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.

[FR Doc. 95–23039 Filed 9–15–95; 8:45 am]

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 The proceeding will address whether or not the Sleeping Bag Rule should be repealed.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″.''

to Size of Sleeping Bags, 16 CFR 400 (''Rule'').

In its Request for Comment, the Commission asked commenters to address the costs and benefits of the rule, whether there was a continuing need for this regulation, the burdens placed on businesses subject to this regulation, whether changes should be made, any conflicts with other laws, and whether changes in technology affected the rule.

Only one specific comment relating to the Sleeping Bag Rule was received, which generally supported a continuation of this regulation.

In addition to this specific comment, one general comment, applicable to several rules being reviewed was received from an advertising agency association. The organization recommended rescission of the Sleeping Bag Rule, because the general prohibitions of the FTC Act covering false and deceptive advertising apply to the sleeping bag industry and the Rule creates unnecessary administrative costs for the government, industry members and consumers.

Commission staff also conducted an informal inquiry and inspected sleeping bags at several national chain stores. This inquiry found no violations of the Rule on either the sleeping bag packaging materials or the labels affixed to the product itself. In fact, it appeared from that limited inquiry that industry products were marked with only the finished size. Additionally, the Commission has no record of receiving any complaints regarding non-compliance with the rule, or of initiating any law enforcement actions alleging violation of the rule's requirements, 60 FR 2724–41. Finally, the Uniform Packaging and Labeling Regulation, which has been adopted by 47 states, regulates the labeling of sleeping bags, and appears to provide that these items must be labeled with their finished size, 60 FR 27241.

On May 23, 1995, the Commission issued an Advance notice of proposed rulemaking (ANPR) based on a review of the submissions received in response to the aforementioned request for comments. The Commission determined that there may no longer be a need to continue the Rule in light of the apparent changes in industry practices and the existence of laws in nearly all of the states that appear to mandate point-of-sale disclosures similar to those required by the Rule. No comments were received in response to this request.

III. Rulemaking Procedures

The Commission finds that the public interest will be served by using expedited procedures in this proceeding. First, there do not appear to be any material issues of disputed fact to resolve in determining whether to repeal the rule. Second, the use of expedited procedures will support the Commission's goal of eliminating obsolete or unnecessary regulations without an undue expenditure of resources, while ensuring that the public has an opportunity to submit data, views and arguments on whether the Commission should repeal the Rule.

The Commission, therefore, has determined, pursuant to 16 CFR 1.20, to use the procedures set forth in this notice. These procedures include: (1) Publishing this Notice of Proposed Rulemaking; (2) soliciting written comments on the Commission's proposal to repeal the Rule; (3) holding an informal hearing, if requested by interested parties; (4) obtaining a final recommendation from staff and (5) announcing final Commission action in a notice published in the **Federal Register**.

IV. Invitation to Comment and Questions for Comment

Interested persons are requested to submit written data, views or arguments on any issue of fact, law or policy they believe may be relevant to the Commission's decision on whether to repeal the Rule. The Commission requests that commenters provide representative factual data in support of their comments. Individual firms' experience are relevant to the extent they typify industry experience in general or the experience of similar-size firms. Commenters opposing the proposed repeal of the Rule should explain the reasons they believe the Rule is still needed and, if appropriate, suggest specific alternatives. Proposals for alternative requirements should include reasons and data that indicate why the alternatives would better protect consumers from unfair or deceptive acts or practices under section 5 of the FTC Act, 15 U.S.C. 45.

Although the Commission welcomes comments on any aspect of the proposed repeal of the Rule, the Commission is particularly interested in comments on questions and issues raised in this Notice. All written comments should state clearly the question or issue that the commenter is addressing.

Before taking final action, the Commission will consider all written comments timely submitted to the Secretary of the Commission and testimony given on the record at any hearings scheduled in response to requests to testify. Written comments submitted will be available for public inspection in accordance with the Freedom of Information Act, 5 U.S.C. 552, and Commission regulations, on normal business days between the hours of 8:30 a.m. to 5:00 p.m. at the Federal Trade Commission, Public Reference Room, Room H–130, Federal Trade Commission, Sixth Street and Pennsylvania Avenue, NW., Washington, DC 20580, telephone number 202–326–2222.

Questions

(1) Do manufacturers and sellers of sleeping bags currently use ''cut size'' as a means of marking the size of their products for sale at retail to customers?

(2) Does the fact that nearly all of the states have adopted the Uniform Packaging and Labeling Regulation, which governs the labeling of sleeping bags, eliminate or greatly lessen the need for the Sleeping Bag Rule?

(3) Are there other federal or state laws or regulations, or private industry standards that eliminate a need for the Rule?

(4) What are the benefits and costs of the Rule to consumers?

(5) What are the benefits and the costs of the Rule to firms subject to the Rule's requirements?

(6) Does this Rule overlap or conflict with other federal, state, or local government laws or regulations?

(7) Is there a continuing need for the Rule or should the Rule be repealed?

V. Requests for Public Hearings

Because there does not appear to be any dispute as to the material facts or issues raised by this proceeding and because written comments appear adequate to present the views of all interested parties, a public hearing has not been scheduled. If any person would like to present testimony at a public hearing, he or she should follow the procedures set forth in the **DATES** and **ADDRESSES** sections of this Notice.

VI. Preliminary Regulatory Analysis

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601–11, requires an analysis of the anticipated impact of the proposed repeal of the Rule on small businesses.[3] The analysis must contain,

[3] Section 22 of the FTC Act, 15 U.S.C. 57b–3, also requires the Commission to perform ''regulatory impact analyses'' of a proposed rule, but only if the rule will have certain ''significant'' economic or regulatory effects. The Commission has determined that a preliminary regulatory analysis is not required by section 22 in this proceeding because

as applicable, a description of the reasons why action is being considered, the objectives of and legal basis for the proposed action, the class and number of small entities affected, the projected reporting, recordkeeping and other compliance requirements being proposed, any existing federal rules which may duplicate, overlap or conflict with the proposed action, and any significant alternatives to the proposed action that accomplish its objectives and, at the same time, minimize its impact on small entities.

A description of the reasons why action is being considered and the objectives of the proposed repeal of the Rule have been explained elsewhere in this Notice. Repeal of the Rule would appear to have little or no effect on any small business. The Commission is not aware of any existing federal laws or regulations that would conflict with repeal of the Rule.

In light of these reasons, the Commission certifies, pursuant to section 605 of RFA, 5 U.S.C. 605, that if the Commission determines to repeal the Rule that action will not have a significant impact on a substantial number of small entities. To ensure that no substantial economic impact is being overlooked, however, the Commission requests comments on this issue. After reviewing any comments received, the Commission will determine whether it is necessary to prepare a final regulatory flexibility analysis.

VII. Paperwork Reduction Act

The Sleeping Bag Rule does not impose ''information collection requirements'' under the Paperwork Reduction Act (''PRA''), 44 U.S.C. 3501 *et seq.* The Rule, however, does contain disclosure requirements, which specify that certain additional information must be given whenever the words ''cut-size'' are used to describe the dimensions of a sleeping bag.[4] Accordingly, repeal of the Rule would eliminate any burdens on the public imposed by these disclosure requirements.

the Commission has no reason to believe that repealing the Rule will have a ''significant'' economic or regulatory impact, either beneficial or detrimental, upon persons subject to the Rule or upon consumers.

[4] Under amendments to the P.R.A. in the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 109 Stat. 163, to be codified at 44 U.S.C. 3501–20), which will become effective on October 1, 1995, these third-party disclosures may constitute a ''collection of information'' for which OMB clearance must be sought.

VIII. Additional Information for Interested Persons

A. Motions or Petitions

Any motions or petitions in connection with this proceeding must be filed with the Secretary of the Commission.

B. Communications by Outside Parties to Commissioners or Their Advisors

Pursuant to Rule 1.18(c) of the Commission's Rules of Practice, 16 CFR 1.18(c), communications with respect to the merits of this proceeding from any outside party to any Commissioner or Commissioner's advisor during the course of this rulemaking shall be subject to the following treatment. Written communications, including written communications from members of Congress, shall be forwarded promptly to the Secretary for placement on the public record. Oral communications, not including oral communications from members of Congress, are permitted only when such oral communications are transcribed verbatim or summarized at the discretion of the Commissioner or Commissioner's advisor to whom such oral communications are made, and are promptly placed on the public record, together with any written communications relating to such oral communications. Memoranda prepared by a Commissioner or Commissioner's advisor setting forth the contents of any oral communications from members of Congress shall be placed promptly on the public record. If the communication with a member of Congress is transcribed verbatim or summarized, the transcript or summary will be placed promptly on the public record.

List of Subjects in 16 CFR Part 400

Advertising, Trade practices, Sleeping bags.

Authority: 15 U.S.C. 41–58.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 95–23041 Filed 9–15–95; 8:45 am]

BILLING CODE 6750–01–M

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16 CFR Part 402

Rule Concerning Deception as to Non-Prismatic and Partially Prismatic Instruments Being Prismatic Binoculars

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 deception as to non-prismatic and partially prismatic instruments being prismatic binoculars (''Binocular Rule''), 16 CFR Part 402. The proceeding will address whether or not the Binocular 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 in testifying 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 402—Comment—Binocular Rule'' and ''16 CFR Part 402—Request to Testify—Binocular Rule,'' respectively. If possible, submit comments both in writing and on a personal computer diskette in Word 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: Phillip Priesman, Attorney, Bureau of Consumer Protection, Division of Advertising Practices, Sixth Street and Pennsylvania Avenue NW., Washington,