

III. Issues for Comment

The Commission requests written comment on the following questions, including whether the Commission should initiate a proceeding to consider a rulemaking relating to environmental benefit claims under its FTC Act authority. Responses should be as specific as possible, and reference the question being answered, as well as empirical data or other evidence wherever available and appropriate. Additionally, the Commission also invites comments on any issues related to the Green Guides not specifically mentioned in the questions below.

A. General Issues

1. Is there a continuing need for the Guides? Why or why not?
2. What benefits have the Guides provided to consumers? What evidence supports the asserted benefits?
3. What modifications, if any, should be made to the Guides to increase their benefits to consumers?
 - a. What evidence supports your proposed modifications?
 - b. How would these modifications affect the costs the Guides impose on businesses, particularly on small businesses?
 - c. How would these modifications affect benefits to consumers?
4. What impact have the Guides had on the flow of truthful information to consumers and on the flow of deceptive information to consumers?
5. What significant costs have the Guides imposed on consumers and/or consumer and environmental organizations? What evidence supports the asserted costs?
6. What modifications, if any, should the Commission make to the Guides to reduce the costs imposed on consumers?
 - a. What evidence supports your proposed modifications?
 - b. How would these modifications affect the benefits of the Guides?
7. Please provide any evidence that has become available since 2012 concerning consumer perception of environmental claims, including claims not currently covered by the Guides. Does this new information indicate the Guides should be modified? If so, why, and how? If not, why not?
8. Please provide any evidence that has become available since 2012 concerning consumer interest in particular environmental issues. Does this new information indicate the Guides should be modified? If so, why, and how? If not, why not?
9. What benefits, if any, have the Guides provided to businesses, particularly to small businesses? What evidence supports the asserted benefits?
10. What modifications, if any, should be made to the Guides to increase their benefits to businesses, particularly to small businesses?
 - a. What evidence supports your proposed modifications?
 - b. How would these modifications affect the costs the Guides impose on businesses, particularly small businesses?
 - c. How would these modifications affect the consumer benefits?
11. What significant costs, including costs of compliance, have the Guides imposed on businesses, particularly on small businesses? What evidence supports the asserted costs?
12. What modifications, if any, should be made to the Guides to reduce the costs imposed on businesses, particularly on small businesses?

- a. What evidence supports your proposed modifications?
 - b. How would these modifications affect the consumer benefits provided by the Guides?
13. What evidence is available concerning the degree of industry compliance with the Guides?
 - a. To what extent has there been a reduction in deceptive environmental claims since the Guides were issued? Please provide any supporting evidence. Does this evidence indicate the Guides should be modified? If so, why, and how? If not, why not?
 - b. To what extent have the Guides reduced marketers' uncertainty about which claims might lead to FTC law enforcement actions? Please provide any supporting evidence. Does this evidence indicate the Guides should be modified? If so, why, and how? If not, why not?
14. Are there claims addressed in the Guides on which guidance is no longer needed? If so, explain. Please provide supporting evidence.
15. What potentially unfair or deceptive environmental marketing claims, if any, are not covered by the Guides?
 - a. What evidence demonstrates the existence of such claims?
 - b. With reference to such claims, should the Guides be modified? If so, why, and how? If not, why not?
16. What modifications, if any, should be made to the Guides to account for changes in relevant technology or economic conditions? What evidence supports the proposed modifications?
17. Do the Guides overlap or conflict with other federal, state, or local laws or regulations? If so, how?
 - a. What evidence supports the asserted conflicts?
 - b. With reference to the asserted conflicts, should the Guides be modified? If so, why, and how? If not, why not?
 - c. Is there evidence concerning whether the Guides have assisted in promoting national consistency with respect to the regulation of environmental claims? If so, please provide that evidence.
18. Are there international laws, regulations, or standards with respect to environmental marketing claims the Commission should consider as it reviews the Guides? If so, what are they? Should the Guides be modified to harmonize with these international laws, regulations, or standards? If so, why, and how? If not, why not?
19. Should the Commission initiate a proceeding to consider a rulemaking under the FTC Act related to deceptive or unfair environmental claims?
 - a. If so, which principles set out in the Green Guides should be incorporated into a rule? For each suggested provision, explain why and provide any evidence that supports your proposal.
 - b. Are there additional principles related to environmental claims not currently covered by the Guides that should be incorporated into a rule? For each suggested provision, explain why and provide any evidence that supports your proposal.

B. Specific Claims

The Commission seeks comments on specific issues that have generated increased attention and interest over the last several years. The following questions are designed to facilitate comment on those issues, and the inclusion or exclusion of any topic does not indicate that specific modifications to the Guides are currently under consideration.

1. Carbon Offsets and Climate Change, [16 CFR 260.5](#). The Guides currently include guidance relating to carbon offsets. Should the Commission consider revising this section or provide

additional guidance addressing other types of advertising claims related to carbon offsets and/or climate change?

- a. Are there any specific claims related to carbon offsets not currently addressed by the Green Guides that are appropriate for further consideration during the review?
 - b. What, if any, evidence is there of deceptive claims related to climate change in the market?
 - c. If such evidence exists, what specific guidance should the FTC provide to help marketers avoid deceptive claims?
 - d. Is there any consumer research available regarding consumer perception of climate change-related claims such as “net zero,” “carbon neutral,” “low carbon,” or “carbon negative”?
 - e. Are there any specific deceptive claims related to climate change prevalent in the market?
 - f. If evidence of deception exists, what specific guidance should the FTC provide to help marketers avoid deceptive claims? What evidence supports your proposed revision?
2. *Compostable*, [16 CFR 260.7](#). The Guides currently advise marketers claiming products are “compostable” in municipal or institutional facilities that they should qualify such claims if appropriate facilities are not available to a substantial majority of consumers or communities where the item is sold. Should this guidance be revised to define “substantial majority” consistent with the “recyclable” section? If so, why, and what guidance should be provided? If not, why not? What evidence supports your proposed revision(s)?
3. *Degradable*, [16 CFR 260.8](#). The Guides provide that an unqualified claim indicating a product or package is degradable, biodegradable, oxo-degradable, oxo-biodegradable, or photodegradable should be substantiated by competent and reliable scientific evidence demonstrating the entire item will completely break down and return to nature within a reasonably short period of time after customary disposal. For products customarily disposed in a landfill, “reasonably short period of time” is defined as one year.
- a. Should the Commission revise the Guides to provide an alternative timeframe for product decomposition for all or any category of products? Does the timeframe differ for liquid products?
 - b. If so, why, and what should the timeframe be? If not, why not? What evidence supports your proposed revision(s)?
 - c. Should the Commission clarify or change existing guidance on degradable claims in light of its decision in the *ECM Biofilms* matter? If so, how?
4. *Ozone-Safe/Ozone-Friendly*, [16 CFR 260.11](#). The Guides contain an example stating it is deceptive to label a product “ozone-friendly” if the product contains any ozone-depleting substance, including those substances listed as Class I or Class II chemicals in Title VI of the Clean Air Act Amendments of 1990, Public Law 101-549, and others subsequently designated by EPA as ozone-depleting substances. The Guides list chlorofluorocarbons (“CFCs”); halons; carbon tetrachloride; 1,1,1-trichloroethane; methyl bromide; hydrobromofluorocarbons; and hydrochlorofluorocarbons (“HCFCs”) as examples of such ozone-depleting substances. Should the Commission remove or revise this example given that it references ozone-depleting chemicals that the EPA now bans? If so, why, and what guidance should be provided? If not, why not? What evidence supports your proposed revision(s)?
5. *Recyclable*, [16 CFR 260.12](#). Should the Commission revise the Guides to include updated guidance on “recyclable” claims? If so, why, and what guidance should be provided? If not, why not?
- a. What evidence supports your proposed revision(s)?

- b. What evidence is available concerning consumer understanding of the term “recyclable”?
 - c. What evidence constitutes a reasonable basis to support a “recyclable” claim?
- 6. *Recyclable*, [16 CFR 260.12](#). The Guides provide that marketers can make an unqualified “recyclable” claim when recycling facilities are available to a substantial majority of consumers or communities where the item is sold. “Substantial majority” is defined as 60%.
 - a. Should the Guides be revised to update the 60% threshold? If so, why, and what guidance should be provided? If not, why not? What evidence supports your proposed revision? Is there any recent consumer perception research relevant to the 60% threshold?
 - b. Should the Guides be revised to include guidance related to unqualified “recyclable” claims for items collected by recycling programs for a substantial majority of consumers or communities but not ultimately recycled due to market demand, budgetary constraints, or other factors? If so, why, and what guidance should be provided? If not, why not? What evidence supports your proposed revision?
- 7. *Recycled Content*, [16 CFR 260.13](#). The Guides state marketers may make “recycled content” claims only for materials recovered or otherwise diverted from the solid waste stream, either during the manufacturing process or after consumer use. Do the current Guides provide sufficient guidance for “recycled content” claims? If so, why? If not, why not, and what guidance should be provided? What evidence supports your proposed revision(s)?
- 8. *Recycled Content*, [16 CFR 260.13](#). The Guides suggest marketers can substantiate “recycled content” claims using per-product or annual weighted average calculation methods. Should the Guides be revised to provide guidance on making “recycled content” claims based on alternative method(s), e.g., mass balance calculations, certificate (*i.e.*, credit or tagging) systems, or other methods? If so, why, and what guidance should be provided? If not, why not? What evidence supports your proposed revision?
- 9. *Recycled Content*, [16 CFR 260.13](#). What changes, if any, should the Commission make to its guidance on pre-consumer or post-industrial recycled content claims? How do consumers interpret such claims? Please provide any relevant consumer perception evidence.
- 10. *Energy Use/Energy Efficiency*. Should the Commission consider adding guidance on energy use or efficiency claims for home-related products, electric vehicles, or other products?
 - a. What, if any, evidence exists of such deceptive claims in the market?
 - b. What types of products are typically involved with deceptive claims?
 - c. If deception exists, what specific guidance should the Commission provide to help marketers avoid deceptive claims? What evidence supports your proposed revision?
- 11. *Organic*. In 2012, the Commission declined to issue guidance on “organic” claims for non-agricultural products. Should the Commission revisit this determination? If so, why, and what guidance should be provided? If not, why not?
 - a. What evidence supports making your proposed revision(s)?
 - b. What evidence is available concerning consumer understanding of the term “organic” with respect to non-agricultural products?
 - c. What evidence constitutes a reasonable basis to support an “organic” claim in this context?
- 12. *Sustainable*. In 2012, the Commission determined it lacked a basis to give specific guidance on how consumers interpret “sustainable” claims. Should the Commission revisit this determination? If so, why, and what guidance should be provided? If not, why not?
 - a. What evidence supports making your proposed revision(s)?

- b. What evidence is available concerning consumer understanding of the term “sustainable”?
- c. What evidence constitutes a reasonable basis to support a “sustainable” claim?