



December 9, 2010

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

**Re: Proposed, Revised Green Guides, 16 CFR Part 260, Project No. P954501
Comments by The Society of the Plastics Industry, Inc.**

To the Secretary:

The Society of the Plastics Industry, Inc. (“SPI”) appreciates the opportunity to submit comments on the Federal Trade Commission’s (“FTC” or “Commission”) proposed revisions to the Guides for the Use of Environmental Marketing Claims (“Green Guides” or “Guides”).¹ SPI has actively supported the Commission’s initiatives to study and update the Green Guides, last revised in 1998.² SPI submitted comments on February 11, 2008 and May 19, 2008 in response to the FTC’s request for comment on potential revisions of the Guides.³ SPI believes that the FTC has provided needed clarity in some areas, but aspects of the proposed Guides in other areas fall short and should not be finalized in their current form.

THE PLASTICS INDUSTRY

Founded in 1937, SPI is the plastics industry trade association representing the third largest manufacturing industry in the United States. SPI’s member companies represent the entire plastics industry supply chain, including processors, machinery and equipment manufacturers and raw

¹ *Guides for the Use of Environmental Marketing Claims*, 75 Fed. Reg. 63,552 (October 15, 2010).

² *Guides for the Use of Environmental Marketing Claims*, 63 Fed. Reg. 24,240 (May 1, 1998)(final revised Guides); 16 C.F.R. Part 260.

³ *See Guides for the Use of Environmental Marketing Claims*, 72 Fed. Reg. 66,091 (Nov. 27, 2007); *Guides for the Use of Environmental Marketing Claims; The Green Guides and Packaging; Public Workshop*, 73 Fed. Reg. 11,371 (March 3, 2008).



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materials suppliers. The U.S. plastics industry employs 1.1 million workers and provides nearly \$379 billion in annual shipments.

Plastics play a vital role in a myriad of products that enhance our everyday lives. They are essential to the communications and electronic devices we depend on. Plastics are used in cars, planes, subways and spaceships. They are used in critical medical devices and health-related applications. Plastics help keep our homes warm, offer new innovations in construction, and enhance energy efficiency in our appliances. Sports and recreational products rely on plastics. Plastic packaging helps keep our foods safe, protects consumer products from damage through the supply chain, and provides tamper resistance and child-safe closures. Different plastic resins are designed to offer specific performance attributes for particular products or applications. Plastics can be flexible or rigid, and can be shaped into an endless variety of objects, ranging from automobile fenders to appliances to squeezable bottles. The almost endless types of plastics products offer a variety of benefits, including environmental benefits, to consumers. SPI's members and customers are thus deeply interested in the revisions to the Green Guides.

COMMENTS

SPI believes that, appropriately updated to reflect current marketplace realities, the Guides will continue to serve a valuable purpose by benefitting both consumers and businesses. Recognizing that consumers benefit when truthful information is available to them about the environmental attributes of products and services, SPI and its member companies seek to ensure that guidance on environmental claims promotes a marketplace where truthful, non-misleading information about the environmental attributes of plastics, plastic products, and competitive products and materials can thrive.

While the proposed Guides include important revisions likely to help advance this objective, the Guides fall short in some areas or would benefit from further clarifications or revision. SPI's comments address the following issues of particular interest to SPI members:

- Suggested clarification to examples referencing the Resin Identification Code ("RIC") in light of its adoption as an ASTM International ("ASTM") standard;
- The appropriateness of the Commission's proposed guidance on degradability and compostability claims;
- The "substantial majority" and "significant percentage" threshold in the recyclable section of the Guides and suggested qualifiers;
- "Free-of" claims;
- Renewable claims;
- Certifications and seals by organizations suggesting a connection with the United States ("U.S.") government.

SPI respectfully submits the following comments for the Commission's consideration.

I. The Resin Identification Code Is Now Part of an ASTM Standard

Since its inception over 20 years ago, the RIC has provided an effective method by which manufacturers and end users of rigid plastic containers can identify the basic material resin composition of plastic containers for sorting purposes. SPI developed the RIC in response to requests from its members, customers, the recycling community and government officials for a means of quickly identifying different plastic resins used principally in various rigid packaging applications. Importantly, thirty-nine (39) states have formally adopted laws requiring rigid plastic containers to include the RIC. It is used in China and the United Kingdom, and is now recommended by the British Plastics Federation and PlasticsEurope (formerly the Association of

Plastics Manufacturers in Europe). While originally intended to help identify post-consumer plastic bottles and rigid containers, use of the RIC has expanded and now potentially covers packaging films and finished products. With additional innovations in the plastics industry, there is an ongoing need to review and update the RIC.

In 2008, SPI began work with industry and government experts, and other stakeholders, to develop a new standard to expand the current RIC system to address new types of plastics, materials and combinations through an initiative at a nationally recognized third party consensus standards organization, ASTM International. ASTM D7611, adopted in September 2010, now establishes a national third-party consensus standard governing the RIC.⁴ Consistent with longstanding SPI policy, reflected in both the updated and prior versions of the Guides, ASTM D7611 recognizes that the RIC is not a “recycling code” and alone is not a recycling claim. The standard specifies that the term “recyclable” or other claims should not be used in close proximity to the RIC, again reflecting longstanding SPI recommendations and FTC guidance.

With the adoption of an international standard for resin identification through ASTM it is now inaccurate to refer to the “SPI RIC.” Consequently, SPI recommends that the Commission revise Example 2 of proposed section 260.11 of the Guides to clarify the current status of the RIC and delete reference to SPI⁵ as follows:

A nationally marketed plastic yogurt container displays the Resin Identification Code (RIC)^[FN] (which consists of a design of arrows in a triangular shape containing a number in the center and an abbreviation identifying the component plastic resin) on the front label of the container, in close proximity to the product name and logo. This conspicuous use of the RIC constitutes a recyclable claim. Unless recycling facilities for this container are available to

⁴ ASTM Standard D7611, 2010, “Practice for Coding Plastic Manufactured Articles for Resin Identification,” ASTM International, West Conshohocken, PA, 2010, DOI: 10.1520/D7611_D7611M-10, <http://www.astm.org/Standards/D7611.htm>; See also <<http://www.astmnewsroom.org/default.aspx?pageid=2249>>

⁵ See *Guides for the Use of Environmental Marketing Claims*, 75 Fed. Reg. at 63,604–63,605.

a substantial majority of consumers or communities, the manufacturer should qualify the claim to disclose the limited availability of recycling programs. If the manufacturer places the RIC, without more, in an inconspicuous location on the container (e.g., embedded in the bottom of the container), it would not constitute a recyclable claim.

^[FN] The RIC, formerly known as the Society of the Plastics Industry, Inc. (SPI) code, is now covered by ASTM D 7611.

This suggested clarification will inform marketers and consumers where they can obtain further guidance on the RIC system.

II. Degradable and Compostable Claims

The Commission's proposed guidance on compostable and degradable claims fails to acknowledge the leading role played by ASTM in developing degradable and compostable standards. Degradable and compostable products have proven to be important in the marketplace. By rejecting use of leading consensus standards as a measure of degradability, the proposed Guides raise questions about what scientific tests can be used reliably to substantiate a degradability claim or to qualify such a claim where degradation occurs after more than one-year time. The revised Guides also appear to improperly restrict, contrary to the First Amendment, appropriately qualified claims about the ability of an item to degrade *outside* the customary disposal environment.

A. The Revised Guides Should Reference ASTM Standards as Appropriate Substantiation for Degradable and Compostable Claims

While the revised Guides now set a time frame of one year within which a solid material must decompose if marked degradable without time qualifications, the Commission indicates that it has not identified test protocols that assure degradation within its proposed one-year recommended timeframe.⁶ If accepted third party consensus standards developed after significant

⁶ *Guides for the Use of Environmental Marketing Claims*, 75 Fed. Reg. at 63,569.

research are not adequate, how can an advertiser qualify a claim? The Guides similarly propose to clarify that the requirement that a “compostable” product or package break down in a “timely manner” means that it must break down in approximately the same time as the materials with which it is composted. However, it again suggests that ASTM protocols are not robust enough to substantiate these claims.⁷ Because all claims, including degradable and compostable claims, must be substantiated by a reasonable basis the Commission’s guidance sets up a Catch 22: it asserts that available, accepted third party test methods are not acceptable, but fails to provide guidance on methods under which an advertiser can actually substantiate such a claim.

The attached article published in ASTM Standardization News in 1999 describes a variety of ASTM standards addressing aspects of degradability and compostability, and the scientific research and activities that went into the developing these standards. The article highlights, among other things, the research effort behind development of the suite of ASTM standards related to degradability and compostability and illustrates how ASTM D6400 provides the basis for the scientific substantiation of disposability statements for compostable polymeric materials (*See Attachment 1*). Further, it explains how these standards provide a level, well-defined field whereby companies can introduce new degradable products, governmental agencies can monitor and confirm degradability claims, and consumers can safely use and dispose of products with a clear understanding of the environmental benefits of a degradable product. Attachment 2 is a copy of an executive summary of the ASTM summary development work that went into the creation of ASTM D6400 - Standard Specification for Compostable Plastics prepared by the ASTM Institute for Standards Research (*See Attachment 2*). This summary illustrates the extensive scientific analysis that went into developing the compostability standard, describing the findings that the

⁷ *Id.* at 63,571.

laboratory scale research was more conservative than small scale tests, which in turn were more conservative than RECOMP tests.

The Commission, while rejecting well-defined and accepted test methods, then indicates that it is hesitant to advise marketers that a particular test constitutes adequate substantiation. The proposed Guides indicate that the majority of commenters did not form a consensus on which standards should be used.⁸

Any national or international standard developed, as the ASTM standards are, using science-based methods that establish criteria for disposability or compostability should be deemed to adequately substantiate such claims, with appropriate qualifiers. By declining to recognize the ASTM standards, the FTC will likely foster development of new, untested protocols. SPI urges the Commission to reconsider its guidance on scientific standards and tests to support claims of degradability and compostability in light of this information. This is not to say that ASTM methods are the exclusive methods that can be used, but recognizing ASTM procedures will foster consistency and comparability of claims.

B. FTC Should Provide Guidance on How to Adequately Qualify a Degradable Claim Extending Beyond the One-Year Time Frame

The revised Guides indicate that it is deceptive to make an unqualified degradable claim for solid waste if the item does not completely decompose within one year after customary disposal. The Commission, however, has failed to provide guidance on how to actually qualify a degradability claim when degradation will occur beyond this one-year recommended timeframe because it has rejected reliance on the well-recognized ASTM standards. The Commission should address, in particular, how to qualify such a claim when an item will likely take more than a year to degrade.

⁸ *Id.* at 63,568.

C. The Guides Should Allow Qualified Degradable Claims Outside the Customary Disposal Environment

The reality of modern life is that too often products are not disposed of properly, resulting in litter that could potentially harm the environment or wildlife. Many leaders in the plastics industry have focused on developing products that degrade in the marine environment or when exposed to sunlight when disposed of *improperly*. In fact, twenty-seven states and Congress enacted laws to require container connecting devices to be degradable, specifically when disposed of improperly as litter, regardless of the environment in which it is disposed. The proposed Guides do recognize that the diamond symbol required on plastic six-pack ring connectors is not an environmental claim. However, those who advertise products that are degradable as required by law, or which would be degradable if littered, should not be subject to burdensome and non-applicable requirements when truthfully communicating compliance with such laws. The Commission's proposed guidance appears to suggest that a degradability claim could never be used in conjunction with a product which is degradable *outside* the customary disposal environment.⁹ This is contrary to First Amendment principles.

Over a quarter of a century ago, the Supreme Court held that certain commercial speech is protected by the First Amendment.¹⁰ This applies to marketing claims that are truthful and not misleading. The Commission cannot prohibit degradable claims when an item that is customarily disposed in landfills, incinerators, and recycling facilities will actually degrade when littered, provided the advertisement is clear, adequately qualified and appropriately substantiated. A claim supported by appropriate test methods properly communicates that the product will degrade in a marine environment, an attribute very important to consumers. SPI believes that claims such as

⁹ *Id.* at 63,569.

¹⁰ *Virginia Bd. of Pharmacy v. Virginia Citizens Consumer Council, Inc.*, 425 U. S. 748, 762 (1976); *See also Linmark Ass'n v. Township of Willingboro*, 431 U.S. 85 (1977).

“Marine degradable. Please dispose of properly. If accidentally littered, however, this product will degrade in approximately [X] months when exposed to sunlight and water” or “this package is photodegradable in compliance with applicable state and federal laws,” are also properly qualified claims that allow for the dissemination of truthful marketing information.

III. Guidance on Recyclability Claims Requires Additional Revisions

A. National Statistics on Consumer Accessibility to Recycling Programs Should Inform the Commission’s Substantial Majority Threshold

The FTC has maintained its three-tier distinction on recycling. Products or packaging that are recyclable to a substantial majority of consumers or communities can bear an unqualified recyclable claim, while those recyclable to a significant percentage of consumers must include qualifiers, and products or packages with limited recyclability should carry added qualifiers. The revised Guides provide an informal interpretation by the Commission’s staff that a substantial majority means at least 60% of consumers or communities have access to recycling. However, this threshold is at odds with available national statistics on recycling.

During the Green Packaging Claims workshop held on April 30, 2008, Sara Hartwell with the U.S. Environmental Protection Agency (“EPA”), discussed the challenges of the Guides direction for recyclability.¹¹ She noted that while the Green Guides require recycling facilities to be available “in a significant number of communities or available to a significant number of people, [] it [is] difficult to envision how people are going to be able to substantiate that they meet that claim because there is no single body of data.”¹² SPI agrees.

EPA’s municipal solid waste data confirms that curbside recycling remains relatively stable, with less than 50% of the public having access to recycling programs nationally, although

¹¹ Federal Trade Commission, Green Packaging Claims Workshop Transcript, pp. 79, (April 30, 2008); available at <http://ftc.gov/bcp/workshops/packaging/transcript.pdf>.

¹² *Id.*

the percentage is higher in some regions of the country. EPA reports that for 2006¹³ and 2008¹⁴ (the most recent years for which data is available), the number of curbside recyclable collection programs remained static at 8,659. This number was down from about 8,875 in 2002, and 9,700 in 2001.¹⁵ Likewise, in 2006, 48% of the U.S. population was served by curbside collection programs, which was approximately 144 million persons served out of an approximate 299 million.¹⁶ EPA reports similar data in its figures for 2008.¹⁷ While the population served by these programs rose slightly to around 146 million, the total population also grew to approximately 304 million; consequently, the national population served by curbside collection programs remained stable at 48%.

Most companies package or produce their products for national distribution. Thus, it is may be impossible to meet the FTC's proposed "substantial majority" threshold by requiring recycling facilities to be available to 60% of the consumer or communities where the item is sold, when the actual national population served by curbside recycling programs is only 48% nationwide. Drop-off facilities do exist in all 50 states for items such as plastic grocery bags, plastic wrap for products like paper towels or bath tissue, and other similar products, but the actual

¹³ See "Municipal Solid Waste Generation, Recycling, and Disposal in the United States Detailed Tables and Figures for 2006," pp. 26. U.S. Environmental Protection Agency, November 2007. URL: <<http://www.epa.gov/osw/nonhaz/municipal/pubs/06data.pdf>>

¹⁴ See "Municipal Solid Waste Generation, Recycling, and Disposal in the United States Detailed Tables and Figures for 2008," pp. 26. U.S. Environmental Protection Agency, November 2009. URL: <<http://www.epa.gov/osw/nonhaz/municipal/pubs/msw2008data.pdf>>

¹⁵ See "Municipal Solid Waste Generation, Recycling, and Disposal in the United States: Facts and Figures for 2008," pp. 9. U.S. Environmental Protection Agency, November 2009. <<http://www.epa.gov/osw/nonhaz/municipal/pubs/msw2008rpt.pdf>>; See also "Municipal Solid Waste Generation, Recycling, and Disposal in the United States: Facts and Figures for 2003," pp. 1. U.S. Environmental Protection Agency, April 2005. <<http://www.epa.gov/osw/nonhaz/municipal/pubs/msw03rpt.pdf>>

¹⁶ See "Municipal Solid Waste Generation, Recycling, and Disposal in the United States Detailed Tables and Figures for 2006," pp. 26.

¹⁷ See "Municipal Solid Waste Generation, Recycling, and Disposal in the United States Detailed Tables and Figures for 2008," pp. 26.

number of consumers served by such drop-off centers is not necessarily known.¹⁸ By quantifying the substantial majority threshold at a 60% level, however, the Commission appears to be offering guidelines that may be effectively unachievable and which may not meet actual consumer expectations about recycling. In other words, if less than 60% of the American population is served by curbside recycling programs, as appears to be the case now, products that are collected at every curbside program in the nation could not be advertised as “recyclable” based on the Commission’s proposed threshold. Based on this data, we urge the Commission to reconsider how it characterizes the “substantial majority” threshold.

The Commission also requests comments on whether it should quantify the “significant percentage” threshold. It is difficult to quantify such a threshold when less than a majority of American consumers and communities have access to curbside recycling. While it is clear that nascent recycling programs that serve only a few consumers do not qualify, what would the basis for such a threshold determination be? Is 10% of the population – over 30 million consumers - a “significant percentage”? If the Commission does adopt a standard, the basis and rationale for its determination should be clear.

B. The Commission Should Consider Additional Safe Harbor Disclosures for “Recyclable” Claims

The Commission has recognized “safe harbor” disclosures in proposed §260.11(b)(2) for situations where a package is recyclable to a significant percentage, but not a substantial majority, of consumers. These safe harbors include the following: (1) “This product [package] may not be recyclable in your area,” (2) “Recycling programs for this product [package] may not exist in your area,” or (3) a statement of the percentage of communities or the population that have programs

¹⁸ See “2008 National Postconsumer Recycled Plastic Bag and Film Report,” prepared by Moore Recycling Associates, Inc. for the American Chemistry Council, available at http://www.americanchemistry.com/s_plastics/sec_content.asp?CID=1593&DID=10776.

where the item can be recycled.¹⁹ Recognizing that consumers do rely on the Internet and other sources for additional information, SPI is pleased that the Commission has recognized that “check to see” disclosures can be used in conjunction with other qualifiers.²⁰ The problem remains, however, that qualifiers which strictly conform to these “safe harbors” disclosures do not provide an incentive for consumers to determine whether the product may be recyclable or if such facilities actually exist in their area. Rather, it is reasonable to assume that these qualifiers may actually cause such consumer to simply discard the item.

The safe harbor disclosures of course do not represent the exclusive way to qualify a claim. SPI, however, urges the Commission to consider adding additional safe harbors in such circumstances. Some examples could include: “Not recyclable everywhere yet,” “Recyclable *only* where facilities exist,” or “Recyclable in 30 states. Are facilities available near you?” In each case the claim could be qualified by adding: “To find out visit [insert URL or toll-free number]. Including additional “safe harbor” disclosures in the Guides will encourage truthful communications. In turn, this will likely prompt consumers to actually visit a website for accurate, up-to-date information on recycling options available to them, empower consumers to educate themselves about recycling options (which they are more likely to do if affirmatively reminded on the product or its packaging), and provide them with the necessary roadmap by which to find recycling information quickly and readily. This approach also recognizes that given the stagnant rate of recycling, positive disclosures of this sort are unlikely to prompt undesirable consumer behavior (*e.g.*, putting an item that cannot be recycled locally into the curbside recycling bin without checking). Thus, SPI urges the Commission to recognize in the Guides the suggested

¹⁹ *Guides for the Use of Environmental Marketing*, 75 Fed. Reg. at 63,604.

²⁰ *Id.* at 63,574.

additional qualifiers as consistent with the Commission's goals of allowing truthful information to flow freely to consumers.

IV. Free-of Claims

The proposed Guides now specify that a "free-of" claim is deceptive if the substance has never been associated with a product. Such claims may be acceptable if the item contains a *de minimis* amount of the material referenced, so long as exposure to the *de minimis* amount does not pose any environmental risk. SPI believes that however the term *de minimis* is defined, it does not mean absolute zero; establishing *de minimis* thresholds also involve issues of whether the substance is naturally occurring, whether it can be present as a trace contaminant through a manufacturing process, and whether levels of the substance in the product meet applicable regulatory limits. While the revised Guides note that such claims may convey a general benefit claim, the Commission did not address concerns expressed by many commenters about the inherently comparative nature of such claims, and the likelihood that free-of claims improperly convey that competitive products containing the substance are "unsafe."

Claims in this area involve an interesting balance of consumer perception, fact and commercial speech rights. However, SPI believes that the Commission's proposed guidance in the area of free-of claims does not fully address all aspects of this category of claims. Even if the product or material does not actually contain the referenced substance, the Commission must analyze whether free-of claims expressly state or are intended to imply that the advertised product is both safer for human use or the environment than those without the claim, whether they are an inherently comparative claim, and whether they are also intended to be a general claim of environmental benefit. These claims should not be permitted absent clear qualifying language that substantiates both the express and implied claims.

In other contexts, for example, with nutrition and health claims, the Commission's position is that two well-controlled studies are needed to support a health or nutrition benefit claim. Is a similar requirement intended where a claim expressly or impliedly suggests a health benefit associated with the absence of a substance or safety risk associated with its presence? What level of substantiation is needed in such situations? SPI believes that the Commission should provide guidance that is consistent with other advertising guidance where environmental claims include an express or implied health or safety claim.

The Commission has requested comments on what guidance, if any, it should provide concerning free-of claims based on substances that have never been associated with a product category. In the section on ozone-depleting substances, the FTC suggests that a CFC-free claim may be acceptable if consumers might believe the chemical is or was associated with the product or product category. If this approach is adopted, a claim may be appropriate if qualified in relation to the product category, such as: "polypropylene plastics have never been made with CFCs."

V. Renewable Claims

SPI generally agrees that renewable material claims for products made with less than 100% renewable materials (excluding minor, incidental components) should be qualified with regard to renewable content. The FTC suggests that renewable materials claims should specify the material used, how it is sourced, and why the material is renewable. In some cases, a disclosure such as "made from corn" tells the entire story; corn is commonly understood to be a crop that grows from year to year.

The Guidance also suggests that due to connotations that products made with renewable materials are recyclable or have other environmental attributes, even a truthful claim that a product is made entirely with renewable materials may be deceptive; however, the Guides do not suggest

safe harbor disclosures that could be appropriately used in this situation. Further, the Commission declined to address “biobased” claims, citing to the U.S. Department of Agriculture’s ongoing work. However, this term is used interchangeably with the term “renewable,” a point the Commission should consider in its guidance.

VI. Certification and Seals

The current Guides address certifications and seals only in the section on general claims. The proposed Guides now provide a new section indicating that certifications and seals are subject to the FTC’s Endorsement and Testimonial Guides, requiring disclosure of a “material connection” between the certifier and the product/service involved if it would not otherwise be clear. The Guides specify that a material connection includes membership by industry trade associations offering certifications, or self-certification. SPI believes that the proposed Guides are overbroad, fail to consider important aspects of how seal programs operate, and require a much more in-depth analysis before adoption.

The Guidelines will result in significant confusion about how and when disclosures are needed. There may indeed be a reason to suggest a disclosure where a corporate seal program is presented in a manner that appears to be from an independent third party, but application to third party programs will likely result in unneeded disclosures and marketplace confusion.

The Guidelines appear to attempt to draw a distinction between the type of third-party entity involved. Example 6 suggests that there is no need to make a further disclosure where the certifier is a non-profit group called the “No-Chlorine Products Association.” Yet, if this group was a trade association, presumably disclosure would be needed, as suggested by Examples 2 and 3. If the certifier is a non-profit subsidiary of a trade association, would disclosures be necessary? It appears that payment to the certifier alone does not necessarily trigger disclosure, although that

point is not entirely clear given the Endorsement and Testimonial Guidelines' focus on the exchange of "consideration" to endorsers as an element of the need to disclose a material connection. Most associations, for antitrust and other reasons, do allow non-members to participate in seal programs. SPI disagrees that membership in an association universally requires a disclosure where an association seal is used. Application of such a rule will be discriminatory. Membership is not the issue; rather, the question is whether the standards are applied in a non-discriminatory fashion and are clear and transparent.

Guidance should also specifically address use of a certifying organization's name that might imply that it has a connection to the U.S. Government. Consumers are likely to be confused when they see a certification by "U.S. EcoFriendly Building Association," as used in proposed Example 4 not necessarily because the certified product is made by a member of a trade association - that is likely irrelevant if the standards are transparent and applied in a non-discriminatory way - but because consumers may believe that the certification is by a government body. SPI encourages the Commission to revise proposed Example 4 to address what is a larger concern, namely, that the use of "U.S." in conjunction with an environmental seal may indicate to consumers an association with the U.S. government.

There are a myriad of different seals and certifications used to indicate compliance with environmental standards, but also safety standards, professional standards, accreditation programs and many more. Some programs are operated by independent entities (both for-profit and non-profit), some by trade or professional associations, and some by non-profit 501(c)(3) educational subsidiaries of a trade or professional association. The issue of how to treat seal and certification bodies has far greater significance than the discussion accorded to the topic in the Green Guides. If the Commission seeks to establish through these Guides some type of general disclosure

obligation on companies who pay for the certification, are members of a trade or professional association issuing a certification or accreditation, or otherwise have some type of connection with the certifying body, the implications go far beyond the Green Guides. Such an interpretation merits much more discussion via a separate proceeding on the scope of the Endorsement and Testimonial Guides to seals and certifying bodies and programs, and use of seals and logos to indicate compliance.

CONCLUSION

SPI commends FTC for commencing a timely review of the Guides and is pleased to have the opportunity to submit comments in this important proceeding. SPI believes that the Guides have generally provided an effective means of promoting responsible, sound advertising, but respectfully submits that additional revisions are needed to promote an environment where truthful environmental marketing claims can flourish.

Sincerely,

Melissa Hockstad
Vice President, Science, Technology and Regulatory
Affairs
The Society of the Plastics Industry, Inc.

Enclosures

cc: Laura Koss

Of Counsel:
Sheila A. Millar
Crystal N. Kincaid
Keller & Heckman LLP
1001 G Street, N.W.
Washington, D.C. 20001