



August 15, 2008

Federal Trade Commission  
Office of the Secretary,  
Room H-135 (Annex B)  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580

Re: Comments, Green Buildings and Textiles Workshop, Project No.  
P084203, 73 *Federal Register* 32662 (June 10, 2008)

To Whom It May Concern:

The American Forest & Paper Association (AF&PA) is pleased to file the following comments in response to the above-referenced *Federal Register* notice regarding the Federal Trade Commission's (FTC's) Green Guides. AF&PA is the national trade association of the forest, paper, and wood products industry. AF&PA represents 175 companies and related associations that engage in or represent the manufacture of pulp, paper, paperboard, and wood products. AF&PA worked closely with FTC staff as they developed the FTC Green Guides' provisions pertaining to recycled paper and paper products; we are pleased that the FTC is open to a productive working relationship during this revision process encompassing green buildings and other related issues.

### **Substantiation of Claims**

As we have noted in earlier comments, AF&PA strongly supports the concept that any environmental claim made must be properly substantiated. Furthermore, it is critical that the method used for the substantiation be credible. We recommended that the FTC describe the necessary components of substantiation, but not require a specific method of substantiation. That is because specific methods will differ depending on what is being substantiated. We also recommend that the FTC allow reference to websites as sufficient to provide the necessary substantiation.

### **Claims of a "Consensus-Based Standard"**

Organizations often claim that they developed their standard using a "consensus-based process." The concept behind the need for "consensus" is to provide due process to those affected by the standard being developed. Fundamentally, consensus provides a means of demonstrating that a product being evaluated has specific attributes, and that these attributes have been identified, and agreed upon, by an inclusive group of those materially affected by the standard, with public comment and due consideration, if not resolution, of the objections of the minority. The universality and acceptance of such standards has grown tremendously over the past 60 years since the inception of the

International Organization for Standardization (ISO). As long as the standards are truly consensus-based – that is, the panoply of true stakeholders are allowed to participate and are afforded due process in the development of the standard – then there should be confidence that the standard represents appropriate definition of the attributes intended to be addressed.

AF&PA has long been a supporter of consensus-based standards. AF&PA staff and member company representatives have participated in a wide variety of standards development programs for those issues affecting the forest and paper industries. Indeed, AF&PA is itself an Accredited Standards Developer (ASD) by the American National Standards Institute (ANSI), and has also been a member of many U.S. Technical Advisory Groups to ISO, as well.

AF&PA believes that the FTC should allow claims of a consensus-based standard development only with substantiation that the process followed by the organization complies with the requirements of entities such as the American National Standards Institute (ANSI), which is the coordinator of the U.S. standards process and provides strict objective requirements for accreditation of those processes. Further guidance on basic elements of a consensus process is available from the U.S. Government's Office of Management and Budget in Circular A-119 (February 10, 1998 – Revised). This circular also requires federal agencies to use standards developed through accredited procedures with a process to obtain an exception if the standards are not practicable for government agency use. Interestingly, agencies such as the General Services Administration seem to have by-passed the requirements in the Circular A-119 when adopting green building rating systems for use in government construction. This may have contributed to the confusion over what constitutes "consensus-based" in this area.

### **Independence of Third-Party Claims**

AF&PA encourages the use of third-party certifications and endorsements as long as there is independence and transparency in those certification programs or endorsements. The FTC should describe appropriate parameters for such programs and endorsements, and ensure that endorsements are from persons or organizations that are unaffiliated with the product certification or standard developer. Claims of "third-party" certification should only be permitted where the certifier is completely independent of the organization developing the underlying standard. Endorsements by entities that have a monetary or other relationship with the producer should be discouraged. For example, the Sustainable Forestry Initiative<sup>®</sup> (SFI) has established a transparent set of standards which are readily available on its website. The standards apply both to the underlying forest management, procurement, use of labels, guidelines for claims, and to the qualifications required of independent, third-party certification bodies. This type of sustainability claim – with clearly defined parameters and metrics – should be allowed, and indeed encouraged.

ISO has developed a standard on this issue: ISO 17011, *Conformity assessment — General requirements for accreditation bodies accrediting conformity assessment bodies*. We recommend that the FTC consider either referencing the standard or, at a minimum, taking from it those elements that are critical for assuring the credibility of third-party assessment, in particular those criteria that provide impartiality and financial independence.

### **Scorecard Claims**

Claims made about competing standards through the use of “scorecards” should receive scrutiny by the FTC. Generally, a variety of organizations and academics conduct comparative assessments of competing standards. Organizations then selectively take these results, perhaps add their own assessment, and produce claims about the relative merits of the competing standards. We recommend that the FTC establish substantiation criteria for such scorecards, which are clearly directed at all levels of consumers. The ISO 14000 series of standards considered score cards – also known as Type I eco-labels – and has established a standard (ISO 14024) that describes the appropriate development and substantiation of these claims. The FTC should consider the work that ISO did in this area, particularly the consideration of consensus-based criteria for ratings.

### **Design vs. Performance**

One of the challenges in addressing Green Buildings, in particular, is that the environmental performance of the product may depend on its use. A product may be designed for environmentally sound use and manufactured in an environmentally appropriate manner, but if it is not used as designed, then its environmental benefit may be diminished. It will be critical for the FTC to clarify in the Green Guides how that distinction should be made and how the expectations of consumers can be met through their actions, as well as by using the specific product.

Sincerely,

/s/

Robert W. Glowinski  
Vice President  
Forestry and Wood Products