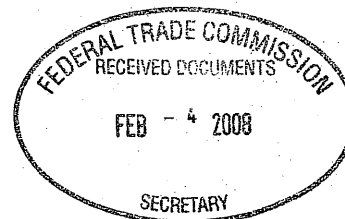




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Federal Trade Commission/Office of The Secretary
Room H-135, Annex B
600 Pennsylvania Ave., NW
Washington DC, 20580

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

**COMMENTS OF THE NATIONAL RECYCLING COALITION
ON FTC GUIDELINES FOR
ENVIRONMENTAL CLAIMS RELATING TO CLIMATE CHANGE**

The NRC is a not-for-profit organization dedicated to the advancement and improvement of recycling. Our 4,000 members and sponsors are large consumer product companies, manufacturers that use recycled content in their product line, small entrepreneurs, recycling processors, local, state and regional recycling coordinators, government regulators, and recycling advocates. Our members are in the business of recycling. With thousands of diverse members from across the country, NRC is a true community of recycling interests, large and small.

NRC's position is that the issue of climate change – a new concept for many Americans – be framed quickly, clearly and concisely so that an individual's consumption and recycling behavior contributes to the development of a sustainable economic model for our planet's natural resources.

Among its many environmental benefits, the act of recycling substantially lowers the greenhouse gas emissions associated with materials management. Compared to virgin materials extraction/use and disposal by landfill or combustion, recycling currently avoids the emissions of 180 million tons of carbon dioxide equivalent each year.¹ These emissions reductions occur at every point in the value chain – materials extraction, manufacturing, and waste disposal. Recycling constitutes one of the major tools for policy makers to realize reductions in greenhouse gases going forward. Public policy should explicitly support and provide incentives for the expansion of post-consumer and post-industrial recycling.

As entities increasingly measure their "carbon footprints", the Federal Trade Commission (FTC) should anticipate that the carbon impact of the recycling of post-consumer and post-industrial materials will be calculated and incorporated into public statements, to include environmental

¹ EPA, Municipal Solid Waste Generation, Recycling, and Disposal, 2006



claims subject to the FTC guidelines. Consumers will expect, and the FTC must ensure, that such claims have integrity.

NRC recommends that the FTC address the following issues as it develops guidelines for climate change claims.

1. **Absent standardized protocols for measuring and certifying recycling activities on greenhouse gas emissions, entities will be free to create climate change metrics that serve their own purposes, and consumers will not be able to distinguish among environmental performance claims.**

As various entities have attempted to measure their carbon footprint, an array of measurement tools have been developed, some of which may follow certain standards, such as the framework developed by the World Resources Institute and the Business Council for Sustainable Development, and some of which are ad hoc and potentially subjective in outcomes to the extent a narrow interest is served. Today, there is no accepted standard protocol for "recycling" or "recycling projects", hence an opportunity for development of an array of inconsistent standards that will lose meaning in the market place.

The one public indicator of the impact of recycling on greenhouse gas generation is available through EPA's WARM (Waste Reduction Model) which, by using best available information on life-cycle analysis, projects greenhouse gas reductions based on various waste management outcomes for a variety of materials. There is general agreement by EPA and users of the WARM that the metrics are at best indicative of climate change benefits and need significant improvement.

NRC has advocated, and the FTC should advocate, for the development of a standard Greenhouse Gas Protocol framework for recycling projects, to include the enhancement of emissions factors, as a fundamental requirement for accurate claims of greenhouse gas reductions.

2. **Accurate representation of entity behavior in an environmental claim requires consideration of whether climate change outcomes are "additional," that is whether claimed reductions in emissions of greenhouse gases are the result of business as usual or the result of actions motivated in part by the requirement or benefit of reducing greenhouse gases. FTC should consider whether additionality issues should be transparent in environmental claims of greenhouse gas reductions. For example, should greenhouse gas reductions that occur because of regulatory requirements be a legitimate part of any environmental claim.**

At the FTC's January 8, 2008 hearing, a number of speakers provided background on certain issues that bear on renewable energy credits and greenhouse gas reductions, to include the concept of "additionality." Most of the speakers focused on financial additionality, which addresses the question of whether a GHG reduction project would have been undertaken even without a greenhouse gas benefit because of the inherent financial benefits to the project. Public policy in the U.S. has not yet resolved this issue, but it is fundamental to establishing "credit" for emissions reductions that may be brought to market in a cap-and-trade program, for example. In addition to financial additionality, there are other circumstances where entities may undertake projects for motives unrelated to greenhouse gas reductions, such as to comply with a regulatory

requirement. FTC will need to consider the degree to which permissible claims by entities are transparent in regard to the circumstances which led to the emissions reduction, and determine whether consumers should be able to discriminate among voluntary, regulatory, or financially driven behavior.

- 3. Recycling is a shared responsibility, and the diversion and recovery of materials requires many parties. FTC should consider whether it is appropriate for a single entity in the value chain of recycled materials to claim the benefits of associated greenhouse gas reductions as their own, or whether more accurate phrasing must be used in environmental claims, i.e. "The XXX company *contributed* to the reduction of greenhouse gases by using recycled content materials."**

As a policy issue, FTC should not attempt to resolve ownership issues associated with greenhouse gas reductions that are the result of decisions or actions by a number of unrelated parties, but in general, any guidelines should acknowledge the inherent multi-party responsibility for GHG reductions that occur due to recycling behavior. The language used in environmental claims should not suggest to the public that an entity's actions were *exclusively* responsible for the environmental outcome.

- 4. Entities should not be able to make claims of greenhouse gas reductions based on potential best-case scenarios for the fate of materials used in products or packaging. For example, because a package is "recyclable" does not mean that the package will in fact be recycled, resulting in a decrease in greenhouse gases throughout the value chain. This issue is an extension of the "recyclability" issue that FTC has already addressed in previous rulings regarding the legitimacy of the recyclability claim in the absence of legitimate evaluation of the post-consumer fate of the package or product.**

In sum, the use of environmental claims associated with greenhouse gas reduction could confuse consumers should these claims be made without a concise and clear framework. As evidence of that concern, in recent consumer research conducted for the NRC, we found that a key reason many Americans are not recycling everyday is their lack of information/confusion on the *real* benefits of recycling. It is critical within the context of climate change claims that entities not be permitted to make claims that would confuse consumers on the benefits of their recycling behavior. FTC can play a leadership role in ensuring the clarity of claims made under the banner of climate change not confuse the consumer nor give entities the potential to market a product or package that in fact does little to reduce the generation of greenhouse gases. All claims must be transparent, clear, and based on facts that are built on agreed upon protocols, standards, and unambiguous guidelines.

We respectfully submit these comments on behalf of the members of the National Recycling Coalition.

Sincerely yours,

Kate M. Krebs
Executive Director