

Green Guides

Summary of Proposal

Proposed Revisions to Claims Currently Addressed by Guides

General Environmental Benefit (e.g., “green,” “eco-friendly”)

- Marketers should not make unqualified general environmental benefit claims. They are difficult, if not impossible, to substantiate. *(The current Guides state that marketers can make unqualified claims if they can substantiate all express and implied claims. Otherwise, they should qualify the claim.)*
- Qualifications should be clear and prominent, and should limit the claim to a specific benefit. Marketers should ensure the advertisement’s context does not imply deceptive environmental claims. *(In the current Guides, this guidance appears only in examples.)*

should qualify a degradable claim unless it can substantiate that the “entire product or package will completely breakdown and return to nature within a reasonably short period of time after customary disposal.”)

- Marketers should not make unqualified degradable claims for items destined for landfills, incinerators, or recycling facilities because decomposition will not occur within one year.

Certifications and Seals of Approval

- This new section emphasizes that certifications/seals are endorsements covered by the Commission’s Endorsement Guides and provides new examples illustrating how those Guides apply to environmental claims (e.g., marketers should disclose material connections to the certifier). *(The current Guides address certifications/seals in only one example in the general environmental benefit section. 16 CFR 260.7, Example 5.)*
- Because an unqualified certification/seal (one that does not state the basis for certification) likely conveys a general environmental benefit claim, marketers should use clear and prominent language limiting the claim to particular attribute(s) for which they have substantiation. *(This provision highlights guidance already provided in current Guides’ Example 5 6 #*

Compostable

- The proposal clarifies that the time period referenced in the current Guides for an unqualified compostable claim (“All materials in product/package will break down into, or otherwise become a part of, usable compost . . . in a safe and *timely manner* . . .”) means that a product or package will break down in approximately the same time as the materials with which it is composted.

Ozone-Safe/Ozone-Friendly

- The proposal contains minor updates to examples to reflect changes in regulations concerning ozone-depleting chemicals.

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Recyclable

- The proposal highlights the three-tiered analysis for disclosing the limited availability of recycling programs. (*This guidance currently appears in examples only.*)
 1. “Substantial majority” of consumers/communities have access to recycling facilities — Marketer can make an unqualified recyclable claim.
 2. “Significant percentage” of consumers/communities have access to recycling facilities — Marketer should qualify recyclable claim (e.g., package may not be recyclable in your area).
 3. Less than a “significant percentage” of consumers/communities have access to recycling facilities — Marketer should qualify recyclable claim (e.g., product is recyclable only in the few communities that have recycling programs).

Free-of/Non-Toxic

- **Free-of:** This new section expands the current guidance, advising that even if true, claims that an item is free-of a substance may be deceptive if: (1) the item has substances that pose the same or similar environmental risk as the substance not present (*currently covered in an example*); and (2) the substance has never been associated with the product category (*new guidance*). Also, under certain circumstances, free-of claims may be appropriate even where an item contains a de minimis amount of a substance (*new guidance*). Free-of claims may convey additional environmental claims, including general benefit or comparative superiority claims (*new guidance*).
- **Non-toxic:** Such claims likely convey that an item is non-toxic both for humans and for the environment generally. (*This guidance was in an example in the general environmental benefit section.*)