

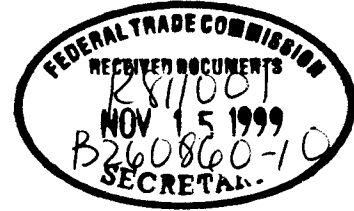
# Elastizell

## CORPORATION OF AMERICA

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November 12, 1999

Office of the Secretary  
Federal Trade Commission  
600 Pennsylvania Avenue, NW – Room 159  
Washington, DC 20580



Re: 16 CFR Part 460  
Trade Regulation Rule: Labeling and Advertising of Home Insulation

To Whom It May Concern:

The following are my comments concerning the referenced Trade Regulation Rule. Elastizell Corporation of America supplies the major ingredient utilized in low density insulating concrete. Our typical applications are insulating concrete roof decks for both residential condominiums as well as commercial buildings of all types.

I applaud your efforts to require substantiation, disclosure, and standardization of R-value measurements for residential applications. **However, my position will be to urge you to extend this Rule to commercial applications.** The referenced document indicates that residential consumers spend \$1300 annually on energy bills. Extending the rule to commercial applications will likely result in greater savings on a national basis.

### II. The R-Value Rule

Consumers – residential and commercial – need the Rule so that everyone operates on a level field and no one has an unfair advantage gained by deception. The important points include:

- a) Basic thermal performance information (materials with consistent densities)
- b) R-value information in a uniform manner (temperatures)
- c) R-value substantiation by accepted test methods (procedures)
- d) All suppliers comply with these standards

We have a competitor in our industry who, in our opinion, does not follow the aforementioned rules and procedures. This results in them having an unfair competitive advantage, as we see it. We will detail these transgressions later in our comments.

### III. Overview of the Rule

A. Whereas the Rule covers roof insulation for residential buildings, **the Rule should be extended to commercial buildings for not only roofs but walls and other insulation systems.** I agree that the Rule should not cover pipe insulation.

B. I also agree that the parties covered by the Rule are correct, as stated. The emphasis should be on the **manufacturers** who publish the values and the **installers** who sell these values to the owner or general contractor.

C. The purpose is excellent which means simply to **disclose R-values on a uniform, industry-adopted standard so that interested parties are able to know from the labels or from printed matter that a uniform and industry standard is used.** This includes homeowners as well as architects, engineers, specification writers, etc.

D. The basis for the Rule is simply to **prohibit unfair or deceptive acts and practices within an industry.**

E. The Rule clearly states the ASTM Standards which are required to be followed for R-value test procedures. These include ASTM: C-177, C-236, C-518, C-976, and C-1114. I understand this to mean that any other methods are unacceptable.

#### **IV. Discussion of Comments, Proposed Amendments, Objectives, and Regulatory Alternatives**

Let me direct my comments to Non-residential Insulation. **It is important that all buildings (commercial, not just residential) be included in the Rule because it would result in a significant improvement in the energy efficiency of buildings and conserve energy. These are the stated objectives of the Rule.**

The Celotex statement that commercial insulation is purchased by professional architects, engineers, and specification writers is not true. Although these parties may **specify** insulation based on manufacturer labeling and testing, **they are at the mercy of the manufacturer labeling and testing.** They do not have the time to check this information in detail. Maybe in 1950 they did, but not in 2000. Time pressures on these professionals have changed drastically in the past 30-50 years.

**The actual purchaser of insulation is the General Contractor for the Owner sometimes via the Architect (acting as the Owner's representative).** If manufacturer deceptive labeling and testing procedures are all that these parties have to review, everyone loses but the manufacturer who has acted in a deceptive manner. The losers include the Owner (as a consumer), the honest insulation manufacturer and installer (fighting to survive against unfair business practices), and the nation as energy efficiency (conservation) is slighted and energy resources are wasted.

Product change orders are commonplace in the building industry. When money is involved, values such as honesty and insulation (R-values) are sacrificed. If applied to all buildings, this Rule could help improved the business climate.

**Accordingly, we have evidence that a seller in our market is blatantly misrepresenting the thermal performance of their product via unfair and deceptive practices. I am enclosing a roadmap of documentation detailing their actions relative to our industry.**

### **Background**

Insulating concrete roof decks consist of a sandwich of cellular concrete around a polystyrene insulation board. Because the cellular concrete consists of a cement paste interspersed with macroscopic air cells and has a dry density in the range of 28-32 pcf (standard concrete has a density of 145 pcf), the cellular concrete has considerable insulation value within the system.

The insulation value of cellular concrete material is typically determined according either ASTM C-177 or C-518. Both of these standards are included in the Rule. These determinations are made at a mean temperature of 75°F. **If the mean temperature is lowered from the standard of the Rule (75°F), the insulating value would improve.**

Cellular concrete must also possess a certain level of strength that is directly related to its density. The cellular concrete's strength anchors the fastening of the roofing membrane into the cellular concrete. This holds the membrane in place during high winds and hurricanes. If the cellular concrete is too weak, it may have better insulation values, but it will fail as a roof deck.

### **Specific Details**

**In my opinion, one member of our industry blatantly violates all aspects of the Rule relative to their R-value determinations, specifically they:**

- 1- do not follow any of the ASTM standards listed in the Rule;
- 2- are conducted at a range of mean temperatures resulting in higher r-values;
- 3- are conducted at a range of densities a portion of which not applicable for roof deck installations relative to fire and wind uplift performance;
- 4- falsely imprint their name on a (Westinghouse) report as a testing procedure implying it is for roof decks whereas it was tested as a thermal storage tank;
- 5- report roof deck R-values about 70% higher (from their deceptive testing) than three of the main manufacturers in this industry;
- 6- insulation values are equally higher than general R-values reported by ASHRAE;

**These deceptive R-values were printed advertising. These cellular concrete R-values are accepted without question by Architects, General Contractors, and Owners and contracted for roof deck installations. As a result, other manufacturers in this industry are at a significant economic disadvantage in trying to honestly secure work.**

Most of these deceptive practices occur in Florida. Accordingly, I have enclosed excerpts from the Florida Energy Efficiency Code, the Florida Department of Community Affairs, various manufacturer printed advertising, and comments as to the claimed testing of the deceptive party.

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In conclusion, my recommendations to the Commission are as follows:

- 1- Extend the Rule to include commercial buildings as well as the residential dwellings already covered by the Rule.
- 2- Continue the requirement of the Rule to include the listed ASTM Standards for R-value testing and the prescribed mean temperature.
- 3- Require that the labeling, advertising and technical literature of all manufacturers comply with these standards.

I am available to discuss these matters with the Commission at a mutually convenient time.  
Thanks for your time and consideration of my comments.

Very truly yours,  
ELASTIZELL CORPORATION OF AMERICA

A handwritten signature in black ink that reads "Leo A. Legatski". The signature is written in a cursive, flowing style with large, connected letters.

Leo A. Legatski  
President

Enclosures