

ENVIRONMENTAL CORNER

What exactly is biodegradable?

The last several years has seen a boom in “green” products. Recent market analysis has suggested a 1,000% increase in so-called “green” or “biodegradable” products in 2009 alone. And, for good reason – “Green” is in.

The U.S. EPA and Federal Trade Commission are grossly unprepared for such an onslaught of “green” claims. Why? Because, with enough time, everything is biodegradable.

There has been a recent effort by the FTC to crack-down on fraudulent, misleading, or deceptive green advertising. David Vladeck, Director of the FTC Bureau of Consumer Protection, put it in simple terms: “For Kermit the Frog, it’s not easy being green – as those of you with children know. For some marketers, however, it seems to be too easy to claim being green.”

There have been established “green” guidelines by the FTC for some time in Title 16 CFR Part 260, known to the FTC as the “Green Guides”. However, these guidelines are extremely vague and do not actually define what “green” is. In fact, the definition of “biodegradable” has yet to be established by any official U.S. government organization. Even without proper definitions for “green” or “biodegradable”, the FTC has successfully brought litigation against several companies for making misleading “green” claims. Title 16 of CFR Part 260 states that any environmental claim must be substantiated on a reasonable basis by competent scientific evidence. Ok, so what is competent scientific evidence and what is a reasonable claim?

Hopefully, changes with the FTC’s new updated “Green Guides” to be presented at the end of this year will answer our

marketing questions. There still does not seem to be any recognized federal standards for “green” and there still is not a legal definition for “biodegradable”.

This opens up the question as to how to substantiate “green” claims for the FTC? The closest reference available is the U.S. Environmental Protection Agency (EPA). The EPA sets a biodegradation standard of a half-life of 28 days in “Fate and Transport and Transportation Test Guidelines, Office of Prevention, Pesticides and Toxic Substances (OPPTS) 835.3100, Aerobic Aquatic Biodegradation”; and in EPA 712-C-90-O and ASTM D-5864-00, “Standard Test Methods Determining Aerobic Aquatic Biodegradation of Lubricants or Their Components.” Yes, they didn’t quite make it so simple for everyone to find this information!

Currently, the EPA and FTC seem to recognize only two “biodegradability” standards:

1) Readily Biodegradable – A material in which 60% or greater degrades within 28 days.

2) Inherently Biodegradable – A material in which 50% degrades within 60 days or less.

If your product uses “green” phrases such as: “Biodegradable”, “Eco-Friendly”, “Environmentally Preferable”, “Environmentally Responsible”, or any other environmental claim, you will need to back it up with sufficient and competent scientific evidence. What the FTC is trying to accomplish are more specific and descriptive claims for the consumer. What represents sufficient and competent scientific evidence is still up in the air as the FTC has maintained a hands-off and ambiguous approach to standardization of “Green Cleaning”.

For more information on the changes to the FTC’s “Green Guides”, visit: http://www.ftc.gov/bcp/edu/microsites/energy/about_guides.shtml).

