

# IDFL NEWS FLASH

Issue No. 14

August 1998

## The USA Federal Trade Commission (FTC) Rescinds its Guides for the Feather and Down Products Industry.

In the Federal Register of August 20, 1998, the FTC announced that it is rescinding its guides for the feather and down products industry. (See page 2 for a more complete text summary.)

IDFL expects an avalanche of phone and fax questions from our clients. IDFL is providing answers to the following common questions: (Note: These answers represent solely the opinion of IDFL.)

### 1. What guidelines should now be used for down products sold in the USA?

For the time being the historical FTC "standards" should still be used.

Although the FTC has rescinded its regulations, many individual states have regulations still in place. These regulations have the same standards and tolerances as the historical FTC guidelines. Before a new industry-wide national standard is established --- existing state regulations must be modified.

### 2. How should products currently in production be labeled?

Vendor specifications for the fall/winter 1998-1999 season were based upon FTC guidelines. Also, state labeling regulations are still in place. Labeling for the short-term future should remain the same.

### 3. Why did the FTC rescind its regulation?

**The FTC clearly wants more accurate labeling of down and feather products.** They prefer to have private industry determine standards for such labeling. Details of the FTC statement are found in the Federal Register dated August 20, 1998 (See page 2). We expect further clarifications from the FTC.

### 4. What will replace the FTC regulation?

- a. The FTC feels that the existing general regulations to prevent deception in labeling and advertising can apply to down and feather products.
- c. The FTC would like the down and feather industry to come up with a method to label products in a way that more closely represents actual down content.
- d. In the short-term, current state regulations are still in place and can still be enforced. These state regulations in most cases match language and tolerances in the historical FTC guidelines.

### 5. What next?

The FTC would like industry or other private standard-setting organizations to provide future guidelines for testing and labeling of down and feather products.

Representatives from the American Down Association (ADA), the Association of Bedding and Furniture Law Officials (ABFLO), and others will need to discuss the future of USA standards.

Recent work by the International Down and Feather Bureau (IDFB) in world-wide testing standards and the experience of the European Union (EU) in revising labeling standards may also be helpful.

**International Down and Feather Testing Laboratory**  
**1455 South 1100 East Salt Lake City, UT 84105 USA**  
**Tel: (801) 467-7611 Fax: (801) 467-7711**

# SUMMARY TEXT OF FTC STATEMENT - Federal Register August 20, 1998

See Federal Register / Vol. 63. No. 161 / Pages 44553-44555

The Federal Trade Commission (FTC) is rescinding its Guides for the Feather and Down Products Industry (guides) that appear in 16 CFR Part 253, and issuing a general enforcement policy statement which respect to misrepresentations concerning feather and down-filled products.

(The guides addressed claims for the advertising, labeling, and sale of products that are wholly or partially filled with feathers or down, and all bulk stocks of processed feathers or down intended for use or used in the manufacture of such products.)

Among other things, and of particular interest to the FTC, the guides permitted the unqualified term 'down' to be used to designate a product containing a minimum of 70% down and plumules. The FTC states that this standard created, in effect, a 30% tolerance for the down and plumules content of down-filled products.

## REASONS FOR RESCINDING THE GUIDELINES

The FTC states that despite its receipt of a total of nine comments, all of which supported retaining the guides, it is rescinding them for the following reasons:

1. **The guides did not appear to promote truth in labeling and advertising.** The guides' 30% tolerance appears to have become a manufacturing standard for use of the term 'down' when the tolerance was originally intended to accommodate the [then] imprecise nature of processing and manufacturing. The guides have resulted in a situation where products contain 30% less down than is indicated by the term 'down';
2. **The guides appear to be confusing to industry members attempting compliance,** e.g. industry members who know the exact composition of a product's filling contents still inquire how the products should be labeled under the FTC's tolerances;
3. The guides set forth detailed standards that can be better established by private standards-setting organizations or others with expertise in technical measurement issues and industry practices;
4. **The guides' content disclosure principles may have had unintended anticompetitive effects, distorting consumer demand and related production decisions.** For example, permitting manufactures of 70% down products to advertise and label their products as 'down' might make a product advertised and labeled as '85% down and plumules' appear inferior. As a result, down product producers were unlikely to bear the increased cost to bring higher down content products to market, and consumers were denied access to some down products that they otherwise might choose; and

5. **The guides provided unwarranted special treatment not given to other industries,** i.e. the 30% tolerance for percentage claims appears overly generous when compared to the 3% tolerance for blended fiber claims afforded by the Rules and Regulations under the Textile Fiber Products Identification Act.

## GENERAL ENFORCEMENT POLICY STATEMENT

The FTC states that while its rescission of these guides **does not** signal its withdrawal from efforts to prevent deception in the labeling and advertising of these products, it does mean that it will no longer maintain detailed specifications for the down and feather products industry.

However, the FTC states, applying anti-deception principles and in the absence of further evidence of consumer interpretation of unqualified 'down' claims, it expects down content to reflect the use of appropriately calibrated, modern mass production techniques, which should yield down content of more than 70% for products labeled 'down.' The FTC notes that producers of down products have generally acknowledged that it is quite practical using present production methods to produce down blend goods having a down content that is plus or minus 2% - 5% of a targeted number, rather than a 30% variation.

The FTC states that other aspects of down product composition addressed in the guides should be governed by deception law, market forces, and the application of modern production techniques. The FTC adds that it hopes that market forces will foster truthful labeling and advertising practices and prompt industry to create effective standards and develop methods of product differentiation.

However, the FTC states, if deceptive practices prove to be a problem in this industry in the future, further FTC enforcement actions may be warranted. For further information contact:

### Alice Au, FTC New York Regional Office

150 William Street, Suite 1300, New York, NY 10038  
Tel: (212) 264-1210 Fax: (212) 264-0459

### Carol Jennings, FTC Headquarters

6th St & Pennsylvania NW, Washington DC 20580  
Tel: (202) 326-3010 Fax: (202) 326-2558

