Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 353 and 354

[Docket No. 90–117–2]

Export Certificates

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of reopening and extension of comment period.

SUMMARY: We are reopening and extending the comment period for our proposed rule that would revise completely the ''Phytosanitary Export Certification'' regulations, which concern inspection and phytosanitary certification of plants and plant products offered for export.

DATES: Consideration will be given only to written comments on Docket No. 90–117–1 that are received on or before October 16, 1995.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 90–117–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 90–117–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Ave., SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Leonard M. Crawford, Senior Operations Officer, Plant Protection and Quarantine, Port Operations, PPQ, APHIS, Suite 4C03, 4700 River Road Unit 139, Riverdale, MD 20737–1228; (301) 734–8537.

SUPPLEMENTARY INFORMATION:

Background

On August 16, 1995, we published in the **Federal Register** (60 FR 42472–42479, Docket No. 90–117–1) a proposal to revise completely the ''Phytosanitary Export Certification'' regulations in 7 CFR 353, which concern inspection and phytosanitary certification of plants and plant products offered for export.

Comments on the proposed rule were required to be received on or before September 15, 1995. We are extending the comment period on Docket No. 90–117–1 for an additional 30 days. This action will allow interested persons additional time to prepare and submit comments.

Authority: 7 U.S.C. 147a; 21 U.S.C. 136 and 136a; 44 U.S.C. 35; 7 CFR 2.17, 2.51, and 371.2(c).

Done in Washington, DC, this 11th day of September 1995.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–23031 Filed 9–15–95; 8:45 am]

BILLING CODE 3410–34–P

FEDERAL TRADE COMMISSION

16 CFR Part 24

Guides for Select Leather and Imitation Leather Products

AGENCY: Federal Trade Commission.

ACTION: Request for public comment on proposed Guides for Select Leather and Imitation Leather Products.

SUMMARY: The Federal Trade Commission (the ''Commission''), as part of its periodic review of its rules and guides, announces that it has concluded a review of its Guides for the Luggage and Related Products Industry (''Luggage Guides''); Guides for Shoe Content Labeling and Advertising (''Shoe Content Guides''); and Guides for the Ladies' Handbag Industry (''Handbag Guides''). The Commission rescinds these three Guides in a document published elsewhere in this issue of the **Federal Register**. The Commission now seeks public comment on proposed Guides for Select Leather and Imitation Leather Products. The proposed Guides combine relevant portions of the three Guides, update certain language used in the Guides, and make other modifications to clarify and streamline the provisions of the Guides. The Commission has included within the coverage of the proposed combined Guides the provisions of the Commission's Trade Regulation Rule Concerning Misbranding and Deception as to Leather Content of Waist Belts (''Waist Belt Rule'').

DATES: Written comments on the proposed Guides for Select Leather and Imitation Leather Products must be submitted by October 18, 1995.

ADDRESSES: Written comments should be submitted to the Office of the Secretary, Federal Trade Commission, Room H–159, Sixth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580, telephone number (202) 326–2506. Comments should be identified as ''16 CFR Part 24—Comment—Proposed Guides for Select Leather and Imitation Leather Products''.

FOR FURTHER INFORMATION CONTACT: Susan E. Arthur, Attorney, (214) 767–5503, Federal Trade Commission, Dallas Regional Office, 100 N. Central Expressway, Suite 500, Dallas, Texas 75201.

SUPPLEMENTARY INFORMATION:

I. Background

The Luggage Guides, promulgated on February 27, 1979, address potential deception in the sale, offering for sale, and distribution of luggage and related products. Specific industry guidance is provided by the Guides in connection with the following:

—disclosures to be made for products made of split leather, imitation leather or processed leather, or products which contain backing material;
—representations that products are made from the skin of a fictitious animal;
—the use of words, terms, depictions or devices that may indicate that a product is made of any material when it is not;
—representations that a product is wholly of a particular composition;
—representations that a product is leather when it contains ground, pulverized or shredded leather;
—representations that a product is colored, finished or dyed with aniline dye or otherwise dyed, embossed, grained, processed, finished or stitched in a certain manner;

—representations about the hardware, box or frame of products; and
—use of the terms ''waterproof,'' ''dustproof,'' ''warpproof,'' ''scuffproof,'' and ''scratchproof.''

The Shoe Content Guides were adopted by the Commission on October 2, 1962. They contain industry guidance for the labeling and advertising of shoe content with respect to the following:

—use of the term ''leather'' on labels and in advertisements;
—disclosures on labels concerning simulated or imitation leather, concealed innersoles, split leather, embossed or processed leather, and ground or shredded leather;
—disclosures in advertisements that depict non-leather parts of shoes or slippers which appear to be made of leather;
—disclosures to be used with terms that are suggestive of leather (*e.g.*, ''Duraleather''); and
—use of words or terms which would convey the impression that shoes or slippers are made of a certain material when they are not.

The Handbag Guides were promulgated on June 27, 1969, and address potential misrepresentations regarding ladies' handbags and similar articles. These Guides specifically address misrepresentations as to the composition and other characteristics of such products and provide specific industry guidance regarding the following:

—disclosures to be made with respect to a product's composition;
—representations that a product is colored, finished or dyed with aniline dye or otherwise dyed, embossed, grained, processed, finished or stitched in a certain manner;
—use of the terms ''scuffproof,'' ''scratchproof,'' ''scuff resistant,'' and ''scratch resistant;'' and
—deceptive pricing of products.

In addition, the Handbag Guides address price discrimination, advertising and promotional allowances, and the providing of promotional services and facilities. The Guides also discuss inducing or receiving a discrimination in price, advertising allowance or promotional service or facility.

The Waist Belt Rule, promulgated on June 27, 1964, regulates representations made in the sale, offering for sale, and distribution of men's and boy's belts, and women's and children's belts when not offered for sale as part of a garment. The Rule states that it is an unfair method of competition and an unfair or deceptive act or practice to:

—represent that a belt not made from the hide of an animal is leather;
—represent that a belt is ''leather'' when it contains ground, pulverized, or shredded leather;
—represent that a product is ''leather'' when it contains split leather;
—represent that a belt is made from a specified animal hide when it is not
—represent that a product is wholly of a particular composition when it is not;
—sell or distribute belts which have the appearance of leather, but which are made of split leather or ground, pulverized or shredded leather or of non-leather material, unless proper disclosure is made;
—sell or distribute belts which have been processed so as to have the appearance of a different type of leather, unless proper disclosure is made; and
—sell or distribute belts having an outer surface of leather or other material, which are backed with a different kind of leather or non-leather material having the appearance of leather, unless proper disclosure is made.

In response to a request for public comment on the Luggage Guides, the Shoe Content Guides and the Ladies' Handbag Guides, the Commission received 12 comments. The Commission received 10 comments regarding the Waist Belt Rule. Only three of the Waist Belt Rule comments were not also submitted in response to the request for comments on the three Guides.[1]

The **Federal Register** notice requesting comments on the three sets of Guides contained a list of questions designed to assist the Commission in determining whether the Guides should be maintained, amended or rescinded.

Ten of the comments supported retaining the Guides in some form,[2] one expressed no opinion on the issue,[3] and one comment merely asked a question.[4] Six of the comments were from consumers,[5] one was from a leather tanning company,[6] one was from a manufacturer of wallets,[7] and four were from trade associations.[8] The following discussion regarding the comments received is grouped according to the questions posed in the notice. A number of the comments dealt with issues common to all of the Guides and the Rule. The comments for all four are addressed together.

(1) Is there a continuing need for the Guides? Ten of the comments indicated that there is a continuing need for the Guides.[9]

(a) What benefits have the Guides provided to purchasers of the products or services affected by the Guides?

The comments received indicate that the Guides provide a number of benefits to consumers. Two comments suggested that consumers benefit from the Guides because the Guides require identification of imitation leather content, which, when used in shoes, may cause feet to sweat excessively.[10] Another comment stated that the disclosure requirements in the Guides benefit consumers because leather has special properties of durability, breathability, and flexibility.[11] One comment indicated that animal lovers, vegetarians and others who do not wish to wear leather need to know what they are buying.[12] Four comments indicated that the requirements of the Guides otherwise assist consumers in making purchasing decisions.[13]

(b) Have the Guides imposed costs on purchasers? The comments indicated that costs to purchasers are minimal.[14]

(2) What changes, if any, should be made to the Guides to increase the benefits of the Guides to purchasers?

A number of the comments suggested that certain changes be made to the Guides. Generally, these suggestions fall

[1] Comments Concerning the Three Guides:
1. Rose E. Kettering (''REK'') Same comment sent regarding Waist Belt Rule
2. Matt Anderson (''MA'') Same comment sent regarding Waist Belt Rule
3. Marilyn Raeth (''MR'') Same comment sent regarding Waist Belt Rule
4. James A. McGarry (''JAM'') Same comment sent regarding Waist Belt Rule
5. Lenna Mae Gara (''LMG'') Same comment sent regarding Waist Belt Rule
6. Linda D. Lipinski (''LDL'')
7. Footwear Industries of America (''FIA'')
8. Leather Industries of America, Inc. (''LIA'') Same comment sent regarding Waist Belt Rule
9. Luggage and Leather Goods Manufacturers of America, Inc.(''LLGMA'')
10. Cromwell Leather Company, Inc. (''CL'') Same comment sent regarding Waist Belt Rule
11. Enger Kress (''EK'')
12. Footwear Distributors and Retailers of America (''FDRA'')
Comments Concerning the Waist Belt Rule:
13. Stephen Toso (''ST'')
14. Humphreys, Inc. (''HI'')
15. Enger Kress (''EK2'')

[2] REK, #1; MA, #2 at 1; MR, #3; JAM, #4; LMG, #5; FIA, #7 at 1; LIA, #8 at 1; LLGMA, #9 at 2; CL, #10 at 1; EK, #11.
[3] FDRA, #12.
[4] LDL, #6.
[5] REK, #1; MA, #2; MR, #3; JAM, #4; LMG, #5; LDL, #6.
[6] CL, #10.
[7] EK, #11.
[8] FIA, #7; LIA, #8; LLGMA, #9; FDRA, 12.
[9] REK, #1; MA, #2 at 1; MR, #3; JAM, #4; LMG, #5; FIA, #7 at 1; LIA, #8 at 1; LLGMA, #9 at 1; CL, #10 at 1; EK, #11 at 1.
[10] REK, #1; MA, #2 at 2.
[11] FIA, #7 at 1.
[12] LMG, #5.
[13] MR, #3; JAM, #4; EK, #11 at 1; CL, #10 at 2.
[14] EK, #11 at 1; FIA, #7 at 2.

into the following categories: Definitions and use of the term ''Leather,'' Disclosure Requirements, Scope of the Guides, and Use of the term ''Bonded Leather.''

—Definitions and Use of the Term ''Leather''

One comment suggested that the Guides incorporate definitions of the terms ''Leather,'' ''Bonded Leather,'' and ''Manmade.''[15] Another comment suggested that a section should be added stating what materials are covered and giving a definition of each.[16] These additional definitions are not necessary because the Guides clearly cover all types of leather and all materials with the appearance of leather.

Three comments suggested that ''man-made'' should be used to describe certain non-leather products rather than ''simulated leather'' and similar terms using the word ''leather.''[17] One comment suggested that ''man-made'' be added to the list of examples of non-leather products and that ''urethane'' be recognized as a material which is often used in industry products.[18] The terms listed in the Guides as examples of appropriate disclosures for non-leather materials are adequate and would clearly indicate to consumers that a particular material is not leather. Because these terms are merely examples, it is not necessary to make additions to the list.

Two comments urged that the Guides be amended to allow split leather to be called ''leather'' because the European Union countries allow that term to be used without qualification to describe split leather.[19] However, insufficient support was presented to justify modification of this aspect of the Guides. In support of preservation of the Guides' distinction between top grain and split leather, one comment stated that split grain is less expensive, less attractive, and less durable than top grain leather, and that split leather is subject to ''crocking.''[20] Another comment stated that the Guides should continue to permit only top grain leather to be called ''leather'' or ''genuine leather'' and that other forms of leather should include qualifying words.[21] The apparent differences between the performance and appearance of top grain leather and that of split leather, as well as possible consumer expectations with regard to these materials, indicate that the Guides should continue to state that only top grain leather products should be called ''leather'' without qualification.

—Disclosure Requirements

The Guides contain a section specifically setting forth a method of making disclosures. Regarding the form of disclosures, one comment suggested that the Luggage Guides should be amended to state that the type of outer material used in the product must be permanently stamped on the product or on a label sewn into the product and that composition information regarding any other part of the product may be stamped either on the product, or on a tag, label, or card attached thereto.[22] There is insufficient justification for this amendment because consumers are adequately protected by the current provision which provides that disclosures should be stamped either on the product or on a tag, label, or card attached to the product until the consumer receives the item. A comment regarding the Waist Belt Rule suggested that using abbreviations in disclosures may be deceptive.[23] Some abbreviations that might be used may not be readily understood by consumers; however, the current disclosure provisions in the Guides already discourage deceptive abbreviations.

A suggestion was made in one comment to adopt the ''present industry practice'' of identifying embossed products by the name of the animal skin and by the name of the animal which is imitated in the appearance of the material, for example, ''pigskin grain cowhide.''[24] This method may be deceptive because it may be unclear which term describes the composition and which term describes the imitated grain. The Guides are not changed with regard to this type of disclosure.

One comment urged the Commission to delete the disclosure provision relating to composition of backing material because it was alleged that the provision was confusing and did not reflect current industry practice. It was further alleged that disclosures were unnecessary because backing material is not visible and is only used as support for the outer covering.[25] Because no substantiation was provided for these allegations, this change has not been made.

A suggestion was made that, due to a change in consumer preferences, the Commission should delete the provision regarding affirmative disclosure of manmade materials.[26] This comment stated that great strides have been made in the manufacture of synthetic materials and that such materials are often preferred. However, as discussed above, it appears that consumers believe that the Guides' suggested disclosures relating to manmade materials provide important information. Therefore, the Commission is not making the recommended change. The same comment stated that the Guides should be ''clarified'' with regard to multi-material uppers, and that a disclosure such as ''leather upper with manmade materials'' should be allowed. The Guides currently indicate that disclosure as to individual components should be made; therefore, a broad, non-specific disclosure would not be in accordance with the Guides. The recommended change has not been made.

An additional comment argued that the Guides should require country of origin disclosures.[27] Country of origin labeling for imported products is addressed by statute and U.S. Customs Service regulations.[28] The FTC Guides address the nature of the product, not its source. Therefore, incorporation of such a requirement in these Guides would be inappropriate. Another comment stated that efforts to acquaint foreign manufacturers with the Guides should be made.[29] While this suggestion has merit, it is not appropriate to address it in the Guides.

—Scope of the Guides

Several of the comments argued that the scope of the Guides should be modified. One comment concerning the Luggage Guides suggested that Parts 24.3 (deceptive practices as to aniline finish, graining, embossing and processing), 24.4 (deception as to hardware, frame or box) and 24.5 (misuse of the terms ''waterproof,'' ''dustproof,'' ''warpproof,'' ''scuffproof,'' and ''scratchproof'') should be deleted because they deal with specific deceptive claims that are covered by the general deception paragraph, 24.1.[30] Part 24.4 is deleted because it does not deal with the nature of leather and

[15] LIA, #8 at 4–5.

[16] LLGMA, #9 at 2–3.

[17] FIA, #7 at 2; LIA, #8 at 4–5; LLGMA, #9 at 2–3.

[18] EK, #11 at 2.

[19] LIA, #8 at 4; FDRA, #12 at 3.

[20] FIA, #7 at 2. Crocking is the transfer of color from the surface of a colored material to an adjacent area of the same material or to another surface, principally by rubbing.

[21] CL, #10 at 1.

[22] LLGMA, #9 at 4.

[23] ST, #13.

[24] LLGMA, #9 at 3.

[25] LLGMA, #9 at 3.

[26] FDRA, #12 at 3.

[27] EK, #11 at 1–2.

[28] 19 U.S.C. 1304; 19 CFR Part 134.

[29] LIA, #8 at 2.

[30] EK, #11 at 2.

imitation-leather materials and is appropriately handled in the general deception paragraph. However, the other two sections, which deal primarily with the processing and manufacturing of materials used in leather and imitation-leather products, provide useful guidance for industry members and are retained.

A suggestion was made that the Shoe Content Guides should apply only to shoe uppers and outersoles because those are the parts of a shoe upon which consumers base decisions, and there is limited space on a shoe for markings.[31] Another comment urged that the Guides should not apply to concealed innersoles because consumers expect that the concealed portions of footwear bottoms, particularly innersoles, are made of synthetic material.[32] However, no supporting evidence of consumer beliefs was supplied for either of these comments. Since it appears that useful information regarding other components of industry products is provided pursuant to the Guides, the Guides will remain as they are with respect to this issue.

—Use of the Term ''Bonded Leather''

Several of the comments received dealt with the issue of ''bonded leather,'' which generally refers to material made of leather fibers held together with a bonding agent. Several comments suggested permitting use of the term ''bonded leather'' for materials containing at least 75% leather fiber.[33] This, it was argued, would allow limited addition of non-leather fibers to improve strength, humidity expansion and heat resistance.[34] One comment stated that this 75% figure reflects a ''widespread consensus'' in the leather tanning and manufacturing industries.[35] Another called 75% an ''industry practice.''[36] However, insufficient evidence was submitted to establish that the 75% figure is an industry standard.

Even if the 75% figure were an industry practice or standard, it would not prevent deception. In a comment regarding the Waist Belt Rule, consumer survey evidence was provided in support of use of the term ''bonded leather.''[37] However, this survey indicated that 23.2% of the people surveyed believe the term means genuine cowhide leather. 57.2% believe the term means reprocessed leather scrap.[38] Although the submitters of the survey asserted that ''reprocessed leather scrap'' was the correct response, if other fibers have been added to leather fibers, it would be deceptive to refer to the entire mixture of materials as leather scrap. Use of the term ''bonded leather'' standing alone violates the Guides as they existed prior to this time. Without further qualification, the term would not appear to inform consumers that non-leather fibers are contained in the material. Further, some consumers may interpret the term ''bonded'' to mean material of a greater quality than leather,[39] or strengthened or reinforced leather.

A final comment suggested adding the term ''bonded leather'' to that section of the Guides which addresses use of the terms ''ground, pulverized or shredded leather.''[40] This suggestion has merit. Currently, two of the Guides and the Rule would allow use of terms such as ''pulverized leather'' to describe the content of materials. However, the Luggage Guides appear to suggest that disclosure be made of all materials contained in ground, pulverized or shredded leather. Such disclosures are useful, but may be lengthy. The proposed Guides now state that manufacturers should only use terms such as ''ground leather,'' ''pulverized leather,'' ''shredded leather'' or ''bonded leather'' to identify the products made of such materials if there is a disclosure of the amount of leather fibers and of the amount of non-leather substances contained in the material.

One comment specifically opposed use of the term ''bonded leather,'' and suggested that ground, pulverized or shredded leather should continue to be identified as non-leather material, with disclosures such as ''simulated leather containing leather fibers.''[41] Another comment stated that calling a product leather if it contains little leather is deceptive.[42] The Commission believes that the term ''bonded leather'' could be confusing to consumers who do not know that ''bonded leather'' may include substances other than leather. This is equally true with respect to ground, pulverized or shredded leather. However, a disclosure of the amount of leather fiber and of the amount of non-leather materials in a product is an effective way of preventing this deception. Further, providing a means by which a product which contains substantial amounts of leather can be distinguished in some way from totally simulated leather would be in the best interest of consumers. Thus, the proposed Guides state that if the terms ''ground leather,'' ''pulverized leather,'' ''shredded leather'' or ''bonded leather'' are used to describe materials, then a disclosure of the percentage of leather fiber and of the percentage of other substances contained should be made.

(a) How would these changes affect the costs the Guides impose on firms subject to their requirements?

The comment suggesting country of origin labeling stated that such a requirement would impose no additional cost on firms.[43] One of the comments urging that the definition of leather include split leather stated that costs would be reduced by permitting a single standard for labeling in this country and in the European Union. No other comments addressed this question.

(b) Would it be useful to the affected industries if the Luggage Guides, the Shoe Content Guides, and the Handbag Guides were combined into one set of industry guides that address all of these products or leather products in general?

One comment recommended that all Guides concerning leather be consolidated.[44] Another said that one set of guides should be made to cover all leather-using industries.[45] One comment stated that the Guides could be generalized to many if not all industries.[46] One comment urged the Commission to maintain separate Guides because the manufacturing processes are separate and distinct.[47] The Luggage and Leather Goods Manufacturers of America stated that it did not endorse combining the Guides.[48] A final comment suggested that a set of leather definitions be developed to apply to all finished goods.[49]

The Commission believes that the three Guides should be combined because of the similarity of the composition issues addressed by each of the Guides. Further, the Commission believes it is appropriate to include in the combined Guides the provisions of the Waist Belt Rule. However, the Commission seeks further comments on the issue of whether the Guides should be expanded to cover other products containing leather and imitation leather. These products would include, for

[31] FIA, #7 at 3.
[32] FDRA, #12 at 4.
[33] FIA, #7 at 3; LIA, #8 at 5; LLGMA, #9 at 3–4; CL, #10 at 3.
[34] CL, #10 at 3.
[35] CL, #10 at 3.
[36] LLGMA, #9 at 4.
[37] HI, #14, part 6.
[38] HI, #14, part 6.
[39] EK, #11 at 3.
[40] FIA, #7 at 3.
[41] EK, #11 at 3.
[42] CL, #10 at 3.
[43] EK, #11 at 2.
[44] LIA, #8 at 2.
[45] CL, #10 at 1.
[46] EK, #11 at 2.
[47] FIA, #7 at 4.
[48] LLGMA, #9 at 2.
[49] LIA, #8 at 4–5.

example, clothing, furniture,[50] watchbands, and equestrian items such as saddles. In particular, the Commission seeks comment as to whether there are special considerations for these different products which are not addressed by the proposed Guides.

(3) What significant burdens or costs, including costs of adherence, have the Guides imposed on firms subject to their requirements?

The comments indicated that the costs are minimal.[51]

(a) Have the Guides provided benefits to such firms?

One comment said that the Guides give industry members some assurance that all companies are labeling their products consistently and that valid comparisons can be made by consumers.[52]

(4) What changes, if any, should be made to the Guides to reduce the burdens or costs imposed on firms subject to their requirements?

One comment indicated that if the Guides cannot realistically be enforced, then eliminating the regulation would reduce costs.[53] The same comment supported simple, less complex regulation.[54] One of the comments stated that costs would be reduced by permitting a single standard for labeling in this country and in the European Union. Another comment stated that no changes to the Guides need be made specifically to reduce costs of compliance.[55]

(a) How would these changes affect the benefits provided by the Guides?

No comments were received regarding this question.

(5) Do the Guides overlap or conflict with other federal, state, or local laws or regulations?

One comment indicated that there is no overlap with other laws or regulations.[56] Another comment suggested that the Commission examine the labeling practices in the European Union and review the North American Free Trade Agreement and the Caribbean Basin Initiative.[57] A review of information provided by one commenter regarding the European Union Directive on Footwear Labeling revealed little similarity between it and the Guides. The calculation of shoe material area used in the directive (if two materials are present, they must be listed in descending order of area or volume) and the differences in terminology may serve to make the Guides more, rather than less, complex. Further, unlike the Guides, the directive allows use of symbols to indicate type of material. While symbols might be an effective, simpler way of providing information to consumers, symbols have not been used before in this country in this context. An extensive consumer education program would be required to implement the use of such symbols. Further, the Guides currently provide consumers with more information than does the use of the symbols adopted by the European Union. A review of NAFTA and CBI revealed no conflicts with the Guides.

(6) Since the Guides were issued, what effects, if any, have changes in relevant technology or economic conditions had on the Guides?

Two comments suggested that today's ecological concerns dictate that leather scraps be used in ''bonded leather'' rather than disposed of as waste.[58] While not designed to address ecological concerns, the Guides may encourage the use of leather scraps because they provide that, if the term ''bonded leather'' is used, a disclosure regarding the percentage of leather fibers in the material should be made.

As discussed above, two comments urged that the Guides be amended to allow split leather to be called ''leather.'' One of the reasons given for suggesting this change is that technological advances have resulted in a split leather which is superior to that produced years ago.[59] However, another comment encouraged retaining the distinction because split leather is less expensive, less attractive, and less durable than top grain leather, and split leather is subject to ''crocking.''[60] Insufficient support was presented to justify modification of this aspect of the Guides.

As discussed above, one comment urged the Commission to delete the requirement that the presence of manmade materials be affirmatively disclosed.[61] The comment stated that great strides have been made in the manufacture of synthetic materials and that such materials are often preferred. This recommended change has not been made because it appears that consumers obtain important information from this disclosure and may use this information to select the material of their choice.

(7) Do members of the ladies' handbag industry require these industry-specific Guides for information about the standards applicable to price discrimination and discriminatory promotional allowances, or could equally helpful guidance be obtained from more general sources such as the Fred Meyer Guides?

No comments were received regarding this question. These interpretive statements are duplicative of Sections (a) and (f) of the Robinson-Patman Act with respect to price discrimination, and duplicative of the Guides for Advertising Allowances and Other Merchandising Payments and Services, 16 CFR Part 240 (commonly known as the ''Fred Meyer Guides''), which interpret Sections (d) and (e) of the Robinson-Patman Act, and Section 5 of the Federal Trade Commission Act with respect to discriminatory promotional allowances and services. A general statement of policy, such as that contained in the Fred Meyer Guides, is preferable to industry-specific Guides. Therefore, these sections of the Ladies' Handbag Guides have not been incorporated into the proposed Guides.

II. Conclusion

A review of the comments and of the three Guides indicates that retention and consolidation of their basic principles into one set of Guides is clearly warranted. Furthermore, the provisions of the Waist Belt Rule should be incorporated into the consolidated Guides. The Guides and the Waist Belt Rule deal with very similar issues. The nature of the covered products and the related concerns regarding composition are such that combining their provisions would be an efficient and effective way to prevent deception in this area. The Commission also believes that the Guides probably should cover other products made of leather or imitation leather. However, it is seeking additional comment before deciding whether to include such products within the scope of the Guides.

The proposed Guides consolidate 16 CFR Parts 24, 231, and 247. The language of the proposed Guides has been simplified and clarified, as well as updated to reflect current Commission legal standards.

In addition, the proposed Guides incorporate the following modifications:

—The Guides now include all products formerly covered by the three Guides and the Rule; boots were added as well.

—The scope of the Guides has been broadened to include deception in the

[50] Representations concerning leather and imitation-leather furniture currently are covered by the Commission's Guides for the Household Furniture Industry, 16 CFR 250.4.

[51] FIA, #7 at 2; LIA, #8 at 2; EK, #11 at 1.

[52] EK, #11 at 2.

[53] LIA, #8 at 2.

[54] LIA, #8 at 3.

[55] EK, #11 at 2.

[56] EK, #11 at 2.

[57] LIA, #8 at 2.

[58] LIA, #8 at 4; CL, #10 at 2.

[59] LIA, #8 at 4; FDRA, #12 at 3.

[60] FIA, #7 at 2.

[61] FDRA, #12 at 3.

marketing and advertising of industry products.

—A sentence setting forth the circumstances under which the unqualified term ''leather'' may be used is included for clarity. A similar provision was contained in the Shoe Guides.

—With regard to ground, pulverized, shredded, or bonded leather, the proposed Guides state that manufacturers of such materials may choose to identify the material as non-leather, or as ground, pulverized, shredded, or bonded leather. The Guides state that if the terms ''ground leather,'' ''pulverized leather,'' ''shredded leather,'' or ''bonded leather'' are used, a disclosure of the percentages of leather fibers and non-leather substances in the material should be made. The section regarding visible backing material has been clarified with regard to the use of the terms ''ground leather,'' ''pulverized leather,'' ''shredded leather,'' or ''bonded leather'' to describe backing materials.

—Provisions relating to the terms ''scuffproof'' and ''scratchproof'' have been amended to include other terms indicating that the product is resistant to wear. Use of terms such as ''scuff resistant'' and ''scratch resistant'' are addressed in an added section. This provision was taken from the Ladies' Handbag Guides.

—The section specifically dealing with deception as to the hardware, frame, or box of luggage has been deleted as unnecessary. This is covered by the general deception section.

—The Shoe Guides have a specific section relating to concealed innersoles. To avoid being too industry-specific, concealed innersoles are addressed in the proposed Guides in a footnote in the section concerning misrepresentations that a product is wholly of a particular composition.

—The Ladies' Handbag Guides included a section regarding deceptive pricing. Deceptive pricing is specifically covered by the general deception section; a separate section is not necessary and is therefore not included in the proposed Guides.[62]

—Finally, for the reasons discussed above, the price discrimination and related areas are not addressed in the proposed Guides.

III. Questions for Comment

The Commission seeks public comment on the following questions:

1. Should the proposed Guides for Select Leather and Imitation Leather Products be expanded in scope to include other products made of leather or imitation leather? Such products might include, but are not limited to, clothing, furniture, watchbands, and equestrian items.

2. Are there special considerations for these or other leather or imitation-leather goods which are not addressed by the proposed Guides? How could any such special considerations be addressed by the Guides?

List of Subjects in 16 CFR Part 24

Advertising, Distribution, Imitation-leather products, Labeling, Ladies' handbags, Leather and leather products industry, Luggage and related products, Shoes, Trade practices, Waist belts.

The Commission proposes to amend Title 16 of the Code of Federal Regulations by adding a new Part 24 to read as follows:

PART 24—GUIDES FOR SELECT LEATHER AND IMITATION LEATHER PRODUCTS

Sec.
24.0 Scope of Guides.
24.1 Deception (general).
24.2 Deception as to composition.
24.3 Deceptive practices as to aniline finish, graining, embossing and processing.
24.4 Misuse of the terms ''waterproof,'' ''dustproof,'' ''warpproof,'' ''scuffproof,'' ''scratchproof,'' ''scuff resistant,'' or ''scratch resistant.''

Authority: 15 U.S.C. 45, 46.

§ 24.0 Scope of Guides.

These Guides apply to the manufacture, sale, distribution, marketing, or advertising of all kinds or types of leather or simulated-leather trunks, suitcases, traveling bags, sample cases, instrument cases, brief cases, ring binders, billfolds, wallets, key cases, coin purses, card cases, french purses, dressing cases, stud boxes, tie cases, jewel boxes, travel kits, gadget bags, camera bags, ladies' handbags, shoulder bags, purses, pocketbooks, shoes, boots, slippers, belts (when not sold as part of a garment) and similar articles (hereinafter, ''industry product'').

§ 24.1 Deception (general).

It is unfair or deceptive to misrepresent, directly or by implication, the kind, grade, quality, quantity, material content, thickness, finish, serviceability, durability, price, origin, size, weight, ease of cleaning, construction, manufacture, processing, distribution, or any other material aspect of an industry product.

§ 24.2 Deception as to composition.

It is unfair or deceptive to misrepresent, directly or by implication, the composition of any industry product or part thereof. It is unfair or deceptive to use the unqualified term ''leather'' or other unqualified terms suggestive of leather unless the industry product so described is composed in all substantial parts of top grain leather.[1] This section includes, but is not limited to, the following:

(a) *Split leather.* If all or part of an industry product is made of split leather and the split leather is visible or if any representation is made as to the product's composition, then the presence of the split leather should be disclosed. For example:

Split Cowhide.

Note: For purposes of these Guides, leather from portions of hides or skins that have been split into two or more thicknesses, other than the grain or hair side, shall be considered split leather.

(b) *Imitation or simulated leather.* If all or part of an industry product is made of non-leather material that appears to be leather, the fact that the material is not leather, or the general nature of the material as something other than leather, should be disclosed. For example:

Not leather;
Imitation leather;
Simulated leather;
Vinyl;
Vinyl coated fabric; or
Plastic.

(c) *Embossed or processed leather.* The kind and type of leather from which an industry product is made should be disclosed when all or part of the product has been embossed, dyed, or otherwise processed so as to simulate the appearance of a different kind or type of leather. For example:

(1) An industry product made wholly of top grain cowhide that has been processed so as to imitate pigskin may be represented as being made of Top Grain Cowhide.

(2) Any additional representation concerning the simulated appearance of an industry product composed of leather should be immediately accompanied by a disclosure of the kind and type of leather in the product. For example:

Top Grain Cowhide With Simulated Pigskin Grain.

(d) *Backing material.* (1) The backing of any material in an industry product

[62] Additional guidance regarding this issue is provided by the Commission's Guides Against Deceptive Pricing, 16 CFR Part 233.

[1] The composition of heels, stiffenings, and ornamentation are not considered when making the determination of whether a shoe, boot, or slipper may be called ''leather''.

with another kind of material should be disclosed when the backing is not apparent upon casual inspection of the product, or when a representation is made which, absent such disclosure, would be misleading as to the product's composition. For example:

Top Grain Cowhide Backed With Split Cowhide; or
Split Cowhide Backed With Simulated Leather.

(2) The composition of the different backing material should be disclosed if it is visible and consists of split leather, non-leather material with the appearance of leather, or leather processed so as to simulate a different kind of leather.

(e) *Fictitious animal designations.* A representation should not be made, directly or by implication, that an industry product is made in whole or in part from the skin or hide of an animal that does not exist.

(f) *Misuse of trade names, etc.* A trade name, coined name, trademark, or other word or term, or any depiction or device should not be used if it misrepresents, directly or by implication, that an industry product is made in whole or in part from animal skin or hide, or that material in an industry product is leather, top grain leather, split leather, or other material. This includes, among other practices, the use of a stamp, tag, label, card, or other device in the shape of a tanned hide or skin or in the shape of a silhouette of an animal, in connection with any industry product that has the appearance of leather but that is not made wholly or in substantial part from animal skin or hide.

(g) *Misrepresentation that product is wholly of a particular composition.* A misrepresentation should not be made, directly or by implication, that an industry product is made wholly of a particular composition. A representation as to the composition of a particular part of a product should clearly indicate the part to which the representation applies.

(1) Where a product is made principally of top grain leather or of split leather but has certain non-leather parts that appear to be leather, the product may be described as made of top grain leather or split leather so long as accompanied by clear disclosure of the non-leather parts.[2] For example:

(i) An industry product made of top grain cowhide except for frame covering, gussets, and partitions that are made of plastic but have the appearance of leather may be described as:

Top Grain Cowhide With Plastic Frame Covering, Gussets and Partitions; or Top Grain Cowhide With Gussets, Frame Covering and Partitions Made of Non-Leather Material.

(ii) An industry product made throughout, except for hardware, of vinyl backed with split cowhide may be described as:

Vinyl Backed With Split Cowhide (See also disclosure provision concerning use of backing material in paragraph (d) of this section).

(iii) An industry product made of top grain cowhide except for partitions and stay, which are made of plastic-coated fabric but have the appearance of leather, may be described as:

Top Grain Cowhide With Partitions and Stay Made of Non-leather Material; or
Top Grain Cowhide With Partitions and Stay Made of Plastic-Coated Fabric.

(2) Where a product is made principally of top grain leather and its only other parts that appear to be leather are made of split leather, the product may be described as made of top grain leather so long as accompanied by adequate disclosure of the split leather parts. For example: An industry product made of top grain cowhide except for frame covering, gussets, and partitions made of split cowhide may be described as:

Top Grain Cowhide With Split Cowhide Frame Covering, Gussets, and Partitions.

(h) *Ground, pulverized, shredded, or bonded leather.* A material in an industry product that contains ground, pulverized, shredded, or bonded leather and thus is not wholly the hide of an animal should not be represented, directly or by implication, as being leather. This provision does not preclude an accurate representation as to the ground, pulverized, shredded, or bonded leather content of the material. However, if the material appears to be leather, it should be accompanied by either:

(1) An adequate disclosure as described by paragraph (b) of this section; or

(2) If the terms ''ground leather,'' ''pulverized leather,'' ''shredded leather,'' or ''bonded leather'' are used, a disclosure of the percentage of leather fibers and the percentage of non-leather substances contained in the material. For example: An industry product made of a composition material consisting of 60% shredded leather fibers may be described as:

Bonded Leather Containing 60% Leather Fibers and 40% Non-leather Substances.

(i) *Form of disclosures under this section.* All disclosures described in this section should appear in the form of a stamping on the product, or on a tag, label, or card attached to the product, and should be affixed so as to remain on or attached to the product until received by the consumer purchaser. All such disclosures should also appear in all advertising of such products irrespective of the media used whenever statements, representations, or depictions appear in such advertising which, absent such disclosures, serve to create a false impression that the products, or parts thereof, are of a certain kind of composition. The disclosures affixed to products and made in advertising should be of such conspicuousness and clarity as to be noted by purchasers and prospective purchasers casually inspecting the products or casually reading, or listening to, such advertising. A disclosure necessitated by a particular representation should be in close conjunction with the representation.

§ 24.3 Deceptive practices as to aniline finish, graining, embossing and processing.

It is unfair or deceptive to misrepresent, directly or by implication:

(a) That any industry product is colored, finished, or dyed with aniline dye; or

(b) That all or part of any product is dyed, embossed, grained, processed, finished or stitched in a certain manner.

§ 24.4. Misuse of the terms ''waterproof,'' ''dustproof,'' ''warpproof,'' ''scuffproof,'' ''scratchproof,'' ''scuff resistant,'' and ''scratch resistant.''

It is unfair or deceptive to:

(a) Use the term ''Waterproof'' to describe all or part of an industry product unless the designated product or material is impermeable to water and moisture.

(b) Use the term ''Dustproof'' to describe an industry product unless the product is so constructed that when it is closed dust cannot enter it.

(c) Use the term ''Warpproof'' to describe all or part of an industry product unless the designated product or part is such that it cannot warp.

(d) Use the term ''Scuffproof,'' ''Scratchproof,'' or other terms indicating that the product is not subject to wear in any other respect, to describe an industry product unless the outside surface of the product is immune to scratches or scuff marks, or is not subject to wear as represented.

(e) Use the term ''Scuff Resistant,'' ''Scratch Resistant,'' or other terms

[2] In the case of shoes, boots, slippers, and related industry products that have visible parts with the appearance of leather, the composition of concealed innersoles should be disclosed unless the term ''leather'' can be used to describe the innersole material under these Guides.

indicating that the product is resistant to wear in any other respect, unless there is a basis for the representation and the outside surface of the product is meaningfully and significantly resistant to scuffing, scratches, or to wear as represented.

By direction of the Commission.

Donald S. Clark,

Secretary.

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BILLING CODE 6750–01–P

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16 CFR Part 400

Rule Concerning Advertising and Labeling of Sleeping Bags

AGENCY: Federal Trade Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: the Federal Trade Commission (''Commission'') announces the commencement of a rulemaking proceeding for the trade regulation rule concerning Advertising and Labeling of Sleeping Bags (''Sleeping Bag Rule'' or ''Rule''), 16 CFR Part 400. The proceeding will address whether or not the Sleeping Bag Rule should be repealed. The Commission invites interested parties to submit written data, views, and arguments on how the rule has affected consumers, businesses and others, and on whether there currently is a need for the rule. This notice includes a description of the procedures to be followed, an invitation to submit written comments, a list of questions and issues upon which the Commission particularly desires comments, and instructions for prospective witnesses and other interested persons who desire to participate in the proceeding.

DATES: Written comments must be submitted on or before October 18, 1995.

Notifications of interest must be submitted on or before October 18, 1995. If interested parties request the opportunity to present testimony, the Commission will publish a notice in the **Federal Register** stating the time and place at which the hearings will be held and describing the procedures that will be followed in conducting the hearings. In addition to submitting a request to testify, interested parties who wish to present testimony must submit, on or before October 18, 1995, a written comment or statement that describes the issues on which the party wishes to testify and the nature of the testimony to be given.

ADDRESSES: Written comments and requests to testify should be submitted to Office of the Secretary, Federal Trade Commission, Room H–159, Sixth Street and Pennsylvania Avenue, NW., Washington, DC 20580, telephone number 202–326–2506. Comments and requests to testify should be identified as ''16 CFR Part 400—Comment—Sleeping Bag Rule'' and ''16 CFR Part 400—Request to Testify—Sleeping Bag Rule,'' respectively. If possible, submit comments both in writing and on a personal computer diskette in Work Perfect or other word processing format (to assist in processing, please identify the format and version used). Written comments should be submitted, when feasible and not burdensome, in five copies.

FOR FURTHER INFORMATION CONTACT: John A. Crowley, Attorney, Bureau of Consumer Protection, Division of Service Industry Practices, Room H–200, Sixth Street and Pennsylvania Avenue, NW., Washington, DC 20580, telephone number 202–326–3280.

SUPPLEMENTARY INFORMATION:

I. Introduction

On May 23, 1995 the Commission published an Advance Notice of Proposed Rulemaking (''ANPR'') seeking comment on the proposed repeal of the Sleeping Bag Rule, 60 FR 27240. In accordance with mandates of section 18 of the Federal Trade Commission Act (''FTC Act''), 15 U.S.C. 57a, the ANPR was sent to the Chairman of the Committee on Commerce, Science, and Transportation, United States Senate and the Chairman of the Subcommittee on Commerce, Trade and Hazardous Materials, United States House of Representatives. The ANPR comment period closed on June 22, 1995. The Commission received no public comments.

Pursuant to the FTC Act, 15 U.S.C. 41–58, and the Administrative Procedure Act, 5 U.S.C. 551–59, 701–06, by this Notice of Proposed Rulemaking (''NPR'') the Commission initiates a proceeding to consider whether the Sleeping Bag Rule should be repealed or remain in effect, and solicits public comments.[1] The Commission is also interested in comments on whether the Rule should be streamlined or otherwise amended. If the Commission determines, based on the data, views and arguments submitted, that the Commission should consider additional alternatives, it will publish a supplemental notice of proposed rulemaking and will request public comments on those alternatives.

The Commission is undertaking this rulemaking proceeding as part of the Commission's ongoing program of evaluating trade regulation rules and industry guides to determine their effectiveness, impact, cost and need. This proceeding also responds to President Clinton's National Regulatory Reinvention Initiative, which, among other things, urges agencies to eliminate obsolete or unnecessary regulations.

II. Background Information

The Sleeping Bag Rule regulates the advertising, labeling and marking of the dimensions of sleeping bags. The Commission had found that the practice of labeling sleeping bags by the dimensions of the unfinished material used in their construction (cut size) was misleading consumers about the actual size of the sleeping bag. To correct this misconception, the Commission in 1963 promulgated the Sleeping Bag Rule which provides that it is an unfair method of competition and an unfair or deceptive act or practice to use the ''cut size'' of the materials from which a sleeping bag is made to describe the size of a sleeping bag in advertising, labeling or marking unless:

(1) ''The dimensions of the cut size are accurate measurements of the yard goods used in construction of the sleeping bags''; and

(2) ''Such 'cut size' dimensions are accompanied by the words 'cut size' ''; and

(3) The reference to ''cut size'' is ''accompanied by a clear and conspicuous disclosure of the length and width of the finished products and by an explanation that such dimension constitute the finished size''.[2]

The Commission, as part of its oversight responsibilities, reviews rules and guides periodically. These reviews seek information about the costs and benefits of the Commission's rules and guides and their regulatory and economic impact. The information obtained assists the Commission in identifying rules and guides that warrant modification or rescission. Accordingly, on April 19, 1993, the Commission published in the Federal register a request for public comments on its Trade Regulation Rule on Advertising and Labeling as to Size as

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[1] In accordance with mandates of section 18 of the FTC Act, 15 U.S.C. 57a, the Commission submitted this NPR to the Chairman of the Committee on Commerce, Science, and Transportation, United States Senate and the Chairman of the Subcommittee on Commerce, Trade and Hazardous Materials, United States House of Representatives 30 days prior to publication of the NPR.

[2] The rule then gives an example of proper size marking: ''Finished size 33″ × 68″' cut size 36″ × 72″.''