MBDC suggests that the FTC investigate the need for allowing alternative methods of calculating and reporting recycled content in products. [Comments submitted for Green Guides Regulatory Review, 16 CFR part 260, Comment, Project No. P954501]

Why more flexibility is needed in the way we specify and calculate recycled content in products

What is the ultimate goal of specifying recycled content in products?

- Stimulating the creation of a new materials economy where all materials after their initial use are continuously recycled into new products
- Providing stable end markets to collectors and processors of recycled materials which will eventually translate into consistent supply of affordable, good quality recycled materials to end users
- Reduce the environmental impact of new products

Why is there a need to calculate recycled content requirements differently than the current "per product" or "per insertion" method?

The efforts of industry, NGOs and in particular, the purchasing policies of Federal agencies have been very effective in creating an emergent market for products that use recycled materials. Certain materials such as steel, aluminum, PET, and paper have historically been recycled. In recent years other building materials that have a limited life have entered the recycled stream, such as carpeting, acoustical ceiling tile, gypsum board and waste wood. The most commonly used method is to specify a minimum percentage of recycled content – typically between 10%-25% - depending on the product class. Specifications require that this minimum level of recycled content be present in each product as opposed to an average within a product line or an average amount used by a manufacturer across many or all of its products.

We recognize that the objective to increase the recycled content of products has a two-fold benefit. One clearly is to encourage the diversion from landfills. The other is to replace virgin materials that would continue to diminish the earth's bounty with reclaimed material, ready to begin its second life.

Many of the stakeholders in the industrial community are raising questions about the effectiveness of the current methods of specifying and calculating recycled content in products. In particular, more vertically integrated manufacturers may be facing constraints on their ability to incorporate the prerequisite amount of recycled materials, much less responding to targets aimed at increasing these amounts. We believe that vertically integrated companies can play a much larger role in increasing the amount of post-consumer materials that are recovered and reused in industry but are disadvantaged by the following constraints:

- Chain of custody issues – i.e., tracking small amounts of materials in large operations is more difficult and is not consistent with the mass balance approach to material flows normally used.
- More vertically integrated manufacturers tend to produce high volumes of single product lines. What seems like a reasonable target for recycled content when viewed as a single product becomes much more challenging when viewed across a large and diverse product line. Simply stated, it is easier to find and incorporate 20% post-consumer recycled into a product line with a total material mass of 1 million pounds annually than it is to do so for a product line with a mass of 10 million pounds annually. The flexibility to use material in the most efficient method will encourage

additional collection of materials. How many large producers are discouraged from using more recycled content because they cannot meet the minimum requirements across one large product line or many different product lines? Today's high threshold levels mean that a "near miss is as good as a mile". The problem is likely to only worsen as the supply of recycled materials available becomes tighter due to higher demand or the recent trend towards falling rates of recovery for some materials.

- There are often limitations on the amount of recycled content that can be incorporated without negatively impacting the performance characteristics of the final product. Manufacturers will not risk product failures in the field and dissatisfied customers in an attempt to make their products greener. Specifying a minimum amount of recycled content across all products risks that it will be an arbitrary or meaningless value to a great number of products if it is not technically feasible. If fact, the poorest environmental decision a manufacturer can make is the one that results in inferior product performance. Taking a macro or system view of the same goal would allow a manufacturer to utilize appropriate recycled content per product while demonstrating that on average they were meeting similar targets for products system-wide.

- Current per product recycling targets are also having a negative impact on the ability of companies to introduce and use innovative materials. All targets set for recycled content are subject to the realities of the market to supply recycled materials. Supply and demand curves are more closely aligned and synchronous for short-lived materials like plastic containers for consumer products such as HDPE containers and PET soda/water bottles. However, for more durable products such as cars, refrigerators, furniture, carpet, building materials, etc., use-phase periods are much longer, creating a significant lag time in the recovery of these materials. So if a manufacturer creates a product that uses ecologically innovative materials with less embodied energy or reduced material toxicity and has a program to fully recover these products at end-of-life, they will not have access to these materials for a period of time. The rate at which they will cycle back into their system is significantly lower than that of "historical" or rapid turnover materials. The fact is that industry will never really be able to build an effective recovery and recycling infrastructure if most of their material needs are being met from the supply of commodity plastics from the rapid turnover of consumable goods.

- Let's observe the evolution of recycled materials that now benefit from more mature and stable markets, namely corrugated cardboard, paper, steel and aluminum. To a large extent, the successful recycling of these materials depended upon reaching a certain economy of scale in order to achieve a feasible balance between availability, price and adequate performance characteristics. No one would argue that these materials are being recycled at very high rates comparatively. However, if you ask a supplier what the recycled content is for steel or aluminum, they will tell you somewhere between 15%-25%. None of them can guarantee an exact amount of steel or aluminum present in one pound of material. These materials are being recycled at high rates because they are flowing in an open, larger system, not within a niche, product-by-product or sector basis. How can we observe and utilize the same "systems" principle for specifying and using recycled materials?

- Vertically integrated operations have the benefit of regional distribution versus smaller operations. This means that they are well placed to draw materials from across the nation or even globally.

- The per product view of recycling forces larger operations to direct limited recyclate they procure to a single facility in order to meet 20% and higher minimum requirements. The net effect of this is:

- Hording material that could be available to a wider group of manufacturers, causing disruptions to manufacturing efficiency and in many cases consuming more energy.
- Less value to the local economy from reprocessing the recyclate.
- Additional energy and, therefore, additional CO2 generated by transporting materials to a single facility versus one that is closer in proximity to the source of the material.
- Additional transportation costs add to the costs of the recyclate, making the material less economically attractive

Are per product targets for recycled content helping or hurting our goal of maximizing the amount of materials that get recycled?

Are we trying to grow the pie or increase the size of the slices of the pie? Isn't it better to focus on growing the largest pie possible so that a small piece of a very large pie is greater than a larger piece of a small pie? If we are going to build a national – better yet a global infrastructure – for recycling materials, then it seems a mass balance view is more appropriate than a per product one. A company that incorporates 20% recycled content into a single product line with a total mass of 1 million pounds (200,000 lbs) is creating less benefit or positive impact than a company that is using 5% per product with a total mass of 10 million pounds (500,000 lbs). If we calculate the additional benefit of not having to transport materials over greater distances in order to concentrate/focus them towards one product, the positive benefits grows larger.

Historically the critical path in developing an effective recycling system is the creation of the recovery infrastructure. Often manufacturers can incorporate recycled content into various products with little technical difficulty. The key to manufacturing stability, however, is the reliability and stability of raw material supply. As the recovery infrastructure is expanded for various materials, the ability to smoothly incorporate these materials into products will help encourage the growth of an efficient infrastructure.

An analogy that may prove helpful is the method of increasing access an providing credit for the use of renewable energy. A well-accepted objective is to encourage the replacement of fossil fuel used to generate electricity with renewable resources. A consumer can specify a desire to purchase renewable energy, and the "electrons' coming to the outlet does not change in the short run, but somewhere a windmill is constructed, getting one step closer to eventually retiring a coal plant. The total fuel mix used to generate electricity is incrementally shifted towards a renewable resource. The individual choice has had the desired impact, although the literal interpretation would say that he did not change the "electrons" for the specific need. This is in fact a mass allocation view, versus a direct insertion view.

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