## E. Third Party Environmental Certification Programs

EPA recognizes that a number of public and private programs already award "seal-of-approval" labels on consumer products for certain environmental attributes. Some programs have developed a "report card" approach whereby certain environmental information about a product or groups of products is profiled. Yet others certify single attribute claims made by manufacturers. More than 20 countries have environmental labeling programs and a number of private companies and nonprofit programs claim to either identify environmentally preferable products here in the United States or label products based on environmental attributes. These third party environmental certification programs can play the important role of helping consumers identify which products are less environmentally damaging.4

Although these third party environmental certification programs currently operate primarily in the consumer sector, their influence in the Federal marketplace could become significant. For example, as streamlining efforts allow more Federal employees to make direct purchasing decisions, agency personnel, in their purchases of commercially available or "off-theshelf" items may come to equate the "seals" or "report cards" of these programs as being environmentally preferable.<sup>5</sup> In addition, as Executive agencies begin to implement Executive Order 12873, it is possible that Executive agencies will look to these programs to assist in identifying environmentally preferable products in specific procurement. However, Executive agency decisions regarding federal procurement, including those involving the environmental preferability of products, are considered to be an inherent government function. As such, Executive agencies need to ensure that an acquisition decision does not turn on an unverified policy, or value judgment by a non-government entity.

Currently, there are no widely accepted standards for how these programs should operate. Although organizations such as the International Standards Organization (ISO) have

initiated efforts to develop a "code of conduct" for eco-labeling programs, the resulting standards will not be finalized for a number of years. Until international standards or other practices are developed, EPA believes that it is appropriate for Executive agencies to consider the following questions if evaluating such programs for use in making decisions regarding the environmental preferability of products. Does the program have:

- An open, public process that involves key stakeholders (businesses, environmental and consumer groups, states etc.) in developing its criteria or standards?
- Award criteria, assumptions, methods and data used to evaluate the product or product categories that are transparent (i.e., they are publicly available, easily accessed and understandable to the lay person)?
- A system of data verification and data quality?
- A peer review process (with representation of all stakeholders) for developing the standards or criteria?
- Criteria which are developed based on a "systems" or life-cycle approach (i.e., "cradle to grave")?
- An outreach program to educate the consumer, which includes clear communications to consumers that provide key information concerning environmental impacts associated with the product?
- An established goal of updating standards or criteria as technology and scientific knowledge advance?
- Authority to inspect the facility whose product is certified to ensure compliance with the standards or criteria?
- Testing protocols for the products that are certified which ensure testing is conducted by a credible institution?
- Access to obtaining the seal by small and medium sized companies (e.g., the cost of the seal is not as high as to prevent access by companies)?
- Compliance with the Federal Trade Commission's (FTC) Guides for the Use of Environmental Marketing Claims?

EPA believes that Executive agencies should not make decisions regarding the environmental preferability of products based on third party environmental certification programs that do not generally meet these basic characteristics. EPA is interested in receiving comments on this proposed approach to dealing with the use of third party environmental certification programs by Executive agencies in

making decisions regarding environmental preferability. Although EPA is not proposing that these characteristics be used by individual Federal procurement personnel and does not plan for them to serve as a model for Federal approval of third party environmental certification programs in the private marketplace, it does believe that these characteristics may nonetheless be helpful to decisionmakers. EPA proposes to include this discussion in the guidance as an Appendix F. Should this be considered for inclusion as an Appendix to the guidance? Does the existing FTC Guides help Executive agencies to evaluate third party environmental certification programs?

## F. Other Issues

In addition to these specific topics, EPA is also interested in soliciting ideas from the public concerning tools (e.g., a computerized software tool for evaluating products, etc.) that would be useful to Executive agencies in identifying and purchasing "green" products. Finally, EPA is requesting suggestions for product categories to target for specific pilot acquisitions and additional guidance.

## IV. The Proposed Guidance

For the convenience of the reader, the proposed guidance is published below in its entirety.

Proposed Guidance on Acquisition of Environmentally Preferable Products and Services

## I. Introduction

Executive Order 12873. On October 20, 1993, President Clinton signed Executive Order 12873, entitled "Federal Acquisition, Recycling and Waste Prevention." <sup>1</sup> Section 503 of this Executive Order requires EPA to "issue guidance that recommends principles that Executive agencies should use in making determinations for the preference and purchase of environmentally preferable products." "Environmentally preferable" is defined in the Executive Order to mean "products or services that have a lesser or reduced effect on human health and the

<sup>&</sup>lt;sup>4</sup>The term, third party environmental certification program, is used to capture the different types of programs, including those which verify single environmental claims, compile report cards, award seals, etc.

<sup>&</sup>lt;sup>5</sup> This may not be warranted particularly if the seal or report card does not provide sufficient information about the criteria used to judge the product.

<sup>&</sup>lt;sup>6</sup> Work on eco-labeling is being done under the Technical Committee on Environmental Management System (TC 207).

<sup>&</sup>lt;sup>1</sup> Executive Order 12873 is one in a series of executive orders that President Clinton has signed since 1993 that emphasizes Federal government purchasing practices to promote environmental goals. Other executive orders include: Executive Order 12843, Procurement Requirements and Policies for Executive Agencies for Ozone Depleting Substances; Executive Order 12844, Federal Üse o Alternative Fueled Vehicles; Executive Order 12845, Federal Procurement of Energy Efficient Computers; Executive Order 12856, Pollution Prevention and Right-to-Know in the Government; Executive Order 12902, Energy Efficiency and Water Conservation at Federal Facilities; Presidential Memorandum on Environmentally and Economically Beneficial Practices on Federal Landscaped Grounds.