

comment on possible amendments to the Rule as discussed below.

The FRN sought comment on possible amendments, which are addressed below, in this ANPR, including: (1) Whether the Rule should be amended to require labeling instructions for *both* washing and dry cleaning, rather than for just one method of cleaning and (2) whether the reasonable basis standard set forth in the Rule should be clarified or changed. The comments also recommended that the Commission consider other amendments, which also are addressed in detail below.

Several comments suggested expanding the coverage of the Rule. The Leather Apparel Association ("LAA") suggested that garments made completely of leather be included in the Rule, which now applies only to textile wearing apparel and certain piece goods.³ J.C. Penney suggested that consumers would benefit by expanding the Rule to cover items such as "towels, sheets, window coverings and other textile home furnishing products."⁴ However, the Commission considered and rejected including these product categories when it amended the Rule in 1983. The comments do not provide sufficient evidence for reopening these issues.

Part B—Objectives the Commission Seeks To Achieve and Possible Regulatory Alternatives

1. Definitions of Water Temperature in the Appendix

a. Background

Some comments recommended that the Commission revise the definition of cold water temperature in the Appendix to the Rule. The Appendix to the Rule currently states that "cold" water means "cold tap water up to 85 degrees F (29 degrees C)."⁵ Commenters noted that tap water temperatures vary across the

United States, and that such differences can cause problems in washing clothes because, in the winter in colder parts of the country, granular detergents may not fully dissolve and activate during a cold wash cycle.⁶ An appliance technician from Maine noted that consumers may hesitate to use hotter water when the label advises to use "cold" water.⁷ As a result, clothes may not be thoroughly cleaned and may be left with soap residue.⁸

Other comments suggested that the Rule's definition of hot water (up to 150 degrees F, or 66 C)⁹ should be changed. The American Association of Textile Chemists and Colorists ("AATCC") commented that the temperatures stated in the Appendix to the Rule should be changed to match the AATCC definitions, which the AATCC believes "more accurately reflect current washing machine settings and consumer practice."¹⁰ The AATCC defines "hot" as 120 F plus or minus 5 (49 C plus or minus 3). Another commenter noted the variances in temperature definitions within the NAFTA countries and suggested they should be harmonized.¹¹

b. Objectives and Regulatory Alternatives

The Commission believes that the definition of cold water in the Appendix may need to be revised to ensure that consumers understand that washing clothes in extremely cold water may not be effective. In addition, the Commission believes that the definitions of warm and hot water may need to be changed to "more accurately reflect current washing machine settings and consumer practice." Accordingly, the Commission seeks comment on whether the Commission should amend the Rule to change the definitions of "warm" and "hot" water, or to include a new term such as "cool" or "lukewarm" in the Appendix. The Commission further seeks comment on whether the Rule should be amended to state that care labels recommending "cold" wash must define the highest acceptable temperature for "cold" on the label, and on the benefits and costs to consumers and manufacturers of such an amendment.

2. Environmental Issues

a. Background

In the June 1994 FRN, the Commission stated that, because of evidence that dry cleaning solvents are damaging to the environment, the Environmental Protection Agency ("EPA") was interested in reducing the use of such solvents. The Commission stated that EPA's Office of Pollution Prevention and Toxics had been working with the dry cleaning industry to reduce the public's exposure to perchloroethylene ("PCE"), the most common dry cleaning solvent.¹² In connection with this effort, EPA has published a summary of a process referred to as "Multiprocess Wet Cleaning," which is an alternative cleaning process that relies on the controlled application of heat, steam and natural soaps to clean clothes that would ordinarily be dry cleaned.¹³

The FRN asked whether the current Rule may pose an impediment to reducing solvent use because it requires either a washing instruction or a dry cleaning instruction; it does not require both. Thus, garments that can legally be labeled with a "dry clean" instruction alone also may be washable, a fact not ascertainable from such an instruction. If the Rule were amended to require both washing and dry cleaning instructions for garments cleanable by both methods, consumers and cleaners could make more informed choices and the use of dry cleaning solvents might be lessened. To solicit comment on these issues, the Commission posed a series of questions in the FRN, each of which is separately addressed below:

(i) *Does the current Rule pose an impediment to the EPA's goal of reducing the use of dry cleaning solvents?* Nine commenters addressed this question. Three responded simply that the Rule does not pose an impediment to EPA's goals.¹⁴ Six others, however, contended that the current Rule impedes EPA's goal of reducing the use of dry cleaning solvents by permitting manufacturers to disclose only one cleaning instruction when a

³ Comment 58, p.1; see also Drycleaners Fund (65) p.4. LAA stated that consumers "would benefit from having a label that, in so many words, advises consumers that leather requires special care * * *." Comment 58, p.1. However, it seems probable that most consumers know that leather requires special care; in the absence of evidence to the contrary, the Commission cannot conclude that it is unfair or deceptive for manufacturers of leather garments to fail to disclose this information. Secondly, LAA stated that leather cleaning "is more art than science" and that any care label "must be non-specific as to the cleaning process." LAA suggested a label that simply states "Do not wash or dry clean by fabric method. Take to a leather expert." *Id.* Such a label is unlikely to significantly assist the average dry cleaner, who presumably already knows that conventional dry cleaner, who presumably used on leather garments and knows whether or not he has the ability to clean leather garments.

⁴ Comment 70, p.1.

⁵ 16 CFR Part 423, Appendix A, 2.c.

⁶ Association of Home Appliance Manufacturers (53) p.2.

⁷ Bruce W. Fifield (62) p.1.

⁸ *Id.*

⁹ 16 CFR Part 423, Appendix A, 2.a.

¹⁰ Comment 34, p.1.

¹¹ Jo Ann Pullen (44) p.3.

¹² PCE has been designated as a hazardous air pollutant under Section 112 of the Clean Air Act and under many state air toxics regulations. On September 15, 1993, EPA set national emission standards for new and existing PCE dry cleaning facilities. According to a study conducted on Staten Island and in New Jersey, PCE is among the toxic air pollutants found at the highest concentrations in urban air.

¹³ 59 FR 30733-34. See also EPA (73) p.1.

¹⁴ Baby Togs, Inc. (2) p.2; The Warren Featherbone Co. (33) p.3; VF Corp. (36) p.5.