



The Chemical Company

December 10, 2010
via online webbased docket system

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

Re: Proposed, Revised Guides for the Use of Environmental Marketing Claims, 16 CFR Part 260
Project No. P954501

Dear Federal Trade Commission:

BASF Corporation is pleased to submit the following comments and information for use by the Federal Trade Commission ("FTC") during the review process of the Proposed Revisions for Use of Environmental Marketing Claims ("the Green Guides").

BASF Corporation ("BC"), headquartered in New Jersey, is the North American affiliate of BASF SE ("BASF"), Ludwigshafen, Germany. BASF is the leading chemical company in the world – The Chemical Company. BASF's portfolio ranges from chemicals, plastics and performance products to agricultural products, fine chemicals and oil and gas. We own a longtime experience in sustainable acting. We use our know-how, which is unique in the chemical industry in the fields of energy, product stewardship, health, safety and environment, to help our customers and suppliers to be more successful. We are committed to leading industry towards greater sustainability, transparency and responsible interaction with both the environment and society.

Our activities include eco-efficiency analysis for our products. Eco-efficiency analysis examines the entire life cycle of a product or process "from cradle to grave", i.e. all the way from raw material sourcing, to product manufacture and use, to disposal. Because of our commitment to understanding the impacts of our products and process, BASF has done over 400 life cycle analyses globally. Because of our commitment to sustainability, we are listed on prominent indices such as the Dow Jones Sustainability Index and the Carbon Disclosure Leadership Index. BASF is highly committed to integrity in making environmental claims; and therefore, is strongly supportive of the FTC's objective in revising the Green Guides.

Ongoing profitable performance in the sense of sustainable development is the basic requirement for all of our activities. We are committed to the interests of our customers, shareholders and employees and assume a responsibility towards society. Our business processes are oriented towards adding long-term value and competitiveness. In partnership with our customers, we help them be more successful. To accomplish this, we jointly discover business opportunities and develop products, procedures and services that are on a high scientific and technical level. Furthermore, we have embraced the goals of the chemical industry's "Responsible Care" initiative and apply them.

The FTC's comments regarding "Compostable Claims" (pages 74-80 of the Proposed Revisions to the Green Guides) deal with several different areas of concern to BC. Specifically BC has concerns regarding the Commission's stated positions regarding the existence of sufficient composting infrastructure and operational guidelines for composting, the qualification and proper wording of composting claims, and the use of proper scientific specifications in substantiating composting claims. Specifically, BC would like to provide comments related to substantiating compostable claims through the ASTM Specifications as they apply to large-scale composting facilities.

Substantiating Compostable Claims through the ASTM Specifications

The FTC's comments in the Proposed Revisions to the FTC Green Guides question two areas relating to the compostability specifications:

- The validity of the current ASTM Composting Specifications as they relate to real world versus "optimum" laboratory conditions, and the usefulness of the specifications for all composting rather than separating out the usefulness of those specifications for industrial composting only (and not home composting).
- The availability of comprehensive and mandatory operating requirements for large scale composting facilities ("industrial composting"), which gives rise to variability in real world facilities that are not predicted by ASTM Specifications.

BC would like to address these two areas of concern with evidence and asks the FTC to consider our requested changes for the revisions to the Green Guides.

1. While the ASTM Specifications are conducted on the laboratory scale, they represent real world experience, as shown by the acceptance of certification labels and of compostable products in the industry.

Products meeting the current ASTM compostability testing specifications are composting successfully in the majority of industrial composting facilities around the United States of America ("U.S."), and have been doing so for over 7 years. In fact there is significant market growth of compostable plastic products (above 20% in the U.S.) and expansion of requests for third party certification logos – these factors indicate that the products must successfully degrade in industrial composting facilities, if products did not, we doubt there would be market growth or requests for third party certifications. All of these certifications and logos in the U.S. are based on the ASTM testing specifications. Obviously, that standard must apply to real world experience; otherwise the marketplace would not continue to ask for such certifications and logos that are based on the ASTM testing specifications.

A survey by the Sustainable Packaging Coalition in 2010 titled, "Compostable Packaging: Reality on the Ground," was performed from a diverse subset of the industry, ranging in size, composting process and geographic region. The executive summary reported the following conclusions:

- 90% of the 40 facilities surveyed who accept food waste actively accept compostable packaging;
- 67.5% of facilities require compostable packaging to have some type of standard or certification before allowing it in the front gate;
- 82.5% of facilities want a more universally recognizable label of compostability;
- 80% of facilities actively develop food waste programs to increase throughput; and
- 75% of facilities would consider promoting or already do promote the use of compostable packaging in their local communities.

The fact that a large majority of the composters surveyed actively accept compostable packaging, require a standard or certification, and would or already do promote the use of compostable packaging, clearly demonstrates that the composting industry finds value in compostable products and the current certification programs that ensure compostability. Furthermore, most of these facilities believe the harmonization of labels would be a boon to both the packaging and

composting industries, and such harmonization should include products and packaging following some type of testing specification (such as ASTM) and/or certification (such as BPI Compostable certification).

If, as the FTC's proposed revisions suggest, the ASTM and other scientific test specifications currently in use did not represent real world experience, there would be little use of the certification logo programs today, and composting facilities accepting products certified to the ASTM testing specifications would not be accepting compostable packaging. However, just the opposite is true. Growth of certified compostable products in the U.S. has exploded in the past five years, to over 125 products certified today, with many more under development.

The FTC states that the ASTM protocols have significant limitations, one being they do not apply to home compost piles and devices. We believe that by referencing ASTM standards, which are designated for industrial composting facilities, consumers will not be misled. Furthermore, many products made of compostable materials are sold to commercial businesses, which only use industrial composting facilities for disposal, and not sold to home owners with home compost piles or devices. The Sustainable Packaging Coalition survey found that most of the sources of compostable packaging were special events, schools, restaurants and supermarkets -- not residential food waste.

Confusing "home" composting and industrial composting is a common issue. Composting as defined by science through the U.S. Composting Council is, *"...the product resulting from the controlled biological decomposition of organic material that has been sanitized through the generation of heat and stabilized to the point that it is beneficial to plant growth."* Most "home" compost piles would not meet this definition, while industrial composters are required to meet this definition. As managed sites with regulatory oversight from state and local governments, the industrial compost process is well managed and controlled, while "home" compost piles are rarely well managed or controlled. This is why the ASTM D6400 and D6868 test specifications exclude "home" composting, because they rarely produce compost as defined by this scientific definition. The ASTM testing specifications are for industrial composting. There is evidence to support that industrial scale facilities can compost products that meet the ASTM testing specifications.

This brings us to the issue of claims – we agree that claims for ASTM compostability should be precise enough to indicate what type of composting is expected. We certainly would support making claims that indicate that the ASTM testing standard indicates compostability for products in industrial composting facilities and not home compost piles. A standard that applies to industrial composting facilities should not be assumed to apply to the home composting. We believe that by using an ASTM testing standard and related certifications that are intended for industrial composting, the general public will not be misled.

The enormous growth of compostable products along with recognition by the composting industry of the value of certification through ASTM D6400 and D6868 clearly indicate that the compostable testing standards and certifications are in fact relevant, well accepted and offer a needed solution in the world of organics recycling via composting. Furthermore, these testing specifications are not useful for "home" composting certifications because home programs generally fail to adhere to the science of compost.

In summary, BASF Corporation requests that the FTC recognize the ASTM D6400 and D6868 test specifications for compostability as appropriate measures for qualifying claims

of compostability because, in practice, products demonstrated to have met these standards are working in real world industrial composting facilities. The composting industry needs a reference/standard by which to judge suitability of material which can be accepted into their facilities. These ASTM standards are being used and accurately predict real world results for industrial composting facilities.

2. The ASTM Specifications are accurate representations of real world composting, as demonstrated by real world testing performed on BPI/ASTM certified products.

Since 2009, BASF has conducted real world scale composting test at two industrial composting sites. These tests were conducted under real world parameters, with picture and video capture of results, to fully demonstrate that certified compostable products using the ASTM testing standard do biodegrade fully in composting operations. Furthermore, oxo-degradable products while claiming to be biodegradable in compost facilities, but not certified based on the ASTM testing standard, did not biodegrade as claimed.

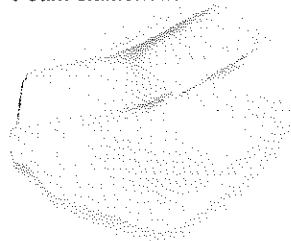
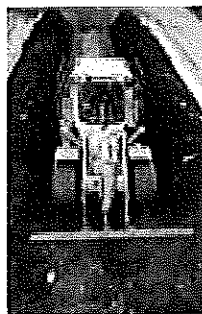
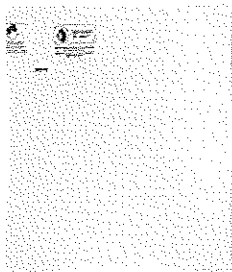
The first test was conducted in 2009 at Grunstadt, Germany, and a video of the results can be found at the following link:

http://www.plasticsportal.net/wa/plasticsEU/portal/show/content/products/biodegradable_plastics/ecovio. The results of the real world test agree with the laboratory specifications of EN 13432 (nearly identical to ASTM D6400), as can be clearly seen in the video. Certified compostable bags biodegraded quickly and safely in the compost process, while oxo-degradable bags, which are not certified under the ASTM testing standard, did not biodegrade at all.

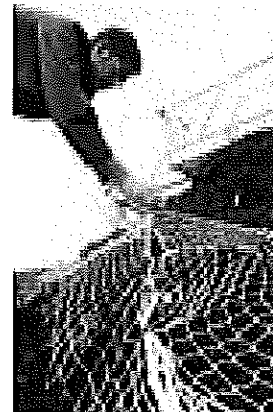
The second real world trial was conducted in 2010 at Norterra Organics in Kingston, Ontario, Canada. This site utilizes a Gore Cover process for compost operations. The pictures below show some of the products tested; the process of placing them into the compost piles; and the results after five weeks in the compost process, representing phase 1 of the three phase Norterra composting process. Again, the real world trial results agree with ASTM D6400 test specification results. The certified compostable bags and foam packaging biodegraded completely with no residues left in the compost. The oxo-degradable bags were left unchanged, retaining their strength through the compost process, despite their claims of being biodegradable.

A video showcasing these results has not been completed yet, but we offer a pictorial review for benefit of the FTC.

Oxodegradable PE bag

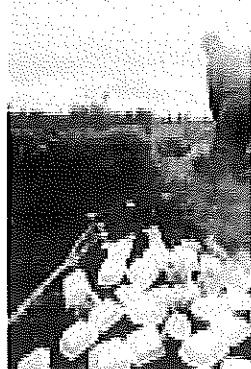
Certified Compostable
Foam clamshellsCertified
Compostable bags

Excavating pile

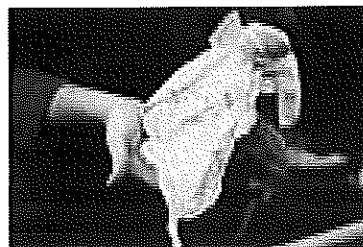


Nylon net secured

Placing bags and foam clamshells

Bags and foam clamshells not found
after phase 1

5 weeks
Phase 1



Oxodegradable bags unchanged after phase 1



These real world tests show, conclusively, that certified compostable products do in fact biodegrade in the compost process, as ASTM D6400 would predict. The suggestion by the FTC that the ASTM D6400 and other test specifications do not represent real world experience or accurately predict performance does not match with the results of these test, or with real world

experience. As noted in the photographs, the items composted are full size products, and not a "small piece of the subject material" as may be indicated in the ASTM laboratory test standards. Furthermore, non-certified oxo-degradable bags which claim to be biodegradable did not degrade in the composting studies. As mentioned previously, oxo-degradable bags which claim to be biodegradable do not pass the ASTM testing specifications for compostability. These results, we believe, offer another reason for maintaining and using the ASTM specifications and the BPI third party certifications programs, as they help to identify misleading claims of compostability and biodegradability as well as help prevent contaminants from entering into the composting process.

We would like to note here that the FTC proposes that "timely manner" means that the product or package will break down in approximately the same time as the materials with which it is composted, e.g., natural plant matter. This seems to be a vague rather than clear definition. The ASTM testing standards set out what "timely" means, and thus further support the need for the FTC to accept the ASTM testing standards and related certifications, which give additional specificity to time of a product breaking down in an industrial composting facility. Such specificity adds clarity to terms, and can provide more opportunity for accurate claims.

In summary, BASF Corporation requests that the Commission consider there is evidence that the ASTM D6400 and D6868 test specifications do accurately represent real world composting.

3. Composting operations are highly regulated through quality assurance programs from the United States Composting Council ("USCC") and there are certified operator training programs, both of which are highly valued and required by most sites.

The USCC manages both compost quality certification programs ("STA") and compost operator certifications (Compost Operations Training Course) for the composting industry to ensure both proper operation and production of high quality compost. These programs are widely regarded as the standard for managing a compost facility, and adherence to these quality and operational standards is widespread within the compost industry. Visit <http://www.compostingcouncil.org/education/training.php> to learn more about these programs.

For the FTC to suggest that the compost industry has wide variability and does not follow well established operational guidelines is inaccurate. A review of the quality assurance programs, compost certification standards and operational guidelines maintained by the USCC clearly proves the composting industry is an industry with regulatory or operational best practices.

In summary, BASF Corporation requests that the FTC reconsider its comments that indicate there are no mandatory operating conditions for industrial composting facilities and that suggest the composting industry is not well managed and regulated. We ask that the FTC recognize the industry quality assurance and operational training programs already in place that assure that products certified as compostable will in fact compost in a timely manner in industrial composting facilities.

Availability of Composting Facilities

4. Lastly, BASF Corporation would like to point out that there are a number of industrial composting facilities.

The U.S. Composting Council has estimated there are more than 3,500 industrial compost facilities in the United States, which take outside waste materials and require state registration and permits (source: BioCycle, 2006, The State of Garbage in America). In fact there is a website at "findacomposter.com" that helps individuals and commercial establishments find a composter in their area.

We appreciate the opportunity to comment on the Proposed Revisions to the Green Guides and ask that the FTC consider our comments and evidence in their revisions. BC takes its responsibility for the sustainable management of resources very seriously and is committed to integrity in making environmental attribute claims. We eagerly await the release of the revised Green Guides.

Best regards,

BASF Corporation