

Commission believes that requiring these entities to provide copies of fact sheets after purchase would not provide significant benefits to consumers. 64 FR at 48046. Two commenters likewise opposed amending the Rule with regard to this issue.¹⁰⁵ Thus, the Commission is not proposing any amendments to the Rule regarding this issue.

b. Attic Cards and Certifications, and Attic Rulers

Background

The ANPR asked whether there is a need to amend the Rule to require the use of attic cards and attic rulers by installers.

Attic Cards and Certificates. Attic cards are usually posted in the attic near the access opening, for later reference by building code inspectors and homeowners. The ANPR explained that, in the original R-value rulemaking, the Commission determined that a requirement for attic cards was unnecessary in light of the Rule's requirement that new home sellers and retrofit installers give consumers written disclosures in contracts or written receipts. These documents provide the same information that would be disclosed on an attic card or certification. If the seller or consumer prefers, the contract or receipt can be posted in the form of an attic card after the seller has given the written disclosures to the consumer. Moreover, for insulations installed in attics of new residential construction, the CABO/MEC (Model Energy Code) requires that installers provide a signed and dated certification for the insulation installed in each part of the home, listing the type of insulation, the insulation manufacturer, and the total R-value, as well as other information, and post the certification in a conspicuous place. These requirements have been adopted in some form for use in federal government programs covering new residential construction and by 33 states. For these reasons, the Commission did not propose amending the Rule to require additional certification or the use of attic cards.

The Commission solicited comments, however, about (i) whether amending the Rule to require that disclosures be made in certifications or attic cards would provide benefits beyond those currently required by the Rule or the CABO/MEC for consumers or building inspectors, (ii) whether there currently are abuses in the sale and installation of home insulation that could be remedied by including these additional disclosure

requirements in the Rule, and (iii) the costs to installers and new home sellers of providing the disclosures in certifications and attic cards. 64 FR at 48047.

Attic Rulers. Both the required density (and weight per square foot) and thickness of loose-fill and stabilized insulations must be installed to attain a specific R-value. The use of attic rulers could help installers apply a sufficient thickness to achieve a specific total R-value, and apply the insulation in a more level and consistent manner. However, installers would still have to ensure that they apply the required number of bags and weight of insulation material. The Commission suggested in the ANPR that the use of attic rulers could be particularly beneficial if manufacturers included a verified initial installed thickness disclosure or a guaranteed thickness disclosure on the bag label coverage chart. Attic rulers also could give consumers a ready means of determining, both initially and over time, whether the required minimum thickness has been installed.

The Commission pointed out that the CABO/MEC already requires, for new residential construction, that installers apply blown loose-fill or sprayed (e.g., stabilized) insulations in attics with the use of thickness markers labeled in inches, attached to the trusses or joists at least every 300 square feet (28 m²), marked with the minimum initial installed thickness and minimum settled thickness, and installed facing the attic access. Because the CABO/MEC requires the use of attic rulers in new construction, the Commission did not propose amending the Rule to require their use. Nevertheless, the Commission solicited comments on this issue.

Comments

NAIMA suggests that the Commission mandate the use of CABO/MEC guidelines on attic cards, certificates, and rulers by including in the Rule the same language relied upon by these code bodies to encourage utilization of attic cards, rulers, and certificates. NAIMA states that not all jurisdictions are subject to CABO/MEC or any energy code. Further, unlike the Commission, which has responsibility to protect consumers and enforcement power, CABO/MEC owes no duty to act as consumers' guardian and is not empowered to wield the sword of enforcement and issue fines and penalties for failure to comply. Requiring use of attic rulers would deter installers who might consider cheating,

which many believe is a widespread problem.¹⁰⁶

Discussion

The Commission continues to believe that an amendment to the Rule to require attic cards and attic rulers is not warranted at this time. The Rule requirements already in place prohibit installers from engaging in practices that mislead consumers about the amount of insulation installed. The CABO/MEC attic card and ruler requirements augment the current provisions in the R-value rule by imposing additional requirements for new home construction in many jurisdictions. Although insulation added to existing homes is not covered by CABO/MEC, the Commission is not convinced that additional requirements will necessarily address the concerns raised. The existing requirements applicable to installers and new home sellers already make unlawful the practices that deny customers the proper amount of insulation. While additional disclosure requirements will increase the burden on those industry members that are already complying with the Rule, it is not clear that such changes will yield any greater deterrence to those companies that are violating the law by installing inadequate amounts of insulation.

A more direct solution to the problem may be, as the Commission is proposing, to require manufacturers to list an initial installed thickness column on their label that installers must in turn follow as the Commission is proposing. The Commission understands that there is continuing concern surrounding these issues. Therefore, the Commission solicits additional comments on these issues including whether there are other possible Rule changes that would provide additional deterrence against violations of the Rule with respect to the installation of loose-fill material.

c. Initial Installed Thickness

As discussed in detail in section V.E.1.c. above, the Commission proposes to amend § 460.17 to require loose-fill installers to comply with the initial installed thickness instructions provided by manufacturers on their labels. In addition, under this amendment, installers would have to comply with the manufacturers' instructions for blowing machine settings when loose-fill insulation is installed.

¹⁰⁵ PIMA (3), pp. 8, 14; NAIMA (9), p. 28.

¹⁰⁶ NAIMA (9), pp. 28–29.