



November 5, 2018

Hampton Newsome, Attorney
Division of Enforcement
Bureau of Consumer Protection
Federal Trade Commission
Room CC-9541
600 Pennsylvania Avenue NW
Washington, DC 20580

RE: Nursery Guides (Matter No. P994248)

This letter regards the proposal to rescind the *Guides for the Nursery Industry*, Matter No. P994248.

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AmericanHort is the national trade organization representing the horticulture industry. AmericanHort represents and supports nearly 14,000 member and affiliated businesses that include plant breeders, greenhouse and nursery crop farmers, garden retailers, distributors, interior and exterior landscape professionals, florists, students, educators, researchers, manufacturers, and all of those who are part of the industry market chain.

AmericanHort was formed in 2014 from the consolidation of the American Nursery & Landscape Association (formerly American Association of Nurserymen, AAN) and OFA, the Association of Horticulture Professionals. AAN was integrally involved in the initial development and periodic revision of the *Guides for the Nursery Industry*.

The horticulture industry's plant production, wholesale, retail, and landscape service components have annual sales of \$163 billion, and sustain over 1,150,000 full- and part-time jobs. Nursery and greenhouse plants are produced in all 50 states. At farm gate, they represent about one-third of the value of all specialty crops, and about 15% of the total value of U.S. crop production. This places our sector ahead of other major crop sectors such as wheat and cotton.

For reasons we explain briefly below, we generally support continuation of the Guides for the Nursery Industry.

As the industry's primary trade organization, AmericanHort supports businesses in their quest to uphold high standards and follow best practices. This certainly extends to key elements covered in the Guides, such as avoiding deception or misrepresentation in advertising, etc. While the overall need for the Guides has perhaps diminished somewhat based on the general evolution of consumer protection mechanisms in our society, we believe there is continued value in the guidance provided in the FTC Guides.

In fact, there is one very specific (and relatively recent) change to the Guides that we believe remains important. It relates to Guide 6, and specifically the requirement that plants collected from the wild shall be labeled as such.

For historical context, the Guides historically provided that wild-collected plants could be sold as nursery-grown so long as they had been established under nursery conditions for at least a growing season. The original intent was to protect consumers from unwittingly purchasing collected plants likely to have poor survival. Establishment and growth under nursery conditions, by contrast, would allow wild-collected plants to redevelop critical roots and regain health.

In 1994, several conservation organizations petitioned the FTC to change Guide 6. They were concerned that unsustainable collection of sensitive wild plant populations jeopardized rare plants and, by extension, ecosystems, and were concerned that consumers could be deceived into thinking they were contributing to plant conservation by purchasing rare or threatened plants that were nursery-propagated, when in fact the plants were not propagated in a nursery.

At that time, the American Association of Nurserymen entered into negotiations with some of the petitioners and found common ground on a revision to address their concerns. We provided suggested language to FTC, and were in full support of the revision to the Guides that was ultimately made. While this is a relatively narrow issue, this critical element of industry guidance and, by extension, a potential enforcement scheme, would be lost if the Guides were rescinded.

We regret that we failed to respond to the initial Federal Register notice and request for comment on the Guides. Moreover, the process of integrating two industry organizations into one was a significant task, and in the process, our own outreach and education on the Guides did not make that transition. If the Guides are retained, which we generally support, we would be happy to address this omission on our own website and in industry outreach and education activities.

Thank you for the opportunity to provide comment, and please do not hesitate to reach out to us if you have questions, or if a dialogue on alternative options would be warranted.

Sincerely,

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Craig J. Regelbrugge
Senior Vice President, Industry Advocacy and Research