



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Division of Enforcement
Bureau of Consumer Protection

August 6, 1999

Steven S. Weiser
Ari L. Kaplan
Graham & James, LLP
885 Third Avenue
21st Floor
New York, NY 10022-4834

Dear Mr. Weiser and Mr. Kaplan:

This is in reply to your letter requesting a written advisory opinion regarding fiber content labeling of certain T-shirts, sweatshirts, sweatpants, and sweatshorts imported from Mexico. You also request a second opinion on the exclusion from labeling of certain disposable knit wipe cloths also imported from Mexico.

Based on your letter, and information that you provided over the telephone, it is my understanding that your client plans to import from Mexico into the United States various odd lots of textile fabrics composed of unknown percentages of cotton and polyester. Your client will also acquire various discarded textile panels of U.S. origin fabric, composed of unknown percentages of cotton and polyester fibers. These imported odd lots and domestic panels will then be shipped into Mexico where they will be cut and sewn to make T-shirts, sweatshirts, sweatpants, and sweatshorts. Each such garment would be completely unique in terms of its fiber content. The finished garments will then be shipped into the United States for retail distribution and sale.

Background on Applicable Laws and Regulations

Before addressing your specific concern, let me provide some background information. As you note in your letter, according to Textile Rule 14(a) and (b) (16 C.F.R. § 303.14(a) and (b)), textile fiber products made in whole or in part from miscellaneous scraps, rags, odd lots, or textile waste materials of undeterminable fiber content, may be labeled in various ways. Textile Rule 14(a) sets forth the following examples for labeling:

Made of miscellaneous scraps of undetermined fiber content.

100% unknown fibers -- rags.

All undetermined fibers -- textile by-products.

100% miscellaneous odd lots of undetermined fiber content.

Secondhand materials -- fiber content unknown.

Made of unknown fibers -- waste materials.

It is staff's opinion that the above examples are intended to apply to situations where the types of fibers, such as cotton or polyester, are unknown, and where the percentages are likewise, of course, unknown. Textile Rule 14(b) addresses situations in which some of the fibers are of known type and percentage, and other fibers in the same product are of unknown type and percentage. The situation that you describe involves known fibers, but of unknown percentages. It appears that neither Textile Rule 14(a) nor 14(b) precisely fit the circumstances posed in your letter. Although the Textile Rules do not exactly correspond to your situation, we find Wool Rule 29, under the Wool Products Labeling Act, may by analogy be used as guidance. Wool Rule 29 (16 C.F.R. § 300.29) sets forth several examples that are helpful. Because the Rule is rather lengthy, I will point out only the sample disclosures contained in the Rule:

Made of Miscellaneous Cloth Scraps

Composed Chiefly of Cotton With Minimum of -- -- % Recycled Wool.

Made of Miscellaneous Cloth Scraps

Composed Chiefly of Rayon With Minimum of -- -- % Recycled Wool.

Made of Miscellaneous Cloth Scraps

Composed Chiefly of Cotton and Rayon With Minimum of -- -- % Recycled Wool.

Made of Miscellaneous Cloth Scraps

*Containing Cotton, Rayon and Other Non-Woolen Fibers,
With Minimum of -- -- % Recycled Wool.*

Analysis

Based on the information you have provided, it is our understanding that the garments in question are made from odd lots and discarded panels, some composed only of cotton, and others of cotton and polyester, and that the percentages of cotton and polyester are unknown and, for practical purposes, undeterminable. It is also our understanding that the odd lots and discarded panels are not from used or secondhand textile products. Staff notes that the above examples use descriptive terms such as "Miscellaneous Cloth Scraps," and "waste materials," and "textile by-products" and "miscellaneous odd lots." To remain consistent with Textile Rule 303.14 and Wool Rule 300.29, staff feels that it is appropriate that some such equivalent descriptive term(s)

be used on the labels of the garments at issue. Staff suggests the following fiber content disclosures: "Made of scraps and odd lots of unknown percentages of cotton and polyester fibers," or "Composed of cotton and polyester scraps of unknown percentages."

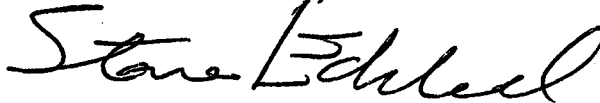
You also requested an opinion on the fiber content labeling of certain disposable knit wipe cloths (i.e., rags) which your client proposes to import from Mexico in either one thousand (1,000) pound bundles or in cardboard boxes containing cloths weighing from 10 to 100 pounds. These items are made of knitted fabric (not woven fabric) and are of a disposable nature intended for one-time use only. You state that it is your position that this merchandise is excluded from labeling under 16 C.F.R. § 303.45(a)(6), which provides for the exclusion of "non-woven products of a disposable nature intended for one-time use only" from the labeling requirements under the Textile Fiber Products Identification Act. Because the rags are made of *knitted* fabric and, hence, "non-woven," and they are "of a disposable nature intended for one-time use only," staff concurs that such rags are exempt from the labeling requirements of the Textile Act. I would also point out that on page 7 of our business guide book, *Threading Your Way Through the Labeling Requirements Under the Textile and Wool Acts* (copy enclosed), "industrial wiping cloths" are listed as exempt from the Textile Act.

In accordance with Section 1.3(c) of the Commission's Rules of Practice and Procedure (16 C.F.R. § 1.3(c)), this is a staff opinion only and has not been reviewed or approved by the Commission or by any individual Commissioner, and is given without prejudice to the right of the Commission later to rescind the advice and, where appropriate, to commence an enforcement action.

In accordance with Section 1.4 of the Commission's Rules of Practice and Procedure (16 C.F.R. § 1.4), your request for advice, along with this response, will be placed on the public record.

I hope this has been helpful. If you have any questions do not hesitate to write to me or call me at 202-326-2841.

Sincerely,

A handwritten signature in cursive script that reads "Steve Ecklund".

Steve Ecklund
Federal Trade Investigator

Enclosure