Supporting Statement for Information Collection
Provisions of Regulations Under the Textile Fiber Products Identification Act
16 C.F.R. § 303
(OMB Control #: 3084-0101)

1. Necessity for Collecting the Information

The purpose of the Textile Fiber Products Identification Act ("Textile Act" or "Act"), 15 U.S.C. § 70 et seq., is to protect producers and consumers against misbranding and false advertising of textile fiber products. Section 7(c) of the Act directs the Federal Trade Commission ("FTC" or "Commission") to ". . . make such rules and regulations . . . under and in pursuance of the terms of this Act as may be necessary and proper for administration and enforcement."

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

Labeling and Invoicing
(e.g., 16 C.F.R. §§ 303.2, 303.15, 303.16, 303.17, 303.21(b), 303.31, 303.32, and 303.33)

The rules require each covered product to be labeled or invoiced to provide disclosure of: (1) fiber contents, (2) the identity of the manufacturer or other marketer of the product, and (3) country of origin information. The various rules that comprise this category merely implement Section 4(b) of the Textile Act, which specifically mandates the disclosure of this information.[1] These disclosures are deemed necessary because they provide material information about the products; lacking this information, potential purchasers could not make informed buying decisions.

Recordkeeping
(16 C.F.R. § 303.39)

Section 303.39 implements Sections 5 and 6 of the Textile Act. It requires manufacturers and those marketers who substitute labels (e.g., resellers) to maintain records, invoices, and other documents that reflect the basis relied upon in making fiber content and country of origin disclosures shown on invoices and labels attached to textile products. Records must be retained for three years "to permit a determination that the requirements of the Act and Regulations have been met and to establish a traceable line of continuity from raw material through processing to

[1] The Commission revised the Textile Act Regulations in response to amendments to the Textile Act. See 70 Fed. Reg. 73369 (Dec. 12, 2005). These amendments, effective March 3, 2006, concerned the placement of labels on packages of certain types of socks and did not place any additional disclosure burden on covered entities.

finished product." This information collection is necessary to substantiate the stated country of origin disclosure and to establish a fiber content line of continuity from raw material through sale of finished product.

Advertising Disclosures
(16 C.F.R. §§ 303.34, 303.40, 303.41, and 303.42)

Section 303.34 implements Section 4(i) of the Textile Act, which requires each item description of a covered product offered for sale in catalog or mail order promotional material to include a clear and conspicuous disclosure of whether "such textile fiber product is processed or manufactured in the United States of America, or imported, or both."

Sections 303.40, 303.41, and 303.42 apply in situations where a written advertisement for a covered product sets forth a "triggering term" (e.g., a fiber trademark or a term implying fiber content). Where a written advertisement includes such a term, the advertisement must disclose certain additional information pertaining to fiber content. The rules implement Section 4(c) of the Textile Act, which specifically mandates these disclosures in written advertisements. These disclosures are necessary to preclude misinformation and misleading representations.

Housemarks
(16 C.F.R. § 303.19)

As mentioned above, manufacturer or other marketer identification is a required disclosure on labels and invoices of covered products. Companies may satisfy this identity requirement by merely stating their business names. However, Section 303.19 establishes an alternative means through which manufacturers and others may meet this identity requirement in labeling. The rule states: "Where a person has a word trademark, used as a housemark, registered in the United States Patent Office, such word trademark may be used on labels in lieu of the name otherwise required."

Note that use of a housemark is voluntary. Those who opt to use a housemark must furnish the Commission with a copy of the trademark registration prior to its use in labeling. Thus, this information collection is necessary only when companies choose to meet the identity requirement via the alternative method established under § 303.19.

Generic Name Petitions
(16 C.F.R. § 303.8)

Section 303.8 provides a mechanism whereby a manufacturer of a new, man-made fiber may petition the Commission to include the new fiber among the list of established generic fibers. The rule requires the petitioner to provide certain information, including the chemical composition of the new fiber, samples of the fiber, and a statement of the reasons why the fiber should not be identified by one of the generic names previously established by the Commission. This information collection is necessary because it provides the Commission with the scientific and other data required to make an informed decision of whether to amend the list of established

generic fibers (i.e., § 303.7) or to deny the petition and advise the applicant of the proper method of disclosure using existing, established generic fiber categories.

2. Use of the Information

Labeling and Invoicing

Potential purchasers, both consumers and businesses, rely upon the disclosed fiber content and country of origin 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 of a particular item for business reasons.

Recordkeeping

The information collected pursuant to the recordkeeping rule is used by manufacturers and marketers who choose to substitute labels. The records serve as support for the fiber content and country of origin claims made on labels and invoices and provide a deterrent against misbranding. The records are also available to the Commission and may be used in an inquiry or law enforcement action.

Advertising Disclosures

Consumers who purchase covered products by catalog or other mail order sale do not have an opportunity to examine the label on the product before buying it. They see the label for the first time only after the sale has been consummated. Consequently, § 303.34 ensures that, prior to purchase, consumers will be apprised of whether a covered product offered for sale by catalog or other mail order promotional material is made in the USA, is imported, or both.

Consumers and other potential purchasers rely upon information contained in written advertisements. Where such advertisements include a "triggering term," §§ 303.40, 303.41, and 303.42 ensure that further minimal disclosures are made to avert the possibility of deception. The records are also available to the Commission and may be used in an inquiry or law enforcement action.

Housemarks

The information collected is a copy of the trademark registration to be used as a housemark. This must be submitted to the Commission before the housemark is used for identification purposes. The Commission uses this information for enforcement purposes. For example, where misbranding is an issue, the Commission can locate the manufacturer by accessing the file of approved housemarks.

Generic Name Petitions

The information collected pursuant to the rule establishing procedures for adopting a new generic fiber is used by the Commission to determine whether to amend the list of established generic fibers (i.e., § 303.7), or to deny the petition and advise the applicant of the proper method of disclosure using existing, established generic fiber categories. In practice, the information collected is extremely technical in nature and is referred to and used by consultant experts (e.g., polymer chemists) who aid the Commission in the ultimate disposition of the applicant's petition.

3. Consideration of the Use of Improved Information Technology to Reduce Burden

Generally, this item does not apply to any of the categories of information collection covered by this submission.

The rules requiring labeling and invoicing, recordkeeping, and disclosure in advertising merely set forth certain performance standards. For example, fiber content labels must clearly and conspicuously disclose the required information; however, companies may avail themselves of any improved technology (e.g., in the area of mechanization, typesetting, and printing) in meeting these performance standards. In addition, covered entities have flexibility with regard to the placement of information on labels and the attachment of labels to products.

The housemark information collection is merely a copy of a registered trademark. Under the generic name petition rule, the applicant has discretion over the amount of information to be submitted and the format in which it is presented.

For information that is required to be disclosed on textile product labels, an electronic disclosure option, pursuant to the Government Paperwork Elimination Act, Pub. L. No. 105-277, Title XVII, 112 Stat. 2681-749 ("GPEA"), is impracticable. For non-labeling disclosures, however, the Commission, in compliance with the Act, has previously amended relevant Textile Rules definitions so that they are either format-neutral or explicitly recognize and permit such disclosures in electronic format. See 16 C.F.R. § 303.1(h) ("invoice" or "invoice or other paper" – issued "in writing or in some other form capable of being read and preserved in a tangible form"), (u) ("mail order catalog" or "mail order material" – materials disseminated "in print or by electronic means"). Likewise, the rules permit the maintenance of relevant records in any format, including electronic, that a manufacturer chooses. 16 C.F.R. § 303.39.

4. Efforts to Identify Duplication/Availability of Similar Information

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

The Act and regulations were placed into effect because companies were not voluntarily providing material product information or were not providing it in a meaningful, standardized format that facilitated informed buying decisions in the marketplace. The record collection and retention requirements do not constitute an "additional burden" to most companies, because they simply require recording and maintaining information that most covered companies would

routinely undertake in the normal course of business.

5. Efforts to Minimize Burden on Small Businesses

The provisions of the Textile Act and its implementing regulations apply to all manufacturers and other marketers of covered textile fiber products, including small businesses and other small entities. Under the Act, the Commission has no latitude to treat small businesses differently. The Act specifically requires "any person" marketing covered products to label, invoice, and keep records; "person" is defined as, ". . . an individual, partnership, corporation, association or any other form of business enterprise" (emphasis added). Thus, Congress intended to cover all concerns, of whatever size, engaged in the marketing of textile fiber products. Further, the Act does not include language that would provide for the Commission to either exempt a particular category of firm or set forth a lesser standard of compliance for any category of firm.

Although there have been no specific efforts to minimize the burden on small companies in particular, existing rules under the Textile Act serve to achieve this end. Small companies that fall within the rules requiring labeling and invoicing, recordkeeping, and disclosure in advertising are aided by the fact that their suppliers (e.g., mills, wholesalers) must provide them with accurate information regarding fiber content and country of origin. Consequently, their burden would appear to be minimal. Any company wishing to obtain a housemark need provide only a copy of a trademark registration. In practice, usually only large textile fiber manufacturers submit petitions for adopting a new generic fiber because only large companies have the necessary research and development capabilities to develop such a fiber.

6. Consequences of Conducting Collection Less Frequently

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

The recordkeeping requirement applies to manufacturers and those who substitute labels (e.g., resellers, printers, and screeners) and requires them to record and retain substantiation for the labeling claims they make concerning covered products. In the absence of this requirement, the country of origin disclosure would be unsupported and the chain of fiber content continuity from raw material through finished product would be lost. This would remove an important deterrent against misbranding and would complicate any Commission investigation, inquiry, or enforcement action.

The rules pertaining to disclosure in advertising provide that (1) each mail order and catalog advertisement must include a country of origin disclosure, and (2) any advertisement that uses a "triggering term" implying the presence of a particular fiber must disclose the generic names of all the constituent fibers. If country of origin information were not required in mail order literature, consumers would not receive any country of origin information until after they had already purchased a product. If the "triggering term" requirements for fiber disclosure were

relaxed, the objective of preventing dissemination of misinformation and misleading representations would be more difficult to accomplish.

The issue of collecting information less frequently does not apply to the rules pertaining to housemarks and generic name petitions. These involve one-time submissions that are made voluntarily by applicant firms.

7. Circumstances Requiring Collection Inconsistent with Guidelines

The collection of information under all rules considered herein is consistent with all applicable guidelines contained in 5 C.F.R. § 1320.5(d)(2).

8. Solicitation of Comments/Consultation Outside the Agency

Over the years, the FTC has had recurring contacts with affected companies and major trade associations. For example, Commission staff has ongoing liaison relationships with such major trade associations as the American Apparel and Footwear Manufacturers Association, the National Textile Association, and the American Fiber Manufacturers Association. Staff also has frequent contact with companies subject to these information collection rules, both large multi-national corporations and small businesses entering the market.

Based on these recurring contacts with covered companies and its own experience (e.g., from conducting routine compliance investigations), the Commission concludes that virtually all covered companies: (1) are aware of the specific regulations pertaining to labeling, invoicing, and advertising; (2) know that the FTC will freely provide copies of the Textile Act, its implementing regulations, and additional explanatory materials upon request; and, (3) consider the rules to be clear and reasonable. Experience further indicates that the information collection required merely calls for minimal, routine records that generally would be maintained by a responsible company, even absent the provision.

On August 24, 2007, the Commission solicited public comments relating to a petition filed by Mohawk Industries, Inc. ("Mohawk"), E. I. du Pont de Nemours and Company ("DuPont"), and PTT Poly Canada ("PTT Canada") (all hereinafter "Petitioners") to establish a new generic fiber subclass name and definition within the existing definition of "polyester" for a specifically proposed subclass of polyester fibers made from poly (trimethylene terephthalate) ("PTT"). See 72 Fed. Reg. 48,600. The comment period closed on November 12, 2007. As set out in the Federal Register notice, the proposed rule amendments would broaden the definition of polyester to describe more accurately the allegedly unique molecular structure and physical characteristics of PTT or, alternatively, allow covered companies to use a new generic fiber subclass name and definition for polyester. Neither proposal would change the existing paperwork burden on covered companies. Accordingly, neither proposed alternative amendment would impose any new or affect any existing reporting, recordkeeping, or third-party disclosure requirements that are subject to review by OMB under the PRA. The Commission received 49 comments. Commission staff is currently reviewing the comments and anticipates that the Commission will publish a final rule in the latter part of 2009.

Most recently, Commission staff, as it has in the past, sought public comment in connection with the FTC's 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), Commission staff 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

Actual submission of information pertains only to the housemark rule and the generic petition rule. The issue of confidentiality ordinarily does not apply in either case. Housemark holders are a matter of public record. Commission Rules treat petitions or filings for adoption of a new generic fiber name as public material except those for which confidential classification was sought, which occurs infrequently.[2] The submitter bears the burden of proving that a document warrants confidentiality under all applicable statutes, regulations and orders.[3]

12. Annual hours burden: 8,456,000 hours, rounded to the nearest thousand

Staff's burden hour estimates are based on data from the U.S. Census Bureau, U.S. Customs and International Trade Commission, U.S. Department of Labor, and data or other input from industry sources.

Recordkeeping: Staff estimates that approximately 24,936 textile firms are subject to the Textile Regulations' 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' disclosure requirements.[4]

---

[2] 16 CFR §§ 4.9(b)(3)(i).

[3] 16 CFR §§ 4.9(c).

[4] 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

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.[5] 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). 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.

Associated labor cost: $63,810,000, rounded to the nearest thousand.

Unless otherwise noted, staff's hourly wage rates are based on information received from the U.S. Department of Labor.

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

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.

[5] 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 in the latter part of 2009, and staff will seek OMB approval under the PRA as appropriate.

Task	Hourly Rate	Burden Hours	Labor Cost
Attach labels	$ 5.55[6]	7,166,667	$39,775,001
Recordkeeping	$ 16.27	623,400	$10,142,718
TOTAL			$63,810,132

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 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' 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 Textile Rules.

14. Estimated Cost to Federal Government

Staff estimates a representative year's cost imposed by the rule during the course of the three-year clearance period sought will be approximately $88,693. Attorney, clerical, and other support staff costs are included in this estimate, as are employee benefits.

15. Program Changes or Adjustments

FTC staff has adjusted upward its prior hours burden estimate of 8,011,000 hours, for which the Commission currently has OMB clearance, to 8,456,000 hours. This 445,000 hour increase is primarily attributable to a rise in the estimated number of covered textile products (from 19.9 billion products to 21.5 billion products). There has also been an increase in the

[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/hcpwsupptabtoc.htm.

number of textile firms subject to the Rules' recordkeeping provisions (from 24,000 firms to 24,936 firms).

16. Statistical Use of Information

There are no plans to publish, for statistical use, any information the Rules require.

17. Display of the Expiration Date for OMB Approval

Not applicable.

18. Exceptions to the Certification for Paperwork Reduction Act Submissions

Not applicable.