

sheets and section 460.18(e) for insulation ads). 44 FR at 50220, 50231.

Earlier comments recommended that the Commission revise the statement to refer to “urea-based foam insulation,” because the reference to “foam insulation” implies that all foam-type insulation products (including other types of cellular plastics insulations) shrink after installation, resulting in lower R-values than claimed. One commenter stated that UF insulation is no longer sold, and that the disclosure requirement is unnecessary and may cause consumer confusion about other foam-type insulations. Because UF insulation is no longer sold, the Commission proposed to eliminate the provision altogether (64 FR at 48045).

Comments

In response to the ANPR, PIMA supported the Commission’s proposal to delete required shrinkage disclosures for foam insulation, but recommended that the Commission include procedures to reinstate requirements if the product reappears on the market.¹⁰⁰ NAIMA also supported the proposal, indicating that it did not know of any UF insulation products still being sold or of any insulation products that may be subject to shrinkage.¹⁰¹

Discussion

Because it appears that UF foam insulation no longer is sold, the Commission proposes to delete the obsolete shrinkage disclosure requirements in §§ 460.13(d) and 460.18(e). The Commission solicits comments on this proposal and, in particular, information regarding the likelihood that UF foam insulation products may be sold again in the future. If a significant possibility exists, the Commission may decide to retain the disclosure requirement in the Rule but amend it to clarify that it applies only to urea-based foam insulation.

2. Disclosures in Advertising and Other Promotional Materials

a. Disclosures Required

In the ANPR, the Commission asked whether the Rule should be amended to delete the required R-value disclosure in advertisements and other promotional materials that contain triggering claims (see sections 460.19 and 460.18). One commenter urged the Commission to retain the requirement because it helps avoid confusion.¹⁰² The Commission is

not proposing any amendments to the Rule regarding this issue.

b. Advertising on Radio and Television Background

The Rule as originally promulgated applied affirmative disclosure requirements to television advertisements as well as all other types of advertising and promotional materials (including radio). Unlike other types of advertising, which simply must include the required disclosures “clearly and conspicuously,” the Rule included very specific requirements regarding how required disclosures must be made in television advertising. Four insulation manufacturers appealed the disclosure requirements for television advertising, asserting that the requirements were particularly burdensome for short television ads. The Commission settled the appeal by agreeing not to impose disclosure requirements on television ads without conducting further rulemaking proceedings, and rescinded the requirements in 1986 without conducting further proceedings. No evidence was presented in the original rulemaking or in the appeal concerning any similar burdens that the disclosure requirements would impose on radio ads. In the ANPR, the Commission solicited comments on how the costs of making the required disclosures in radio ads compare to the benefits the disclosures provide to consumers. 64 FR at 48046.

Comments

NAIMA maintained that radio ads are similar to television ads because they both strive for pithy and concise messages and, since ads in both broadcast media are relatively expensive compared to those in other media, a disclosure requirement is particularly burdensome. NAIMA pointed out that television ads may provide printed disclosures without interrupting their oral or visual messages, which cannot be done on radio, so the impact of required disclosures is greater on radio ads than it is on television ads.

NAIMA suggested that the Commission amend the Rule to require that all radio and television ads for insulation products notify audiences that disclosure information required by the Federal Trade Commission may be obtained via a toll-free number. As an alternative, NAIMA suggested that the Commission amend the Rule to remove specific requirements for radio ad disclosures and instead allow radio and television ads simply to note that additional information is available that

is relevant to buying decisions. A third alternative, according to NAIMA, would be to offer radio and television advertisers a significantly condensed version of the disclosure, such as “Ask your seller for all the facts on R-values before making a purchase.” NAIMA contended that this approach would allow for the full benefit of television and radio advertising while protecting consumers by notifying them about relevant information too lengthy for electronic media.¹⁰³ In contrast, PIMA did not support a change to the Rule in this regard.¹⁰⁴

Discussion

The Commission proposes to eliminate current disclosure requirements for radio ads. Such an amendment would treat radio and television ads equally under the Rule. There is no indication that the absence of an affirmative disclosure requirement applicable to television ads has harmed consumers over the years. As NAIMA suggests, the lengthy disclosures required by sections 460.18 and 460.19 are arguably more burdensome for radio than television because the disclosures must necessarily displace significant portions of the ad’s message or increase the duration of the ad and hence the advertiser’s cost. Given the absence of any indication that consumers have been harmed because the Rule does not require disclosures in television ads, the Commission expects that the elimination of radio disclosure requirements will have little impact on consumers. Required information on fact sheets, labels, and print ads will continue to provide consumers with critical performance information when they shop for insulation or use installers. The absence of disclosures in radio ads is not likely to impact their buying decisions adversely. The Commission seeks comment on this proposal.

3. Disclosures by Installers or New Home Sellers

a. Fact Sheets

The Commission asked whether the Rule should require installers and new home sellers to give copies of manufacturers’ fact sheets to consumers after purchase. The Rule already requires installers to show fact sheets to customers before customers agree to buy insulation. In addition, installers and new home sellers must provide insulation information to customers through receipts or contracts. In light of these existing requirements, the

¹⁰⁰ PIMA (3), p. 7.

¹⁰¹ NAIMA (9), p. 27.

¹⁰² *Id.*

¹⁰³ NAIMA (9), p. 27–8.

¹⁰⁴ PIMA (3), p. 14.