

**Supporting Statement for Information Collection Provisions of
FTC Trade Regulation Rule on Care Labeling of
Textile Wearing Apparel and Certain Piece Goods as Amended
16 C.F.R. § 423
(OMB Control #: 3084-0103)**

1. Necessity for Collecting the Information

In 1971, the Federal Trade Commission (“FTC” or “Commission”) determined that it is unfair or deceptive to sell textile clothing (and piece goods used to make textile clothing) without providing basic care information to consumers.¹ The Commission found that, absent care information, consumers suffer substantial economic injury when they are unable to shop for clothing on the basis of care characteristics, and when they use improper care procedures that damage clothing. The Commission also found evidence in the rulemaking record that most manufacturers and importers of textile clothing did not disclose care instructions in a permanent form. Accordingly, the Commission issued a trade regulation rule to require labels that fully inform purchasers about how to effect regular care and maintenance to be permanently attached to textile clothing.

The Commission’s Trade Regulation Rule on Care Labeling of Textile Wearing Apparel and Certain Piece Goods as Amended (“Care Labeling Rule” or “Rule”), 16 C.F.R. § 423, requires manufacturers and importers to attach a permanent care label to all covered, non-exempted textile clothing. 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. This information must fully disclose either washing or dry cleaning instructions, or that the item cannot be cleaned if such is the case. If washing instructions are given, the label must also disclose a drying procedure and, in some circumstances, bleaching and ironing care. If dry cleaning instructions are given, the appropriate solvent(s) must be disclosed if all solvents cannot be used. Use of standardized terminology is suggested, but not required, for all care instructions. For exempted items, the Rule requires disclosure of care instructions on a hang tag, on the package, or in some other conspicuous place.

2. Use of the Information

Consumers use the information disclosed on care labels in making purchase decisions and to avoid ineffective garment care practices or damage to garments. Professional cleaners also use the information to avoid damaging garments or ineffective care procedures. Textile products that are used to make clothing comprise a vast array of fibers, fabrics, and finishes. Each of these component products may have unique care performance characteristics and require the use of specific care techniques. The large number of products on the market makes it impracticable for consumers and professional cleaners to be informed about appropriate care practices. If manufacturers and importers of these products did not disclose care instructions to

¹ 36 Fed. Reg. 23883 (1971).

prospective purchasers, consumers would be unable to determine with certainty what care procedures to employ. In addition, consumers would not have the opportunity to consider care requirements along with other product attributes in making informed choices among competing textile clothing products.

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

Effective disclosure of care information to consumers entails labeling on garments themselves so that consumers can be informed of proper care procedures at the time of purchase and at the time of care; thus, providing an option for electronic disclosure pursuant to the Government Paperwork Elimination Act, Pub. L. No. 105-277, Title XVII, 112 Stat. 2681-749, is impracticable.

4. Burden/Efforts to Identify Duplication/Availability of Similar Information

Except for a limited requirement under the Flammable Fabrics Act regulations, see 16 C.F.R. §§ 1602-1632, there is no other federal or state law or regulation that requires care labeling of textile clothing. The Care Labeling Rule provides that in the event of a conflict between its provisions and the rules issued under the Flammable Fabrics Act, the latter will take precedence.² During the 1983 amendment proceeding, the Commission found that there were no known conflicts between the two sets of regulations.³ Before issuing the original Rule, the Commission found evidence in the rulemaking record that most manufacturers and importers of textile clothing did not disclose care instructions in a permanent form.

5. Efforts to Minimize Burden on Small Businesses

The Commission has minimized the burden on all businesses in a number of ways. Except for certain exempted items, the Rule requires a label disclosing a method of care or that the item cannot be cleaned if such is the case. In August 2000, the Commission considered but decided not to require alternative care instructions. See 65 Fed. Reg. 47261 (2000). If an item is both washable and dry cleanable, the Rule might have required the care label to include instructions for both methods. By not requiring the disclosure of more than one care method, the Rule avoids imposing additional costs to establish a reasonable basis for the additional care method. However, the Rule does not prohibit the disclosure of more than one method of care. Thus, manufacturers that wish to include more information may do so, provided they have a reasonable basis for each method listed on the label.

One of the principal considerations in the Commission's 1983 Rule amendment proceeding was how to improve care information while reducing unnecessary burdens on industry. To accomplish these ends, the Rule now outlines the necessary elements for both

² 16 C.F.R. § 423.9.

³ 48 Fed. Reg. 22741 (1983).

washing and dry cleaning instructions. A warning system of labeling is used to minimize the number of words necessary to give a complete care instruction. A glossary of standardized care terms is recommended for use so that drafting a complete instruction will be easier and so that instructions can be more easily understood.⁴

Manufacturers must have a reasonable basis for the care information they put on their labels, because such information constitutes a material claim. During the 1983 amendment proceeding, the Commission considered (but did not adopt) specific testing and recordkeeping requirements. Instead, the Rule describes six categories of evidence that may be used to establish a reasonable basis ranging from product tests to “other reliable evidence.”⁵ Manufacturers and importers have the widest possible latitude because the firms’ experience, other industry expertise, current technical literature, and similar reliable evidence may provide the required reasonable basis. A recordkeeping requirement was not considered necessary for Commission enforcement purposes.

Evidence in the rulemaking record showed that retailers of piece goods were not, in many cases, giving the consumer the care labels provided by the manufacturers. However, the record also showed that the majority of consumers who did receive the labels did not sew them into homemade garments. Based on this information, the Commission decided not to impose a duty of distributing such labels and, in fact, relieved the piece goods manufacturers of the obligation to supply such labels. Instead, such manufacturers must now only put the care instructions on the end of each bolt or roll of cloth.

The original Rule required industry members to petition the Commission for all exemptions and to submit samples or tests to support such petitions. The 1983 amendments retained this petition system only for products that are claimed to be harmed in appearance by the requirement for a permanent label.⁶ No industry member has requested an exemption since 2000. The other permitted exemptions apply automatically, based on a manufacturer’s or importer’s determination that a product meets the criteria listed in the Rule. Thus, if a product meets the criteria, it is not necessary to file a request for this exemption with the Commission.

6. Consequences of Conducting Collection Less Frequently

The public disclosure required by this Rule consists of placing a single label on each garment as it is manufactured or imported. To require less would defeat the objective of informing the consumer of proper care procedures at the time of purchase and at the time of care.

⁴ 16 C.F.R. § 423, Appendix A.

⁵ 16 C.F.R. § 423.6(c).

⁶ 16 C.F.R. § 423.8(d).

7. Circumstances Requiring Collection Inconsistent with Guidelines

The disclosures required by this Rule are 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 an on-going liaison relationship with the American Apparel and Footwear Association. Further, Commission staff has frequent contact with companies subject to the Rule (both large multi-national corporations and small businesses entering the market).

In the instant context, pursuant to OMB regulations implementing the Paperwork Reduction Act (“PRA”), Commission staff, as it has in the past, sought public comment on PRA aspects of the Rule, as required by 5 C.F.R. § 1320.8(d). See 77 Fed. Reg. 77,230 (December 12, 2011). No comments were received. Consistent with 5 C.F.R. § 1320.12(c), staff is doing so again contemporaneous with this submission.

The Commission has also initiated a review of the Care Labeling Rule under its regulatory review program. See 76 Fed. Reg. 41148 (July 13, 2011). Among other things, the Commission sought comment on the overall costs, benefits, necessity, and regulatory and economic impact of, and possible modifications to, the Rule. The FTC also sought comment on whether it should modify a provision in the Rule that permits the use of care symbols, and whether the Rule should address the disclosure of care instructions in languages other than English or the practice of professional wetcleaning. The comment period closed on September 6, 2011, and the Commission is reviewing the 120 comments.

9. Payments or Gifts to Respondents

Not applicable.

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

Since there are no recordkeeping or reporting requirements contained in this Rule, confidentiality issues and questions of a sensitive nature are not involved.

12. Estimated Annual Hours Burden: 6,666,477 hours (solely relating to disclosure⁷).

⁷ The Care Labeling Rule does not impose recordkeeping requirements. Although the Rule requires manufacturers and importers to have reliable evidence to support the recommended care instructions, under some circumstances companies may rely on current technical literature or past experience.

Staff estimates that approximately 22,218 manufacturers or importers of textile apparel, producing about 17 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 firm, for a cumulative total of 955,374 hours. Staff further estimates that the burden of drafting and ordering labels is 2 hours each year per respondent, for a total of 44,436 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 17 billion garments that are required to have care instructions on permanent labels.⁸ For the remaining 10.2 billion items (60 percent of 17 billion), the process is semi-automated and requires an average of approximately two seconds per item, for a total of 5,666,667 hours per year. Thus, the total estimated annual burden for all firms is 6,666,477 hours (955,374 hours to determine care instructions + 44,436 hours to draft and order labels + 5,666,667 hours to attach labels).

Associated labor cost: \$51,107,000, rounded to the nearest thousand (solely relating to labor costs). The chart below summarizes the total estimated costs.

Task	Hourly Rate	Burden Hours	Labor Cost
Determine care instructions	\$ 23.00	955,374	\$21,973,602
Draft and order labels	\$ 18.00	44,436	\$799,848

⁸ About 1 billion of the 18 billion garments produced annually are either not covered by the Care Labeling Rule (gloves, hats, caps, and leather, fur, or plastic garments) or are subject to an exemption that allows care instructions to appear on packaging (hosiery).

Task	Hourly Rate	Burden Hours	Labor Cost
Attach labels	\$ 5.00 ⁹	5,666,667	\$28,333,335
TOTAL			\$51,106,785

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 Care Labeling 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.

14. Estimated Cost to the 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 \$100,000. 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 downward its prior annual hours burden estimate of 7,565,782 hours in 2009 to 6,666,477 hours in 2012. This was largely caused because there are fewer garments produced annually and fewer firms now subject to the disclosure requirements.

16. Statistical Use of Information

⁹ For imported products, the labels generally are attached in the country where the products 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 to attach labels, staff has calculated a weighted average hourly wage of \$5 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 the year ending in September 2011 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 2009 data from the U.S. Department of Labor, Bureau of International Labor Affairs. *See* Table 1.1 Production Workers: Indexes of hourly compensation costs in manufacturing, U.S. dollar basis, 1975-2009 (Index, U.S. = 100) available at: ftp://ftp.bls.gov/pub/suppl/ichcc.ichccpwsuppt1_1.txt.

There are no plans to publish, for statistical use, any information required by the Rule.

17. Display of the Expiration Date for OMB Approval

Not applicable.

18. Exceptions to the Certification for Paperwork Reduction Act Submissions

Not applicable.