



United States
Department of
Agriculture

Office of the
Assistant Secretary
For Administration

Office of
Procurement and
Property
Management

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Washington, DC
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Federal Trade Commission
Office of the Secretary
Room H-135 (Annex J)
600 Pennsylvania Avenue, NW
Washington, DC 20580

Gentlepersons:

Ref: Proposed, Revised Green Guides, 16 CFR Part 260, Project No. P954501

The U.S. Department of Agriculture (USDA) is pleased to submit the following comments in response to your October 15, 2010 *Federal Register* notice regarding the above-referenced proposition.

Part VI., Section C., 3., d. Biobased Claims

USDA appreciates the Federal Trade Commission (FTC) declining to provide clarification for marketing claims for biobased products in the proposed revised Green Guides. As the lead Federal Agency implementing the BioPreferred Program, USDA acknowledges our statutory authority to define and certify (*certification coming 2011*) biobased products. We also acknowledge our responsibility to work with biobased vendors to accurately communicate information for consumers on these types of renewable products. We are grateful that FTC is not proposing duplicative or potentially inconsistent advice in this area, and we will continue to work closely with FTC in the implementation of our program to proactively monitor and address any environmental marketing claims vendors make about biobased products.

Part VI., Section C. Renewable Materials Claims

Guidance regarding the use of the claim “renewable” is not found in the current Green Guides. In the proposed revised Guides, FTC recommends that vendors qualify claims with specific information about what the renewable material is, how it is sourced, and provide description as to why the product is renewable. USDA believes that these guidelines could be made more consistent with guidance USDA provides on biobased, including biological and renewable, products/materials.

A “biobased product” is a “product determined by the USDA Secretary to be a commercial or industrial item (other than food or feed) that is (A) composed, in whole or in significant part, of biological products, including *renewable* domestic agricultural materials and forestry materials; or (B) an intermediate ingredient or feedstock.” This USDA definition of biobased products encompasses both biologically-based and renewable products. Bioproduct industry members calculate the amount of biological/biobased/renewable material in a product by testing items to ASTM D6866-

10 Standard Test Methods for Determining the Biobased Content of Solid, Liquid, and Gaseous Samples Using Radiocarbon Analysis.

The above identification and measurement of renewable material (percent biobased carbon by weight given total carbon in a product) forms the basis for USDA's BioPreferred program – the identification of biobased products that meet or exceed USDA-set biobased content levels for products eligible for preferred Federal procurement. This measurement standard is also being adopted in European Union directives and Asian countries like Japan, China, and India. This test method also forms the basis for ISO (International Standards Organization) and European bioproduct standards as well. ASTM D6866 substantiates the amount of renewable material content in a product accurately and verifiably. USDA recommends that FTC consider recognition of this test method as one method of determining a product's renewable content.

Additionally, FTC recommends in the proposed revised Guides, that marketers qualify renewable materials claims if the item is not made entirely with renewable material. Many biobased products recognized by USDA for preferred Federal procurement have their biobased content (percent new/bio carbon, i.e. renewable) levels, as tested to ASTM D6866, listed in the product entries in our electronic catalog at www.biopreferred.gov. In addition, when the "USDA Certified Biobased Product" label is finalized in early 2011, the label on a qualifying product will identify the product's biobased content level by percent.

USDA would be willing to meet with FTC directly to discuss the two issues we have commented on above, or participate in future public meetings to discuss the proposed revision of the Green Guides. We appreciate the opportunity to comment on this important guidance document for practitioners in marketing various sustainable products.

Sincerely,

Jeffrey H. Goodman
Chief, Environmental Management Division