

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY:
Federal Trade Commission (FTC or Commission).

ACTION:
Notice.

SUMMARY:

The information collection requirements described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act (PRA) (44 U.S.C. 3501-3520). The FTC is seeking public comments on its proposal to extend through February 28, 2012, the current PRA clearances for information collection requirements contained in four product labeling rules enforced by the Commission. Those clearances expire on February 28, 2009.

DATES:

Comments must be received by [insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES:

Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to Apparel Rules: FTC File No. P074201 to facilitate the organization of comments. Please note that comments will be placed on the public record of this proceeding including on the publicly accessible FTC website, at (<http://www.ftc.gov/os/publiccomments.shtm>) and therefore should not include any sensitive or confidential information. In particular, comments should not include any sensitive personal information, such as an individual's Social Security Number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include any [t]rade secrets and commercial or financial information obtained from a person and privileged or confidential...., as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and Commission Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled Confidential, and must comply with FTC Rule 4.9(c).¹

¹ FTC Rule 4.2(d), 16 CFR 4.2(d). The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the

public interest. See FTC Rule 4.9(c), 16 CFR 4.9(c).

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by using the following weblink: (<https://secure.commentworks.com/ftc-apparelrulespra2>) (and following the instructions on the web-based form). To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the weblink: (<https://secure.commentworks.com/ftc-apparelrulespra2>). If this Notice appears at (<http://www.regulations.gov/search/index.jsp>), you may also file an electronic comment through that website. The Commission will consider all comments that regulations.gov forwards to it. You may also visit the FTC website at <http://www.ftc.gov> to read the Notice and the news release describing it.

A comment filed in paper form should include the Apparel Rules: FTC File No. P074201 reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/Office of the Secretary, Room H-135 (Annex J), 600 Pennsylvania Avenue, NW, Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

Comments should additionally be submitted to: Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission. Comments should be submitted via facsimile to (202) 395-5167 because U.S. Postal Mail is subject to lengthy delays due to heightened security precautions.

The Federal Trade Commission Act (FTC Act) and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at (<http://www.ftc.gov/os/publiccomments.shtm>). As a matter of discretion, the Commission makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at (<http://www.ftc.gov/ftc/privacy.shtm>).

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the proposed information requirements should be addressed to Connie Vecellio and Matthew Wilshire, Attorneys, Division of Enforcement, Bureau of Consumer Protection, 600 Pennsylvania Ave., N.W., Washington, D.C. 20580, (202) 326-2996.

SUPPLEMENTARY INFORMATION:

Under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501-3520, federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. On October 31, 2008, the FTC sought comment on the information collection requirements associated with the Commission's regulations under the Fur Act, 16 CFR Part 301 (OMB Control Number 3084-0099); regulations under

the Wool Act, 16 CFR Part 300 (OMB Control Number 3084-0100); regulations under the Textile Act, 16 CFR Part 303 (OMB Control Number 3084-0101); and the Care Labeling Rule, 16 CFR 423 (OMB Control Number 3084-0103). No comments were received. Pursuant to the OMB regulations that implement the PRA (5 CFR Part 1320), the FTC is providing this second opportunity for public comment while seeking OMB approval to extend the existing paperwork clearance for the rules. All comments should be filed as prescribed in the ADDRESSES section above, and must be received on or before [insert date 30 days after date of publication in the FEDERAL REGISTER].

2 73 FR 64948.

Staff's burden estimates for the four rules in question are based on data from the Department of Commerce's Bureau of the Census, the International Trade Commission, the Department of Labor's Bureau of Labor Statistics (BLS), and data or other input from industry sources. The relevant information collection requirements within these rules and corresponding burden estimates follow.

1. Regulations under the Fur Products Labeling Act, 15 U.S.C. 69 et seq. (Fur Act), 16 CFR Part 301 (OMB Control Number: 3084-0099).

The Fur Act prohibits the misbranding and false advertising of fur products. The Fur Act Regulations, 16 CFR 301, establish disclosure requirements that assist consumers in making informed purchasing decisions, and recordkeeping requirements that assist the Commission in enforcing these regulations. The Regulations also provide a procedure for exemption from certain disclosure provisions under the Fur Act.

Estimated annual hours burden: 121,000 hours, rounded to the nearest thousand (50,414 hours for recordkeeping + 70,226 hours for disclosure).

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 annually is approximately 886,577.3. Staff estimates that for approximately 50 percent of these garments (443,289) labels are attached manually, requiring approximately four minutes per garment for a total of 29,553 hours annually. For the remaining 443,288, 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 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).

3 The 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).

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. 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. Based on information from the International Trade Commission and the Fur Commission USA, staff estimates a total of 8,333,865 pelts annually. Assuming invoices are prepared for sales of 886,577 garments and 166,677 groups (derived from an estimated 8,333,865 million pelts ÷ 50) each 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).

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. See 5 CFR 1320.3(b)(2).

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).

Estimated annual cost burden: \$1,911,000, rounded to the nearest thousand (solely relating to labor costs).

<GPOTABLE COLS="4" OPTS="L3,i1" CDEF="x150,25C,25C,25C">

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

5 Per 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. Conversely, attaching labels with regard to the other regulations discussed herein is mostly performed by foreign labor, as detailed in note 6.

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

2. Regulations under the Wool Products Labeling Act, 15 U.S.C. 68 et seq. (Wool Act), 16 CFR Part 300 (OMB Control Number: 3084-0100).

The Wool Act prohibits the misbranding of wool products. The Wool Act Regulations, 16 CFR 300, establish disclosure requirements that assist consumers in making informed purchasing decisions and recordkeeping requirements that assist the Commission in enforcing the Regulations.

Estimated annual hours burden: 440,000 hours, rounded to the nearest thousand (80,000 recordkeeping hours + 360,000 disclosure hours).

Recordkeeping: Staff estimates that approximately 4,000 wool firms are subject to the Regulations's recordkeeping requirements. Based on an average annual burden of 20 hours per firm, the total recordkeeping burden is 80,000 hours.

Disclosure: Approximately 8,000 wool firms, producing or importing about 600,000,000 wool products annually, are subject to the Regulations's disclosure requirements. Staff estimates the burden of determining label content to be 15 hours per year per respondent, or a total of 120,000 hours, and the burden of drafting and ordering labels to be 5 hours per respondent per year, or a total of 40,000 hours. Staff believes that the process of attaching labels is now fully automated and integrated into other production steps for about 40 percent of all affected products. For the remaining 360,000,000 items (60 percent of 600,000,000), the process is semi-automated and requires an average of approximately two seconds per item, for a total of 200,000 hours per year. Thus, the total estimated annual burden for all respondents is 360,000 hours (120,000 hours for determining label content + 40,000 hours to draft and order labels + 200,000 hours to attach labels). Staff believes that any additional burden associated with advertising disclosure requirements would be minimal (less than 10,000 hours) and can be subsumed within the burden estimates set forth above.

Estimated annual cost burden: \$5,702,000, rounded to the nearest thousand (solely relating to labor costs).

<GPOTABLE COLS="4" OPTS="L3,i1" CDEF="x150,25C,25C,25C">

Task

Hourly Rate

Burden Hours

Labor Cost

Determine label content

\$22.00

120,000

\$2,640,000

Draft and order labels

\$16.27

40,000

\$650,800

Attach labels

\$5.55 6

200,000

\$1,110,000

Recordkeeping

\$16.27

80,000

\$1,301,600

TOTAL

\$5,702,400

6 For products that are imported, this work generally is done in the country where they are manufactured. According to information compiled by an industry trade association using data from the International Trade Commission, the U.S. Customs Service, and the U.S. Census Bureau, approximately 95 % of apparel and other textile products used in the United States is imported. With the remaining 5 % attributable to U.S. production at an approximate domestic hourly wage of \$9.50 to attach labels, staff has calculated a weighted average hourly wage of \$5.55 per hour attributable to U.S. and foreign labor combined. The estimated percentage of imports supplied by particular countries is based on trade data for 2007 compiled by the Office of Textiles and Apparel, International Trade Administration, U.S. Department of Commerce. Wages in major textile exporting countries, factored into the above hourly wage estimate, were based on 2006 data from the U.S. Department of Labor, Bureau of International Labor Affairs. See International Comparisons of Hourly Compensation Costs for Production Workers in Manufacturing, Table 1, available at: <http://www.bls.gov/fls/hcpwsuptabtoc.htm>.

Staff believes that there are no current start-up costs or other capital costs associated with the Regulations. Because the labeling of wool products has been an integral part of the manufacturing process for decades, manufacturers have in place the capital equipment necessary to comply with the Regulations. Based on knowledge of the industry, staff believes that much of the information required by the Wool Act and its implementing regulations would be included on the product label even absent their requirements. Similarly, 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 Regulations.

3. Regulations under The Textile Fiber Products Identification Act, 15 U.S.C. 70 et seq. (Textile Act), 16 CFR Part 303 (OMB Control Number: 3084-0101).

The Textile Act prohibits the misbranding and false advertising of textile fiber products. The Textile Act Regulations, 16 CFR 303, establish disclosure requirements that assist consumers in making informed purchasing decisions, and recordkeeping requirements that assist the Commission in enforcing the Regulations. The Regulations also contain a petition procedure for requesting the establishment of generic names for textile fibers.

Estimated annual hours burden: approximately 8,456,000 hours, rounded to the nearest thousand (623,400 recordkeeping hours + 7,832,842 disclosure hours).

Recordkeeping: Staff estimates that approximately 24,936 textile firms are subject to the Textile Regulations's recordkeeping requirements. Based on an average burden of 25 hours per firm, the total recordkeeping burden is 623,400 hours.

Disclosure: Approximately 26,647 textile firms, producing or importing about 21.5 billion textile fiber products annually, are subject to the Regulations's disclosure requirements. Staff estimates the burden of determining label content to be 20 hours per year per respondent, or a total

of 532,940 hours and the burden of drafting and ordering labels to be 5 hours per respondent per year, or a total of 133,235 hours.⁸ Staff believes that the process of attaching labels is now fully automated and integrated into other production steps for about 40 percent of all affected products. For the remaining 12.9 billion items (60 percent of 21.5 billion), the process is semi-automated and requires an average of approximately two seconds per item, for a total of 7,166,667 hours per year. Thus, the total estimated annual burden for all respondents is 7,832,842 hours (532,940 hours to determine label content + 133,235 hours to draft and order labels + 7,166,667 hours to attach labels).⁹ Staff believes that any additional burden associated with advertising disclosure requirements or the filing of generic fiber name petitions would be minimal (less than 10,000 hours) and can be subsumed within the burden estimates set forth above.

⁷ The apparent consumption of garments in the U.S. in 2007 was 20.1 billion. Staff estimates that 1 billion garments are exempt from the Textile Act (i.e., any kind of headwear and garments made from something other than a textile fiber product, such as leather) or are subject to a special exemption for hosiery products sold in packages where the label information is contained on the package. Based on available data, staff estimates that an additional 3 billion household textile products (non-garments, such as sheets, towels, blankets) were consumed. However, approximately 0.6 billion of all of these combined products (garments and non-garments) are subject to the Wool Products Labeling Act, not the Textile Fiber Products Identification Act, because they contain some amount of wool. Thus, the estimated net total products subject to the Textile Fiber Products Identification Act is 21.5 billion.

⁸ In 2007, Congress amended the Wool Act to explicitly define cashmere and certain terms used to describe superfine wool (e.g., Super 80s, Super 90s, etc.). See Pub. L. 109-428. The Commission anticipates revising the wool Regulations to incorporate these amendments. The Commission will seek comment on the increased burden, if any, imposed by these changes when it announces the revisions.

⁹ The Commission revised the Textile Act Regulations in 2006 in response to amendments to the Textile Act. See 70 Fed. Reg. 73369 (Dec. 12, 2005). These amendments concerned the placement of labels on packages of certain types of socks and, therefore, do not place any additional disclosure burden on covered entities.

Estimated annual cost burden: \$63,810,000, rounded to the nearest thousand (solely relating to labor costs).

<GPOTABLE COLS="4" OPTS="L3,i1" CDEF="x150,25C,25C,25C">

Task

Hourly Rate

Burden Hours

Labor Cost

Determine label content

\$22.00
532,940
\$11,724,680

Draft and order labels

\$16.27
133,235
\$2,167,733

Attach labels

\$5.55 10
7,166,667
\$39,775,002

Recordkeeping

\$16.27
623,400
\$10,142,718

TOTAL

\$63,810,133

10 See note 6.

Staff believes that there are no current start-up costs or other capital costs associated with the Regulations. Because the labeling of textile products has been an integral part of the manufacturing process for decades, manufacturers have in place the capital equipment necessary to comply with the Regulations's labeling requirements. Industry sources indicate that much of the information required by the Textile Act and its implementing rules would be included on the product label even absent their requirements. Similarly, recordkeeping, invoicing, 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 Regulations.

4. The Care Labeling Rule, 16 CFR Part 423 (OMB Control Number: 3084-0103).

The Care Labeling Rule, 16 CFR Part 423, requires manufacturers and importers to attach a permanent care label to all covered textile clothing in order to assist consumers in making purchase decisions and in determining what method to use to clean their apparel. Also, manufacturers and importers of piece goods used to make textile clothing must provide the same care information on the end of each bolt or roll of fabric.

Estimated annual hours burden: 7,566,000 hours, rounded to the nearest thousand (solely relating to disclosure¹¹).

¹¹ The Care Labeling Rule imposes no specific recordkeeping requirements.

Although the Rule requires manufacturers and importers to have reliable evidence to support the recommended care instructions, companies may provide as support current technical literature or rely on past experience.

Staff estimates that approximately 26,647 manufacturers or importers of textile apparel, producing about 20.1 billion textile garments annually, are subject to the Rule's disclosure requirements. The burden of developing proper care instructions may vary greatly among firms, primarily based on the number of different lines of textile garments introduced per year that require new or revised care instructions. Staff estimates the burden of determining care instructions to be 43 hours each year per respondent, for a cumulative total of 1,145,821 hours. Staff further estimates that the burden of drafting and ordering labels is 2 hours each year per respondent, for a total of 53,294 hours. Staff believes that the process of attaching labels is fully automated and integrated into other production steps for about 40 percent of the approximately 19.1 billion garments that are required to have care instructions on permanent labels. For the remaining 11.46 billion items (60 percent of 19.1 billion), the process is semi-automated and requires an average of approximately two seconds per item, for a total of 6,366,667 hours per year. Thus, the total estimated annual burden for all respondents is 7,565,782 hours (1,145,821 hours to determine care instructions + 53,294 hours to draft and order labels + 6,366,667 hours to attach labels).

12 About 1 billion of the 20.1 billion garments produced annually are either not covered by the Care Labeling Rule (gloves, hats, caps, and leather, fur, plastic, or leather garments) or are subject to an exemption that allows care instructions to appear on packaging (hosiery).

Estimated annual cost burden: \$61,410,000¹³ , rounded to the nearest thousand (solely relating to labor costs).

13 We have corrected an error in this calculation that appeared in the prior 60-day Federal Register notice.

<GPOTABLE COLS="4" OPTS="L3,i1" CDEF="x150,25C,25C,25C">

Task

Hourly Rate

Burden Hours

Labor Cost

Determine care instructions

\$22.00

1,145,821

\$25,208,062

Draft and order labels

\$16.27

53,294
\$867,093

Attach labels
\$5.55 14
6,366,667
\$35,335,002

TOTAL

\$61,410,157

14 See note 6.

Staff believes that there are no current start-up costs or other capital costs associated with the Rule. Because the labeling of textile products has been an integral part of the manufacturing process for decades, manufacturers have in place the capital equipment necessary to comply with the Rule's labeling requirements. Based on knowledge of the industry, staff believes that much of the information required by the Rule would be included on the product label even absent those requirements.

David C. Shonka,

Acting General Counsel

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