

**Supporting Statement for Information Collection
Provisions of Regulations Under the
Fur Products Labeling Act
16 C.F.R. § 301
(OMB Control # 3084-0099)**

1. Necessity for Collecting the Information

The purpose of the Fur Products Labeling Act (“Fur Act” or “Act”), 15 U.S.C. § 69 et seq., and its implementing Fur Act Regulations, 16 C.F.R. § 301, is to protect consumers and others against misbranding, false advertising, and false invoicing of fur products and furs.¹

The rules that provide for the collection of information fall into the following categories. These category designations will be used throughout this supporting statement.

Labeling and Invoicing

(e.g., 16 C.F.R. §§ 301.2, 301.27, 301.29, 301.30, 301.37, and 301.39)

Section 301.2 generally provides that: “Each and every fur product, except those exempted under § 301.39 of this part, shall be labeled and invoiced in conformity with the requirements of the act and rules and regulations” (emphasis added); and, “[e]ach and every fur shall be invoiced in conformity with the requirements of the act and rules and regulations.”

The various rules require covered products to be labeled/invoiced in a prescribed manner to disclose: fur content, animal name, country of origin of imported furs, whether the product is composed of natural or dyed fur, name or registered identification number of the manufacturer or other marketer, and certain other related information. These rules merely implement provisions of the Fur Act. The disclosures are deemed necessary because they provide material information about the products. Lacking this information, potential purchasers could not make informed buying decisions.

Recordkeeping

(e.g., 16 C.F.R. §§ 301.35, 301.39, 301.41, and 301.44)

Section 8(d)(1) of the Fur Act states: “Every manufacturer or dealer in fur products or furs shall maintain proper records showing the information required by this Act with respect to all fur products or furs handled by him, and shall preserve such records for at least three years.” The various rules in this category merely implement this and other specific provisions of the Act. For example, §§ 301.35 and 301.41 require manufacturers and other marketers who substitute

¹ The Fur Act states: “The Commission is authorized and directed to prescribe rules and regulations governing the manner and form of disclosing information required by this Act, and such further rules and regulations as might be necessary to and proper for purposes of administration and enforcement of this Act.” 15 U.S.C. § 69f(b).

labels to maintain records, invoices, and other documents that will readily identify each fur and fur product and reflect all required information (e.g., animal name, country of origin of imported fur, whether the product is dyed or natural, item number assigned, etc.).

Section 301.39 enables furriers who market inexpensive fur components (e.g., a coat with fur trim) to exempt their products from the Acts labeling and invoicing provisions; however, they must maintain records which substantiate that the fur is of minimal value.² Section 301.44(e) requires retail furriers and others who make price savings claims in advertisements to maintain records disclosing the facts upon which the representations are based.

These recordkeeping requirements are necessary: to establish a continuous line of product composition from raw material through sale of finished product in order to provide substantiation for representations about the fur product; to support an exemption from the labeling and invoicing provisions of the Act for those fur products containing fur having only a minimal value; and to support price savings claims made in advertisements.

Disclosure in Advertisements (16 C.F.R. § 301.38)

Section 301.38, pursuant to Sections 3 and 5(a) of the Fur Act, requires manufacturers and other marketers of covered fur products to disclose certain information in advertising. The information must be disclosed in a prescribed manner and is necessary in order to properly inform prospective purchasers and avoid deception.

Petition for Exemption (16 C.F.R. § 301.19)

Section 301.19 provides that processors (e.g., dressers, dyers) of fur pelts are required to mark each pelt in a manner indicating whether it is natural or dyed. Subsection (k), however, allows an exemption for pelts that are always dyed or always natural where the pelts cannot be marked or stamped as the section requires. In this case, the processor may file an affidavit with the Commission requesting an exemption.

2. Use of the Information

Labeling and Invoicing

Potential purchasers, both consumers and businesses, rely upon the disclosed information to make informed buying decisions in the marketplace. Disclosure of company identification is used by the Commission for enforcement purposes, i.e., to identify the manufacturer of a

² Section 301.39 delineates the “minimal value” cut-off in terms of the cost of the fur to the manufacturer of the finished product or the manufacturer’s selling price of the fur product, \$150 in both cases.

misbranded item. It is also used by other companies seeking to identify the manufacturer or distributor of a particular item for business purposes.

Recordkeeping

The information collected pursuant to the recordkeeping rules is used by manufacturers and other marketers of covered products to support claims made on labels and invoices, to provide support for exempting certain products from the Act, and to support price savings representations made in advertisements. The records may be inspected by Commission staff for law enforcement purposes.

Advertising

Consumers and other potential purchasers rely upon information contained in advertisements; these disclosures are necessary to preclude misinformation and misleading representations. The records may be inspected by Commission staff for law enforcement purposes.

Petition for Exemption

The Commission would use the information in the affidavit to determine whether the public interest would be served by allowing the exemption.

3. Consideration to Use Improved Information Technology to Reduce Burden

For the most part, these rules merely set forth certain performance standards. For example, labels must disclose certain required information in a prescribed format; however, companies may avail themselves of any improved technology (e.g., in the areas of mechanization, typesetting, and printing) in meeting these performance standards.

Disclosing fur content and other required information to consumers, however, entails labeling of fur products. As such, providing an option for electronic disclosure pursuant to the Government Paperwork Elimination Act, Pub. L. No. 105-277, Title XVII, 112 Stat. 2681-749 (GPEA), is impracticable. Nonetheless, the rules comply with GPEA by permitting invoicing to be accomplished (see § 301.37) and necessary records to be kept (see §§ 301.35, 301.39, 301.41, 301.44) without regard to format, so that a regulated entity, if it chooses, may conduct these activities electronically.

4. Efforts to Identify Duplication/Availability of Similar Information

There is no other Federal law or regulation that requires the collection of information contained in the Fur Act or its implementing regulations.

The Act and regulations were promulgated because companies were not voluntarily providing material product information in a meaningful standardized format which facilitated

informed buying decisions in the marketplace. It should be noted that the collection and recordkeeping provisions simply require retention of information which most covered companies would routinely retain in the normal course of business, and recordkeeping burden for PRA purposes excludes records that would otherwise be kept in the normal course of business. 5 C.F.R. § 1320.3(b)(2).

5. Efforts to Minimize Burden on Small Businesses

There is no specific exemption or differential treatment for small organizations under either the Fur Products Labeling Act or the Commission's implementing rules. Small businesses (e.g., retailers and dealers) can, however, rely on invoices and other information provided by the manufacturer or other source in order to comply with the labeling, invoicing, advertising, and recordkeeping requirements of the Act.

6. Consequences of Conducting Collection Less Frequently

The disclosure of information required by the labeling and invoicing rules applies to each covered fur product in the marketplace. If disclosures were not required in every case, the objective of informing purchasers of material information would be defeated.

Recordkeeping requirements apply to manufacturers and those who substitute labels (e.g., resellers) and require them to record and retain substantiation for the labeling claims made. Without such records, it would be impossible to trace the chain of fur content from raw material to finished product, so that an important deterrent against misbranding would be removed.

Advertising disclosure requirements apply to all advertisements for fur products. Less frequent disclosure would impede the objective of preventing misinformation and misrepresentation.

7. Circumstances Requiring Collection Inconsistent with Guidelines

This collection of information is consistent with the guidelines contained in 5 C.F.R. § 1320.5.

8. Consultation Outside the Agency

Commission staff responsible for the administration and enforcement of these rules has had repeated contact with industry members and their trade associations, such as the American Apparel and Footwear Manufacturers Association and the Fur Information Council. Based on recurring contacts with covered companies and the FTC's own experience (e.g., from conducting routine compliance investigations), Commission staff concludes that: companies are aware of the specific regulations; they are aware that the FTC will freely provide copies of the Fur Act, its implementing regulations and additional explanatory materials upon request; and they consider the rules to be clear and reasonable.

As it has in the past, Commission staff sought public comment in connection with its latest PRA clearance request for these regulations, in accordance with 5 C.F.R. § 1320.8(d). See 73 Fed. Reg. 64948 (October 31, 2008) (no comments were received). Consistent with 5 C.F.R. § 1320.12(c), it is doing so again contemporaneous with this submission.

9. Payments or Gifts to Respondents

Not applicable.

10. & 11. Assurances of Confidentiality and Matters of a Sensitive Nature

The records involved do not concern matters of a sensitive nature.

12. Estimated Annual Hours Burden: 121,000 hours, rounded to the nearest thousand

Recordkeeping

The regulations require that retailers, manufacturers, processors, and importers of furs and fur products keep certain records in addition to those they may keep in the ordinary course of business. Staff estimates that 1,150 retailers incur an average recordkeeping burden of about 13 hours per year (14,950 hours total); 82 manufacturers and fur processors combined incur an average recordkeeping burden of about 52 hours per year (4,264 total); and 1,200 importers of furs and fur products incur an average recordkeeping burden of 26 hours per year (31,200 hours total). The combined recordkeeping burden for the industry is approximately 50,414 hours annually.

Disclosure

Staff estimates that 1,220 respondents (70 manufacturers + 1,150 retail sellers of fur garments) each require an average of 20 hours per year to determine label content (24,400 hours total), and an average of five hours per year to draft and order labels (6,100 hours total). Staff estimates that the total number of garments subject to the fur labeling requirements is approximately 886,577.³ Staff estimates that for approximately 50 percent of these garments, labels are attached manually, requiring approximately four minutes per garment for a total of 29,553 hours annually. For the remaining 443,288 garments, the process of attaching labels is semi-automated and requires an average of approximately two seconds per item, for a total of 246 hours. Thus, the total burden for attaching labels is 29,799 hours, and the total burden for

³The total number of fur garments, fur-trimmed garments, and fur accessories is estimated to be approximately 1,019,054, based on International Trade Commission data. Of that number, approximately 132,477 items are estimated to be exempt from the labeling requirements pursuant to 16 CFR 301.39 (items where either the cost of the fur trim to the manufacturer or the manufacturer's selling price for the finished product is less than \$150 are exempt).

labeling garments is 60,299 hours per year (24,400 hours to determine label content + 6,100 hours to draft and order labels + 29,799 hours to attach labels).

Staff estimates that the incremental burden associated with the regulations' invoice disclosure requirement, beyond the time that would be devoted to preparing invoices in its absence, is approximately 30 seconds per invoice.⁴ The invoice disclosure requirement applies to fur garments, which are generally sold individually, and fur pelts, which are generally sold in groups of at least 50, on average. Assuming invoices are prepared for sales of 886,577 garments and 166,677 groups (an estimated 8,333,865 million pelts /50) of imported and domestic pelts, the invoice disclosure requirement entails an estimated total burden of 8,777 hours (1,053,254 total invoices x 30 seconds).

Staff estimates that the regulations' advertising disclosure requirements impose an average burden of one hour per year for each of the approximately 1,150 domestic fur retailers, or a total of 1,150 hours.

Thus, staff estimates the total disclosure burden to be approximately 70,226 hours (60,299 hours for labeling + 8,777 hours for invoices + 1,150 hours for advertising).

Annual labor cost burden: Staff estimates the annual labor cost burden based on the following computations using labor cost rates based on information from the U.S. Department of Labor, Bureau of Labor Statistics to be \$1,911,000, rounded to the nearest thousand.

Task	Hourly Rate	Burden Hours	Labor Cost
Determine label content	\$ 22.00	24,400	\$536,800
Draft and order labels	\$ 16.27	6,100	\$99,247
Attach labels	\$ 9.50 ⁵	29,799	\$283,091
Invoice disclosures	\$ 16.27	8,777	\$142,802
Prepare advertising disclosures	\$ 25.00	1,150	\$28,750
Recordkeeping	\$ 16.27	50,414	\$820,236
TOTAL			\$1,910,926

⁴ The invoice disclosure burden for PRA purposes excludes the time that respondents would spend for invoicing, apart from the Fur Act Regulations, in the ordinary course of business. 5 C.F.R. § 1320.3(b)(2).

⁵Per industry sources, most fur labeling is done in the United States. This rate is reflective of an average domestic hourly wage for such tasks, which is derived from recent BLS statistics.

13. Estimated Capital or Other Non-Labor Costs

Staff believes that there are no current start-up costs or other capital costs associated with the fur regulations. Because the labeling of fur products has been an integral part of the manufacturing process for decades, manufacturers have in place the capital equipment necessary to comply with the fur regulations labeling requirements. Industry sources indicate that much of the information required by the Fur Act and its implementing rules would be included on the product label even absent the fur regulations. Similarly, invoicing, recordkeeping, and advertising disclosures are tasks performed in the ordinary course of business so that covered firms would incur no additional capital or other non-labor costs as a result of the Act.

14. Estimated Cost to the Federal Government

Staff estimates that a representative year's cost of administering the rule during the 3-year clearance period sought will be approximately \$6,722. Attorney, clerical, and other support staff costs are included in this estimate, as are employee benefits.

15. Program Changes or Adjustments

The Federal Trade Commission is requesting a change from its burden estimate of 168,000 hours under its current OMB clearance to 121,000 hours. Staff's adjustment of 47,000 hours is attributable to a decline in the number of fur manufacturers and retailers.

16. Statistical Use of Information

There are no plans to publish any information for statistical use.

17. Display of Expiration Date for OMB Approval

Not applicable.

18. Exceptions to the Certification for Paperwork Reduction Act Submissions

Not applicable.