

# FTC Administrative Law Judge Rejects Commission's Definition of "Biodegradable"

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## Decision Also Reiterates Appropriate Standards for Consumer Perception Surveys

On February 6, 2015, Chief Administrative Law Judge D. Michael Chappell announced his [decision](#) ("[Initial Decision](#)") in the case of FTC vs. ECM BioFilms. The Initial Decision rejects the FTC's position codified in the [FTC's Guides for the Use of Environmental Marketing Claims](#) ("[Green Guides](#)") that "[i]t is deceptive to make an unqualified degradable claim for items entering the solid waste stream if the items do not completely decompose within one year after customary disposal." Judge Chappell was unpersuaded by the survey results submitted by the FTC to support its interpretation of unqualified "biodegradable" claims, ruling that the survey design "fails to comport with generally accepted standards for survey research, as well as the legal standards used by the Commission, and is insufficiently reliable or valid to draw any material conclusions."

[Our advisory](#) provides an analysis of the key takeaways from the Initial Decision.