

Sustainability & Climate Change Reporter



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Are FTC's New, Improved Green Guides Greener & Eco-Friendly?

After nearly three years in the making, the Federal Trade Commission has released its proposed [update](#) of the Green Guides for advertising environmentally-friendly products. Although the proposals provide some badly-needed clarity for what a company can say about the environmental attributes of a product, the revisions still have some glaring omissions and are not likely to reduce greenwashing.

Revisions to Existing Guidance

The Green Guides have been revised several times over their 12-year life. Many of the new guidelines are modifications of the existing ones:

- Marketers should not make unqualified claims of environmental benefits, which is a change from the previous guidance that allowed unqualified claims if they could be substantiated;
- Qualifiers should be clear, prominent, limited to a specific benefit and not imply deceptive environmental claims;
- Third-party certifications do not eliminate a marketer's obligation to have substantiation for the claims;
- Marketers should disclose any material connections to a certifier;
- Products described as "degradable" and not intended for a landfill or recycling must completely break down and return to nature within one year of disposal;
- Items destined for landfills or recycling should not be described as "degradable" because decomposition will not occur within a year;
- Materials described as "compostable" must breakdown in about the same time period as the materials with which they are composted;

New Guidance

The proposed Green Guides updates also include new guidance for claims regarding "made with renewable materials," "made with renewable energy" and "carbon offsets." A product claimed to

be made with renewable materials should specify the source(s) and why it's renewable. Similarly, products that are claimed to be made with renewable energy should specify the type of renewable energy and not make unqualified claims if part of the product is manufactured with fossil fuels or if renewable energy certificates were used. Where a claim is made about carbon offsets, there should be competent, verifiable scientific evidence to support the offset claim and should disclose if the offset will take two years or longer.

Limited Effect

The proposed revisions, however, stop short of being comprehensive. As Joel Makower points out on GreenBiz.com, words such as "sustainable" and "green" are not included in the guidance. Even so, the revisions provide just enough that a likely outcome is an increase in the number of lawsuits challenging environmental claims on labels and advertising, and not just FTC enforcement and class actions, but also between competing companies.

The FTC will be accepting public comment on the proposed revisions through December 10, 2010.

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