

California updates container law to encourage more recycled content

By Gayle S. Putrich, Staff Reporter

WASHINGTON — After more than 18 years on the books, changes to California's rigid plastic packaging container (RPPC) regulations for 2013 mean the law will finally be able to do what it was meant to: increase the amount of post-consumer recycled material that goes into packaging sold on California stores' shelves.

State regulators say the changes not only clarify the law and make it easier for product manufacturers to follow, they also open the door for easier communication and partnership between the state, the product manufacturers and the plastic packaging manufacturers.

"It was really about listening to the industry and trying to get program consistency," said CalRecycles' Trevor O'Shaughnessy, section manager for RPPC.

Previously, regulations excluded a container if it could not be sealed more than one time, causing confusion and leaving out different types of containers that did or held the same thing. As of Jan. 1, the first time a container is sealed counts as "one time," including heat-sealed clamshell packaging, which is now counted and regulated as RPPC in California.

Buckets were just one of many oddities under the original law, with those with a metal handle excluded from the RPPC program because they were not all plastic. Now buckets and pails with and without plastic handles are all considered "equal products."

The new regulations explicitly spell out for the first time that resin switching is not permitted as a way to get around the law. But they also stipulate that using

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a 25 percent post-consumer resin or a 10 percent source reduction are among ways to bring a package into compliance. Regrind, however, does not count toward the post-consumer percentage.

Perhaps the biggest change, O'Shaughnessy said, is the implementation of a three-step notification system for product makers.

The first step is registration for product makers selling their products in California. Registration is available on CalRecycles' website and product manufacturers can sign up on their own or wait to be notified by the state.

Second is pre-certification, where the department will notify a select pool of the registered product manufacturers that they could be evaluated, the first round of which will go out in April. Those firms can determine if their RPPCs are compliant using online tools, or request an advisory opinion, O'Shaughnessy said, where regulators will look at their packaging, determine if it falls under the regulations' purview and if it is compliant.

One year after the pre-certification phase comes step three, compliance certification, where groups selected from the pre-certification pool will be asked to report on all of their containers' compliance.

“Through our rulemaking, the department heard a lot of the concerns from the collective industry — the container manufacturers and product manufacturers — about getting enough notice and awareness for those working in national markets that may not have been aware of the original law,” O’Shaughnessy said. “So we developed the phased-in system for better awareness. Before you’re selected, you’re registered, you’re pre-certified. Nothing is getting sprung on anyone.”

Non-compliance means a fine of up to \$100,000 per year for the product makers for any and all phases of the three-step process. And while the measure is primarily focused on the product manufacturer, there is some compliance burden for packagers.

“The responsible party is the product manufacturer that puts the product into the RPPC container,” O’Shaughnessy said. “If we find [the product manufacturer] non-compliant and that non-compliance is due to the container manufacturer, the penalty can absolutely go to the container manufacturer.

“But the burden is on the product manufacturer. They should be getting documentation about recycled content in the packaging from the package manufacturer.”

And if several product manufacturers are found in violation of the RPPC law and are all using the same container maker, that would raise a red flag, O’Shaughnessy said, and could result in a fraud case against the container maker, which would be in the hands of the California state attorney general.

He stressed that container manufacturers are not regulated under the law, but that the new three-step system and the Internet provide a window into the process for the plastics industry that was not available under previous versions of the regulations.

“With these new Web tools, now it’s a little simpler to outreach to container manufacturers. We will never, under the existing California law, produce a list of complainant container manufacturers. We never evaluate a container manufacturer,” he said. “They are not regulated by us, but they can go to our website and they can register and that way they’ll get information on workshops, get on the email list ... they can participate and hear what’s going on, be informed and



Placon designs and manufactures custom and stock retail packaging products that meet or exceed the 25% postconsumer resin compliance option.

join the conversation. And we, as regulators, will be better able to hear their input.”

Laura Stewart, vice president of sales and marketing at Madison, Wis.-based thermoformer [Placon Corp.](#), said that for the most part, product makers tend to be out in front of the push for higher recycled content in packaging, though she said California is the only state with that type of legislation that she is aware of.

Placon had customers as early as the late 1980s and early 1990s coming to it looking to use recycled PET in their packaging, particularly when selling to national chain retailers such as Wal-Mart, which was making an effort to have recycled content in packaging on its shelves.

“We’ve been not so much driven by the regulations as by customer needs,” she said. Customer need has been so great that in addition to thermoforming, Placon has its own closed-loop facility for washing and regrinding post-consumer bottles and thermoform packaging for processing.

Placon’s [EcoStar](#) line, launched two years ago, offers up to 100 percent post-consumer-recycled PET and serves as an example of how much has changed



EcoStar purchases curbside collected, post-consumer PET bottles and thermoforms that have been diverted from waste streams and extrudes them into recycled food and non-food grade PET sheet.

in plastic packaging since California first enacted its RPPC law in the early 1990s.

“If you were making a rigid plastic container 15 years ago, there were not a lot of options for the manufacturers,” said Mark Murray, executive director of Californians Against Waste, which helped push for the initial legislation and has been disappointed in its “weak and spotty” enforcement over the years. “It used

not have the engineering staff to work out compliance issues with the California law.

“Virgin [amorphous] PET to post-consumer recycled is a very easy switch. There’s often a misconception about price with smaller companies or some aesthetic qualities to be worked out. But there shouldn’t be a negative associated with recycled content,” she said.

to be that the excuse was, ‘I don’t know how to get a hold of that much recycled material.’ But now it’s a fairly robust global marketplace, and it’s not even cost-prohibitive anymore. You can get recycled feedstock pretty cheap, especially non-food-contact stock.”

Placon’s Stewart said the key for plastics processors and packagers is to stay flexible.

“We tend to be very market-focused, so we’re looking at what our customer needs are and what their customers’ needs are. The market will find the equilibrium on recycled content,” she said.

Placon also works with smaller product manufacturers that might

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