

Advertising Guidelines For Lawn Care Products and Services

To help you provide information about your products and services that isn't misleading or incomplete, PLANET developed these Advertising Guidelines in cooperation with the Federal Trade Commission (FTC) and the Environmental Protection Agency EPA — two agencies vitally interested in the kind of information the public receives from the lawn care industry.

Please keep these guidelines on hand as you develop your advertising materials. They apply to all communications with the general public, customers, and potential customers. This includes, but is not limited to, written and verbal communications utilizing any medium, publicity or public relations efforts, and sales and solicitation contacts. Also included is any literature distributed with or without the company's name.

1. Environmental/Health and Safety Issues

The foremost concern of EPA and FTC staff relating to lawn care advertising is the use of safety claims, including those made orally. It is important to note that EPA and FTC, under different statutory authorities, have somewhat different standards regarding safety claims.

EPA's regulations under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) explicitly prohibit safety claims on pesticide labels. EPA regards such terms as "safe," "non-toxic," "biodegradable" or "contains all natural ingredients" as examples of safety claims. These are relative terms and can be misleading to consumers. EPA also regards printed or oral safety claims about a pesticide to be a violation of FIFRA, if such a claim is made in connection with the sale or distribution of pesticide products, which falls under EPA's jurisdiction. EPA's concern is that safety claims detract from the precautionary purpose of pesticide labeling.

FTC's standard for advertising prohibits claims that are misleading or unsubstantiated. This standard is not a blanket prohibition of safety claims; however, as a practical matter, FTC staff would require relatively high levels of competent and reliable evidence in order to substantiate such claims for a pesticide product. One reason for this is that generally pesticides do pose some potential risk. Furthermore, some currently marketed pesticides have incomplete health and/or environmental effects data bases, and thus are undergoing reregistration by EPA. The FTC staff would strongly question the substantiation of safety claims for a product if there were significant data gaps. It should also be noted that comparative safety claims, like safety claims in general, are required to be truthful and fully substantiated by the FTC.

Questions number two and five from PLANET's consumer information brochure "What You Should Know About Lawn Care Products and Services" address this issue:

Question #2

Q. How safe are the lawn care pesticides used by lawn care professionals and homeowners?

A. Homeowners should be aware that the use of pesticides does pose some risk, and their use cannot be made completely safe. The level of risk posed by a chemical depends on its toxicity and the level of exposure. Improper or inappropriate use of pesticides and other lawn care products by either the homeowner or the lawn care professional can increase the level of exposure, which in turn increases the level of risk posed to human health and the environment.

Question #5

Q. Who regulates lawn care products and services?

A. The following are responsible for regulating lawn care products and services:

The U.S. Environmental Protection Agency (EPA). Under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), all lawn care products that contain pesticides must be registered with EPA before they can be lawfully sold or distributed. When EPA registers a product, its approval should not be taken as a recommendation or endorsement of the product. EPA must ensure that the

pesticide, when used according to the label directions, can be used with a reasonable certainty of no harm to human health and without posing unreasonable risks to the environment. To make such determinations, EPA requires a wide variety of scientific studies and tests from applicants, which it reviews to determine if the pesticide meets the current safety standard. EPA is reviewing older pesticides (those initially registered before November 1984) under the FIFRA to ensure they meet current scientific and regulatory standards. This process, called reregistration, considers the human health and ecological effects of pesticides and results in actions to reduce risks that are a concern. An amendment to FIFRA in 1996, the Food Quality Protection Act (FQPA), required EPA to consider the combined exposures from food, drinking water, and other nonoccupational sources, which could include lawn care uses. As the reregistration process is approaching its successful completion, the registration review program mandated by the FQPA will ensure a continuing review of all the pesticides on the market for the future.

The Federal Trade Commission (FTC). *The FTC has regulatory powers covering advertising in any medium, whether transmitted orally or in written form. The FTC requires that all advertising materials and claims, including sales presentations, must be scientifically accurate while not being deceptive to the consumer.*

State Governments. *Virtually all states require licensing and testing before a company can apply pesticides commercially. Many states also evaluate pesticide advertising within their borders. The responsible state agency is usually the Department of Environmental Protection or Conservation, the Department of Agriculture, or the State Attorney General. If you use a commercial lawn care or pest control company, we suggest you be sure the company is licensed in your state.*

2. Pesticide Registration

EPA is concerned about lawn care services describing the products they use as "EPA registered" for two reasons: first, because it implies that other services may be using products that are not EPA registered, which is unlikely and would of course be a violation of the FIFRA; and second, because it suggests to anyone unfamiliar with the registration process an implied safety claim. In fact, since only registered pesticides should be used by either professional lawn services or backyard gardeners, any mention of EPA registration would seem to be superfluous.

If PLANET members do choose to mention EPA registration, EPA would suggest that they provide a full explanation of what this means. At a minimum, the following issues should be addressed:

Limited Meaning of Registration. EPA registration is not equivalent to an EPA recommendation, endorsement, or approval. EPA does not officially "approve" a pesticide product. Rather, EPA registers products for use according to label instructions. EPA regards implications that the Agency endorses products a violation of FIFRA.

Risk/Benefit Balancing. EPA registration does not mean a pesticide is safe. EPA registration is based on scientific data submitted by manufacturers that adequately demonstrates that a pesticide's use will not generally cause "unreasonable adverse effects" to people or the environment. The FIFRA "unreasonable adverse effects" standard also includes consideration of the pesticide's benefits. An EPA registration does not constitute a general finding of a pesticide's "safety," but rather that EPA has not found that the risks exceed the benefits associated with its use.

Older Pesticide Products. It is EPA's position that most pesticides — despite having an EPA registration — should be further tested to determine their effects on people or the environment. EPA requires a wide variety of scientific studies and tests from applicants, which it reviews to determine if the pesticide meets the current safety standard. EPA is reviewing older pesticides (those initially registered before November 1984) under the FIFRA to ensure they meet current scientific and regulatory standards. This process, called reregistration, considers the human health and ecological effects of pesticides and results in actions to reduce risks that are a concern. An amendment to FIFRA in 1996, the Food Quality Protection Act (FQPA), required EPA to consider the combined exposures from food, drinking water, and other

nonoccupational sources, which could include lawn care uses. As the reregistration process is approaching its successful completion, the registration review program mandated by the FQPA will ensure a continuing review of all the pesticides on the market for the future. EPA believes that this is another reason for not saying these pesticides have been tested and found to be safe.

Question number five from PLANET's "What You Should Know..." brochure addresses this topic. Refer to previous page of this document.

3. Misleading Use of Other Terminology

PLANET members should be aware that EPA and FTC staff, in assessing whether claims are deceptive, will be monitoring the intent behind and the implications of words used in lawn care advertising as well as their strict factual meaning. Statements that are literally true can be deceptive if they imply something that is false or only half true. Misleading claims can be considered deceptive, regardless of the intent.

The use of "EPA registered" in such a way as to imply EPA endorsement is just one possible example. The term "organic" can also be misleading. An advertisement that makes a truthful statement about a product or service can be deceptive if consumers are not given the complete picture.

4. Conflicting Information

PLANET members should be made aware that advertising claims should not contradict labeling directions either verbally or visually. For example, ads should not show consumers on a freshly treated lawn if the product label requires reentry intervals. Similarly, ads should not depict the application of pesticides around food if this is prohibited by the label, or depict persons wearing shorts or T-shirts during applications if the label requires wearing protective clothing.

5. Integrated Pest Management Position Statement

The term "Integrated Pest Management" should only be used to describe programs designed to include or combine, to the extent possible, the basic management areas of fertilization, irrigation, mowing and cultural practices, cultivar selection, and pest control, using biological and/or chemical options where available, to achieve customers' expectations. Consumers should be guided away from the concept of a perfect, pest-free landscape. Rather, they should be guided to understand and accept integrated management practices, which control/manage unwanted weeds, insects, and diseases.

Question number eight from PLANET's Q&A brochure addresses this topic:

Question #8

Q. What is Integrated Pest Management, or IPM?

A. An IPM program is one designed to create a healthy lawn with sufficient plant strength and density to survive weed, insect and disease attacks with minimum pesticide use. An IPM program must consider your lawn's specific needs and overall condition. An IPM program requires the support of proper cultural practices including:

- *Proper mowing practices.*
- *Regular watering at a rate that ensures retained moisture levels throughout the root zone.*
- *Core aeration designed to promote root development through reduced soil compaction, improve nutrient and moisture absorption, and discourage thatch development.*
- *Programmed seeding, sodding, plugging or sprigging to enhance lawn density, and to enhance appearance by controlling incursions of undesirable grasses and weeds.*
- *Fertilization to provide essential nutrients that may be deficient in your lawn.*

- *The pH balancing treatments (lime or sulfur) to achieve proper soil acidity levels and improved nutrient absorption.*
- *Regular inspection of lawn areas for early detection of pest presence.*

Simply put, IPM is using the best mix of cultural techniques and discreet use of chemical products in a program of Integrated Pest Management. However, IPM definitions vary among those who use the term. Ask prospective lawn care services or landscape professionals about their IPM definitions, procedures and techniques. This will enable you to choose a provider that will deliver the care you want. Your cooperation in mowing, watering, and regular inspections (for early detection) between the lawn care company's visits is important to the success of the IPM care of your property.

6. Other Issues

The size of the type in printed advertising is less important than the general requirements that the disclosure be clear, prominent, and conspicuous and that it not be contradicted elsewhere in the ad. Disclosures should not be hidden on the back page or through the use of asterisks, and should not be contradicted by other messages in the ad.

Before reaching an agreement with customers, state what services are included. Disclaimers for broadcast media should be made at the same decibel level and speed as the majority of the commercial.

When discussed, price of the service should be fully disclosed. The existence of taxes, surcharges or other applicable service charges, if any, should be revealed.

The name and logo of the company should be clearly visible in print. The company name should be audible in broadcast communications.

All advertising should comply with the appropriate regulations and restrictions of federal and state laws. You should also have your attorney review your advertising annually.

7. Definitions

EPA has concerns about some companies' definitions of terms they use in advertising.

Organic (whether used in reference to fertilizer or pesticide): The definition of "organic", based on a product's chemistry, may be accurate from a scientific standpoint. But it is likely to mislead many members of the public who are likely to interpret "organic" to mean a product is naturally occurring and not synthetic. EPA staff would regard this as a serious abuse. Companies should also not use "organic" according to its technical definition (i.e., pertaining to the chemistry of carbon compounds) because customers are likely to interpret "organic" to mean a product is naturally occurring and not synthetic.

Question number nine from PLANET's "What You Should Know..." brochure addresses this topic:

Question #9

Q. What do the terms "natural" and "organic" mean with regard to lawn care products?

A. There are no universally accepted definitions, but commonly accepted definitions of these terms are:

Natural. A product derived from animal/biological, mineral, or plant sources, in a form substantially as it occurs in nature. The materials may be altered or manipulated to put them in a physical form that allows them to be efficiently used in the application process by homeowners or service providers.

Organic. Any substance containing the element carbon is, by technical definition, organic. Both naturally occurring and man-made products may be organic. The common misconception that organic and natural have the same meaning may cause the nontechnical consumer to believe that a man-made organic material is natural when it is not.

Natural-Based. This term is generally used to describe a mixture of materials that includes some materials that may be properly described as natural. The portion that is natural is frequently undefined. The other portion may be man-made pesticides or fertilizers.

Organic-Based. Generally used to describe a mixture of materials that includes some organic materials. The portion of the product that is both organic and natural is frequently undefined. The other portion may be man-made pesticides or fertilizers.

It is important to understand that "natural" or "organic" products are not free from risk.

If any of the above terms are used by your lawn care professional, ask what they mean. You also may want to ask some of the following questions:

- Do the products used or services rendered contain or use any materials that are subject to EPA regulation and registration? Any product claiming to prevent, destroy, repel or mitigate any pests insects, weeds, or disease, etc., requires state and EPA registration and is classified as a pesticide.
- Are these materials man-made or naturally occurring?
- Are weed, insect, and disease controls a part of the product or service?
- What proportion or percentage (25 percent, 50 percent?) of the active ingredients and of the total applications are man-made materials?

The questions and answers included in this document were taken from PLANET's consumer information brochure, "What You Should Know About Lawn Care Products and Services."

ADDITIONAL RESOURCE: A federal government Web site *business.gov* now serves as a one-stop resource for businesses needing compliance information, federal forms, and government compliance contacts. This official business link to the U.S. government searches compliance information from all major U.S. federal government agencies regulating or serving businesses, helping businesses save time and money.



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LandcareNetwork.org

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