SUPPLEMENTARY INFORMATION:

I. Text of the Amendment Voted by the Commission

Accordingly, Chapter I of 16 CFR is amended by revising the first four sentences in the first paragraph of § 460.13 to read as follows:

§ 460.13 Fact Sheets.

If you are a manufacturer, you must give retailers and installers fact sheets for the insulation products you sell to them. Each sheet must contain what is listed here. You can add any disclosures that are required by federal laws, regulations, rules, or orders. You can add any disclosures that are required by state or local laws, rules, and orders, unless they are inconsistent with the provisions of this regulation. Do not add anything else.

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II. Reasons for the Amendment

Due to a drafting error in the first paragraph of Section 460.13, the rule prohibited manufacturers from putting disclosures on the fact sheet which were required to be placed there by other federal laws, regulations, rules, or orders. This result clearly put manufacturers in an unfair position: by complying with one set of federal regulations, the manufacturer violates another set of federal regulations. This result is clearly not in the public interest, nor is it consistent with the Commission's intent. Accordingly the Commission has amended § 460.13 to make clear that manufacturers may put disclosures on the fact sheet if required to do so by other federal laws, regulations, rules or orders.

This problem was brought to the Commission's attention by a proposed rule of the Consumer Product Safety Commission, published at 45 **Federal Register** 39434. Under this proposed rule, manufacturers of urea-formaldehyde foam insulation would be required to include certain health risk disclosures on the fact sheet required by Section 460.13 and 460.15 of the home insulation rule. The Commission is unaware of any other federal rules, regulations, laws, or orders which would require disclosure on the fact sheet required by the Commission's home insulation rule. However, the Commission believes the amendment is necessary to prevent confusion arising out of any future federal regulations.

The amendment does not create any substantive change in the rule. The purpose of the provision prohibiting additional disclosures was to prevent manufacturers from vitiating the required disclosures by making distracting promotional claims. The exception to this prohibition for state and local laws, rules, and orders was intended simply to clarify the preemptive effect of the required disclosures. These purposes are not changed by the amendment. Since other federal actions are equally valid with the Commission's actions, the only effect of the amendment is to remove any potential liability for manufacturers who comply with other federal regulations, rules, laws, or orders. It does not change any duties required by the rule.

III. Public Comment

To avoid any potential conflict with other federal laws, regulations, rules, or orders, the Commission has decided that the amendment should take effect immediately upon publication. The Commission finds that notice and public procedure relating to the amendment are unnecessary and would cause a delay which would be contrary to the public interest. Therefore, under § 1.15 of the Commission's Rules of Practice, the Commission has decided to dispense with the procedures set out in subpart 1 of those Rules. However, the Commission will accept public comment on the amendment action for a period of sixty days following publication in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-32514 Filed 10-16-80; 8:45 am]

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16 CFR Part 460

Labeling and Advertising of Home Insulation; Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Invitation for public comment on tentative decision to grant a partial exemption to manufacturers of a type of flat roofing insulation, and notice of a temporary stay of a labeling requirement for those manufacturers.

SUMMARY: The Federal Trade Commission has tentatively decided to grant an exemption to manufacturers of a certain type of flat roofing insulation product used almost exclusively in industrial and commercial applications from the requirement in § 460.12 of its trade regulation rule on labeling and advertising of home insulation (16 CFR Part 460). Section 460.12 requires all home insulation products to be labeled with certain information about R-value. The Commission has tentatively decided to deny an exception to such manufacturers from any other provision of the rule. The Commission has issued a temporary stay of § 460.12 insofar as it applies to this particular type of roof insulation.

DATES: Effective date: September 29, 1980.

Written comments regarding the Commission tentative decision to grant the exemption in part, and deny it in part, will be accepted until November 17, 1980.

ADDRESS: Written comments should be addressed to the Secretary, Federal Trade Commission, 6th and Pennsylvania Avenue, N.W., Washington, D.C. 20580. All comments should be captioned: "Comment on Proposed Partial Exemption for Flat Roof Insulation Manufacturers—Home Insulation Rule."

FOR FURTHER INFORMATION CONTACT: Kent C. Howerton, 202–724–1514, Attorney, Division of Energy and Product Information, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: On August 31, 1980, the Commission announced that the effective date of the rule would be September 29, 1980 (45 FR 54702).

Two trade associations (The Society of the Plastics Industry, Inc. [SPI] and Thermal Insulation Manufacturers Association [TIMA]) and four manufacturers (Apache Building Products Company, GAF Corporation, Grefco Inc., and the Celotex Corporation) have petitioned the Commission for an exemption from the rule for rigid roof insulation which is used in flat built-up roofs. TIMA and the four manufacturers have requested an exemption from all requirements of the rule, including those requiring disclosures in advertisements (§ 460.18 and § 460.19). SPI has limited its request to an exemption from the labeling requirements of § 460.12 of the rule.

The labeling provisions of § 460.12 require all home insulation products to be labeled with basic information about the type of insulation, its R-value, and the coverage of the product. This type of information was intended to provide consumers purchasing the product directly or through installers with basic information needed to evaluate the thermal performance of the insulation product.

The trade associations and manufacturers state that more than ninety-five percent of the rigid roof insulation boards are used in commercial or industrial buildings, and are therefore not covered by the rule. However, some of the product is used in multi-family residential buildings, such

as flat-roof apartment or condominium buildings. The trade associations and manufacturer state that they have no way of knowing which products will be used in residential applications, and which will not. If they are required to label their products which go into residential use, they would be required to assume the unnecessary expenses of labeling every package of insulation even though only a small percentage of them would be used in residential applications. Furthermore, since the product can only be used in large, multi-family, flat-roof buildings, they argue that the labeling information is unnecessary because the product will be selected by an architect or another professional, not the consumer.

The Commission has tentatively decided to grant an exemption to manufacturers of this type of rigid flat-roof insulation board from the requirement in § 460.12 that all insulation materials which might be used in homes be labeled with R-value information.

However, the Commission has tentatively decided to deny the request for an exemption from any other provision of the rule. Section 460.13, in combination with §§ 460.15 and 460.16, requires unstallers to show consumers a fact sheet with essential R-value information and new home sellers to disclose in sales contracts the R-value of the insulation installed in the home. The compliance costs of producing the fact sheets in the few instances where the rigid insulation board is in fact used in residential applications are modest. These sections ensure that, when necessary, consumers will get the relevant R-value information.

Similarly, the Commission has tentatively decided to deny the petition for exemption from any of the rule's provisions which require disclosures in advertising. Most of the claims made for the rigid roof boardstock are made in professional publications, and would therefore not be covered by the rule. But where claims are directed at consumers, there would appear to be no reason to treat claims for this product any differently than other insulation performance or energy savings claims.

In view of the Commission's tentative determination to exempt manufacturers of rigid roof insulation from the labeling requirements of § 460.12, the Commission has tentatively stayed § 460.12 insofar as it applies to such manufacturers, pending a final Commission decision on the exemption request.

The petitions from the two trade associations and the four manufacturers have been placed on the public record and are available for public inspection. They have been filed as documents V–Z through V–7 in FTC file number 215–59.

By Direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-32515 Filed 10-16-80; 8:45 am]

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16 CFR Part 460

Labeling and Advertising of Home Insulation; Trade Regulation Rule; Partial Exemption for Perlite Insulation

AGENCY: Federal Trade Commission.

ACTION: Invitation for public comment on tentative decision to grant a partial exemption to manufacturers of perlite insulation, and notice of conditional stay of that disclosure requirement for perlite insulation manufacturers.

SUMMARY: The Federal Trade Commission has tentatively decided to grant an exemption to manufacturers of perlite insulations which have an inverse relationship between R-value and density or weight per square foot from the requirement in §§ 460.12(b)(2) and 460.13(c)(1) of its trade regulation rule on labeling and advertising of home insulation (16 CFR Part 460) that manufacturers of perlite insulation disclose minimum weight per square foot for R-values listed on labels and fact sheets. This partial exemption from the rule would be conditioned upon the alternative disclosure of the maximum weight per square foot for each R-value listed. The Commission has issued a conditional stay of the requirement that manufacturers of perlite insulation disclose minimum weight per square foot for each R-value listed on labels and fact sheets, pending a final Commission decision on the exemption. The stay is conditioned on the alternative disclosure of the maximum weight per square foot for each value listed.

DATES: Effective date: September 29, 1980.

Written comments regarding the Commission's tentative decision to grant the conditional exemption will be accepted until November 17, 1980.

ADDRESS: Written comments should be addressed to the Secretary, Federal Trade Commission, 6th and Pennsylvania Avenue, N.W., Washington, D.C. 20580. All comments should be captioned: "Comment on Proposed Partial Exemption for Perlite Insulation Manufacturers—Home Insulation Rule."

FOR FURTHER INFORMATION CONTACT: Kent C. Howerton, 202–724–1514, Attorney, Division of Energy and Product Information, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: On August 31, 1979, the Commission promulgated a trade regulation rule on the labeling and advertising of home insulation (44 FR 50218). On August 15, 1980, the Commission announced that the effective date of the rule would be September 29, 1980 (45 FR 54702).

The Perlite Institute Inc. petitioned the Commission for an exemption from one of the disclosure requirements in the Rule. Section 460.12(b)(2) of the Rule requires that all loose-fill insulation products other than cellulose be labeled with the following coverage chart information for R-values of 11, 19 and 22: the minimum thickness, maximum net coverage area, and minimum weight per square foot. Section 460.13(c)(1) requires that the same coverage chart information be disclosed on fact sheets available to consumers through retail stores and installers.

The Perlite Institute requested that the Commission exempt manufacturers of perlite insulation from the requirement that they disclose minimum weight per square foot. The requirement in the rule was based on the fact that, for most residential insulation, as the density or weight per square foot decreases, the R-value decreases. Thus, the Rule requires that coverage charts specify the minimum weight per square foot necessary to obtain the labeled R-value.

Specifically, the Perlite Institute requested that the requirement that perlite insulation labels and fact sheets disclose minimum weight per square foot to achieve each R-value be changed to require a maximum weight per square foot disclosure. In support of this request, the Institute has submitted technical publications which show that, contrary to other insulations, as the density or weight per square foot of perlite insulation increases, R-value decreases. A lighter density perlite will have a higher R-value than one with a heavier density installed at the same thickness. Thus, according to the Perlite Institute, unlike other loose-fill insulations covered by the rule, if perlite insulation is installed at a density greater than the weight per square foot listed on the label, the consumer will not receive the labeled R-value.

The Commission has tentatively decided to grant an exemption to manufacturers of perlite insulations which have an inverse relationship between R-value and density or weight per square foot from the requirement in