

## Chapter ATCP 135

## PLASTIC CONTAINERS; LABELING FOR RECYCLING

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Note: Chapter Ag 57 was renumbered chapter ATCP 135 under s. 13.93 (2m) (b) 1, Stats., Register, April, 1993, No. 448.

**ATCP 135.01 Authority.** This chapter is promulgated pursuant to s. 100.83, Stats.

History: Cr. Register, November, 1990, No. 419, eff. 12-1-90.

**ATCP 135.03 Definitions.** The definitions set forth in s. 100.83, Stats., apply to this chapter. For the purpose of interpreting s. 100.83, Stats., and this chapter:

(1) "Carton" includes an individual, separate, rigid plastic cup, if the cup is originally used to contain a product that is the subject of a retail sale.

(2) "Container" does not include:

- (a) A container's lid.
- (b) A tray originally used to contain meat or other foods for retail sale.
- (c) A one quart or smaller mesh basket originally used to contain berries or other foods for retail sale.
- (d) A container used to hold pesticides.

(3) "Department" means the department of agriculture, trade and consumer protection.

(4) "Rigid" means relatively inflexible and self-supporting when empty.

Note: The above definitions provide additional detail to the larger definition of "plastic container" in s. 100.83 (1) (c), Stats., which is as follows:

100.83 (1) (c) "Plastic container" means an individual, separate, rigid plastic bottle, can, jar or carton, except for a blister pack, that is originally used to contain a product that is the subject of a retail sale, as defined under s. 100.30 (2) (h).

Section 100.83 (1) (ad), Stats., defines "blister pack" as a "container in which an item has a covering of plastic film or preformed semirigid plastic and the covering is affixed to a rigid backing." Blister packs are used to package various items, such as lunch meat, hardware and sporting goods that are displayed by hanging the blister packs from hooks.

Under the definition of "plastic container", empty plastic cups sold at retail (such as those sold in quantities of 50 for picnics) are not required to be labeled because they are not "originally used to contain a product that is the subject of a retail sale". On the other hand, empty plastic cups a wholesaler sells to a retailer, which the retailer will fill in order to sell a beverage, must be labeled.

Plastic containers used to hold pesticides can be recycled, but only in accordance with the pesticide label's directions. In most situations, containers holding pesticides cannot be reused. See ch. ATCP 29 for other rules regarding pesticide use and disposal.

History: Cr. Register, November, 1990, No. 419, eff. 12-1-90.

**ATCP 135.05 Labeling.** (1) **TRIANGULAR SYMBOL.** Each plastic container regulated under this chapter and under s. 100.83, Stats., shall have a triangular symbol molded, im-

printed or otherwise attached. Inside the triangle shall be a number and below the triangle shall be a series of letters identifying the resin used in the plastic container, as specified in sub. (2).

(2) **IDENTIFICATION OF RESIN.** To identify the resin used in a plastic container, the following codes are required as part of the symbol under sub. (1):

(a) If the plastic container is made of polyethylene terephthalate, the number "1" and the letters "PETE" with the symbol.

(b) If the plastic container is made of high density polyethylene, the number "2" and the letters "HDPE" with the symbol.

(c) If the plastic container is made of polyvinyl chloride, the number "3" and the letter "V" with the symbol.

(d) If the plastic container is made of low density polyethylene, the number "4" and the letters "LDPE" with the symbol.

(e) If the plastic container is made of polypropylene, the number "5" and the letters "PP" with the symbol.

(f) If the plastic container is made of polystyrene, the number "6" and the letters "PS" with the symbol.

(g) If the plastic container is made of other resins or of multiple resins, the number "7" and the word "OTHER" with the symbol. A plastic container whose label or base cup is composed of a different resin shall be labeled according to the container's principal resin.

(3) **LABEL SIZE.** (a) Except as provided in par. (b), the height of the triangle required under sub. (1) shall be at least one-half inch. The numbers and letters required under sub. (2) shall be at least one-fourth the height of the triangle.

(b) If a plastic container is designed such that a label of the size specified in par. (a) cannot be added to it, a smaller label may be used, if the label can be easily read at a glance.

Note: Using a recycling symbol would satisfy the requirement that a triangular symbol be incorporated in the label, such as the following examples shown below. A simple triangle can be substituted for the recycling arrows.



LDPE



PS



HDPE

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The prohibition against selling unlabeled plastic containers in s. 100.33, Stats., applies to sales and offers to sell made by manufacturers, distributors, those who place products in regulated plastic containers and retailers. The law does not specifically impose the duty to label on any one of these parties, but s. 100.33 (2), Stats., conveys an intent that primary labeling responsibility will fall first on plastic container manufacturers and next on those who place products in plastic containers.

**History:** Cr. Register, November, 1990, No. 419, eff. 12-1-90.

**ATCP 135.07 Variances.** The department may grant a variance from this chapter, as provided in s. 100.33 (3m), Stats., if the requester can prove that labeling a type of plastic container is technologically impossible.

**History:** Cr. Register, November, 1990, No. 419, eff. 12-1-90.

**ATCP 135.11 Penalty.** Each violation of these rules is subject to a forfeiture of not more than \$500, as provided

in s. 100.33 (4), Stats. Each day of violation constitutes a separate offense.

Note: Section 100.33 (3), Stats., staggers the dates when the labeling requirements for plastic containers first apply:

Type and Size of Container	Eff. Date Wholesale Sales	Eff. Date Retail Sales
16 oz. and larger containers in general	01/01/91	01/01/92
16 oz. and larger nonbeverage bottles	01/01/91	01/01/92
8 oz. and larger beverage bottles	01/01/91	01/01/92
8 oz. and larger containers in general	01/01/92	01/01/93
8 oz. and larger nonbeverage bottles	01/01/93	01/01/94

**History:** Cr. Register, November, 1990, No. 419, eff. 12-1-90.