

The Proposed FTC Green Guides; Beyond Truth, Avoiding Deception

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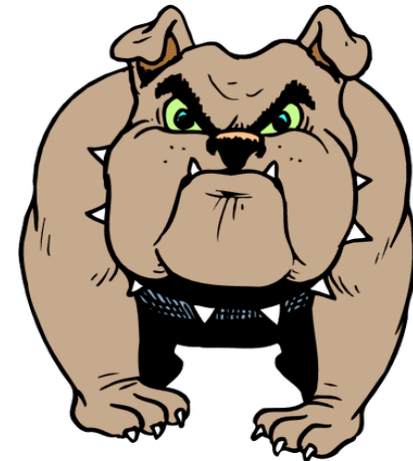
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**CLEAN TRANSPORT
VEHICLE
- OR -
BIKE ON TOP OF A
GAS GUZZLING CAR**

FTC Green Guides are:

- Interpretations of federal consumer protection laws
- Section 5 of FTC Act (15 U.S.C. § 45), empowers the FTC to punish deceptive practices



FTC Green Guides History:

- Issued 1992
- Revised 1996
- Revised 1998
- 2011?



FTC Green Guides address:

- biodegradable, compostable, recyclable, refillable, and ozone safe
- free-of and non-toxic claims
- renewable materials
- ***environmental seals***
- ***carbon offsets***
- ***renewable energy***



The truth can be deceiving

- open: what “made with RE” mean?
 - 16% solar/wind, 4% alt/clean 1% replenish
 - 17% ?/nothing
 - 17% recycled materials

closed: what “made with RE” mean?

- 28% made w/renewable materials
- 21% recycled materials
- 18% recyclable

The truth can be deceiving

- Our manufacturing plant hosts a solar power facility:
 - 85% there is a solar facility on premises
 - 62% solar used in making co's products
 - 12% co hosts a solar power conference meeting in its manufacturing plant

What result?



- No sweeping unqualified claims. "eco-friendly" is inherently deceptive
- "eco-friendly: made with recycled materials" is not deceptive if the clarification is prominent and can be proven
- supported by credible scientific evidence

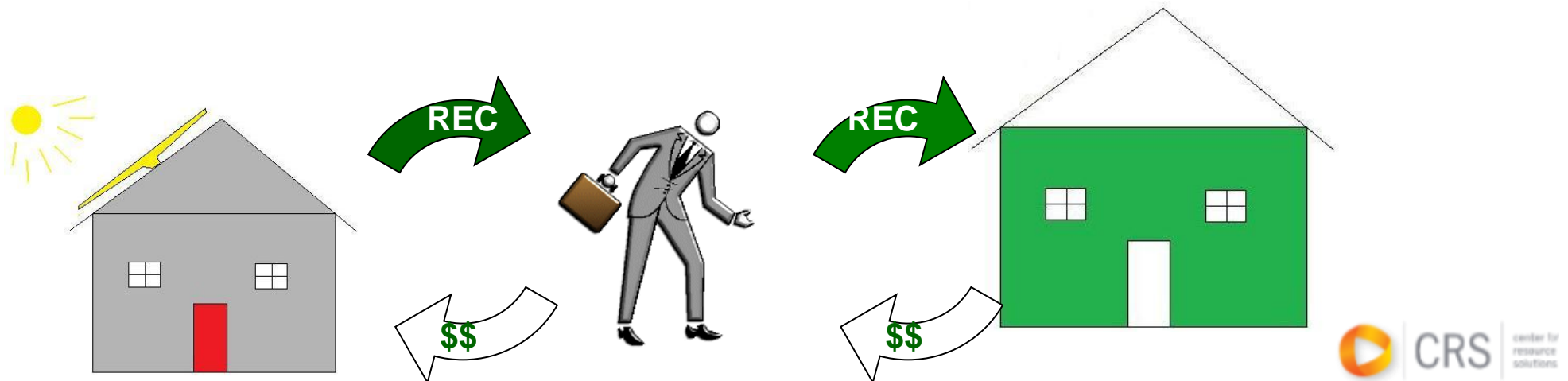
Impacts on businesses

- No Eco-Puffery!
 - Eco-friendly
- Find legitimate third party certifications to bolster position.



Purchasers of RE

- Unqualified statement “made with renewable energy” if their product or process uses any fossil fuel in its manufacturing process.
- Disclosure of the renewable energy resource type (e.g. wind, solar) in any renewable energy claim



Customer deception and double claiming

- Generator v. purchaser
- Host v. owner
- RPS v. voluntary



Impact on RE sellers

- Self-certification and the use of a company's own logo to resemble a certification mark
- Claiming to “host” a renewable energy system insufficient to avoid confusion



Changes to system host claims

- I **host** a renewable energy system.
- I buy fixed-rate electricity.
- I generate renewable energy that I sell to others.
- My utility pays me to generate solar electricity for them.
- I generate 100% renewable energy.

FTC Enforcement of Green Guides

- Teeth or no teeth?



The Basics with Carbon Offsets

- Use accounting methods to ensure against double selling
- If it was required by law, it's not an emissions reduction
- **Clearly and prominently** disclose if the carbon offset represents emission reductions that will not occur for two years or longer

SOLAR PHOTOVOLTAIC CLAIMS AND FAQ

As markets for renewable energy grow, there is increasing interest in securing and selling Renewable Energy Certificates ("RECs") and renewable electricity. Some renewable electricity generation technologies, like solar photovoltaics ("PV"), are slow to be widely adapted to market transactions because of the administrative costs of aggregating output into products that can be readily sold into compliance and voluntary electricity markets.

PV is typically installed in small amounts on residential and commercial rooftops. Rooftop PV requires many participating rooftops in order to produce a significant amount of electricity. This type of generation is called distributed generation ("DG") because the multiple small units are located at or near where the energy will be consumed, in contrast to central station generation that feeds a locality from a distance. Because of the smaller size of DG units, a relatively large geographic area is needed to generate a significant amount of RECs.

This document presents a series of questions and answers regarding PV and the issues specific to selling and claiming RECs from such systems. Though the paper focuses mainly on PV, many of the issues discussed below pertain to other types of distributed generation as well.

Fundamental to this discussion is the agreed-upon definition of a REC as representing all of the "greenness" of electricity produced from renewable resources like PV. A REC includes everything that differentiates the effects of generating electricity with renewable resources instead of using

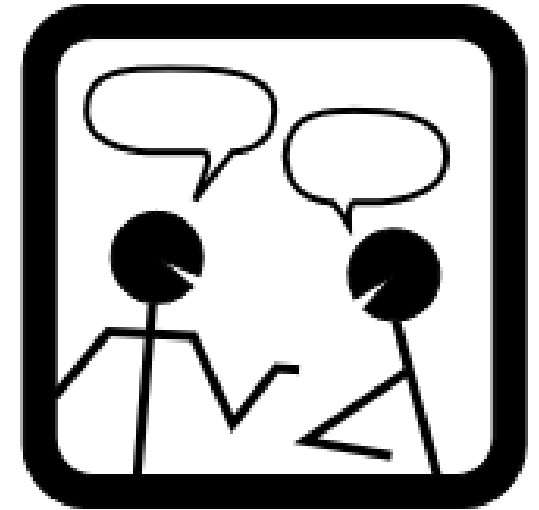


Best Practices in Public Claims for Green Power Purchases and Sales

July 13, 2009, Version 1.0

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EPA request for comments



- EPA's role in advancing sustainable products
- SEC, EPA, FTC; Concerted Federal effort to combat green washing and promote sustainable manufacturing and products

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To view the Proposed Green Guides visit:

<http://www.ftc.gov/opa/2010/10/greenguide.shtm>

To comment on the Proposed Green Guides visit:

<https://ftcpublic.commentworks.com/ftc/revisedgreenguides>.

Comments are due by December 10th