



**Plastic Shipping
Container Institute**



Legislative Review Recycling, PCR and Sustainability

PSCI Chicago October 26, 2022

Today's Presentation

- Review of California's RPPC "Rigid Plastics Packaging Container" Program
- Review of California Senate Bill No. 54 (SB-54)
- Review of NJ Senate Bill 2515
- Review of other States' pending legislation
- UK Update

Background into CA Law

- Enacted in 1991
- Original Implementation was 1995 but Bill did not gain any traction until January 1, 2013
- Amended again in 2013 because CA gov't admitted the previous regulations were inconsistent, confusing and disorganized. One of the big changes in 2013 was to remove the metal handle exemption for our containers
- Anyone or any of our customers requiring detailed information can refer to the RPPC@calrecycle.ca.gov website

Who Is Subject to RPPC Regulations?

- Product Manufacturers – the entity primarily responsible for “causing a product to be produced that is held inside of an RPPC and sold or offered for sale in California”
- Container manufacturers are not subjected to the Regulations, but pail manufacturers would have to support any customer being audited
- Rigid plastic articles that are sold empty are not subjected to the Regs

What is an RPPC?

- Articles made entirely of plastic, except incidental portions of the package (eg – lids, caps, handles)
- Have a capacity of at least 8 fluid ounces but no more than 5 gallons (actual capacity)
- Capable of at least one closure
- Can maintain its shape while holding a product

Exemptions from RPPC Definition

Articles used to package:



Examples of Non-Exemptions from RPPC Definition

Articles used to package:



Compliance Options

- Production with at least 25% Post Consumer Resin (PCR) – at this time regrind or Post Industrial Regrind (PIR) does not count toward the %
- Source-reduction (also know as light-weighting). The resin in the container must be reduced by 10% compared to the same container in 1995. If our filler can demonstrate that they are using a lighter container for the same product, they would be in compliance (eg – they converted from a .090” pail to a .080” pail)
- One cannot achieve source reduction by “resin switching”
- Reuse or refill at least five times (purchase a pail and then bags of same product to refill container)
- Recycling rate of 45% if it is brand specific or a particular type of RPPC

Certification Process

- Pail manufacturer customers are subjected to this process. The certification process takes a phased approach over several years:
 - Registration
 - Precertification
 - Compliance Certification
- Product Manufacturers are selected randomly by CalRecycle. Each of the steps above have a predetermined timeline
- If one of our customers are selected for this certification audit, the pail manufacturer will be responsible to provide a) contact information and b) documentation regarding post-consumer recycled content or source reduction

Certification Process

CalRecycle RPPC Certification Process Timeline: Sample Summary of a Cycle

		CalRecycle Actions			Product Manufacturer (PM) Actions					Key Milestones			
Year		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
	Ongoing Registration	CalRecycle continually notifies PMs subject to the law to register											
		PMs must register within 90 days of receiving notice											
1	Pre-certification	PMs receive notice in Jan	PMs must submit information within 90 days										
2	Compliance Certification Selection			PMs receive notice in Mar									
		← Measurement Period →											
3	Compliance Certification Submission	PMs must submit Compliance Certification for Measurement Period by April 1											
4	Fines & Penalties	On or before July 1, CalRecycle posts a list of fines or penalties (if any) levied											

- Timeline available at: <https://www.calrecycle.ca.gov/Plastics/RPPC/Certification/>

Background into CA SB-54

- Signed into law on June 30, 2022, with bi-partisan support in both the CA Senate and House
- Key features of the Bill include setting a 65% recycling rate target by 2032 (currently 13% for plastics), 25% reduction in single-use plastics and putting in place an extended producer responsibility (EPR) system for packaging that will require companies to pay more than \$500 million a year for a decade into an environmental cleanup fund
- With the passing of this law a Nov. ballot initiative was dropped. This would have required a 1-cent tax on single-use plastics and banned expanded polystyrene

Hi-lights of SB-54

- Start with a basic EPR premise that producers of a plastic should be responsible for the end-of-life costs to manage their material, not local ratepayers
- Law requires industries to set up a producer responsibility organization (PRO) by January 2024, to develop plans to meet the law's recycling and source reduction goals. These plans must be submitted and approved by Cal Recycle
- Materials to be compostable or recyclable within 10 years
- Materials other than plastics, covered by this law include single use packaging, plastic coated paper products, multilayer flex packaging, foodservice ware, wraps and wrappers sold in foodservice

Exemptions from SB-54

- Articles used to package:
 - Medical products, medical food, medical devices, prescription drugs
 - Animal drugs/medicines, animal products
 - Oral nutritional/dietary supplements
 - Products regulated by the Federal Insecticide, Fungicide and Rodenticide Act
 - Hazardous Materials
 - Beverage containers (these are subject to another Act)
 - Medical Devices
 - Packaging associated with products covered under the architectural paint recovery program.
 - There are provisions in the Bill to exempt certain forms of packaging where companies can demonstrate reuse or refilling by consumers, multiple times

Background into NJ Bill 2515

- Signed into law on January 18, 2022
- Law is intended to stimulate recycling markets in NJ and to improve their current recycling rate of 9%
- Quote by one of their legislators “NJ’s communities, shorelines and parks are facing a severe plastic pollution crisis. Of course, we can’t recycle our way out of this crisis. We need to use less virgin plastic and this Bill will set a national standard that will move us forward to more recycled content...”
- There is another Bill under consideration called the “Packaging Product Stewardship Act”. This Bill falls under the category of Extended Producer Responsibility (EPR) legislation and has far more reaching ramifications to our industry. Topic for another day.

Hi-lights of the NJ Bill

- Administered and enforced by the NJ Department of Environmental Protection
- Applies to rigid plastic containers, beverage containers, glass containers, paper carryout bags, plastics carryout bags, plastic trash bags. Note does not apply to metal containers
- “Rigid plastic container” means a container made of plastic that has a relatively inflexible finite shape or form, has a minimum capacity of eight fluid ounces or its equivalent volume and a maximum capacity of five fluid gallons or its equivalent volume, and is capable of maintaining its shape while empty or while holding other products.

Hi-lights of the NJ Bill

- Beginning two years after the effective date of this act, all rigid plastic containers sold, offered for sale, or used in association with the sale or offer for sale of a product in the State by a manufacturer shall contain, on average, at least 10 percent postconsumer recycled content. (2024)
- Beginning five years after the effective date of this act, and every three years thereafter, the percentage of postconsumer recycled content required for rigid plastic containers pursuant to this section shall increase by 10 percent, until reaching 50 percent.
 - 2024 – 10%
 - 2027 - 20%
 - 2030 - 30%
 - 2033 - 40%
 - 2037 – 50%

Hi-lights of the NJ Bill

- A rigid plastic container shall be exempt from the postconsumer recycled content requirements of subsection a. of this section if it:
 - (1) is a plastic beverage container, to which the requirements of section 4 of this act shall apply;
 - (2) is associated with a product produced in or brought into the State that is destined for shipment to a destination outside the State, and that remains with the product upon shipment;
 - (3) contains drugs, dietary supplements, medical devices, or cosmetics as those terms are defined in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. s.301 et seq.; (Similar to CA)
 - (4) contains toxic or hazardous products regulated under the “Federal Insecticide, Fungicide, and Rodenticide Act,” 7 U.S.C. s.136 et seq.; (Similar to CA)
 - (5) is manufactured for use in the shipment of hazardous materials and is: (a) prohibited from being manufactured with used material by federal packaging material specifications set forth in 49 C.F.R. s.178.509 and 49 C.F.R. s.178.522, (b) is subject to the testing standards set forth in 49 C.F.R. s.178.600 through 49 C.F.R. s.178.609, or (c) is subject to the recommendations of the United Nations on the transport of dangerous goods; (Similar to CA) or
 - (6) is a refillable container or a reusable container. For the purposes of this paragraph, “refillable container” means a rigid plastic 1[a]1 container that is routinely returned to and refilled by the manufacturer with the same product packaged by the container; and “reusable container” means a rigid plastic container that is routinely reused by consumers to store the original product packaged by the container. (Similar to CA)

Hi-lights of the NJ Bill

- NJ Department of the Environment may adjust the PCR requirements by rulemaking. In doing so, must consider the following:
 1. Changes in market conditions;
 2. Recycling rates;
 3. Availability of suitable PCR;
 4. Recycling/processing capacity;
 5. Progress made in achieving PCR requirements; and
 6. Any other factors determined by the department through rule, regulation, or guidance.

Any adjustment to the PCR requirements shall be only for a time-period as deemed by Department.

Hi-lights of the NJ Bill

- Producers may request a waiver if the PCR market will not sustain the % requirements listed in the Bill
- Producers must register with Department within six months of Bill signing

Legislation in Other States – Enacted or Pending

- Oregon-SB 582 “Plastic Pollution and Recycling Modernization Act” – only in rule making process at this time. Enactment not expected before 2025. Looking at 10% PCR
- WA State-Senate Bill 5022 – There is an advisory committee comprised of 32 stakeholders. There are various PCR targets depending on the products. RPC's not showing up on radar yet.
- Maine-LD 1541-“Act to Support and Improve Municipal Recycling Programs and Save Taxpayer Money”-won't take effect for a few years
- CO and HI both working to pass extended producer responsibility (EPR) Bills
- Other States considering EPRs include PA, NY, MD, VT, MA, RI, CT, CA, WA and NJ

What is Extended Producer Responsibility (EPR)

- EPR and sustainability legislation has been advanced in Canada and the EU. There is a move within some of the States toward EPR legislation
- In simple terms, EPR is an environmental protection policy, often mandated through legislation under which producers are given significant responsibility, financial and/or physical for the treatment or disposal of post consumer products.
- Rather than burdening the municipality or taxpayer, the costs associated with the sustainable and safe take-back, recycling and final disposal of products and packaging at the end of their lifecycle should remain with the producers, importers and retailers

United Kingdom

- Introduced a Plastic Packaging Tax in April 2022
- To avoid the tax, there needs to be a minimum of 30% **“Recycled Plastic”** in the package
- Tax is paid by the companies who sell their filled plastic products into the marketplace at a rate of 200 sterling per ton
- There is an exemption for manufacturers and importers of less than 10 tons of plastic packaging per year