

Lessons Learned from California's Compostable Plastic Labeling Laws



**Californians
Against Waste**

Bioplastics: *Potential* Benefits

Production

- Reduced Energy/Petroleum
- Potential for Renewable Feedstocks

End of Life Management

- Opportunity for Closed Loop Recycling
- Opportunity for Composting
- Litter Abatement?

Bioplastics: Potential Issues

Greenwashing

- Reduce Barriers to Litter
- Promote Single Use



End of Life Issues

- Compost Incompatibility
- Recycling Incompatibility



ENVIRONMENTAL HARM

Scientific Terms/Standards

American Society for Testing and
Materials (ASTM) standards

Standard Specifications

ASTM D6400: “compostable”

ASTM D7081: “marine degradable”

ASTM D6868: “plastic coatings/liners
compostability”

Scientific Standards

Other Standards

ASTM D5511 Standard Test Method:
Biodegradation of Plastics under High-Solids
Anaerobic Digestion Conditions

ASTM D6954 Standard Guide:
Plastics that Degrade in the Environment by
a Combination of Oxidation and
Biodegradation

Scientific Standards

Misleading Use of ASTM Standards:

Green Genius Bags:

PROVEN TO BIODEGRADE USING ASTM D5511, ASTM D5511 is the industry standard for determining biodegradability of plastic in an anaerobic waste disposal environment (like a landfill)

Pride Green Bags:

Have been tested and passed the American Standard ASTM-D6954 for oxo-biodegradability. They degrade, then biodegrade, on land or sea, in light or dark, in heat or cold...

Federal Law

Federal Trade Commission

“Green Guides”

- Clear and Prominent Labeling
- “Reasonable Basis” for environmental claims
- Guidance concerning terms, such as:

Biodegradable

Compostable

Recyclable

California Law

CA Public Resources Code

- Section 42355, limits on “compostability,” ban on “biodegradable”

CA Business and Professions Code

- Prohibits false/misleading claims
- Enforces FTC Green Guides

Senate Bill (SB) 567

- Effective January 1, 2013
- Allows “compostable” (ASTM D6400 or D6868), “marine degradable” (ASTM D7081) and “home compostable” (Vincotte OK Compost HOME) claims
- No degradability claims
- “Plastic product” means a product made of plastic, whether alone or in combination with other material, including, but not limited to, paperboard.
- Readily and easily identifiable labeling

Balance

The Bottle



The Bottom Line:

- Petroleum based PET with Additive
- Not Recyclable
- Not Biodegradable
- Not Compostable

The Hype:



**BIODEGRADABLE
RECYCLABLE**

Pepsi

The Bottle



The Bottom Line:

- Plant based PET
- Recyclable
- Not Biodegradable
- Not Compostable

The Hype: 100% Biobased and Recyclable

“Biobased”



Biota,
biodegradable
water bottle



Dandelion,
Reusable
Cutlery
made from
corn



Sun Chips,
Compostable
Bag

“Additive” Based



Simple Shoes,
Biodegradable
Sneaker



BioGreen,
Biodegradable
Water Bottle



DogPoopBags,
Biodegradable
Pet Waste bag

Green Genius,
Biodegradable Trash
Bags



Whose Getting Hurt by These Violations?

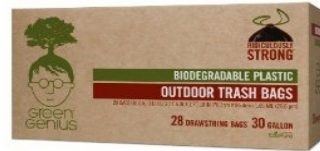
CONSUMERS

PET
Products

Additive
Products



Vs.



**34% MORE
EXPENSIVE**

\$.26 per bag

\$.35 per bag



Vs.



**47% MORE
EXPENSIVE**

\$.066 per oz

\$.097 per oz

Recycling Impacts

- Most bioplastics can't be recycled (with PET)
- Sorting is not (cost) effective: at consumer or MRF level—
further downstream?
- Biobased and Additive based products contaminate the
PET stream.
- Who wants bricks strapped with biodegradable plastic?

Bale Specifications

Recycled plastic requirements for XXXXX Industries

(1) CONTAMINATION:

Bales must not contain more than the specified levels of certain contaminants listed below:

Green PET	20%	Colored PETE	2%
PVC	1%	Metal/Trash	3.5%
Hazardous Med/Ag	NONE	Plastic Bags/Film	NONE
PET Strapping/Shred	NONE	Hypodermic Needles	NONE
PREFORMS	NONE	Biodegradable material or Modified PET	NONE

Composting Impacts



Opportunities:

- Food Scraps: the next frontier

Barriers:

- Compostability: no consistency
- ASTM standard: not representative
- NOP Certification

CAW Enforcement Campaign

Objectives:

1. Identify, expose and where necessary initiate and/or prompt legal challenges to false and misleading environmental marketing claims
2. Begin the process of rebuilding public faith, credibility and value in the appropriate use of truthful and meaningful claims.

Enforcement Campaign, cont.

- Primary goal of enforcement of environmental marketing law through State Attorney General
- Initially focused on plastic bags, bottles, and tableware/cutlery



- Reached out to AG and local district attorneys, recycling and composting industries, others
- Resulted in increased awareness and lawsuits or investigations (Green Genius, Dart)
- And...

Attorney General Kamala Harris Sues

In 2011, Attorney General's office filed a complaint against 3 companies

- ENSO, an additive-based bottle manufacturer
- Balance Water
- Aquamantra

Calls for the bottles, tens of thousands of which are sold throughout CA, to be pulled from shelves, citing violations of several state laws



Lawsuit Settlements

In 2012, settlements with Balance Water Company and Aquamantra

Terms:

- No sale of bioadditive bottles labeled “biodegradable” or “recyclable”
- Full compliance with compostable label laws
- Notification of settlement online (website and online retailers)
- \$11,000 paid to AG (Balance)
- \$12,000 paid (Aquamantra)

Trial hearing for Enso on 2/25/13.



Enforcement – BioBag

How Far?

- Started with “biodegradable” – old products
- Web – found Doggy Bags – “Compostable”
 - Agreed to take that off the products
- THEN – Wanted “compostable” off 3 gallon bags
- THEN – Wanted “compostable” off 13 gallon bags
- DAs – not aware of food waste composting
 - Only knew about San Francisco

Enforcement – How Far?

- Then – “no one uses a 13 gallon compost container in their house” – had to dispel that
- Then – “Tall Kitchen” – appeared to be a trash can and deceiving
- Then ingredients – Mater Bi – deceiving
- Provided DAs with Education! – proved composting existed – food waste diversion

BioBag – Doggy Bag



Enforcement – How Far?

- Removed “Tall Kitchen Bag” – no inference to trash can/trash bags
- Replaced with “Food Waste Bags” – no pictures of container
- “Tall Food Waste Bags” – 13 Gallon

Completely New Packaging



Enforcement – How Far?

- Bottom Line – Need to Educate the Public About Composting
- Need to Educate District Attorneys About Composting
- Enforcement Needs to be Increased on Non-Compostable Products
- Focused Efforts = Success