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**GOVERNOR'S SELECT COMMITTEE
ON PACKAGING AND
THE ENVIRONMENT
(SCOPE)**

PROGRESS REPORT

February 22, 1990

**For Governor Rudy Perpich
State of Minnesota**

**MINNESOTA
OFFICE
OF WASTE
MANAGEMENT**



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February 22, 1990

The Honorable Rudy Perpich
Room 130
State Capitol
St. Paul, MN 55155

Dear Governor Perpich:

The Governor's Select Committee on Packaging and the Environment (SCOPE) is pleased to offer its progress report, as requested in your charge to the group.

The committee has met five times, has heard presentations from nationally recognized speakers and is well underway in its deliberations.

In this progress report, we offer recommendations on several issues of relevance to the 1990 Legislature: degradable plastics, the labeling of containers and the efforts of local governments to regulate packaging for environmental reasons.

We hope this first report from SCOPE may be of use to the State in developing a coherent, statewide strategy to achieve more environmentally sound packaging.

Sincerely,

Curtis Johnson

Chair,
Governor's Select Committee
on Packaging and the Environment

Celebrate
MINNESOTA 1990

GOVERNOR'S CHARGE

"The Committee shall recommend a strategy to promote environmentally sound packaging in Minnesota. The goals of the strategy shall be environmental protection and resource conservation; to be achieved through waste reduction and recyclability, consumer education, and a reduction in the toxic components of packaging materials.

"The Committee shall submit a progress report on its work to the Governor by February 1, 1990, along with any recommendations for consideration by the 1990 Legislature. The Committee shall submit its final recommendations to the Governor by August 1, 1990, including recommendations for consideration by the 1991 Legislature."

MEMBERS

Curt Johnson (Chair)

Citizens League

Mark Andrew

Representing Association of Minnesota Counties

Bill Barnhart

Representing Association of Metropolitan Municipalities

Judy Bellairs

Representing Waste Reduction and Recycling Coalition

Bernard Brommer

Minnesota AFL-CIO

Judy Cook

Minnesota Retail Merchants Association

Donald Cryslar

Representing Can Manufacturers' Institute

Senator Greg Dahl

Senate Environment and Natural Resources Committee

Francis Fitzgerald II

Council for Solid Waste Solutions

Joel Hoiland

Minnesota Grocers Association

Representative Bob Johnson

House Environment and Natural Resources Committee

Steve Keefe

Metropolitan Council

Chuck Kutter

Representing Minnesota Waste Association

Bob Long

Representing League of Minnesota Cities

Senator Bob Lessard

Senate Environment and Natural Resources Committee

Dean Massett

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Senator Gene Merriam

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Lynn Morgan

Representing National Solid Waste Management Assoc.

Tom Mortimer

Representing American Paper Institute

Representative Willard Munger

House Environment and Natural Resources Committee

Robert Orth

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Leroy Paddock

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Marilyn Powell

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Minnesota Office of Waste Management

Larry Sawyer

Representing Minnesota Business Partnership

Susan Schmidt

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Representative Jean Wagenius

Legislative Commission on Waste Management

Gerald Willet

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ALTERNATES

Kim Austrian

For Senator Merriam and Representative Wagenius

Mary Ayde

For Chuck Kutter

Chuck Bichler

For Bob Long

Mike Flanagan

For Francis Fitzgerald

Betty Goihl

For Representative Munger

Terry Hoffman

For Lynn Morgan

Joel Jamnik

For Dean Massett

Greg Knopff

For Senator Lessard

Peter Maritz

For Larry Sawyer

Rod Massey

For Jerry Willet

Vern Peterson

For Bill Barnhart

Debra Pfaff

For Senator Greg Dahl

Representative Len Price

For Representative Bob Johnson

John Rafferty

For Steve Keefe

Lola Schoenrich

For Susan Schmidt

Waldo Slagerman

For Bernard Brommer

Pat Van Keuren

For Donald Crysler

Julie Vergeront

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INTRODUCTION

Last year, Minnesotans produced over three million tons of garbage. Most of that tonnage winds up at landfills now. But about half of Minnesota's landfills will reach capacity within five years.

Where to put the looming surplus? Minnesotans, individually and through their legislators, have decided that the solution will be more complicated than simply building more landfills. In fact, there will be several solutions. We can avoid the manufacture of unneeded products and containers in the first place. We can reuse containers and we can make products last longer before we throw them away. We can reclaim valuable materials like aluminum, paper, glass and plastic -- rescuing them from that final trip on the garbage truck -- grind them up, and put them to work in manufacturing more goods.

Inevitably -- despite the best efforts toward recycling, reduction and reuse -- some landfills will be necessary for as long we can foresee. There also will be new incinerators and composting plants. For such facilities, our effort is best spent at making sure that our end-of-the-road waste is disposal friendly. That means non-toxic ingredients, clean to burn, easy to crush, or good for composting.

Just what's going into our trash bags and dumpsters? Of all the garbage we produce, one ton in every three is packaging material: wraps, boxes, trays, bottles and cans. Collectively, then, all these packages have a major effect on the waste stream. But individually, each type of package presents different management problems and opportunities.

- Although the packaging industry has been moving to eliminate pigments and inks that contain heavy metals, some manufacturers still use them. These metals, primarily cadmium and lead, are a concern in incineration and other disposal methods.

- In the Comprehensive Waste Reduction and Recycling Act of 1989 (the SCORE bill), recycling was made a priority in Minnesota. Yet many packages now use blended or layered ingredients that make their recyclability more difficult. These highly engineered packages are on the increase.

- The food packaging industry is producing more single-service packages, with their accordingly higher ratio of packaging-to-product. However, it is true that these smaller packages tend to reduce food waste. It is also true that the industry is using lighter and thinner-walled packaging than ever before.

- Over the last decade, returnable beverage bottles have lost substantial market share to one-way containers.

Nationwide, based on these and other concerns, state and local governments are putting packaging on their agendas for action. The search for solutions has begun in Minnesota as well. In the spring of 1989, six Minnesota cities passed ordinances that would ban environmentally unacceptable food-related packaging.

The Legislature then pre-empted additional cities from passing such laws, and any cities from enforcing them, through June 30, 1990.

What could the State of Minnesota do in the meantime? In November 1989 Gov. Rudy Perpich appointed twenty-nine Minnesotans to serve on the Governor's Select Committee on Packaging and the Environment (SCOPE). He charged the committee to study the subject of environmentally sound packaging. He directed the committee to report on its progress, and make initial recommendations, by February 1990 and to complete its recommendations by August 1990.

The appointees come from the plastics industry; trade unions; glass, paper and can manufacturing; public-interest and environmental organizations; the legislative and executive branches; county and city government; the waste management industry; and the retail sector.

We first met on December 6 and agreed to work on a consensus basis, with the goal of seeking common ground. At that meeting we stated our hopes for the committee and offered research questions to the staff that we believed important to reaching decisions. We noted that the committee's charge is not limited to food packages, but covers the entire range of packaging, including that used for industrial shipments.

Our second meeting was an issues retreat, held January 7-8. We heard and questioned five speakers with environmental, marketing and packaging backgrounds. We also discussed research priorities for the coming months.

Under the charge from the Governor, our first task was to draft this progress report. In it, we offer several recommendations on issues that we anticipate will come before the 1990 Legislature.

Given the work before us, we recommend that the 1990 Legislature and the people of Minnesota be cautious about undertaking new packaging initiatives during the SCOPE process. Because SCOPE was created to study the full environmental context of packaging, we feel the State will gain the most by allowing the committee to complete its study and issue its final recommendations.

DEGRADABLE PLASTICS

One object of our concern is the rapid promotion and acceptance of degradable plastics, without solid information as to their benefits. During a survey of Minnesota consumers last year, over half believed that degradable plastics would play a "very important" role in helping to dispose of solid waste. Some consumer products distributed in Minnesota now advertise that the formulation used will degrade at an accelerated pace after exposure to sunlight or moisture.

This interest is not confined to manufacturers and the public. During the 1988 legislative session, a law was passed that will prohibit State agencies from using any polyethylene disposal bags that are not degradable, effective July 1, 1990.

We recommend that the State not encourage the use of degradable plastics at

this time, based on the following observations:

- There is no consensus among the technical community that degradable plastics will decompose rapidly or significantly inside a modern landfill, which is dry and lacking in light and oxygen.
- The recycling community has stated strong concerns that, as plastic recycling grows in volume, it will be difficult or impossible to prevent degradable plastics from accidentally entering the recycling process, thereby contaminating the recycled plastics and rendering them less marketable.
- There is no scientific consensus that, in the case of degradable plastics left exposed to the weather, those degraded remnants are environmentally sound. In the case of partial decomposition, some animals might be harmed by eating plastic shreds. In the case of complete decomposition, any toxic compounds in the plastic -- particularly in the case of bags formulated with heavy-metal pigments -- will cause a buildup of toxicity at that site.
- There is no consensus that degradable plastics will have a significant effect on reducing urban or roadside litter.

Further, claims of degradability may lull consumers into a false sense of security, by encouraging the feeling that if most plastic packages were degradable, the waste-disposal problem would be well on the way to a solution.

Based upon all these uncertainties and concerns, we recommend that the State not take any action encouraging the use of degradable plastics during the SCOPE process.

Specifically, we recommend that the Legislature repeal Minn. Stat. sec. 325E.045, insofar as that law will prohibit State agencies from buying or using any polyethylene disposal bags that are not degradable, effective July 1, 1990.

We will make recommendations on degradable plastics in our final report. At that time, we will consider whether degradable plastics might be suited for certain specific uses.

LABELING AND CODING OF PLASTIC CONTAINERS

The Society of the Plastics Industry (SPI), acting through The Plastic Bottle Institute, has adopted a voluntary system for identifying certain plastic containers by resin type. The stated purpose is to aid in the identification of containers for recycling. The system applies to jars and bottles of 16 oz. and more, and tubs of 8 oz. and more. According to the system, a manufacturer should mold an embossed label into the bottom of such containers.

That label has a single-digit number surrounded by a triangle made of three chasing arrows. The chasing arrows are essentially the same as the well-known international symbol for recycling. Below the chasing arrows is a letter abbreviation of the resin type for extra identification, such as PETE for polyethylene terephtha-

late. The code identifies six major families of plastic resins, and adds a seventh family for "other" plastics. The seventh family includes multi-layer containers.

Some plastic containers now show the codes, and many manufacturers are in the process of modifying their molding equipment to code additional containers.

The Office of Waste Management has drafted rules on the resin-coding of plastic containers 16 oz. and larger in size. (Proposed Permanent Rules, Chapter 9230). These rules would apply to both embossing on the bottom and printing on the labels.

More than the required number of parties have requested hearings on the resin-coding rules. Some representatives of the environmental and recycling communities argue that the chasing-arrow symbol has a certain specific meaning and should be limited to use on containers made out of materials currently being recycled in significant quantities. Generally, though, they support the idea of embossed number-coding on the bottoms of containers and some kind of unique emblem to distinguish it.

The plastics industry replies that plastic containers often bear several manufacturing-related numbers or letters on the bottom and the chasing-arrows symbol is the clearest way to set off the resin code.

Critics from the environmental and recycling community also argue that the SPI's guidelines set no purity requirements: therefore, a detergent bottle labeled as made of high density polyethylene (HDPE) might be only 90 percent HDPE, with the remainder being copolymers, pigments and other additives. They reason that this shortcoming might jeopardize large-scale recycling or mislead consumers as to recyclability. The rules proposed by the Office of Waste Management would set a 98 percent purity requirement before a container can be labeled as one of the six specific resin categories.

The plastics industry opposes any government-set purity standards that specify minimum percentages. The industry argues that any fixed percentage would go out of date as recycling technology and markets progressed. It would prefer regulatory language requiring only that the blended material, to be labeled as a certain generic resin class, have enough physical and chemical similarity to the generic class that it could be used as a substitute for the generic.

There is yet another controversy, arising from the fact that some manufacturers are using the word "recyclable" on their packaging. The question of whether it is fair to use the word "recyclable" is not limited to its appearance on plastic packages, but applies to packages made from all materials. Does recyclable mean "capable of being used in recycling processes under proven or experimental technology"; "capable of being used in recycling processes under proven technology"; "currently collected for recycling in a significant number of communities"; or "currently collected for recycling in local communities"? We recognize that dictionaries are no help for a question as specific and policy-oriented as this one.

Some producers argue that -- for cities without any plastic recycling -- displaying the word "recyclable" is beneficial because it might encourage consumers in those cities

to demand that their local governments start collecting plastics for recycling. Some environmentalists and recycling coordinators reply that consumers already are asking for plastic recycling, particularly in Minnesota, and no encouragement from manufacturers is necessary.

At this stage of our discussions and research, we support the embossed resin-coding of containers as set out in the SPI's classification system. We recommend that the Office of Waste Management proceed with its rulemaking authority to regulate that system.

However, we distinguish the embossing of the resin codes on container bases -- pursuant to the SPI system -- from its more conspicuous use on the printed side panels of containers. We recommend restraint by manufacturers when it comes to printing the SPI resin codes or other indications of recyclability on the side panels of plastic containers, given the fact that the markets and collection systems for general plastic recycling are undeveloped or under development.

In our final report, we will address the difficult question of whether, and under what standards, packages of all types reasonably may display the claim "recyclable."

PRE-EMPTION OF LOCAL PACKAGING AND LABELING ORDINANCES

Six Minnesota cities have passed ordinances, very similar in content, that seek to ban environmentally unacceptable packaging. These cities are Minneapolis, St. Paul, St. Louis Park, Robbinsdale, Shoreview and Coon Rapids. Their ordinances are scheduled for implementation on July 1, 1990, or shortly thereafter. Minneapolis and St. Paul commissioned an advisory group, with members representing a broad spectrum of businesses, recyclers and local governments, to suggest methods of implementation.

Following the passage of these ordinances, the Legislature enacted a law, Minn. Stat. sec. 325E.035, to pre-empt local governments from adopting or enforcing such ordinances. This pre-emption of local packaging and labeling ordinances is scheduled to expire after June 30, 1990.

We note the possibility that more Minnesota local governments may consider the passage of similar ordinances upon the expiration of pre-emption. We also observe that our committee was set up by the Governor to recommend ways that all Minnesotans may achieve more environmentally sound packaging.

Our committee debated extensively the merits of pre-emption legislation. A majority of the members favor no extension of the present pre-emption. Other members feel that pre-emption is a useful tool to reserve this policy area for the state, but that ordinances already passed represent a valuable laboratory in developing the state's eventual policy framework on packaging.

The committee, representing the multiple sectors involved with packaging policies, has committed itself to work for restraint on all sides -- as to extending pre-emption and as to further proliferation of local packaging ordinances -- during the

period necessary for SCOPE to produce recommendations and for the Legislature to act on them.

On the assumption that our committee will agree on a coherent, statewide plan to achieve more environmentally sound packaging, and that we will present that strategy in our final report due in August 1990, we strongly recommend that local governments not act to adopt any more packaging ordinances before the 1991 Legislature adjourns and therefore has an opportunity to act on our proposals. Further, we urge a concurrent resolution from the 1990 Legislature to this effect, addressed to the local governments and their associations.

While striking this note of caution, however, we endorse the experimental plastic recycling programs now planned in some of the six cities with packaging ordinances, such as those proposed for Hennepin County and the City of Minneapolis by the Council for Solid Waste Solutions.

THE COMING MONTHS

We expect to meet on a bi-weekly basis through August 1, 1990. In the next four months, members and staff will make reports on technical and policy matters. Also, we will continue to invite experts in the field to make presentations.

By June 1990 we will complete the bulk of our deliberations. In the final two months of work, we will complete our recommendations and try to find the answers to any remaining important research questions. We will use a process that is thorough and fair.

In our short life as a committee, we have learned that the subject of how to achieve environmentally sound packaging has many questions. None of those questions appear to have easy answers. For example, how might a state hold suppliers and consumers responsible for the true costs of discarded packaging, yet retain the strengths of a market economy?

And yet, with full knowledge of the complexity of our task, we are optimistic. We are confident that as reasonable people, and with help from the many and diverse organizations represented on our panel, we can produce recommendations of real value.