

**Supporting Statement for Information Collection
Provisions of Rules and 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 Rules and Regulations, 16 C.F.R. § 301 (“Fur Rules” or “Rules”), is to protect consumers and others against misbranding, false advertising, and false invoicing of fur products and furs.¹

The sections of 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, and 301.37)

Section 301.2 generally provides that: “Each and every fur product . . . 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.”

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).

The various sections in this category merely implement this and other specific provisions of the Act. For example, Sections 301.35 and 301.41 require manufacturers and other marketers who substitute 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.). In addition, 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, 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 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 sections is used by manufacturers and other marketers of covered products to support claims made on labels and invoices, 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, the 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 Sections 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 the Rules.

The Act and the Rules 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 Act or 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. The Act, as recently amended by the Truth in Fur Labeling Act (“TFLA”), provides a new exemption for furs sold directly by trappers and hunters to customers in certain face-to-face transactions.²

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 Association and the Fur Information Council of America. 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 Rules; they are aware that the FTC will freely provide copies of the Fur Act and Rules 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 Rules, in accordance with 5 C.F.R. § 1320.8(d). See 76 Fed. Reg. 77,230 (December 12, 2011) (no comments were received). Consistent with 5 C.F.R. § 1320.12(c), it is doing so again contemporaneous with this submission.

²Pub. L. No. 111-313. This exemption is codified at 15 U.S.C. § 69a(g).

The Commission has also initiated a review of the Fur Rules under its regulatory review program. See 76 Fed. Reg. 13550 (March 13, 2011). Among other things, the Commission seeks comment on the overall costs, benefits, necessity, and regulatory and economic impact of, and possible modifications to, the Fur Rules. In December 2011, the Commission held a public hearing on whether and how to revise the Rules' Fur Products Name Guide, an issue the TFLA directed the Commission to address.³

During the review, the Commission is also planning to implement the TFLA, which amends the Fur Act by: (1) eliminating the Commission's discretion to exempt fur products of relatively small quantity or value from disclosure requirements; and (2) providing that the Fur Act will not apply to certain fur products obtained through trapping or hunting and sold in face-to-face transactions ("hunter/trapper exemption").⁴ Comments filed in the review provide information on how the end of the exemption described in (1) above will affect compliance costs, as explained in item #15 below.

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. Burden Estimate

Estimated annual hours burden: 168,098 hours (51,870 hours for recordkeeping + 116,228 hours for disclosure).

Recordkeeping:

The Fur Rules 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 1,230 retailers incur an average recordkeeping burden of about 13 hours per year (15,990 hours total); 90 manufacturers incur an average recordkeeping burden of about 52 hours per year (4,680 hours 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 51,870 hours annually.

³See <http://www.ftc.gov/opa/2011/11/furlabeling.shtm>.

⁴See note 2.

Disclosure:

Staff estimates that 1,320 respondents (90 manufacturers + 1,230 retail sellers of fur garments) each require an average of 26 hours per year to determine label content (34,320 hours total), and an average of seven hours per year to draft and order labels (9,240 hours total). Staff estimates that the total number of garments subject to the fur labeling requirements annually is approximately 1,336,000.⁵ Staff estimates that for approximately 50 percent of these garments (668,000) labels are attached manually, requiring approximately four minutes per garment for a total of 44,533 hours annually. For the remaining 668,000, the process of attaching labels is semi-automated and requires an average of approximately five seconds per item, for a total of 928 hours. Thus, the total burden for attaching labels is 45,461 hours, and the total burden for labeling garments is 89,021 hours per year (34,320 hours to determine label content +9,240 hours to draft and order labels + 45,461 hours to attach labels).

Staff estimates that the incremental burden associated with the Fur Rules' invoice disclosure requirement, beyond the time that would be devoted to preparing invoices in the absence of the Rules, is approximately one minute per invoice for garments and thirty seconds per invoice for pelts.⁶ 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 1,336,000 garments, the invoice disclosure requirement entails an estimated burden of 22,267 hours (1,336,000 invoices x one minute). Based on information from the International Trade Commission and the Fur Commission USA, staff estimates total sales of 7,498,000 pelts annually. Assuming invoices are prepared for sales of 149,960 groups (derived from an estimated 7,498,000 million pelts ÷ 50) of imported and domestic pelts, the invoice disclosure requirement entails an estimated total burden of 1,250 hours (149,960 total invoices x thirty seconds). Thus, the total burden for invoice disclosures is 23,517 hours.

Staff estimates that the Fur Rules' advertising disclosure requirements impose an average burden of three hours per year for each of the approximately 1,230 domestic fur retailers, or a total of 3,690 hours.

The hunter/trapper exemption created by the TFLA will likely reduce the number of fur products subject to the Rules. The Commission does not have any data on the size of this reduction; however, the Commission does not have any reason to believe that a significant number of products will fall under this narrow exemption. Thus, this exemption does not seem

⁵The total number of imported fur garments, fur-trimmed garments, and fur accessories is estimated to be approximately 1,156,000 based on International Trade Commission data. Estimated domestic production totals 180,000.

⁶The invoice disclosure burden for PRA purposes excludes the time that respondents would spend for invoicing, apart from the Fur Rules, in the ordinary course of business. *See* 5 C.F.R. 1320.3(b)(2).

likely to affect overall compliance costs significantly.

In addition, any revision to the Rules' Fur Products Name Guide that may result from the Commission's regulatory review would not likely affect compliance costs significantly. Any such revision to the Guide would most likely result in a slight wording change on fur labels without increasing labeling costs.

Thus, staff estimates the total disclosure burden to be approximately 116,228 hours (89,021 hours for labeling + 23,517 hours for invoices + 3,690 hours for advertising).

Estimated annual cost burden: \$2,806,665 (solely relating to labor costs). The chart below summarizes the total estimated costs.

Task	Hourly Rate	Burden Hours	Labor Cost
Determine label content	\$ 23.00	34,320	\$789,360
Draft and order labels	\$ 18.00	9,240	\$166,320
Attach labels	\$ 9.00 ⁷	45,461	\$409,149
Invoice disclosures	\$ 18.00	23,517	\$423,306
Prepare advertising disclosures	\$ 23.00	3,690	\$84,870
Recordkeeping	\$ 18.00	51,870	\$933,660
TOTAL			\$2,806,665

Staff believes that there are no current start-up costs or other capital costs associated with the Fur Rules. 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 Rules' labeling requirements.⁸ Industry sources indicate that much of the information required by the Fur Act and Rules would be included on the product label even absent the Rules. 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 or the Rules.

⁷Per 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.

⁸Although items previously exempt from the labeling requirements must now be labeled regarding their fur content, the Textile and Wool Rules already required many such items to have fiber content labels. Hence, manufacturers likely have in place the equipment needed to comply with the labeling requirements.

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 Rules. 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 labeling requirements. Industry sources indicate that much of the information required by the Fur Act and Rules would be included on the product label even absent the Rules. 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 \$50,000. 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 121,000 hours under its current OMB clearance up to 168,098 hours. The increase of 47,098 hours is mostly attributable to a program change, which is an increase of 39,024 hours derived from recent statutory amendments. There is a separate increase of 8,424 hours for an adjustment in agency estimates derived from changing market conditions and a revised burden estimate for the automatic attachment of labels (which increased from 2 seconds to 5 seconds).

Amendments to the Fur Act in 2010 are expected to increase the cost of complying with the Fur Rules. Congress eliminated the Commission's power to exempt from the labeling requirements 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. As a result, more garments will be subject to the Fur Act and Rules, which will impose higher recordkeeping and labeling costs on manufacturers, importers, and retailers. Because the requirements started to apply to the previously exempted garments last year, the Commission has only limited information on the extent to which compliance costs will increase

The Commission has some evidence that aggregate costs will rise substantially due to the end of the exemption.⁹ For example, the Humane Society of the United States explained in its comment filed in the regulatory review of the Fur Rules that “as many fur-trimmed garments are sold today as full-length fur coats, and the fur industry has predicted that the use of fur for trim in the United States could surpass the use of fur for full-length apparel, if it hasn’t already.”¹⁰

⁹See <http://www.ftc.gov/os/comments/furlabeling/00016-59947.pdf>.

¹⁰See <http://www.ftc.gov/os/comments/furlabeling/00017-59948.pdf>.

This suggests that the end of the exemption will increase significantly the number of products subject to the labeling requirements in the Rules, depending on the percentage of fur-trimmed apparel that would have been exempted had the exemption remained in effect.¹¹ Deckers Outdoor Corporation commented that the elimination of the exemption required it to spend about \$1 million to label previously exempted footwear that had left the factory.

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.

¹¹The exemption also has certain exceptions. For example, it does not apply if the marketer makes representations regarding the fur.