

shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM-116.

**Note 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM-116.

#### Special Flight Permits

(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 airplane to a location where the requirements of this AD can be accomplished.

**Note 4:** The subject of this AD is addressed in British airworthiness directive 006-09-99.

Issued in Renton, Washington, on December 9, 1999.

**D.L. Rigin,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 99-32511 Filed 12-14-99; 8:45 am]

BILLING CODE 4910-13-U

## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

#### 15 CFR Part 280

[Docket No. 980623159-9316-03]

RIN 0693-AB47

#### Procedures for Implementation of the Fastener Quality Act

**AGENCY:** National Institute of Standards and Technology and the Bureau of Export Administration and the Patent and Trademark Office, United States Department of Commerce.

**ACTION:** Notice of proposed rulemaking; request for comments.

**SUMMARY:** The Director of the National Institute of Standards and Technology (NIST), United States Department of Commerce, and the Under Secretary of the Bureau of Export Administration, United States Department of Commerce, and the Assistant Secretary of Commerce and Commissioner of Patents and Trademarks, United States Department of Commerce, request comments on proposed changes to the regulations pertaining to the implementation of the Fastener Quality Act ("the FQA") to incorporate amendments to the FQA contained in the Fastener Quality Act Amendments of 1999 ("the Act"). The proposed changes include the elimination of testing and paperwork requirements and of NIST's role in evaluating and approving bodies that accredit

laboratories and registrars. The proposed changes also set forth procedures under which NIST will accept petitions for approval of certain documents and self-declarations for accreditation bodies.

The proposed changes amend the enforcement provisions of the regulations to eliminate violations that are not violations of the FQA, as amended and adding violations imposed by the Act. In addition, the proposed changes amend the recordal of insignia provisions of the regulations to remove all references to private label distributors and to provide that fasteners whose insignia must be recorded are those fasteners that are required by the applicable consensus standards to bear "an insignia" rather than a "raised or depressed insignia," and that these fasteners are not subject to the recordal requirements if the specifications provide otherwise.

**DATES:** Comments must be received no later than January 14, 2000.

**ADDRESSES:** Comments on the proposed revisions must be submitted to: Dr. Subhas Malghan, Director's Office, Technology Services, National Institute of Standards and Technology, Mail Stop 2000, Gaithersburg, MD 20899-2000, telephone number (301) 975-4510.

**FOR FURTHER INFORMATION CONTACT:** Dr. Subhas Malghan, Director's Office, Technology Services, National Institute of Standards and Technology, Mail Stop 2000, Gaithersburg, MD 20899-2000, telephone number (301) 975-4510.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Fastener Quality Act (FQA) was originally enacted in 1990 to protect the public safety by: (1) Requiring that certain fasteners which are sold in commerce conform to the specifications to which they are represented to be manufactured, (2) Providing for accreditation of laboratories engaged in fastener testing; and (3) Requiring inspection, testing and certification, in accordance with standardized methods, of fasteners covered by the Act. Since its enactment, the FQA has been amended three times (Pub. L. 104-113, Pub. L. 105-234, and Pub. L. 106-34). The Department of Commerce published final implementing regulations for the original FQA on September 26, 1996 and for the FQA as amended by Pub. L. 104-113 on September 8, 1998.

On June 8, 1999, the Fastener Quality Act Amendments of 1999 (the Act) (Pub. L. 106-34, 113 Stat. 118) were enacted "to amend the Fastener Quality Act to strengthen the protection against the sale of mismarked, misrepresented, and

counterfeit fasteners and eliminate unnecessary requirements, and for other purposes." The Act made significant changes to the FQA. Under the Act, the Secretary retains his enforcement functions and the responsibility for establishing and maintaining an insignia recordation program, and the National Institute of Standards and Technology (NIST) must continue its fastener laboratory accreditation program established under the National Voluntary Laboratory Accreditation Program (15 CFR part 285). In addition, the Act creates new responsibilities for NIST, including: Acting upon petitions requesting approval of documents setting forth guidance/requirements for certification of manufacturing systems as fastener quality assurance systems by accredited third parties; acting upon petitions requesting approval of documents setting forth guidance/requirements for accreditation of laboratories; and acting upon petitions requesting approval of documents setting forth guidance/requirements for approval of accreditation bodies to accredit laboratories. NIST also must accept affirmations, in the form of self-declarations that the accreditation bodies meet the requirements of the applicable Guide, from accreditation bodies accrediting third parties who certify manufacturing systems as fastener quality assurance systems and from accreditation bodies accrediting laboratories.

The Act eliminates many of the responsibilities delegated by the Secretary of Commerce to NIST under the FQA, including: Establishing procedures for private entities (domestic and foreign) to accredit laboratories; establishing conditions for recognizing foreign laboratories accredited by their governments or organizations; establishing the size, selection, and integrity of samples of fasteners to be inspected if not provided in the standards and specifications to which the fasteners are manufactured; establishing a required form for written inspection and testing reports; establishing what entities must retain custody of laboratory testing reports and certificates of conformance and for what period of time.

#### Part 1: Summary of Proposed Amendments Regarding Testing and Certification of Fasteners, Laboratory Accreditation, and Sale of Fasteners

The Fastener Quality Act Amendments of 1999 ("the Act") repealed 15 U.S.C. 5404 through 5406. Therefore, the Department proposes the repeal of the regulations implementing those sections, found at 15 CFR part 280

§ 280.3 through 280.16, subparts B through F and subparts I through L.

Section 10(a) through 10(d) of the Act, 15 U.S.C. 5411a(a)–(d), establish an option for persons publishing documents related to certification and accreditation under the Act. Such persons may petition the Director for approval of such a document based upon a finding by the Director that the document provides equal or greater rigor and reliability as compared to the applicable ISO/IEC Guide. The Department proposes to amend the regulations by adding a new § 280.101 to establish procedures for submitting such petitions.

Section 10(e) of the Act, 15 U.S.C. 5411a(e), requires accreditation bodies accrediting third parties who certify manufacturing systems as fastener quality assurance systems and accreditation bodies accrediting laboratories to affirm to the Director that they meet the requirements of the applicable ISO/IEC Guide or another document approved by the Director pursuant to the petition procedure described above. The Department proposes to amend the regulations by adding a new § 280.102 to establish procedures for submitting such affirmations.

The Department proposes amending the regulations to add a new § 280.103 to address Section 10(d) of the Act, 15 U.S.C. 5411a(d), which establishes that for purposes of the Act, laboratories may be accredited either under a voluntary laboratory accreditation program established by private sector person or under the National Voluntary Laboratory Accreditation Program.

### **Part 2: Summary of Proposed Amendments to Redesignated Subpart C: Enforcement**

The Secretary of Commerce, acting through the Under Secretary for Export Administration, proposes to revise subpart G, Enforcement, of the existing regulations by redesignating it as subpart C and making certain additions and deletions in order to comply with the amendments to the Act. Section 280.602(b) through (o) of the existing regulations are proposed to be deleted. In addition, knowing representation or falsification in connection with the sale of fasteners (prohibited by section 4 of the Act) and sale of fasteners without manufacturers' insignia (prohibited by section 5 of the Act) are proposed to be added as violations.

### **Part 3: Summary of Proposed Amendments to Redesignated Subpart D: Recordal of Insignia**

The Department proposes to revise newly redesignated § 280.300 to remove all references to private label distributors of fasteners. The requirements of section 5 of the Act as amended (15 U.S.C. 5407) pertain only to manufacturers of fasteners, not to private label distributors of fasteners.

The Department proposes to further revise newly redesignated § 280.300 to provide that fasteners whose insignia must be recorded are those fasteners that are required by the applicable consensus standards to bear "an insignia" rather than a "raised or depressed insignia," and that these fasteners are not subject to the recordal requirements if the specifications provide otherwise. Section 5 of the Act as amended (15 U.S.C. 5407) provides that fasteners subject to the recordal requirement are fasteners that are required by the applicable consensus standards to bear "an insignia," not a "raised or depressed insignia." Section 5 exempts fasteners from the recordal requirements where the specifications provide that insignias are not required.

The Department proposes to further revise newly redesignated § 280.300 to provide that fasteners whose insignia must be recorded are those fasteners that are required to bear an insignia by "the applicable consensus standards," rather than by "the standards and specifications by which it is manufactured." Section 5 of the Act as amended (15 U.S.C. 5407) provides that a recordal requirement applies where the applicable consensus standards require the placement of an insignia.

The Department proposes to further revise newly redesignated § 280.300 to remove references to purposes of the Act that were stated in the previous version of the Act but that are no longer stated in the Act.

The Department proposes to amend newly redesignated § 280.310 by revising § 280.310(a) to remove the reference to private label distributors. The requirements of section 5 of the Act as amended (15 U.S.C. 5407) pertain only to manufacturers of fasteners, not to private label distributors of fasteners.

The Department proposes to further amend newly redesignated § 280.310 by revising § 280.310(b) to replace references to "applicants" with references to "manufacturers" or to "applicants for recordal." This clarifies that "applicants" are applicants for recordal, and that these applicants are manufacturers of fasteners.

The Department proposes to further amend newly redesignated § 280.310 by revising § 280.310(b)(4)(ii) to require "a copy of the drawing that was included in the application for trademark registration" rather than "a copy of the drawing page of the application." The U.S. Patent and Trademark Office has issued a proposed rule (64 FR 25223 (1999)) (to be codified at 37 CFR 2.52) that removes the requirement that a mark in an application for trademark registration be depicted on a separate drawing page.

The Department proposes to further amend newly redesignated § 280.310 by adding a new § 280.310(b)(6), stating that the written application for recordal of an insignia must include a statement that the applicant is a "manufacturer" as that term is defined in section 3 of the Act as amended (15 U.S.C. 5402(11)). The requirements of section 5 of the Act as amended (15 U.S.C. 5407) pertain to manufacturers.

The Department proposes to further amend newly redesignated § 280.310 by revising § 280.310(c) to state that a manufacturer may designate "only one trademark for recordal on the Fastener Insignia Registry in a single application" rather than "only one registered trademark for recordal on the Fastener Insignia Registry in a single application." This clarifies that the requirement that an application for recordal identify only one trademark pertains both to registered trademarks and to trademarks that are the subject of pending applications for registration.

The Department proposes to further amend newly redesignated § 280.310(c) to remove a reference to "abandoned" trademark registrations. This clarifies that a trademark registration may expire or be canceled but may not be abandoned.

The Department proposes to amend newly redesignated § 280.311 to replace "the applicant" with "the applicant for recordal." This clarifies who "the applicant" refers to.

The Department proposes to amend newly redesignated § 280.312 by revising § 280.312(a) to replace the reference to the "applicant" with a reference to the "manufacturer." The requirements of section 5 of the Act as amended (15 U.S.C. 5407) pertain only to manufacturers.

The Department proposes to amend newly redesignated § 280.312 by adding a new § 280.312(b), stating that certificates issued prior to the enactment of the Act as amended will remain in active status in accordance with the provisions of newly redesignated § 280.320, and may be maintained in accordance with the

provisions of newly redesignated § 280.320, but only if the certificate is held by a manufacturer who is required to comply with the recordation requirements of the Act as amended, and only if the fasteners associated with the certificate are fasteners that must bear an insignia pursuant to § 5 of the Act as amended (15 U.S.C. 5407).

The Department proposes to amend newly redesignated § 280.313 by revising § 280.313(a) to remove the reference to private label distributors. The requirements of section 5 of the Act as amended (15 U.S.C. 5407) pertain only to manufacturers of fasteners, not to private label distributors of fasteners.

The Department proposes to further amend newly redesignated § 280.313(a) to change "upon recordal, either the alphanumeric designation or the registered mark, or both, may be used as recorded insignias" to "upon recordal, either the alphanumeric designation or the trademark, or both, may be used as recorded insignias" to clarify that a manufacturer may use a trademark as an insignia even if that trademark has not yet been registered, provided the manufacturer has filed an application to register the insignia.

The Department proposes to further amend newly redesignated § 280.313 by revising § 280.313(b) to remove the reference to private label distributors. The requirements of section 5 of the Act as amended (15 U.S.C. 5407) pertain only to manufacturers of fasteners, not to private label distributors of fasteners.

The Department proposes to amend newly redesignated § 280.320 by revising § 280.320(a) to change "certificates of recordal remain in an active status for five years and may be maintained in an active status for five-year periods" to "certificates of recordal remain in an active status for five years and may be maintained in an active status for subsequent five-year periods." This clarifies that the second and subsequent five-year periods commence upon the end of the previous five-year period.

The Department proposes to further amend newly redesignated § 280.320 by revising § 280.320(b) to remove the reference to private label distributors. The requirements of section 5 of the Act as amended (15 U.S.C. 5407) pertain only to manufacturers of fasteners, not to private label distributors of fasteners.

The Department proposes to further amend newly redesignated § 280.320 by revising § 280.320(c) to replace references to "applicants" with references to "manufacturers" or to "applicants for recordal." This clarifies that "applicants" are applicants for

recordal, and that all applicants are manufacturers of fasteners.

The Department proposes to further amend newly redesignated § 280.320(c) by adding a new § 280.320(c)(6), stating that the written application for maintenance of a certificate of recordal must include a statement that the applicant is a "manufacturer" as that term is defined in section 3 of the Act as amended (15 U.S.C. 5402(11)).

The Department proposes to amend newly redesignated § 280.321 to change "the applicant or the holder of a certificate shall notify the Commissioner of any change of address" to "the applicant for recordal or the holder of a certificate must notify the Commissioner of any change of address." This clarifies that "applicant" refers to an applicant for recordal, and that notification regarding changes of address is not discretionary.

The Department proposes to amend newly redesignated § 280.323 by adding a new § 280.323(f), stating that an alphanumeric designation that has been reactivated after it has been transferred or assigned will remain in active status until the expiration of the five-year period that began upon the issuance of the designation to its original owner. This codifies existing practice.

The Department proposes to amend newly redesignated § 280.324 by revising § 280.324(b) to replace "certificates of recordal designated inactive due to cancellation, expiration, abandonment or amendment of the trademark application or registration cannot be reactivated" to "certificates of recordal designated inactive due to cancellation, expiration, or amendment of the trademark registration, or abandonment or amendment of the trademark application, cannot be reactivated." This clarifies that trademark registrations may be canceled, or may expire or may be amended, and that applications for trademark registration may be abandoned or amended.

The Department proposes to amend newly redesignated § 280.325 to remove the reference to private label distributors. The requirements of section 5 of the Act as amended (15 U.S.C. 5407) pertain only to manufacturers of fasteners, not to private label distributors of fasteners.

#### *Request for Public Comment*

Persons interested in commenting on the proposed regulations should submit their comments in writing to the above address. All comments received in response to this notice will become part of the public record and will be available for inspection and copying at

the Department of Commerce Central Reference and Records Inspection facility, room 6228, Hoover Building, Washington, DC 20230.

#### **Additional Information**

##### *Executive Order 12866*

This rule has been determined not to be significant under section 3(f) of Executive Order 12866.

##### *Executive Order 12612*

This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

##### *Regulatory Flexibility Act*

A Regulatory Impact Review / Final Regulatory Flexibility Analysis was prepared to accompany issuance of the September 26, 1996 final rule. That analysis projected annual cost to industry from implementing the FQA of \$18.9 million. This amount was based on NIST's estimate that 25% of fasteners then produced would be covered under the Act. Assuming that 55% of then produced fasteners would be covered under the Act, as was assumed by Cost Effectiveness Committee of the Fastener Advisory Committee, the estimated annual costs of the FQA would have been approximately \$38.7 million. Industry, generally, believed the cost of implementation would be far greater than either of those two figures. The great majority of costs associated with the FQA resulted from recordkeeping, inspection, testing and certification requirements imposed on fastener manufacturers that were beyond those required by consensus standards.

By its amendments to the original FQA, Pub. L. 106-34 reduced appreciably the costs associated with implementation of the FQA. First, fasteners projected to be covered by the law account for approximately 5% of total fastener production. This percentage is significantly less than NIST's original projection of 25%, and industry's much larger projection, at the time of 1996 final rule. Second, the requirements for recordkeeping, testing, certification, and inspection of fasteners beyond those contained in the consensus standard to which covered fasteners are manufactured have been eliminated. Thus, the costs associated with those requirements, will not be incurred.

One change was made by Pub. L. 106-34 that may have a small negative impact on small entities. Specifically, the law removed all references to PTO's recordation of insignias of private label

distributors of fasteners, thus providing for recordation of only manufacturers insignias. This amendment should have a negligible impact as fasteners subject to the FQA sold by private label distributors represent a very small percentage of the limited universe of fasteners subject to the Act. Specifically, NIST projects that less than 15% of the approximately 5% of all fasteners that are subject to the Act, are sold by private label distributors. These changes had the effect of limiting significantly those fasteners to which the law applies.

#### *Paperwork Reduction Act*

Notwithstanding any other provision of the law, no person is required to, nor shall any person be subject to 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 currently valid OMB Control Number.

This proposed rule contains collection of information requirements subject to the Paperwork Reduction Act and has been sent to OMB for approval under the Act. Public reporting for these collections of information are estimated to average 1.5 hours per response for affirmations, 20 hours per response for petitions, and .17 hours per response for the PTO recordal, renewal forms. The estimated response time shown includes the time for reviewing instructions, gathering information, and completing and reviewing the collections of information.

Comments are invited on (a) Whether the collection of information is necessary for the functions of the agencies, including whether the information has practical utility; (b) The accuracy of the agencies' estimates of the burdens of the collections of information; (c) Ways to enhance the quality, utility and clarity of the information to be collected; and (d) Ways to minimize the burdens of the collections of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Send comments regarding these or any other aspect of the collection of information to:

For affirmations and petitions: Deputy Director, Technology Services, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 2000, Gaithersburg, Maryland 20899-2000, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

For PTO recordal/renewal forms: Ari Leifman, Staff Attorney, Office of the

Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

#### *National Environmental Policy Act*

This rule will not significantly affect the quality of the human environment. Therefore, an environmental assessment or Environmental Impact Statement is not required to be prepared under the National Environmental Policy Act of 1969.

#### **List of Subjects in 15 CFR Part 280**

Business and industry, Fastener industry, Imports.

Dated: December 7, 1999.

**Karen H. Brown,**

*Deputy Director, National Institute of Standards and Technology.*

**William Reinsch,**

*Under Secretary, Bureau of Export Administration.*

Dated: December 7, 1999.

**Q. Todd Dickinson,**

*Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.*

For reasons set forth in the preamble, it is proposed that Title 15 of the Code of Federal Regulations be amended as follows:

#### **PART 280—FASTENER QUALITY**

1. The authority citation for part 280 is revised to read as follows:

**Authority:** 15 U.S.C. 5401 et seq. (Pub. L. 101-592, as amended by Pub. L. 104-113, Pub. L. 105-234, and Pub. L. 106-34.)

2. Section 280.1 is revised to read as follows:

#### **§ 280.1 Description of rule/Delegation of authority.**

(a) *Description of rule.* The Fastener Quality Act Amendments of 1999 (the Act) (15 U.S.C. 5401 et seq., as amended by Pub. L. 104-113, Pub. L. 105-234, and Pub. L. 106-34):

(1) Protects against the sale of mismarked, misrepresented, and counterfeit fasteners; and  
(2) Eliminates unnecessary requirements.

(b) *Delegations of authority.* The Director, National Institute of Standards and Technology has authority to promulgate regulations in this part regarding certification and accreditation. The Secretary of Commerce has delegated concurrent authority to amend the regulations regarding enforcement of the Act, as contained in subpart C of this part, to the Under Secretary for Export

Administration. The Secretary of Commerce has also delegated concurrent authority to amend the regulations regarding recordal of insignia, as contained in subpart D of this part, to the Assistant Secretary and Commissioner of Patents and Trademarks.

#### **§ 280.2 [Removed and § 280.601 Redesignated as § 280.2]**

3. Section 280.2 is removed, and § 280.601 is redesignated as § 280.2 and amended by revising the introductory text and adding the following definitions in alphabetical order to read as follows:

#### **§ 280.2 Definitions.**

In addition to the definitions provided in 15 U.S.C. 5402, the following definitions are applicable to this part:

*Abandonment of the Application* means that the application for registration of a trademark on the Principal Register is no longer pending at the United States Patent and Trademark Office.

\* \* \* \* \*

*Commissioner* means the Commissioner of Patents and Trademarks.

\* \* \* \* \*

*Fastener Insignia Register* means the register of recorded fastener insignias maintained by the Commissioner.

\* \* \* \* \*

*Principal Register* means the register of trademarks established under 15 U.S.C. 1051.

\* \* \* \* \*

#### **§ 280.3–280.16; Subparts C–F and I–L [Removed]**

4. Sections 280.3 through 280.16 and Subparts C through F and I through L are removed, and Subpart B is revised to read as follows:

#### **Subpart B—Petitions, Affirmations, and Laboratory Accreditation**

Sec.

280.100 General.

280.101 Petitions for Approval of Documents.

280.102 Affirmations of Meeting Requirements of ISO/IEC Guides or Approved Documents.

280.103 Laboratory Accreditation.

#### **Subpart B—Petitions, Affirmations, and Laboratory Accreditation**

##### **§ 280.100 General.**

(a) *Definitions.* For purposes of this subpart, the term “revisions” includes changes made to existing ISO/IEC Guides or other documents, and

redesignations of those Guides or documents.

(b) *Delegation of authority.* The Director, National Institute of Standards and Technology has delegated authority to the Deputy Director, Technology Services, National Institute of Standards and Technology, to carry out the responsibilities of the Director contained in this subpart.

**§ 280.101 Petitions for Approval of Documents.**

(a) *Certification.* (1) A person publishing a document setting forth guidance or requirements for the certification of manufacturing systems as fastener quality assurance systems by an accredited third party may petition the Director to approve such document for use as described in section 3(7)(B)(iii)(I) of the Act (15 U.S.C. 5402(7)(B)(iii)(I)).

(2) Petitions should be submitted to: Deputy Director, Technology Services, NIST, Mail Stop 2000, 100 Bureau Drive, Gaithersburg, MD 20899-2000.

(3) The Director shall approve such petition if the document provides equal or greater rigor and reliability as compared to ISO/IEC Guide 62, including revisions from time to time. A petition shall contain sufficient information to allow the Director to make this determination. Revisions include revisions, redesignations.

(b) *Accreditation.* (1) A person publishing a document setting forth guidance or requirements for the approval of accreditation bodies to accredit third parties described in paragraph (a) of this section may petition the Director to approve such document for use as described in section 3(7)(B)(iii)(I) of the Act (15 U.S.C. 5402(7)(B)(iii)(I)).

(2) Petitions should be submitted to: Deputy Director, Technology Services, NIST, Mail Stop 2000, 100 Bureau Drive, Gaithersburg, MD 20899-2000.

(3) The Director shall approve such petition if the document provides equal or greater rigor and reliability as compared to ISO/IEC Guide 61, including revisions from time to time. A petition shall contain sufficient information to allow the Director to make this determination.

(c) *Laboratory Accreditation.* (1) A person publishing a document setting forth guidance or requirements for the accreditation of laboratories may petition the Director to approve such document for use as described in section 3(1)(A) of the Act (15 U.S.C. 5402(1)(A)).

(2) Petitions should be submitted to: Deputy Director, Technology Services,

NIST, Mail Stop 2000, 100 Bureau Drive, Gaithersburg, MD 20899-2000.

(3) The Director shall approve such petition if the document provides equal or greater rigor and reliability as compared to ISO/IEC Guide 25, including revisions from time to time. A petition shall contain sufficient information to allow the Director to make this determination.

(d) *Approval of Accreditation Bodies.*

(1) A person publishing a document setting forth guidance or requirements for the approval of accreditation bodies to accredit laboratories may petition the Director to approve such document for use as described in section 3(1)(B) of the Act (15 U.S.C. 5402(1)(B)).

(2) Petitions should be submitted to: Deputy Director, Technology Services, NIST, Mail Stop 2000, 100 Bureau Drive, Gaithersburg, MD 20899-2000.

(3) The Director shall approve such petition if the document provides equal or greater rigor and reliability as compared to ISO/IEC Guide 58, including revisions from time to time. A petition shall contain sufficient information to allow the Director to make this determination.

**§ 280.102 Affirmations of Meeting Requirements of ISO/IEC Guides or Approved Documents.**

(a) (1) An accreditation body accrediting third parties who certify manufacturing systems as fastener quality assurance systems as described in section 3(7)(B)(iii)(I) of the Act (15 U.S.C. 5402(7)(B)(iii)(I)) shall affirm to the Director that it meets the requirements of ISO/IEC Guide 61 (or another document approved by the Director under section 10(b) of the Act (15 U.S.C. 5411a(b)) and § 280.101(a) of this part), including revisions from time to time.

(2) An accreditation body accrediting laboratories as described in section 3(1)(B) of the Act (15 U.S.C. 5402(1)(B)) shall affirm to the Director that it meets the requirements of ISO/IEC Guide 58 (or another document approved by the Director under section 10(d) of the Act (15 U.S.C. 5411a(d)) and § 280.101(d) of this part), including revisions from time to time.

(b) An affirmation required under paragraph (a)(1) or (a)(2) of this section shall take the form of a self-declaration that the accreditation body meets the requirements of the applicable Guide, signed by an authorized representative of the accreditation body. No supporting documentation is required.

(c) Affirmations should be submitted to: Deputy Director, Technology Services, NIST, Mail Stop 2000, 100

Bureau Drive, Gaithersburg, MD 20899-2000.

(d) Any affirmation submitted in accordance with this section shall be considered to be a continuous affirmation that the accreditation body meets the requirements of the applicable Guide, unless and until the affirmation is withdrawn by the accreditation body.

**§ 280.103 Laboratory Accreditation.**

A laboratory may be accredited by any voluntary laboratory accreditation program that may be established by private sector persons(s) or by the National Voluntary Laboratory Accreditation Program for fasteners, established by the Director under Part 285 of this Title.

**§§ 280.600, 280.602-280.623 (Subpart G) [Redesignated as §§ 280.200-280.22 (Subpart C)]**

5. Subpart G (§§ 280.600, 280.602 through 280.623) is redesignated as subpart C, consisting of §§ 280.200 through 280.222.

6. Redesignated § 280.200 is revised to read as follows:

**§ 280.200 Scope.**

Section 280.201 of this part specifies that failure to take any action required by or taking any action prohibited by this part constitutes a violation of this part. Section 280.202 describes the penalties that may be imposed for violations of this part. Sections 280.204 through 280.222 establish the procedures for imposing administrative penalties for violations of this part.

7. Redesignated § 280.201 is amended by revising paragraphs (b) and (c), and removing paragraphs (d) through (o) to read as follows:

**§ 280.201 Violations.**

\* \* \* \* \*

(b) *Sale of fasteners.* No manufacturer or distributor shall knowingly misrepresent or falsify, in connection with the sale or offer for sale of fasteners from a single lot,

(1) The record of conformance for the lot of fasteners;

(2) The identification, characteristics, properties, mechanical or performance marks, chemistry, or strength of the lot of fasteners; or

(3) The manufacturers' insignia.

(c) *Manufacturers' insignia.* No person shall sell, or offer for sale fasteners that are required by the applicable consensus standard or standards to bear an insignia identifying their manufacturer unless

(1) The fasteners bear such insignia; and

(2) The manufacturer has complied with the insignia recordation

requirements established under 15 U.S.C. 5407(b).

8. Redesignated § 280.203 is revised to read as follows:

**§ 280.203 Administrative enforcement proceedings.**

Sections 280.204 through 280.222 set forth the procedures for imposing administrative penalties for violations of the Act and this part.

9. Redesignated § 280.210 is amended by revising the last sentence of paragraph (d) to read as follows:

**§ 280.210 Discovery.**

\* \* \* \* \*

(d) \* \* \* In addition, enforcement by a district court of the United States may be sought under 15 U.S.C. section 5408(b)(6).

10. The reference to “§ 280.607” is revised to read “§ 280.206” in the following sections:

Redesignated § 280.211(b);  
Redesignated § 280.218(c).

**§ 280.204 [Amended]**

11. The reference to “§ 280.608” is revised to read “§ 280.207” in the following sections:

Redesignated § 280.204(a);  
Redesignated § 280.208(b)(1).

12. The reference to “§ 280.609” is revised to read “§ 280.208” in the following sections:

Redesignated § 280.204(a);  
Redesignated § 280.218(a).

13. In redesignated § 280.214(b), the reference to “§ 280.613” is revised to read “§ 280.212”.

14. In redesignated § 280.207(c), the reference to “§ 280.617” is revised to read “§ 280.216”.

15. In redesignated § 280.207(a), the reference to “§ 280.618” is revised to read “§ 280.217”.

16. In redesignated § 280.219(c), the reference to “§ 280.619(c)” is revised to read “§ 280.218(c)”.

17. The reference to “§ 280.622” is revised to read “§ 280.221” in the following sections:

Redesignated § 280.221(b);  
Redesignated § 280.222(f).

18. The reference to “§ 280.623” is revised to read “§ 280.222” in the following sections:

Redesignated § 280.208(a);  
Redesignated § 280.218(b); redesignated § 280.219(b)(2); redesignated § 280.220;  
Redesignated § 280.221(a).

19. Subpart H (§§ 280.700 through 280.726) is redesignated as Subpart D consisting of §§ 280.300, 280.310–280.313 and 280.320–280.326.

20. Redesignated § 280.300 is revised to read as follows:

**§ 280.300 Recorded insignia required prior to offer for sale.**

If a fastener is required by the applicable consensus standard(s) to bear an insignia identifying its manufacturer, the manufacturer must:

(a) Record the insignia with the U.S. Patent and Trademark Office prior to any sale or offer for sale of the fastener, unless the specifications provide otherwise; and

(b) Apply the insignia through a raised or depressed impression to the head of any fastener that is sold or offered for sale; or if the fastener has no head, to another surface area in a legible manner. The insignia must be readable with no greater than 10x magnification.

21. Redesignated § 280.310 is amended by revising the heading, the first sentence of paragraph (a), paragraphs (b)(1), (b)(2), (b)(3), (b)(4)(ii), and (b)(5); redesignating existing paragraphs (b)(6) through (b)(8) as paragraphs (b)(7) through (b)(9), respectively; adding new paragraph (b)(6); revising redesignated paragraph (b)(7); and revising paragraph (c) to read as follows:

**§ 280.310 Application for insignia.**

(a) Each manufacturer must submit a written application for recordal of an insignia on the Fastener Insignia Register along with the prescribed fee.  
\* \* \*

(b) \* \* \*

- (1) The name of the manufacturer;
- (2) The address of the manufacturer;
- (3) The entity, domicile, and state of incorporation, if applicable, of the manufacturer;

(4) \* \* \*

(ii) A request for recordal of a trademark, which is the subject of either a duly filed application or a registration for fasteners in the name of the manufacturer in the U.S. Patent and Trademark Office on the Principal Register, indicating the application serial number or registration number and accompanied by a copy of the drawing that was included with the application for trademark registration, or a copy of the registration;

(5) A statement that the manufacturer will comply with the applicable provisions of the Fastener Quality Act;

(6) A statement that the applicant for recordal is a “manufacturer” as that term is defined in 15 U.S.C. 5402

(7) A statement that the person signing the application on behalf of the manufacturer has personal knowledge of the facts relevant to the application and that the person possesses the authority to act on behalf of the manufacturer;

\* \* \* \* \*

(c) A manufacturer may designate only one trademark for recordal on the Fastener Insignia Register in a single application. The trademark application or registration that forms the basis for the fastener recordal must be in active status, that is, a pending application or a registration which is not expired, or canceled, at the time of the application for recordal.

\* \* \* \* \*

22. Redesignated §280.311 is amended by revising the third sentence to read as follows:

**§ 280.311 Review of the application.**

\* \* \* The Commissioner will notify the applicant for recordal of any defect in the application. \* \* \*

23. Redesignated § 280.312 is amended by designating the existing text as paragraph (a), revising the last sentence of redesignated paragraph (a), and adding new paragraph (b) to read as follows:

**§ 280.312 Certificate of Recordal.**

(a) \* \* \* The certificate of recordal shall display the recorded insignia of the manufacturer, and state the name, address, legal entity and domicile of the manufacturer, as well as the date of issuance of such certificate.

(b) Certificates that were issued prior to the enactment of the Act as amended shall remain in active status in accordance with the provisions of § 280.320 of this subpart, and may be maintained in accordance with the provisions of § 280.320 of this subpart, but only if:

(1) The certificate is held by a manufacturer who is required to comply with the recordation requirements of the Act as amended, and

(2) The fasteners associated with the certificate are fasteners that must bear an insignia pursuant to 15 U.S.C. 5407.

24. Redesignated § 280.313 is amended by revising paragraph (a) and the first sentence of paragraph (b) to read as follows:

**§ 280.313 Recordal of additional insignia.**

(a) A manufacturer to whom the Commissioner has issued an alphanumeric designation may apply for recordal of its trademark for fasteners if the trademark is the subject of a duly filed application or is registered in the U.S. Patent and Trademark Office on the Principal Register. Upon recordal, either the alphanumeric designation or the trademark, or both, may be used as recorded insignias.

(b) A manufacturer for whom the Commissioner has recorded a trademark as its fastener insignia may apply for issuance and recordal of an

alphanumeric designation as a fastener insignia. \* \* \*

25. Redesignated § 280.320 is amended by revising paragraphs (a) and (b) and paragraphs (c)(1) through (c)(5); redesignating existing paragraphs (c)(6) through (c)(8) as paragraphs (c)(7) through (c)(9), respectively; adding a new paragraph (c)(6); and revising redesignated paragraph (c)(7) to read as follows:

**§ 280.320 Maintenance of the certificate of recordal.**

(a) Certificates of recordal remain in an active status for five years and may be maintained in an active status for subsequent five-year periods running consecutively from the date of issuance of the certificate of recordal upon compliance with the requirements of paragraph (c) of this section.

(b) Maintenance applications shall be required only if the holder of the certificate of recordal is a manufacturer at the time the maintenance application is required.

(c) \* \* \*

(1) The name of the manufacturer;

(2) The address of the manufacturer;

(3) The entity, domicile, and state of incorporation, if applicable, of the manufacturer;

(4) A copy of manufacturer's certificate of recordal;

(5) A statement that the manufacturer will comply with the applicable provisions of the Fastener Quality Act;

(6) A statement that the applicant for recordal is a "manufacturer" as that term is defined in 15 U.S.C. 5402;

(7) A statement that the person signing the application on behalf of the manufacturer has knowledge of the facts relevant to the application and that the person possesses the authority to act on behalf of the manufacturer;

\* \* \* \* \*

26. Redesignated § 280.321 is amended by revising the first sentence to read as follows:

**§ 280.321 Notification of changes of address.**

The applicant for recordal or the holder of a certificate of recordal shall notify the Commissioner of any change of address or change of name no later than six months after the change. \* \* \*

27. Redesignated § 280.323 is amended by revising the second sentence of paragraph (a) and adding new paragraph (f) to read as follows:

**§ 280.323 Transfer or assignment of the trademark registration or recorded insignia.**

(a) \* \* \* Any transfer or assignment of such an application or registration must be recorded in the Patent and

Trademark Office within three months of the transfer or assignment.

\* \* \* \* \*

(f) An alphanumeric designation that is reactivated after it has been transferred or assigned shall remain in active status until the expiration of the five year period that began upon the issuance of the alphanumeric designation to its original owner.

28. Redesignated § 280.324 is amended by revising paragraphs (a)(1) through (a)(3); redesignating existing paragraph (b) as paragraph (a)(4); revising the first two sentences of redesignated paragraph (a)(4); redesignating paragraph (c) as paragraph (b); and revising redesignated paragraph (b) to read as follows:

**§ 280.324 Change in status of trademark registration or amendment of the trademark.**

(a) \* \* \*

(1) Issuance of a final decision on appeal which refuses registration of the application which formed the basis for the certificate of recordal;

(2) Abandonment of the application which formed the basis for the certificate of recordal;

(3) Cancellation or expiration of the trademark registration which formed the basis of the certificate of recordal; or

(4) An amendment of the mark in a trademark application or registration that forms the basis for a certificate of recordal. The certificate of recordal shall become inactive as of the date the amendment is filed. \* \* \*

(b) Certificates of recordal designated inactive due to cancellation, expiration, or amendment of the trademark registration, or abandonment or amendment of the trademark application, cannot be reactivated.

29. Redesignated § 280.325 is revised to read as follows:

**§ 280.325 Cumulative listing of recordal information.**

The Commissioner shall maintain a record of the names, current addresses, and legal entities of all recorded manufacturers and their recorded insignia.

30. The reference to "§ 280.710" is revised to read "§ 280.310" in the following sections:

Redesignated § 280.311; redesignated § 280.312.

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**SECURITIES AND EXCHANGE COMMISSION**

**17 CFR Part 240**

[Release No. 34-42209; File No. S7-29-99]

**RIN 3235-AH85**

**Unlisted Trading Privileges**

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Securities and Exchange Commission is proposing a change to Rule 12f-2 under the Securities Exchange Act of 1934, which governs unlisted trading privileges ("UTP") in listed initial public offerings ("IPOs"). Under the proposed rule change, a national securities exchange extending UTP privileges to an IPO security listed on another exchange would no longer be required to wait until the day after trading has commenced on the listing exchange to allow trading in that security. Instead, a national securities exchange would be permitted to begin trading in an IPO issue pursuant to UTP immediately after the first trade in the security is reported by the listing exchange to the Consolidated Tape.

**DATES:** Comments should be submitted on or before January 31, 2000.

**ADDRESSES:** Interested persons should submit three copies of their written data, views and opinions to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549-0609.

Comments may also be submitted electronically to the following e-mail address: [rule-comments@sec.gov](mailto:rule-comments@sec.gov). All comment letters should refer to File No. S7-29-99. All submissions will be made available for public inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, DC 20549. Electronically-submitted comments will be posted on the Commission's Internet website (<http://www.sec.gov>).

**FOR FURTHER INFORMATION CONTACT:** Kevin Ehrlich, Attorney, at (202) 942-0778 or Ira Brandriss, Attorney, at (202) 942-0148, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549-1001.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Section 12(f) of the Act<sup>1</sup> governs when a national securities exchange ("exchange") may extend UTP to a security, *i.e.*, allow trading in a security

<sup>1</sup> 15 U.S.C. 78l(f).