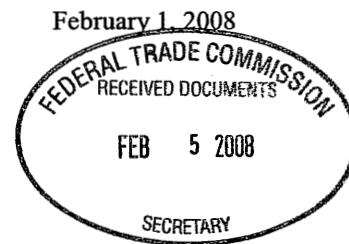


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Federal Trade Commission  
Office of the Secretary  
Room H-135 (Annex B)  
600 Pennsylvania Ave., N.W.  
Washington, D.C. 20580



Re: Green Guides Regulatory Review, 16 CFR Part 260, Comment, Project No. P954501

Dear Sir or Madam:

The Procter & Gamble Company (P&G)<sup>1</sup> appreciates the opportunity to provide the following comments in response to the Federal Trade Commission's request for public comments on the *Guides for the Use of Environmental Marketing Claims* (Green Guides). P&G takes our obligation to ensure environmental claims are truthful and meaningful very seriously and have established a set of internal principles to help guide our actions. These principles include:

- Claims must be truthful, data based, and defensible.
- Claims must be supported by sound and transparent assumptions, good science, and have sufficient data to substantiate the claim.
- Claims should be a specific statement of facts and should not exaggerate attributes or benefits.
- Any environmental benefit claimed on a product must be a meaningful benefit for consumers and other stakeholders.
- Claims should reflect lifecycle thinking. The claimed benefit should not be outweighed by other environmental burdens elsewhere in the lifecycle.
- All claims must comply with relevant legal and regulatory requirements.

We believe the core principles in the Green Guides are consistent with the points outlined above and are still very relevant and useful in today's environment. In fact, a recent study by Information Resources Inc. (IRI) found that 50% of U.S. consumers consider at least 1 sustainability factor in selecting consumer packaged good items and choosing where to shop for those products. (IRI, *Sustainability 2007: Consumer Focused CPG Growth Opportunities*, Dec. 2007) This and similar studies indicate that environmental marketing claims can influence consumer purchase intent and as such there is a continuing need for the guides to provide consistent guidance to industry and ultimately serve to protect consumers from misleading claims.

While we believe the current guides are still relevant and useful, there are opportunities to enhance the Green Guides to make them even more valuable for industry and further our shared goal of protecting consumers from misleading claims. To facilitate your review of our comments, we have structured the remainder of this document in three main sections:

- Existing guidance that could be modified to enhance effectiveness
- New issues that could be addressed
- Actions outside the review of the Green Guides that the FTC could consider

## **Existing Guidance that could be modified to enhance effectiveness**

### **Claims Related to Degradability**

§ 206.7(b) provides guidance on degradability claims and notes that claims should be qualified to the extent necessary to avoid consumer deception about the product or packages ability to degrade in the environment where it is customarily disposed. We agree with this principle, but believe the guides should place greater emphasis on the relevance of such claims given the current solid waste management systems in the United States. In the U.S., solid waste is predominantly disposed of by incineration or in a landfill, where little or no degradation occurs, and when it does occur, it is dominated by anaerobic processes. In fact, biodegradable materials are undesirable in modern landfills and some countries have established regulations against disposing biodegradable materials in landfills.

We believe the guides should be updated to provide more explicit guidance on the relevance of biodegradability claims in the United States and the need for appropriate disclaimers for any such claims. We are aware of biodegradability claims for disposable diapers that do not appear to meet the intent of the existing guidance and feel a new example in section 260.7(b) on this particular issue would be helpful to provide additional clarity.

### **General Environmental Benefit Claims – Use of Seals and Logos**

§ 260.7 (a) provides useful guidance on general environmental benefit claims. Example 5 of this section addresses the need for appropriate qualifying language for certain types of seals/logos that could connote general environmental benefits. Given the increased use of environmental seals and logos, the FTC should place greater emphasis on this point by addressing it in the introductory text of § 260.7 (a) as well as in example 5. Seals and eco-labels that communicate a general “environmentally friendly” message to consumers should be treated as environmental claims within the scope of the guides and be subject to applicable principles and criteria.

### **Lifecycle Thinking**

The Green Guides currently include a footnote indicating the guides do not address claims based on “lifecycle theory”. Since the guidelines were originally published, internationally recognized standards for Lifecycle Assessment (LCA) have been developed (e.g. ISO 14040). While not all claims require a full LCA, recognizing accepted international standards for LCA will help ensure consistency in claims that do rely upon LCAs for substantiation.

## **New Issues that should be addressed**

### **Climate Change**

Concerns about global warming have caused an increase in related product or service claims (e.g. carbon offsets, carbon neutral, carbon footprints, renewable energy). The guides should be updated to provide guidance on the acceptability of claims related to global climate change or the production of CO<sub>2</sub> and other greenhouse gases associated with the manufacture, use, and disposal of a product or service. Guidance on definitions and methodologies is needed.

The issue of carbon footprint labels for individual products is one that should be specifically addressed in the Green Guides. Our internal research has demonstrated carbon footprint labels for individual products can have significant uncertainty and calculated scores are imprecise. Lack of a standard methodology, inherent assumptions, and choice of boundary conditions make it very difficult to communicate carbon footprint numbers for individual products to consumers in a meaningful and transparent way. As a result, it would be extremely difficult to reliably compare carbon footprint labels across products and they could be misleading to consumers. The guides should be updated to provide guidance on if and how such claims could be substantiated and ideally address methods, boundary conditions and variability. The FTC may wish to consult the February 2008 Consumer Reports article that described the variability found across 11 different carbon footprint calculations for the same NY to LA airplane trip as one example of the variability in these types of calculations.

### **General “Sustainability” Claims**

Unqualified claims of “sustainable” or “sustainability” are comparable to other broad, unqualified claims such as “environmentally friendly”. § 260.7(a) on General Environmental Benefit Claims should be

updated to address “sustainable” claims and what constitutes a reasonable basis for substantiating such claims. Using the existing language in the Green Guides as a template, the following could be one approach to capture key points:

***Environmental sustainability:*** It is deceptive to misrepresent, directly or by implication, that a product is environmentally sustainable. Unqualified general claims of environmental sustainability are difficult to interpret, and depending on their context, may convey a wide range of meanings to consumers. In many cases, such claims may convey that the product, package or service has specific and far reaching environmental benefits. Unqualified comparative claims of superior environmental sustainability are also difficult to interpret. Such comparative claims about environmental sustainability must be specific with regard to the alternative product and have an explicit verifiable basis, such as certified life cycle assessment. Comparative claims about environmental sustainability, in the absence of life cycle analyses should be limited to specific parameters of the sourcing of raw materials, manufacturing, transportation, or packaging that are verifiable with good science, explicit justifiable assumptions and a reasonable basis for comparison.

**Examples:**

A shoe polish manufacturer changes from metal to plastic containers. As a result, its products are labeled “Now, in a more environmentally sustainable package”. In the absence of data on the comparative environmental burdens associated with the manufacture and disposal of these packages, and the consequent packaging operations, this claim is not verifiable, and is therefore deceptive. In the absence of these data, only a factual claim, such as “now packaged in a lighter weight package” is acceptable.

**Renewable**

The guides should be revised to provide guidance regarding “renewable” claims. A clear definition of what qualifies as a renewable material or energy source, and guidance on what constitutes appropriate substantiation is needed. Principles that could be considered in such an assessment include:

- The rate of replenishment of the renewable material or energy source matches its rate of consumption
- The sourcing of the renewable material or energy does not result in destruction of critical ecosystems, loss of habitat for endangered species, reductions in biodiversity or other negative impacts on sustainability.
- The sourcing of the renewable material or energy results in less consumption of non-renewable resources than the nonrenewable material or energy being replaced.
- The use of the renewable material or energy source does not significantly increase the product’s environmental footprint in other relevant indicators (e.g. water, waste, energy, etc.).

**“Chemical Free” and “Substance Free” Claims**

We believe there are a growing number of products making irrelevant claims related to the presence/absence of chemical substances in products or manufacturing processes. General examples include:

- Product claims that reference outdated or unused manufacturing technology. For example, “chlorine free” claims for pulp containing products can be intended to convey there was no contribution to dioxins in the environment as a result of pulp production. However, modern pulp production methods no longer use the elemental chlorine that emitted dioxin so claims of this nature would be irrelevant.
- Product claims that reference the absence of a material whose use is prohibited by law or regulation.
- Product claims indicating the absence of a substance that is not intentionally added to products or packages throughout the industry. Without any additional context, consumers could be misled into thinking the substance is intentionally added to other products that do not specifically include this irrelevant “substance free” claim. Addressing this point will make the Green Guides consistent with the European Commission’s “Guidelines for Making and Assessing Environmental Claims”.

We believe the FTC should consider a new section or augment the guidance in §260.6 to address these types of claims and where practicable, provide examples to reinforce the points above.

#### **Actions outside updating the Green Guides that the FTC should consider**

##### **Increase consumer understanding and awareness of relevant terms and claims.**

Consumers are being inundated with environmental claims and efforts to help them better understand key terms and relevant claims will serve to help consumers make informed purchase decisions. When the Green Guides were originally launched, the public did not have broad internet access as they do now. A Public Service Campaign that helps make consumers aware that environmental claims are regulated and they can go to “xyz.com” for more information would help serve the broader goal of protecting consumers from misleading claims.

We believe this is particularly relevant for biodegradability claims and would encourage the FTC to place an early emphasis on this issue. As a diaper manufacturer, we have conducted research which has indicated that some parents express excitement about the prospect of biodegradable diapers. They are not aware of, and in some cases unwilling to acknowledge, information that clarifies the relevance of these claims. The FTC may wish to consider what tools are available to educate consumers on the meaning and relevance of degradability claims.

##### **Harmonization**

To the extent possible, the FTC should try to harmonize its guidance with other government’s guidance. We are aware of a similar regulatory review underway by the Canadian Competition Bureau and would encourage the FTC to work with Canada in developing similar policies and positions. Evaluating relevant harmonization opportunities with the European Commission’s “Guidelines for Making and Assessing Environmental Claims” could also help to facilitate global harmonization.

##### **Vigorous enforcement**

We believe vigorous enforcement is a key aspect of protecting consumers from misleading claims. However, we clearly recognize the FTC is faced with a daunting task as the scope of its responsibilities is enormous and the agency is faced with significant resource constraints. We believe updating the guidelines and holding stakeholder workshops on issues of concern is a positive step towards ensuring broad awareness of and adherence to the Green Guides.

In conclusion, we believe the Green Guides provide valuable guidance to industry and serve to help protect consumers from misleading environmental claims. We believe there are opportunities to enhance the effectiveness of the current guides and have outlined those opportunities above. Should you have any questions on the comments we have provided, please do not hesitate to contact me at 513-983-5948 or email [mcaneny.j@pg.com](mailto:mcaneny.j@pg.com).

Jack McAneny  
Procter & Gamble – Global Sustainability

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#### <sup>1</sup> **About Procter & Gamble**

Three billion times a day, P&G brands touch the lives of people around the world. The company has one of the strongest portfolios of trusted, quality, leadership brands, including Pampers®, Tide®, Ariel®, Always®, Whisper®, Pantene®, Mach3®, Bounty®, Dawn®, Gain®, Pringles®, Folgers®, Charmin®,

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Downy®, Lenor®, Iams®, Crest®, Oral-B®, Actonel®, Duracell®, Olay®, Head & Shoulders®, Wella®, Gillette®, and Braun®. The P&G community consists of 138,000 employees working in over 80 countries worldwide. Please visit <http://www.pg.com> for the latest news and in-depth information about P&G and its brands.