

enables consumers to evaluate how well a particular insulation product is likely to perform, to determine whether the cost of the insulation is justified, and to make meaningful, cost-benefit based purchasing decisions among competing products.

II. Overview of the Rule

A. Products Covered

The R-value Rule covers all "home insulation products." Under the Rule, "insulation" is any product mainly used to slow down the flow of heat from a warmer area to a cooler area, for example, from the heated inside of a house to the outside during the winter through exterior walls, attic, floors over crawl spaces, or basement. "Home insulation" includes insulation used in all types of residential structures. The Rule automatically covers new types or forms of insulation marketed for use in the residential market, whether or not the Rule specifically refers to them. The Rule does not cover pipe insulation, or any type of duct insulation except for duct wrap. The Rule does not cover insulation products sold for use in commercial (including industrial) buildings. It does not apply to other products with insulating characteristics, such as storm windows or storm doors.

Home insulation includes two basic categories: "mass" insulations and "reflective" insulations. Mass insulations reduce heat transfer by conduction (through the insulation's mass), convection (by air movement within and through the air spaces inside the insulation's mass), and radiation. Reflective insulations (primarily aluminum foil) reduce heat transfer

when installed facing an airspace by increasing the thermal resistance of the airspace by reducing heat transfer by radiation through it. Within these basic categories, home insulation is sold in various types ("type" refers to the material from which the insulation is made, e.g., fiberglass, cellulose, polyurethane, aluminum foil) and forms ("form" refers to the physical form of the product, e.g., batt, dry-applied loose-fill, spray-applied, boardstock, multi-sheet reflective).

B. Parties Covered

The Rule applies to home insulation manufacturers, professional installers, retailers who sell insulation to consumers for do-it-yourself installation, and new home sellers (including sellers of manufactured housing). It also applies to testing laboratories that conduct R-value tests for home insulation manufacturers or other sellers who use the test results as the basis for making R-value claims about home insulation products.

C. Basis for the Rule

The Commission issued the R-value Rule to prohibit, on an industry-wide basis, specific unfair or deceptive acts or practices. When it issued the Rule, the Commission found that the following acts or practices were prevalent in the home insulation industry and were deceptive or unfair, in violation of section 5 of the FTC Act, 15 U.S.C. 45: (1) sellers had failed to disclose R-value, and caused substantial consumer injury by impeding the ability of consumers to make informed purchasing decisions; (2) the failure to disclose R-values, which varied significantly among competing home insulation products of the same thickness and price, misled consumers when they bought insulation on the basis of price or thickness alone, (3) sellers had exaggerated R-values, often failing to take into account factors (e.g., aging, settling) known to reduce thermal performance; (4) sellers had failed to inform consumers about the meaning and importance of R-value; (5) sellers had exaggerated the amount of savings on fuel bills that consumers could expect, and often failed to disclose that savings will vary depending on the consumer's particular circumstances; and (6) sellers had falsely claimed that consumers would qualify for tax credits through the purchase of home insulation, or that products had been "certified" or "favored" by federal agencies. 44 FR at 50222-24.

D. Requirements of the Rule

The Rule requires that manufacturers and others who sell home insulation determine and disclose each product's R-value and related information (e.g., thickness, coverage area per package) on package labels and manufacturers' fact sheets. R-value ratings vary among different types and forms of home insulations and among products of the same type and form. The Rule requires that R-value claims to consumers about specific home insulation products be based on uniform R-value test procedures that measure thermal performance under "steady-state" (i.e., static) conditions.³ Mass insulation products may be tested under any of the test methods. The tests on mass insulation products must be conducted on the insulation material alone (excluding any airspace). Reflective insulation products must be tested according to either ASTM C 236-89 (1993) or ASTM C 976-90, which can determine the R-values of insulation systems (such as those that include one or more air spaces).⁴ The tests must be conducted at a mean temperature of 75° F.

When it promulgated the Rule, the Commission found that certain factors, such as aging or settling, affect the thermal performance of home insulation products. 44 FR at 50219-20, 50227-28. To ensure that R-value claims take these factors into account, the Rule mandates that the required R-value tests for polyurethane, polyisocyanurate, and extruded polystyrene insulation products be conducted on test specimens that fully reflect the effect of aging, and for loose-fill insulation products on test specimens that fully reflect the effect of settling.

Specific disclosures must be made: (1) by manufacturers on product labels and manufacturers' fact sheets; (2) by professional installers and new home sellers on receipts or contracts; and (3) by manufacturers, professional

³ Section 460.5 of the Rule requires that the R-values of home insulation products be based on one of the test procedures specified in the Rule. Most of the test procedures in the Rule specify American Society for Testing and Materials (ASTM) standards. ASTM reviews and revises each of these procedures periodically. Under section 460.7 of the Rule, the Commission will accept, but not require, the use of a revised version of any of these standards 90 days after ASTM adopts and publishes the revision. The Commission may, however, reopen the rulemaking proceeding during the 90-day period or at any later time to consider whether it should require use of the revised procedure or reject it under section 460.5 of the Rule. 61 FR at 13663.

⁴ The R-value of a single-sheet reflective insulation product must be tested under ASTM E408 or another test method that provides comparable results.

concerning warranties; the Commission's Guides for the Use of Environmental Marketing Claims, 16 CFR Part 260, address the application of section 5 of the FTC Act, 15 U.S.C. 45, to environmental advertising and marketing claims (e.g., claims concerning the amount of recycled material a product contains). Further, section 5 of the FTC Act declares that unfair or deceptive acts or practices are unlawful, and requires that advertisers and other sellers have a reasonable basis for advertising and other promotional claims before they are disseminated. See *Deception Policy Statement*, Letter from the Commission to the Honorable John D. Dingell, Chairman, Committee on Energy and Commerce, U.S. House of Representatives (Oct. 14, 1983), reprinted in *Cliffdale Assocs., Inc.*, 103 F.T.C. 110 (1984); *Statement of Policy on the Scope of the Consumer Unfairness Jurisdiction*, Letter from the Commission to the Honorable Wendell H. Ford, Chairman, Consumer Subcommittee, Committee on Commerce, Science, and Transportation, U.S. House of Representatives, and the Honorable John C. Danforth, Ranking Minority Member, Consumer Subcommittee, Committee on Commerce, Science and Transportation, U.S. Senate (Dec. 17, 1980), reprinted in *International Harvester Co.*, 104 F.T.C. 949 (1984); and *Policy Statement Regarding Advertising Substantiation*, 49 FR 30999 (1984), reprinted in *Thompson Medical Co.*, 104 F.T.C. 839 (1984).