recent legislative action made under the RISE Act and will implement new agency policies regarding the expansion of the definition of mitigation as it pertains to the Disaster Loan Program, and the inclusion of malfeasance.

List of Subjects in 13 CFR Part 123

Disaster assistance, Loan programs, business, Reporting and recordkeeping requirements, Small businesses.

For reasons set forth in the preamble, SBA proposes to amend 13 CFR part 123 as follows:

PART 123—DISASTER LOAN PROGRAM

1. The authority citation for part 123 continues to read as follows:


2. Amend §123.2 by revising the seventh sentence to read as follows:

§123.2 What are disaster loans and disaster declarations?

(a) Sudden events that cause substantial economic injury may be disasters even if they do not cause physical damage to a victim’s property.

3. Amend §123.3 by revising paragraph (a)(1) to read as follows:

§123.3 How are disaster declarations made?

(a) Generally, SBA will consider your request for an increase in your loan if you can show that the eligible cost of repair or replacement of damages increased because of events occurring after the loan approval that were beyond your control.

4. Amend §123.11 by revising paragraph (a)(2) to read as follows:

§123.11 Does SBA require collateral for any of its disaster loans?

(a) Physical disaster home and physical disaster business loans.

Generally, SBA will not require that you pledge collateral to secure a physical disaster home or physical disaster business loan of $25,000 or less. This authority expires on November 25, 2018, unless extended by statute.

§123.13 [Amended]

5. Amend §123.13 by removing the parenthetical phrase “(OMB Approval No. 3245–0123)” from paragraph (a).

6. Amend §123.18 by:

(a) Revising the first sentence of the redesignated paragraph (a); and

(b) Adding paragraph (b).

The revisions and additions read as follows:

§123.18 Can I request an increase in the amount of a physical disaster loan?

(a) Generally, SBA will consider your request for an increase in your loan if you can show that the eligible cost of repair or replacement of damages increased because of events occurring after the loan approval that were beyond your control.

(b) For all disasters occurring on or after November 25, 2015, you may also request an increase in your loan if you suffered substantial economic damage or substantial risks to health or safety as a result of malfeasance in connection with the repair or replacement of real property or business machinery and equipment for which SBA made a disaster loan. See §123.105 for limits on home loan amounts and §123.202 for limits on business loan amounts.

Malfeasance may include, but is not limited to, nonperformance of all or any portion of the work for which a contractor was paid, work that does not meet acceptable standards, or use of substandard materials.

7. Amend §123.20 by redesignating the undesignated text as paragraph (a) and adding paragraph (b) to read as follows:

§123.20 How long do I have to request an increase in the amount of a physical disaster loan or an economic injury loan?

(a) Generally, SBA will consider your request for an increase in your loan if you can show that the eligible cost of repair or replacement of damages increased because of events occurring after the loan approval that were beyond your control.

(b) For physical disaster loan increases requested under §123.18(b) as a result of malfeasance, the request must be received not later than two years after the date of final disbursement.

8. Amend §123.21 by revising the first and third sentences to read as follows:

§123.21 What is a mitigation measure?

A mitigation measure is something done for the purpose of protecting property and occupants against disaster related damage. Examples of mitigation measures include building retaining walls, sea walls, grading and contouring land, elevating flood prone structures, relocating utilities, constructing a safe room or similar storm shelter (if such safe room or similar storm shelter is constructed in accordance with applicable standards issued by the Federal Emergency Management Agency), or retrofitting structures to protect against high winds, earthquakes, flood, wildfires, or other physical disasters.

9. Amend §123.105 by:

(a) Revising paragraph (a) introductory text;

(b) Removing the word “and” from paragraph (a)(5);

(c) Revising paragraph (a)(4); and

(d) Adding paragraph (a)(5).

The revisions and additions read as follows:

§123.105 How much can I borrow with a home disaster loan and what limits apply on use of funds and repayment terms?

(a) There are limits on how much money you can borrow for particular purposes:

(b) For all disasters occurring on or after November 25, 2015, you may also request an increase in your loan if you suffered substantial economic damage or substantial risks to health or safety as a result of malfeasance in connection with the repair or replacement of real property or business machinery and equipment for which SBA made a disaster loan. See §123.105 for limits on home loan amounts and §123.202 for limits on business loan amounts.

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product's "R-value." An insulation product's "R-value" rates the product's insulating ability. R-value refers to a product's ability to restrict heat flow and, therefore, reduce energy costs. The higher the R-value, the better the product's insulating ability. R-value ratings vary among different types and forms of home insulations and even among products of the same type and form.

The FTC's current R-value Rule provides substantiation and disclosure requirements for insulation products used in the residential market and prohibits certain claims unless they are true. Specifically, the current Rule requires insulation sellers to disclose the insulation product's R-value and related information for their products based on uniform, industry-adopted test procedures. This information enables consumers to evaluate the performance and cost effectiveness of competing insulation products.

A. Products Covered

The R-value Rule covers all "home insulation products." Under the current Rule, the term "insulation" includes any product "mainly used to slow down heat flow" from, for example, a heated interior through exterior walls to the outside. The current Rule covers most types or forms of insulation marketed for use in residential structures, whether or not the Rule specifically refers to such insulation. It does not cover insulation sold for use in commercial (including industrial) buildings. In addition, it generally does not apply to non-insulation products with insulating characteristics, such as storm windows or storm doors.

Home insulation falls into two basic categories: "mass" and "reflective." Mass insulations reduce heat transfer by conduction (through the insulation's mass), convection (air movement within, and through, the air spaces inside the insulation), and radiation. Reflective insulations (primarily aluminum foils) reduce heat transfer when installed facing an airspace. Within these basic categories, home insulation is sold in various types or materials (e.g., fiberglass, cellulose, polyurethane, aluminum foil) and forms (e.g., batt, dry-applied loose-fill, spray-applied, board stock, multi-sheet reflective).

B. Covered Parties

The current Rule applies to home insulation manufacturers, professional installers, retailers who sell insulation for do-it-yourself installation, and new home sellers, including sellers of manufactured housing. It also applies to testing laboratories that conduct R-value tests for home insulation manufacturers or other sellers who base their R-value claims on these test results.

C. The Rule's Basis

The Commission first issued the current R-value Rule in response to a variety of unfair or deceptive acts or practices in the insulation industry. Specifically, the Commission found that many sellers: (1) Failed to disclose R-values, impeding informed purchasing decisions and misleading consumers who based their purchases on price or thickness alone; (2) Exaggerated R-value disclosures and often failed to account for material factors (e.g., aging, settling) that reduce thermal performance; (3) Failed to inform consumers about R-value's meaning and importance; (4) Exaggerated fuel bill savings and often did not disclose that savings vary depending on consumers' particular circumstances; or (5) Falsely claimed that consumers' insulation purchases would qualify for tax credits, or that products had been "certified" or "favored" by Federal agencies.

D. The Rule's Requirements

The current Rule requires manufacturers and others who sell home insulation to disclose R-value and related information (e.g., thickness, coverage area per package) on package labels and manufacturers' fact sheets. R-value disclosures must be derived from tests conducted according to one of four specified American Society of Testing and Materials ("ASTM") test procedures that measure thermal performance under "steady-state" (i.e., static) conditions. For mass insulations, the required tests include ASTM C–177, C–236, C–518, and C–976. Industry members must conduct tests for mass insulation products on the insulation material alone (excluding any airspace) at a mean temperature of 75 °F. The current Rule requires testing for reflective insulation products according to either ASTM C 236–89 (1993) or ASTM C 976–90, which generate R-values for insulation systems (such as those that include one or more air spaces). The current Rule's R-value requirements apply to home insulation products.

Warranty Terms. 16 CFR parts 701 and 702, specify warranty requirements and the Commission's Guides for the Use of Environmental Marketing Claims, 16 CFR part 260, address the application of section 5 of the Federal Trade Commission Act, 15 U.S.C. 45, to environmental advertising and marketing claims (e.g., recycled material claims). Further, section 5 declares that unfair or deceptive acts or practices are unlawful, and requires that advertisers and other sellers have a reasonable basis for advertising and other promotional claims before they are disseminated. See Deception Policy Statement, appended to Clifford Assoc., Inc., 103 FTC 110, 174 (1984); and FTC Policy Statement on Unfairness, appended to International Harvester Co., 104 F.T.C. 949 (1984) and Policy Statement Regarding Advertising Substantiation, 49 FR 30909 (Aug. 2, 1984), reprinted in Thompson Medical Co., 104 F.T.C. 839 (1984).

The current Rule incorporates by reference ASTM's test procedures, which ASTM reviews and revises periodically. Under § 460.7 of the Rule, the Commission will accept, but not require, the use of a revised version of any of these standards 90 days after ASTM adopts and publishes the revision. The Commission may, however, reopen the rulemaking proceeding during the 90-day period, or at any later time, to consider whether it should require use of the revised procedure or reject it under § 460.5.


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44 FR at 50221–21, at 50226, n. 189.

The R-value of a single-sheet reflective insulation product must be tested under ASTM C 236–89.
II. Regulatory Review Program

The Commission reviews its rules and guides periodically to seek information about their costs and benefits, regulatory and economic impact, and general effectiveness in protecting consumers and helping industry avoid deceptive claims. These reviews assist the Commission in identifying rules and guides that warrant modification or rescission. As part of its last review in 2005, the Commission issued several amendments to update and improve the Rule.12

With this document, the Commission initiates a new review. The Commission solicits comments on, among other things, the economic impact of, and the continuing need for, the R-value Rule; the Rule’s benefits to consumers; and the burdens it places on industry members subject to the requirements, including small businesses.

III. Issues for Comments

To aid commenters in submitting information, the Commission has prepared the following specific questions related to the R-value Rule. The Commission seeks comments on these and any other issues related to the Rule’s current requirements. In their replies, commenters should provide any available evidence that supports their position.

A. General Regulatory Review Questions

(1) Need: Is there a continuing need for the Rule? Why or why not?

(2) Benefits and Costs to Consumers: What benefits has the Rule provided to consumers, and does the Rule impose any significant costs on consumers?

(3) Benefits and Costs to Industry Members: What benefits, if any, has the Rule provided to businesses, and does the Rule impose any significant costs, including costs of compliance, on businesses, including small businesses?

(4) Recommended Changes: What modifications, if any, should the Commission make to the Rule to increase its benefits or reduce its costs? How would these modifications affect the costs and benefits of the Rule for consumers? How would these modifications affect the costs and benefits of the Rule for businesses, particularly small businesses?

(5) Impact on Information: What impact has the Rule had on the flow of truthful information to consumers and on the flow of deceptive information to consumers?

(6) Compliance: Provide any evidence concerning the degree of industry compliance with the Rule. Does this evidence indicate that the Rule should be modified? If so, why, and how? If not, why not?

(7) Unnecessary Provisions: Provide any evidence concerning whether any of the Rule’s provisions are no longer necessary. Explain why these provisions are unnecessary.

(8) Additional Unfair or Deceptive Practices: What potentially unfair or deceptive practices, not covered by the Rule, related to insulation products are occurring in the marketplace? Are such practices prevalent in the market? If so, please describe such practices, including their impact on consumers. Provide any evidence, such as empirical data, consumer perception studies, or consumer complaints, that demonstrates the extent of such practices. Provide any evidence that demonstrates whether such practices cause consumer injury. With reference to such practices, should the Rule be modified? If so, why, and how? If not, why not?

(9) Product Coverage: Should the Commission broaden the Rule to include products not currently covered? Provide any evidence that supports your position. What potentially unfair or deceptive practices related to products not covered by the Rule are occurring in the marketplace? Are such practices prevalent in the market? If so, please describe such practices, including their impact on consumers. Provide any evidence, such as empirical data, consumer perception studies, or consumer complaints, that demonstrates the extent of such practices. Provide any evidence that demonstrates whether such practices cause consumer injury.

(10) Technological or Economic Changes: What modifications, if any, should be made to the Rule to account for current or impending changes in technology or economic conditions? How would these modifications affect the costs and benefits of the Rule for consumers and businesses, particularly small businesses?

(11) Conflicts With Other Requirements: Does the Rule overlap or conflict with other Federal, State, or local laws or regulations? If so, how? Provide any evidence that supports your position. With reference to the asserted conflicts, should the Rule be modified? If so, why, and how? If not, why not?

Are there any Rule changes necessary to help state law enforcement agencies combat deceptive practices in the insulation market? Provide any evidence concerning whether the Rule has assisted in promoting national consistency with respect to the advertising of insulation products.

B. Specific Questions Related to the R-Value Rule

(1) Aging of Cellular Plastics: Should the Commission update the required test procedures for the aging of cellular plastic insulations under 460.5(a)(1) to ensure consistency among R-value claims and to otherwise prevent deception? Specifically, should the Commission amend the Rule to require ASTM 1303 (“Standard Test Method for Predicting Long-Term Thermal Resistance of Closed-Cell Foam..."
Insulation”) or a different test? If so, to which products should this test apply? 13

(2) Affirmative Disclosures: Should the Commission consider changing, adding, or removing affirmative disclosures required by the Rule for labeling and advertising related to mass insulation, reflective insulation, or radiant barriers?

(3) Foam Insulation: Given the significant increase in the use of foam insulation products since the last Rule review, should the Commission consider any Rule changes to help prevent deception in the marketing of such products, or reduce unnecessary burdens on sellers?

(4) Testing Requirements: Should the Commission consider any changes to the testing provisions in the Rule? Such potential changes include, but are not limited to, test updates, the addition of new or existing tests not currently referenced in the Rule, or changes to other testing-related requirement such as the Rule’s “tolerance” provision (§ 460.8). 14 Are there any tests currently referenced in the Rule that should be removed?

IV. Comment Submissions

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before June 6, 2016. Write “16 CFR part 460—R-value Rule Review, File No. R811001” on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at http://www.ftc.gov/os/publiccomments.shtm. As a matter of discretion, the Commission tries to remove individuals’ home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, such as anyone’s Social Security number, date of birth, driver’s license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any “[t]rade secret or any commercial or financial information which is . . . privileged or confidential,” as discussed in section 6(f) of the FTC Act, 15 U.S.C. 45(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c). Your comment will be kept confidential only if the FTC General Counsel grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online, or send them to the Commission by courier or overnight service. To make sure that the Commission considers your online comment, you must file it at https://ftcpublic.commentworks.com/ftc/r-value/review, by following the instructions on the web-based form. If this Notice appears at http://www.regulations.gov, you also may file a comment through that Web site.

If you prefer to file your comment on paper, write “16 CFR part 460—R-value Rule Review, File No. R811001” on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex B), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex B), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at http://www.ftc.gov to read this ANPR and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before June 6, 2016. For information on the Commission’s privacy policy, including routine uses permitted by the Privacy Act, see http://www.ftc.gov/privacy.htm.

By direction of the Commission.

Donald S. Clark, Secretary.

[FR Doc. 2016–07679 Filed 4–5–16; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2016–0011]

RIN 1625–AA08

Special Local Regulation: Bucksport/ Southeastern Drag Boat Summer Championships, Atlantic Intracoastal Waterway; Bucksport, SC

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a special local regulation on the Atlantic Intracoastal Waterway in Bucksport, South Carolina during the Bucksport/Southeastern Drag Boat Summer Championships, on August 13, and August 14, 2016. This special local regulation is necessary to ensure the safety of participants, spectators, and the general public during the event. This proposed rulemaking would prohibit persons and vessels from being in the regulated area unless authorized by the Captain of the Port Charleston or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before May 6, 2016.

ADDRESSES: You may submit comments identified by docket number USCG–2016–0011 using the Federal eRulemaking Portal at http://www.regulations.gov. See the “Public