

and conspicuously disclosed.<sup>9</sup> Such conditions and variables may include, but are not limited to, road or dynamometer test, average speed, range of speed, hot or cold start, and temperature; and

(4) The advertisement clearly and conspicuously discloses any distinctions in “vehicle configuration” and other equipment affecting mileage performance (e.g., design or equipment differences which distinguish sub-configurations as defined by EPA) between the automobiles tested in the non-EPA test and the EPA tests.

[60 FR 56231, Nov. 8, 1995]

## PART 260—GUIDES FOR THE USE OF ENVIRONMENTAL MARKETING CLAIMS

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AUTHORITY: 15 U.S.C. 41-58.

SOURCE: 61 FR 53316, Oct. 11, 1996, unless otherwise noted.

### § 260.1 Statement of purpose.

The guides in this part represent administrative interpretations of laws administered by the Federal Trade Commission for the guidance of the public in conducting its affairs in conformity with legal requirements. These guides specifically address the application of Section 5 of the FTC Act to en-

<sup>9</sup>For dynamometer tests any difference between the EPA and non-EPA tests must be disclosed. For in-use tests, the Commission realizes that it is impossible to duplicate the EPA test conditions, and that in-use tests may be designed to simulate a particular driving situation. It must be clear from the context of the advertisement what driving situation is being simulated (e.g., cold weather driving, highway driving, heavy load conditions). Furthermore, any driving or vehicle condition must be disclosed if it is significantly different from that which an appreciable number of consumers (whose driving condition is being simulated) would expect to encounter.

vironmental advertising and marketing practices. They provide the basis for voluntary compliance with such laws by members of industry. Conduct inconsistent with the positions articulated in these guides may result in corrective action by the Commission under Section 5 if, after investigation, the Commission has reason to believe that the behavior falls within the scope of conduct declared unlawful by the statute.

### § 260.2 Scope of guides.

(a) These guides apply to environmental claims included in labeling, advertising, promotional materials and all other forms of marketing, whether asserted directly or by implication, through words, symbols, emblems, logos, depictions, product brand names, or through any other means, including marketing through digital or electronic means, such as the Internet or electronic mail. The guides apply to any claim about the environmental attributes of a product, package or service in connection with the sale, offering for sale, or marketing of such product, package or service for personal, family or household use, or for commercial, institutional or industrial use.

(b) Because the guides are not legislative rules under Section 18 of the FTC Act, they are not themselves enforceable regulations, nor do they have the force and effect of law. The guides themselves do not preempt regulation of other federal agencies or of state and local bodies governing the use of environmental marketing claims. Compliance with federal, state or local law and regulations concerning such claims, however, will not necessarily preclude Commission law enforcement action under Section 5.

[63 FR 24248, May 1, 1998]

### § 260.3 Structure of the guides.

The guides are composed of general principles and specific guidance on the use of environmental claims. These general principles and specific guidance are followed by examples that generally address a single deception concern. A given claim may raise issues that are addressed under more than one example and in more than one section of the guides. In many of the