



**WISCONSIN LEGISLATIVE COUNCIL
STAFF MEMORANDUM**

Memo No. 1

TO: MEMBERS OF THE SPECIAL COMMITTEE ON SINGLE-USE PLASTICS

FROM: David L. Lovell, Senior Analyst, and Larry Konopacki, Staff Attorney

RE: Policy Options Relating to Plastic Packaging, Plastic Films, Market Development, and Local Recycling Programs

DATE: October 12, 2010

This Memo lists policy options for consideration by the Special Committee on Single-Use Plastics. The options were gleaned from presentations made by invited speakers and comments made by committee members at the August 24-25 meeting and from materials provided by committee members, invited speakers, and others. They relate to four topics on which the committee heard presentations at its August 24-25 meeting: plastic packaging; plastic films; market development; and local recycling programs. The list of options is not exhaustive; committee members and others are likely to have further suggestions for the Special Committee to consider.

I. PLASTIC PACKAGING

This section generally focuses on retail plastic packaging.

A. Content and Labeling Requirements

1. Review the current plastic container recycled content law (s. 100.297, Stats.). Consider, in particular:
 - a. Limiting the complying content to post-consumer material.
 - b. Replacing reference to U.S. Food and Drug Administration *approvals* of recycled content in food containers to *letters of no objection*.
 - c. Increasing the minimum content required.

- d. Developing a system, such as the system used in California, that sets recycled content requirements based on individual package designs.
2. Review the current plastic container labeling law (s. 100.33, Stats.). Consider, in particular:
 - a. Extending applicability of this law to additional types of plastic products (it currently applies to “plastic containers”).
 - b. Requiring Department of Agriculture, Trade, and Consumer Protection (DATCP) to adopt a labeling system other than or in addition to the triangular symbol (chasing arrows) system by a certain date. Possibly condition this requirement on whether an alternative national labeling system has been developed.
3. Revise the current law regarding claims of product recycled content, recyclability, or degradability (s. 100.295, Stats.) to provide more severe penalties (currently a forfeiture of \$100 to \$1,000), more enforcement authority or resources for DATCP, or other enhancement.

B. Design Requirements

Prohibit or otherwise regulate or restrict packages that interfere with recycling, such as containers that combine multiple resin types that are incompatible in recycling systems or that combine plastics with other materials in a way that presents challenges to separation and recycling (referred to as “bad bottles” by presenters). Policy options include:

1. Placing statutory requirements on specific packaging designs or material combinations.
2. Adopting a national packaging standard by reference.
3. Authorizing the Department of Natural Resources (DNR) or DATCP to identify and place requirements on specific packaging designs or material combinations.

C. Deposit Legislation

Create deposit requirements for selected products, such as:

1. PETE beverage bottles.
2. Other beverage bottles.
3. Other plastic packages.

D. Increased Producer Involvement in End-of-Life Solutions for Packaging Materials

1. Require producers of plastic packaging to *finance* a program for the recovery of plastic packaging from the general waste stream:
 - a. Define “producer” as the manufacturer, if in-state, or importer of the covered product.

- b. Apply this program to: specific product types identified in statute or by DNR or DATCP; all plastic containers; or all containers regardless of material type.
 - c. Systems financed under this program could be local recycling programs under the current recycling law or new statewide or regional programs administered by the DNR or private contractors.
 - d. The financial obligation of a producer could be based on various measures of the volume and characteristics of the packaging it supplies in this state.
2. Require producers of plastic packaging to *implement* a program for the recovery of plastic packaging from the general waste stream. This option would have similar attributes to the previous option, with the following differences:
 - a. Provide producer flexibility to determine program design as to the degree of cooperation between producers, the entity that will implement the program, and other operational attributes.
 - b. Specify required elements of a program, for example public educational requirements or market development for recycled plastics.
 - c. Specify general or packaging type-specific target recovery rates in statute or by DNR or DATCP rules.
 - d. Specify the degree to which different end-of-life options can be employed, such as recycling of or energy recovery from the recovered materials.
 3. Specify that a producer not in compliance with program requirements is subject to monetary penalties or a prohibition of the sale of its products in this state.

II. PLASTIC FILMS

This section focuses on five categories of plastic film, collectively termed “industrial” plastic film here for convenience. They are: (1) agricultural film, primarily being silo bags; (2) pallet wrap; (3) boat shrink wrap; (4) construction plastic; and (5) horticultural plastic, primarily being plastic film used on hoop houses or used as mulch. The reason for this limitation is that plastic films in these categories represent a major portion of plastic films, and they often are used in a relatively few, discrete locations or in locations that are part of an established distribution system. Plastic films used in packaging are addressed in the preceding section.

A. All “Industrial” Plastic Films

1. Require manufacturers of these categories of plastic film to finance or create a program to recover these categories of plastic film, similar to Option I. D. 1. or 2.
2. Stimulate the recovery of industrial plastic film in one or more of the following ways:

- a. Provide grants or loans for the acquisition of balers at central collection sites or of mobile balers.
- b. Create a program in the University of Wisconsin (UW)-Extension to coordinate the recovery of industrial plastic films from sites such as marinas or farms.

B. Agricultural Plastic Films

1. As a subset of or alternative to Option II. A., require the manufacturers of agricultural plastic films to finance or create a program to recover these categories of plastic film, similar to Option I. D. 1. or 2.
2. Specify a collection mechanism for agricultural plastic films. For example, require that dealers or distributors of these materials collect used materials or maintain drop-off facilities for used materials.
3. Establish a voluntary collection system for agricultural plastic films with state technical or financial assistance.
4. Require each county to maintain drop-off facilities for used agricultural plastic films.
5. Prohibit or otherwise regulate or restrict agricultural films that interfere with recycling, such as films that combine multiple resin types that are incompatible in recycling systems.

C. Other Plastic Films

Consider strategies to reduce the land disposal of other plastic films, such as plastic grocery bags or trash bags.

III. MARKETS FOR RECOVERED PLASTICS

Note that David Cornell, Association of Postconsumer Plastic Recyclers, commented to the committee at its August 24-25, 2010 meeting that supply of recyclable materials and the technical capacity to process them must be developed along with markets for those materials, a metaphorical three-legged stool. The options in this section are applicable to all three legs.

A. Act 335 and Related Programs

This subsection presents options to recreate, or restore funding for, recycling market development activities created by the original recycling law (1989 Wisconsin Act 335) and subsequent acts.

1. Provide grants, loans, or rebates:
 - a. For the development, demonstration, or commercialization of new technologies or to assist new or expanding businesses.

- b. Relating to manufacturing processes that use recovered materials or material handling technologies.
2. Restore the recycling markets development board (repealed in 2003).
3. Restore funding to the UW-Extension for:
 - a. Commodity specialists.
 - b. The industrial recycling assessment program.
 - c. Further outreach and technical assistance activities.

B. Other Options

1. Review and revise the plastic container recycled content and labeling laws per the options under Option I. A. of this Memo.
2. Support the development of innovative technologies for the use of recovered plastics as fuel, using programs such as those described in Option III. A. 1.
3. Review compliance with the current law requirement that state procurement specifications require recycled content where technically and economically feasible. [s. 16.72 (2) (e), Stats.]

IV. STATE RECYCLING LAW; MUNICIPAL RECYCLING PROGRAMS

1. Require consolidation of responsible units, for example, at the county level, with or without exceptions for cities over a specified size or tribal governments.
2. Add materials to the list of materials conditionally banned from landfills:
 - a. Packaging films or other films.
 - b. Materials specified by the DNR in rules.
3. Strengthen existing conditional landfill bans.
4. Direct the DNR to establish guidelines for evaluation of the effectiveness of a local recycling program. Alternatively, develop such guidelines for enactment in the statutes.
5. Require a periodic (e.g., every five years or 10 years) review of each program, in which the responsible unit assesses the effectiveness of its program (based on criteria established by the DNR) and develops a plan to increase the effectiveness of the program. Require DNR approval of the plan.

6. Require municipal recycling programs to implement systems to track individuals' compliance with recycling requirements and to either enforce compliance through penalties or motivate compliance through incentives.

V. OTHER TOPICS

A. Information Reporting

Create reporting requirements related to topics such as the following:

1. Amounts of plastic products in selected categories imported to or sold in Wisconsin, where such reporting will assist program and policy staff to design effective programs or evaluate the effectiveness of existing programs.
2. Amounts of material that are recovered for recycling apart from materials recovered through municipal recycling programs and materials handled through materials recovery facilities.

B. Education

Place greater emphasis on public education regarding obligations and opportunities to recycle by:

1. Requiring local recycling programs to give higher priority to funding education programs or increase enforcement of current requirements that local recycling programs include educational components.
2. Providing funding for statewide and targeted education programs in DNR or UW-Extension.

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