
FTC Care Labeling Revisions

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Ms. Vecellio is an attorney in the Division of Enforcement of the Bureau of Consumer Protection at the Federal Trade Commission. For the last several years, her responsibilities have included enforcing the Commission's Care Labeling Rule, which requires care labels on textile wearing apparel. Ms. Vecellio has a J.D. from Harvard Law School and a B.A. cum laude in Economics from University of North Carolina-Chapel Hill.

I'm an attorney at the Federal Trade Commission, and one of the main things I do is enforce the Care Labeling Rule. Also, in recent years, thanks to those of you in this room, I also work on the amendment of the Care Labeling Rule.

I want to tell you a little about the history of the rule, why it was promulgated, when it was promulgated, and when it was amended. I'd like to tell you what it does and does not do. Then, I'm going to tell you a little about the history of the current revisions we're working on, and the kind of information that's relevant to those current revisions. These revisions include revising the rule to allow for labeling for professional wet cleaning; and possibly revising the rule to require that any garment that can be laundered at home be so labeled. Also, revising the rule to allow the use of symbols in lieu of words.

The rule was promulgated in 1971 by the Federal Trade Commission. The Federal Trade Commission is composed of five commissioners appointed by the President. I am required to tell you that the opinions I express today are my own, and do not necessarily represent the view of the Commission or of any individual commissioner, although I hope they do. Our basic statutory authority is to prevent unfair deceptive acts or practices in commerce. In 1971, the Commission promulgated the Care Labeling Rule, saying that it was unfair and deceptive to fail to include care instructions on garments. The Commission has said that the rule is intended "to assist consumers in making informed purchase decisions, and to enable consumers and cleaners to avoid product damage." The rule only requires that one method of cleaning be given. That method can be either washing or dry cleaning. The rule does not require that directions for both be given on a label, even if a garment could be cleaned in both ways. In 1983, the Commission amended the rule to be more

specific as to what must be included in a care instruction either for dry cleaning or for washing.

The Commission defined dry cleaning in 1983. Prior to that time, there was no definition for dry cleaning. That caused a number of problems. The rule currently defines dry cleaning in the following way:

"a commercial process by which soil is removed from products or specimens in a machine which uses any common organic solvent (for example, petroleum, perchloroethylene [perc], fluorocarbon)."

I guess that's already a little out of date because fluorocarbon is only available now to those who stockpiled it. The dry cleaning process may include moisture addition to solvent up to 75 percent relative humidity, hot tumble drying up to 160°F, and restoration by steam press or steam air finishing. The rule was also modified in 1983 to require a warning if any part of the normal dry cleaning process as defined in the rule would harm the product. For example, if a special instruction is given for professional dry cleaning, that means that dry cleaners should use the process above but modify it. One example given in the rule is if steam should not be used. The label should state "Professionally dry clean; no steam." Other warnings are "short cycle," "low heat," and "low moisture."

The other requirement that was added in 1983 is that a manufacturer must have a reasonable basis for the care instructions it puts on a garment. One example of a reasonable basis would be positive test results showing that the garment can be dry cleaned. However, there are other bases such as reliance on technical literature, past experience, and industry expertise. So, the rule currently requires one adequate method of cleaning with warnings against any part of the normal process that cannot be used and it requires that the manufacturer have a reasonable basis for that care instruction including any warnings.

I want to talk a little about what the rule does *not* do. It does not govern liability for consumer claims. The fact that a label recommends dry cleaning does not insulate the dry cleaner from liability. Liability with respect to consumer claims, depends on the laws of the states. And in many states, I've been told, the dry cleaner is basically held liable on a theory of bailment—he took the product, he's a professional, he's liable if something goes wrong. The rule does not insulate him against that liability. I want to make a point of that because the same is going to be true if we allow an instruction for professional wet cleaning. That will not insulate cleaners against liability. It's also true that the rule does not require the dry cleaner to do what's on the label. He is not breaking the law if he chooses to do something else. So, the rule is not going to solve all problems that might be encountered with professionally wet cleaning.

Let me go over what we would need to include professional wet cleaning in the rule. We would need the same elements that I just went through for dry cleaning. We would need a standardized definition of professional wet cleaning, similar to what we have for dry cleaning, so that warnings could be given if certain parts of the wet cleaning process would damage the garment. And we would also need a way of determining whether a manufacturer had a reasonable basis for placing a claim on the care label that the garment could be professionally wet cleaned. That's where the importance of the development of the test method comes in. Tests are not the only way of having a reasonable basis, but for a very new technique like this, they certainly would be more important than they are for more established techniques that have been around for decades.

The third important element is that wet cleaning would have to be available to most consumers. We need information about how available it is before we can allow garments to be labeled simply professionally wet clean. If there's no professional wet cleaner in an entire state, it's not really fair to the consumers in that state to put garments on the market labeled "only for professional wet cleaning." However, I gather wet cleaning is growing very quickly. Someone said yesterday that there are at least 80 in the North American Continent, but I hope there are more. Someone from Indiana said she thought there were 100 in Indiana alone. So hopefully, it's growing by leaps and bounds and the availability problem will be solved. But we need information on all those points; a standardized definition, what would be a reasonable basis for such a care label claim, and the availability of the service.

Let me tell you what's being done currently and what we've already done to start revising the rule, with

respect to professional wet cleaning and also with respect to home laundering. In June of 1994, we issued a Federal Register (FR) notice asking for comment on a variety of subjects about the rule. The comments we got generally expressed satisfaction with the rule. It's one of our most popular rules, so we're definitely going to keep it. We also noted that garments that are labeled "dry clean" may also be washable, but consumers and cleaners have no way of determining that from the label. We asked for comment on whether a garment that could be either washed or dry cleaned should be labeled for both washing and dry cleaning. We asked about the costs and benefits, including environmental benefits, of such an amendment. Now, in analyzing those comments, the Commission actually announced in a second FR notice in December 1995, that amendment of the rule might be necessary, and it issued what's called an advance notice of proposed rule making, asking for comment on more specific proposals.

Based on the comments we got to the 1994 FR notice, the Commission indicated it was not proposing dual disclosure; that is, that both washing and dry cleaning appear on the label of a garment which can be both washed and dry cleaned. Several commentators had noted that dual disclosure would require a dry cleaning label on all washable garments such as tee shirts, which generally are not dry cleaned. According to these commentators, this would require manufacturers who do not currently test for dry cleaning because they don't make anything that they label for dry cleaning, to begin testing for dry cleaning. That would be counter productive as it would increase the use of perc. Other comments indicated that consumers would not want to spend money to dry clean garments that are washable. So for those reasons, the Commission indicated in the 1995 FR notice, that it was not proposing dual disclosure but, rather, proposing that for a garment that can be home laundered, it be so labeled. Dry cleaning instructions could also be added, if the manufacturer wanted to have both, but that would not be required. That's the current proposal that the Commission requested comment on in 1995.

In the 1995 FR notice, we also specifically sought comment on professional wet cleaning. We asked for a very specific description of the process. We got good comments providing that description, but I gather that's all still in a state of flux and we'll probably get more specific comments on our next round.

We also asked how many businesses provide this service. We're going to be asking that again on our next round, because this is a very important element that will go into whether we can change the rule to either

require or allow for profession wet cleaning instructions.

We also asked whether fiber identification should be on a permanent label. Some of the wet cleaning companies commented that they needed fiber identification and that it's not always available because it can be listed only on a label that can be cut off. We're exploring whether we should require that to be on a permanent label. Industry people have told me that most people in this country, at least, already put it on a permanent label. We are also proceeding on another front to allow all this information to be conveyed in symbols. Jo Ann Pullen will tell you what's available on that.

The next step in our rulemaking will be the publication of a more specific proposal and notice of proposed

rulemaking for comment. Then we will analyze those comments and determine whether we need to have hearings to complete the rulemaking process. That depends on how controversial all these things are and whether people want hearings. The 1983 amendments were quite controversial and hearings were held at several different cities around the country and the process took quite a long time. The rulemaking process can take a long time or it can be done quickly, depending on how controversial it is.

I want to finish by asking all of you to please comment when we do issue our next FR notice. Somebody yesterday said that most of the answers to all these problems are in the heads of the people here in this room. I certainly hope you'll comment and give us the benefit of that information.

FTC 16 CFR 423

Glossary of Standard Terms

Dryclean:

a process by which soil may be removed from products or specimens in a machine which uses any common organic solvent (for example, petroleum, perchlorethylene, fluorocarbon) located in any commercial establishment. The process may include moisture addition to solvent up to 75% relative humidity, hot tumble drying up to 160°F (71°C) and restoration by steam press or steam-air finishing.

Professionally dryclean:

use the drycleaning process but modified to ensure optimum results either by a drycleaning attendant or through the use of a drycleaning machine which permits such modifications or both. Such modifications or special warnings must be included in the care instruction.

ASTM D5489 symbols report drycleaning per FTC Trade Regulation Rule 16 CFR 423 on Care Labeling

General:

- “If a drycleaning instruction is included on the label, it must also state at least one type of solvent that may be used.”**
- “If all commercially available types of solvent can be used, the label need not mention any types of solvent.”**

Warnings:

- “If there is any part of the drycleaning procedure which consumers or drycleaners can reasonably be expected to use that would harm the product or others being cleaned with it, the label must contain a warning to this effect. The warning must use the words ‘Do not,’ ‘No,’ ‘Only,’ or some other clear wording.”**
- “If a product can be drycleaned in all solvents but steam should not be used, its label should state ‘Professionally dryclean. No steam.’”**

