

A M T A C
American Manufacturing Trade Action Coalition

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NCTO  **NATIONAL TEXTILE ASSOCIATION**

March 26, 2012

Donald S. Clark
Secretary
Federal Trade Commission
600 Pennsylvania Ave.
NW Washington DC, 20580

Subj.: Wool Rules, 16 CFR part 300, Project No. P124201

Dear Mr. Clark:

This is a response on behalf of the **American Manufacturing Trade Action Coalition, American Sheep Industry Association, Cashmere and Camel Hair Manufacturers Institute, the National Council of Textile Organizations**, and the **National Textile Association** to the Federal Trade Commission's Federal Register Notice published January 30, 2012 requesting comments for use in the Commission's review of Rules and Regulations Under the Rule Products Labeling Act of 1939 ("Wool Rules"). We respectfully submit the following comments for consideration by the Commission with regard to the questions (1), (2), (3), (4), (9), (10), (12), (13), and (16) in the Federal Register Notice:

(1) Is there a continuing need for the Rules as currently promulgated?

Yes, there is a continuing need for the Rules as currently promulgated. The Rules implement the provisions of the Wool Products Labeling Act of 1939 ("Wool Act"), 15 U.S.C. 68-68j. The Rules have assisted American consumers in making informed choices regarding purchases of wool products by requiring accurate and concise fiber content labeling on such products. Wool, including specialty wools such as cashmere, is widely recognized as a luxury fiber due to its superior look, feel, and performance; it is also a relatively expensive fiber, with the result that unscrupulous processors, importers, and retailers defraud consumers by mislabeling as "wool" or "cashmere" less expensive fibers or less expensive types of wool. We find such fraudulent mislabeling is most frequent among imported products.

(2) What benefits have the Rules provided to, or what significant costs have the Rules imposed on, consumers? Provide any evidence supporting your position.

Amid all the many, and sometimes conflicting, marketing claims regarding textile product value and performance, the Wool Rules assure that consumers have access to objective information regarding fiber content, which is one of the best indicators of product value and performance. This is particularly true for wool and specialty animal fibers because they are relatively expensive and therefore fiber content makes up a significantly higher percentage of value than is the case for other fibers.

(3) What modifications, if any, should the Commission make to the Rules to increase their benefits or reduce their costs to consumers?

Currently the Rules are unclear to many in the trade concerning hair of a cashmere producing goat that is not "cashmere" within the definition created by 15 U.S.C. 68b(6) because it is the coarse guard hair of the goat or otherwise does not meet the physical parameters set out in the section. It is our understanding that such goat hair, under the provisions of 15 U.S.C. 68a(a) may be labeled "wool" or "other fur fiber" or "goat fiber" under 15 U.S.C. 70b(g).

Similarly, the Rules do not now adequately provide for precise classification of fibers that have come into commercial use in recent years such as jangir.

In addition, we believe it is desirable to have, as far as possible, international standardization of animal fiber names and a correspondence to the actual use in the trade. For example, the Rules provide that fine animal hair of the angora goat (mohair), cashmere goat, alpaca, llama, or vicuna may be labeled wool. The Rules also recognize crossbreeds such as cashgora. However, wool trade internationally includes other fine animal hair. The Annex I of the European Union Regulation N. 1007/2011 is more in conformity with usage in the trade in that it permits the use of the label "wool" in the cases additional fiber such as yak and guanaco. The EU Regulation more closely reflects actual practice in the trade and to the extent that such is consistent with the Wool Products Labeling Act of 1939 we urge inclusion of those other "specialty wool" fibers.

(4) What impact have the Rules had in promoting the flow of truthful information to consumers and preventing the flow of deceptive information to consumers? Provide any evidence supporting your position.

The Cashmere and Camel Hair Manufacturers Institute shops the U.S. market for garments of cashmere and superfine wool and sends them to recognized laboratories for testing. Prior to the 2006 amendments we found a very high portion of garments mislabeled as to the fineness of the wool fiber, now, thanks to the 2006 amendments and the Institute's efforts to educate the trade, such fraudulent mislabeling is much less prevalent. For example, from 2004, when we first began monitoring the U.S. market for suits, through 2006, our targeted enforcement program found that every suit we bought that had a Super S label was, in fact, mislabeled as to the average fiber diameter of the wool. We found widespread mislabeling in 2007 and 2008 as well. By 2009 the trade had been educated as to the substantial penalty for fraudulent misstating of wool fiber diameter, with the result that over the past three years we have found that Super S claims are made less frequently and that when they are made they can largely be relied on. We thank Congress for passing that much needed consumer protection legislation in 2006. We believe that modifying the Rules to address the 2006 amendments, combined with Commission efforts directed at educating the trade, will further reduce the instances of mislabeling of superfine wool garments.

(9) What potentially unfair or deceptive practices concerning wool labeling, not covered by the Rules, are occurring in the marketplace?

Unscrupulous processors continuously try to use new ways to adulterate expensive textile products (chemical and physical treatments of the fibers to make the microscopic identification difficult and modify product appearance and handle.)

(a) With reference to such practices, should the Rules be modified?

The Commission should take care to be up-to-date on current fiber test methods which have been continuously evolving.

(10) What modifications, if any, should be made to the Rules to account for current or impending changes in technology or economic conditions?

Processors, importers, and traders should be reminded that they are responsible for carrying out all necessary tests concerning the raw material and its processing if they want to be sure of the quality, correct labeling, and compliance with the Rules.

(a) How would these modifications affect the costs and benefits of the Rules for consumers and businesses, particularly small businesses?

Reputable suppliers already have quality control systems in place and will, therefore, incur no additional costs. Rather, honest producers and consumers will benefit from the correct application of the Rules.

(12) Are there foreign or international laws, regulations, or standards with respect to wool labeling or advertising that the Commission should consider as it reviews the Rules?

We believe that the revisions made by the Wool Act of 2006 should be made in conformity with the International Wool Textile Organisation ("IWTO") Code of Practice.

(a) Should the Rules be modified in order to harmonize with these international laws, regulations, or standards? If so, why and how? If not, why not?

The 2006 amendments to the Wool Act were intended to conform U.S. labeling law for superfine wool to the International Wool Textile Organisation ("IWTO") Code of Practice, therefore, the Commission, in modifying the Rules, should consult the most recent version of the IWTO Code of Practice.

(13) How should the Commission modify the Rules to address the amendments to the Wool Act set forth in the 2006 Wool Suit Fabric Labeling Fairness and International Standards Conforming Act?

(I) In drafting a rule to implement the amendments to the Wool Act set forth in the 2006 Wool Suit Fabric Labeling Fairness and International Standards Conforming Act the Commission should consult the Code of Practice promulgated by the International Wool Textile Organization ("IWTO"), of which the American Sheep Industry Association is the national committee for the United States. The Rule should specifically reference the IWTO Code of Practice and any possible ambiguities in the act should be resolved in a manner that conforms to the Code of Practice.

(i) The Code of Practice is the international standard referred in the title of the 2006 Conforming Act. The 2006 act states that a wool product is

mislabeled if a claim is made regarding an S number (Super 80's, Super 90's, etc.) and the average diameter, in microns, of the wool in the product is greater than the diameter set forth in the act as corresponding to that S number. The correspondence between S number and fiber diameter in microns set forth in the 2006 act, further demonstrates that the 2006 act is to be read as codifying as U.S. law, the IWTO Code of Practice.

- (ii) *The S numbers may be used to indicate the fiber diameter of the wool of sheep or lambs to the exclusion of other natural fibers (silk and others), or man-made fibers. The 2006 act amends the Wool Act and states that a wool product is mislabeled if the wool fiber diameter does not correspond to the S number claimed. Clearly, the 2006 act excludes other natural fibers or man-made fibers from use of the S numbers. Therefore, for example a silk or polyester fabric may not be labeled with an S number, regardless of the fiber diameter. The S numbers, which originated in the English worsted yarn count system for stating the fineness of wool yarn, were developed by the IWTO solely for the application to the wool of sheep or lambs. The performance characteristics associated with wool of a particular fineness cannot be associated with other fiber of the same fineness.*
 - (iii) *We find that in the trade there is no complete agreement on how the S numbers apply in the case of blends, an important question on which the 2006 act appears to be indistinct. We suggest that the Commission conduct a thorough study, including an additional comment period and possibly industry workshop intended to develop a clearer consensus on this issue before promulgating a final Rule.*
 - (iv) *The Rule should address the case where wools of differing fineness are used in the warp and filling yarns of a fabric, as there has been some question in the trade as to whether the warp and filling yarn should be reported separately or averaged together. We believe that they should be averaged.*
 - (v) *We note that since the 2006 Conforming Act the IWTO has modified the Code of Practice and while it is substantially the same, as regards the table of correspondence between S number of fiber diameter as in 2006 act, ITWO has given clarifications regarding the use of the S numbers and the Commission should consult the latest revised text of the Code of Practice.*
 - (vi) *We further note that Super S' labeling is voluntary, but its message to consumers must be correct to protect consumers and honest competitors. It is a particular labeling system with its special rules. If used, it must be made in observance of its code.*
- (II) *Regarding the Rule to implement the cashmere provision in the 2006 Conforming Act we direct your attention to a possible ambiguity that should be addressed. Currently, per 15 U.S.C. 68a(a) fiber for a Cashmere goat is a specialty "wool," the 2006 act added 68(b)6 which sets for the conditions for labeling a fiber as "cashmere," there is some question in the trade as to how to label fiber from a cashmere producing goat that is not "cashmere" within the 15 U.S.C. 68b(6) strictures because (1) it is the coarse guard hair of the goat or (2) it is of a diameter greater than permissible. Is such fiber "wool," per 15 U.S.C. 68a(a), or is it "fur fiber" or "goat hair" per 15 U.S.C. 70b(g), the Textile Products*

Identification Act. We recommend allowing flexibility to label such fiber as "wool," "fur fiber," or "goat fiber."

- (a) How would these modifications affect the costs and benefits of the Rules for consumers and businesses, particularly small businesses?**

We believe that a Rule to implement the 2006 Wool Suit Fabric Labeling Fairness and International Standards Conforming Act, drafted as we suggest above, would not add a significant burden to industry while providing the consumer with accurate information and conforms to the will of Congress in passing the 2006 act.

- (b) Should the Commission adopt additional standards or deviations from average fiber diameters, or does the limited deviation for cashmere products as provided in the amendments adequately achieve the purpose of the amendments?**

The IWTO Code of Practice, from which the Conforming Act's definitions of the "Super" designations was adapted, already has a tolerance for deviation built-in. That is to say, that the international wool trade understands "80s" to refer to fiber of average diameter of 19.5 micron and the Code of Practice, by defining "80s" as 19.75, has added 0.25 micron as a tolerance for deviation. There should be no additional tolerance for deviation. We believe that Congress gave the Commission authority to adopt regulations regarding standards or deviations solely for the purpose of giving the Commission the ability to make minor adjustments necessary to reconcile the Conforming Act with the IWTO Code of Practice, which, as we have stated, is the international standard to which Congress was conforming the Wool Act

We believe it would be advisable to give precise indications as far as the testing methods to assure conformity with the 2006 amendments. We believe that ASTM D 2130 (corresponding to ISO 137 – projection microscope) is the correct testing method.

Regarding, the Conforming Act's provisions governing what fiber may be designated "cashmere" we note that the Conforming Act has a specific provision regarding tolerance for deviation and it would be contrary to the will of Congress for the Commission to adopt any regulation that provided for additional tolerance.

- (16) Is our business compliance guidance and consumer education about the Rules useful? Can it be improved? If so, how?**

The Commission guides "Threading Your Way Through the Labeling Requirements Under the Textile and Wool Acts" and "The Cachet of Cashmere: Complying with the Wool Products Labeling Act" have been extremely helpful in educating the trade about requirements under the Wool Act. Both documents should be revised to reflect the 2006 amendments to the Wool Act.

- (a) Should the Commission consider consumer education or other measures to help non-English-speaking consumers obtain the information that must be disclosed under the Wool Act and Rules?**

Yes, imports make up the majority of the U.S. market for wool products. We recommend that materials be translated into Chinese and Italian, as those are the languages of the leading processors of fine animal hair and superfine wool.

We also recommend that the Commission draft consumer education materials, to be made available in English and Spanish, explaining the Wool Rules, and in particular the new labeling requirements created by the 2006 act.

- (b) Should the Commission print copies of consumer education materials, or is a downloadable pdf at www.business.ftc.gov sufficient for your needs?

If educational material is easily available on the Commission's website there is no need for the Commission to print the materials. We do, however, suggest that, in view of the 2006 amendments which added entirely new definitions relating to superfine wool and cashmere, that the Commission conduct workshops in the U.S. to educate the trade on the Wool Rules as amended. We are happy to assist developing and promoting workshops to the trade. We also suggest webinars to educate foreign producers of wool products destined for the U.S. market. We are happy to assist in developing and promoting the webinars to the international trade.

Thank you for this opportunity to comment on the Wool Rules.

Yours,

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