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Green Guides Review, Matter No. P954501

April 20, 2023

Green Blue Institute appreciates the opportunity to submit the following comments and suggestions in response to the Federal Trade Commission's request for comments on the Guides for the Use of Environmental Marketing Claims. Through our programs, we have and continue to engage over 1000 member organizations representing the packaging value chain. Our expertise in packaging, environmental sustainability, consumer education and recyclability is aligned with the goals and objectives of the Green Guides, and we welcome the opportunity to provide our insights for this period of comments.

INTRODUCTION

GreenBlue is an environmental nonprofit dedicated to empowering a diversity of stakeholders to promote a more sustainable materials economy. Our programming, introduced below, promotes transparency, provides design evaluation tools, guides post-use material communication, educates through conference-based and classroom-based programs, engages trade associations and government agencies, and provides packaging sustainability expertise through consulting services.

How2Recycle is a standardized labeling system that clearly communicates recycling instructions to the public. It involves a coalition of forward thinking brands who want their packaging to be recycled and are empowering consumers through smart packaging labels.

The Sustainable Packaging Coalition is a membership-based collaborative that believes in the power of industry to make packaging more sustainable. As the leading voice on sustainable packaging, we support the creation of packaging that is good for people and good for the environment.

The Recycled Material Standard enables participating brands and suppliers to celebrate their sustainability efforts that collectively advance the use of recycled materials. The standard establishes requirements necessary to assure accuracy and transparency of claims with the support of a robust third party certification system.

I. GENERAL ENVIRONMENTAL BENEFIT CLAIMS

- **Recommendation: Provide guidance that chasing arrows symbols should be used ONLY for “recyclable” claims and should NOT be used for “recycled content” claims.** Research has found that most consumers believe the chasing arrows symbol indicates both the recyclability and recycled content of a package and as such the GreenGuides have conveyed the need to qualify claims. When a product only contains recycled content, but is not necessarily recyclable, this can lead to consumer confusion and contamination of materials in the recycling stream. By limiting the use of the chasing arrows to recyclability, over time consumers will learn to distinguish between the two types of claims.
- **Recommendation: Provide guidance on NOT using “recycle-ready” claims.** The Dow corporation established a portfolio of materials that are compatible for recycling with grocery store drop-off programs in the US and established the portfolio as their “RecycleReady” technology. As more and more companies look to design packaging that is compatible with the recycling stream, however, we have seen examples of “recycle-ready” claims, used directly on consumer facing packaging. At GreenBlue, when we use the term “consumer” we are talking about individual consumers as opposed to business to business transactions. In any case where we may be referring to a business to business transaction, that distinction is clarified.

A section of [Dow’s website](#) conveys: “Packaging using RecycleReady Technology that **qualifies** (*emphasis added by GreenBlue*) for the How2Recycle Store Drop-Off label can be recycled at any of these sites.” In other words, it is apparent that Dow did not intend RecycleReady to be used as a consumer facing claim but rather to convey compatibility of materials and **potential qualification** for use with the How2Recycle Store Drop-Off label.

Numerous converters are now conveying various forms of the term “recycle ready” as part of their offerings. While these claims are often intended to convey to consumers that the company has attempted to eliminate problematic packaging features that may render a packaging not recyclable, the simplified claim can lead to consumer confusion.

To eliminate this potential confusion, we ask that the Green Guides support this by discouraging the use of unqualified “recycle-ready” consumer-facing claims.

- **Recommendation: Provide guidance on NOT using the term “infinitely recyclable”.** The term “infinitely recyclable” is often used by marketers to convey that a material has the potential to be recycled numerous times. In the context of packaging, marketers often use it as shorthand to convey to consumers that a material isn’t being “downcycled” or used for other non-packaging purposes, and that it is somehow better than other materials that are

not “infinitely-recyclable”. In reality, recycling processes inherently involve losses and waste, and no material can be recycled indefinitely without incurring a reduction in quality and/or quantity. As a result, the term “infinitely recyclable” is a claim that does not hold weight in practice at reprocessing facilities, and should not be used to convey material superiority.

- **Recommendation: Consider packaging disposal instructions separately from environmental claims.** Environmental marketing claims can be used to direct consumers to take certain actions or engage in specific behaviors. This, in turn, can help to build trust in specific packaging materials, supply chains, reprocessing technologies, and corporate practices. Because of the power of marketing claims, the Green Guides should consider ways to help support efforts to educate consumers to take positive action, rather than to only avoid giving incorrect or misleading information.

As part of this, the guidance should consider the various purposes that different types of on-pack information serve. Standardized disposal instruction labeling, such as the How2Recycle label, serves to enable consumers to do the behaviors that support recycling and reduce contamination. The purpose is not product promotion; rather it is more similar in nature to safety information for proper use of a product. Thus, standardized disposal information can be treated differently than product promotion information that originates primarily for the purpose of influencing product selection behavior.

- **Recommendation: The term "reusable" should be defined and restricted to packaging that is reused by the consumer or brand for the same purpose as was originally intended.** In the absence of a definition for reusable packaging, which includes returnable and refillable packaging, some companies are claiming that packaging is reusable when it can be "upcycled" by consumers for other purposes, e.g. storage containers around the home. Furthermore, companies are selling refillable packaging without also selling a refill.

A comprehensive definition of these terms and the necessary elements can be found in our [Guidance on Reusable Packaging](#), and is restated below: *"Reusable packaging is packaging that allows either the business or the consumer to put the same type of purchased product back into the original packaging, is designed to be returnable and/or refillable, is free of chemicals of concern, and accomplishes a minimum number of reuses by being part of a system that enables reuse. Refillable packaging is packaging that is designed to be owned and refilled by consumers with separately-purchased product or through dispenser systems. Returnable packaging is packaging that is part of a system that provides for the collection and refill of the package by a business."*

II. CARBON OFFSETS

III. CERTIFICATIONS AND SEALS OF APPROVAL

IV. COMPOSTABLE

- **Recommendation: The term "compostable" should be supported by third-party certifications and standards.** Compostability claims without third-party certifications are confusing to both composters and consumers. For example, section b) "competent and reliable scientific evidence" should be clarified to mean third-party testing and certification according to an international standard such as ASTM.
- **Recommendation: Guidance on qualifiers should emphasize access to collection programs, rather than facilities, since most consumers don't know how to locate facilities.** The Guides should be revised to advise marketers to qualify such claims if appropriate collection programs are not available to a substantial majority of consumers or communities where the item is sold. This is because consumers may not be able to identify whether facilities exist because such information isn't available to them, whereas collection programs accepting certified compostable products serve as an appropriate consumer-facing proxy for compostability.

V. DEGRADABLE

- **Recommendation: The term "biodegradable" and variations thereof (e.g. oxodegradable, degradable) should not be used without specific qualifiers.**

These claims should only be allowed if reliable scientific evidence indicates:

- The environment in which the product is designed to break down is specified, and the extent to which that environment is controlled (i.e. an agricultural field or wastewater treatment facility) or uncontrolled (open marine, terrestrial environment)
- The timeframe in which the product breaks down is tested in the intended specific environment, is measurable, and adheres to appropriate pass/fail criteria
- The intended disposal method is communicated clearly to the consumer and reflects the specific environment for biodegradability. If the intended environment is a landfill, it should be noted that biodegradation may contribute to landfill methane emissions.

Forthcoming consumer research from Closed Loop Partners and Biodegradable Products Institute indicates that consumers do not understand the difference between biodegradable and compostable, and are likely to dispose of items labeled with "bio" terms

on the ground ie. litter, believing that they will effectively degrade. For this reason, the term "biodegradable" should be used exclusively in contexts where the item has been certified to degrade in a specific environment, such as soil, for applications such as mulch films. Section b) should be clarified to prohibit general degradable terms, even if there is evidence that a product will break down in a certain environment such as landfills, because of the high likelihood that consumers will litter these products.

The SPC has position statements on [biodegradable packaging](#) and [degradability additives](#) that outline further information.

VI. FREE-OF CLAIMS

VII. NON-TOXIC CLAIMS

VIII. OZONE-SAFE AND OZONE-FRIENDLY

IX. RECYCLABLE

- **Recommendation: Continue to communicate what is necessary in order to market a product or package as “recyclable”.** The purpose of [How2Recycle](#) is to reduce confusion by providing a clear, well-understood, and nationally harmonized label that enables companies to convey to consumers how to recycle a package. We base our definition of recyclability first and foremost on applicable law. In the United States, How2Recycle is designed to comply with the Green Guides and Section 5 of the FTC Act, 15 U.S.C. 45. One of the primary goals of our program is to provide a labeling system that follows the FTC’s guidance in order to improve the reliability, completeness, and transparency of recyclability claims. Our program also operates in Canada and complies with Canadian guidance on environmental marketing claims. Unless otherwise noted, these comments apply to the US application of the label.

Although the Green Guides do not explicitly define “recyclable”, the Guides communicate what conditions are necessary in order to market a product or package as recyclable. This serves as a basis for a definition. We believe that it is important to the conversation regarding recyclability claims to establish a shared understanding of what makes a package or product recyclable, and how that aligns with consumer perception of the word.

We define packaging as recyclable if it can be collected, sorted, reprocessed, and ultimately reused in manufacturing or making another item. **Our definition is in alignment with the conditions set forth in the Green Guides.** Implementing this definition in practice required us to define the elements necessary to confirm that a product or package meets each element of recyclability. These elements include compliance with applicable law, access to collection, technical sortability and reprocessibility, and the strength of end markets. Each element and associated assessment criteria are explained in detail [here](#).



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NAVIGATE

- **Recommendation: Continue to provide nationally harmonized guidance.** The How2Recycle program was designed as a consistent way for companies to apply the guidance to recyclability communication, and the adoption of the label and application to packages shows that there has been movement towards consistency. Our [consumer research data](#) shows that 60% of respondents were familiar with the How2Recycle label, and 87% perceived it as helpful, which speaks to the reach of the label and the goal of having a harmonized labeling system. As the majority of large consumer brands treat the U.S. as a single market, a national approach to guidance and labeling is the most appropriate. Ideally, this approach is paired with efforts to move towards consistency of materials and formats accepted and processed, which would increase the accuracy of labels and further reduce consumer confusion.
- **Recommendation: Ensure guidance on “recyclable” claims remains based on “able to be recycled”, in alignment with consumer understanding of the term.** In 2021, we contracted a consumer research firm to conduct [research into consumer perceptions](#) of the How2Recycle labels. The primary purpose of this research was to assess the alignment of the intended label meanings with the perceived label messages. Information about consumer recycling behavior was also included as a secondary research objective.

Results for the assessment of alignment with “recyclability” indicate approximately 30% of respondents most agreed with the operating conceptual framework that recyclable items have to be commonly recycled in practice, not just in theory. The second most agreed-upon (approximately 20% of respondents) was the concept of theoretic recyclability, and the third most was the concept of access to collection (approximately 15% of respondents). Theoretic recyclability and access to recycling are broader in scope than How2Recycle’s operational definition; thus, consumers would not be misled as theoretical recyclability as the minimum standard for “recyclable” would also include items that are recycled in practice.

Overall, consumers were also aligned with the intended messages of the Widely Recyclable, Not Yet Recyclable, and Check Locally labels. When forced to choose between access-based messages (“recyclable in most communities” or “recycle in some communities”) and recycling rate-based messages (“recycled most of the time but not always” or “recycled most of the time by participating programs”), more respondents agreed with recycling access based interpretations of the Widely Recyclable and Check Locally labels. However, it is important to note that the How2Recycle requirements for use of these labels include both access to recycling programs that collect the packaging format and proof of recycling in practice.

- **Recommendation: Continue to define “substantial majority” at 60%, unless compelling data indicates that a different threshold should be used.** The threshold set in the Green Guides for substantial majority serves as the *access* threshold for our “Widely Recyclable”

label. As our program is a national label, we base our assessments on national access data. Access to recycling should be calculated through the percentage of the population with access to collection programs rather than the percentage of material recovery facilities that collect items. As different material recovery facilities serve areas with different population sizes, it is more equitable and accurate to measure access by the percent of the population with access.

We believe that accurate recyclability instructions are critical to increasing both consumer participation in recycling and the quantity of material that is recycled. In an ideal future, we could achieve 100% acceptance of certain formats through aligned packaging design and material acceptance, and a robust recycling infrastructure that is accessible to all citizens. However, until we get there, there will always be consumers who may not have access to recycle even the most widely accepted materials. We understand that this can be confusing for consumers, but feel that the threshold is an enabling factor in helping us achieve that ideal future.

As referenced above, [our research](#) shows that “recyclable” is understood by consumers to mean “able to be recycled” and is seen as different from the term recycled. **Based on this, we believe that consumers are not deceived by the existence of a “substantial majority” access threshold.**

- **Recommendation: Provide further guidance on what qualifies as an acceptable data source for substantiating recyclability claims.** The How2Recycle labeling program is based on data. We take considerable effort to both collect data and assess the quality of data collected by other organizations to ensure that the decisions we make are as informed as possible. In the absence of compelling data demonstrating its recyclability, depending on all the circumstances, How2Recycle will issue a conservative claim to a package (either the Check Locally label or the Not Yet Recyclable label).

The existing guidance states that reasonable claims require competent and reliable scientific evidence, which “consists of tests, analyses, research, or studies that have been conducted and evaluated in an objective manner by qualified persons and are generally accepted in the profession to yield accurate and reliable results. Such evidence should be sufficient in quality and quantity based on standards generally accepted in the relevant scientific fields, when considered in light of the entire body of relevant and reliable scientific evidence, to substantiate that each of the marketing claims is true.”

While this guidance serves as a starting point, there are a variety of data sources being used to both substantiate and refute claims. Better alignment on the determination of credible data would result in increased trust in the certification of claims and ease of compliance. Beyond guidance, establishing harmonized and agreed upon methodology would enable enhanced confidence in the substantiating data.

- **Recommendation: Establish a lower-end threshold for recyclability access.** As the Green Guides is currently written, when recycling facilities are available to less than 60% of consumers, marketers should qualify all recyclability claims. There is no set lower threshold for determining when a package can or should reasonably be indicated as recyclable. In our program rules, we have set an additional threshold of 20% to communicate more accurately to consumers.

For those packages where less than 20% of US consumers have access to recycling facilities, we will issue a “Not Yet Recyclable” label. In taking this approach, we address both consumer deception and the risk of contamination in the recycling stream. However, we do acknowledge that this label can result in a loss of material that is technically recyclable. We also recognize that there is room for confusion, particularly for consumers who live in the up to 20% of communities that do accept these materials, as the label may provide conflicting guidance.

Packages with less than 60% access but more than 20% are eligible for “Check Locally” labels as a starting point (other factors may impact the final label). This label category was designed to comply with the Green Guides stipulations on qualifying recyclability claims. Our label displays the words “Check Locally*” within the chasing arrows symbol to cue consumers into the recyclability instructions and the asterisk statement “*Not recycled in all communities.”

We believe that the “Check Locally” label is critical given how diverse our recycling system is. We are continuously working to improve the label and our assessment process and recognize that there is potential for consumer confusion and lack of participation due to the expectations placed on the consumer to “check.” However, the use of this label enables markets to build and prevents the unnecessary loss of valuable material.

As indicated above, the application of the “Not Yet Recyclable” label distinguishes between packaging where little access exists and packages where a good amount of consumers do actually have access.

The use of the chasing arrows in the “Check Locally” tile is intended to enable consumers to quickly recognize that the information pertains to the package's recyclability.

- **Recommendation: Establish clearer guidance on communicating the recyclability of materials that fluctuate around the threshold,** including the definition of a reasonable period for implementing changes to recyclability labeling. A challenging area for our program and companies to navigate is packaging materials or formats that fluctuate near or around 60% consumer access. The heterogeneity and autonomy of recycling programs throughout the US result in constant changes to access percentages. While we base our decisions on reliable data and look for upward trends before making the determination to

change a ruling on a material or format to “Widely Recyclable”, the reality is that 65% can change to 59% relatively quickly in today’s recycling system.

In the past, have downgraded formats due to volatility and erring towards qualifying claims. This is done to ensure that our program is in alignment with the FTC guidance and in the best interest of companies and consumers.

However, for materials that are near the threshold, this can serve to further limit acceptance and overall material reclamation and halt upward momentum. Furthermore, frequent changes can increase consumer confusion and decrease consumer confidence in recycling. It is also important to consider the realities of product manufacturing and distribution, as much can change from the point at which the label is printed and when the product is bought by a consumer.

- **Recommendation: Add further clarity to what constitutes “reuse or use in manufacturing or assembling another item.”** In the absence of concrete guidance as to what constitutes “reuse or use in manufacturing or assembling another item”, How2Recycle has developed an [end market rule](#) in order to assess this element of recyclability.

How2Recycle developed three potential end market categories for assessing the end market of a specific package. A package is characterized as fitting one of the following categories: Strong end markets, Moderate strength end markets, and None or negligible end markets. Based on which end market category applies to a specific package, that package is eligible for certain recyclability designations. Each definition of end markets focuses on several key elements:

- Demand: Whether the recycling industry has signaled meaningful demand for the material.
- Scale: Whether the material is getting recycled at meaningful volumes.
- Value: Whether the material carries meaningful value.
- Time: Whether value for the material has been sustained over a reasonable time period.

In order to meet the standard for having an end market, a package must possess all these characteristics: demand at scale and value across a period of time.

- **Recommendation: Consider adding material health stipulations to the factors necessary to market a product or package as recyclable.** Material health (i.e. the impact of the chemicals or materials used on human health and the environment) is an important factor in determining recyclability. In the absence of guidance, How2Recycle developed a [material health rule](#). How2Recycle may render a package “Not Yet Recyclable” if it contains intentionally added substances that are harmful or potentially harmful to the environment and/or human or nonhuman animal health. We believe that material health is important to

include it as a relevant consideration for issuing recyclability claims for the following reasons:

- Harmful or potentially harmful substances will or could substantially limit the successful circularity of a material long term.
- Precautionary principle: the principle that the introduction of a new product or process whose ultimate effects are disputed or unknown should be resisted.
- Trust of the How2Recycle label and its members in the eyes of the general public.
- Trust of recycled materials in the eyes of the general public.

We consider the following factors when determining whether to prohibit recyclability claims due to material health concerns: Potential harm to human or nonhuman animal health or the environment, persistence of the material, stability of the material, mobility of the material, bioavailability of the material, bioaccumulation of the material, solubility profile of the material, potential impacts of the material's degradation products, tradeoffs of the material's use in packaging, whether or not safer alternatives exist for the material, and legislative or regulatory action.

- **Recommendation: Consider adding consumer preparation stipulations to the factors necessary to market a product or package as recyclable.** As the How2Recycle program has developed, we recognized the need to [further specify the level of preparation](#) that is appropriate to ask of the consumer. We take a balanced and common sense approach to determining whether special instruction is appropriate. The program seeks to support packaging innovation and is not overly averse to the use of special instructions where needed, but also recognizes the importance of convenience and ease for the consumer to recycle correctly.

With that in mind, How2Recycle engages in a case-by-case analysis of the packaging to assess whether a special instruction is appropriate per the following:

- How2Recycle will not provide a special instruction to the consumer if it would be unreasonable to ask the consumer to take the special action. Unreasonable may include but is not limited to:
 - The use of tools, such as scissors
 - Actions that require special dexterity
 - Actions that require notable use of force
 - Actions that require special patience or length of time
 - Actions that require any consumer ingenuity (such as finding another package to nest the package inside)
 - Actions that may put the safety of the consumer at risk

If How2Recycle cannot provide a special instruction because the action required would be unreasonable per the above criteria, the entire package will be deemed Not Yet Recyclable.

As we continue to rely on and encourage consumer participation in the recycling system, it is also critical to include accessibility considerations in determining the instructions that we provide.

X. RECYCLED CONTENT

- **Recommendation: Eliminate the terms "used, reconditioned and re-manufactured components" from the definition of recycled content.** With growing emphasis on reusable packaging, it would be beneficial to clearly differentiate between used, re-used and recycled materials. In other words, recycled content claims should be limited to solely the use of recycled materials and we suggest eliminating the potential confusion introduced by the terms "used, reconditioned or re-manufactured components."

[ISO 14021](#) is routinely cited in various standards, both domestically and internationally, as the basis for recycled material definitions. This reference only includes pre-consumer and post-consumer materials and does not include "used, reconditioned or re-manufactured component."

In section (d), we suggest eliminating the final sentence: "No such qualification is necessary where it is clear to reasonable consumers from context that a product's recycled content consists of used, reconditioned, or re-manufactured components."

- **Recommendation: Include guidance on both mass balance and book & claim systems as these methods are used by many sustainability standards for different attributes.** Rather than allowing a "recycled content" claim when using mass balance or book & claim systems, we suggest offering guidance on new claims for these accounting methods. Both of these accounting systems are defined in the recently published "*ISO 22095 Chain of custody - General terminology and models*" yet the standard did not include guidance on claims when using these methods.

These accounting methods have proven to help stimulate new markets for sustainable materials and practices. For example, the Center for Resource Solutions publishes an annual [Green-e Verification Report](#) and includes ample data on the continued growth of voluntary purchases of RECs to support renewable energy generation. We believe a similar approach can help bolster domestic recycling infrastructure but, lacking guidance on the environmental marketing, some companies may be hesitant to support these practices.

Variations on "mix" claims are used by multiple standards for mass balance, including standards published by FSC, ISCC+ and GreenBlue. Furthermore, iSeal best practices

specifically recommends the phrases “supports the production of” or “contributes to” for both mass balance and book and claim systems.

We believe stakeholders would benefit from a separate workshop to share research and best practices associated with both mass balance and book & claim systems when applied to recycled materials (as well as other sustainability attributes).

- **Recommendation: Continue to include both pre-consumer and post-industrial materials to support recycled content claims.** Consumer research conducted in concert with the development of RMS labels indicated that consumers have familiarity with post-industrial and post-consumer recycling and the differences between the two. The Ellen MacArthur Foundation's [Global Commitment program](#) encourages companies to "decrease the use of virgin plastic in packaging" and as such, it is likely that companies will seek to maximize both post-consumer and post-industrial recycled plastics in an effort to do so. Many standards, including GreenBlue's [Recycled Material Standard \(RMS\)](#), offer definitions that align with [ISO 14021](#), and UL has also developed [additional guidance](#) to help interpret definitions for post-industrial materials. Certification standards and guidelines help assure consistent and accurate reporting of the use of recycled materials.
- **Recommendation: Do not allow the use of the chasing arrows (Mobius loop) to convey the recycled content of a product or package.** In order to help eliminate confusion with consumers, we suggest reserving the chasing arrows for only recyclability claims. This topic is covered further in the opening section of our “General Comments” and is included here for emphasis.

- XI. RENEWABLE ENERGY CLAIMS
- XII. RENEWABLE MATERIALS CLAIMS
- XIII. AREAS NOT ADDRESSED BY FINAL
- XIV. CONCLUSION
- XV. REVISED GREEN GUIDES