Supporting Statement for Information Collection
Provisions of Rules and 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.*, and its implementing Textile Act Rules and Regulations ("Textile Rules" or "Rules") 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 Textile Rules 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 sections of the Rules that comprise this category implement Section 4(b) of the Textile Act, which specifically mandates the disclosure of this information. 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 finished product." This information collection is necessary to substantiate the 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 stating their business names. However, Section 303.19 establishes an alternative means through which manufacturers and others may meet this identity requirement in labeling. This section 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, however, 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 Section 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 Rules require 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 whether to amend the list of established generic fibers (*i.e.*, Section 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 always have an opportunity to examine the label on the product before buying it. They often see the label for the first time only after the sale has been consummated. Consequently, Section 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," Sections 303.40, 303.41, and 303.42 ensure that further fiber content disclosures are made to avert the possibility of deception.

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 section 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.*, Section 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 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 rule provision providing for generic name petitions, 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 document"– issued "electronically, in writing, or in some other form capable of being read and preserved in a form that is capable of being accurately reproduced for later reference, whether by transmission, printing, or otherwise"), (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 Rules.

The Act and Rules were placed into effect because many 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 apply to information that most covered companies would routinely record and maintain in the normal course of business.

5. Efforts to Minimize Burden on Small Businesses

The provisions of the Textile Act and the Rules 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 allowing 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, the Rules serve to achieve this end. Small companies that fall within the sections 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 sections 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 often 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 sections 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 might not receive any country of origin information until after they 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 sections 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 the Rules 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 an ongoing liaison relationship with the American Apparel and Footwear 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 reviewing and amending the Rules and conducting routine compliance investigations), the Commission concludes that virtually all covered companies: (1) are aware of the Rules pertaining to labeling, invoicing, and advertising; (2) know that the FTC will freely provide copies of the Textile Act and Rules 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 recordkeeping provision.

In 2014, the Commission completed a review of the Textile Rules under its regulatory review program. Among other things, the Commission had sought comment on the overall costs, benefits, necessity, regulatory and economic impact of, and possible modifications to, the Textile Rules. The Commission retained the Rules with certain clarifying amendments. *See* 79 Fed. Reg. 18,766 (April 4, 2014).

Most recently, Commission staff sought public comment in connection with the FTC's latest PRA clearance request for these Rules, in accordance with 5 C.F.R. 1320.8(d). *See* 80 Fed. Reg. 1,411 (January 9, 2015) (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.[1] The submitter bears the burden of proving that a document warrants confidentiality under all applicable statutes, regulations and orders.[2]

12. Estimated annual hours burden: 39,186,772 hours (1,237,015 recordkeeping hours + 37,949,757 disclosure hours).

Recordkeeping: Staff estimates that approximately 19,031 textile firms are subject to the Textile Rules' recordkeeping requirements. Based on an average burden of 65 hours per firm, the total recordkeeping burden is 1,237,015 hours.

Disclosure: Approximately 22,642 textile firms, producing or importing about 20.8 billion textile fiber products annually, are subject to the Textile Rules' disclosure requirements.[3] Staff estimates the burden of determining label content to be 65 hours per year per firm, or a total of 1,471,730 hours and the burden of drafting and ordering labels to be 80 hours per firm per year, or a total of 1,811,360 hours.[4] Staff believes that the

[1] 16 C.F.R. § 4.9(b)(3)(I).

[2] 16 C.F.R. § 4.9(c).

[3] The estimated consumption of garments in the U.S. in 2012 was 19.4 billion. However, 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 garments and household products are subject to the Wool Act, not the Textile Act, because they contain some amount of wool. Thus, the estimated net total products subject to the Textile Act is 20.8 billion (19.4 – 1 + 3 = 21.4 – 0.6 = 20.8 billion).

[4] In 2006, 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. In 2014, the Commission revised the Wool Rules to incorporate these amendments as well as to clarify and streamline certain provisions and to allow more flexibility in marketing

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 12.48 billion items (60 percent of 20.8 billion), the process is semi-automated and requires an average of approximately ten seconds per item, for a total of 34,666,667 hours per year. Thus, the total estimated annual burden for all firms is 37,949,757 hours (1,471,730 hours to determine label content + 1,811,360 hours to draft and order labels + 34,666,667 hours to attach labels).[5] 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.

Estimated annual cost burden: $280,754,000, 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 label content	$26.00	1,471,730	$38,264,980
Draft and order labels	$17.00	1,811,360	$30,793,120
Attach labels	$5.50[6]	34,666,667	$190,666,669
Recordkeeping	$17.00	1,237,015	$21,029,255
TOTAL			$280,754,024

13. Estimated Capital or Other Non-Labor Costs

Staff believes that there are no current start-up costs or other capital costs associated with

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wool products (*e.g.*, allowing the use of certain hang-tags that do not disclose a product's full fiber content). The Commission sought comment on the increased burden, if any, imposed by these changes but did not receive any comments asserting that the amendments would increase compliance costs. *See* 79 FR 32157 (June 4, 2014).

[5] The Commission revised the Textile Rules 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. In 2014, the Commission revised the Textile Rules to clarify and streamline certain provisions and to allow more flexibility in marketing textile products (*e.g.*, allowing the use of certain hang-tags that do not disclose the product's full fiber content). The Commission sought comment on the increased burden, if any, imposed by these changes but did not receive any comments asserting that the amendments would increase compliance costs. *See* 79 FR 18766 (Apr. 4, 2014).

[6] *See* note 3.

the Textile Rules. 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 Rules' labeling requirements. Industry sources indicate that much of the information required by the Textile Act and 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; therefore, covered firms would incur no additional capital or other non-labor costs as a result of the Rules.

14. Estimated Cost to Federal Government

Staff estimates a representative year's cost imposed by the Rules during the course of the three-year clearance period sought will be approximately $90,000. 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 upward its annual burden estimates. This increase is mostly attributable to revised upward estimates of compliance time from the industry association. One small factor in the upward adjustment was an estimated increase in the production of textile fiber products.

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.