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representing independent professional
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December 9, 2010

Mr. Donald S. Clark, Secretary
Federal Trade Commission
Room H-135 (Annex J)
600 Pennsylvania Avenue, NW
Washington, DC 20580

Re: Proposed, Revised Green Guides, 16 CFR Part 260, Project No. P954501

Dear Mr. Clark:

Sustainable Forestry Initiative, Inc. ("SFI") submits these comments as part of the public comment review of the proposed revised Green Guides. SFI applauds the Federal Trade Commission for its thoughtful review of the Green Guides. Many of the proposed enhancements to the Guides will bring more clarity and consistency to environmental marketing claims and statements. This will lead to greater consumer awareness and understanding of environmental claims.

SFI's comments focus on two key areas, in which we believe the revised Guides, as drafted, may have unintended consequences. First, the proposed application of the Endorsement Guides to "Certification and Seals of Approval" should have a clear example that the standard developer and the third-party certification bodies should be separate organizations according to international protocol. Second, the analysis and guidance on "Calculating Recycled Content" may be read to prohibit the well-accepted "volume credit" method of accounting for the fiber content of manufactured products.

Certification and Seals of Approval

SFI Inc. is an independent 501(c)(3) non-profit charitable organization, and is solely responsible for maintaining, overseeing and improving the internationally recognized SFI program. SFI Inc. is governed by a three-chamber board of directors representing environmental, social and economic sectors equally. SFI has an interest in these issues because SFI operates a comprehensive program by which forests are third-party certified by independent accredited certification bodies as conforming to the SFI Standard, a forest management standard that meets international standards for the practice of sustainable forestry. Across North America, over 180 million acres are certified to the SFI Standard, making it the largest single forest certification standard in the world. SFI independently develops, promulgates, and periodically revises the SFI Standard.

SFI does not certify organizations as conforming to the Standard – that is done by independently accredited certification bodies. The certification bodies follow international protocol established by the International Organization for Standardization (ISO) and the International Accreditation Forum (IAF) which require a clear separation between the standards developer and the certification body conducting the audit. All certification bodies who wish to perform certification to the SFI Standards must be accredited under the ANSI-ASQ National Accreditation Board (ANAB) as being competent to conduct certifications to the SFI 2010-2014 Standard, by the American

National Standards Institute (ANSI) as being competent to conduct certifications to the SFI Chain-of-Custody Standard, or by the Standards Council of Canada (SCC) as being competent to conduct certifications to the SFI 2010-2014 Standard and the SFI Chain-of-Custody Standard.

Accredited SFI certification bodies include well-known auditing organizations (see <http://www.sfiprogram.org/files/pdf/Certification%20bodies.pdf> for a complete list). A summary of the audit reports are also posted on the SFI website (see http://www.sfiprogram.org/forest_certification_audits_reports.cfm) for all SFI certified program participants.

The proposed revised Green Guides state that “A marketer’s use of the name, logo, or seal of approval of a third-party certifier is an endorsement, which should meet the criteria for endorsements provided in the FTC’s Endorsement Guides.” § 260.6(b). The FTC should make it clear that this does not apply when there is a clear separation between the standards setting organization and independent certification bodies and a marketer is not using the name, logo, or seal of approval of the third-party certifier.

Calculating Recycled Content

The proposed Revised Guides provide an analysis and guidance for calculating the percentage of recycled content. The analysis states,

“Currently, the Guides advise marketers that recycled content claims may be based on the annual weighted average of recycled content in an item. Certain commenters suggested that the Guides allow for alternative calculation methods, such as the average amount of recycled content within a product line or across all product lines, or an offset-based approach.

“The Commission does not propose making the suggested changes. As some commenters cautioned, claims based on these alternative calculation methods could mislead consumers by implying that products contain more recycled content than they actually do.”

Federal Register Notice, pp. 99-100.

Even though this section is specific to recycled content, “offset-based” approaches are common when calculating the amount of certified forest content in a product under forest certification standards. They are also common in other sectors such as energy calculations. Because the Commission proposes to make no change in the Guides on this point, we are concerned that the Commission’s public decision not to endorse an “offset-based approach” could impact all companies in the United States who use this method when calculating the amount of certified forest content in a product.

All of the major forest certification programs in the United States, and across the world – SFI, the Forest Stewardship Council (FSC) and the Program for the Endorsement of Forest Certification (PEFC) – have a similar way to calculate certified forest content called the volume credit method or the credit system. The credit system is based on the premise that a manufacturer may only sell or label the amount of certified forest content that comes into the facility. For example, if a company has 100 tons of certified forest fiber, and that fiber is mixed with the other non-certified forest fiber in the manufacturing process, the manufacturer may only sell or label 100 tons of end product as certified.

The credit system is the only practical method of accounting for certified forest content where large quantities of fiber from a large number of forest landowners are used in varying quantities. There are 10 million “family” forest landowners in the United States, and they provide as much as 60% of all forest fiber used to manufacture wood, paper and packaging products. Many manufacturers have thousands of small family forest suppliers. Tracking the actual certified forest content in particular products is almost impossible given these complexities in the supply chain.

While the FTC has not said the volume credit method is unacceptable across the board, if the FTC's comments regarding the credit method application in the context of recycled content were also applied to forest certification, this would have impacts for U.S. companies who trade in international markets. The United Kingdom has developed a wood and paper purchasing policy by which wood and paper products must contain at least 70% certified forest content to sell to the United Kingdom government. They recognize the volume credit method as an acceptable means to meet the 70% threshold they've established. Preventing U.S. companies from utilizing this calculation method could have implications on U.S. trade to countries like the United Kingdom.

Thanks for the opportunity to comment on the Green Guides. SFI Inc. supports the greater clarity and consistency to environmental marketing claims and statements the Guides set out to accomplish. This will lead to greater consumer awareness and understanding of environmental claims. Thanks again for your consideration of these comments.

Sincerely,

Kathy Abusow
President & CEO