

Green Tier Advisors

August 3, 2007

Logo Use on Consumer Products

ISSUE SUMMARY:

Two potential approaches to the use of the logo on consumer products are briefly summarized below. While these are not the only options, they do draw from the views expressed by the advisors at the last meeting. The options are intended to focus on the two questions that ran throughout the discussion, whether to have the Green Tier Logo on consumer products and what sideboard(s) might be used if the logo would appear on consumer products.

1. Use the logo as a Certification Mark on consumer products – Use of the logo would be accompanied by a statement under the logo which reads “Produced at a Green Tier Facility” with the understanding that this wording could be negotiated through a Charter or Tier 2 contract to characterize the product. For example, if the product is not produced at a Green Tier facility, the negotiated wording might be “Product of Green Tier Participants”. The purpose of these statements are to provide some sideboards for the use on products by communicating that there is no representation made about the environmental impact or efficacy of the product.
2. No use of the logo on consumer products – This would be a position taken by the agency in the immediate management of the logo and would be affirmed by language that would be included in the legislation package that is developed and forwarded to the legislature. The reason for adding the step of including language in the legislative package would be to provide a more clear legal basis from which the position could be defended.

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BACKGROUND:

At the June 11, 2007 meeting there was an extended discussion of the ways in which logos have been used by other environmental programs as well as the ways that the logo might be used on consumer products. The wide range of that discussion prompted advisors at the end of the discussion to request that the next discussion be framed more tightly and that some additional information be developed about some of the “marks” presented generally at the meeting.

The presentations and materials from the June 11, 2007 meeting also appeared to provide some additional insights. First, the logo would be a Certification Mark that would not necessarily be stronger if registered at the state or federal level so, while called a Certification Mark, no use would be made of the formal registration processes. Second, those marks that are used on products tend to carry very specific requirements for those products and tend to be for discreet functions such as energy efficiency or discreet products such as wood and wood by-products. Given the breadth of Green Tier participants ranging from dairy farms to automotive parts suppliers, there is not a discreet set of standards that might relate to their products. Consequently one alternative would allow the use of the logo but only when accompanied by a qualifying statement, i.e. ‘Produced at a Green Tier facility’, ‘Product of Green Tier Participants’.

While not discussed at length at the June 11th meeting, there was discussion about the general nature of the language in the statute that relates to the use of the logo. The language is general enough that if the decision was made not to allow use on consumer products that there would be reason to consider

including clarifying language as a part of the legislative package being developed for the Green Tier Program.

ALTERNATIVE

Stated in the issue statement above.

DISCUSSION:

The first option derives from the June 11th discussion and presents a concise sidebar that might be used to administer the use of the logo on a consumer product. This option presumes the use of the logo on consumer products would neither make an express nor implied claim about the environmental attribute or benefit of a product, the product's packaging, or service. Broad environmental claims should either be avoided or qualified. This option would be consistent with changes to allow the logo on product that are currently being discussed within EMAS governance.

The second option also derives from the June 11th discussion and reflects reservations expressed by several advisors about not allowing the use of the logo on products at all. As a result, the second option focuses upon making it clear both administratively and legally that the logo would not be used on consumer products.

While not definitive, here is a quick synopsis of some of the "pro's" and "con's".

Option One:

Pro:

- Is a manifestation of the value seen by current and prospective participants in the Green Tier program.
- Builds a close working relationship with the Green Tier participant as the department works to build value in the logo as a reason for participants in Green Tier to continue their participation and pursuit of continuous environment improvements.
- Simply states what the logo on the product means by communicating the product producer's affiliation with the Green Tier program.
- Capitalizes on the potential flexibility available through contracts and charters.
- Does not require the development of product-specific standards nor accreditation, verification, or other complex review of production processes, supply chains, product constituents, etc.

Con:

- Risks logo (even with accompanying statement) ending up on a product with negative environmental baggage, potentially resulting in the program becoming target of adverse publicity and/or program criticism.
- Absence of verifiable production standards undermines value of the logo in the eyes of the consumers, and competes with numerous other eco-labels and verifiable certification marks causing further confusion within the consumer market.
- Demands dedication of limited program resources.
- While simple, communicating only the facility message on a product may be of limited value to the consumer.
- Inconsistent with other environmental performance-based programs such as EPA's Performance Track that are based upon participant performance and not on product attributes

Option Two

Pro:

- Continues to be available on signage and other written materials of participants.
- Limits criticism to the program rather than of a product.
- Recognizes the Department's lack of expertise in managing a brand as it relates to consumer products and works within the resource limits imposed when the legislation was passed without new resources.
- Consistent with experience of other environmental leadership programs like "Clean Texas" that deal with facility performance.
- Provides consistency in use amongst the current mix of businesses in the program.

Con:

- Still leaves open the interpretive question of what constitutes a consumer product that would be subject to the limitation.
- Limits the flexibility of the program.
- Deviates from the department's representation of the initial intent of the legislation.
- Limits the potential candidates for Green Tier to those that are not interested in using the product on consumer goods and may also limit the opportunity for those who may want to advertise, promote and market their product as one from a total Green Tier supply chain.
- Limits the exposure of Green Tier by stopping short of consumer engagement in direct decision making.

DISCUSSION SYNOPSIS (from prior meetings):

The results of the brainstorming session (attached to the June 11, 2007 Meeting Notes) had several key themes that emerged:

- Value (as something that would be used by existing participants, sought by potential participants and possibly being able to recoup costs associated with administration and possibly derive revenue from the logo)
- Simplicity
- Uniformity
- Clarity of message
- Fairness in both the use of the logo and the administration of that use
- Certainty (either through standards or through a clear but flexible message)

The above summarization is provided as additional framework for the August 3, 2007 discussion.