



“THE GREEN GUIDES”

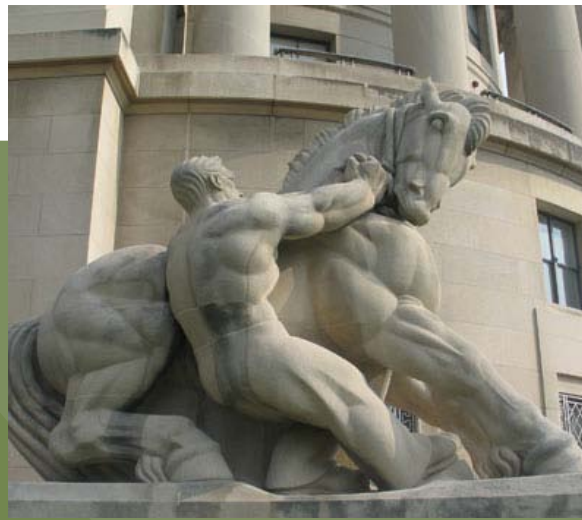
METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS
RECYCLING COMMITTEE (9/15/2011)



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Federal Trade Commission

THE FTC'S STATUTORY AUTHORITY

- Independent federal agency.
- General jurisdiction in the area of consumer protection.
- FTC Act, § 5: Declares unlawful “unfair or deceptive acts or practices in or affecting commerce.”



FTC ACT (15 U.S.C. §§ 41-58)

Authority to take action against false or misleading advertising claims.

If you make a claim:

- Tell the truth.
- Have substantiation for all express and implied claims.

The Green Guides help marketers make non-deceptive environmental claims.



GREEN GUIDES BASICS

How do consumers understand claims?

Apply to all forms of marketing claims.

Business → consumer.

Business → business.

NOT performance standards or eco-labels.



GREEN GUIDES REVIEW

Federal Register Notices

Workshops

- Carbon Offsets/RECs
- Green Packaging
- Green Buildings and Textiles

Consumer Perception Research

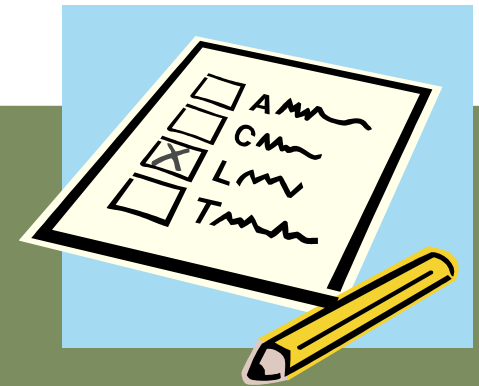


FTC CONSUMER PERCEPTION STUDY

Internet Study (3,777 Individuals)

Harris Interactive

- General (“green,” “eco-friendly”)
- Sustainable
- Renewable (“made with renewable energy/materials”)
- Recycled Content
- Carbon neutral/Carbon offset





For Release: 10/06/2010

Federal Trade Commission Proposes Revised "Green Guides"

Seeks Public Comment on Changes that Would Update Guides and Make Them Easier to Use

The Federal Trade Commission today proposed revisions to the guidance that it gives marketers to help them avoid making misleading environmental claims. The proposed changes are designed to update the Guides and make them easier for companies to understand and use.

The changes to the "Green Guides" include new guidance on marketers' use of product certifications and seals of approval, "renewable energy" claims, "renewable materials" claims, and "carbon offset" claims. The FTC is seeking public comments on the proposed changes until December 10, 2010, after which it will decide which changes to make final.

"In recent years, businesses have increasingly used 'green' marketing to capture consumers' attention and move Americans toward a more environmentally friendly future. But what companies think green claims mean and what consumers really understand are sometimes two different things," said FTC Chairman Jon Leibowitz. "The proposed updates to the Green Guides will help businesses better align their product claims with consumer expectations."

The Green Guides were first issued in 1992 to help marketers ensure that the claims they are making are true and substantiated. The Guides were revised in 1996 and 1998. The guidance they provide includes: 1) general principles that apply to all environmental marketing claims; 2) how consumers are likely to interpret particular claims and how marketers can substantiate these claims; and 3) how marketers can qualify their claims to avoid deceiving consumers.

The proposed Guides issued today include changes designed to strengthen the FTC's guidance on those marketing claims that are already addressed in the current Guides as well as to provide new guidance on marketing claims that were not common when the Guides were last reviewed. The proposed changes were developed using information collected from three public workshops, public comments, and a study of how consumers understand certain environmental claims.

Proposed Revisions to the Guides

The revised Guides caution marketers not to make blanket, general claims that a product is "environmentally friendly" or "eco-friendly" because the FTC's consumer perception study confirms that such claims are likely to suggest that the product has specific and far-reaching environmental benefits. Very few products, if any, have all the attributes consumers seem to perceive from such claims, making these claims nearly impossible to substantiate.

The proposed Guides also caution marketers not to use unqualified certifications or seals of approval – those that do not specify the basis for the certification. The Guides more prominently state that unqualified product certifications and seals of approval likely constitute general environmental benefit claims, and they advise marketers that the qualifications they apply to certifications or seals should be clear, prominent, and specific.

Next, the proposed revised Guides advise marketers how consumers are likely to understand certain environmental claims, including that a product is degradable, compostable, or "free of" a particular substance. For example, if a marketer claims that a product that is thrown in the trash is "degradable," it should decompose in a "reasonably short period of time" – no more than one

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Related Items:

16 C.F.R. Part 260: Guides for the Use of Environmental Marketing Claims: Request for Public Comment on Proposed, Revised Guides, FTC File No. P954501

- [Text of the Federal Register Notice \(with table of contents\)](#)
- [Green Guides Summary of Proposal](#)
- [Additional Information about Green Guides Review](#)
- [Text of the Federal Register Notice as Published \(with table of contents added\)](#)

Media Advisory: October 5, 2010
[FTC to Hold Media Phone Briefing on Proposed Changes to the Agency's Green Marketing Guides](#)

Business Information:

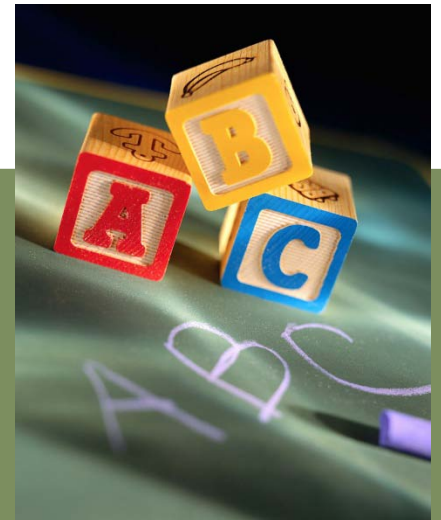
- [Complying with the Environmental Marketing Guides](#)

Consumer Information:

- [Sorting Out 'Green' Advertising Claims](#)

GENERAL GREEN GUIDES PRINCIPLES

1. Consumer perception controls.
2. Be specific.
3. Don't overstate attributes.
4. Use clear and prominent qualifications.



QUALIFICATIONS SHOULD BE:

CLEAR.

Prominent.



Understandable.

- Plain language.
- Sufficiently large type.
- In close proximity to qualified claim.

TYPES OF MARKETING CLAIMS

Current Guides (1998):

- General Environmental Benefits.
- Degradable, Biodegradable & Photodegradable.
- Compostable.
- Recycled Content.
- Recyclable.
- Source Reduction.
- Refillable.
- Ozone Safe/Ozone Friendly.
- Non-Toxic.

Proposed Guides:

- Certifications/Logos/Seals (previously in an example).
- Free-of (previously in an example).
- Made with Renewable Materials.
- Made with Renewable Energy.
- Carbon Offsets.



NO PROPOSED GUIDANCE

- Sustainable.
- Organic.
- Natural.



BEWARE OF GENERAL BENEFIT CLAIMS.

“Highly unlikely marketers can substantiate all reasonable interpretations of these claims.”



- Marketers should not make unqualified general environmental benefit claims.



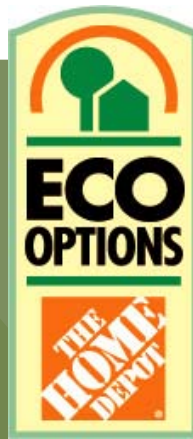
QUALIFIED GENERAL ENVIRONMENTAL BENEFIT CLAIMS MAY WORK IF:

- Clear and prominent.
- Limited to a specific benefit(s).
- Context → no other deceptive implications.



CERTIFICATIONS/LOGOS/SEALS

- Endorsements.
- Need substantiation.
- General environmental benefit claim.
- Clear and prominent qualification:
 - Refers only to specific, limited environmental benefit.



RECYCLABLE

Who has access to recycling facilities?

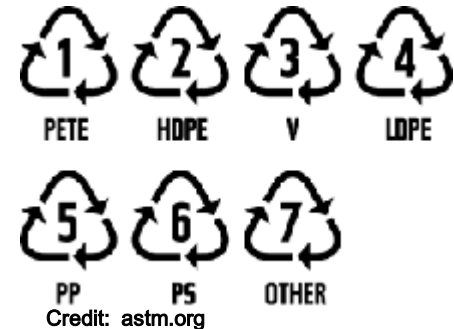
- Substantial majority
- Significant percentage
- Less than a significant percentage



RECYCLABLE



- Conspicuous use of RIC constitutes a recyclable claim.
- BUT the code, without more, in an inconspicuous location, is not a recyclable claim.



RECYCLED CONTENT

Basic premise: Waste stream diversion.

- Easy for post-consumer.
- Pre-consumer is harder – proxies:
 - Normal reuse within the original manufacturing process (NO).
 - Significant reprocessing (YES).



RECYCLED CONTENT

FTC Study: “Made with recycled materials”

- Product is recyclable.
 - 52% (closed-ended), 3% (open-ended).

ASK: Should marketers qualify claims when not recyclable?

Made from recycled content; Not recyclable

DEGRADABLE

The entire product/ package must completely break down and return to nature:

1. Within a reasonably short period of time (solid items: one year).
2. After customary disposal.

Unqualified claims are deceptive if product is destined for:

- Landfills, incinerators, or recycling facilities (won't decompose in a reasonably short period of time).



FREE-OF

Truthful claims may be deceptive if:

- Contains substances that pose same/ similar risks as substance not present.
- Never associated with product.

De minimis amount may be okay, depending on context.

May imply general environmental benefit or superiority claim.



WANT MORE INFORMATION?

www.ftc.gov/green

