S.C. 601–612.

<sup>18</sup> 5 U.S.C. 605.

<sup>19</sup> This amendment also involves parallel revisions to §§ 303.21, 303.31, 303.36, 303.38(c), and 303.44.

<sup>20</sup> *Federal Trade Commission: Agency Information Collection Activities; Proposed Collection; Comment Request*, 76 FR 77230 (Dec. 12, 2011).

other significant alternatives, as the amendments simply clarify the Rules; incorporate the updated version of ISO 2076, thereby establishing the generic names for the manufactured fibers set forth in the current ISO standard; allow manufacturers and importers to disclose fiber names and trademarks and information about fiber performance on certain hang-tags affixed to textile fiber products without including the product's full fiber content information on the hang-tag; and clarify and update the Rules' guaranty provisions by, among other things, replacing the requirement that suppliers that provide a guaranty sign under penalty of perjury with a certification requirement. 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.

#### IV. 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>21</sup> As discussed above, the amendments: (a) Clarify the Rules, including §§ 303.1(h),<sup>22</sup> 303.12(a), 303.33(d) and (f), 303.35, 303.41(a), 303.42(a), and 303.45; (b) revise § 303.7 to incorporate the updated version of ISO 2076, thereby establishing the generic names for the manufactured fibers set forth in the current ISO standard; (c) amend § 303.17(b) to allow manufacturers and importers to disclose fiber names and trademarks and information about fiber performance on certain hang-tags affixed to textile fiber products without including the product's full fiber content information on the hang-tag; and (d) amend §§ 303.36, 303.37, and 303.38 to clarify and update the Rules' guaranty provisions by, among other things, replacing the requirement that suppliers provide a guaranty signed

<sup>21</sup> 44 U.S.C. 3501 *et seq.* The Commission recently published its PRA burden estimates for the current information collection requirements under the Rules. See *Federal Trade Commission: Agency Information Collection Activities; Proposed Collection; Comment Request*, 76 FR 77230 (Dec. 12, 2011) and *Federal Trade Commission: Agency Information Collection Activities; Submission for OMB Review; Comment Request*, 77 FR 10744 (Feb. 23, 2012). 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 3084-0101.

<sup>22</sup> This amendment would also require parallel revisions to §§ 303.21, 303.31, 303.36, 303.38(c), and 303.44.

under penalty of perjury with a certification requirement.

None of the comments disputed the PRA analysis in the NPRM, with the exception of the three comments objecting to the proposal to amend §§ 303.37 and 303.38(a) and (b) to provide that continuing guaranties are effective for one year unless revoked earlier. The comments 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. In the Commission's view, the amendments it has adopted do not impose any additional significant collection of information requirements. For example, 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.

#### List of Subjects in 16 CFR Part 303

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

For the reasons set forth in the preamble, the Federal Trade Commission amends Title 16, chapter I, of the Code of Federal Regulations, as follows:

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

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

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

- 2. Amend § 303.1 by revising paragraph (h) to read as follows:

##### § 303.1 Terms defined.

\* \* \* \* \*

(h) The terms *invoice* and *invoice or other document* mean an account, order, memorandum, list, or catalog, which is issued to a purchaser, consignee, bailee, correspondent, agent, or any other person, electronically, in writing, or in some other form capable of being read and preserved in a form that is capable of being accurately reproduced for later reference, whether by transmission, printing, or otherwise, in connection with the marketing or handling of any textile fiber product transported or delivered to such person.

\* \* \* \* \*

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

#### § 303.7 Generic names and definitions for manufactured fibers.

Pursuant to the provisions of section 7(c) of the Act, the Commission hereby establishes the generic names for manufactured fibers, together with their respective definitions, set forth in this section, and the generic names for manufactured fibers, together with their respective definitions, set forth in International Organization for Standardization ISO 2076:2010(E), "Textiles—Man-made fibres—Generic names." International Organization for Standardization ISO 2076:2010(E), "Textiles—Man-made fibres—Generic names, Fifth edition, 2010–01–15 is incorporated by reference into this section with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Federal Trade Commission must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the Federal Trade Commission, 600 Pennsylvania Ave. NW., Room 130, Washington, DC 20580, (202) 326–2222, and is available from the American National Standards Institute, 11 West 42nd St., 13th floor, New York, NY 10036. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

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- 4. Amend § 303.12 by revising paragraph (a) to read as follows:

#### § 303.12 Trimmings of household textile articles.

(a) Pursuant to section 12 of the Act, trimmings incorporated in articles of wearing apparel and other household textile articles are exempt from the Act and regulations, except for decorative trim, decorative patterns and designs, and elastic materials in findings exceeding the surface area thresholds described in paragraphs (a)(3) and (b) of this section. Trimmings may, among other forms of trim, include:

(1) Rickrack, tape, belting, binding, braid, labels (either required or non-required), collars, cuffs, wrist bands, leg bands, waist bands, gussets, gores, welts, and findings, including superimposed garters in hosiery, and elastic materials and threads inserted in or added to the basic product or garment in minor proportion for holding, reinforcing or similar structural purposes;

(2) Decorative trim, whether applied by embroidery, overlay, applique, or attachment; and

(3) Decorative patterns or designs which are an integral part of the fabric out of which the household textile article is made. *Provided*, that such decorative trim or decorative pattern or design, as specified in paragraphs (a)(2) and (3) of this section, does not exceed 15 percent of the surface area of the household textile article. If no representation is made as to the fiber content of the decorative trim or decoration, as provided for in paragraphs (a)(2) and (3) of this section, and the fiber content of the decorative trim or decoration differs from the fiber content designation of the basic fabric, the fiber content designation of the basic fabric shall be followed by the statement "exclusive of decoration."

\* \* \* \* \*

■ 5. Revise § 303.17(b) to read as follows:

**§ 303.17 Use of fiber trademarks and generic names on labels.**

\* \* \* \* \*

(b) Where a generic name or a fiber trademark is used on any label providing required information, a full fiber content disclosure shall be made in accordance with the Act and regulations the first time the generic name or fiber trademark appears on the label. Where a fiber generic name or trademark is used on any hang-tag attached to a textile fiber product that has a label providing required information and the hang-tag provides non-required information, such as a hang-tag stating only a fiber generic 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 textile fiber product contains any fiber other than the fiber identified by the fiber generic 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."

\* \* \* \* \*

■ 6. Amend § 303.21 by revising paragraphs (a)(3) and (b) to read as follows:

**§ 303.21 Marking of samples, swatches, or specimens and products sold therefrom.**

(a) \* \* \*

(3) If such samples, swatches, or specimens are not used to effect sales to

ultimate consumers and are not in the form intended for sale or delivery to, or for use by, the ultimate consumer, and are accompanied by an invoice or other document showing the required information.

(b) Where properly labeled samples, swatches, or specimens are used to effect the sale of articles of wearing apparel or other household textile articles which are manufactured specifically for a particular customer after the sale is consummated, the articles of wearing apparel or other household textile articles need not be labeled if they are of the same fiber content as the samples, swatches, or specimens from which the sale was effected and an invoice or other document accompanies them showing the information otherwise required to appear on the label.

■ 7. Revise § 303.31 to read as follows:

**§ 303.31 Invoice in lieu of label.**

Where a textile fiber product is not in the form intended for sale, delivery to, or for use by the ultimate consumer, an invoice or other document may be used in lieu of a label, and such invoice or other document shall show, in addition to the name and address of the person issuing the invoice or other document, the fiber content of such product as provided in the Act and regulations as well as any other required information.

■ 8. Amend § 303.33 by revising paragraphs (d) and (f) to read as follows:

**§ 303.33 Country where textile fiber products are processed or manufactured.**

\* \* \* \* \*

(d) The country of origin of an imported textile fiber 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 textile fiber product was processed or manufactured.

\* \* \* \* \*

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

■ 9. Revise § 303.35 to read as follows:

**§ 303.35 Use of terms "virgin" or "new."**

The terms *virgin* or *new* as descriptive of a textile fiber 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, bonded, or similarly manufactured product.

■ 10. Amend § 303.36 by revising the introductory text of paragraph (a) and paragraphs (a)(2) and (b), to read as follows:

**§ 303.36 Form of separate guaranty.**

(a) The following are suggested forms of separate guaranties under section 10 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 textile fiber products listed and designated therein, and showing the date of such invoice or other document and the signature and address of the guarantor.

\* \* \* \* \*

(2) *Guaranty based on guaranty.*

Based upon a guaranty received, we guaranty that the textile fiber products specified herein are not misbranded nor falsely nor deceptively advertised or invoiced under the provisions of the Textile Fiber Products Identification 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 a textile fiber product 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. Revise § 303.37 to read as follows:

**§ 303.37 Form of continuing guaranty from seller to buyer.**

Under section 10 of the Act, a seller residing in the United States may give a buyer a continuing guaranty to be applicable to all textile fiber products sold or to be sold. The following is the prescribed form of continuing guaranty from seller to buyer:

We, the undersigned, guaranty that all textile fiber products now being sold or which may hereafter be sold or delivered to \_\_\_\_\_ are not, and will not be misbranded or falsely or deceptively advertised or invoiced under the provisions of the Textile Fiber Products Identification Act and rules and regulations thereunder. We acknowledge that furnishing a false guaranty is an unlawful unfair and deceptive act or practice pursuant to the Federal Trade Commission Act, and certify that we will actively monitor and ensure compliance with the Textile Fiber Products Identification Act and rules and regulations thereunder during the duration of this guaranty.

Dated, signed, and certified this \_\_\_\_ day of \_\_\_\_, 20\_\_, at \_\_\_\_\_ (City), \_\_\_\_\_ (State or

Territory) \_\_\_\_\_ (name under which business is conducted.)

I certify that the information supplied in this form is true and correct.

\_\_\_\_\_

Signature of Proprietor, Principal Partner, or Corporate Official

\_\_\_\_\_  
Name (Print or Type) and Title

■ 12. Amend § 303.38 by revising paragraphs (b) and (c) to read as follows:

**§ 303.38 Continuing guaranty filed with Federal Trade Commission.**

\* \* \* \* \*

(b) Prescribed form for a continuing guaranty:

**BILLING CODE 6750-01-P**

## CONTINUING GUARANTY FOR FIBER &amp; FUR PRODUCTS

## BUSINESS INFORMATION

1. Legal Name of Guarantor Firm

2. Name under which Guarantor Firm does business, if different from legal name

3. Type of Company:  Proprietorship  Partnership  Corporation

4. Address of Principal Office or Place of Business (Include Zip Code)

## OPTIONAL INFORMATION:

Web Address:

Telephone Number:

Fax Number:

## UNDER WHICH LAW IS THE CONTINUING GUARANTY TO BE FILED?

5. Put an "X" in the appropriate boxes.

- Under the Textile Fiber Products Identification Act (15 U.S.C. §§ 70-70k): The company named above, which manufactures, markets, or handles textile fiber products: (1) guarantees that any textile fiber product it sells, ships, or delivers will not be misbranded or falsely or deceptively advertised or invoiced; (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 Textile Fiber Products Identification Act and the Rules and Regulations issued under the Act during the duration of the guaranty.
- 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 the Rules and Regulations issued under the Act during the duration of the guaranty.
- Under the Fur Products Labeling Act (15 U.S.C. §§ 69-69k): The company named above, which manufactures, markets, or handles fur products: (1) guarantees that any fur product it sells, ships, or delivers will not be misbranded or falsely or deceptively advertised or invoiced; (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 Fur Products Labeling Act and the Rules and Regulations issued under the Act during the duration of the guaranty.

## CERTIFICATION

I hereby certify that the information provided on this form is true and correct.

6. Signature of proprietor, principal partner, or corporate official

7. Name (Please print or type)

8. Title

9. City and State where signed

10. Date

## INSTRUCTIONS

The Textile Fiber Products Identification Act, the Wool Products Labeling Act, and the Fur Products Labeling Act provide that any marketer or manufacturer of fiber or fur products covered by those Acts may file a continuing guaranty with the Federal Trade Commission. The person signing and certifying the guaranty must reside in the United States. Use this form to file such guaranties with the Federal Trade Commission.

In completing this form, please observe the following:

(a) All appropriate blanks on the form should be filled in. Include your Zip Code in item 4.

(b) In item 6, signature of proprietor, partner, or corporate official of guarantor firm.

(c) Send two completed, signed original copies to:

Federal Trade Commission  
Division of Enforcement  
600 Pennsylvania Ave., NW  
Washington, DC 20580

(d) Do not fax application - mail signed originals only.

Length of Guaranty:  
Continuing guaranties continue in effect until revoked.

Changes:  
The guarantor must immediately notify the Commission in writing of any change in business status. Any change in the address of the guarantor's principal office and place of business must also be promptly reported.

DO NOT USE THIS SPACE

Filed \_\_\_\_\_ 20\_\_\_\_

FEDERAL TRADE COMMISSION

FTC Form 31-A (rev. 09/13)

(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 Textile Fiber Products Identification Act filed with the Federal Trade Commission.

\* \* \* \* \*

■ 13. Amend § 303.41 by revising paragraph (a) to read as follows:

**§ 303.41 Use of fiber trademarks and generic names in advertising.**

(a) In advertising textile fiber products, the use of a fiber trademark or a generic fiber name shall require a full disclosure of the fiber content information required by the Act and regulations in at least one instance in the advertisement.

\* \* \* \* \*

■ 14. Amend § 303.42 by revising paragraph (a) to read as follows:

**§ 303.42 Arrangement of information in advertising textile fiber products.**

(a) Where a textile fiber product is advertised in such manner as to require disclosure of the information required by the Act and regulations, all parts of the required information shall be stated in immediate conjunction with each other in legible and conspicuous type or lettering of equal size and prominence. In making the required disclosure of the fiber content of the product, the generic names of fibers present in an amount 5 percent or more of the total fiber weight of the product, together with any fibers disclosed in accordance with § 303.3(a), shall appear in order of predominance by weight, to be followed by the designation "other fiber" or "other fibers" if a fiber or fibers required to be so designated are present. The advertisement need not state the percentage of each fiber.

\* \* \* \* \*

■ 15. Revise § 303.44 to read as follows:

**§ 303.44 Products not intended for uses subject to the Act.**

Textile fiber products intended for uses not within the scope of the Act and regulations or intended for uses in other textile fiber products which are exempted or excluded from the Act shall not be subject to the labeling and invoicing requirements of the Act and regulations: *Provided*, an invoice or other document covering the marketing or handling of such products is given, which indicates that the products are

not intended for uses subject to the Textile Fiber Products Identification Act.

■ 16. Revise § 303.45 to read as follows:

**§ 303.45 Coverage and exclusions from the Act.**

(a) The following textile fiber products are subject to the Act and regulations in this part, unless excluded from the Act's requirements in paragraph (b) of this section:

- (1) Articles of wearing apparel;
- (2) Handkerchiefs;
- (3) Scarfs;
- (4) Beddings;
- (5) Curtains and casements;
- (6) Draperies;
- (7) Tablecloths, napkins, and doilies;
- (8) Floor coverings;
- (9) Towels;
- (10) Wash cloths and dish cloths;
- (11) Ironing board covers and pads;
- (12) Umbrellas and parasols;
- (13) Batts;

(14) Products subject to section 4(h) of the Act;

(15) Flags with heading or more than 216 square inches (13.9 dm<sup>2</sup>) in size;

(16) Cushions;

(17) All fibers, yarns and fabrics (including narrow fabrics except packaging ribbons);

(18) Furniture slip covers and other covers or coverlets for furniture;

(19) Afghans and throws;

(20) Sleeping bags;

(21) Antimacassars and tidies;

(22) Hammocks; and

(23) Dresser and other furniture scarfs.

(b) Pursuant to section 12(b) of the Act, all textile fiber products other than those identified in paragraph (a) of this section, and the following textile fiber products, are excluded from the Act's requirements:

(1) Belts, suspenders, arm bands, permanently knotted neckties, garters, sanitary belts, diaper liners, labels (either required or non-required) individually and in rolls, looper clips intended for handicraft purposes, book cloth, artists' canvases, tapestry cloth, and shoe laces.

(2) All textile fiber products manufactured by the operators of company stores and offered for sale and sold exclusively to their own employees as ultimate consumers.

(3) Coated fabrics and those portions of textile fiber products made of coated fabrics.

(4) Secondhand household textile articles which are discernibly secondhand or which are marked to indicate their secondhand character.

(5) Non-woven products of a disposable nature intended for one-time use only.

(6) All curtains, casements, draperies, and table place mats, or any portions thereof otherwise subject to the Act, made principally of slats, rods, or strips, composed of wood, metal, plastic, or leather.

(7) All textile fiber products in a form ready for the ultimate consumer procured by the military services of the United States which are bought according to specifications, but shall not include those textile fiber products sold and distributed through post exchanges, sales commissaries, or ship stores; provided, however, that if the military services sell textile fiber products for nongovernmental purposes the information with respect to the fiber content of such products shall be furnished to the purchaser thereof who shall label such products in conformity with the Act and regulations before such products are distributed for civilian use.

(8) All hand woven rugs made by Navajo Indians which have attached thereto the "Certificate of Genuineness" supplied by the Indian Arts and Crafts Board of the United States Department of Interior. The term Navajo Indian means any Indian who is listed on the register of the Navajo Indian Tribe or is eligible for listing thereon.

(c) The exclusions provided for in paragraph (b) of this section shall not be applicable:

(1) if any representations as to the fiber content of such products are made on any label or in any advertisement without making a full and complete fiber content disclosure on such label or in such advertisement in accordance with the Act and regulations in this part with the exception of those products excluded by paragraph (b)(5) of this section; or

(2) if any false, deceptive, or misleading representations are made as to the fiber content of such products.

(d) The exclusions from the Act provided in paragraph (b) of this section are in addition to the exemptions from the Act provided in section 12(a) of the Act and shall not affect or limit such exemptions.

By direction of the Commission.

**Donald S. Clark,**  
*Secretary.*

[FR Doc. 2014-07518 Filed 4-3-14; 8:45 am]

**BILLING CODE 6750-01-P**