

March 23, 2018

Federal Trade Commission
Attn: Hampton Newsome
600 Pennsylvania Ave., NW
Washington, DC 20580

Submitted electronically to: <https://ftcpublishcommentworks.com/ftc/R-value/>

Re: 16 CFR part 460 – Labeling and Advertising of Home Insulation: Trade Regulation Rule (RIN 3084-AB40) (January 22, 2018)

Dear Mr. Newsome:

The Polyisocyanurate Insulation Manufacturers Association (“PIMA”) is pleased to submit the following comments in response to the Federal Trade Commission’s (“FTC”) proposed amendments (Notice of Proposed Rulemaking - 83 Fed. Reg. 2934 (January 22, 2018)) to its Trade Regulation Rule Concerning the Labeling and Advertising of Home Insulation at 16 CFR part 460 (“R-value Rule”). PIMA is the trade association for North American manufacturers of rigid polyisocyanurate (“polyiso”) foam board insulation.¹

PIMA reiterates its support for the continuation of the R-value Rule. R-value is the primary performance characteristic upon which consumers will compare home insulation options. Therefore, it is critical that consumers have access to clear, easily understood information on R-values. The R-value Rule helps to ensure this information is available to consumers at little or no cost to the suppliers of home insulation.

Additionally, PIMA supports the following clarifications or amendments included in the proposed rule:

- the FTC’s clarification that the R-value Rule applies only to insulation products marketed for residential applications;

¹ The Polyisocyanurate Insulation Manufacturers Association (PIMA) is the trade association representing polyiso insulation manufacturers and suppliers to the polyiso industry. PIMA advances the use of polyiso insulation and is one of the foremost industry advocates for energy-efficient practices and policies. In addition, PIMA has been recognized by both the Environmental Protection Agency (EPA) and the Sustainable Building Industries Council for advocacy and products.

- the removal of outdated test standards;
- the amendments to exempt space constrained advertisements from the R-value Rule's disclosure requirements; and
- the recommendation to maintain 75 degrees Fahrenheit as the required mean temperature for R-value testing.

Finally, in its 2016 Advanced Notice of Proposed Rulemaking, the FTC requested comment on whether to require testing closed-cell foam insulation products in accordance with ASTM C1303.² In its proposed rule, the FTC declines to adopt ASTM C1303 standard as a required test method for relevant products. PIMA opposes this decision to the extent it is based on questions concerning the accuracy of ASTM C1303. The current record clearly demonstrates that ASTM C1303 relies upon well-documented test methodologies to provide an accurate measurement of long-term thermal resistance (LTTR). This issue is more fully discussed below.

I. PIMA supports the FTC's clarifications that the R-value Rule applies only to insulation products marketed for residential applications and on substantiation of R-value and energy savings claims.

The FTC proposes clarification that the R-value Rule applies only to insulation products marketed for residential applications, even if those products were originally developed and marketed for commercial applications. PIMA agrees with this clarification.

PIMA also recognizes the importance of protecting consumers from misleading or deceptive advertising practices regarding the R-value performance of home insulation products. Accordingly, we support the FTC's proposal to amend the R-value Rule by extending consumer protections to any product marketed to reduce energy use by slowing heat flow in residential buildings. Thus, any R-value claim should be substantiated by the methods in the R-value Rule. This action is necessary to address deceptive advertising practices that have been the subject of past FTC enforcement actions. In addition, PIMA would support further FTC action that would clarify the need for appropriate substantiation of energy savings claims that are not R-value claims per se.

II. PIMA supports deleting references to outdated test standards from the R-value Rule.

Clear regulations improve compliance as well as reduce the cost of compliance. PIMA supports the FTC's proposal to remove references to outdated test standards from the R-value Rule. As noted in the proposed rule, at least one test standard referenced in the current R-value Rule is no

² ASTM C1303/C1303M-15 "Standard Test Method for Predicting Long-Term Thermal Resistance of Closed-Cell Foam Insulation." ASTM International (updated in 2015).

longer used by industry.³ Additionally, we support the FTC's continued reliance on consensus-based test standards such as those administered by ASTM. These standards are continually reviewed by subject-matter experts and allow for broad stakeholder input through transparent development and maintenance processes.

Furthermore, PIMA encourages the FTC to consider how best to maintain a current list of appropriate test standards moving forward. The Administrative Procedure Act presents a burdensome process for both the agency and industry to use when considering limited updates to the R-value Rule such as adopting updated versions to existing test standards.

III. PIMA supports the amendments to exempt space constrained advertisements from the R-value Rule's disclosure requirements.

Advertising practices and preferred media platforms have advanced at a rapid pace over the past ten years. It is important that regulations reflect these transformations. PIMA believes the R-value Rule can continue to protect consumers' best interests while adapting to new advertising practices and platforms. Therefore, PIMA supports the FTC's commonsense recommendation to exempt space constrained advertisements such as online advertisements or social media posts from the R-value Rule's disclosure requirements.

IV. PIMA concurs with the FTC's focus on providing consumers with easy-to-understand information on R-value performance; and therefore, we support the recommendation to maintain 75 degrees Fahrenheit as the required mean temperature for R-value testing.

In the past decade, building science has progressed from a limited field of study to a practice that now informs how we build homes, schools, and office buildings. This rapid progression has produced a tremendous amount of information on building practices and material performance. And while the industry's overall understanding of key building science concepts is always improving, there remains significant confusion even within the sophisticated market for commercial construction. The concept of mean temperature and how various insulation products may perform under different environmental conditions is not immune from this confusion.

Therefore, we support the FTC's efforts to provide consumers with accurate, yet easily understood information that can be used to evaluate and compare R-value performance of home insulation products. This is best accomplished by maintaining the current requirement that manufacturers test and report R-value as measured at 75 degrees Fahrenheit. Furthermore, as stated in the proposed rule, the R-value Rule allows manufacturers to provide consumers with information about the performance of their insulation products at different temperatures.

³ Reference to Government Services Administration (GSA) Purchase Specification HH-I-530A. The FTC notes that GSA has rescinded this purchase specification.

However, we urge vigilance on the part of the FTC to ensure that the results of R-value testing conducted at various mean temperatures are accurately communicated to consumers.

V. The accuracy of ASTM C1303 as a means of assessing the long-term thermal resistance (“LTTR”) of closed-cell foam insulation products is well-documented by industry research and a ruggedness study conducted by the U.S. Department of Energy’s Oak Ridge National Laboratory (“ORNL”). Therefore, comments that call into question the methodology’s accuracy are without merit and should have no bearing on the FTC’s decision to require ASTM C1303 for testing certain closed-cell foam insulation products.

PIMA’s comments submitted in response to the FTC’s 2016 Advanced Notice of Proposed Rulemaking include a detailed account of the developmental history behind ASTM C1303 and the “slicing and scaling” test method. In summary, research to develop and evaluate the slicing and scaling test method began nearly 30 years ago. This initial research included ORNL, PIMA, the Society of Plastics Industry, and the National Roofing Contractors Association. The research was published in a public forum and led to the first publication of ASTM C1303 in 1995.

Between 2007 and 2012, the test method was subjected to a ruggedness study conducted by ORNL.⁴ The ORNL study is included as an attachment to these comments. This study examined the test method as applied to several closed-cell foams, including polyiso and extruded polystyrene foam insulation products. Ultimately, the ORNL study led to minor changes in the sampling procedures that increased the consistency and reliability of the test method. These changes were incorporated in later versions of the ASTM C1303 standard.

However, ASTM C1303 is by definition limited to unfaced or permeably faced, homogenous materials. And while the stated limitations of ASTM C1303 are not an indictment of its accuracy or the appropriateness of using the test method to assess the LTTR performance of certain closed-cell foam insulation products, ASTM C1303 is not the appropriate method to measure thermal performance of closed-cell foam insulation products with impermeable facers. Instead, ASTM C518 provides a means to accurately measure the R-value of products such as foil-faced polyiso insulation products, which are being used more frequently as continuous exterior insulation in new residential construction.

In conclusion, PIMA recognizes that other factors may support the FTC’s decision not to require ASTM C1303 for testing closed-cell foam insulation products. However, comments that call into question the test methodology’s accuracy for products within its scope are without merit and should have no bearing on the FTC’s final decision.

⁴ Stovall T., Vanderlen M., Atchley J. (November 2012). “Evaluation of Experimental Parameters in the Accelerated Aging of Closed-Cell Foam Insulation,” Oak Ridge National Laboratory, ORNL/TM-2012/214. Available at: <https://info.ornl.gov/sites/publications/files/Pub36655.pdf>.

On behalf of PIMA, thank you for the opportunity to submit these comments. Please contact me via email at mpazera@pima.org if you have any questions.

Sincerely,

A handwritten signature in black ink, consisting of several vertical, wavy lines followed by a horizontal stroke.

Marcin Pazera, PhD.
Technical Director
Polyisocyanurate Insulation Manufacturers Association

Attachment (1)