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.)*

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.)*
- Third-party certification does not eliminate a marketer's obligation to have substantiation for all conveyed claims.

Degradable

- For solid waste products other than those destined for landfills, incinerators, or recycling facilities, the proposal clarifies that the "reasonably short period of time" for complete decomposition is no more than one year after customary disposal. (*The current Guides state that a marketer 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.

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.

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*.)

Proposed Guidance for Claims Not Currently Addressed by the Guides

Made with Renewable Materials

- Marketers should qualify claims with specific information about the renewable material (what it is; how it is sourced; why it is renewable).
- Additionally, marketers should qualify renewable materials claims if the item is not made entirely with renewable materials (excluding minor, incidental components).

Made with Renewable Energy

- Marketers should not make unqualified renewable energy claims if the power used to manufacture any part of the product was derived from fossil fuels.
- Marketers should qualify claims by specifying the source of renewable energy (e.g., wind or solar). Additionally, marketers should qualify claims if less than all, or virtually all, of the significant manufacturing processes involved in making the product/package were powered with renewable energy or conventional energy offset by renewable energy certificates ("RECs").
- Marketers that generate renewable energy (e.g., by using solar panels), but sell RECs for all of the renewable energy they generate, should not represent that they use renewable energy.

Carbon Offsets

- Marketers should have competent and reliable scientific evidence to support their carbon offset claims, including using appropriate accounting methods to ensure they are properly quantifying emission reductions and are not selling those reductions more than once.
- Marketers should disclose if the offset purchase funds emission reductions that will not occur for two years or longer.
- Marketers should not advertise a carbon offset if the activity that forms the basis of the offset is already required by law.