

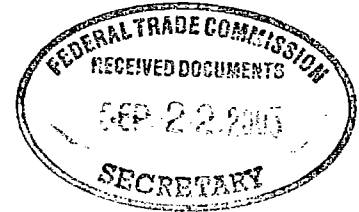
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September 22, 2003



Secretary, Federal Trade Commission
Room H-159
600 Pennsylvania Avenue, N.W.
Washington, DC 20580

RE: 16 CFR Part 460-Labeling and Advertising of Home Insulation: Trade Regulation Rule ("R-value Rule" or "Rule"); Proposed Rule Issued July 15, 2003

Dear Secretary:

By notice in the Federal Register (FR), the Federal Trade Commission ("FTC" or "Commission") has invited comments on specific questions and issues that the Commission has identified and that relate to the amendments the Commission has proposed to the R-value Rule.¹

Following this letter, please find the comments of the Insulation Contractors Association of America (ICAA), with one attachment (See Attachment ICAA-1) intended to be included as a part of these comments, respectfully submitted to the FTC in response to the Commission's request for comments.²

ICAA, formed in 1977, is a member-based trade association of North American residential thermal insulation contractors and manufacturers engaged in residential new construction and retrofit markets. ICAA is the only trade association representing residential insulation contractors.

ICAA appreciates the opportunity to express its views on this matter. Please feel free to contact me directly at 703-739-0356.

Sincerely,

A handwritten signature in black ink that reads 'Michael Kwart'.

Michael Kwart
Executive Director

¹ 68 FR 41872 (July 15, 2003).

² Original delivered by hand on September 22, 2003.

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**Comments of the Insulation Contractors Association of America
(ICAA)**

**RE: 16 CFR Part 460-Labeling and Advertising of Home Insulation:
Trade Regulation Rule (“R-value Rule” or “Rule”); Proposed Rule
Issued July 15, 2003**

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 - c. Are there other test procedures that should be incorporated into the Rule in lieu of (or in addition to) ASTM C 1374?
 - d. Is it possible for manufacturers to provide information on labels about the appropriate blowing machine adjustments and feed rates required to achieve the initial installed thickness derived from ASTM C 1374?
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 - f. Is there any specific Rule language that would best achieve the proposal discussed here?
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I. INTRODUCTION

The FTC has proposed to amend its Trade Regulation Rule Concerning the Labeling and Advertising of Home Insulation (“R-Value Rule” or “Rule”) to: (1) streamline and increase the benefits of the Rule to consumers and sellers; (2) minimize its costs; and (3) respond to the development and utilization of new technologies to make American homes more energy efficient and less costly to heat and cool.

ICAA’s commentary addresses in whole or in part the following issues and questions identified by the Commission. The Commission:

- A. Invited members of the public to comment on any issues or concerns they believe are relevant or appropriate to the Commission’s consideration of proposed amendments to the R-value Rule.¹
- B. Requested commentators to submit the factual data upon which their comments are based with the comments.²
- C. Requested comments on the costs and benefits to industry members and the public of each of the proposals.³
- D. Asked whether the Commission should amend sections 460.12(b)(2) and (3) to require the same coverage charts for all types of loose-fill insulation at R-values of 11, 13, 19, 22, 24, 32 and 40; and asked if there are any additional significant costs of compliance with the proposed change.⁴
- E. Asked whether the Commission should amend the testing and labeling provisions of the Rule to require the use of ASTM C 1374 for determining the initial installed thickness of loose-fill insulation.⁵
 1. Would the information derived from ASTM C 1374 allow installers to provide the appropriate amount of insulation solely through the use of the manufacturers’

¹ 68 FR 41897

² Ibid.

³ Ibid, p. 41897-8.

⁴ Ibid, p. 41898.

⁵ Ibid.

specified blowing machine settings and the installation of the initial installed thickness specified on the bag label?

2. Is ASTM C 1374 an appropriate procedure for determining the initial installed thickness for all loose-fill products?
 3. Are there other test procedures that should be incorporated into the Rule in lieu of (or in addition to) ASTM C 1374?
 4. Is it possible for manufacturers to provide information on labels about the appropriate blowing machine adjustments and feed rates required to achieve the initial installed thickness derived from ASTM C 1374?
 5. Should the Rule specify procedures that installers must follow to measure the thickness of the installed material? If so, what should those procedures be (e.g., one measurement for every 100 square feet)?
 6. Is there any specific Rule language that would best achieve the proposal discussed here?
 7. Would incorporation of ASTM C 1374 significantly change the costs consumers would pay for loose-fill insulation; and if there are any increased costs, are they offset by benefits?
 8. If installers follow initial installed coverage thickness information for installation purposes, will it be difficult to provide consumers information on coverage area as required by the Rule? Will installers continue to measure coverage area to estimate the volume and cost associated with a particular job?⁶
- F. Asked if there are additional changes to the Rule which have not been addressed that would help to ensure that installers apply the proper amount of insulation, particularly loose-fill;⁷
- G. Posed certain general questions: To maximize the benefits and minimize the costs for consumers (including specifically small businesses), the Commission seeks views and data on the following general questions for all the proposed changes described in the Notice of Proposed Rulemaking (NOPR):

⁶ Ibid, p. 41893.

⁷ Ibid, p. 41898.

1. What benefits would the proposed requirements confer, and on whom?
 2. What paperwork burdens would the proposed requirements impose, and on whom?
 3. What other costs or burdens would the proposed requirements impose, and on whom?
 4. What regulatory alternatives to the proposed requirements are available that would reduce the burdens of the proposed requirements, while providing the same benefits?
 5. What impact, either positive or negative, would the proposed requirements likely have on the environment?⁸
- H. Asked whether the Commission should change the term “minimum thickness” in section 460.12(b)(2) to “minimum settled thickness” to improve the clarity of language;⁹
- I. Sought additional commentary on whether the Commission should amend the Rule to require the use of attic cards and attic rulers by installers;¹⁰
- J. Requested commentary on the economic effects of the proposed amendments;¹¹
- K. Requested commentary on the economic impact of proposed amendments on small businesses.¹²

The substantive comments of the ICAA regarding the Commission’s proposed amendments to the Rule begin in Section II.

⁸ Ibid, p. 41872–41900.

⁹ Ibid, p. 41893, see footnote 97.

¹⁰ Ibid, p. 41895.

¹¹ Ibid, p. 41897.

¹² Ibid.

II. DISCLOSURE REQUIREMENTS FOR LOOSE-FILL INSULATION

In section 460.12(b)(2) and 460.12(b)(3), the present Rule requires disclosures on packaging for all loose-fill insulation except cellulose at R-values of 11, 19, and 22, and for loose-fill cellulose insulation at R-values of 13, 19, 24, 32, and 40. The Commission, in its NOPR, proposes a uniform disclosure requirement on packaging applicable to all types of loose-fill insulation at R-values of 11, 13, 19, 22, 24, 32 and 40.

ICAA supports the Commission's proposal to amend section 460.12(b)(2) and 460.12(b)(3) of the Rule to result in a uniform set of disclosures applicable to all types of loose-fill insulation at R-values of 11, 13, 19, 22, 24, 32 and 40. ICAA further endorses (with ICAA's proposed minor modifications) the language of this proposed amendment of section 460.12 of the Rule as it appears in the NOPR.¹³ ICAA believes that the disclosure requirement relative to loose-fill insulation should also be extended to include R-values of 30, 38, and 49 since they are the most common R-value recommendations for insulation by the U.S. Department of Energy.¹⁴

ICAA offers the following comments in support of its position:

- (1) The R-values under which disclosure will be required under the proposed amendment represent the union of the set of required R-value disclosures for loose-fill cellulose insulation and the set of required R-value disclosures for loose-fill insulation except cellulose under the present Rule. Absent evidence to the contrary, it is reasonable to expect that these respective disclosure values were established in the past because they were and remain in common use for the respective types of loose-fill to which they apply. Therefore, ICAA concludes that for the convenience of users and in order to promote competition, the R-value disclosures required by the amended Rule should be the union of the set of required R-value disclosures for loose-fill cellulose insulation and the set of required R-value disclosures for loose-fill insulation except cellulose required in the present Rule and the R-values of 30, 38, and 49, as noted supra.
- (2) The use of different respective R-value disclosure requirements for packaging of loose-fill insulations in the present Rule is anti-competitive in the sense that it represents some impediment for some insulation contractors and some members of the general public (i.e., some subset of the "do-it-yourselfers") seeking to make direct economic comparisons of

¹³ Ibid, p. 41899-41900, §460.12 Labels. This amendment will result in the consolidation of what now appears in the Rule as section 460.12(b)(2) and section 460.12(b)(3) into an amended section 460.12(b)(2).

¹⁴ Department of Energy Recommended Total R-Values for Existing Houses, Web site, www.eere.energy.gov/consumerinfo/energy_savers/r-value_map.html

products which are direct substitutes in most or all instances for one another. The use of a common set of R-value disclosures should promote greater competition and reduced prices (and cost) to the consumer.

- (3) ICAA suggests that the costs that will be imposed on manufacturers by conversion to a uniform set of disclosure requirements on packaging applicable to all types of loose-fill insulation at R-values of 11, 13, 19, 22, 24, 30, 32, 38, 40, and 49 are likely to be small in both absolute and relative terms. ICAA notes that the only comment that the Commission received about the proposed amendment in its Advanced Notice of Proposed Rulemaking (ANPR) came from the North American Insulation Manufacturers Association (NAIMA).¹⁵ The Commission noted that, "...NAIMA concurred with the Commission that there is no longer a justification for different disclosure requirements for different loose-fill insulations."¹⁶

The changes that manufacturers will have to make to implement the Commission's proposal to require a uniform set of disclosure requirements on packaging applicable to all types of loose-fill insulation at R-values of 11, 13, 19, 22, 24, 32, and 40 are well defined by the changes specified in the NOPR, as supplemented by ICAA's suggestion that R-values of 30, 38, and 49 be added to the requirement. Given information available to each respective loose-fill insulation manufacturer, manufacturers should be able to develop readily and without great difficulty reasonable and realistic estimates of their respective costs of implementation of this change.

Therefore, ICAA respectfully suggests that any comments that the Commission might now receive from other interested members of the public in response to the NOPR and that now assert substantial economic burdens on manufacturers resulting from implementation of this amendment should be supported by detailed and credible economic analysis.

¹⁵ 64 FR 48024 (September 1, 1999), FTC proposal to make the set of R-values uniform for which disclosure is required on packaging for all loose-fill insulation.

¹⁶ Ibid.

III. USE OF ASTM C 1374 FOR DETERMINATION OF INSTALLED THICKNESS OF PNEUMATICALLY APPLIED LOOSE-FILL BUILDING INSULATION

A. Introduction

Key amendments to the Rule proposed by the Commission that involve or refer to ASTM C 1374 are:

1. Amendment to section 460.5(a) to add a new subsection (5) that would require manufacturers of loose-fill insulation to determine the initial installed thickness of their product for R-values of 11, 13, 19, 24, 32, and 40 using ASTM C 1374-97 (Standard Test Method for Determination of Installed Thickness of Pneumatically Applied Loose-Fill Building Insulation).¹⁷
2. Amendment incorporating by reference ASTM C 1374 into section 460.5.¹⁸
3. Amendment to section 460.12 to require this initial installed thickness information on product bag labels.¹⁹
4. Amendment to section 460.12 to require manufacturers of loose-fill insulation to provide blowing machine settings necessary to achieve initial installed thickness listed on the product bag label.²⁰
5. Amendment to section 460.17 to require installers to follow the manufacturer's label instructions for initial installed thickness and to use the blowing machine adjustments and feed rates specified by the manufacturer.²¹

The ICAA strongly endorses and supports these proposed amendments to the Rule and their proposed wording (with minor modifications) as they appear in the NOPR. ICAA's detailed analysis and response to issues raised by the Commission and specific questions posed by the Commission in the NOPR relative to these amendments are presented in subsequent portions of this section of ICAA's commentary. However, the primary reason that ICAA supports and endorses these proposed amendments is because they will further the principal aims

¹⁷ 68 FR 41899, §460.5(a)(5).

¹⁸ Ibid, §460.5(e).

¹⁹ Ibid, p. 41900, §460.12(b)(2).

²⁰ Ibid.

²¹ Ibid, §460.17.

