



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
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WASHINGTON, D.C. 20580

Division of Enforcement
Bureau of Consumer Protection

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December 22, 2000

Mr. Ivan T. Smith, Technical Director
U.S. Greenfiber, LLC
370 Palm Island, SE
Clearwater, Florida 33767

Dear Mr. Smith:

This letter responds to your November 29, 2000 inquiry regarding the installation of loose-fill and sprayed insulation. The Federal Trade Commission (FTC) staff appreciates that you have taken the time to contact us for guidance on these issues. In particular, you have asked whether the thickness of loose-fill insulation has to be at or above the required minimum thickness at every location to comply with the FTC's Trade Regulation Rule Covering the Labeling and Advertising of Home Insulation (the "R-value Rule"), 16 C.F.R. Part 460. In short, it is the FTC staff's view that the Rule requires the installation of loose-fill insulation at or above the required minimum settled thickness at every location.

The staff does not believe that the minimum thickness labeling requirement (16 C.F.R. § 460.12(b)(2) & (3)) provides loose-fill installers with the discretion to leave some areas at less than minimum settled thickness and then average the overall thickness as a means to yield the appropriate R-value. In other words, the Rule's labeling provision addresses a minimum settled thickness for loose-fill coverage, not an average, net, or "effective" minimum thickness. Accordingly, methods for measuring loose-fill coverage are inconsistent with the intent of the Rule if they allow the settled thickness of loose-fill in some areas to be less than the required minimum thickness stated on the insulation's label.

It should be noted that, under the R-value Rule's tolerance provision (§ 460.8), insulation sold by industry members cannot be more than 10% below the R-value shown in a label, fact

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sheet, ad, or other promotional material for that insulation. This 10% tolerance limit does not, however, apply to the installation and thus does not allow downward departure from the necessary minimum thickness specified for loose-fill insulation. As explained in a recent Federal Register notice (64 Fed. Reg. 48024, 48037 (Sept. 1, 1999)):

The Commission designed the tolerance limit provision to apply to the manufacturer. Strictly speaking, the tolerance does not apply to professional installers or new home sellers. The Rule requires that professional installers and new home sellers apply loose-fill insulations according to the manufacturer's installation instructions, but allows them to rely on the accuracy of the manufacturer's R-value and installation instructions. Installers and new home sellers therefore have the benefit of the 10% tolerance limit for variances occurring in the manufacturing process. But the tolerance is not intended to allow installers or new home sellers to deviate from the manufacturer's installation instructions. (Emphasis added).

You have also asked about the effects that variations in thickness can have on the overall R-value. In some cases, areas of loose-fill coverage at less than the minimum thickness can create significant heat loss that causes the consumer to lose heating dollars. Installation of the minimum thickness in all areas ensures that consumers will get the R-value for which they are paying.

The FTC staff realizes that it is extremely difficult for the installer to blow loose-fill home insulation in an attic in an absolutely uniform application. In investigating compliance with the Rule, staff will attempt to determine whether or not the requisite amount of insulation was installed over the area covered and whether or not a reasonable attempt was made to apply the insulation in a uniform manner. In some cases, we may find that the installer has applied less insulation over the areas covered than that indicated on the insulation manufacturer's coverage chart or that the installer has applied the insulation in a haphazard or uneven manner. Such findings may indicate that the installer has violated the Rule. The Commission will consider the results of such measurements and all available evidence in deciding whether to file an enforcement action for violation of the Rule.

Finally, your letter raises issues related to the practices of building inspectors and the requirements of State or model codes with respect to loose-fill insulations and installed thickness. Our response in this letter is limited to the provisions of the FTC's R-value Rule. The FTC staff is not responsible for the practices of local building inspectors nor is the staff authorized to offer interpretations of State, local, or model codes.

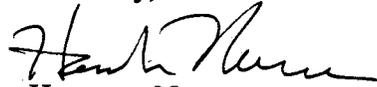
The views expressed in this letter are those of the staff assigned to enforce the Commission's R-value Rule. This letter has not been reviewed or approved by the Commission, and the views expressed in the letter are not binding on the Commission. In conformance with

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Section 1.4 of the Commission's Rules of Practice, 16 C.F.R. § 1.4, this letter and your request along with related submissions are being placed on the public record.

If you have any further questions, please contact me at (202) 326-2889.

Sincerely,

A handwritten signature in black ink, appearing to read "Hampton Newsome". The signature is written in a cursive style with a large initial "H".

Hampton Newsome
Attorney