Federal Trade Commission
Request for Public Comment
Guide For the Use of Environmental Marketing Claims; Project No. P954501

Dec. 10, 2010

Increased concern for the environment over the past several decades has led to an explosion of research in the field of environmentally friendly consumer products. Northeast Laboratories, Inc. has been working closely with companies developing new consumer products which biodegrade at greater rates than in the past, conducting testing in accordance with various ASTM and OECD testing methods to assess the biodegradability of these innovative products.

We are concerned that the FTC's reliance on consumer perceptions that biodegradable packaging will disappear within one year is not reflective of the complexity of existing scientific evidence in regards to biodegradability. Restrictions based upon this one year limit may lead to greater public confusion as to the nature of biodegradable products and potentially limits the growth of an industry geared toward bettering the environment.

In conducting biodegradation testing, Northeast Laboratories, Inc. has relied heavily on ASTM D 5511, a method for determining anaerobic biodegradation of plastic materials under high-solids anaerobic-digestion conditions. While ASTM D 5511 does not mimic the conditions of a landfill, we have found it to be a reliable and cost effective guide in determining whether or not plastic products will break down at all. (ASTM D 5526, which determines biodegradation of plastic materials under accelerated landfill conditions, is a dramatically more expensive test to perform. More importantly, there are no "standard" landfill conditions in the United States, as moisture and temperature levels can vary greatly by region and climate. Requiring that companies making biodegradable claims demonstrate biodegradability under the conditions in which their products are likely to be disposed of is a near impossible task.)

In the course of conducting ASTM D 5511, we have found certain polyethylene plastics treated with biodegradable additives to biodegrade in excess of 20% within a matter of months. Under ASTM D 5511 we have seen rates of biodegradation as high as 23% at 60 days and a high as 27% at 106 days. For similar time periods, negative controls of untreated plastics tend to biodegrade at rates well below 1%. Plastics will not biodegrade in a year under any circumstances, but the development of plastics that will biodegrade at all is a remarkable achievement that should not be limited by restrictive advertising standards. Accordingly, we request the FTC revisit the proposed restrictions on claims of biodegradability in favor of a system which takes into account the nature of the products being disposed and the lack of continuity in standards of trash disposal throughout the United States.

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