

2 of the Accomplishment Instructions in PIAGGIO AERO INDUSTRIES S.p.A. Mandatory Service Bulletin No. 80-0345, dated September 20, 2012, and Paragraph B of the Accomplishment Instructions in Piaggio Aero Industries S.p.A. Appendix A, dated September 20, 2012, that includes Messier-Dowty Service Bulletin No. P180-32-32, dated September 10, 2012.

(i) As of the effective date of this AD, if the MLG LHF has accumulated 2,300 hours TIS or less since new, inspect before exceeding 2,500 hours TIS since new.

(ii) As of the effective date of this AD, if the MLG LHF has accumulated more than 2,300 hours TIS since new, but less than 2,500 hours TIS since new, inspect within the next 200 hours TIS after the effective date of this AD.

(iii) As of the effective date of this AD, if the MLG LHF has accumulated 2,500 hours TIS or more since new, inspect within the next 200 hours TIS after the effective date of this AD or within the next 3 months after the effective date of this AD, whichever occurs first.

(4) Within the compliance times specified in paragraphs (f)(3)(i), (f)(3)(ii), and (f)(3)(iii) of this AD and repetitively thereafter at intervals not to exceed 750 hours TIS, do a fluorescent penetrant inspection on each MLG LHF for cracks. Do the inspection following Part 3 of the Accomplishment Instructions in PIAGGIO AERO INDUSTRIES S.p.A. Mandatory Service Bulletin No. 80-0345, dated September 20, 2012, and Paragraph C of the Accomplishment Instructions in PIAGGIO AERO INDUSTRIES S.p.A. Appendix A, dated September 20, 2012, that includes Messier-Dowty Service Bulletin No. P180-32-32, dated September 10, 2012.

(5) If, during any inspection required by paragraphs (f)(1), (f)(3), (f)(4), (f)(7), and (f)(8) of this AD, including all subparagraphs, any crack is found, before further flight, replace the MLG with a serviceable part. Do the replacement following the Accomplishment Instructions in Piaggio Aero Industries S.p.A. Mandatory Service Bulletin No. 80-0345, dated September 20, 2012. After installing a serviceable MLG, continue with the repetitive inspection requirements of paragraphs (f)(1), (f)(3), and (f)(4) of this AD.

(6) Within 30 days after each MLG LHF replacement, submit an inspection result report to Piaggio Aero Industries S.p.A. at the address specified in paragraph (h) of this AD using the Confirmation Slip attached to Piaggio Aero Industries S.p.A. Mandatory Service Bulletin No. 80-0345, dated September 20, 2012.

(7) For the purpose of this AD, a "serviceable" MLG is an airworthy MLG verified before installation for freedom of rotation and has been inspected following paragraphs (f)(3) and (f)(4) of this AD, including all subparagraphs, and is found free of cracks. If status of detailed visual inspections intervals, fluorescent penetrant inspections intervals, or hours TIS since new cannot be determined from the Authorized Release Certificate of the MLG to be installed, before next flight after installation, inspect the MLG LHF as specified in paragraphs (f)(3) and (f)(4) of this AD. Any newly install MLG

LHF is subject to the repetitive inspections required in paragraphs (f)(1), (f)(3), and (f)(4) of this AD.

(8) As of the effective date of this AD, any MLG with LHF marked "inspect as per SB 80-0345" that was removed as specified in paragraph (f)(2) of this AD may be reinstalled provided that before installation, freedom of rotation has been restored. Before further flight after installation, the MLG LHF must be inspected as specified in paragraphs (f)(3) and (f)(4) of this AD. Continue thereafter with the repetitive inspections at the intervals specified paragraphs (f)(1), (f)(3), and (f)(4) of this AD.

#### (g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4144; fax: (816) 329-4090; email: [mike.kiesov@faa.gov](mailto:mike.kiesov@faa.gov). Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product*: For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements*: For any reporting requirement in this AD, a federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120-0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES-200.

#### (h) Related Information

(1) Refer to MCAI European Aviation Safety Agency (EASA) AD No. 2013-0084, dated April 5, 2013; Messier-Dowty PCS-2700 Paint Stripping document, dated January 2011; Messier-Dowty PCS-2622 Cold Degreasing (Solvent) document, Issue 2, dated May 12, 2008; and Messier-Dowty Ltd

201034005 and 201034006 Component Maintenance Manual, page 2, dated May 1, 2004, and page 1020, dated March 17, 2006, for related information.

(2) For service information identified in and related to this AD, contact Piaggio Aero Industries S.p.A.—Airworthiness Office, Via Luigi Cibrario, 4-16154 Genova-Italy; phone: +39 010 6481353; fax: +39 010 6481881; email: [airworthiness@piaggioaero.it](mailto:airworthiness@piaggioaero.it); Internet: <http://www.piaggioaero.com/#/en/aftersales/service-support>; and Messier-Dowty Limited, Cheltenham Road, Gloucester, GL2 9QH, England; phone: +44(0)1452 712424; fax: +44(0)1452 713821; email: [americatass@safranmbd.com](mailto:americatass@safranmbd.com); Internet: [www.safranmbd.com](http://www.safranmbd.com). You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329-4148.

Issued in Kansas City, Missouri, on June 13, 2013.

#### Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

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## FEDERAL TRADE COMMISSION

### 16 CFR Part 301

#### RIN 3084-AB27

### Rules and Regulations Under the Fur Products Labeling Act

**AGENCY:** Federal Trade Commission ("FTC" or "Commission").

**ACTION:** Supplemental notice of proposed rulemaking.

**SUMMARY:** To promote consistency between the guaranty provisions in its Rules and Regulations under the Fur Products Labeling Act and those governing textile products, the Commission proposes amendments clarifying a signature requirement for separate guaranties and requiring guarantors to renew continuing guaranties annually.

**DATES:** Written comments must be received on or before July 23, 2013.

**ADDRESSES:** Interested parties may file a comment online or on paper by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write "Fur Rules Review, 16 CFR Part 301, Project No. P074201" on your comment, and file your comment online at <https://ftcpublic.commentworks.com/ftc/furproductslabelingnprm> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to

the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex O), 600 Pennsylvania Avenue NW., Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** Matthew J. Wilshire, Attorney, (202) 326-2976, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, 600 Pennsylvania Avenue NW., Washington, DC 20580.

**SUPPLEMENTARY INFORMATION:**

**I. Introduction**

On April 30, 2013, the Federal Trade Commission (“FTC” or “Commission”) issued a Notice of Proposed Rulemaking (“Textile NPRM”) announcing proposed amendments to its Rules and Regulations (“Textile Rules”) under the Textile Fiber Products Identification Act (“Textile Act”). Among other things, the proposed changes would alter the form for continuing guaranties filed with the Commission and require annual renewal of such guaranties. Both the Textile and the Fur Products Labeling Act (“Fur Act”) provide exemptions from liability for retailers and other recipients of covered products based on certifications that the transferred products are not misbranded, falsely invoiced, or falsely advertised.

On September 17, 2012, the Commission proposed amendments to the Fur Rules to update the Fur Products Name Guide, provide greater labeling flexibility, and incorporate provisions of the recently enacted Truth in Fur Labeling Act. Since that proposal, the Commission proposed altering the textile guaranty provisions in the Textile NPRM. In addition, one commenter has urged changes to the fur guaranty provisions. The Commission, therefore, now proposes additional guaranty amendments for the Fur Rules to provide notice and an opportunity to comment on this proposal while the Commission considers comments received in response to the changes it proposed in 2012. Doing so will allow the Commission to incorporate any guaranty final amendments in conjunction with any other final amendments, and thereby assist businesses in understanding their compliance obligations under the revised rules.

This document provides information on guaranties, explains the proposed amendments, solicits additional comment, provides analyses under the Regulatory Flexibility Act and the Paperwork Reduction Act, and sets forth the Commission’s proposed amendments.

**II. Background**

The Fur Act, Textile Act, and Wool Products Labeling Act (“Wool Act”)<sup>1</sup> each shield from liability entities that obtain guaranties from third parties. These guaranties attest that the transferred products are not mislabeled or falsely advertised or invoiced. There are two types of guaranties. Separate guaranties designate particular products.<sup>2</sup> Continuing guaranties, which guarantors file with the Commission, apply to any textile, wool, or fur product transferred from a particular guarantor.<sup>3</sup> Each act further provides that guaranty protections are available only for entities that receive a guaranty in “good faith” from a “person residing in the United States.”<sup>4</sup>

Entities providing continuing guaranties for fur products must file those guaranties with the Commission using the form specified in the Textile Rules at 16 CFR 303.38(b).<sup>5</sup> Continuing guaranties remain in effect until revoked.<sup>6</sup>

**III. Proposed Amendments**

In response to the Commission’s September 17, 2012, proposed amendments (“Fur NPRM”),<sup>7</sup> the National Retail Federation (“NRF”) submitted a comment recommending revisions to the guaranty provisions. Specifically, NRF supported changes allowing entities to provide separate guaranties through electronic means, removing the penalty of perjury language from the continuing guaranty form, making the guaranty format “suggested” rather than “prescribed,” and adding a provision to extend guaranty protections to retailers that import goods directly and, therefore, cannot obtain a guaranty.<sup>8</sup> NRF recommended making the same changes to the Textile Rules.<sup>9</sup>

<sup>1</sup> 15 U.S.C. 69 et seq. (Fur Act); 15 U.S.C. 70 et seq. (Textile Act); 15 U.S.C. 68 et seq. (Wool Act). The Fur Rules are codified at 16 CFR Part 301, the Textile Rules are codified at 16 CFR Part 303, and the Wool Rules are codified at 16 CFR Part 300.

<sup>2</sup> 15 U.S.C. 68g(a); 15 U.S.C. 69h(a); 15 U.S.C. 70h(a).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> 15 U.S.C. 69h(a)(2).

<sup>6</sup> 16 CFR 301.48(a)(2).

<sup>7</sup> *Federal Trade Commission: Regulations Under the Fur Products Labeling Act*, 77 FR 57043 (Sept. 17, 2012).

<sup>8</sup> National Retail Federation Comment #00025 at 1–5, available at <http://www.ftc.gov/os/comments/furrulesreview/index.shtm> (hereinafter “NRF at”).

<sup>9</sup> See National Retail Federation Comment #0020 to “16 CFR Part 303: Rules and Regulations Under the Textile Fiber Products Identification Act: Advance Notice of Proposed Rulemaking and Request for Public Comment,” available at <http://ftc.gov/os/comments/textilerulesnpr/index.shtm>.

On April 30, 2013, the Commission issued the Textile NPRM, which announced several proposed amendments to the rules governing guaranties.<sup>10</sup> As detailed in that NPRM, the Commission proposed eliminating the penalty of perjury language in the required form for continuing guaranties and proposed requiring that guarantors renew continuing guaranties annually.

In light of the proposed amendments to the Textile Rules, as well as NRF’s comment, the Commission proposes conforming amendments to the Fur Rules. As explained below, the Commission declines to propose amendments specifically providing for electronic transmission of separate guaranties, and proposes that guarantors renew continuing guaranties annually. In addition, the Commission does not propose amendments regarding NRF’s concerns about guaranty protections for retailers directly importing products because a recently announced Enforcement Policy Statement provides the requested protections.<sup>11</sup>

*A. Electronic Transmission of Separate Guaranties*

NRF urged the Commission to publish amendments explicitly providing for the electronic transmission of separate guaranties. Currently, section 301.47 provides a “suggested form” for such guaranties, which includes the guarantor’s “signature and address.”<sup>12</sup> Section 301.47 does not provide guidance regarding what qualifies as a signature. NRF urged amending the Rules to specify that an order for apparel between a purchasing business’ “electronic agent,” as that term is defined by the Uniform Commercial Code (“UCC”), and a guarantor will constitute a separate guaranty if the order is explicitly subject to the goods’ conformance with the Fur Act and Rules.<sup>13</sup> Notably, the “electronic agent” definition proposed by NRF provides that electronic acceptance can occur “with or without review or action by an individual.”<sup>14</sup> NRF also urged that the Fur Rules “clearly stat[e] how companies [can] comply with the regulations though electronic means,” including the use of electronic signatures.<sup>15</sup>

The Commission declines to propose amendments specifically addressing electronic transmittal of guaranties. The

<sup>10</sup> 78 FR 29263 (May 20, 2013).

<sup>11</sup> See *Enforcement Policy Regarding Certain Imported Textile, Wool, and Fur Products* at <http://www.ftc.gov/opa/2013/01/eps.shtm>.

<sup>12</sup> 16 CFR 301.47.

<sup>13</sup> NRF at 2.

<sup>14</sup> NRF at 2.

<sup>15</sup> NRF at 3.

Fur Rules do not prohibit or discourage the electronic communication of guaranties, nor do they require any particular mode of communication. Instead, the Rules focus on the guaranties' substance. Furthermore, incorporating "electronic agent" as defined by the UCC could undermine compliance with the Rules. For example, incorporating the definition would permit guaranteeing of goods by "a computer program or an electronic or other automated means."<sup>16</sup> This would allow guaranties without any individual monitoring to ensure that the guaranteed products meet the legal requirements for guaranties. Indeed, it is unclear how a buyer receiving a guaranty in such circumstances could do so in good faith.

Moreover, NRF has not presented any evidence showing that the current Fur Rules impose significant costs on businesses or that making its recommended change would decrease those costs. The Rules appear to provide sufficient flexibility for compliance without providing specifically for "electronic guaranties." Although the Commission is not proposing NRF's recommended amendment, the Commission seeks comment on this issue.

The Commission proposes two amendments, however, to make clear that electronically transmitted guaranties are not prohibited. First, the Commission proposes, as it did in the Textile NPRM, changing the term "invoice" in section 301.47 and the phrase "invoice or other paper" in section 301.48(b) to "invoice or other document." The proposed change would make clear that "invoice" includes documents that are electronically stored or transmitted. Second, the Commission proposes amending section 301.47 to include, as the Textile Rules currently do, a statement that the guarantor's printed name and address will meet the signature component for separate guaranties.<sup>17</sup> Specifically, the Commission proposes adding the following language to section 301.47: "**Note:** The printed name and address on the invoice or other document will suffice to meet the signature and address requirements." This additional language should make clear that entities can sign guaranties electronically, consistent with the Electronic

Signatures in Global and National Commerce Act.<sup>18</sup>

### B. Continuing Guaranties

Section 301.48 requires that guarantors use the prescribed form in 16 CFR 303.38(b) for a continuing guaranty filed with the Commission. The current form requires the guarantor to sign the guaranty under penalty of perjury. NRF recommended making the guaranty form optional and eliminating the penalty-of-perjury requirement.<sup>19</sup> Consistent with the Textile NPRM, the Commission declines to propose the first amendment, but proposes to require that guarantors certify guaranties rather than sign them under penalty of perjury.

NRF recommended making the continuing guaranty form optional to allow businesses to use electronic processes without the obligation to revert to paper documents and signatures.<sup>20</sup> The Commission declines to propose this change because the prescribed form benefits businesses without imposing significant burdens. Requiring a uniform document enables the Commission to review, process, and return the guaranties expeditiously. Reviewing documents in varying formats to determine whether they qualify as guaranties would add needless delay.

In addition, requiring a specific form does not appear to inhibit electronic processes or cause any other burden. NRF did not present any evidence showing that businesses cannot adapt the prescribed form to electronic communications, including electronic signatures. Businesses may send the prescribed form electronically, and the Fur Rules allow electronic signatures.<sup>21</sup> Moreover, the form is only one page and consists of a two-sentence certification and a signature block stating the date, location, and name of the business making the guaranty, as well as the name, title, and signature of the person signing the guaranty.

NRF also recommended that the Commission eliminate the penalty of perjury language for continuing guaranties. It argued that requiring sworn statements inappropriately introduces the criminal elements of perjury into private contracts and that the person providing the attestation cannot attest to the truth of labels and invoices in the future.<sup>22</sup>

Although swearing under penalty of perjury in private agreements is not unusual,<sup>23</sup> swearing to future events is problematic and may present enforcement issues. Specifically, many people who intend to comply with the Rules may be understandably reluctant to swear to a future event. Accordingly, in its Textile NPRM, the Commission proposed eliminating the penalty of perjury language. Because the Fur Rules incorporate the same form, the proposed Textile amendments would eliminate the penalty of perjury requirement for fur guaranties as well.

Continuing guaranties, however, must provide sufficient indicia of reliability to permit buyers to rely on them on an ongoing basis. The perjury language addressed this concern. Therefore, instead of requiring guarantors to swear under penalty of perjury, the Textile NPRM proposed requiring guarantors to acknowledge that providing a false guaranty is unlawful; to certify that they will actively monitor and ensure compliance with the Fur, Textile, and Wool Acts and Rules; and to renew guaranties annually.

As explained in the Textile NPRM, the new form should increase a guaranty's reliability by focusing the guarantor's attention on, and underscoring, its obligation to comply. However, the new form would not impose additional burdens on guarantors because they would simply be acknowledging the Fur Act's prohibition against false guaranties<sup>24</sup> and certifying to the monitoring that they already must engage in to ensure that they do not provide false guaranties. In addition, the required statements would benefit recipients of guaranties by bolstering the basis of their good-faith reliance on the guaranties.

Additionally, requiring guarantors to renew guaranties annually provides needed assurance of reliability in the absence of a sworn statement. Annual renewal should encourage guarantors to take regular steps to ensure that they remain in compliance with the Fur Act and Rules and thereby increase the guaranties' reliability. Moreover, these benefits should outweigh the minimal burden of completing the one-page form. As discussed above, the form

<sup>23</sup> See *J. Geils Band Employee Benefit Plan v. Smith Barney Shearson, Inc.*, 76 F.3d 1245 (1st Cir. 1996) (upholding summary judgment in part because appellant failed to rebut acknowledgment of receipt of investment prospectuses evidenced by an agreement executed under penalty of perjury).

<sup>24</sup> The Fur Act provides that furnishing a false guaranty is "unlawful, . . . [and] an unfair method of competition, and an unfair and deceptive act or practice" under the FTC Act. 15 U.S.C. 69h(b).

<sup>18</sup> 15 U.S.C. 7001 et seq.

<sup>19</sup> NRF at 4–5.

<sup>20</sup> NRF at 5.

<sup>21</sup> The word "signature" appears in the prescribed form for continuing guaranties filed with the Commission. That form does not require written signatures or prohibit electronic signatures.

<sup>22</sup> NRF at 3.

<sup>16</sup> NRF at 2.

<sup>17</sup> Section 301.47 also differs from the Textile Guaranty provisions by requiring separate guaranties to show "the date of shipment of the merchandise." 16 CFR 301.47. To promote consistency between guaranty provisions, the Commission proposes removing this requirement.

consists of only a two-sentence certification and a signature block stating the date, location, and name of the business making the guaranty, as well as the certifier's name and title. Thus, businesses should not incur significant costs in completing and submitting the form annually. Although certifying also would require guarantors to confirm that their business remains in compliance, this would not impose any burden beyond what the Fur Rules currently require. Specifically, entities that have filed continuing guaranties must continuously monitor their shipments to ensure that they are complying with the Fur Act and Rules.<sup>25</sup>

Unlike changes to the continuing guaranty form, requiring annual renewal necessitates an amendment to the Fur Rules. Thus, the Commission proposes amending section 301.48(a)(2) to provide that continuing guaranties are valid for a year or until revoked.

#### *C. Alternative to Fur Act Guaranty for Directly Imported Goods*

The Fur Act authorizes fur guaranties from persons "residing in the United States by whom the fur product or fur guaranteed was manufactured or from whom it was received."<sup>26</sup> Thus, businesses that buy from manufacturers or suppliers that have no representative in the United States cannot obtain a guaranty.

Because many retailers now regularly rely on global supply chains, NRF recommended that the Commission adopt an alternative guaranty for such businesses. Specifically, NRF recommended that the Commission allow such businesses to rely on compliance representations from foreign manufacturers or suppliers when: (1) The businesses do not embellish or misrepresent the representations; (2) the fur products are not sold as private label products; and (3) the businesses have no reason to know that the marketing or sale of the products would violate the Act or Rules.<sup>27</sup>

As discussed in the Textile NPRM, NRF's argument has merit. Changes in the clothing industry resulting in increased imports mean that more businesses cannot obtain guaranties. In light of the increased reliance on global supply chains for fur products, the Commission finds it in the public interest to provide protections for retailers that: (1) Cannot legally obtain

a guaranty under the Fur Act; (2) do not embellish or misrepresent claims provided by the manufacturer related to the relevant Act or Rules; and (3) do not market the products as private label products; unless the retailers knew or should have known that the marketing or sale of the products would violate the Act or Rules. Such protections provide greater consistency for retailers regardless of whether they directly import products or use third-party domestic importers. Accordingly, on January 3, 2013, the Commission announced an enforcement policy statement providing that it will not bring enforcement actions against retailers that meet the above criteria.<sup>28</sup> This statement addresses the concerns raised by NRF.<sup>29</sup>

#### **IV. Request for Comments**

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before July 23, 2013. Write "Fur Rules Review, 16 CFR Part 301, Project No. P074201" on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment doesn't include any sensitive personal information, such as anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, don't include any "[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential," as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2).

<sup>28</sup> See *Enforcement Policy Regarding Certain Imported Textile, Wool, and Fur Products* at <http://www.ftc.gov/opa/2013/01/eps.shtm>.

<sup>29</sup> NRF requested an amendment to the Fur Rules. However, amending the Rules to allow foreign guaranties would be inconsistent with the Fur Act, which requires guarantors to "resid[e] in the United States." 15 U.S.C. 69h.

In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).<sup>30</sup> Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/furproductslabelingnprm>, by following the instruction on the web-based form. If this Notice appears at <http://www.regulations.gov>, you also may file a comment through that Web site.

If you file your comment on paper, write "Fur Rules Review, 16 CFR Part 301, Project No. P074201" on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex O), 600 Pennsylvania Avenue NW., Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at <http://www.ftc.gov> to read this NPRM and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before July 23, 2013. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

The Commission invites members of the public to comment on any issues or concerns they believe are relevant or appropriate to the Commission's consideration of proposed amendments to the Fur Rules. The Commission requests that comments provide factual

<sup>25</sup> See 16 CFR 303.38(b) (continuing guaranty form requiring sworn statement that guarantor will not ship mislabeled, falsely invoiced, or falsely advertised fur products).

<sup>26</sup> 15 U.S.C. 69h(a).

<sup>27</sup> NRF at 5.

<sup>30</sup> In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c), 16 CFR 4.9(c).

data upon which they are based. In addition to the issues raised above, the Commission solicits public comment on the costs and benefits to industry members and consumers of each of the proposals as well as the specific questions identified below. These questions are designed to assist the public and should not be construed as a limitation on the issues on which public comment may be submitted.

#### Questions

1. Do the Fur Rules and the proposed changes to the guaranty provisions in sections 301.47 and 301.48 provide sufficient flexibility for compliance using electronic transmittal of guaranties? If so, why and how? If not, why not?

2. Should the Commission amend section 301.47 by changing the term “invoice” to “invoice or other document” and removing “the date of shipment of the merchandise”? If so, why? If not, why not?

3. Should the Commission revise the proposed certification requirement for continuing guaranties provided by suppliers pursuant to section 301.48? If so, why and how? If not, why not?

4. Should the Rules require those providing a continuing guaranty pursuant to section 301.48 to renew the certification annually or at some other interval? If so, why? If not, why not? To what extent would requiring guarantors to renew certifications annually increase costs? What benefits would requiring annual renewal provide?

5. What evidence supports your answers?

#### V. Communications to Commissioners and Commissioner Advisors by Outside Parties

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding from any outside party to any Commissioner or Commissioner’s advisor will be placed on the public record.<sup>31</sup>

#### VI. Regulatory Flexibility Act

The Regulatory Flexibility Act (“RFA”)<sup>32</sup> requires that the Commission conduct an analysis of the anticipated economic impact of the proposed amendments on small entities. The purpose of a regulatory flexibility analysis is to ensure that an agency considers the impacts on small entities and examines regulatory alternatives that could achieve the regulatory purpose while minimizing burdens on

small entities. Section 605 of the RFA<sup>33</sup> provides that such an analysis is not required if the agency head certifies that the regulatory action will not have a significant economic impact on a substantial number of small entities.

The Commission believes that the proposed amendments would not have a significant economic impact upon small entities, although it may affect a substantial number of small businesses. The proposed amendments clarify and update the guaranty provisions of sections 301.47 and 301.48 by, among other things, replacing the requirement that suppliers that provide a guaranty sign under penalty of perjury with a certification requirement for continuing guaranties that must be renewed every year.

In the Commission’s view, the proposed amendments should not have a significant or disproportionate impact on the costs of small entities that manufacture or import fur products. Therefore, based on available information, the Commission certifies that amending the Rules as proposed will not have a significant economic impact on a substantial number of small businesses.

Although the Commission certifies under the RFA that the proposed amendments would not, if promulgated, have a significant impact on a substantial number of small entities, the Commission has determined, nonetheless, that it is appropriate to publish an Initial Regulatory Flexibility Analysis to inquire into the impact of the proposed amendments on small entities. Therefore, the Commission has prepared the following analysis:

##### A. Description of the Reasons That Action by the Agency Is Being Taken

In response to public comments, the Commission proposes amending the Rules to update its fur guaranty provisions.

##### B. Statement of the Objectives of, and Legal Basis for, the Proposed Amendments

The objective of the proposed amendments is to clarify and update the Rules’ guaranty provisions by, among other things, replacing the requirement that suppliers that provide a guaranty sign under penalty of perjury with an annually renewed certification. The Fur Act authorizes the Commission to implement its requirements through the issuance of rules.

The proposed amendments would clarify and update the Fur Rules without imposing significant new

burdens or additional costs. The proposal that continuing guaranty certifications expire after one year would likely impose minimal additional costs on businesses that choose to provide a guaranty. Providing a new continuing guaranty each year would likely entail minimal costs.

##### C. Small Entities to Which the Proposed Amendments Will Apply

The Rules apply to various segments of the fur industry, including manufacturers and importers of furs and fur products. Under the Small Business Size Standards issued by the Small Business Administration, apparel manufacturers qualify as small businesses if they have 500 or fewer employees. Importers qualify as small businesses if they have 100 or fewer employees. The Commission’s staff has estimated that approximately 1,290 fur product manufacturers and importers are covered by the Rules’ disclosure requirements.<sup>34</sup> A substantial number of these entities likely qualify as small businesses. The Commission estimates that the proposed amendments will not have a significant impact on small businesses because they do not impose any significant new obligations on them. The Commission seeks comment and information with regard to the estimated number or nature of small business entities for which the proposed amendments would have a significant impact.

##### D. Projected Reporting, Recordkeeping, and Other Compliance Requirements, Including Classes of Covered Small Entities and Professional Skills Needed To Comply

As explained earlier in this document, the proposed amendments would clarify and update the Rules’ guaranty provisions by, among other things, replacing the requirement that suppliers that provide a guaranty sign under penalty of perjury with a certification requirement that must be renewed annually. The small entities potentially covered by these proposed amendments will include all such entities already subject to the existing Rules. The professional skills necessary for compliance with the Rules as modified by the proposed amendments would include clerical personnel to submit guaranties and keep records. The Commission invites comment and information on these issues.

<sup>34</sup> Federal Trade Commission: Agency Information Collection Activities; Submission for OMB Review; Comment Request, 7 FR 10744 (Feb. 23, 2012).

<sup>31</sup> See 16 CFR 1.26(b)(5).

<sup>32</sup> 5 U.S.C. 601–612.

<sup>33</sup> 5 U.S.C. 605.

### *E. Duplicative, Overlapping, or Conflicting Federal Rules*

The Commission has not identified any other federal statutes, rules, or policies that would duplicate, overlap, or conflict with the proposed amendments. The Commission invites comment and information on this issue.

### *F. Significant Alternatives to the Proposed Amendments*

The Commission has not proposed any specific small entity exemption or other significant alternatives, as the proposed amendments simply clarify and update the Rules' guaranty provisions by, among other things, replacing the requirement that suppliers that provide a guaranty sign under penalty of perjury with a certification requirement. Under these limited circumstances, the Commission does not believe a special exemption for small entities or significant compliance alternatives are necessary or appropriate to minimize the compliance burden, if any, on small entities while achieving the intended purposes of the proposed amendments. As discussed above, adopting NRF's proposed changes is unnecessary to allow electronic compliance with the Fur Rules.

Nonetheless, the Commission seeks comment and information on the need, if any, for alternative compliance methods that would reduce the economic impact of the Fur Rules on small entities. If the comments filed in response to this document identify small entities that would be affected by the proposed amendments, as well as alternative methods of compliance that would reduce the economic impact of the proposed amendments on such entities, the Commission will consider the feasibility of such alternatives and determine whether they should be incorporated into the final Rules.

### **VII. Paperwork Reduction Act**

The Rules contain various "collection of information" (e.g., disclosure and recordkeeping) requirements for which the Commission has obtained OMB clearance under the Paperwork Reduction Act ("PRA").<sup>35</sup> As discussed above, the Commission proposes

<sup>35</sup> 44 U.S.C. 3501 *et seq.* The Commission recently published its PRA burden estimates for the current information collection requirements under the Fur Rules. See *Federal Trade Commission: Agency Information Collection Activities; Proposed Collection; Comment Request*, 76 FR 77230 (Dec. 12, 2011) and *Federal Trade Commission: Agency Information Collection Activities; Submission for OMB Review; Comment Request*, 77 FR 10744 (Feb. 23, 2012). On March 26, 2012, OMB granted clearance through March 31, 2015, for these requirements and the associated PRA burden estimates. The OMB control number is 3084-0101.

amending sections 301.47 and 301.48 to clarify and update the Rules' guaranty provisions by, among other things, replacing the requirement that suppliers provide a guaranty signed under penalty of perjury with a certification requirement for continuing guaranties that must be renewed every year.

The proposed amendments to the guaranties would impose no additional collection of information requirements. The proposal that continuing guaranty certifications expire after one year would likely impose minimal additional costs on businesses that choose to provide a guaranty.

### **VIII. Proposed Rule**

#### **List of Subjects in 16 CFR Part 301**

Furs, Labeling, Trade practices.

For the reasons discussed in the preamble, the Federal Trade Commission proposes to amend title 16, Chapter I, Subchapter C, of the Code of Federal Regulations, part 301, as follows:

#### **PART 301—RULES AND REGULATIONS UNDER THE FUR PRODUCTS LABELING ACT**

- 1. The authority citation for part 301 continues to read as follows:

**Authority:** 15 U.S.C. 69 *et seq.*

- 2. Revise § 301.47 to read as follows:

#### **§ 301.47 Form of separate guaranty.**

The following is a suggested form of separate guaranty under section 10 of the Act which may be used by a guarantor residing in the United States, on and as part of an invoice or other document in which the merchandise covered is listed and specified and which shows the date of such document and the signature and address of the guarantor:

We guarantee that the fur products or furs specified herein are not misbranded nor falsely nor deceptively advertised or invoiced under the provisions of the Fur Products Labeling Act and rules and regulations thereunder.

**Note:** The printed name and address on the invoice or other document will suffice to meet the signature and address requirements.

- 3. Amend § 301.48 by revising paragraphs (a)(2) and (b) to read as follows:

#### **§ 301.48 Continuing guaranty filed with Federal Trade Commission**

(a) \* \* \*

(2) Continuing guaranties filed with the Commission shall continue in effect for one year unless revoked earlier. The guarantor shall promptly report any

change in business status to the Commission.

\* \* \*

(b) Any person who has a continuing guaranty on file with the Commission may, during the effective dates of the guaranty, give notice of such fact by setting forth on the invoice or other document covering the marketing or handling of the product guaranteed the following: "Continuing guaranty under the Fur Products Labeling Act filed with the Federal Trade Commission."

\* \* \* \* \*

By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 2013-14671 Filed 6-18-13; 8:45 am]

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## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Food and Drug Administration**

#### **21 CFR Part 866**

[Docket No. FDA-2013-N-0544]

#### **Microbiology Devices; Reclassification of Nucleic Acid-Based Systems for *Mycobacterium tuberculosis* Complex in Respiratory Specimens**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Proposed rule.

**SUMMARY:** The Food and Drug Administration (FDA) is proposing to reclassify nucleic acid-based in vitro diagnostic devices for the detection of *Mycobacterium tuberculosis* complex in respiratory specimens from class III (premarket approval) into class II (special controls). FDA is also issuing the draft special controls guideline entitled "Class II Special Controls Guideline: Nucleic Acid-Based In Vitro Diagnostic Devices for the Detection of *Mycobacterium tuberculosis* Complex in Respiratory Specimens." These devices are intended to be used as an aid in the diagnosis of pulmonary tuberculosis.

**DATES:** Submit either electronic or written comments on the proposed rule by August 19, 2013. See section XIII for the proposed effective date of any final rule that may publish based on this proposal.

**ADDRESSES:** You may submit comments, identified by Docket No. FDA-2013-N-0544, by any of the following methods:

#### *Electronic Submissions*

Submit electronic comments in the following way: