Comments from the Sustainable Purchasing Leadership Council
on the U.S. Environmental Protection Agency's

Draft Guidelines for Product Environmental Performance Standards and Ecolabels
for Voluntary Use in Federal Procurement

Docket Identification Number EPA-HQ-OPPT-2013-0579-0001

Submitted April 25, 2014

Background:

The Sustainable Purchasing Leadership Council (SPLC) is a not-for-profit organization that convenes a diverse, multi-stakeholder, expert community to define institutional leadership in sustainable purchasing. Our membership, staff, and other stakeholders collaborate to create a shared program of guidance, measurement, and recognition for leadership in sustainable purchasing. To the extent possible, we seek to engage, align with, build upon, and strengthen the array of existing efforts and initiatives in the marketplace that support, directly or indirectly, the exercise of institutional leadership in sustainable purchasing, including environmentally preferable purchasing. In that context, we recognize the value of environmental performance standards and ecolabels as important tools to support purchasers in their efforts to exercise leadership in sustainable purchasing, and we welcome the efforts of EPA and other stakeholders to develop Draft Guidelines that bring clarity to the assessment and appropriate application of such standards and ecolabels. Our comments are intended to support and advance these collective efforts.

Overview:

These comments are one of three sets of comments submitted by SPLC independently or jointly with other organizations: 1) comments prepared by SPLC staff to convey how SPLC, as an organization, views the Draft Guidelines as a whole; 2) these comments, a report by SPLC staff on a series of conversations with its members and other stakeholders about the content of individual guidelines; and 3) comments jointly developed with others and submitted by RESOLVE, describing a potential collaboration among SPLC and other organizations on an implementation pilot for the guidelines.

For the past two months, SPLC has provided a forum for members and other stakeholders to discuss the EPA's Draft Guidelines together. Drawing on those conversations, SPLC has compiled this set of feedback on the guidelines for EPA to consider.

Please note that the comments articulated below represent neither full consensus from the participants nor the SPLC membership as a whole. The comments are meant to reflect the variety of interests and commentary from the SPLC community. Additionally, several general questions are posed that the forum thinks are critical to answer for the EPA to create a more actionable and effective standard.
Organizations that participated in SPLC’s forum included the following:

- Christina Macken, Sustainable Purchasing Leadership Council
- Jason Pearson, Sustainable Purchasing Leadership Council
- Brad Miller, Business and Institutional Furniture Manufacturers Association
- Karyn Schmidt, American Chemistry Council
- Chuck Floyd, Tall Grass Strategies
- Rob Shimp, TightLine Answers/SCS Global Services
- Linda Brown, SCS Global Services
- Beth Eckl, Practice Greenhealth
- Marcia Kinter, SGIA
- Orrin Cook, Center for Resource Solutions
- Anastasia O’Rourke, DEKRA
- Lynne Olson, Ecolab
- Sharon Young, Paradigm Group
- Stacy Foreman, City of Portland (OR)
- Lara Koritzke, ISEAL
- Daniel Persica, Domtar
- Luke Nortz, Domtar
- Lisa Stocker, Domtar
- Annie Bevan, GreenCircle Certified
- Anne Caldas, ANSI
- Jessian Choy, San Francisco Department of the Environment
- Mark Petruzzi, GreenSeal

Section I: Guidelines for the Process for Developing Standards

Participants for the guidelines that follow include: Christina Macken, Jason Pearson, Marcia Kinter, Mark Petruzzi, Anne Caldas, Lisa Stocker, Chuck Floyd, Anastasia O’Rourke, Rob Shimp, Daniel Persica, Luke Nortz, Stacy Foreman, Brad Miller

General feedback on Section I:

- Many of the criteria, particularly due to the roots of ISO 14024 and ANSI Essential Requirements, were supported by the group.
- Several terms, without definition or examples, lack clarity regarding how an implementation body may interpret the requirements.

- **Guideline 1**: Full support of criterion
- **Guideline 2**:
  - The group had a variety of opinions regarding this criterion, which resulted in the following questions for EPA to consider: “what about the action of open voting guarantees the outcome of a standards development process?” “Does non-
member participation actually lead to a lower leadership bar, or could this be true of member-only processes as well?"

- **Guideline 3:** Full support of this criterion as proposed
- **Guideline 4:** Full support of this criterion as proposed
- **Guideline 5:**
  - Footnote 2 is more specific than ANSI Essential Requirements. Consider adding the phrasing “for example” to clarify that more (or fewer) of the criteria listed could be incorporated or removed meet the baseline requirement.
  - Clarify “significant”
  - Criterion could vary significantly depending on interpretation in implementation
- **Guideline 6:**
  - Clarify “fair and reasonable.” (Are there key elements such as timeframe, ways to submit comments, acknowledgement of comment receipt, explanation for comments not incorporated into standards?)
  - Criterion could vary significantly depending on interpretation in implementation
- **Guideline 7:** Full support of this criterion as proposed
- **Guideline 8:**
  - Clarify “funding sources”
  - Consider that undisclosed conflicts of interest are of paramount issue.
  - Consider a footnote “conflicts should be disclosed,” and focus on the appropriate level of disclosure.
  - Consider a potential leadership aspect to this criterion: if the organization is willing to communicate publicly what their funding sources are, then this would be noted as meeting a leadership criterion beyond the baseline.
- **Guideline 9:**
  - The group discussed the importance of consensus within a standards development process
  - SPLC staff specifically comments that a reasonable approach would be to permit standards development organizations to provide their definition of consensus and be evaluated on the basis that they are following their policies and calculation methodologies, per ANSI Essential Requirements, section 2.7.
  - Clarify “reasonable efforts”
  - Criterion could vary significantly depending on interpretation in implementation

Participants for the guidelines that follow include Christina Macken, Rob Shimp, Chuck Floyd, Stacy Foreman, Sharon Young, Jesslyn Choy, Karyn Schmidt

- **Guideline 10:**
  - Clarify “Fair and unbiased” and “Resolution”
    - Consider adding clause “in a timely fashion” to language about right to appeal.
- **Guideline 11:**
  - The group present agreed this is an appropriate baseline criterion.
  - SPLC Staff adds that it agrees that appeals should be limited to process and not content for a leadership standard.
● **Guideline 12:**
  ● The group present agreed this is an appropriate baseline criterion.
  ● SPLC Staff adds that process for providing justification for financial hardship should be added.

● **Guideline 13:**
  ● The group poses the following questions to EPA:
    ○ In many instances with environmental labels, there are conflicts or differences from one label to another based on the priorities of the standards body developing the label. Does this represent a conflict or not? How would EPA deal with this, and would be it at the discretion of the administrator of the guidelines?
    ○ SPLC Staff adds that there will always be conflict in leadership standards based on their use and intention for the impacts they wish to address. This may not be a relevant baseline requirement.

● **Guideline 14:** Some members of the group do not consider this a core baseline requirement. Depending on the nature of the program, this may not be necessary and five years may not be the appropriate number. Consider not specifying five years.
Section II: Guidelines for the Environmental Effectiveness of the Standards

Participants for the guidelines that follow include Christina Macken, Rob Shimp, Chuck Floyd, Stacy Foreman, Sharon Young, Jesslyn Choy, Karyn Schmidt

- Guideline 1:
  - Consider referencing the Greener.
  - Functional performance is not about environmental attributes - incorrect reference. Consider citing ISO 14024 regarding functional attributes.

- Guideline 2:
  - Some members of the group question the benefit of this criterion, considering that in the context of leadership standards, differentiation is part of defining leadership, particularly with competing priorities.
  - Clarify “aligned”

- Guideline 3:
  - Many group members suggest that “measurable and meaningful” performance criteria are necessary.
  - Clarification relevant product phases. Are the phases weighted equally?
  - Does EPA intend to define a minimum set of environmental attributes that must be looked at or is it fully up to the Standards Development Organization?

- Guideline 4
  - Consider footnote from 14024.
  - Consider drawing on the relevant existing references to best available science.
  - Much of the group encourages EPA to specifically address data quality and reliability as a concept in this criterion. Reference to the Data Quality Act may be beneficial. Alternatively, an additional criterion regarding data quality as a baseline criterion for quality standards (quality scientific data as available in peer review scientific literature).
  - The group discussed, but did not come to agreement upon, the question of scientific reasoning, and whether EPA wants to have a standard that is based is on an unproven scientific hypothesis. That may not be appropriate for a standard or ONLY appropriate in a leadership standard.

Participants for the guidelines that follow include: Christina Macken, Stacy Foreman, Rob Shimp, Chuck Floyd, Marcia Kinter, Anne Bevan, Luke Nortz, Dan Persica, Anastasia O’Rourke

- Guideline 5:
  - Consider footnote “in lieu of prescribing specific technologies or solutions”.

- Guideline 6:
  - Consider a multi-tiered credit to better incentivize evaluating more of the stages.
  - Clarify “significant.”
  - Some group members are unclear of value of this criterion given the solutions that already exist in the market.

- Guideline 7:
● Many question why is this a leadership requirement, as opposed to baseline? Is this intended to become a baseline, (i.e. sending the signal that programs need to address multiple attributes moving forward)?

● Guideline 8
  ○ Consider adding “and justified from a scientific standpoint where possible.”

● Guideline 9:
  ○ Consider that “hotspot” is not a term of art that is adequately grounded in meaning.
  ○ “Significant environmental attributes” may be improved terminology.
  ○ Consider aligning with FTC Green Guide, providing guidance that attributes/impacts that are not relevant/significant should not be focused upon.”
  ○ Some participants noted that in practice, using a “significant environmental attribute” methodology has the possibility to be done inappropriately and may result in negative influence on other environmental attributes.
  ○ Clarify lifecycle phases under consideration in this criterion.

Participants for the guidelines that follow include: Christina Macken, Rob Shimp, Karyn Schmidt, Orrin Cook and Sharon Young

● Guideline 10:
  ○ Consider rephrasing to “product environmental criteria should clearly differentiate products from each other within a particular product category” to be more consistent with FTC Guidelines and ISO 14024.

Participants for the guidelines that follow include: Christina Macken, Stacy Foreman, Rob Shimp, Chuck Floyd, Marcia Kinter, Anne Bevan, Luke Nortz, Dan Persica, Anastasia O’Rourke

● Guideline 11:
  ○ The group had a discussion on many of the questions and concepts reflected below. In general, there was no specific agreement on a course moving forward, however it is strongly recommended that EPA consider the following discourse.
  ○ Does the presence of a hazard make a chemical unsafe without consideration to the use of the product?
  ○ Consider clarification and additional reference to Section II, Guideline 1 that the functional performance cannot be compromised due to alternatives.
  ○ What is the appropriate level of balance with this and other criteria in the lifecycle assessment approach? Will this be an implementation decision?
  ○ Is there a reason criteria 11-13 are the only ones that specifically address human health, as opposed to other criteria? Does EPA consider human health impacts an environmental issue? Clarify if this is the intention.
  ○ Should the title of Section II be revised to address that human health is a consideration? EPA should consider adding this to the preamble of the document if their sole focus is strictly environmental or whether the want human health impacts are also addressed. The Guidelines are not currently positioned as having that broader scope.
• Should the EPA consider revising the name of the criterion to "Reducing Risk?"

• Some members of the group encourage EPA to consider the following footnote:
  • Generally speaking, “hazardous chemicals” are those which have a human or environmental toxicity profile such that exposure to people or flora/fauna in the environment could lead to adverse health impacts. Consistent with Green Chemistry principles and established methods for risk assessment and management, programs can help lower overall risk to people and flora/fauna present in the environment. Key to this focus is an understanding of the potential health hazards of chemicals in products, and understanding whether possible exposures to people and flora/fauna present in the environment could exceed scientifically recognized health thresholds. Steps can then be taken to decrease the hazards of product ingredients through ingredient substitution, and/or reduce relevant exposures to people using products, or flora/fauna present in the environment. Programs should also assess the potential trade-offs associated with alternatives/substitutes elsewhere in a product’s lifecycle and impacts on the functional ("fitness for use") performance of the product.

• Could EPA provide more information on the selection of term “intrinsic” and “toxological hazard of a particular chemical?” Is there a reference?

• Does a decrease in the volume of hazardous material in a product mean risk is reduced, or that a hazard approach is always better?

• Should EPA consider having a standard consider risk as the baseline and hazard as a leadership criterion?

● Guideline 12:
  • Address ability to protect intellectual property (perhaps by adding “while taking sufficient steps to protect intellectual property.”)
  • A discussion occurred with regard to whether having more information is always a good thing without it being appropriately distilled for the average consumer/user.
  • Does EPA have justification for specifically valuing green chemistry?

● Guideline 13:
  • The group discussed the lack of clarity around the purpose of this criterion. Is it to reward LCA/EPD process?
    • EPA is encouraged to consider referencing ISO voluntary standards.
    • Would standards that do not follow ISO compliant process be weighted differently? Does ISO compliance (or non-compliance) impact the outcome of the standard with regard to this criterion?
  • Consider phrasing “established and well recognized methodology, ideally ISO for LCA.” For human health, perhaps refer to published risk assessment methodology in FDA Redbook? Consider terminology “used in field and adopted by discipline.”
Section III: Guidelines for Conformity Assessment

Participants for the guidelines that follow include Christina Macken, Rob Shimp, Karyn Schmidt, Orrin Cook and Sharon Young

- **Guideline 1**: Full support of this criterion as proposed
- **Guideline 2**:
  - What about grant funding to start organizations? How does funding from EPA or other federal agencies impact use of standards?
  - Consider structure versus operational funding
  - Reference OMB A-119 in addition to Guide 65
- **Guideline 3**:
  - The group questions whether a sliding scale or simply having low fees is appropriate and with adequate information to understand what money it takes to cover cost of certification services provided.
  - Implementer may want to consider is whether program operator is acting in a mission-true way, within the scope of their organizational charge.

Participants for the guidelines that follow include Christina Macken, Brad Miller, Lynne Olson, Linda Brown, Rob Shimp, Karyn Schmidt, Anne Caldas, Orrin Cook, Anastasia O’Rourke, Stacy Foreman, Mark Petruzzi, Jesslyn Choy

- **Guideline 4.0**:
  - Add language “where, when available”
  - Clarify if the assumption is correct that if a standard meets ANSI, that it would comply with the streamlined path.
  - General agreement that the guidelines should apply to private AND government labels.
- **Guideline 4.1**
  - General agreement on this criterion from the group.
  - One member commented that while agreeing with it as framed, as a small organization there is sometime overlap and it is not completely separate, assumed that there will be flexibility in implementation.
- **Guideline 4.2**
  - Consider implications for how fees are charged by an SDO.
  - Consider that, from a business perspective, product development cycles become very difficult with disruption to available standards.
- **Guideline 4.3**: Full support of this criterion as proposed.
- **Guideline 4.4**
  - What about audit models, and use of sampling techniques?
  - Clarify “all steps necessary,” “originating”
- **Guideline 4.5**
  - Consider challenges for smaller organizations or those with very specific and limited product evaluation.
● Dispute resolution is important, make steps for certification clear

● **Guideline 4.6:** Full support of this criterion as proposed

● **Guideline 4.7:** Full support on this criterion as proposed.

● **Guideline 4.8:** Full support of this criterion.
  ● If it is not entirely part of 4.12, many participants recommend that this criterion specify a process for a third-party to report unauthorized uses.

● **Guideline 4.9:**
  ● Question posed: why this is designated as a leadership criterion? Consider removing “effective” and creating a baseline requirement.
  ● Clarify “effective.” 100% effective?

● **Guideline 4.10:** Full support of this criterion as a baseline requirement.

Participants for the guidelines that follow include Christina Macken, Anastasia, Brad Miller, Mark Petruzzi, Chuck Floyd, Lynne Olson

● **Guideline 4.11:** full support of this criterion as proposed (under the assumption that it means a letter is sent to the program operator indicating that they received certification, the level, and as of what date).

● **Guideline 4.12:**
  ● Full agreement as a baseline requirement,
  ● Consider a legally protected mark as a leadership “tier?”
  ● Note that for users of marks, it is critical from a business and brand perspective that the owner is monitoring its use.

● **Guideline 4.13:**
  ● Full support on the principle of consistent delivery.

● **Guideline 4.14:** Full support of this criterion.
  ● Consider adding the clause “or contractor.”

● **Guideline 4.15:** Full support of this criterion as proposed.

● **Guideline 4.16:** Full support of this criterion.

● **Guideline 4.17:** Full support of this criterion as proposed.

● **Guideline 4.18:**
  ● Consider that private companies may struggle with this criterion. Consider reference to FTC Guidelines and CFR Endorsement Guides.
  ● Many participants agreed disclosing fees and financial support is very important.

● **Guideline 4.19:**
  ● Consider language: “If certification is going to be marketed by the user, then the detail should be available. If not using it for their overall sustainability branding, then they do not need to disclose.”
  ● From a business perspective, it is important to know which voluntary credits a standard meets and the meaningful difference between standards.
Section IV: Guidelines for the Management of Ecolabeling Programs

Participants for the guidelines that follow include Stacey Foreman

- Guideline 1: No comments provided
- Guideline 2: No comments provided
- Guideline 3: No comments provided
- Guideline 4: No comments provided
- Guideline 5: No comments provided
- Guideline 6: No comments provided
- Guideline 7: Consider this as a baseline criterion. Keeping fees low and supporting efficient administration is good business practice.
- Guideline 8: No comments provided
- Guideline 9: No comments provided
- Guideline 10: Consider modification "The ecolabel's criteria and/or standard are publicly available at no cost to the recipient" to criterion and the following to footnote: "Publicly available means generally available to all without restriction. No cost means there is at least one distribution method (e.g. download via internet) that is no cost to the general public, however, a reasonable fee is allowable for other distribution methods (such as printing/shipping fees for hardcopy distributions).
- Guideline 11: No comments provided
- Guideline 12: No comments provided
- Guideline 13: No comments provided
- Guideline 14: EPA is encouraged to consider the following phrasing "The program provides a single, publicly available directory of all labeled products and their suppliers" to address user frustration in finding products with ecolabels.
- Guideline 15: No comments provided
- Guideline 16: No comments provided
- Guideline 17: No comments provided
- Guideline 18: No comments provided
**General Comments**

The following questions were asked generally be the group with respect to the entirety of the guidelines:

Was the term decision-making body selected to intentionally differ from the ANSI Essential Requirements, which refer to a consensus body in Section 1, Criteria 2, 3, 7, and 11? If so, it would be helpful for EPA to provide explanation of the rationale for the deviation in language.

EPA is silent on the weighting of each category and the specific guidelines within each category. It is assumed that the weightings would be structured as follows:

- Baseline requirements would receive no points (similar to a prerequisite)
- Leadership requirements would receive at least one point, for an action or reaching a threshold along a tier of actions/performance.
- Various point thresholds will result in various and comparable levels of certification

Weightings are a fundamental component of the guidelines as it will drive the components on which standards developers focus. For example, process components of a standard do not guarantee improved environmental outcomes. Will the process category be weighted the same as the environmental effectiveness category? If the EPA intends to remain silent on the weightings, is it expected that the program operator implementing the Guidelines will make this decision? If so, how will the EPA ensure that the program operator maintain the spirit and priorities of the Guidelines? If not, will EPA communicate the structure and justification behind the weightings process.

Who determined what is baseline and leadership for these criteria, including their names and the organizations represented?

It is encouraged that any place there is not a direct source/reference, EPA needs a justification for why the guideline is proposed, including whether EPA itself is the source and justification. In general, there should be available references for all baseline requirements.

Who will determine concepts such as:

- Quality objectives
- Significant
- Specific interpretation of Section III, Guidelines 4.1-4.19

Will the EPA provide direction to the implementation body on how to interpret flexibility and areas of interpretation within guidelines?

Will there be a process in place to determine weightings, implementation body, specific interpretation of such words, etc.?
Current federal mandates such as the EPA Comprehensive Procurement Guidelines remain outdated when it comes to paper purchasing, focusing solely on recycled content requirements. By reflecting current business practices and requiring third-party certified virgin fiber inputs, it would demonstrate the importance responsibly managed forests play in improving the sustainability of the entire fiber use and re-use cycle.

Forest certification programs have the benefit of being transparently governed by a diverse range of interests, including environmental advocacy organizations, labor, academia and the forest products industry. Furthermore, said standards balance important social, economic and environmental considerations. Establishing a baseline expectation for Chain-of-Custody certified fiber, along with preferences for recycled content where practicable, will modernize federal paper product procurement preferences and support the sort of transformation the EPA seeks.

Understanding the EPA Draft Guidelines will not preempt federal purchasing practices, they remain the best means of increasing awareness of forest certification standards and eventually driving their adoption by federal procurement policies and should continue to be updated in conjunction with guidelines such as these.