In this issue, we examine the Federal Trade Commission’s Amended Trade Regulation Rules concerning labeling and advertising of home insulation.

The insulation industry—including manufacturers, wholesalers, distributors, retail dealers and insulation contractors—has obligations which it must meet both in distributing the Manufacturer’s Fact Sheets and in its advertising.

As a service to NAIMA’s members and their customers, this issue of Insulation Facts has been prepared to help wholesalers, distributors, retail dealers and insulation contractors be aware of and understand the FTC’s reasoning for the Amended R-value Rule, which applies to home insulation materials produced and sold after Nov. 27, 2005.1

The section of the Rule that applies to each group is given first in italics. Below each section are explanatory comments taken from the Federal Trade Commission.

FTC’s Overview of the Rule

Insulation can be a very significant energy conservation measure. Its insulating capacity can be measured only by its R-value, which signifies the insulation’s degree of resistance to the flow of heat. No other piece of information can tell the consumer how the insulation is likely to perform as an insulator, and whether the cost of the insulation is justified. Yet the record demonstrates that the home insulation market has frequently failed to provide this crucial information to consumers.

In amending the Rule, the FTC confirmed that there remains a need for the R-value Rule to protect consumers against deceptive and misleading advertising claims: “the Commission issued the R-value Rule to prohibit, on an industry-wide basis, specific unfair or deceptive acts or practices.”2

The primary purpose of the Rule, therefore, is to correct the failure of the home insulation marketplace to provide this essential pre-purchase information to the consumer. The information will give consumers an opportunity to compare relative insulating efficiencies, to select the product with the greatest efficiency and potential for energy savings, to make a cost-effective purchase and to consider the main variables limiting insulation effectiveness and realization of claimed energy savings.

The Rule mandates that specific R-value information for home insulation products be disclosed in certain ads and at the point of sale. The purpose of the R-value disclosure requirement for advertising is to prevent consumers from being misled by certain claims which have a bearing on insulating value. At the point of transaction, some...
consumers will be able to get the requisite R-value information from the label on the insulation package. However, since the evidence shows that packages are often unavailable for inspection prior to purchase, no labeled information would be available to consumers in many instances. As a result, the Rule requires that a fact sheet be available to consumers for inspection before they make their purchase.

In general, the fact sheets and labels for each insulation product disclose the same basic kind of information about R-value. The fact sheet also gives consumers further information that has an important bearing on how they should assess their insulation needs and their likely fuel savings from insulation. The Commission believes that these additional disclosures are necessary to prevent deception and to allow consumers to make rational, well-informed choices in their insulation purchases.

The Rule also requires that R-value disclosures be accompanied by a brief explanation that R-value is a measure of insulating power; the higher the R-value, the greater the insulating power. Since the evidence shows that many consumers are unfamiliar with the concept, the Commission believes that an explanation of the term is needed to compensate for this market deficiency to ensure that consumers will benefit from the prescribed R-value information.

The other major provision of the Rule addresses energy savings and other promotional claims for home insulation products, including tax benefit and government certification claims. Claims that a product is certified or qualifies for a tax benefit are prohibited unless true. Since the amount of energy and money that can be saved by insulation is affected by a number of factors unrelated to the performance of the insulation itself, the Rule provides that energy savings must be substantiated and accompanied by a short disclaimer that savings will depend on the consumers’ particular circumstances.

The amended 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 requirements of the R-value Rule apply to any material (unless specifically exempted) mainly used to slow down heat flow.’ The fact that the Rule does not specifically mention a particular type of insulation does not exempt such products from the Rule coverage.

1 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.) The Rule also applies to distributors, franchisers, utility companies, trade associations, and advertisers and advertising agencies. 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.

2 The Retailer

Rule 460.14
How retailers must handle fact sheets

If you sell insulation to do-it-yourself customers, you must have fact sheets for the insulation products you sell. You must make the fact sheets available to your customers. You can decide how to do this, as long as your insulation customers are likely to notice them. For example, you can put them in a display and let customers take copies of them. You can keep them in a binder at a counter or service desk and have a sign telling customers where the fact sheets are.

You need not make the fact sheets available to customers if you display insulation packages on the sales floor where your insulation customers are likely to notice them and each individual insulation package offered for sale contains all package label and fact sheet disclosures required by §§ 460.12 and §460.13.

Where do you get fact sheets?
Fact sheets are available either directly from the insulation manufacturer or from your distributor or wholesaler.

FTC’s Explanatory Comments

In the years since the Commission created the R-value Rule, the nature of retail sales to do-it-yourself consumers has changed. Retailers who sell insulation to do-it-yourself consumers were required to make the manufacturers’ Fact Sheets available to consumers because insulation packages were so bulky they were not normally available on the retail sales floor, so the consumer would not see the disclosures on the package labels before purchase. Today, retailers typically sell home insulation directly from warehouse-type sales floors where consumers select the packages themselves. Therefore, the
Commission has amended the Rule to give individual retailers an option not to make fact sheets available to consumers if the retailer determines the package labels contain the information that would otherwise be in the fact sheets and the packages are displayed in a way that customers can obtain the required information prior to purchase. This amendment does not change the manufacturers’ responsibility to prepare and disseminate fact sheets.6

3 The Installer

Rule 460.15 How installers must handle fact sheets
If you are an installer, you must have fact sheets for the insulation products you sell. Before customers agree to buy insulation from you, you must show them the fact sheet(s) for the type(s) of insulation they want. You can decide how to do this. For example, you can give each customer a copy of the fact sheet(s). Or, you can keep the fact sheets in a binder, and show customers the binder before they agree to buy.

Where do you get fact sheets?
Fact sheets are available either directly from the insulation manufacturer or from your distributor or wholesaler.

FTC’s Explanatory Comments
The thrust of this requirement is simply that consumers must be given an opportunity to analyze the fact sheet information before they commit themselves to a purchase.

Rule 460.17 What installers must tell their customers
If you are an installer, you must give your customers a contract or receipt for the insulation you install. For all insulation except loose-fill and aluminum foil, the receipt must show the coverage area, thickness and R-value of the insulation you installed. For loose-fill, the receipt must show the coverage area, initial thickness, minimum settled thickness, R-value, and the number of bags used. For aluminum foil, the receipt must show the number and thickness of the air spaces, the direction of heat flow and the R-value. The receipt must be dated and signed by the installer. To figure out the R-value of the insulation, use the data that the manufacturer gives you. Do not multiply the R-value for one inch by the number of inches you installed. If you put insulation in more than one part of the house, put the data for each part on the receipt. You can do this on one receipt, as long as you do not add up the coverage areas or R-values for different parts of the house.

FTC’s Explanatory Comments
The receipt will inform customers of what was actually installed.
Unlike do-it-yourself consumers, these purchasers will never actually see a label stating the R-value, thickness and coverage achieved. Consumers who buy insulation through installers are, thus, in the same position as new home buyers. Without a requirement to disclose exactly what was installed, they cannot fully assess the energy efficiency of their houses. Disclosure of this information will provide them with an available reference if they consider the purchase of additional insulation in the future.

4 The New Home Seller

Rule 460.16 What new home sellers must tell new home buyers
If you are a new home seller, you must put the following information in every sales contract: the type, thickness and R-value of the insulation that will be installed in each part of the house. There is an exception to this rule. If the buyer signs a sales contract before you know what type of insulation will be put in the house, or if there is a change in the contract, you can give the buyer a receipt stating this information as soon as you find out.

FTC’s Explanatory Comments
“New homes” means new houses, condominiums, coopera-
itives, mobile homes, vacation dwellings or other residential housing units. Existing residential structures, which have been or will be retrofitted in preparation for resale, are considered “new houses” when they are sold by someone engaged in the business of the sale of housing units.

New home sellers do not have to display either insulation labels or fact sheets. The critical information needed by new home buyers is the type, thickness and R-value. Such a provision will ensure that the new home buyer is informed of these facts prior to the purchase decision. If no insulation is installed or to be installed, the facts should be disclosed.

Evidence demonstrates that many new home buyers are as interested in energy efficiency as retrofit purchases of insulation. Since a new home has no history of utility bills, however, the buyer is unable to evaluate the house’s anticipated energy consumption pattern. In hearings, the Council of Better Business Bureaus pointed out that requiring this disclosure to new home buyers will encourage the installation of adequate insulation in homes.

About the exception to the rule: Suppose the buyer’s contract stipulates an insulation that is not available at the time the builder is ready to purchase and another type must be substituted? The house seller would simply be required to provide the buyer with another fact sheet for the type of insulation that is actually installed. The buyer then is at least informed of relevant information about the insulation that will be installed, although it may be too late to bargain about the subject.

### 5 Retail, Contractor and New Home Seller Insulation Ads

#### Rule 460.18 Insulation ads

(a) If your ad gives an R-value, you must give the type of insulation and the thickness needed to get that R-value. Also, add this statement explaining R-values: “The higher the R-value, the greater the insulating power.” Ask your seller for the fact sheet on R-values.

(b) If your ad gives a price, you must give the type of insulation, the R-value at a specific thickness, the statement explaining R-values in subsection (a) and the coverage area for that thickness. If you give the price per square foot, you do not have to give the coverage area.

(c) If your ad gives the thickness of your insulation, you must give its R-value at that thickness and the statement explaining R-values in subsection (a).

(d) If your ad compares one type of insulation to another, the comparison must be based on the same coverage areas. You must give the R-value at a specific thickness for each insulation and the statement explaining R-values in subsection (a). If you give the price of each insulation, you must also give the coverage area for the price and thickness shown. However, if you give the price per square foot, you do not have to give the coverage area.

(e) The affirmative disclosure requirements in §460.18 do not apply to ads on television or radio.

#### FTC’s Explanatory Comments

Rule 460.18 applies only to ads and other promotional materials directed solely to consumers, and which promote a specific insulation product.

In new home seller ads, the FTC allows advertisers to delete references to fact sheets found in 460.18 (a) and 460.19 (b).

Evidence concerning R-value disclosures indicates that there are several circumstances under which advertising disclosures are necessary. First, the evidence shows that thickness and R-value must always go hand-in-hand. A thickness disclosure is necessary before consumers can evaluate products with the same R-value, since different materials provide the same R-value at different thicknesses.

References to either of these product attributes, thickness or R-value, without mentioning the other, are unfair and deceptive to consumers.

Price claims standing alone are both unfair and deceptive. A very high R-value can be achieved at a very low price if, for that price, only a small area will be insulated. The Commission’s Rule requires that price claims be accompanied by the R-value, thickness and coverage area at that price.

The requirement that comparisons be based on equal coverage areas is necessary to prevent unfair and deceptive comparisons.

### 6 Savings Claims

#### Rule 460.19 Savings claims

(a) If you say or imply in your ads, labels or other promotional materials, that insulation can cut fuel bills or fuel use, you must have a reasonable basis for the claim. For example, if you say that insulation can “slash” or “lower” fuel bills, or that insulation “saves money,”
are not a manufacturer, you
basis for their savings claims
they do not have a reasonable
(e)Manufacturers are liable if
ing R-value in 460.18 (a).
not make the statement explain-
in 460.19. However, you need
to remedy the deception inher-
more types of insulation; one
plus one or more other insulat-
overall greater insulating power.”
(c) If you say or imply that a
combination of products can
cut fuel bills or use, you must
have a reasonable basis for the
claim. You must make the
statement about savings in
subsection (b). Also, you must
list the combination of prod-
ucts used. They may be two or
more types of insulation; one
or more types of insulation
plus one or more other insulat-
ing products, like storm win-
dows or siding; or insulation
for two or more parts of the
house, like the attic and walls.
You must say how much of the
savings came from each prod-
uct or location. If you cannot
give exact or approximate fig-
ures, you must give a ranking.
For instance, if your ad says
that insulation and storm
doors combined cut fuel use by
50 percent, you must say
which one saved more.
(d) If your ad or other promo-
tional material is covered by
section 460.18 (a), (b), (c) or
(d), and also makes a savings
claim, you must follow the rules
in 460.19. However, you need
not make the statement explain-
ing R-value in 460.18 (a).
(e) Manufacturers are liable if
they do not have a reasonable
basis for their savings claims
before the claim is made. If you
are not a manufacturer, you
are liable only if you know or
should know that the manufac-
turer does not have a reason-
able basis for the claim.
(f) Keep records of all data on
savings claims for at least three
years. For the records showing
proof for claims, the three years
will begin again each time you
make the claim. Federal Trade
Commission staff members can
check these records at any time,
but they must give you reason-
able notice first.
(g) The affirmative disclosure
requirements in §460.19 do not
apply to ads on television or
radio.

FTC’s Explanatory Comments
The “savings claim” provision
is based on the conclusion that,
to remedy the deception inher-
ent in savings claims, consumers
must be told that savings depend
upon many factors and what
those factors are. The Rule sim-
ply requires a brief statement
that savings vary and a reference
to the fact sheets for further
information. A detailed enumera-
tion of the factors that affect fuel
savings is required in the fact
sheets, where space limitations
are not so serious a problem.

The Rule also requires the
industry members to have a rea-
sonable basis for savings claims.
It is not possible to specify in the
Rule precisely what would be an
acceptable basis for such claims.
Scientifically reliable measure-
ments of fuel used in actual
homes, or reliable computer
models or methods of heat flow
calculation, would meet the rea-
sonable basis requirement
imposed by the Rule. The lan-
guage used in a savings claim will
influence the level of substantia-
tion required. An advertiser who
claims that adding insulation will
“slash fuel bills” or “cut fuel use
in half” will be required to pro-
duce competent and reliable sci-
entific proof that such high levels
of savings will be achieved.

The record also indicates that
some industry members claim
that a combination of products,
such as attic insulation and storm
doors, will combine to reduce
fuel use. It is not always possible
to determine precisely how
much of the savings is attribut-
able to each product. As a result,
the Rule requires that savings
claims for more than one prod-
uct disclose the combination of
products used and how much of
the savings come from each
product. If the exact or approxi-
mate contributions of the prod-
uct cannot be ascertained under
available technologies, the adver-
tiser may rank the products in
order of their relative degrees of
contribution. This disclosure,
while imperfect, will at least
apprise customers of the fact that
not all of the products in the
combination contributed equally
to the savings achieved.

7 R-Value Per Inch Claims
Rule 460.20
R-value per inch claims
In labels, fact sheets, ads, or
other promotional materials,
do not give the R-value for one
inch or the “R-value per inch”
of your product. There are two
exceptions: (1) You can do this
if you suggest using your prod-
uct at a one-inch thickness;
(2) You can do this if actual
test results prove that the R-
value per inch of your product
does not drop as it gets thicker.

You can list a range of
R-values per inch. If you do,
you must say exactly how
much the R-value drops with
greater thickness. You must
also add this statement: “The
R-value per inch of this insulation varies with thickness. The thicker the insulation, the lower the R-value per inch.”

**FTC’s Explanatory Comments**

Since the record demonstrates that R-values are not linear, ads, labels and other promotional materials that express a product’s thermal resistance in terms of its R-value per inch deceive customers.

The Commission believes that references to the R-value for a one-inch thickness of the material will encourage consumers to think that it is appropriate to multiply this figure by the desired number of inches, as though the R-value per inch were constant.

**8 Certification Claims**

**Rule 460.21**

**Government claims**

Do not say or imply that a government agency uses, certifies, recommends or otherwise favors your product unless it is true. Do not say or imply that your insulation complies with a governmental standard or specification unless it is true.

**FTC’s Explanatory Comments**

Ads on the record reveal that manufacturers sometimes deceptively associate their products with federal agencies. While an insulation material may meet federal procurement standards, no product is certified or recommended by the government for private use.

**9 Tax Claims**

**Rule 460.22**

**Tax claims**

**10 Enforcement**

Any regulation is subject to interpretation. This is NAIMA’s interpretation of these critical issues. You should work with your own attorney to advise you of your responsibility under this rule.

Breaking any of these rules could be interpreted as an unfair and deceptive act or an unfair method of competition. The regulations provide for a possible fine of up to $11,000 each time a rule is broken.

**11 Final Note**

In the preamble to the amended R-value Rule, the FTC stated that “[h]ome insulation sellers should be aware that additional Commission rules or guidelines may also apply to them.” The FTC offered as examples that “Commission’s Guides for the Use of Environmental Marketing Claims,” the “Commission’s rules Concerning Disclosures of Written Consumer Product Warranty Terms and Conditions and the Pre-Sale Availability of Written Warranty Terms,” and section 5 of the FTC Act prohibiting unfair and deceptive ads or practices requiring that advertisers and other sellers have a reasonable basis for advertising and other promotional claims before they are disseminated.

**References**

2. Ibid at 31, 259.
3. Ibid at 31, 258.
4. Ibid.
5. 16 CFR § 460.3
8. 16 CFR § 460.1
9. 70 Fed. Reg. at 31, 258
10 Enforcement
11 Final Note

**About NAIMA**

NAIMA is the association of North American manufacturers of fiber glass, rock wool, and slag wool insulation products. NAIMA’s role is to promote energy efficiency and environmental preservation through the use of fiber glass, rock wool, and slag wool insulation products and to encourage safe production and use of these insulation products.

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- Isolake International
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- Sloss Industries Corp.
  Birmingham, AL
- Thermafiber, Inc.
  Wabash, IN
- USG Interiors, Inc.
  Chicago, IL

References

2. Ibid at 31, 259.