



# SUSTAINABLE FORESTRY INITIATIVE

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April 16, 2008

Donald S. Clark, Secretary  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Room H-135 (Annex B)  
Washington, DC 20580

Re: Green Packaging Workshop – Comment, Project No. P084200

Dear Secretary Clark:

Sustainable Forestry Initiative, Inc. ("SFI") submits this comment in connection with the FTC's upcoming Green Guides workshop on April 30. Our comment will address three specific points on which the FTC requested comments in its February 25 press release announcing the workshop: (1) "new green packaging terms not currently addressed in the Green Guides," including claims using the word "sustainable," (2) "claims based on third-party certification and consumer perception of such claims," and (3) "the need for new or updated FTC guidance in these areas."

SFI has an interest in these issues because SFI operates a comprehensive program by which forests are third-party certified as conforming to the SFI Standard, which meets international standards for the practice of sustainable forest management. SFI also licenses companies to use SFI labels on products that are third-party certified as containing wood, paper or fiber from certified forests, or from certified systems to buy wood from certified and non-certified forests.

SFI's view is that third-party certification of forests and forest products to published standards of sustainable forestry is well-understood and accepted by customers, and is not deceptive. Many customers (including builders, publishers and retailers) now require such certification, and promote their products to consumers as certified to credible sustainable forestry standards. A competitive market has arisen to supply the demand for forest certification and certified forest products. Several certification standards include detailed definitions of "sustainable forestry," and specific indicators by which an auditor can determine whether a forest is managed in accordance with those definitions.<sup>1</sup> Thus, forest certification

<sup>1</sup> In addition to the SFI Standard, available at <http://www.sfiprogram.org/standard.cfm>, see American Tree Farm System, "Standards of Sustainability for Forest Certification," available at [http://65.109.144.60/cms/test/26\\_34.html](http://65.109.144.60/cms/test/26_34.html); Canadian Standards Association, "Sustainable Forest Management Standard," available at [http://www.csa-international.org/product\\_areas/forest\\_products\\_marking/program\\_documents/Default.asp?language=english](http://www.csa-international.org/product_areas/forest_products_marking/program_documents/Default.asp?language=english); and Programme for the Endorsement of Forest Certification Schemes, "PEFC Council Technical Document and Annexes," available at [http://www.pefc.org/internet/html/documentation/4\\_1311\\_400/4\\_1208\\_164/5\\_1177\\_287.htm](http://www.pefc.org/internet/html/documentation/4_1311_400/4_1208_164/5_1177_287.htm).

standards both define and substantiate claims of sustainable forestry. SFI's view is that these definitions and substantiations are not misleading, and that there is no need for new or different FTC guidance in this area.

SFI also believes that the FTC's guidance should continue to be consistent with the international standards that guide consumer protection law in Canada and Europe. Those standards include the International Organization for Standardization's ISO 14021: *Environmental Labels and Declarations*. The Canadian Standards Association ("CSA"), in partnership with the Canadian Competition Bureau, is in the process of finalizing a report entitled "Plus 14021, Environmental Claims: A Guide for Industry and Advertisers." The final report is expected to be publicly released in May 2008. The current draft report concludes that although Canada prohibits general claims of "achieving sustainability," Canada permits verifiable claims that the seller conforms to a specific forest management standard. Because businesses increasingly must label products in compliance with both United States and international standards, SFI recommends that the FTC conform its guidance to this sensible Canadian interpretation of international standards.

#### Background: SFI and Forest Certification.

SFI is an independent non-profit corporation, whose sole mission is to create and promote compliance with a standard of sustainable forestry. SFI is governed by a Board of Directors that gives equal representation to environmental, social and economic interests. SFI's Board members, all of whom are volunteers, include representatives of environmental, conservation, labor, professional and academic groups, public officials, forest products industry representatives, independent logging professionals and forest landowners.

SFI creates and publishes the SFI Standard, a standard of sustainable forest management based on principles that promote good forest stewardship and protect water quality, biodiversity, wildlife habitat, species at risk, and forests with exceptional conservation value. The SFI Standard, and related rules and interpretations, are available to the public on SFI's website, <http://www.sfiprogram.org>.

The SFI Standard is reviewed and updated every five years, following a public review process that includes at least two public comment periods and regional workshops in the United States and Canada. Volunteer, multi-stakeholder committees review comments and incorporate them into a new draft standard that is presented to the SFI Board of Directors for approval.

The SFI Standard includes specific indicators by which an auditor can objectively determine whether a forest is managed in conformance with the SFI Standard. Forests are certified only after an on-the-ground audit by an independent, accredited certification body. SFI currently has over 225 certified program participants, and covers more than 150 million acres of North America's forestlands.

SFI licenses program participants and others to market products under the SFI label. Each SFI label makes a specific claim about the seller or the product, which is more fully explained on the SFI website (the URL is included on every label). SFI labels indicate, for example, that part or all of the fiber in the product comes from certified forests. One such label is as follows:



To be licensed to use this label, the licensee must substantiate the claim through a third-party audit, including a chain of custody demonstrating that the stated percentage of the fiber in the product line comes from certified forests.

SFI also has other labels, each fully described on SFI's website,<sup>2</sup> that make claims about the seller's fiber procurement practices without making claims about the source of the fiber in the particular product to which the label is attached. For example, the SFI "Fiber Sourcing" labels represent that the seller's fiber procurement system has been certified, based on a third-party audit, as meeting the fiber sourcing requirements of the SFI Standard. SFI's "Volume Credit" labels allow a seller to "pool" fiber from certified forests with fiber from non-certified forests, and place an SFI label on the percentage of the output that corresponds to the percentage of input from certified forests. These labels, to some extent, allow companies to market environmental benefits separately from certified content. SFI agrees with Weyerhaeuser's comment, which thoughtfully demonstrates why these labels are efficient and should be permitted.

SFI and other credible forest certification programs clearly define label users' claims of sustainable forestry, and substantiate those claims through independent third-party audits. SFI believes that both the claims and the substantiation fully comply with the FTC's current environmental marketing guidelines. And, as discussed below, we believe the FTC may want to explicitly recognize and provide an example of valid forest certification claims, for example to say that a forest certification label may properly claim that the seller complies with a specified forest certification standard, and that a third-party audit verifying compliance with the standard is adequate substantiation of such a claim.

1. The FTC should not define "sustainable" as that term is used in forest certification.

The FTC has requested and received comments on whether the Green Guides should be revised to include specific guidance regarding claims using the word "sustainable." Some comments note that there are several definitions of "sustainable," and urge the FTC to define the term and to prohibit the use of any other definition.<sup>3</sup> Others argue that claims of "sustainability" are either too vague to be substantiated or inherently impossible to substantiate, and therefore should be prohibited.<sup>4</sup>

SFI disagrees with both these extreme positions, at least as applied to forestry and other sectors of the economy where sustainability is a well-recognized concept that can be clearly and specifically defined. Clear and specific definitions of sustainable forestry exist, and are the basis

<sup>2</sup> See <http://sfiprogram.org/label.cfm>.

<sup>3</sup> See comments filed by the Foodservice Packaging Institute and International Paper.

<sup>4</sup> See comments filed by EHS Strategies and the Green Blue Institute.

for several credible systems for the certification of forests and identification of products from those forests. Consumers value the information that forest certification provides, as evidenced by the growing demand for products bearing forest certification labels.

Our position is consistent with the majority of the comments on this subject, which urge the FTC to prohibit vague or general claims of sustainability, but to permit claims of sustainability where the marketer communicates a clear definition of that term, and substantiates that the product meets the definition. Several comments note that independent certification bodies can, and do, supply credible definitions of "sustainability" for use in particular industries.<sup>5</sup> The SFI Standard provides one such definition, and third-party certification to the SFI Standard provides the necessary substantiation.

The SFI Standard defines "sustainable forestry,"<sup>6</sup> and gives specific meaning to that definition with a comprehensive set of 136 objective indicators and performance measures developed by professional foresters, conservationists and scientists, and designed to be applied by independent auditors. The SFI Standard spells out the requirements of compliance with the Standard. Compliance is confirmed by rigorous third-party audits.

The SFI Standard has itself been validated by independent reviews by expert third parties. The Programme for the Endorsement of Forest Certification schemes ("PEFC") has endorsed 25 independent forest certification systems, including SFI, as meeting PEFC's requirements for forest certification schemes.<sup>7</sup> In addition, the United Kingdom's Central Point of Expertise on Timber performed a rigorous assessment of the SFI Standard in 2006, and found that the SFI Standard meets the UK government's requirements for "legality" and "sustainability."

SFI agrees with the commenters who argue that vague and undefined claims of sustainability are misleading. However, at least as the term is used in forestry, "sustainable" is not a vague claim of general environmental virtue. When a seller represents that a product comes from a forest certified to the SFI Standard (or another credible standard), the seller makes a specific and verifiable statement of fact that comes with a definition, performance measures, indicators and a third party certification audit to substantiate its claim.

Because prevailing definitions of sustainable forestry are far more specific and detailed than any definition that the FTC might suggest in generally applicable guidelines, we submit that the FTC should not attempt to define the term "sustainable" in this context. Instead, as several comments have suggested, the FTC should defer to independent, voluntary standard-setting bodies such as SFI, which compete for acceptance based on the degree to which their standards meet consumer demand for useful information about the sources of forest products. FTC guidelines could provide clarity on this issue by recognizing forest certification claims, for example to say a forest certification label may properly claim that the seller complies with a specified forest certification standard, and that a third party audit to verify conformance with the standard is adequate substantiation of that claim.

## 2. The FTC should adopt the Canadian Competition Bureau's view of ISO 14021.

<sup>5</sup> See comments filed by American Forest & Paper Association, Environmental Packaging Institute, Fibre Box Association, Formaldehyde Council, and Harvard Law School Environmental Law and Policy Clinic.

<sup>6</sup> The definition is: "to meet the needs of the present without compromising the ability of future generations to meet their own needs by practicing a land stewardship ethic that integrates reforestation and the managing, growing, nurturing, and harvesting of trees for useful products with the conservation of soil, air and water quality, biological diversity, wildlife and aquatic habitat, recreation, and aesthetics."

<sup>7</sup> See [http://www.pefc.org/internet/html/about\\_pefc.htm](http://www.pefc.org/internet/html/about_pefc.htm).

The FTC has also requested and received comments on the question whether the Green Guides should be modified to harmonize them with international standards such as ISO 14021. Clause 5.5 of ISO 14021 provides that

“The concepts involved in sustainability are highly complex and still under study. At this time there are no definitive methods for measuring sustainability or confirming its accomplishment. Therefore, no claim of achieving sustainability shall be made.”

Several comments urge the FTC to harmonize the Green Guides with ISO 14021. However, most comments that address the issue suggest that the FTC *not* adopt clause 5.5.<sup>8</sup> SFI proposes another option: we believe the FTC should adopt the Canadian Competition Bureau’s interpretation of clause 5.5, which prohibits general and undefined claims of sustainability, but *permits* claims that a seller conforms to a specific forest certification standard.

As discussed above, the Canadian Competition Bureau and CSA have concluded in their guidance on applying ISO 14021 that a claim of sustainable forest management is acceptable if it refers to a specific standard, including the SFI Standard. The current draft text follows:

#### **4.6 Claims of sustainability**

*The concepts involved in sustainability are highly complex and still under study. At this time there are no definitive methods for measuring sustainability or confirming its accomplishment. Therefore, no claim of achieving sustainability shall be made.*

*CAN/CSA-ISO 14021, Clause 5.5*

*Sustainability can only be measurable over a very long period. It is therefore very difficult to make a verifiable claim of sustainability at one point in time. Claims that refer to specific, registered [aka certified] management systems are sometimes acceptable, provided they can be verified.*

#### **Example:**

##### *Preferred*

*This wood comes from a forest that was certified to a sustainable forest management standard (i.e., a sustainable forest management standard published by CSA, Sustainable Forestry Initiative (SFI), Forest Stewardship Council (FSC), or the Programme for the Endorsement of Forest Certification schemes (PEFC)).*

##### *Discouraged*

*This wood is sustainable.*

*A claim about a product’s sustainability requires life cycle analysis and cannot be based on a single attribute of the product such as how it was managed and extracted. Hence, claims need to be linked to the achievement. If the wood for a product came from a forest that was certified to a sustainable forest management standard, it is not necessarily true that the entire wood product is sustainable.*

This interpretation of ISO 14021 is justified because the factual premise of clause 5.5 (that “there are no definitive methods for measuring sustainability”) is inapplicable to industries

<sup>8</sup> See comments filed by American Forest & Paper Association, Dow Chemical, and Weyerhaeuser.

such as forestry, where there are credible standards of sustainability and more forests are being certified to those standards every year. As standards of sustainability are developed and accepted in various industries, Canada's interpretation of ISO 14021 will permit accurate and verifiable claims of compliance with those standards.

Therefore, if the FTC elects to adopt ISO 14021, we submit that it should interpret clause 5.5 to prohibit only claims of "achieving sustainability" in a general, undefined sense – not claims of achieving compliance with a well-defined standard that promotes sustainability and includes a third-party audit conducted by an accredited certification body. Truthful claims of compliance with credible environmental standards are valuable to consumers, and the FTC should not discourage them.

Sincerely,



Kathy Abusow