

compliance times specified, unless the actions have already been done.

**(g) Inspection**

At the later of the times specified in paragraphs (g)(1) and (g)(2) of this AD: Inspect to identify the part number and serial number of the airplane's forward and aft cargo doors, as applicable to MSN, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A330-52-3083, dated May 31, 2011 (for Model A330 airplanes); or Airbus Mandatory Service Bulletin A340-52-4093, dated May 31, 2011 (for Model A340 airplanes). A review of airplane maintenance records is acceptable in lieu of this inspection if the part number and serial number of the door can be conclusively determined from that review.

(1) Prior to the accumulation of 7,400 total flight cycles, or 72 months after the airplane's first flight, whichever occurs first.

(2) Within 60 days after the effective date of this AD.

**(h) Replacement**

If, during the inspection required by paragraph (g) of this AD, the part number and serial number of the airplane's forward and/or aft cargo doors, as applicable to airplane MSN, are identified in Airbus Mandatory Service Bulletin A330-52-3083, dated May 31, 2011 (for Model A330 airplanes); or Airbus Mandatory Service Bulletin A340-52-4093, dated May 31, 2011 (for Model A340 airplanes): Before further flight, replace the affected door with a new or serviceable door, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A330-52-3083, dated May 31, 2011; or Airbus Mandatory Service Bulletin A340-52-4093, dated May 31, 2011; as applicable.

**(i) Repair**

If, during the inspection required by paragraph (g) of this AD, there is any discrepancy between the installed forward and/or aft cargo doors part/serial number and the airplane MSN, as that part/serial number and MSN are identified in Airbus Mandatory Service Bulletin A330-52-3083, dated May 31, 2011 (for Model A330 airplanes); or Airbus Mandatory Service Bulletin A340-52-4093, dated May 31, 2011 (for Model A340 airplanes): Within 10 days after accomplishing the inspection, contact the FAA, or the European Aviation Safety Agency (EASA) (or its delegated agent), for further instructions and time limits, and accomplish those instructions within the specified time limits.

**(j) Parts Installation Prohibition**

As of the effective date of this AD, no person may install on any airplane a forward or aft cargo door that was removed from any airplane as required by paragraph (h) of this AD.

**(k) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) ( ): The Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA, has the authority to

approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057-3356; telephone (425) 227-1138; fax (425) 227-1149. Information may be emailed to: 9-

-116- : For any requirement Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) P : For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

**(l) Related Information**

Refer to MCAI EASA Airworthiness Directive 2011-0177, dated September 15, 2011 (corrected September 28, 2011), and the service information identified in paragraphs (l)(1) and (l)(2) of this AD, for related information.

(1) Airbus Mandatory Service Bulletin A330-52-3083, dated May 31, 2011.

(2) Airbus Mandatory Service Bulletin A340-52-4093, dated May 31, 2011.

Issued in Renton, Washington, on September 6, 2012.

**Ali Bahrami,**

[FR Doc. 2012-23147 Filed 9-19-12; 8:45 am]

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the apparel manufacturing and cleaning industries uniformly supported the Rule. For example, the American Apparel & Footwear Association (“AAFA”) stated that the labels benefit consumers, manufacturers, and business in general, as they allow for the necessary flow of information along the commodity chain. Similarly, the National Cleaners Association (“NCA”) and the Drycleaning & Laundry Institute (“DLI”) stated that the Rule provides valuable guidance on care to consumers and industry. Textile Industry Affairs (“TIA”) noted that the Rule has generated dramatic benefits to both consumers and manufacturers, and that no apparel manufacturers that have complied with the Rule have ever reported any negative consumer impact.

While the comments indicate widespread support for the Rule, most argued that the Commission should update or expand it in various ways. In particular, many comments urged the Commission to address professional wetcleaning by either requiring or allowing manufacturers to disclose a wetcleaning instruction. Still others urged the Commission to update the Rule’s (and iT(allowing ma21Tar-\*(particul5) anss)Tj T1(0 Td -2.ng ma20TI- T\* i5 T\* (co tha. )TTj -d that the ASTMwingIn Twst )Tj Tiiie wetcln tdted any neas

<sup>21</sup> AHAM urged the Commission to gather data on consumer knowledge and the availability of wetcleaning before amending the Rule to address it. AHAM (114). One commenter stated that wetcleaning is not a viable alternative to drycleaning. Enderlin (63). PLCA did not take a position on wetcleaning, but noted that there are not enough cleaners trained in wetcleaning. PLCA (109).

<sup>22</sup> San Francisco Department of the Environment (89). This comment included a chart showing the results of its analysis.

<sup>23</sup> Toxic Use Reduction Institute (86).

<sup>24</sup> .

<sup>25</sup> . The California Department of Toxic Substances Control also explained the environmental problems caused by perc. (123).

<sup>26</sup> Air Resources Board (18) and NCA and DLI (24).

<sup>27</sup> . Addison (81); Bohnet (80); Chung (70); and Xu (101).

<sup>28</sup> One comment explained that the absence of wetcleaning labels limits cleaners in offering the

best process when it comes to cleaning performance (e.g., water-soluble stains) or fabric-related cleaning processes (e.g., polyurethane). Miele & Cie. KG (110). A comment from a cleaner noted that some stains can be removed only with water. Kaplan (57). Another comment stated that wetcleaning is a necessary method for certain combinations of soil and fabric. Riggs (53).

<sup>29</sup> NCA and DLI (124).

<sup>30</sup> Press on Cleaners (120).

<sup>31</sup> Patterson (14).

<sup>32</sup> Coalition for Clean Air (119).

<sup>33</sup> Chang and PWA (73) and Sim (116). Another comment stated that there are over 120 professional wetcleaners in California that clean over 250,000 pieces of garments across the state daily. Press on Cleaners (120).

<sup>34</sup> Miele (108).

<sup>35</sup> .

<sup>36</sup> Peltier (43).

<sup>37</sup> Behzadi (69).



symbols.<sup>63</sup> It explained that the ASTM and the ISO symbols are similar but not the same and that ISO symbols are used in every country except South Korea, Japan, and the United States (and that Japan is working on harmonizing ISO and the JIC standards that apply in Japan).<sup>64</sup> Another favored one set of worldwide symbols and explained that the ISO recommends a complete set of care symbols, including washing, bleaching, ironing, drying, and professional care.<sup>65</sup> It added that these symbols are consistent with those developed by ASTM.<sup>66</sup> Some comments argued that harmonizing symbols would also address problems stemming from label disclosures in multiple languages.<sup>67</sup> One of these comments favored harmonization but argued that, as an alternative, the Rule should allow manufacturers to use either ASTM or ISO symbols in the United States, to relieve some of the burden and increase the accessibility of global trade.<sup>68</sup> It stated that differences among the symbol systems cause confusion and limit the opportunities for trade growth.<sup>69</sup> Another comment proposed that the Rule provide for or recognize agreements between the United States and other countries to accept international and national care label symbol systems currently in use in the global marketplace.<sup>70</sup>

Still others favored acceptance of ISO or internationally-accepted symbols without addressing the ASTM symbols.<sup>71</sup> Three comments urged the Commission to adopt or accept the ISO standard.<sup>72</sup> One supported adding to the symbols in cases where there are clear testing protocols to verify the safety of a care process.<sup>73</sup> It explained that, in the case of wetcleaning, there appears to be expert consensus that a new test does just that.<sup>74</sup>

GreenEarth Cleaning ("GreenEarth") advocated a different approach to disclosing professional cleaning instructions. It argued that the ASTM and ISO professional cleaning symbols

are inadequate because they are based on particular solvents rather than solvent characteristics.<sup>75</sup> It explained that the increasing number of solvents and advances in technology call for an approach addressing solvent aggressiveness (cleaning method) and mechanical action (cycle); it proposed that a Kauri-Butanol Value ("KBV") of 35 or less be designated as "gentle" and that a "fragile" or "very fragile" instruction be provided for items needing minimized mechanical action.<sup>76</sup> It stated that the KBV is widely recognized in the textile care industry as having the greatest influence on the processing of textiles.<sup>77</sup> This comment further argued that there is a direct correlation between propensity for garment damage and a higher solvent KBV.<sup>78</sup> GreenEarth proposed specific cleaning method and cycle symbols to replace the current ASTM and ISO symbols and urged the Commission to make every effort to implement simple, consistent international symbols that can be universally interpreted to ensure the best care for garments.<sup>79</sup> No other comment favored this proposal.

In addition to proposing new symbols, GreenEarth advocated parallel changes to the "overarching nomenclature and the guiding principle" behind the Rule, to improve the reliability and understandability of care labels.<sup>80</sup> Specifically, it proposed replacing the instructions "dry clean," "do not dry clean," "wetclean," and "do not wetclean" with simplified categories of "cleaning method" and "cycle." It also proposed that "cleaning method" would encompass all types of professional cleaning, including wetcleaning, and "cycle" would address the level of mechanical action.<sup>81</sup> As with its proposed symbols, GreenEarth would classify cleaning methods based on solvent aggressiveness rather than solvent type.<sup>82</sup> For the "cycle" category, 82For t-0.0044 Tw -3.86 -175422 Td (In adTtwoent )Tj sess symbol tsTj betwelvens, Gre. Oneed that \* (that a urrent ASTM sy inmd rrkelyell, but \* (that the be paper,221e tawelnl garmesudreencrmma

<sup>63</sup> GINETEX (83).

<sup>64</sup> .

<sup>65</sup> Riggs (53).

<sup>66</sup> .

<sup>67</sup> American Apparel & Footwear Association (113) and The Children's Place (90).

<sup>68</sup> American Apparel & Footwear Association (113).

<sup>69</sup> .

<sup>70</sup> The Children's Place (90).

<sup>71</sup> Cote (58); Horrigan (17); Thorsteinson (45); and Yazdani (78).

<sup>72</sup> UCLA Sustainable Technology & Policy Program (84); White (15); and GINETEX (83). As noted above, GINETEX argued that the ISO symbols should supplant the ASTM symbols.

<sup>73</sup> Textile Industry Affairs (112).

<sup>74</sup> .

<sup>75</sup> GreenEarth Cleaning (98) at 2.

<sup>76</sup> . at 2-3.

<sup>77</sup> . at 2.

<sup>78</sup> . at 4.

<sup>79</sup> . at 2-3.

<sup>80</sup> . at 2.

<sup>81</sup> .

<sup>82</sup> .

<sup>83</sup> . at 3.

<sup>84</sup> Raggi (30).

<sup>85</sup> Santana (12).

<sup>86</sup> NCA and DLI (124).

<sup>87</sup> Textile Industry Affairs (112) and The Clorox Company (122). They stated that disclosing an instruction based on "unreasonable" and "possible" fabric impact is not an acceptable instruction or warning.

<sup>88</sup> .

<sup>89</sup> The Clorox Company (122).

<sup>90</sup> Behzadi (69).

<sup>91</sup> NCA and DLI (124).

<sup>92</sup> .

<sup>93</sup> .

<sup>94</sup> .

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<sup>95</sup> Bromagen (91); Hagearty (61); Preece (54); and Yazdani (78).

<sup>96</sup> Bromagen (91).

<sup>97</sup> Hagearty (61).

<sup>98</sup> Preece (54).

<sup>99</sup> .

<sup>100</sup> Brunette (115).

<sup>101</sup> ASTM (111).

<sup>102</sup> Professional Leather Cleaners Association

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<sup>127</sup> American Apparel & Footwear Association (113).

<sup>128</sup> Kudler (72).

<sup>129</sup> Bosshard (13).

<sup>130</sup> NCA and DLI (124).

<sup>131</sup> Sabo (23).

<sup>132</sup> White (15).

<sup>133</sup> .

<sup>134</sup> One commenter, a consumer who does not indicate any affiliation with an organization, stated that she does not like having so many language translations. Charles (3).

<sup>135</sup> Branfuhr (42) and Childers (49).

<sup>136</sup> Maknojia (87).

<sup>137</sup> Vlasits (6).

<sup>138</sup> Hurley (60).

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<sup>139</sup> Thorsteinson (45).

<sup>140</sup> American Apparel & Footwear Association (113) and Hurley (60).

<sup>141</sup> See footnote 20 for more details about these comments.

<sup>142</sup> The Commission can issue a NPRM under the FTC Act if it has "reason to believe that the unfair or deceptive acts or practices which are the subject of the NPRM are in the interest of consumers."

argued that the ISO standard is inadequate.<sup>146</sup>

As described in Section II.A, the record shows widespread support for amending the Rule to include professional wetcleaning. Many comments explained the economic, environmental, and health benefits of wetcleaning. They also noted the increasing industry acceptance and use of wetcleaning, the inclusion of wetcleaning symbols in both the ASTM and ISO care symbol systems, and the risk that failing to allow an instruction could place wetcleaners at a disadvantage, thereby discouraging its use despite its advantages. The increasing industry acceptance and use of wetcleaning and the inclusion of wetcleaning symbols in both the ASTM and ISO systems establish the prevalence of wetcleaning. Only three comments expressed reservations, and none of them provided evidence that amending the Rule would harm consumers or that the cost of doing so would exceed the benefits.

While the record supports permitting a professional wetcleaning instruction, it does not warrant requiring such an instruction. None of the comments provided evidence that the absence of a wetcleaning instruction for products that can be wetcleaned would result in deception or unfairness under the FTC Act. Nor did they provide evidence that the benefits of requiring a wetcleaning instruction would exceed the costs such a requirement would impose on manufacturers and importers.<sup>147</sup> Thus, the Commission declines to propose amending the Rule to require a wetcleaning instruction. If consumers prefer wetcleaning to drycleaning and make their purchase decisions accordingly, manufacturers and importers will have an incentive to provide a wetcleaning instruction either in addition to, or in lieu of, a drycleaning instruction. Furthermore, by treating drycleaning and wetcleaning in a similar fashion—as care procedures that manufacturers and importers can disclose to comply with the Rule—the Rule as proposed would help level the playing field for the drycleaning and wetcleaning industries.

<sup>146</sup> The standard ISO 3758:2005(E), “Textiles—Care labelling code using symbols” also defines wetcleaning.

<sup>147</sup> Also, the comments stating that the benefits of requiring a wetcleaning instruction would exceed the added testing and labeling costs were not submitted by entities that would purportedly incur the added costs that would result if the Commission amends the Rule to require a wetcleaning instruction. See UCLA Sustainable Technology & Policy Program (84); NCA and DLI (124); and Riggs (53).

Based on this record, the Commission concludes that permitting a professional wetcleaning instruction would provide consumers with useful information regarding the care of the apparel they purchase. Therefore, the Commission proposes adding a definition of “wetclean” based on the definition of “professional wet cleaning” set forth in Section II.A, 1423.1(h) provideh tte (that manufac1 wetclean” based om g ats )Tjrci0 -1

“(g, the incwetse inc T\* ts n2’), (proposedetergj T\*nc T\* n to, vroposem ofmiz\* (amendingdvh proposes that permittinition of provide a wetclturers and importers can wetcleanful sufficild



with the latest industry standards.<sup>148</sup> It also would provide them with the flexibility to use either symbol system, resulting in less cluttered labels if manufacturers opt to use one set of symbols.<sup>149</sup>

Because the ASTM and ISO symbol systems are not identical, consumers may need to know which system appears on the label so that they can ascertain or confirm the meaning of a particular symbol. Furthermore, permitting the use of two symbol systems could increase the risk of consumer confusion. Therefore, the Commission proposes requiring that manufacturers or importers opting to disclose care instructions using the ISO symbols disclose that they are using ISO symbols. The Commission does not propose requiring a similar disclosure on labels using the ASTM symbols because the Rule already permits the use of ASTM symbols without requiring any such disclosure. For example, consumers might have a greater familiarity with the ASTM symbols than with the ISO symbols because the Rule started permitting them in 1997. On the other hand, that may not be the case. The Commission seeks comment on this issue, including on the extent to which care labels currently include ASTM and ISO symbols.

Permitting the use of either symbol system should not confuse or deceive consumers because the symbol systems are nearly identical. Although the ASTM system includes more symbols than the ISO system,<sup>150</sup> the two systems use virtually identical symbols for washing, bleaching, and professional care such as drycleaning and wetcleaning. Manufacturers and importers that prefer to use the ISO

system can supplement the ISO symbols with written instructions as appropriate. Both symbol systems lack symbols for certain instructions and acknowledge the need to supplement their symbols with written instructions as appropriate.<sup>151</sup>

Although the two systems differ slightly with respect to drying and ironing symbols, the differences do not appear substantial. ASTM has more symbols for drying, and the ASTM symbol for medium temperature drying means normal temperature drying in the ISO system. The ASTM system includes a "no steam" symbol for ironing while the ISO symbol for low heat, unlike the ASTM symbol for low heat, indicates that steam ironing may cause irreversible damage. If a manufacturer or importer concludes that one of the systems has symbols that more effectively convey the proper care instructions, it can choose to use that system.<sup>152</sup>

The Commission notes that the meaning of one ASTM drycleaning symbol changed significantly in the revised ASTM standard. The old symbol, a circle with the letter "P" inside, means dryclean with any solvent except perc. Under the revised standard, the symbol means dryclean with perc or petroleum. Although potentially confusing, this change does not seem likely to harm consumers who understand the meaning of the symbol at the time they purchase the product.<sup>153</sup>

However, even if consumers understand the symbol at the time of purchase, confusion could result with respect to: (1) Products labeled before, but sold after, the symbol system change; and (2) situations where the consumer does not remember whether he or she purchased the product before or after the symbol change. The change in the symbol's meaning could also cause confusion if drycleaners do not know whether the garment was labeled before the change. Of course, notwithstanding the change in symbol meaning, consumers and drycleaners can avoid any risk of using an inappropriate solvent by using petroleum rather than perc to dryclean the product (under both the old and

new meaning, the symbol indicates that petroleum can be used). The Commission seeks comment on these issues.

As explained above, a comment from GreenEarth urged the Commission to replace the ASTM and ISO symbols with new symbols based on a solvent's aggressiveness rather than type.<sup>154</sup> GreenEarth did not submit any evidence on consumer perception of its proposed symbols or establish that any resulting benefits would exceed the cost to business.<sup>155</sup> Moreover, none of the other comments proposed anything similar to GreenEarth's proposal. The record, therefore, does not indicate that GreenEarth's approach to care instructions would be superior to the current one. Moreover, it would represent a significant departure from the symbol system currently permitted by the Rule as well as from the updated ASTM and ISO symbol systems widely used by apparel manufacturers and importers and favored by nearly all of the other comments that addressed the use of symbols. Therefore, the Commission declines to adopt GreenEarth's proposal.<sup>156</sup>

Finally, Section 423.8(g) states that, for the 18-month period beginning on July 1, 1997, symbols may be used in lieu of terms only if an explanation of the symbols is attached to, or provided with, the product. This provision has expired; therefore, the Commission proposes to remove it from the Rule.

To implement the revisions described above, the Commission proposes amending Section 423.8(g) as set forth in the proposed amendment in the last section of this Notice of Proposed Rulemaking.

One of the comments urged the Commission to update the Rule by referring to the ASTM standard without identifying the year or version of the standard. The comment argued that, if the Commission amended the Rule in this way, the Rule would always incorporate the most recent ASTM standard. The Commission declines to follow this approach because it would, in effect, grant ASTM the power to revise a Commission Rule. If ASTM

<sup>148</sup> Manufacturers would need to purchase and follow only one of the two standards to disclose care instructions using symbols, thereby reducing compliance costs. Moreover, manufacturers already using ISO symbols in lieu of written terms would not need to incur the expense of adding ASTM symbols or written terms to their labels so that they can market their garments in the United States.

<sup>149</sup> Both the ASTM and ISO standards are subject to copyrights and can be purchased from the organizations that issued them. In addition, the ISO symbols are protected by trademarks and their use is dependent on a contract with GINETEX. Consumers can find the symbols and explanations of their meaning on the Internet, including the ISO symbols on the GINETEX Web site and the currently approved ASTM symbols on the FTC Web site at <http://www.ftc.gov/1996/12/iso>. Consumers can find the professional care symbols in the 2007 version of the ASTM standard on page three of the GreenEarth comment (mistakenly described as the "current FTC Symbol Chart") located at <http://www.ftc.gov/100098-80529>.

<sup>150</sup> Moreover, the ISO system has fewer symbols for drying. ISO has normal and low temperature symbols while ASTM has symbols for any heat, high, medium, low, and no heat/air.

<sup>151</sup> Moreover, both the ASTM and ISO systems list written instructions, including "wash separately" and "remove promptly."

<sup>152</sup> Moreover, if a manufacturer or importer determines that it needs to use one of the ASTM drying symbols not available in the ISO system to convey drying instructions properly, it can opt to use the ASTM symbol system. If both systems have a drying symbol that suffices, it can opt to use either system.

<sup>153</sup> As noted in footnote 149, consumers can find the symbols and explanations of their meaning on the Internet.

<sup>154</sup> GreenEarth's arguments and proposal are summarized in Section II.C.

<sup>155</sup> GreenEarth argued that its proposal would encourage the substitution of less aggressive solvents for more aggressive ones in the cleaning process, thereby measurably reducing claims for damaged garments. However, it did not address whether its proposal would increase the cost of providing care instructions or submit any evidence showing that its proposal would actually reduce the use of more aggressive solvents.

<sup>156</sup> GreenEarth may wish to submit its proposal to ASTM and ISO for their consideration if it has not already done so.



would exceed the costs such a requirement would impose on manufacturers and retailers. The Commission, therefore, has no reason to believe that it is either unfair or deceptive for a manufacturer or importer to fail to disclose all appropriate methods of care.

Similarly, the other comments proposing that the Commission impose additional disclosure or other obligations on manufacturers and importers, summarized in Section II.F above, failed to show that imposing these obligations is necessary to prevent deception or unfairness. Nor did they show that the benefits of the proposals would exceed their costs. Thus, the Commission declines to propose any of these amendments.

Some comments urged the Commission to require manufacturers and importers to disclose fiber content on care labels even though the Commission's Rules and Regulations Under the Textile Fiber Products Identification Act ("Textile Rules") already require disclosure of fiber content.<sup>161</sup> The comments did not provide evidence addressing the need for this amendment or the costs it would impose. While it is true that the Textile Rules do not require this disclosure in a form that can be referred to by the consumer throughout the useful life of the product, the Commission has anecdotal evidence that some manufacturers and importers often include the fiber content disclosure required by the Textile Rules on the same "permanent" label that provides care instructions. In addition, as explained above, the Commission proposes to require that any wetcleaning instruction disclose fiber content if needed to select the appropriate wetcleaning process. The Commission seeks comment on the extent to which care labels already disclose fiber content and the need for fiber content information on "permanent" labels but, at this time, declines to propose amending the Rule to address this issue.

GreenEarth proposed changing the "overarching nomenclature and the guiding principle" behind the Rule to improve the reliability and understandability of care labels (e.g., by replacing instructions such as "dryclean" and "do not dryclean" with simplified categories of "cleaning method" and "cycle").<sup>162</sup> GreenEarth, however, did not submit any evidence on consumer perception of its proposed nomenclature for care instructions or

whether the benefits of replacing the Rule's existing nomenclature and guiding principles would exceed the cost to business.<sup>163</sup> None of the other comments made similar proposals or addressed GreenEarth's proposal. The record does not establish that GreenEarth's approach would be superior to the current one. In addition, it would represent a significant departure from the Rule's longstanding approach to and industry practice for providing care instructions. The Commission, therefore, declines to propose amending the Rule as proposed by GreenEarth.<sup>164</sup>

Finally, the ANPR sought comments on whether the Commission should amend the Rule to address care instructions in multiple languages. None of the comments proposed amending the Rule to address the format for presenting instructions in more than one language, although two comments noted that using or harmonizing symbols would address problems stemming from disclosures in multiple languages. Because the comments did not address the format (e.g.,

whether the benefits of replacing the Rule's existing nomenclature and guiding principles would exceed the cost to business.<sup>163</sup> None of the other comments made similar proposals or addressed GreenEarth's proposal. The record does not establish that GreenEarth's approach would be superior to the current one. In addition, it would represent a significant departure from the Rule's longstanding approach to and industry practice for providing care instructions. The Commission, therefore, declines to propose amending the Rule as proposed by GreenEarth.<sup>164</sup>

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<sup>163</sup> GreenEarth argued that its proposal would encourage the substitution of less aggressive solvents for more aggressive ones in the cleaning process, thereby measurably reducing claims for damaged garments. However, it did not address whether its proposal would increase the cost of providing care instructions, or submit any evidence showing that its proposal would actually reduce the use of more aggressive solvents.

<sup>164</sup> The Commission rejects GreenEarth's proposal regarding care symbols for similar reasons. See discussion in Section IV.B.

<sup>165</sup> In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c), 16 CFR 4.9(c).

<sup>161</sup> 16 CFR part 303.

<sup>162</sup> See discussion of GreenEarth's comment in Section II.B.



published in the Weekly Calendar and Notice of "Sunshine" Meetings.<sup>166</sup>

**VIII. Preliminary Regulatory Analysis and Regulatory Flexibility Act Requirements**

Under Section 22 of the FTC Act, 15 U.S.C. 57b, the Commission must issue a preliminary regulatory analysis for a proceeding to amend a rule only when it: (1) Estimates that the amendment will have an annual effect on the national economy of \$100 million or more; (2) estimates that the amendment will cause a substantial change in the cost or price of certain categories of goods or services; or (3) otherwise determines that the amendment will have a significant effect upon covered entities or upon consumers. The Commission has preliminarily determined that the proposed amendments will not have such effects on the national economy; on the cost of labeling apparel and piece goods; or on covered parties or consumers.

The proposed amendments provide manufacturers and importers with additional options for disclosing care instructions, clarify the Rule, and update the definition of "dryclean" to reflect current practices and technology, so the proposed amendments would not require manufacturers or importers to alter their behavior and would not impose additional costs on them. The Commission, however, requests comment on the economic effects of the proposed amendments.

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601-612, requires that the Commission conduct an analysis of the anticipated economic impact of the proposed amendments on small entities. The purpose of a regulatory flexibility analysis is to ensure that an agency considers the impacts 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 Commission believes that the proposed amendments would not have a significant economic impact upon small entities, although it may affect a substantial number of small businesses. Specifically, the Commission proposes a few limited amendments designed to provide manufacturers and importers with more options for disclosing care instructions, clarify the Rule, and update the

definition of "dryclean." In the Commission's view, the proposed amendments should not have a significant or disproportionate impact on the costs of small entities that manufacture or import apparel or piece goods. Therefore, based on available information, the Commission certifies that amending the Rule as proposed will not have a significant economic impact on a substantial number of small businesses.

Although the Commission certifies under the RFA that the proposed amendments would not, if promulgated, have a significant impact on a substantial number of small entities, the Commission has determined, nonetheless, that it is appropriate to publish an Initial Regulatory Flexibility Analysis to inquire into the impact of the proposed amendments on small entities. Therefore, the Commission has prepared the following analysis:

In response to public comments, the Commission proposes amending the Rule to respond to the development of new technologies, changed commercial practices, and updated industry standards.

The objective of the proposed amendments is to provide manufacturers and importers of apparel and certain piece goods with additional options for disclosing care instructions, clarify the Rule's reasonable basis provisions, and update the definition of "dryclean" to reflect current practices and technology. The Commission promulgated the Rule pursuant to Section 18 of the FTC Act, 15 U.S.C. 57a. As noted earlier, the Commission has wide latitude in fashioning a remedy and need only show a "reasonable relationship" between the unfair or deceptive act at issue and the remedy.<sup>167</sup> The Rule as modified by the proposed amendments would reasonably relate to the practices that led the Commission to promulgate the Rule. It would provide covered entities with additional options for complying with the Rule's disclosure requirements without imposing new burdens or additional costs.

Under the Small Business Size Standards issued by the Small Business Administration, textile apparel and some fabric manufacturers qualify as small businesses if they have 500 or fewer employees. Clothing and piece good wholesalers qualify as small businesses if they have 100 or fewer employees. The Commission's staff has estimated that approximately 22,218 manufacturers or importers of textile apparel are covered by the Rule's disclosure requirements.<sup>168</sup> A substantial number of these entities likely qualify as small businesses. The Commission estimates that the proposed amendments will not have a significant impact on small businesses because it does not impose any new obligations on them. The Commission seeks comment and information with regard to the estimated number or nature of small business entities for which the proposed amendments would have a significant impact.

As explained earlier in this document, the proposed amendments will provide apparel manufacturers and importers with additional options for disclosing care instructions, clarify the Rule's reasonable basis requirements, and update the definition of "dryclean" to reflect current practices and technology. The small entities potentially covered by these proposed amendments will include all such entities subject to the Rule. The professional skills necessary for compliance with the Rule as modified by the proposed amendments would include office and administrative support supervisors to determine label content and clerical personnel to draft and obtain labels. The Commission invites comment and information on these issues.

The Commission has not identified any other federal statutes, rules, or policies that would duplicate, overlap, or conflict with the proposed amendments. The Commission invites comment and information on this issue.

<sup>166</sup> 15 U.S.C. 57a(i)(2)(A); 16 CFR 1.18(c).

<sup>167</sup> *Chrysler v. O'Neil*, 767 F.2d 957, 988 (D.C. Cir. 1985) (quoting *Chrysler v. O'Neil*, 327 U.S. 608, 612-13 (1946)).

<sup>168</sup> *Small Business Administration, Office of Size Standards, Textile and Apparel Industry*, 76 FR 77230 (Dec. 12, 2011).



(iii) A garment contains several fibers, fabrics, or components not previously used together; or

(5) Reliable evidence of current technical literature, past experience, or industry expertise supporting the care information on the label [For example, if past experience with particular dyes and fabrics indicates that a particular red trim does not bleed onto surrounding fabric, testing the entire garment might not be necessary]; or

5. Amend § 423.8 by revising paragraph (g) as follows:

§ 423.8 Exemptions.

(g) The symbol systems developed by ASTM International (ASTM) and designated as ASTM D5489-07, "Standard Guide for Care Symbols for Care Instructions on Textile Products" and by the International Organization for Standardization (ISO) and designated as 3758:2005(E), "Textiles—Care labelling code using symbols," may be used on care labels or care instructions in lieu of terms so long as the symbols fulfill the requirements of this part. If the ISO symbols are used, the label should disclose this fact. In addition, symbols from either one of the two symbol systems above may be combined with terms so long as the symbols and terms used fulfill the requirements of this part. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of ASTM D5489-07, "Standard Guide for Care Symbols for Care Instructions on Textile Products," may be obtained from ASTM, 100 Barr Harbor Drive, West Conshohocken, PA 19428. Copies of ISO 3758:2005(E), "Textiles—Care labelling code using symbols," may be obtained from American National Standards Institute, 11 West 42nd Street, 13th Floor, New York, NY 10036. Both ASTM D5489-07 and ISO 3758:2005(E) may be inspected at the Federal Trade Commission, room 130, 600 Pennsylvania Avenue NW., Washington, DC or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to <http://www.archives.gov>.

6. Amend Appendix A by revising paragraph 7.a and c, and by adding a new paragraph 9.a, to read as follows:

Appendix A to Part 423—Glossary of Standard Terms

7. Dryclean; P : a. "Dryclean"—a commercial process by which soil is removed from products or specimens in a machine which uses any solvent excluding water (e.g., petroleum, perchloroethylene, silicone, glycol ether, carbon dioxide, or aldehyde). The process also may involve adding moisture to the solvent, up to 75% relative humidity, hot

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