

area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

\* \* \* \* \*

Issued in College Park, Georgia, on July 21, 2000.

**Wade T. Carpenter,**  
Acting Manager, Air Traffic Division,  
Southern Region.

[FR Doc. 00-19518 Filed 8-1-00; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Airspace Docket No. 00-ACE-7]

#### Amendment to Class E Airspace; Hampton, IA; Correction

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Direct final rule; confirmation of effective date and correction.

**SUMMARY:** This document confirms the effective date of a direct final rule which revises the Class E airspace at Hampton, IA, and corrects an error in the coordinates for the Hampton Municipal Airport, Airport Reference Point (ARP) and the Hampton Nondirectional Radio Beacon (NDB) as published in the **Federal Register** May 23, 2000 (65 FR 33250), Airspace Docket No. 00-ACE-7.

**DATES:** The direct final rule published at 65 FR 33250 is effective on 0901 UTC, October 5, 2000.

This correction is effective on October 5, 2000.

**FOR FURTHER INFORMATION CONTACT:** Kathy Randolph, Air Traffic Division, Airspace Branch, ACE-520C, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329-2525.

#### SUPPLEMENTARY INFORMATION:

#### History

On May 23, 2000, the FAA published in the **Federal Register** a direct final rule; request for comments which revises the Class E airspace at Hampton, IA (FR document 00-12821, 65 FR 33250, Airspace Docket No. 00-ACE-7). An error was subsequently discovered in the coordinates for the Hampton Municipal Airport ARP and the Hampton NDB. This action corrects those errors. After careful review of all available information related to the subject presented above, the FAA has

determined that air safety and the public interest require adoption of the rule. The FAA has determined that these corrections will not change the meaning of the action nor add any additional burden on the public beyond that already published. This action corrects the errors in the coordinates of the Hampton Municipal Airport ARP and the Hampton NDB and confirms the effective date to the direct final rule.

The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on October 5, 2000. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

#### Correction to the Direct Final Rule

Accordingly, pursuant to the authority delegated to me, coordinates for the Hampton Municipal Airport ARP and the Hampton NDB as published in the **Federal Register** on May 23, 2000 (65 FR 33250), (**Federal Register** Document 00-12821; page 33251, column two) are corrected as follows:

#### § 71.1 [Corrected]

##### ACE IA E5 Hampton, IA [Corrected]

On page 33251, in the second column, after Hampton Municipal Airport, IA, correct the coordinates by removing (lat. 42°43'26"N., long. 93°13'35"W.) and substituting (lat. 42°43'25"N., long. 93°13'35"W.) and after Hampton NDB correct the coordinates by removing (lat. 42°43'32"N., long. 93°13'30"W.) and substituting (42°43'31"N., long. 93°13'30"W.)

Issued in Kansas City, MO on July 14, 2000.

**Richard L. Day,**

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 00-19520 Filed 8-1-00; 8:45 am]

BILLING CODE 4910-13-M

## FEDERAL TRADE COMMISSION

### 16 CFR Part 423

#### Trade Regulation Rule on Care Labeling of Textile Wearing Apparel and Certain Piece Goods

**AGENCY:** Federal Trade Commission.

**ACTION:** Final amended rule.

**SUMMARY:** The Federal Trade Commission, pursuant to section 18 of the Federal Trade Commission Act, issues final amendments to its Trade Regulation Rule on Care Labeling of Textile Wearing Apparel and Certain Piece Goods. The Commission is amending the Rule: To clarify what can constitute a reasonable basis for care instructions; and to change the definitions of "cold," "warm," and "hot" water in the Rule. The Commission has decided not to amend the Rule to require that an item that can be cleaned by home washing be labeled with instructions for home washing. In addition, it has decided not to amend the Rule at this time to include an instruction for professional wetcleaning. This document constitutes the Commission's Statement of Basis and Purpose for the amendments.

**EFFECTIVE DATE:** The amended Rule will become effective on September 1, 2000.

**ADDRESSES:** Requests for copies of the amended Rule and the Statement of Basis and Purpose should be sent to the Consumer Response Center, Room 130, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** Constance M. Vecellio or James Mills, Attorneys, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, 600 Pennsylvania Ave., NW, S-4302, Washington, DC 20580, (202) 326-2966 or (202) 326-3035.

#### SUPPLEMENTARY INFORMATION:

#### Trade Regulation Rule Concerning Care Labeling of Textile Wearing Apparel and Certain Piece Goods; Statement of Basis and Purpose and Regulatory Analysis

##### Introduction

This document is published pursuant to section 18 of the Federal Trade Commission ("FTC") Act, 15 U.S.C. 57a *et seq.*, the provisions of part 1, subpart B of the Commission's rules of practice, 16 CFR 1.14, and 5 U.S.C. 551 *et seq.* This authority permits the Commission to promulgate, modify, and repeal trade regulation rules that define with specificity acts or practices that are unfair or deceptive in or affecting commerce within the meaning of Section 5(a)(1) of the FTC Act, 15 U.S.C. 45(a)(1).

#### I. Background

##### A. The Care Labeling Rule

The Care Labeling Rule was promulgated by the Commission on December 16, 1971. 36 FR 23883. In

1983, the Commission amended the Rule to clarify its requirements by identifying in greater detail the washing or drycleaning information to be included on care labels. 48 FR 22733. The Care Labeling Rule, as amended, requires manufacturers and importers of textile wearing apparel and certain piece goods to attach care labels to these items 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).

### B. Procedural History

#### 1. Regulatory Review of the Rule

As part of its continuing review of its trade regulation rules to determine their current effectiveness and impact, the Commission published a **Federal Register** notice on June 15, 1994, seeking comment on the costs and benefits of the Rule and related questions, such as what changes in the Rule would increase the Rule's benefits to purchasers and how those changes would affect the costs the Rule imposes on firms subject to its requirements. 59 FR 30733 ("the Regulatory Review Notice").<sup>1</sup> The comments in response to the Regulatory Review Notice generally expressed continuing support for the Rule, stating that correct care instructions benefit consumers by extending the useful life of the garment, by helping the consumer maximize the appearance of the garment, and by allowing the consumer to take the ease and cost of care into consideration when making a purchase.

#### 2. The ANPR

Based on this review, the Commission determined to retain the Rule, but to seek additional comment on possible amendments to the Rule. To begin the process, the Commission published an Advance Notice of Proposed Rulemaking on December 28, 1995. 60 FR 67102 ("the ANPR"). In the ANPR, the Commission discussed and solicited comment on standards for water temperature, the desirability of a home washing instruction and a professional wetcleaning instruction for items for

<sup>1</sup> The Regulatory Review Notice also sought comment on whether the Rule should be modified to permit the use of symbols in lieu of words. On November 16, 1995, the Commission published a notice announcing a tentative decision to adopt a conditional exemption to the Rule to permit the use of certain care symbols in lieu of words; it also sought additional comment on specific aspects of the proposal. 60 FR 57552. On February 6, 1997, the Commission announced its decision to adopt the conditional exemption, which became effective on July 1, 1997. 62 FR 5724.

which such processes are appropriate, and the Rule's reasonable basis standard. The Commission received 64 comments in response to this notice.

#### 3. The NPR

Based on the comments responding to the ANPR, and on other evidence, the Commission published a Notice of Proposed Rulemaking on May 8, 1998, 63 FR 25417 ("the NPR"), in which the Commission proposed the following specific amendments to the Rule and sought comments thereon:

1. An amendment to require that an item that can be safely cleaned by home washing be labeled with instructions for home washing;
2. An amendment to establish a definition in the Rule for "professional wetcleaning" and to permit manufacturers to label a garment that can be professionally wetcleaned with a "Professionally Wetclean" instruction;
3. An amendment to clarify that manufacturers must establish a reasonable basis for care instructions for an item based on reliable evidence for each component of the item in conjunction with reliable evidence for the garment as a whole; and
4. An amendment changing the definitions of "cold," "warm" and "hot" water to be consistent with those of the American Association of Textile Chemists and Colorists ("AATCC"), and adding a new term—"very hot"—and corresponding definition consistent with AATCC's term and definition.

In the NPR, at 63 FR 25425–26, the Commission also made the following announcement:

The Commission has determined, pursuant to 16 CFR 1.20, to follow the procedures set forth in this notice for this proceeding. The Commission has decided to employ a modified version of the rulemaking procedures specified in Section 1.13 of the Commission's Rules of Practice. The proceeding will have a single Notice of Proposed Rulemaking, and disputed issues will not be designated.

The Commission will hold a public workshop-conference to discuss the issues raised by this NPR. Moreover, if comments in response to this NPR request hearings with cross-examination and rebuttal submissions, as specified in section 18(c) of the Federal Trade Commission Act, 15 U.S.C. 57a(c), the Commission will also hold such hearings. After the public workshop, the Commission will publish a notice in the **Federal Register** stating whether hearings will be held in this matter, and, if so, the time and place of hearings and instructions for those desiring to present testimony or engage in cross-examination of witnesses.

There were no requests for hearings in the 38 comments received in response to the NPR.<sup>2</sup> Therefore, the Commission

<sup>2</sup> The comments were from: Johnson Group Management Services, Ltd. ("Johnson Group") (1);

did not hold public hearings in this matter. The public workshop-conference (hereinafter "workshop")<sup>3</sup> took place on January 29, 1999 at the Commission's Headquarters Building at 600 Pennsylvania Avenue, NW, Washington, DC. There were 28 participants in the workshop, representing 20 different interests.<sup>4</sup> There also were approximately 30 observers, some of whom, upon request, contributed to the discussion. At the workshop, an announcement was made that post-workshop comments would be accepted

Mid-Atlantic Cleaners and Launderers Association ("MACLA") (2); Bonnie Peters (3); Aqua Clean Systems, Inc. ("Aqua Clean") (4); J. R. Viola Cleaners ("Viola") (5); David Nobil, Nature's Cleaners, Inc. ("Nature's Cleaners") (6); Bruce Barish, Maurice Garment Care (7); Industry Canada, Fair Business Practices Branch ("Industry Canada") (8); American Textile Manufacturers Institute ("ATMI") (9); Cleaner By Nature (10); American Apparel Manufacturers Association ("AAMA") (11); International Fabricare Institute ("IFI") (12); Elizabeth K. Scanlon ("Scanlon") (13); National Association of Hosiery Manufacturers ("NAHM") (14); Associazione Serica (15); Prestige. . . Exceptional Fabricare ("Prestige") (16); Neighborhood Cleaners Association International ("NCAI") (17); Association of Home Appliance Manufacturers ("AHAM") (18); Dr. Charles Riggs, Texas Woman's University ("Riggs") (19); Bruce W. Fifield ("Fifield") (20); Consumer Policy Institute of Consumers Union ("Consumers Union") (21); The Clorox Company ("Clorox") (22); Marilyn Fleming, Natural Cleaners (23); Pollution Prevention Education and Research Center ("PPEREC") (24); Pendleton Woolen Mills ("Pendleton") (25); Gap, Inc. ("Gap") (26); Greenpeace (27); National Coalition of Petroleum Dry Cleaners ("NCPDC") (28); Kathy Knapp (29); Center for Neighborhood Technology ("CNT") (30); The Professional Wetcleaning Network ("PWN") (31); Bowe Permac, Inc. (32); Alliance Laundry Systems UniMac ("Alliance") (33); The Procter & Gamble Company ("P&G") (34); GINETEX International Association for Textile Care Labeling ("Ginetex") (35); Karen Smith (Smith) (36); Pellerin Milnor Corporation (Pellerin Milnor) (37); Mike Lynch (38). The comments are on the public record and are available for public inspection in accordance with the Freedom of Information Act, 5 U.S.C. 552, and the Commission's Rules of Practice, 16 CFR 4.11, at the Consumer Response Center, Public Reference Section, Room 130, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, D.C. The comments also are available for inspection on the Commission's website at <www.ftc.gov/bcp/rulemaking/carelabel/comments/comlist.htm>.

<sup>3</sup> The time and place of the workshop was announced in 63 FR 69232, December 16, 1998.

<sup>4</sup> The participants were: Ed Boorstein, Elaine Harvey, Prestige Cleaners; Martin Coppack, American Association of Family and Consumer Sciences; Deborah Davis, Cleaner by Nature; David DeRosa, Greenpeace; Corey Snyder, Liz Eggert, P&G; Eric Essma, Clorox; Sylvia Ewing, Anthony Star, CNT; Gloria Ferrell, Capital Mercury Apparel, Ltd. ("Ferrell"); Ann Hargrove, PWN; Nancy Hobbs, Pat Slaven, Consumers Union; Steve Lamar, Rachel Subler, AAMA; Cindy Stroup, Steve Latham, Environmental Protection Agency ("EPA"); Melinda Oakes, Ronda Martinez, QVC, Inc. ("QVC"); Karen Mueser, Sears, Roebuck & Co. ("Sears"); Jo Ann Pullen, American Society for Testing and Materials (ASTM); Dr. Charles Riggs; Roy Rosenthal, RCG Marketing; Mary Scalco, Jackie Stephens, IFI; Dick Selleh, MACLA; and Peter Sinsheimer, PPEREC. Six Commission staff members also participated in the proceeding.

until March 1, 1999, and 40 such comments were submitted.<sup>5</sup>

## II. Commission Determination

### A. The Reasonable Basis Requirement of the Rule

#### 1. Background and Current Requirements

The Rule requires that manufacturers and importers of textile wearing apparel possess, prior to sale, a reasonable basis for the care instructions they provide. A reasonable basis must consist of reliable evidence supporting the instructions on the label. Specifically, a reasonable basis can consist of: (1) Reliable evidence that the product was not harmed when cleaned reasonably often according to the instructions; (2) reliable evidence that the product or a fair sample of the product was harmed when cleaned by methods warned against on the label; (3) reliable evidence, like that described in (1) or (2), for each component part; (4) reliable evidence that the product or a fair sample of the product was successfully tested; (5) reliable evidence of current technical literature, past experience, or the industry expertise supporting the care information on the label; or (6) other reliable evidence. 16 CFR 423.6(c).

The Regulatory Review Notice solicited comment on whether the Commission should amend the Rule to

conform with the interpretation of "reasonable basis" described in the *FTC Policy Statement Regarding Advertising Substantiation* ("Advertising Policy Statement"), 104 F.T.C. 839 (1984), or to change the definition of "reasonable basis" in some other manner. The comments in response to the Regulatory Review Notice suggested that a significant number of care labels lack a reasonable basis. Based on these comments, the ANPR proposed amending the reasonable basis requirement.

The ANPR sought comment on the incidence of inaccurate or incomplete care instructions, the extent to which it might be reduced by clarifying the reasonable basis standard, and the costs and benefits of such a clarification. The Commission further solicited comment on whether to amend the Rule to clarify that the reasonable basis requirement applies to a garment in its entirety rather than to each of its individual components.<sup>6</sup> Ten commenters responding to the ANPR discussed the reasonable basis provision. Seven of these supported modification of the Rule, contending that clarification would reduce mislabeling.<sup>7</sup> ATMI stated that the Rule should not be modified to require testing of completed garments; however, ATMI also asserted that "apparel manufacturers should be responsible for selecting and combining component materials that can be refurbished together" and should provide warnings about potential problems if components cannot be refurbished by the same method.<sup>8</sup> AAMA contended that changing the Rule was unnecessary.<sup>9</sup> Ginetex, the organization responsible for the

voluntary care labeling system used in European countries, noted that it provides technical advice on appropriate test procedures to ensure correct care labeling.<sup>10</sup>

Two commenters provided data on the incidence of mislabeling, which in both cases indicated that there is a significant incidence of inaccurate and/or incomplete labeling.<sup>11</sup> ATMI, while stating that most home washing labels are accurate, and that the vast majority of dryclean instruction labels are accurate, noted that there are limited problems associated with care instructions for special items such as beaded apparel, sequins, and leather appliques.<sup>12</sup> IFI noted that its database shows that "a large portion of the garments damaged are the result of the trim or component part of the garment failing in a specified care procedure."<sup>13</sup>

Section 423.6(c)(3) of the Rule currently states that a manufacturer or importer establishes a reasonable basis for care information by "possessing prior to sale: Reliable evidence . . . for each component part of the product." In the NPR, the Commission proposed to amend the reasonable basis standard to make clear that the reasonable basis requirement applies to the garment in its entirety rather than to each of its individual components, noting that the record establishes that in some cases care instructions may not be accurate for the entire garment.<sup>14</sup> Thus, in the NPR, the Commission proposed amending § 423.6(c)(3) of the Rule to provide that "Reliable evidence . . . for each component part of the product, in conjunction with reliable evidence for the garment as a whole" can constitute a reasonable basis for care instructions.

#### 2. Comments to the NPR

Most commenters favored the proposal to clarify the reasonable basis

<sup>5</sup> The post-workshop comments were from: Specialized Technology Resources ("STR") (PW-1); Jo Ann Pullen ("Pullen") (PW-2); EPA (PW-3); Massachusetts Toxics Use Reduction Institute ("MTURI") (PW-4); Rawhide Cleaners ("Rawhide") (PW-5) [consisting of two NPR-comments from June 1998 originally lost in transit]; Valet Cleaners ("Valet") (PW-6); Minnesota Fabricare Institute ("MFI") (PW-7); D.D. French ("French") (PW-8); Coronado Cleaners & Laundry, Inc. ("Coronado") (PW-9); MACLA (PW-10); South Eastern Fabricare Association ("SEFA") (PW-11); Celanese Acetate ("Celanese") (PW-12); Dr. Charles Riggs (PW-13); Shoemaker's/COBS, Inc. ("COBS") (PW-14); PWN (PW-15); Prestige (PW-16); Dr. Manfred Wentz ("Wentz") (PW-17); Gloria Ferrell (PW-18); Consumers Union (PW-19); IFI (PW-20); PPERC (PW-21); Hallak Cleaners ("Hallak") (PW-22); Avon Cleaners ("Avon") (PW-23); AAMA (PW-24); Comet Cleaners ("Comet") (PW-25); CNT (PW-26); Spear Cleaning & Laundry ("Spear") (PW-27); Greenpeace (PW-28); Cowboy Cleaners ("Cowboy") (PW-29); Aqua Clean (PW-30); Randi Cleaners, Inc. ("Randi") (PW-31); Korean Youth & Community Center ("KYCC") (PW-32); Cypress Plaza Cleaners ("Cypress") (PW-33); Waco Comet Cleaners (PW-34) [an NPR-comment from June 1998 originally lost in transit]; Swannanoa Cleaners ("Swannanoa") (PW-35); Sno White Cleaners & Launderers ("Sno White") (PW-36); Environmental Finance Center, Region IX ("EFC9") (PW-37); Perrys-Flanagans Cleaners ("Perrys-Flanagans") (PW-38); Ecology Action, Inc. ("Ecology Action") (PW-39); Micell Technologies ("Micell") (PW-40). In addition, two written statements were read at the workshop and placed on the record: STR (PW-41), and PPERC (PW-42); and two presentations were made at the workshop with respect to which copies of graphic presentations were placed on the record: Clorox (PW-43), and P&G (PW-44).

<sup>6</sup> The ANPR also sought comment on: The option of indicating in the Rule that whether one or more of the types of evidence described in § 423.6(c) constitutes a reasonable basis for care labeling instructions depends on the factors set forth in the Advertising Policy Statement; whether the Rule should be amended to make testing of garments the only evidence that could serve as a reasonable basis for certain types of garments and, if so, whether the Rule should specify particular testing methodologies to be used; and whether the Rule should specify standards for determining acceptable and unacceptable changes in garments following cleaning as directed and identify properties, such as colorfastness and dimensional stability, to which such standards would apply. For reasons set forth in the NPR, 63 FR at 25423-24, the Commission decided not to propose any of these changes in the reasonable basis section of the Rule.

<sup>7</sup> University of Kentucky College of Agriculture Cooperative Extension Service, comment 20 to ANPR, p. 2; Clorox, comment 31 to ANPR, pp. 4-5; Soap and Detergent Association (SDA), comment 43 to ANPR, pp. 1, 3; Consumers Union, comment 46 to ANPR, pp. 2-3; AHAM, comment 51 to ANPR, p. 2; IFI, comment 56 to ANPR, p. 3; P&G, comment 60 to ANPR, p. 5.

<sup>8</sup> ATMI, comment 41 to ANPR, pp. 4-7.

<sup>9</sup> AAMA, comment 57 to ANPR, pp. 2-4.

<sup>10</sup> Ginetex, comment 63 to ANPR, p. 4.

<sup>11</sup> IFI, comment 56 to ANPR, p. 3 (in 1995, 40% of the 25,000 damaged garments in its Garment Analysis database incurred the damage because of inaccurate labeling); Clorox, comment 31 to ANPR, p. 2 (monitoring of bleach instructions on care labels showed 71% inaccuracy in November 1995).

<sup>12</sup> ATMI, comment 41 to ANPR, p. 5; see also AAMA, comment 57 to ANPR, p. 3. The ANPR noted that the Commission had litigated one case involving inaccurate care instructions that resulted in damage to garments (*FTC v. Bonnie & Co. Fashions*, No. 90-4454) (D.N.J. 1992)) and had obtained settlements in several other cases where the Commission alleged that care instructions were inaccurate because of damage to trim when the garments were cleaned according to those instructions.

<sup>13</sup> IFI, comment 56 to ANPR, p. 3.

<sup>14</sup> A garment component that may be cleaned satisfactorily by itself might, for example, bleed onto the body of a garment of which it is a part.

requirements of the Rule.<sup>15</sup> Some commenters, who believe that only testing can constitute a reasonable basis, stated that the proposal did not go far enough because it does not require testing.<sup>16</sup> Only one commenter, AAMA, opposed the proposed clarification of the reasonable basis standard. AAMA stated that its member manufacturers specify fabric performance from suppliers and test new styles to make sure that components are compatible. It also stated that there is only a very small portion of garments made in the United States with incompatible materials (for fashion reasons) and that “(t)o require that all garments be made entirely of compatible components unduly restricts the creation of fashion.”<sup>17</sup>

### 3. Rule Amendments and Reasons Therefor

The Commission has decided to amend § 423.6(c)(3) of the Rule to provide that “Reliable evidence . . . for each component part of the product, in conjunction with reliable evidence for the garment as a whole” can constitute a reasonable basis for care instructions. This amendment does not require testing of the entire garment if there is an adequate reasonable basis for the garment as a whole without such testing; the amendment clarifies, however, that testing of separate components is not necessarily sufficient if problems are likely to occur when the components are combined.<sup>18</sup>

The Commission does not believe that this revision of the Rule will unduly restrict the creativity of fashion, as AAMA feared. If the combination of components used to make a garment are so incompatible that the garment cannot be cleaned without damage, the Rule provides that the garment can be labeled “Do not wash—do not dryclean.”<sup>16</sup> CFR 423.6(b). This is information that the consumer has a right to know, and indeed, under the Rule, it would be deceptive to sell a garment with a care label indicating that it could be

<sup>15</sup> Johnson Group (1) p. 1; MACLA (2); Industry Canada (8); ATMI (9); IFI (12) pp. 2–3; NAHM (14) p. 1; Associazione Serica (15) p. 1; NCAI (17) p. 4; AHAM (18) p. 3; Consumers Union (21) p. 2; Pendleton (25) p. 2; Gap (26) p. 1; P&G (34) pp. 2 and 4; Ginetex (35) p. 2.

<sup>16</sup> Prestige (16) p. 2; Consumers Union (21) p. 2; Clorox (22) p. 2; P&G (34) pp. 2 and 4; Ginetex (35) p. 2.

<sup>17</sup> AAMA (11) p. 3.

<sup>18</sup> For example, red trim that is to be placed on white fabric should be evaluated to determine if it is likely to bleed onto the surrounding fabric. A company may possess reliable evidence—for example, past experience with particular dyes and fabrics—that a particular red trim does not bleed onto surrounding fabric. In such a case, testing of the entire garment might not be necessary.

successfully cleaned when in fact it cannot. With truthful labeling that indicates the garment cannot be cleaned, consumers are given adequate information and can choose to purchase the garment if they wish to do so even though it cannot be cleaned without damage.

### B. Definitions of Water Temperatures

#### 1. Background and Current Definitions

The Rule currently requires that a care label recommending washing also must state a water temperature that may be used unless “the regular use of hot water will not harm the product.”<sup>16</sup> CFR 423.6(b)(1)(i). The Rule also provides that if the term “machine wash” is used with no temperature indication, “hot water up to 150 degrees F (66 degrees C) can regularly be used.”<sup>16</sup> CFR 423.1(d). This definition is repeated in Appendix 1.a. “Warm” is defined in Appendix 1.b. as ranging from 90 to 110 degrees F (32 to 43 degrees C), and “cold,” in Appendix 1.c., as cold tap water up to 85 degrees F (29 degrees C).

Based on the comments filed in response to the Regulatory Review Notice and the ANPR, including recommendations that the Commission adopt definitions developed by the AATCC, the Commission, in the NPR, stated that the definition of “cold,” “warm,” and “hot” water should be changed because of changes in settings on water heaters and in consumer washing practices in the years since the definitions were established.<sup>19</sup> The Commission noted that AATCC has changed its definitions, which are used in textile testing by much of the apparel industry, to take account of these factors. The NPR proposed changing the upper range of temperature definitions in the Rule to the upper range of what is allowed in tests published by AATCC.<sup>20</sup> Specifically, the Commission proposed the following definitions for water temperature in Appendix 1.b-1.d: “Hot”—initial water temperature ranging from 112 to 125 degrees F (45 to 52 degrees C); “Warm”—initial water temperature ranging from 87 to 111 degrees F (31 to 44 degrees C); “Cold”—

<sup>19</sup> For a detailed discussion of the comments and the analysis that led the Commission to this conclusion, see 63 FR 25417, 25424–426.

<sup>20</sup> The AATCC definitions were submitted as an attachment to AATCC’s comment responding to the Regulatory Review Notice: “cold”—27 degrees C  $\pm$  3 degrees C (80 degrees F  $\pm$  5 degrees F); “warm”—41 degrees C  $\pm$  3 degrees C (105 degrees F  $\pm$  5 degrees F); “hot”—49 degrees C  $\pm$  3 degrees C (120 degrees F  $\pm$  5 degrees F); and “very hot”—60 degrees C  $\pm$  3 degrees C (140 degrees F  $\pm$  5 degrees F). AATCC (34) Attachment.

initial water temperature up to 86 degrees F (30 degrees C).

The Commission also proposed adding the term “very hot” to the Rule, defined consistently with the AATCC definition, *i.e.*, with an upper range of 63 degrees C (145 degrees F). The record indicated that some garments do need to be cleaned at temperatures higher than 125 degrees F, and that some consumers have access to water hotter than 125 degrees F, either at home or through laundering by professional cleaners. The Commission asked whether the addition of the term “very hot,” together with appropriate consumer education, would give notice to those consumers whose hottest water is 120 degrees F that they may have to use professional laundering for garments that should be cleaned in very hot water. The Commission indicated that it was aware, however, that the term “very hot” may be confusing to some consumers because most washing machine dials offer only the choices of “cold,” “warm,” and “hot.” The NPR requested comment on the issue, and, in particular, on suggestions for methods of consumer education.

The Commission noted in the NPR that some comments indicated that consumers need more precise information in order to select the appropriate temperature setting on their washing machines. For example, the comments suggested that some consumers in colder climates may unknowingly be using water that is too cold to activate detergents at the “cold” setting on their machines, and that these consumers would be alerted by a numerical temperature on the care label to use the “warm” setting to compensate. The comments contended that, similarly, an upper range for “warm” might also be helpful to consumers because on many machines the dial setting for warm simply produces a mixture of hot and cold, and if the incoming tap water is very cold, the water in the machine may be too cold to produce optimal cleaning of the clothes being washed. The comments argued that the addition of a precise temperature (52 degrees C, 125 degrees F) after the word “hot” on the care label of a garment may give some consumers an indication that their hot water may be too hot for that garment.<sup>21</sup>

<sup>21</sup> The Commission noted that, although new water heaters are being set at lower temperatures, the comments indicated that many homes still have older heaters that produce water at 140 degrees F or even hotter. A garment that has been tested in water heated to 125 degrees F may withstand washing in that temperature without damage but nevertheless be damaged by water at 140 degrees F.

The Commission did not, however, propose in the NPR that the Rule be amended to require that precise temperatures be listed on care labels, noting that most Americans do not know the temperature of water in their washing machines. Although the Commission did not propose requiring precise temperatures on labels, it expressed interest in non-regulatory solutions to the problems discussed in the comments and asked for comment on the feasibility of a consumer education campaign to provide consumers with more precise information on water temperature in order to help them more accurately select the appropriate temperature setting on their washing machines.

## 2. Comments Responding to the NPR

*a. The Proposal to Amend the Rule Definitions for "Cold," "Warm," and "Hot" to Be Consistent with the AATCC Definitions.* Seventeen comments addressed the issue of water temperature definitions.<sup>22</sup> Five of the comments supported the Commission's proposal to amend the Rule's definitions for "cold," "warm," and "hot."<sup>23</sup> Pendleton supported the proposal because it "seems to reflect changes in consumer washing practices;" AAMA noted that its members already use the AATCC definitions when testing their garments.<sup>24</sup>

Four other comments provided partial support. Dr. Charles Riggs conceded that the proposed definitions are probably realistic for typical household hot water temperatures, but argued that their inclusion in the Rule will not address the problem posed by most detergents not being activated thoroughly in water colder than 65 degrees F.<sup>25</sup> IFI agreed that the proposed temperatures reflect current trends in home water temperatures but contended that they do not correlate to current consumer behavior and consumers' use of professional laundering.<sup>26</sup> MACLA favored amending the Rule to adopt the proposed definitions for "cold" and "warm," but suggested that the definition of "hot" include the range between 125 degrees F and 145 degrees

F (52 degrees C—63 degrees C).<sup>27</sup> Like MACLA, AHAM recommended establishing definitions for "cold" and "warm" that are consistent with the definitions proposed in the NPR<sup>28</sup> and suggested a range of between 112 degrees F and 145 degrees F (44 degrees C—63 degrees C) for "hot." Contending that these definitions are "consistent with the clothes washer options available to consumers in their homes," AHAM provided a detailed explanation of how washing machines use cold and hot water to attain "cold," "warm," and "hot" water.<sup>29</sup>

Agreeing that the Rule's definitions for water temperature should be consistent with AATCC's definitions, Consumers Union suggested a definition for "cold" (60 degrees F to 80 degrees F) that was different from the Commission's proposed definition, because "most consumers are unaware that detergent becomes increasingly ineffective as temperatures drop below 60 degrees F,"<sup>30</sup> and a definition for "hot" (120 degrees F to 140 degrees F), "to realistically represent temperatures produced by domestic water heaters and scald laws in some states."<sup>31</sup>

Seven commenters remarked on the water temperature issue without making specific recommendations as to the proposed definitions.<sup>32</sup> For example, four commenters contended that consumers need water temperature numbers on care labels.<sup>33</sup> Ginetex stated that in its system, temperature numbers (in degrees Celsius) are disclosed in the system's washing instruction icons, and contended that terms like "hot," "warm," and "cold" are not precise enough.<sup>34</sup>

<sup>27</sup> MACLA (2) p. 1. MACLA stated that manufacturers, especially of bed linens and shirting materials, already test in water up to 150 degrees F before attaching care labels associated with commercial laundering procedures.

<sup>28</sup> AHAM proposed: "cold": <86 degrees F (30 degrees C) and "warm": 87 degrees F—111 degrees F (30 degrees C—44 degrees C).

<sup>29</sup> AHAM (18) pp. 1–2. AHAM also explained that the ranges of temperatures for each descriptor depend on several factors, including water heater temperature setting, heat loss in piping, the mix ratio of the particular washer, and the temperature of incoming cold water (which depends on geographical location and seasonal temperature).

<sup>30</sup> In this connection, Consumers Union recommended consumer education on "minimum wash water temperatures."

<sup>31</sup> Consumers Union (21) p. 3.

<sup>32</sup> Industry Canada (8) p. 3; ATMI (9) p. 3; Scanlon (13) p. 1; Associazione Serica (15); NCAI (17) p. 4; Fifield (20) p. 1; Ginetex (35) p. 2.

<sup>33</sup> ATMI (9) p. 3; Associazione Serica, (15) p. 2; Fifield (20) p. 1; Ginetex (35) p. 2. See the separate discussion of numerical temperatures in section II.B.2.c., below.

<sup>34</sup> Ginetex (35) p. 2 (stating that ". . . in Europe, clothes washers heat their own water internally. Consumers can choose a precise temperature and the washer will heat the water to it."); Associazione

*b. The Proposal to Add the Term "Very Hot" to the Rule.* Four commenters expressed some level of support for the proposal to add the term "very hot" to the Rule. Gap agreed with the proposal without elaboration and Associazione Serica suggested associating the term to a "reference temperature."<sup>35</sup> Procter & Gamble supported the proposal, adding:

Though the term 'very hot' will not be understood by many consumers, our qualitative research indicates that if consumers see 'very hot' they would be likely to select 'hot' on their washer. This will be the best of available choices and therefore this addition of 'very hot' will only be a benefit in providing more efficient cleaning for consumers.

In addition, the separation of the old hot definition into 'very hot' and 'hot' categories allows more garments (that may have been harmed at temperatures above 125 degrees F) to be more efficiently and appropriately washed in hot temperatures less than 125 degrees F. P&G supports a consumer education campaign that would help consumers use appropriate and consistent water temperatures to achieve more efficient cleaning (better cleaning at less cost), especially in northern US states with colder water.<sup>36</sup>

While not specifically endorsing adoption of the proposed definition, Dr. Charles Riggs suggested that "very hot" have an upper limit of 160 degrees F rather than 145 degrees F, for use as a label for professional shirt laundering.<sup>37</sup>

Seven comments opposed the Commission's proposal to add a definition for "very hot" to the Rule.<sup>38</sup> As an alternative to the proposal, MACLA and AHAM suggested that the definition for "hot" in the amended Rule include a range of up to 145 degrees F, rather than the upper limit of 125 degrees F proposed by the Commission.<sup>39</sup> MACLA contended that the term would be too confusing for consumers, and AHAM stated: "It is not just an issue of confusing consumers or whether some garments do not need to be cleaned with temperatures above 125 degrees, it is an issue of the temperatures a product (clothes washer) can provide with the existing water inlet

Serica (15), p. 2, recommended harmonization of the Commission's Rule with the Ginetex/ISO system.

<sup>35</sup> Gap (26) p. 2; Associazione Serica (15) p. 2.

<sup>36</sup> P&G (34) pp. 4–5.

<sup>37</sup> Riggs (19) p. 2.

<sup>38</sup> MACLA (2) p. 1; Industry Canada (8) pp. 3–4; IFI (12) p. 3; Scanlon (13) p. 1 ("I would find it hard to believe that "very hot" water was really good for my clothes, and what I would do is use the "hot" setting."); AHAM (18) p. 2; Pendleton (25) p. 2; Ginetex (35) p. 2 (Ginetex opposed the use of word designations as too imprecise, preferring its own system of temperature symbols tied to degrees Celsius.)

<sup>39</sup> MACLA (2) p. 2; AHAM (18) p. 2.

<sup>22</sup> MACLA (2); Industry Canada (8); ATMI (9); AAMA (11); IFI (12); Scanlon (13); NAHM (14); Associazione Serica (15); NCAI (17); AHAM (18); Riggs (19); Fifield (20); Consumers Union (21); Pendleton (25); Gap (26); P&G (34); Ginetex (35).

<sup>23</sup> AAMA (11) p. 3; NAHM (14) p. 2; Pendleton (25) p. 2; Gap (26) p. 2; P&G (34) pp. 2, 4.

<sup>24</sup> AAMA (11) p. 3; Pendleton (25) p. 2.

<sup>25</sup> Riggs (19) p. 2. Dr. Riggs contended that the only realistic solution to the problem would be for manufacturers to produce clothes washers equipped with thermostatic temperature controls.

<sup>26</sup> IFI (12) p. 3.

temperatures.”<sup>40</sup> Industry Canada argued that consumers would be unlikely to use very hot water under normal washing conditions unless there were a “very hot” indicator on their washing machines, and that it is improbable that they would conclude that they should use a professional cleaner. Rather, concluded Industry Canada, consumers would use the “hot” setting on their machines instead of incurring the cost of professional laundering.<sup>41</sup> In contrast, IFI stated that consumer practice is to send out men’s dress shirts, most of which are labeled “Machine wash warm, cool iron,” to be commercially laundered and pressed. Pointing out that commercial laundering is done at temperatures in excess of 145 degrees F, IFI concluded that the “very hot” label would not apply even if manufacturers used it, which current practice suggests they would not do.<sup>42</sup> Noting that the need for the addition of a “very hot” water designation does not seem to be clearly demonstrated and that such an instruction would be confusing, Pendleton stated that the trend in home washing practices in recent years has been away from the use of hot water, citing as evidence that none of Pendleton’s 30 or more current care labels carry a hot water instruction.<sup>43</sup>

Two textile industry trade associations, ATMI and AAMA, responded to the questions in the NPR without specifically supporting or opposing the proposed amendment. Speculating on how consumers would understand a care instruction to use “very hot” water, ATMI predicted that “responses may range from using the hottest temperature (consumers) can get from their water heater to adding a pot of boiling water to using the services of a professional wetcleaner.”

ATMI suggested that the care label indicate that “consumers should use ‘Temperatures which normally exceed home laundry and water heater settings,’ which would justify a larger label if ‘very hot’ is truly the preferred method.”<sup>44</sup> AAMA observed that “the

question of whether consumers understand very hot is important only when professional cleaning is needed. For environmental reasons most hot water heaters in the U.S. do not generate water above 120 F.”<sup>45</sup>

*c. Numerical Temperatures and Consumer Education.* Although the Commission did not propose requiring numerical temperatures on care labels, it sought comment on the possibility of a consumer education campaign on the issues surrounding numerical temperatures. AAMA agreed without elaboration with the Commission’s decision not to require specific temperatures on labels.<sup>46</sup> Appliance service technician Bruce Fifield contended that the care label should include the numerical temperature of the water.<sup>47</sup> ATMI stated that consumers assume that there is a direct correlation between what the consumer sees on a care label (e.g., “machine wash hot water”) and the temperature selection on their home washers without realizing the many factors that influence the water temperature in the machine. ATMI suggested that clothes washer manufacturers, with input from other affected parties, work towards a consensus on temperatures and a method for standardizing them.<sup>48</sup> Ginetex stated that in the Ginetex/ISO system numerical temperatures (in degrees Celsius) appear along with washing instructions icons.<sup>49</sup> Associazione Serica joined Ginetex in recommending harmonization of the Commission’s Rule with the ISO/Ginetex system.<sup>50</sup>

Three comments expressed their support for consumer education in connection with the wash water temperature issue, although none offered specific consumer education plans. AAMA and P&G stated that consumer education would be necessary to help consumers understand the variability issues (geographical and seasonal temperature differences) that affect water temperature.<sup>51</sup> AAMA stated that “Part of the education process will take place as consumers use care symbols. The current NAFTA care symbol guide indicates the median temperature for ‘hot,’ ‘warm,’ and ‘cold,’ in both Fahrenheit and Celsius.”<sup>52</sup>

Bruce Fifield, who lives in Maine, noted the importance of information about the low end of the temperature range and suggested educating the public by disclosing temperature degrees along with words on detergent packages and clothes washer owners manuals as well as on care labels.<sup>53</sup>

### 3. Rule Amendments and Reasons Therefor

The Commission has decided to amend the definitions of “cold” and “warm” in the Rule to make them consistent with the AATCC definitions for these terms. The Commission has decided against adding the term “very hot” to the Rule. Rather, the Commission amends the Rule so that the term “hot” now includes the temperature range encompassed by both “hot” and “very hot” in the AATCC definitions. Finally, the Commission will leave unchanged its decision, announced in the NPR, not to require numerical temperatures on labels.

The Commission is changing the Rule’s definitions for “cold” and “warm” to be consistent with the AATCC definitions primarily because the AATCC definitions are currently in widespread use in the textile industry and because of the changes in water heater settings, as discussed in the NPR and mentioned above. The Commission agrees with MACLA and AHAM that a “very hot” instruction on labels could be confusing to consumers and impractical in light of the temperature limitations on new water heaters and the majority of home clothes washers. Moreover, there is no evidence of consumer need or demand for information on such an instruction; nor is there evidence of any harm to garments because of the absence of such an instruction. Thus, the Commission will not create a separate temperature range for “very hot.” Because AATCC defines “very hot” water as a maximum of 145 degrees F (63 degrees C), the Commission will lower the current range in place under the description of “hot water,” with the top end of the range changed from 150 degrees F (66 degrees C) to 145 degrees F (63 degrees C), to be consistent with the AATCC definitions of “hot” and “very hot” taken together.

The Commission is not persuaded to add a requirement that labels include numerical temperatures. As indicated in the NPR, the Commission believes that requiring this type of additional information may not be cost-effective because most American consumers know so little about the temperature of

<sup>40</sup> AHAM (18) p. 2.

<sup>41</sup> Industry Canada (8) pp. 3–4.

<sup>42</sup> IFI (12) p. 3.

<sup>43</sup> Pendleton (25) pp. 2–3. Pendleton suggested that: “If hotter wash temperatures are commonly used or needed in professional laundering, it would seem appropriate for this aspect of cleaning to be controlled by a “professional laundering” care instruction, much as the specifics of dry cleaning are controlled by the professional dry cleaner when the “dry clean” care instruction is used.”

<sup>44</sup> ATMI (9) p. 3. ATMI added that magazine articles, provided the advice is consistent, could influence consumers’ behavior, and that further comments on what constitutes “very hot” would be important.

<sup>45</sup> AAMA (11) p. 4. In contrast, in responding to the ANPR, SDA estimated that only “20% of today’s homes have hot water heaters set at 120 degrees—125 degrees F.” SDA, comment 43 to ANPR, p. 2.

<sup>46</sup> AAMA (11) p. 3.

<sup>47</sup> Fifield (20) p. 1.

<sup>48</sup> ATMI (9) p. 3.

<sup>49</sup> Ginetex (35) p. 2.

<sup>50</sup> Associazione Serica (15) p. 2.

<sup>51</sup> AAMA (11) p. 3; P&G (34) p. 2.

<sup>52</sup> AAMA (11) p. 3.

<sup>53</sup> Fifield (20) p. 1.

their tap water, the water from their water heaters (especially after it has passed through plumbing pipes), or the water in their washing machines at the various settings. The Commission recognizes that more information could help consumers avoid using water that is too hot and may damage some items, or not hot enough to clean others thoroughly, or so cold that detergents will not be effective. The Commission believes that non-regulatory approaches, such as industry-sponsored consumer education campaigns or voluntary product labeling, hold the most promise for helping consumers understand how to use water temperatures to their best advantage in cleaning their washable items. The Commission is willing to consider partnering with industry, consumer, or public interest groups or others in such an undertaking.

### C. Proposal to Require Home Washing Instruction

#### 1. Background of Proposed Amendment

The Regulatory Review Notice noted that the EPA had been working with the dry-cleaning industry to reduce the public's exposure to perchloroethylene ("PCE" or "perc"), the most common drycleaning solvent,<sup>54</sup> and asked whether the Rule poses an impediment to this goal. The Rule currently requires that the manufacturer provide instruction as to one appropriate method of cleaning the garment, i.e., either a washing instruction or a drycleaning instruction. Thus, garments legally labeled with a "Dryclean" instruction alone may also be washable, but the manufacturer is not required to provide that additional information. In contrast, a "Dryclean Only" label constitutes a warning that the garment cannot be washed, and the manufacturer is required to have a reasonable basis for this instruction. The Regulatory Review Notice asked about the prevalence of care labeling that does not indicate both washing and drycleaning instructions. In addition, it asked whether the use of drycleaning solvents would be lessened, and whether consumers and cleaners could make more informed choices as to cleaning method, if the Rule were amended to require both washing and drycleaning instructions for garments cleanable by both methods.<sup>55</sup> 59 FR

<sup>54</sup> Congress designated PCE as a hazardous air pollutant in section 112 of the Clean Air Act; many state legislatures have followed suit under state air toxics regulations.

<sup>55</sup> When it amended the Rule in 1983, the Commission had considered and rejected an "alternative care labeling" requirement that garments be labeled for both washing and drycleaning if both are appropriate. 48 FR 22742-43. (See Section II.C.3, *infra*.) In 1983, however,

30733-34. The response to this proposal was mixed; some commenters favored a required dual instruction, while others opposed it because of the increased cost to manufacturers of testing garments for both methods. Some pointed out that although many items routinely washed by consumers (such as "wash and wear" apparel) could safely be drycleaned, few consumers would choose to do so.

In the ANPR, the Commission requested comment on a proposed amendment of the Rule to require a home washing instruction for all covered products for which home washing is appropriate. Under the proposal, drycleaning instructions for such washable items would be optional. Manufacturers marketing items with a "Dryclean" instruction alone, however, would be required to substantiate both that the items could be safely drycleaned *and* that home washing would be inappropriate for them; thus, a "Dryclean" instruction would be subject to the same burden of substantiation presently required for a "Dryclean Only" instruction. This revised proposal would eliminate some of the additional substantiation testing costs that a "dual disclosure" requirement would necessitate. 60 FR 67104-05.

Eighteen commenters to the ANPR, including individual consumers, academics, and an appliance manufacturers' trade association, contended that many manufacturers currently label items that can be both washed and drycleaned with a "Dryclean" or "Dryclean Only" instruction. Many of these commenters suggested that a required home washing instruction could save consumers garment care dollars. Some commenters also noted that many consumers believe there are environmental benefits from home washing rather than drycleaning washable items. 63 FR 25418.

Based on the ANPR comments, the Commission concluded that it had reason to believe that "Dryclean" labels on home-washable items are prevalent, that consumers have a preference for being told when items that they are purchasing can be safely washed at home, and that this aspect of the Rule is an impediment to EPA's goal of reducing the use of drycleaning solvents.<sup>56</sup> The Commission also

evidence about the harmful effects of PCE was not available. Therefore, it was appropriate for the Commission to revisit the issue during the recent regulatory review proceeding.

<sup>56</sup> EPA's comment (73) to the Regulatory Review Notice stated, at p.1, that the Rule should be revised to require manufacturers to state whether a garment "can be cleaned by solvent-based methods, water-based methods, or both. We believe this change is

concluded that when a washable garment is labeled "Dryclean," consumers may be misled into believing that the garment cannot be washed at home and therefore incur a drycleaning expense that they would otherwise prefer to avoid. 63 FR 25419.

Accordingly, in the NPR the Commission proposed amending § 423.6(b) of the Rule to read, in pertinent part, as follows:

(b) Care labels must state what regular care is needed for the ordinary use of the product. In general, labels for textile wearing apparel must have either a washing instruction or a drycleaning instruction. If an item of textile wearing apparel can be successfully washed and finished by a consumer at home, the label must provide an instruction for washing. If a washing instruction is not included, or if washing is warned against, the manufacturer or importer must establish a reasonable basis for warning that the item cannot be washed and adequately finished at home, by possessing, prior to sale, evidence of the type described in paragraph (c) of this section. \* \* \*

#### 2. Response to the NPR and Public Workshop-Conference

In the NPR, the Commission solicited empirical information about how consumers interpret a garment label that merely says "Dryclean." The NPR posed the following question:

(1) Is there empirical evidence regarding whether consumers interpret a "dry clean" instruction to mean that a garment cannot be washed? What does the evidence show?

Several commenters offered opinions on this issue,<sup>57</sup> but only two—Clorox and P&G—offered empirical evidence.

necessary to advance the use of water-based cleaning technology." EPA's comment to the ANPR suggested that the Rule be amended to recognize professional wetcleaning. EPA, comment 17 to ANPR, p. 1.

<sup>57</sup> Johnson Group (1) p. 1 (anecdotal evidence is more to the effect that consumers interpret the instruction to mean that a garment labeled "Dryclean" will last longer if drycleaned, than it is to the effect that they think it cannot be washed); Nature's Cleaners (6) p. 1 (no evidence, but the perception is true); Industry Canada (8) p. 1 (no data, but assume that's how most Canadian consumers read it); ATMI (9) p. 1 (it is possible that consumers make that assumption—a "casual poll" indicates that most consumers do make that interpretation, but do not necessarily follow their interpretation of the instruction); Scanlon (consumer) (13) ("Certainly I interpret a 'dry clean' instruction to mean that a garment cannot be washed; why else would the manufacturer put dry clean? If that's not what it means, I would appreciate it if you would require manufacturers to be more accurate. If what they really mean is 'dry cleaning preferred,' then they should say so."); Associazione Serica (15) (Comments "mainly based on European consumers' behavior") ("Yes, there is (evidence). This instruction is considered as a prohibition (against) other washing methods."); Prestige (16) p. 1 (experience has shown that many consumers who trust the care label will not attempt a non-listed care method).

Clorox provided, with its comment, the results of a nationally representative survey of 1013 respondents (507 males and 506 females) performed by Market Facts, Inc. and Telenation from June 19 to June 21, 1998.<sup>58</sup> This research was presented at the workshop by Eric Essma of Clorox.<sup>59</sup> Question 3 of the survey asked:

When the care instruction on an article of clothing reads "Dry Clean" what does that mean to you? (Probe:) How would you care for clothing like that? (Probe:) Any other ways? (Record Verbatim. Probe for Clarification. Probe to Exhaustion.)

A majority of the respondents (73.2%) said a "Dryclean" instruction means the garment must be drycleaned, professionally cleaned, or otherwise specially taken care of.

P&G stated, in its comment to the NPR, that it "has much experience and qualitative evidence to indicate that consumers interpret a "dry clean" instruction or a 'dry clean only' instruction to mean that a garment cannot be washed or cared for in the home."<sup>60</sup> At the workshop, P&G presented a description of data obtained from a nationally representative survey of about 1,000 female heads of household who currently do the laundry.<sup>61</sup> Respondents were asked which of five methods they would use to clean a garment labeled "Dryclean." Although multiple responses were allowed, 44% of respondents said drycleaning was the only acceptable way to clean such a garment.<sup>62</sup>

<sup>58</sup> A description of the survey and its results are attached to Clorox's comment (22). Telenation conducted the survey using a single-stage, random digit-dial sample technique to select respondents from all available residential telephone numbers in the contiguous United States. Up to three attempts were made on the selected telephone numbers. Telenation's standard data tabulations are provided in a weighted format. The data are weighted on an individual multi-dimensional basis to give appropriate representation to the interaction between various demographic factors. The multi-dimensional array covers gender, within age, within household income in the four National Census regions, resulting in 144 different cells. The current Population Survey from the U.S. Census Bureau is used to determine the weighting targets for each of these 144 cells. Clorox (22) p. 5.

<sup>59</sup> A copy of Mr. Essma's presentation was placed on the public record as Clorox (PW-43).

<sup>60</sup> P&G (34) p. 3.

<sup>61</sup> P&G's two-page summary of the data was placed on the public record as P&G (PW-44).

<sup>62</sup> Workshop Transcript ("Tr."), pp. 26-27. The difference between the results of the P&G survey (44% mentioned only drycleaning) and the Clorox survey (73.2% said the garment must be drycleaned or otherwise specially taken care of) may be due to the fact that the respondents in the P&G survey were female heads of household who currently do the laundry, whereas the Clorox respondents were a random sample of the population. Female heads of household who currently do the laundry may be more aware than the general population that items labeled "Dryclean" may also be washable.

Thus, empirical data in the record indicates that many consumers interpret a "Dryclean" label to mean that the garment cannot be washed. In addition, question 4 in the Market Facts survey asked respondents whether they had "ever washed or laundered any clothing labeled 'Dry Clean.'" Almost half (49%) of the respondents said "yes."<sup>63</sup> These respondents were then asked (in question 8) whether they were "satisfied with the results of washing or laundering 'Dry Clean' items," and 63.4% said "yes" and 11.1% said "sometimes."<sup>64</sup> Thus, the Market Facts study indicates that some garments labeled "Dryclean" can in fact be washed at home to the satisfaction of the consumer.

Several post-workshop comments discussed the Clorox research, but none questioned the finding that a large number of consumers interpret a "Dryclean" instruction to mean that a garment cannot be cared for at home. Rather, these comments focused on the data about consumer care label preferences. Question 9 in the Market Facts survey asked respondents:

For clothing items that can be either washed or dry cleaned if the label can only show one instruction, which instruction would you prefer to see included on the label: (Read List. Enter Single Response. If Unsure Encourage Best Guess.)

Washing instructions, or .....	1
Dry cleaning instructions .....	2
(Do Not Read):	
Don't know .....	X
Refused .....	R

The responses indicated that 88.8% of respondents would prefer washing instructions.<sup>65</sup>

Support for the proposed amendment came from Consumers Union, AHAM, Pendleton, Greenpeace, and individual consumers, as well as from Clorox and P&G.<sup>66</sup> AHAM, for example, stated that the proposed amendment "will result in consumers saving garment care dollars and will lead to reduction in adverse environment impact resulting from the use of perchloroethylene."<sup>67</sup> Greenpeace asserted that "consumers want to know from a care label whether a garment can be cleaned at home, in water-based

<sup>63</sup> Clorox (22) Weighted Data, p. 6.

<sup>64</sup> Clorox (22) Weighted Data, p. 10.

<sup>65</sup> Clorox (22) Weighted Data, p. 44. Pendleton (25) also stated, at p. 1, that its own market information indicates "the importance of washability to consumers."

<sup>66</sup> Consumers Union (21) p. 1; AHAM (18) p. 2; Pendleton (25) pp. 1-2; Greenpeace (27) p. 1; Smith (36) p. 1; Clorox (22) p. 1; and P&G (34) pp. 2, 3.

<sup>67</sup> AHAM (18) p. 2.

laundry systems."<sup>68</sup> Pendleton Woolen Mills stated:

This proposed change is consistent with Pendleton's current direction for increased emphasis on garment washability. Market information gathered by Pendleton staff has indicated the importance of washability to consumers. This requirement may mean a relatively small increase in the amount of testing, but Pendleton is already seeking to put washable care instructions on garments when possible.<sup>69</sup>

Commenting on the Clorox survey results, the International Fabricare Institute opposed the proposed amendment. IFI stated:

the fabricare industry takes issue with much of the data presented and believes that an additional consumer survey is required to provide the FTC with sufficiently broad information to determine consumer care label preferences. Clorox asked only whether consumers wanted to know when a garment can be home washed. The question should have been "Would you like to know if a garment can be washed or drycleaned, would you like to know all appropriate methods of care?"<sup>70</sup>

In its comment to the NPR, IFI argued that failure to provide drycleaning instructions when appropriate is an injustice to those consumers who wish to have their garments professionally cleaned and that all appropriate methods of care should be listed on the care label (a concept which it referred to as "alternative labeling").<sup>71</sup> IFI further asserted that "there are consumers who want some of their washable items drycleaned."<sup>72</sup>

<sup>68</sup> Greenpeace (27) p. 1.

<sup>69</sup> Pendleton (25) p. 1.

<sup>70</sup> IFI (PW-20), p. 2.

<sup>71</sup> IFI (12) p. 1. Many other cleaners and cleaners' trade associations also favored requiring instructions for both washing and drycleaning or for all methods by which an item can be cleaned (including, presumably, professional wetcleaning and newly emerging techniques such as the use of liquid carbon dioxide for cleaning): MACLA (2) p. 1; Viola (5) p. 2; Prestige (16) p. 1; NCAI (17) p. 2 (otherwise consumers might pay more in the long run because of "excess wear potentially caused by home care"); Valet (PW-6) p. 1; MFI (PW-7), p. 1; French (PW-8), p. 1; Coronado (PW-9), p. 1; MACLA (PW-10) p. 1; SEFA (PW-11) p. 1; COBS (PW-14) p. 1; Hallak (PW-22) p. 1; Avon (PW-23) p. 1; Comet (PW-25), p. 1; Spear (PW-27), p. 1; Cowboy (PW-29), p. 1; Randi (PW-31), p. 1; Swannanoa (PW-35) p. 1; Sno White (PW-36) p. 1; Perrys-Flanagans (PW-38) p. 1. One yarn manufacturer and one academic expert also favored dual or alternative labeling. Celanese (PW-12) p. 1; Riggs (PW-13) p. 3. EPA (PW-3) at pp.1-2, favored alternative labeling. Other cleaners and cleaners' trade associations opposed the proposed change and favored retaining the status quo—i.e., that either washing or drycleaning may be listed on the label of a garment that can either be washed or drycleaned. Rawhide (PW-5) pp. 1-4 (cleaning by consumers is more hazardous to the environment than cleaning by drycleaners); NCPDC (28) pp. 1-2 (recommending home washing as the preferred method is not necessarily providing consumers with the best method of cleaning their garments).

<sup>72</sup> IFI (12) p. 2.



The AAMA also criticized the Clorox Market Facts survey, noting that it showed “nothing more than a preference for home washable garments and not a preference for a change in the rule.”<sup>73</sup> AAMA opposed requiring that garments that can be either washed or drycleaned be labeled for home washing, stating: “Responsible apparel firms label their garments according to what they believe to be the best method of cleaning.”<sup>74</sup> AAMA contended that the proposed change in the Rule would not reduce underlabeling (i.e., labeling washable garments “Dryclean”) without increased enforcement of the Rule; that the proposed change would increase costs to manufacturers; and that there is a “gray area between garments that need some type of professional cleaning and finishing and those that can be maintained with home washing and finishing.”<sup>75</sup>

In its post-workshop comment, AAMA also argued that the proposed change would be burdensome because of a lack of specific standards:

the definition of “successful home washing” is yet to be established. . . . While a definition may exist for a manufacturer establishing a reasonable basis for a garment that is traditionally home washed, it is unclear if this definition also applies to a garment that is traditionally dry cleaned. Does such a garment have to pass an absolute or a comparative test when reasonable basis is established? For example, is a garment “successfully” home washed if it can withstand a certain number of home wash cycles, even though it can withstand a greater number of dry clean cycles? Similarly, a mandatory home wash standard suggests that a garment must fail every conceivable home care method before the label can warn against home care. We are concerned that manufacturers will be expected to establish a reasonable basis with a law that is not fully defined.<sup>76</sup>

AAMA reiterated its belief that the proposed change would increase costs to manufacturers, including costs of “additional testing, increased paperwork, lost production time, increased liabilities, and damaged garments,” but stated that its members were unable to quantify these costs.<sup>77</sup> AAMA asserted that the proposed change would result in manufacturers losing revenues and customers because of high garment return rates for garments labeled for home washing

when they should “ideally be dry cleaned” and because of “consumer anger at prematurely worn-out clothes.”<sup>78</sup>

In addition to its argument that the proposed change would harm manufacturers, AAMA contended that it would harm consumers for several reasons, including increased costs. AAMA stated: “One apparel manufacturer currently carries a ‘performance-satisfaction guarantee’ that it vows to revoke if the proposed amendment were to become part of the Rule.” Consumers will also be hurt, according to AAMA, because they may not feel certain that they are caring for their garments in the best way: “AAMA believes that consumers prefer to be given the best care instructions, not just the possible care instructions.” AAMA further suggested that the proposed change would be confusing to consumers because the meaning of a simple “Dryclean” instruction will in effect change to “Dryclean Only.” Finally, AAMA argued that the proposed change should not be adopted because it would be difficult to convey in symbols.<sup>79</sup>

### 3. Commission Decision Not to Adopt the Proposed Amendment

In promulgating or amending a trade regulation rule pursuant to section 18 of the FTC Act, 15 U.S.C. 57a, the Commission must act within its statutory mandate to “define with specificity acts or practices which are unfair or deceptive . . . (within the meaning of (section 5(a)(1) of the FTC Act))” and to “include requirements prescribed for the purpose of preventing such acts or practices.” In promulgating the Rule in 1971 and amending it in 1983, the Commission found that it is both unfair and deceptive to fail to disclose any instructions of a method by which a garment can be cleaned. 36 FR 23889 and 48 FR 22736. The Commission did not find, however, that it is either unfair or deceptive to label a garment with only one method of cleaning when another method also can be used. Indeed, in amending the Rule in 1983, the Commission considered but rejected requiring that instructions for *both* washing and drycleaning (which the Commission referred to as “alternative care labeling”) be included on care labels, stating that the record did not show that the benefits of such a requirement would exceed its costs:

An alternative care labeling requirement would impose significant testing and substantiation costs on manufacturers. For

example, it would require [manufacturers] to give drycleaning instructions, and to have a reasonable basis for those instructions, for all items they already label as washable. 48 FR at 22742.

In order to amend the Rule to require that a garment manufacturer list a *particular* cleaning method on the care label in all cases where that method is applicable, the Commission would have to find evidence indicating that the failure to list the method is both a prevalent practice and an unfair or deceptive one. The Commission also would have to conclude that the particular remedy was an appropriate and cost effective way to address the unfair or deceptive practice.<sup>80</sup> There is evidence in the record that some garments labeled “Dryclean,” or even “Dryclean Only,” are in fact home washable. There is also evidence that some consumers believe a “Dryclean” instruction means that a garment cannot be washed; thus, they may be misled by the instruction and incur a cleaning cost they would not otherwise incur. The Commission is not convinced, however, that the evidence is sufficiently compelling to justify a change in the Care Labeling Rule at this time. Moreover, the benefits of the proposed amendment are highly uncertain. For example, it is not clear from the record how many garments currently labeled “Dryclean” would have to be labeled for home washing if the amendment were adopted.<sup>81</sup> In addition, it appears that there have been changes in the marketplace, since the beginning of this rulemaking proceeding, that suggest regulatory change may not be needed. Therefore, after carefully weighing the evidence and the competing considerations at stake, the Commission has decided not to adopt the proposed amendment to require a home washing instruction for all garments that may be washed.

One impetus for the proposed amendment to require a home washing instruction where applicable was the environmental goal of reducing use of PCE. 63 FR at 25418–19. Discussion at the workshop and some post-workshop

<sup>80</sup> 16 CFR 1.14.

<sup>81</sup> In the absence of standards for a successful wash result (in terms of the durability of the garment as compared to its durability when drycleaned), there is, as suggested by the AAMA, a “gray area” where deference would have to be accorded the manufacturer’s best judgment. AAMA (11) p. 2, (PW–24) p. 2. In addition, the use of “Dryclean” labels on garments that also could be washed seems to be limited to certain kinds of fabrics. Silk, wool, and rayon have been mentioned most frequently as fabrics often labeled “Dryclean” when in fact they could be washed. Other factors, such as the type of weave in the fabric and the dyes used also affect washability. Tr. 38–39; ATMI (9) p. 1.

<sup>73</sup> AAMA (PW–24) p. 3.

<sup>74</sup> AAMA (11) p. 2.

<sup>75</sup> Id.

<sup>76</sup> AAMA (PW–24) p. 2. Johnson Group (1) made a similar point, at p. 2, stating that appropriate criteria must be developed “specifying the product performance after a given number of cleaning cycles.”

<sup>77</sup> AAMA (PW–24) p. 2.

<sup>78</sup> Id. at 2–3.

<sup>79</sup> Id. at 4.

comments indicated, however, that use of this solvent by the drycleaning industry has already been dramatically reduced.<sup>82</sup> The discussion suggested that the reason for this decline may be higher recovery rates for PCE during the cleaning process, as opposed to the use of other solvents or methods.<sup>83</sup> Furthermore, the discussion showed that the effect of a mandatory wash instruction on consumer behavior simply could not be predicted.<sup>84</sup> While it is clear that many consumers have a preference for more information, including washing instructions, it is not at all clear that a required washing instruction would change consumer behavior sufficiently to reduce either the use of PCE or the cost to consumers of caring for their garments.<sup>85</sup>

Another change in the marketplace is the emergence of new cleaning technologies, including professional wetcleaning<sup>86</sup> and liquid carbon dioxide.<sup>87</sup> These new technologies are considered to be more "environmentally friendly" than PCE<sup>88</sup> and provide additional options for consumers. Another new technology is the formulation of home cleaning products, such as Dryel (a new P&G product).<sup>89</sup>

A number of commenters urged the Commission to amend the Rule to require that all appropriate methods of

care be listed on the care label.<sup>90</sup> While this proposal would have the advantage of maximizing the information and options provided to consumers, it is potentially costly and burdensome on manufacturers for the Commission to require that an evolving list of cleaning technologies be named on a permanent garment label and that manufacturers have substantiation for all of them (including contrary evidence for those not mentioned). The EPA suggested that the Commission not establish a preference for one environmentally friendly technology over others.<sup>91</sup> The Commission agrees with this position; the Commission does not agree, however, that the rulemaking record supports a determination that it is an unfair or deceptive act or practice for a manufacturer to fail to provide a label listing all methods or technologies that could be used to clean a garment. Moreover, the rapidly changing nature of the garment care industry suggests that the Commission should not intervene with a regulatory change that might in the future prove to be inadequate or inappropriate.

The Market Facts study shows that despite the perception by some consumers that a "Dryclean" instruction is tantamount to a "Dryclean Only" instruction, nearly half of those surveyed had in fact washed a garment with a "Dryclean" label.<sup>92</sup> Moreover, the majority of that group was satisfied with the results of washing. This suggests that consumers may be getting information about the ability to wash some garments with a "Dryclean" label from other reliable sources. Such sources could include retailers, consumer publications<sup>93</sup> or media sources, professional cleaners, other consumers, or a consumer's own past experience.

Representatives of some large retailers, including J.C. Penney, Sears, and QVC, indicated that frequently they ask manufacturers to change the care labels of garments with a "Dryclean"

instruction where the retailers' own testing shows them to be machine washable.<sup>94</sup> They do so because they believe that a washing instruction will be the most useful one for their customers. This is an example of the marketplace responding to consumer preferences and demonstrates the ability of retailers to ensure that their customers get the type of care information they want. In addition, some manufacturers themselves indicate they are responding to consumers' desire for information on washability by putting washing instructions on garments when possible.<sup>95</sup>

Finally, to the extent that consumers are being misled by "Dryclean Only" labels on clothing that can be home laundered, the Commission points out that such an instruction would be illegal under the current Rule. 16 CFR 423.6(c)(2). The term conveys to consumers a warning that the item cannot be washed successfully. A manufacturer using such a label must have a reasonable basis for this warning, just as the manufacturer must also have a reasonable basis for stating that the garment can be drycleaned successfully. Although the Commission has not to date brought enforcement actions based on a misleading instruction of "Dryclean Only," it may do so in the future if this practice occurs.

The Commission hopes that manufacturers and their trade associations will respond affirmatively to the evidence in this proceeding that consumers want more information about cleaning options, particularly washing instructions where applicable.<sup>96</sup> One manufacturer suggested, for example, use of label language such as: "machine wash...or dry clean for best results."<sup>97</sup> If manufacturers are reluctant to lengthen labels to communicate that washing is possible, although drycleaning may be preferred for best long term results, they certainly can find other ways to convey the information. They could use hang tags, for example, to inform consumers that a "Dryclean" instruction on the label does not mean that the garment cannot be cleaned by washing or other methods, but rather that drycleaning is an appropriate way to clean the item

<sup>82</sup> An EPA representative stated: "From the numbers that I have seen . . . it would appear that the dry cleaners, the dry cleaning industry, has done an excellent job of reducing the use of PERC over the last ten and twenty years. . . . I think it's less than half of what it was ten years ago." Tr. p. 115. A representative of a drycleaners trade association in the Southwest stated in a written comment that improvements in the manner of using PERC over the last ten or fifteen years has resulted in a 75% reduction of usage of the solvent even though more clothes are cleaned in it every year. He further asserted that with the development of alternative solvents, including liquid carbon dioxide, drycleaning could become the environmentally preferable method of cleaning clothes in the future. Rawhide (PW-5) p. 2. IFI contends that PERC consumption has declined 70% over the past 10 years. IFI (PW-20) p. 2.

<sup>83</sup> Riggs Tr. p. 118 and (PW-13) p. 2; IFI (PW-20) p. 2.

<sup>84</sup> Stroup (EPA) Tr. pp. 115-16.

<sup>85</sup> As noted above, it is speculative as to how many garments now labeled "Dryclean" would actually have to be re-labeled for home washing. In addition, it has been suggested that some consumers take washable garments to a drycleaner rather than washing them at home simply for the convenience of professional cleaning and/or because they believe the clothing will look better or last longer if professionally cleaned. French (PW-8); IFI (12) p. 2; MFI (PW-7) p. 1; MACLA (PW-10) pp. 1-2; Spear (PW-27) p. 1; Greenpeace (27) p. 2; Tr. 107-08.

<sup>86</sup> See discussion in Part II.D, *infra*.

<sup>87</sup> See discussion in Part III, *infra*.

<sup>88</sup> EPA (PW-3) pp. 1-2.

<sup>89</sup> See discussion in Part III, *infra*. Although such products are not likely to be total replacements for professional drycleaning, they do offer consumers additional, and less costly, cleaning options.

<sup>90</sup> *E.g.*, IFI (PW-20) p. 2; Valet (PW-6) p. 1; MFI (PW-7) p. 1; MACLA (PW-10) p. 1; SEFA p. 1; Celanese (PW-12).

<sup>91</sup> EPA (PW-3) p. 2.

<sup>92</sup> As some commenters noted, however, this study does not necessarily provide insight about the total percentage of garments labeled "Dryclean" that might also be washable. The consumers who answered "yes" to this question could be referring to only one garment out of many wardrobe items with a "Dryclean" label or one garment over a period of many years.

<sup>93</sup> For example, Consumers Union published an article describing results obtained when blouses and sweaters with a "Dryclean" or "Dryclean Only" label were washed. Consumers Union concluded that many such garments can be home washed. Tr. pp. 38-39; article attached to comment of Consumers Union (21).

<sup>94</sup> Tr. pp. 58-60.

<sup>95</sup> *E.g.*, Pendleton (25) p. 1. A recent trade press article notes that, in direct response to consumer demand, some other manufacturers are dramatically increasing the number of washable items they offer for sale. "Cleaning Up With Washable Fabrics," A. D'Innocenzio, Women's Wear Daily, April 12, 2000.

<sup>96</sup> The AAMA agreed that "underlabeling" (i.e., labeling a garment simply "Dryclean" when washing at home is also a viable option) is a problem in the clothing industry. AAMA (PW-24) p. 6.

<sup>97</sup> Pendleton (25) p. 2.

and, in some cases, may be the preferred method for garment appearance or longevity. On a hang tag, consumers could be given additional useful information, not conducive to shortened form on a label, such as, with certain fabrics, white garments can be washed without harm, but brightly colored garments might fade if washed rather than drycleaned.

#### D. Professional Wetcleaning Instruction

##### 1. Background of Proposed Amendment

Several comments submitted in response to the Regulatory Review Notice suggested that new technologies of professional wetcleaning offer promising alternatives to PCE-based drycleaning. Therefore, in the ANPR, the Commission requested information about the professional wetcleaning process. It also sought comment on the feasibility of amending the Rule to require such an instruction, when appropriate and in addition to a drycleaning instruction, for items that cannot be home laundered. 60 FR at 67105, 67107. Twenty-nine commenters addressed the wetcleaning issue. Some opposed amending the Rule to require such an instruction, arguing that the technology is too new and not yet well understood nor widely available. A number of commenters provided information about the available processes and equipment. In addition, they offered widely varying estimates of the percentage of garments now labeled "Dryclean" or "Dryclean Only" that could also be wetcleaned effectively. 63 FR at 25420-21. Ginetex stated that it is waiting for development of a standardized test method before incorporating wetcleaning into the European care labeling system.<sup>98</sup>

##### 2. Response to the NPR

In the NPR, the Commission sought comment on a proposed amendment that would permit, though not require, a "Professionally Wetclean" instruction on care labels. Under the proposed amendment, this instruction would be in addition to, not in place of, a care instruction for another method of cleaning, such as washing or drycleaning. The NPR also set forth a proposed definition of "professional wetcleaning."<sup>99</sup> The proposed

amendment specified that a label with a "Professionally Wetclean" instruction must state one type of professional wetcleaning equipment that may be used, unless the garment could be cleaned successfully by all commercially available types of professional wetcleaning equipment. The proposed amendment further specified that a label recommending professional wetcleaning must also list the fiber content of the garment.

In response to the NPR, 25 comments addressed the issue of professional wetcleaning. A few of these opposed the proposed amendment, stating that the technology and availability of this process are not yet sufficiently advanced to justify a care labeling instruction.<sup>100</sup> Most of the comments favored amending the Care Labeling Rule to recognize professional wetcleaning. They did not agree, however, on how this should be accomplished. Several argued that the Rule should require a "Professionally Wetclean" instruction whenever the method would be appropriate.<sup>101</sup> Some believed that a "Professionally Wetclean" instruction should always be accompanied by another appropriate care method,<sup>102</sup> while others asserted that a second instruction should be allowed, but not required.<sup>103</sup> With regard to the issue of specifying wetcleaning equipment, most thought it would be unnecessary and overly restrictive.<sup>104</sup> Of those addressing the

degree of mechanical action imposed on the garments by the wet cleaning process. The computer also controls time, fluid levels, temperatures, extraction, chemical injection, drum rotation, and extraction parameters. The dryer incorporates a residual moisture (or humidity) control to prevent overdrying of delicate garments. The wet cleaning chemicals are formulated from constituent chemicals on the EPA's public inventory of approved chemicals pursuant to the Toxic Substances Control Act.

<sup>100</sup> See, e.g., Viola (5) p. 2; AHAM (18) p. 3 (Delay incorporating a "Professionally Wet Clean" instruction in the Rule "until the manufacturers can establish a reasonable basis for this method of garment refurbishment."); Alliance (33) p. 1 ("To create special labeling at this time is premature.")

<sup>101</sup> See, e.g., Aqua Clean (4) p. 1; Cleaner By Nature (10) p. 1; Riggs (19) p. 2; PPERC (24) p. 2; Pendleton (25) p. 2; Greenpeace (27) p. 3; CNT (30) p. 2.

<sup>102</sup> See, e.g., Johnson Group (1) p. 1; MACLA (2) p. 1; Industry Canada (8) p. 2; ATMI (9) p. 2; IFI (12) p. 2; Scanlon (13) p. 1; Riggs (19) p. 2; Pendleton (25) p. 2.

<sup>103</sup> See, e.g., Nature's Cleaners (6) p. 1; Associazione Serica (15) p. 1; CNT (30) pp. 2-3.

<sup>104</sup> See, e.g., Riggs (19) p. 2; Consumers Union (21) p. 2; CNT (30) p. 3 (label should not specify equipment type, but should specify finishing instructions, when needed.); PWN (31) p. 2; P&G (34) pp. 2, 3 (equipment statement should not be required; allow an optional statement of at least one type of equipment that can be used, unless all would work). But, see PPERC (24) p. 4 (require "Professionally Wetclean" instructions to specify wetclean finishing equipment, if necessary).

issue of whether fiber content should be stated on a label with a "Professionally Wetclean" instruction, most suggested that fiber content should be required on all care labels, not just labels that recommend professional wetcleaning.<sup>105</sup> Eleven comments addressed the proposed definition of "wetcleaning;"<sup>106</sup> a few favored it, others suggested modifications, and others rejected it as too narrow, encompassing only the newest technology.

##### 3. Public Workshop-Conference and Post-Workshop Comments

At the workshop, seven participants stated that professional wetcleaning is an established care method that is currently used not only by those who specialize in wetcleaning but also by many, if not most, conventional cleaners.<sup>107</sup> Six of the participants and two observers agreed that a definition and test procedure should be developed before the Commission amends the Rule to permit or to require a wetcleaning instruction.<sup>108</sup> The discussion made clear, however, that there is not one, clearly defined process performed by those who do professional wetcleaning.<sup>109</sup>

There was considerable discussion at the Workshop about the need to define "wetcleaning" and develop a test procedure that manufacturers could use to establish a reasonable basis for using a "Professionally Wetclean" instruction on labels. A representative of the Center for Neighborhood Technology read the definition CNT proposed in its comment responding to the NPR,<sup>110</sup> and representatives of ASTM and AATCC offered to consider establishing a definition and test procedure at the next meetings of those organizations, using

<sup>105</sup> See, e.g., Consumers Union (21) p. 2; PPERC (24) p. 2; Greenpeace (27) p. 2; CNT (30) p. 3; PWN (31) p. 2.

<sup>106</sup> IFI (12) p. 2; Prestige Cleaners (16) p. 1; NCAI (17) p. 1; Riggs (19) p. 1; Consumers Union (21) p. 3; PPERC (24) p. 2; Greenpeace (27) p. 2; CNT (30) pp. 2-3; PWN (31) p. 2; P&G (34) pp. 2-3; Pellerin Milnor (37) p. 1.

<sup>107</sup> Star (CNT) Tr. pp. 155-59; Hargrove (PWN) Tr. p. 169; Boorstein (Prestige) Tr. p. 171; Sinsheimer (PPERC) Tr. p. 180; Oakes (QVC) Tr. p. 189; Davis (Cleaner by Nature) Tr. pp. 190-91; Scalco (IFI) Tr. p. 244.

<sup>108</sup> Riggs Tr. pp. 172-75; Easter (Univ. Ky.) [Observer] Tr. p. 176; Pullen Tr. pp. 181-83; Ferrell (Capital Mercury Apparel, Ltd.) Tr. p. 186; Lamar (AAMA) Tr. p. 189; Essma (Clorox) Tr. pp. 207-08; Jones, General Electric Company ("GE") [Observer] Tr. pp. 230-32; Stroup (EPA) Tr. p. 261.

<sup>109</sup> For example, Ms. Hargrove of PWN asked if IFI would agree that most of the nation's 30-35,000 cleaners do some amount of wetcleaning. Ms. Scalco of IFI agreed, but with the qualification that "there's vast differences in how they do that wet cleaning from shop to [shop]." Tr. p. 169.

<sup>110</sup> Ewing (CNT) Tr. p. 178.

<sup>98</sup> Ginetex, comment 63 to ANPR, p. 3

<sup>99</sup> See 63 FR 25417 at 25426:

Professional wet cleaning means a system of cleaning by means of equipment consisting of a computer-controlled washer and dryer, wet cleaning software, and biodegradable chemicals specifically formulated to safely wet clean wool, silk, rayon, and other natural and man-made fibers. The washer uses a frequency-controlled motor, which allows the computer to control precisely the

the CNT definition and the definition proposed by the Commission in the NPR as a basis for discussion.<sup>111</sup> Responding to many participants' expressed need for additional time to standardize a definition and test method for wetcleaning, Commission staff conducting the workshop suggested that the rulemaking record could be kept open for nine months to a year to allow time for affected interests to develop a definition and test procedure before the Commission makes a final decision on whether to add a wetcleaning instruction to the Rule.<sup>112</sup> It was the general sense of the participants that this would be a desirable approach.<sup>113</sup>

Post-workshop comments confirmed that wetcleaning is a growing and viable technology for professional garment care,<sup>114</sup> and overwhelmingly supported the idea that the rulemaking record remain open on this issue for an extended period of time. The Center for Neighborhood Technology, for example, reported that at the February 1999 meeting of the AATCC, steps were taken to form a subcommittee to begin the development of the necessary test methods.<sup>115</sup> Another conference participant reported that the issue of defining "professional wetcleaning" had been placed on the ASTM D13.62 agenda.<sup>116</sup> Nineteen of the 23 post-workshop comments that addressed the timing question supported the idea of keeping the rulemaking record open to allow the relevant stakeholders a reasonable interval of time to continue the dialogue begun at the FTC's workshop.<sup>117</sup> The other four commenters believed the Commission should amend the Care Labeling Rule without delay so as not to hinder the development of this "environmentally friendly" cleaning technology.<sup>118</sup>

#### 4. Commission Decision Not to Adopt the Proposed Amendment and To Close the Record

Based on the discussion of professional wetcleaning at the workshop, combined with the NPR comments and the post-workshop comments, the Commission has concluded that it would be premature at this time to amend the Rule to allow a "Professionally Wetclean" instruction. The Commission believes that a final definition of "professional wetcleaning" and an appropriate test method for the process must be developed before the Commission can amend the Rule to permit a "Professionally Wetclean" instruction on required care labels.<sup>119</sup> This is necessary in order to give manufacturers clear guidance as to how they may establish a reasonable basis for a wetclean instruction. Currently, manufacturers can test garments for drycleaning by having them drycleaned in perchloroethylene. They can test for home washing by having them laundered at various water temperatures. In order to have a reasonable basis for a "Professionally Wetclean" instruction, manufacturers would need to be able to subject the garments to such a cleaning method. In this case, however, the "method" may encompass many different processes, and the one chosen would depend in large part on the particular cleaner. In recommending a particular cleaning method, manufacturers must have assurance that the method they are recommending—and for which they have established a reasonable basis—is the same method that cleaners actually would use to clean the garment labeled for that method. For this reason, a definition of "professional wetcleaning," for purposes of amending the Care Labeling Rule, must either describe all important variables in the process, so that manufacturers could determine that their garments would not be damaged by the process, or be coupled with a specific test procedure

that manufacturers could use to establish a reasonable basis.<sup>120</sup>

One workshop participant suggested that a reasonable basis already exists in the marketplace in the form of wetcleaning being performed on a daily basis by professional wetcleaners, and that the Commission should add a wetcleaning instruction to the Rule while the definition and test are being formally standardized.<sup>121</sup> The Neighborhood Cleaners Association International suggested, in its NPR comment, that the use of a computer-controlled washer and dryer is not necessary and that it is the operator's knowledge of the chemistry of wetcleaning and of fabrics, fibers, and dyes that is determinative.<sup>122</sup> It is not clear how this body of knowledge could be incorporated into a definition, however, given that there is no way to ensure that persons who attempt such cleaning will have such knowledge. A regional drycleaners association stated that professional wetcleaning is an emerging technology that "has yet to be standardized."<sup>123</sup>

The Commission has concluded that some level of standardization is necessary before a "Professionally Wetclean" instruction can be placed on garments that are to be sold throughout the entire country. The Commission is encouraged by the fact that, during the year since the workshop took place, standards-setting organizations and other interested participants in this proceeding appear to have been working independently to resolve these outstanding issues. It appears, however, that progress has been slow toward developing a definition and test procedure that would enable manufacturers to have a reasonable basis for a wetcleaning instruction.

The Commission has learned, for example, that although AATCC is close to a final definition for the wetcleaning process, the draft definition appears to be general enough in its terminology that a test procedure would be needed to complement it before manufacturers could have a reasonable basis to determine if their garments would

<sup>111</sup> Pullen Tr. p. 211; Riggs Tr. pp. 172–74.

<sup>112</sup> See Engle (FTC) Tr. pp. 228, 270–71; Kolish (FTC) Tr. pp. 234–36, 294–95.

<sup>113</sup> See, e.g., Jones (GE) [Observer] Tr. pp. 230–32; Pullen Tr. p. 234. Sinsheimer (PPERC), however, asserted that, although some time would be necessary to standardize a definition and test, nine months would be too long a delay. Tr. pp. 229–30.

<sup>114</sup> E.g., EPA (PW–3) p. 1; Aqua Clean (PW–30) pp. 1–2; KYCC (PW–32) pp. 1–2.

<sup>115</sup> CNT (PW–26) p. 1.

<sup>116</sup> Pullen (PW–2) p. 1.

<sup>117</sup> EPA (PW–3) p. 2; Valet (PW–6) p. 2; Celanese (PW–12) p. 1; COBS (PW–14) p. 1; PWN (PW–15) p. 1; Prestige (PW–16) p. 1; Wentz (PW–17) p. 2; Consumers Union (PW–19) p. 1; IFI (PW–20) pp. 1, 4; Hallak (PW–22) p. 1; Avon (PW–23) p. 1; AAMA (PW–24) p. 7; Comet (PW–25) p. 2; CNT (PW–26) pp. 1–2; Randi (PW–31) p. 1; Swannanoa (PW–35) p. 3; Sno White (PW–36) p. 1; EFC9 (PW–37) p. 2; Perrys-Flanagans (PW–38) p. 1.

<sup>118</sup> PPERC (PW–21) pp. 2, 6; Greenpeace (PW–28) p. 1; KYCC (PW–32) p. 3; Cypress (PW–33) p. 2.

<sup>119</sup> Presumably, all garments that could be safely washed at home also could be cleaned by professional wet cleaning. The record indicates, however, that the reverse is not true: there are certain garments that can be professionally wet cleaned but cannot be successfully washed and finished at home. Under the Care Labeling Rule, the first category of garments can be labeled for washing. No amendment of the Rule is needed to provide cleaners with the information about cleaning such garments in water. A proposed definition of "professional wet cleaning" needs to focus, therefore, only on the second category of garments, i.e., those that cannot be washed at home but could be professionally wet cleaned.

<sup>120</sup> Although the Rule does not require a manufacturer to conduct testing to establish a reasonable basis (see discussion, Part II.A.1, *supra*), other indices of reliability, such as past experience, would likely not be present with respect to a new technology such as professional wetcleaning.

<sup>121</sup> Sinsheimer (PPERC) Tr. pp. 179–81, 229, and 241.

<sup>122</sup> NCAI (17) p. 2.

<sup>123</sup> SEFA (PW–11) p. 1. SEFA further stated: "Wetcleaning, as practiced in our industry, to date, includes everything from hand washing to computerized equipment to specialized finishing equipment." Id.

survive the process.<sup>124</sup> If, as currently seems to be the case with the AATCC draft, the definition is not sufficiently specific for a manufacturer to make such a determination, there must be a test procedure in place upon which manufacturers can rely before the Commission can amend the Rule in this respect.

It is clear to the Commission that additional time is necessary for standards-setting organizations such as AATCC or ASTM to develop a test procedure.<sup>125</sup> Given the fact that more than one year has already elapsed since the workshop, with development of only a very general draft definition for professional wetcleaning and no agreement on an appropriate test procedure, it appears unlikely that a final test procedure will be established in the near future.

Accordingly, the Commission is not amending the Rule to include a definition and instruction for wetcleaning. If a more specific definition and/or test procedure, which would provide manufacturers with a reasonable basis for a wetcleaning instruction, is developed in the future, the Commission will consider a proposal to add such an instruction to the Rule. In the meantime, the Commission is concluding this rulemaking proceeding.

### III. Other Issues Raised in the Comments and the Workshop

Other proposals introduced in the comments or in the workshop included: Care instructions for liquid carbon dioxide; home fabric care instructions for products such as Dryel; a "professionally clean" instruction; and requiring specific dryer temperatures on care labels. Neither the ANPR nor the NPR afforded notice or solicited

comment about these issues; hence, their inclusion in the rulemaking proceeding at this final stage would be inappropriate.

The use of liquid carbon dioxide as a cleaning solvent is a new technique that was introduced last year at one site in the United States. Micell Technologies, Inc. ("Micell"), the corporation that developed this new technology and launched it on February 9, 1999, recommended that the Commission require a care instruction for "Liquid Carbon Dioxide Process."<sup>126</sup> In its post-workshop comment, EPA urged the Commission "to begin the process to develop a standard definition and test protocol, and eventually a "Liquid Carbon Dioxide Process" care label instruction requirement."<sup>127</sup>

As noted above, the Commission will consider amending the Rule to recognize a new technology for care label purposes when there is a standard definition of that technology, so that manufacturers can give an instruction for "Method X" with assurance that the "Method X" they are describing (and which they have a reasonable basis to believe will refurbish their garments without damage) is the same "Method X" that cleaners who attempt to clean their garments are using.<sup>128</sup> The development of a standardized process must precede the development of a standardized definition, however, and the standardization of a new technology must, to a large extent, occur within the industry that is offering the new technology to the public. The Commission can help articulate a definition for a new technology when the technology has progressed to a stage where there is at least some standardization of the process. It is not within the Commission's mandate, however, to try to create demand for new technologies that might be environmentally desirable; nor does the Commission have the expertise necessary to evaluate the environmental effects of such new technologies.

Procter & Gamble recommended that the Commission modify the Rule to permit manufacturers to include an

optional "home fabric care instruction" on labels of garments that could be cleaned at home with the use of a product such as Dryel, a new product marketed by P&G. P&G described Dryel as an "in-dryer "dryclean only" fabric care product which offers the consumers a convenient, safe and inexpensive method for cleaning and freshening garments at home." P&G also stated that it has developed test methods for Dryel performance.<sup>129</sup>

The Commission does not believe it is appropriate at this time to include in the Rule provisions for labeling for products such as Dryel. The only evidence the record contains about Dryel is evidence P&G submitted in response to the NPR. Hence, inclusion of a labeling instruction for products such as Dryel would be premature. The product can be offered to consumers regardless of whether instructions for its use appear on garment care labels. Indeed, if garment manufacturers wish to recommend the use of this type of product on their garments, they are free to do so as long as they have a reasonable basis for whatever recommendations they give consumers.

The Center for Neighborhood Technology suggested that the Commission consider a "Professionally Clean" label, which would leave the choice of solvent to the cleaner and would encompass both wet and drycleaning, along with future technologies. It also stated that "if a particular garment would not be serviceable in a specific solvent, this label could have an exclusion for that solvent."<sup>130</sup>

The Commission does not believe it is appropriate to include the option of a "Professionally Clean" label in the Rule at this time. Currently, the Rule refers to one method of professional cleaning—drycleaning—and requires the manufacturer to provide warnings when the normal drycleaning process (as defined in the Rule) must be modified to prevent damage to the garment. CNT's proposal for a "Professionally Clean" label would absolve the manufacturer of the responsibility to provide such warnings but would make the manufacturer responsible for warning that particular solvents could not be used on the garment. In fact, however, whether or not certain drycleaning solvents can be used can depend on whether or not warnings (such as, for example, "short cycle") are provided. The responsibility to provide

<sup>124</sup> According to the Winter, 2000 volume of Wetcleaning Update, published by the Center for Neighborhood Technology, AATCC's RA43 Committee on Professional Textile Care approved the following definition for wetcleaning:

Professional Wetcleaning—A process for cleaning sensitive textiles (e.g., wool, silk, rayon, linen) in water by professionals using special technology, detergents and additives to minimize the potential for adverse effects. It is followed by appropriate drying and restorative finishing procedures.

Wetcleaning Update reported that the Committee on Textile Cleaning of the International Standards Organization also is conducting a ballot on this definition.

<sup>125</sup> As part of a project known as AQUACARB (partially funded by the European Union), six European research institutes are also attempting to develop a test procedure for professional wetcleaning. AATCC is coordinating its efforts with AQUACARB, as well as with research efforts at North Carolina State University. "Dynamics of Change in Professional Garment Cleaning," Textile Chemist and Colorist & American Dyestuff Reporter, December 1999, pp. 38, 41.

<sup>126</sup> Micell (PW-40) p. 1.

<sup>127</sup> EPA (PW-3) p. 2. While not specifically referring to liquid carbon dioxide, Greenpeace (PW-28) also commented, at p. 2, that it encouraged the FTC "to find a way to streamline and accelerate the proper labeling of these [new] processes" and suggested that environmental impact studies are a good way "to objectively prioritize the value of consumer technologies."

<sup>128</sup> If such an instruction is to be the only instruction on the care label, the Commission would also inquire into the accessibility of the method to consumers, who are accustomed to garments that are labeled for one of two widely available cleaning methods, washing or drycleaning.

<sup>129</sup> P&G (34) p. 4.

<sup>130</sup> CNT (30) p. 2, (PW-26) p. 2. PWN (PW-15) p. 1 and EFC9 (PW-37) p. 2 also supported a "Professionally Clean" label.

warnings as to how the normal drycleaning process should be modified for a particular garment is currently placed on the manufacturer. This is appropriate because, as the Commission said when it amended the Rule in 1983, the manufacturer, having chosen all the components of a garment, would be able to determine the "care traits of a given item" and "professional drycleaners may be unable to determine the combination of fibers and finishes used in a particular fabric and thus may not be able to determine the appropriate solvent and drycleaning procedure to be followed." 48 FR 22739.

Consumers Union recommended that the Rule require specific dryer temperatures (instead of "high," "medium," and "low") on care labels that recommend washing and machine drying because there are no standardized temperature definitions in the dryer industry for these words.<sup>131</sup> The Commission agrees that consumers would benefit if the terms that appear on clothes dryers—such as "high," "medium," and "low"—had standardized definitions, and it urges the industry to develop such definitions through private standards-setting organizations.<sup>132</sup> At the present time, the Commission does not believe that requiring specific dryer temperatures on care labels would be helpful to consumers because consumers have no way of knowing the temperature in their clothes dryers.

#### IV. Regulatory Analysis and Regulatory Flexibility Act Requirements

Under section 22 of the FTC Act, 15 U.S.C. 57b, the Commission must issue a final regulatory analysis for amendments to a rule only when it (1) estimates that the amendments will have an annual effect on the national economy of \$100,000,000 or more; (2) estimates that the amendments will cause a substantial change in the cost or price of goods or services that are used extensively by particular industries, that are supplied extensively in particular geographic regions, or that are acquired in significant quantities by the federal government, or by state or local governments; or (3) otherwise determines that the amendments will have a significant effect upon covered entities and upon consumers. A final

regulatory analysis is not required because the Commission finds that the amendments to the Rule will not have such effects on the national economy, on the cost of textile wearing apparel or piece goods, or on covered businesses and consumers.

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601–12, requires agencies to conduct an analysis of the anticipated economic impact of proposed amendments on small businesses.<sup>133</sup> The purpose of a regulatory flexibility analysis is to ensure that the agency considers impact on small entities and examines regulatory alternatives that could achieve the regulatory purpose while minimizing burdens on small entities. Section 605 of the RFA, 5 U.S.C. 605, 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 Care Labeling Rule covers manufacturers and importers of textile wearing apparel and certain piece goods, and the Commission preliminarily concluded in the NPR that any amendments to the Rule may affect a substantial number of small businesses. For example, unpublished data prepared by the U.S. Census Bureau under contract to the Small Business Administration ("SBA") show there are 288 manufacturers of men's and boys' suits and coats (SIC Code 2311), more than 75% of which qualify as small businesses under applicable SBA size standards.<sup>134</sup> There are more than 1,000 establishments manufacturing women's and misses' suits, skirts, and coats (SIC Code 2337), most of which are small businesses. Other small businesses are likely covered by the Rule.

Nevertheless, for reasons stated in the NPR, the Commission certified under the RFA that the proposed amendments to the Care Labeling Rule, if promulgated, would not have a significant economic impact on a substantial number of small businesses, and concluded, therefore, that a regulatory analysis was not necessary. To ensure that no significant economic impact was being overlooked, however, the Commission requested comments on this issue. The only commenters to address this issue did so with respect to the proposed amendment to require a

home wash instruction for garments that can safely be washed at home "a proposal that the Commission has decided not to adopt at the present time.

The comments addressed no issues with regard to the impact of other proposed amendments on small businesses. The amendment to the reasonable basis provision of the rule is simply a clarification of the fact that the manufacturer or importer must have a reasonable basis for care instructions for the garment as a whole, not simply for the separate components. It does not impose any significant additional burden on covered entities. The amendments to the Rule's definitions of "cold," "warm," and "hot" simply conform the Rule to standards currently used in the textile industry and do not impose any additional burdens on manufacturers and importers. Therefore, the Commission has determined that the Rule will not have a significant impact on a substantial number of small entities and concludes that a regulatory flexibility analysis is not required. In light of the above, the Commission certifies, under section 605 of the RFA, 5 U.S.C. 605, that the Rule amendments adopted herein will not have a significant economic impact on a substantial number of small entities.

#### V. Paperwork Reduction Act

The Rule contains various information collection requirements for which the Commission has obtained clearance under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Office of Management and Budget Control Number 3084–0103. A notice soliciting public comment on extending the clearance for the Rule through December 31, 2001, was published in the **Federal Register** on October 6, 1999, 64 FR 54324. OMB subsequently extended the clearance until December 31, 2001.

As noted above, the Rule requires manufacturers and importers of textile wearing apparel to attach a permanent care label to all covered items and requires manufacturers and importers of piece goods used to make textile clothing to provide the same care information on the end of each bolt or roll of fabric. These requirements relate to the accurate disclosure of care instructions for textile wearing apparel. Although the Rule also requires manufacturers and importers to base their care instructions on reliable evidence, it does not contain any explicit record keeping requirements. The Rule also provides a procedure whereby an industry member may petition the Commission for an exemption for products that are claimed

<sup>131</sup> Consumers Union (21) p. 4.

<sup>132</sup> Pursuant to section 12(d)(1) and (3) of the National Technology Transfer and Advancement Act of 1995, P.L. 104–13, 110 Stat. 783, when setting standards, federal agencies are required to use "technical standards that are developed or adopted by voluntary consensus standards bodies" except when use of such standards is "inconsistent with other laws or otherwise impractical."

<sup>133</sup> The RFA addresses the impact of rules on "small entities," defined as "small businesses," "small governmental entities," and "small (not-for-profit) organizations," 5 U.S.C. 601. The Rule does not apply to the latter two types of entities.

<sup>134</sup> SBA's revised small business size standards are published at 61 FR 3280 (Jan. 31, 1996).

to be harmed in appearance by the requirement for a permanent label. Such petitions have been filed only rarely in recent years.

In the NPR, the Commission preliminarily concluded that the proposed amendments to the Rule, if enacted, would not increase the paperwork burden associated with these paperwork requirements. The Commission stated that the proposed amendment to change the numerical definitions of the words "hot," "warm," or "cold," when they appear on care labels, would not add to the burden for businesses because they are already required to indicate the temperature in words and to have a reasonable basis for whatever water temperature they recommend. Moreover, businesses would not be burdened with determining what temperature ranges should be included within the terms "hot," "warm," or "cold" because the Rule would provide the appropriate numerical temperatures. OMB regulations, at 5 CFR 1320.3(c)(2), provide that "the public disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public is not included within [the definition of collection of information]."

The Commission concludes on the basis of the information now before it that the amendments to the Care Labeling Rule adopted herein will not increase the paperwork burden associated with Rule compliance.

#### VI. Environmental Assessment

In the NPR, the Commission noted that it had prepared a proposed Environmental Assessment in which it analyzed whether the proposed amendments to the Rule were required to be accompanied by an Environmental Impact Statement. Because the main effect of the amendments is to provide consumers with additional information rather than directly to affect the environment, the Commission concluded in the proposed Environmental Assessment that an Environmental Impact Statement is not necessary.<sup>135</sup>

In the NPR, the Commission requested comment on this issue. Consumers Union stated that it believed the proposed amendment to permit labeling for professional wetcleaning (as opposed to requiring labeling for

professional wetcleaning) would be a disincentive to the widespread adoption and use of wetcleaning, and therefore the Rule as proposed in the NPR would require an environmental impact statement for its potential negative impacts on the increase of wetcleaning technology.<sup>136</sup> Greenpeace also stated that an environmental impact statement "would be helpful in deciding how to finally amend the proposed Care Labeling Rule."<sup>137</sup>

The Commission has concluded that a final Environmental Assessment and an Environmental Impact Statement are not necessary. The Commission is not amending the Rule at this time to include an instruction for professional wetcleaning. Even if the Commission were deciding to include professional wetcleaning in the Rule, the main effect of that decision would be to provide consumers with additional information rather than directly to affect the environment. With respect to the final amendments of the Rule that are adopted herein, the Commission concludes that there is no discernible effect on the environment.

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

Clothing; Labeling, Reporting and recordkeeping requirements; Textiles; Trade practices.

#### VII. Final Amendments

In consideration of the foregoing, the Commission amends title 16, chapter I, subchapter D of the Code of Federal Regulations, as follows:

#### PART 423—CARE LABELING OF TEXTILE WEARING APPAREL AND CERTAIN PIECE GOODS AS AMENDED

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

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

2. In § 423.1, the last sentence of paragraph (d) is revised to read as follows:

##### § 423.1 Definitions.

\* \* \* \* \*

(d) \* \* \* When no temperature is given, e.g., *warm* or *cold*, hot water up to 145 degrees F (63 degrees C) can be regularly used.

3. In § 423.6, paragraphs (b)(1)(i) and (c)(3) are revised to read as follows:

##### § 423.6 Textile wearing apparel.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(i) *Washing*. The label must state whether the product should be washed by hand or machine. The label must also state a water temperature—in terms such as *cold*, *warm*, or *hot*—that may be used. However, if the regular use of hot water up to 145 degrees F (63 degrees C) will not harm the product, the label need not mention any water temperature. [For example, *Machine wash* means hot, warm or cold water can be used.]

\* \* \* \* \*

(c) \* \* \*

(3) Reliable evidence, like that described in paragraph (c)(1) or (2) of this section, for each component part of the product in conjunction with reliable evidence for the garment as a whole; or

\* \* \* \* \*

4. In Appendix A to Part 423—Glossary of Standard Terms, paragraphs 1.d. through 1.o. are redesignated as paragraphs 1.e. through 1.p., paragraphs 1.a. through 1.c. are revised, and a new paragraph 1.d. is added to read as follows:

#### Appendix A to Part 423—Glossary of Standard Terms

1. Washing, Machine Methods:
  - a. "Machine wash"—a process by which soil may be removed from products or specimens through the use of water, detergent or soap, agitation, and a machine designed for this purpose. When no temperature is given, e.g., "warm" or "cold," hot water up to 145 degrees F (63 degrees C) can be regularly used.
  - b. "Hot"—initial water temperature ranging from 112 to 145 degrees F [45 to 63 degrees C].
  - c. "Warm"—initial water temperature ranging from 87 to 111 degrees F [31 to 44 degrees C].
  - d. "Cold"—initial water temperature up to 86 degrees F [30 degrees C].

\* \* \* \* \*

By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 00–19491 Filed 8–1–00; 8:45 am]

BILLING CODE 6750–01–P

## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Part 30

RIN 3038–AB46

#### Exemption From Registration for Certain Foreign FCMs and IBs

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final rules.

<sup>135</sup> The proposed Environmental Assessment is on the public record and is available for public inspection at the Public Reference Room, Room 130, Federal Trade Commission, 600 Pennsylvania Avenue, Washington, DC. It can also be obtained at the FTC's web site at <http://www.ftc.gov> on the Internet.

<sup>136</sup> Consumers Union (21) p. 2.

<sup>137</sup> Greenpeace (27) p. 3.