

# Covering Your Ads

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## [Will The Revised "Green Guides" Do More Harm Than Good?](#)

Last week Sun Chips pulled its biodegradable snack bag off the market around the same time that the FTC announced that it wanted to change its so-called "Green Guides." Coincidence? Maybe. Sun Chips explained that the more environmentally-friendly bag that it launched with a [nice spot](#) on Earth Day - was "noisier" than its regular bag, raising complaints from consumers who were more interested in having a quiet snack bag than doing something to help save the planet. But complaints about "noisy" bags aside, the changes that the FTC has proposed to the Green Guides will make it harder for marketers like Sun Chips to tout the things that they're doing to help reduce the negative effect that their product manufacturing and distribution pipelines are having on the environment. If the FTC takes away a brand's ability to tout those attributes, then it also takes away a brand's ability to leverage those attributes to increase sales. And if that's taken away, we run the risk that brands will make green initiatives less of a priority, which will hurt us all.

The FTC's proposed changes to the "Green Guides" were developed using information collected from public workshops, public comments and a study of how consumers understand certain environmental claims. The proposed changes can be divided into two parts: (i) revisions designed to strengthen and clarify the FTC's previous guidance on marketing claims addressed in the Green Guides that currently exist and (ii) new guidance addressing claims not addressed by the current Green Guides, such as "carbon offset" claims, "renewable energy" claims and "renewable materials" claims:

### **Proposed Revisions to Claims Addressed by the Current Green Guides**

- *General Claims.* Marketers should not make general environmental claims such as "earth friendly" without qualifying what attributes make the product "green". Qualifications must be clear and prominent and should limit the claim to a specific benefit.
- *Certification/Seals of Approval.* Marketers should not use unqualified certifications or seals of approval, or certifications that do not specify the basis for the certification through specific criteria. The proposed revisions emphasize that certifications/seals are endorsements covered by the FTC Endorsement Guidelines and provide examples illustrating how those guidelines apply to environmental claims (e.g., marketers should disclose materials connections to the certifier). In addition, marketers are obligated to substantiate all conveyed claims, even when the marketer has obtained a third party certification.
- *Degradable, Recyclable, Ozone-friendly and "Free of" Claims.* The revised Green Guides advise marketer that if a marketer claims that a product thrown in the trash is "degradable," it should compose in a "reasonably short period of time", which has been defined as no more than one year, even in a landfill. The revised Green Guides also include changes to use of claims that a

product is "ozone friendly", recyclable, and non-toxic. For example, the revised Green Guides warn against broad environmentally friendly claims from removal/substitution of ozone depleting ingredients in products where the substitute ingredients still produce greenhouse gases or consume substantial energy.

### **Proposed Guidance for Claims Not Addressed by the Current Green Guides**

- *Carbon Offset Claims.* Marketers are advised that they should have competent and reliable scientific evidence to support any carbon offset claims, including appropriate accounting methods to ensure they are properly quantifying emission reductions and are not selling those reductions more than once. The revised Green Guides also advise marketers to disclose if the emission reductions that are being offset by a consumers purchase will not occur within two years, and to avoid advertising an offset if the activity that produces the offset is already required by law.
- *Renewable Materials and Renewable Energy Claims.* When making claims about the use of renewable materials and energy, the revised Green Guides require that marketers provide specific information about the materials and energy used (e.g., "renewable – made with fast growing bamboo" or "renewable – manufactured with solar power"). Marketers should not make renewable energy claims if the power used to manufacture any part of the product, no matter how insignificant, was derived from fossil fuels. The revised Green Guides also prohibit "double counting", meaning if a marketer generates renewable energy (e.g. using wind power) but sells RECs for all of the renewable energy it generates, then it cannot represent that it uses renewable energy.

A copy of the proposed revised Green Guides can be found [here](#). The FTC is seeking public comments on the proposed changes until December 10, 2010, after which it will decide which changes to make final.

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