

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)(i)165.3bl(i)AD.

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

<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).

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

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

<sup>7</sup> P, 77 FR 57043 (Sept. 17, 2012).

<sup>8</sup> National Retail Federation Comment #00025 at 1-5, (hereinafter "NRF at").

<sup>9</sup> 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," (hereinafter "NRF at").

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

<sup>11</sup> P at 2013/01/20.

<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>

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 the Fur R enable gu

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<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.

<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>23</sup> *See*, e.g., *United States v. P. v.*, 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).

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.

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

<sup>25</sup> 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>28</sup> 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>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.

<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. 16 CFR 4.9(c), 16 CFR 4.9(c).

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<sup>31</sup> 16 CFR 1.26(b)(5).  
<sup>32</sup> 5 U.S.C. 601-612.

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.

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" (i.e., 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. The Commission recently published its PRA burden estimates for the current information collection requirements under the Fur Rules. 76 FR 77230 (Dec. 12, 2011) and 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,**

[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:

Submit electronic comments in the following way: