Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–SW–36–AD.'' The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

98–16–02 Eurocopter France: Amendment 39–10716. Docket No. 98–SW–36–AD.

Applicability: Model SA 3180, SA 318B, SA 318C, SE 3130, SE 313B, SA.315B, SA.316B, SA.316C, SA.319B, and SE.3160 helicopters, with tail rotor blades, part number (P/N) 3160S–34–10000-all dash numbers, or P/N 3160S–34–11000-all dash numbers, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required within 10 hours time-in-service (TIS), and thereafter at intervals not to exceed 10 hours TIS, unless accomplished previously.

To prevent fatigue failure of a tail rotor blade (blade), and subsequent loss of control of the helicopter, accomplish the following:

(a) With the blade installed on the helicopter:

(1) Clean the blade root skin area using Teepol or an equivalent product.

(2) Using an 8-power or higher magnifying glass, visually inspect the blade skin near the attachment bolts on the blade cuff stem for cracks on the upper and lower surfaces.

(3) If a crack is found, replace the blade with an airworthy blade.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Standards Staff, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

(d) This amendment becomes effective on September 4, 1998, to all persons except those persons to whom it was made immediately effective by Priority Letter AD 98–16–02, issued July 22, 1998, which contained the requirements of this amendment.

Issued in Fort Worth, Texas, on August 12, 1998.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 98–22365 Filed 8–19–98; 8:45 am]

BILLING CODE 4910–13–U

FEDERAL TRADE COMMISSION

16 CFR Part 253

Guides for the Feather and Down Products Industry

AGENCY: Federal Trade Commission.

FINAL ACTION: Rescission of the Guides for the Feather and Down Products Industry; announcement of enforcement policy.

SUMMARY: On April 15, 1994, the Commission published a **Federal Register** notice initiating the regulatory review of the Federal Trade Commission's (''Commission'') Guides for the Feather and Down Products Industry (''Guides'') and seeking public comment. On October 28, 1996, the Commission published a second **Federal Register** notice seeking additional information. In the 1996 notice, the Commission indicated that it had made a preliminary determination to retain but modify the Guides and sought comment on several issues. The Commission has now completed its review, and this notice announces the Commission's decision to rescind the Guides. In addition, the notice provides a general enforcement policy statement with respect to misrepresentations concerning feather and down-filled products.

EFFECTIVE DATE: August 20, 1998.

ADDRESSES: Requests for copies of this notice should be sent to the Consumer Correspondence Center, Room 130, Federal Trade Commission, 6th St. and Pennsylvania Ave., N.W., Washington, DC 20580. The notice is available on the Internet at the Commission's website, http://www.ftc.gov.

FOR FURTHER INFORMATION CONTACT: Alice Au, Attorney, Federal Trade Commission, New York Regional Office, 150 William Street, Suite 1300, New York, NY 10038, (212) 264–1210 or Carol Jennings, Attorney, Federal Trade Commission, Division of Enforcement, 6th St. and Pennsylvania Ave., N.W., Washington, DC 20580, (202) 326–3010.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Guides for the Feather and Down Products Industry 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. The Guides specifically addressed, among other things, the use of trade names, symbols, and depictions; the tolerances for filling material; and the cleanliness of filling material.

As part of the Commission's ongoing review of all current Commission rules and guides, the Commission published a **Federal Register** notice on April 15, 1994, 59 FR 18006, seeking comments about the regulatory and economic costs and benefits of the Guides.[1] The Commission published a second notice on October 28, 1996, 61 FR 55589, setting forth a preliminary determination to retain the Guides and seeking comments on several issues. Of particular interest in this review proceeding was the issue of tolerances recognized by the Guides for filling materials in feather and down products. Section 253.6(f) of the Guides permitted the unqualified term ''down'' to be used to designate a product containing the following fill mixture:

80% Down Portion consisting of

1. 70% down and plumules (minimum)
2. 10% down fiber (maximum)

20% Remainder Portion consisting of (any or all of the following items)

1. Down fiber
2. Waterfowl feather fiber
3. Waterfowl feathers
4. 2% maximum of nonwaterfowl feathers and nonwaterfowl feather fibers
5. 2% maximum residue

This standard created, in effect, a 30% tolerance for the down and plumules content of down-filled products.

Section 253.6(c) of the Guides addressed percentage down claims. Section 253.6(c)(1) stated that a product may not be called ''100% down'' or ''pure'' or ''all down'' unless the product in fact contains only down without regard to any tolerance. Section 253.6(c)(2) stated that a product ''should not be represented to contain a certain percentage of feathers or down unless it in fact contains the stated percentage with due regard to the tolerances set forth in this section.'' The same section of the Guides stated in paragraph (f) that ''[t]he tolerances . . . are not to be construed to permit intentional adulteration.''

All of the comments to the second **Federal Register** notice supported retaining the Guides to maintain quality and an industry standard.[2] In general, the commenters recommended preserving the Guides ''as is'' with suggestions that the Commission make small changes to various allowances permitted by the Guides. None of the comments addressed the Commission's concerns regarding deception and competition.

After extensive review of the Guides and their effect on the feather and down industry, the Commission has decided that the Guides have not promoted compliance with Section 5 of the FTC Act[3] and in fact may have hindered compliance. For the reasons set forth below, the Commission has concluded that consumers would be better served by rescission of the Guides.

II. Reasons for Rescission of the Guides

The Commission has decided to rescind the Guides for several reasons. First, the Guides did not appear to be working as intended to promote truth in labeling and advertising. The Guides' tolerances were intended to accommodate the imprecise nature of processing and manufacturing and were ''not to be construed to permit intentional adulteration.'' Section 253.6(f). Instead, the 30% tolerance afforded by the Guides appears to have become an industry manufacturing standard, not simply a margin for error. The Commission understands that a filling material at the edge of the tolerance for the stated down content, i.e. containing 30% less down than its stated down content, is referred to in the industry as ''FTC down.'' The fact that the Guides have resulted in the situation where products contain 30% less down than stated suggests that the Guides did not promote truth in labeling or advertising and should be rescinded.

Second, it appears that the Guides were confusing to industry members attempting compliance. For example, FTC staff has received queries from industry members who know the exact composition of a product's filling contents, based on lab analysis, but nonetheless inquire how the product should be labeled under the FTC's tolerances. This situation suggests that rather than creating clarity, these Guides have caused confusion in this industry.

Third, 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. Market forces may also effectively set standards as long as the fill mixture is truthfully disclosed.

Fourth, the Guides' content disclosure principles may have had unintended anticompetitive effects, distorting consumer demand and related production decisions. Because manufacturers of 70% down products could advertise and label their products as ''down,'' manufacturers of competing products with significantly greater down and plumules content could not readily distinguish their products. For example, if a product were advertised and labeled ''85% down and plumules,'' it might appear inferior to a product labeled ''down.'' 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.

Fifth, the Guides provided unwarranted special treatment not given to other industries. In particular, a 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.[4]

These Guides have not served the general purpose of Guides, which is to increase industry compliance with

[1] Comments received in response to the first **Federal Register** notice were discussed in the second **Federal Register** notice. All of the comments were from industry, and all supported retaining the Guides.

[2] The Commission's second request for public comment elicited nine comments from the industry and none from consumers or consumer groups: (1) J.C. Penney Company, Inc., (2) Blue Ridge Home Fashions, Inc., (3) The Canadian Down and Feather Products Association, (4) Pillowtex Corporation, (5) Pacific Coast Feather Company, (6) American Down Association, (7) International Down and Feather Testing Laboratory, (8) Eurasia Feather Inc./Down Inc., and (9) Hollander Home Fashions Corp. These comments are on the public record and available for viewing in Room 130 at the Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580, from 8:30 am to 5 pm, Monday–Friday.

[3] Section 5 of the FTC Act, 15 U.S.C. 45(a)(1) states: ''Unfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce, are hereby declared unlawful.''

[4] 16 CFR 303.43 and 303.27, promulgated under the Textile Fiber Products Identification Act, 15 U.S.C. 70–70k.

Section 5 of the FTC Act. Therefore, rescission is appropriate.

III. The Commission's Future Enforcement Policy

The rescission of the Guides does not leave the industry without guidance as to how to comply with the law. Moreover, it does not signal an FTC withdrawal from efforts to prevent deception in the labeling and advertising of these products. The rescission of the Guides does mean, however, that the FTC will no longer maintain detailed specifications for the feather and down industry.

In rescinding the Guides, the Commission directs the industry's attention to the principles of law articulated in the FTC's Deception Statement and pertinent Commission and court decisions on deception, both of which are generally applicable to all industries.[5] As articulated in the Deception Statement, the Commission ''will find deception if there is a representation, omission, or practice that is likely to mislead the consumer acting reasonably in the circumstances, to the consumer's detriment.''[6]

Applying these principles, and in the absence of further evidence of consumer interpretation of unqualified ''down'' claims, the Commission expects down content to reflect the use of appropriately calibrated, modern mass production techniques. The Commission understands that, at the present time, application of those production techniques should yield down content of more than 70% for products labeled ''down.'' With respect to percentage down claims, producers of down products generally have acknowledged that it is quite practicable, 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. Other aspects of down product composition addressed in the former Guides also should be governed by deception law, market forces, and the application of modern production techniques.

Rescission of the Guides should provide greater incentives for industry itself to create effective standards and develop methods of product differentiation. The Commission hopes that market forces will foster truthful labeling and advertising practices. Industry members are encouraged to be vigilant in monitoring both their own and their competitors' practices. If, in the future, deceptive practices prove to be a problem in this industry, further FTC enforcement actions may be warranted.

[5] *Cliffdale Associates, Inc., et al.,* 103 F.T.C. 110, 175 (including Deception Statement as Appendix) (1984).

[6] *Id.* at 176.

List of Subjects in 16 CFR Part 253

Advertising, Labeling, Filling Material, Trade Practices.

PART 253—[REMOVED]

The Commission, under authority of sections 5(a)(1) and 6(g) of the Federal Trade Commission Act, 15 U.S.C. 45(a)(1) and 46(g), amends Chapter I of Title 16 of the Code of Federal Regulations by removing part 253.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 98–22445 Filed 8–19–98; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

16 CFR Part 425

Trade Regulation Rule Regarding Use of Negative Option Plans by Sellers in Commerce

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission (''FTC'' or ''Commission'') has completed its regulatory review of the Trade Regulation Rule regarding the Use of Negative Option Plans by Sellers in Commerce (''the Negative Option Rule'' or ''the Rule''). Pursuant to this review, the Commission concludes that the Negative Option Rule continues to be of value to consumers and firms, and is functioning well in the marketplace at minimal cost. This document summarizes and discusses the comments received in response to a request for public comment regarding the overall costs and benefits of the Rule, and announces the Commission's decision to retain the Rule in its present form. This document also announces several technical, non-substantive amendments to clarify the Rule and conform its language to amendments in the Federal Trade Commission Act (''FTC Act'').

EFFECTIVE DATE: August 20, 1998.

FOR FURTHER INFORMATION CONTACT: Edwin Rodriguez, Attorney, Federal Trade Commission, Washington, DC 20580, (202) 326–3147.

SUPPLEMENTARY INFORMATION:

Introduction

As part of a systematic review of its Rules and Guides, on March 31, 1997, the Commission solicited comments on whether there is a continuing need for the Negative Option Rule, 61 FR 15135. It also requested comments on the benefits and costs of the Rule to consumers and firms, and whether the Rule should be changed to increase its benefits or to reduce its costs or other burdens. The Commission sought comments about any abuses occurring in the promotion or operation of negative option plans that are not addressed by the Rule, and alternatives—such as consumers education, industry self-regulation, or rule amendment—for dealing with such abuses, including the benefits and burdens any change would have on industry and consumers. The Commission also sought comments on the effect on the Rule of changes in technology or economic conditions, such as the use of e-mail and the Internet. The Commission was also interested in learning about any overlap or conflict with other federal, state, or local laws or regulations.

The Commission received 19 comments in response to this request.[1]

[1] The comments have been filed on the Commission's public record as Document Nos. B21944500001, B21944500002, etc. The comments are cited in this notice by the name of the commenter, a shortened version of the comment number, and the relevant page(s) of the comment, e.g., DMA, #018, at 5. All written comments submitted are available for public inspection on normal business days between the hours of 8:30 a.m. to 5 p.m. at the Public Reference Room, Room 130, Federal Trade Commission, 6th St. and Pennsylvania Ave., NW, Washington, DC 20580. The commenters are: Jerome S. Lamet, Jerome S. Lamet & Associates (''Lamet''), #001; Stephen L. Bair, Book-of-the-Month Club, Inc. (''BOMC''), #002; A. Thomas Niebergall (''Niebergall''), #003; Joseph A. Greenberg, Professor of Education, George Washington University (''Greenberg''), #004; Owen R. Phillips, Professor of Economics, University of Wyoming (''Phillips''), #005; Charles Jacobina, Professor of Marketing, George Washington University (''Jacobina''), #006; Lydia Proctor, Ontario Ministry of Consumer and Commercial Relations (''Ontario''), #007; Robert L. Sherman, Direct Marketing Association (''DMA''), #008; William L. Oemichen, Administrator, Division of Trade and Consumer Protection, Wisconsin Department of Agriculture (''Wisconsin/Agriculture''), #009; A Courtney Yell, Director/Chief Sealer, County of Bucks, Pennsylvania, Department of Consumer Protection/Weights & Measures (''Bucks County''), #010; Robert J. Posch, Jr., Vice President, Legal Affairs, Doubleday Direct (''Doubleday''), #011; James E. Doyle, Attorney General, State of Wisconsin Department of Justice (''Wisconsin AG''), #012; Barry Jay Reiss, Senior Vice President, Business & Consumer Affairs, Columbia House (''Columbia House''), #013; Clifton B. Knight, Jr., Senior Vice President, Business Affairs, BMG Direct, Inc. (''BMG''), #014; Mark T. Spriggs, Assistant Professor of Marketing, University of Oregon, and John R. Nevin, Grainger Wisconsin Distinguished Professor, School of Business, University of Wisconsin-Madison (''Spriggs & Nevin''), #015; Anne Darr, DeHart and Darr Associates, Inc. (''DeHart and Darr''), #016; Bruce A. Craig (''Craig''), #017; Mark Bressler

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