

Summary and Response to Comments: Proposed Regulations On Existing Rigid Plastic Packaging Container (RPPC) Program Regulations.

Comments received during the Second 15-day Comment Period, April 13 – 30, 2012

Sorted by Comment Number					
<p>Comments received during the 2nd 15-day public comment period Note: Comment numbers starting with "L5" denote comments contained in letters or other written communications received during the 2nd 15-day public comment period. Example: Comment L5-01-02 is the second comment submitted in letter L5-01.</p>					
Comment Number	Commenter	Summary of Comment	CalRecycle Response	Revisions Needed	Adopted Revised Regulations Section/Area
<p>Note: The second 15-day comment period was only for "written comments regarding the changes made for this 15-day public comment period represented within the <i>shaded italics</i>." [See Notice of April 13, 2012.] For completeness of the record, and none of the comments received were regarding these final changes. For completeness of the record, however, we are summarizing the comments and responses here.</p>					
L5-01-01	Pansy Leo, Ropak Packaging and Plastic Shipping Container Institute	<p>On behalf of my employer, I am submitting documents to support previous testimony provided during the October 5, 2011 RPPC Workshop. Specifically, we have concerns regarding the insufficient amounts of consistent, high quality non-bottle HDPR PCR.</p> <p>Provided 2009 National Report on Postconsumer Non-Bottle Rigid Plastic Recycling (Prepared for the American Chemistry Council by Moore Recycling Associates, Feb. 2011).</p>	See L-05-02 and L-05-03.	No change.	17944 (a)(1) and 17943 (aa)
L5-01-02	Pansy Leo, Ropak Packaging and Plastic Shipping Container Institute	The data in this report (2009 National Report on Postconsumer Non-Bottle Rigid Plastic Recycling) is for the U.S. only. Based on the calculations, and out of 163,818,329 lbs. of recovered HDPE, 80,270,981 lbs. (49%) was exported, leaving approximately 56-million-lbs of non-bottle HDPE PCR potentially available in the market in that given year.	<p>According the Economic Impact Study, product manufacturers need 10 million pounds of HDPE to comply with the proposed amended regulations.</p> <p>Also, see L5-03</p>	No change.	17944 (a)(1)
L5-01-03	Pansy Leo, Ropak Packaging and Plastic Shipping Container Institute	As outlined in the Moore Recycling Associates study, there is a need for improving the quality of PCR since quality is not there yet. Consumers are not sufficiently educated on what can be recycled due to lack of clear terminology, resulting in a wide range in quality of PCR recovered and therefore offered for sale.	See L-05-02 and L-05-03	No change.	17944 (a)(1)
L5-01-04	Pansy Leo, Ropak Packaging and Plastic Shipping Container Institute	In terms of domestic supply, pail manufacturers have to compete for domestic sources of PCR with other big users of non-bottle HDPE PCR, such as for shopping carts, crates, railroad ties, plastic pallets, posts, etc.	See L-05-02 and L-05-03	No change.	17944 (a)(1)
L5-01-05	Pansy Leo, Ropak Packaging and Plastic Shipping Container Institute	<p>Plastic pail manufacturers still have difficulty buying 10% of the non-bottle HDPE PCR needed. The biggest issue is getting consistent high quality material.</p> <p>Provided a copy of letter from Darrell Davis, Plastic Shipping Container Institute, to Mark Leary of CalRecycle, dated October 7, 2011.</p>	See L-05-02 and L-05-03	No change.	17944 (a)(1)

L5-02-01	Darrell Davis, Plastic Container Shipping Institute via Pansy Leo, Ropak Packaging and Plastic Shipping Container Institute	There is a critical lack of availability of non-bottle rigid HDPE and PP postconsumer resin for the manufacture of injection molded rigid shipping containers.	See L-05-02.	No change.	17944 (a)(1)
L5-02-02	Darrell Davis, Plastic Container Shipping Institute via Pansy Leo, Ropak Packaging and Plastic Shipping Container Institute	Our best estimate, based upon the "2009 National Report on Postconsumer Non-Bottle Rigid Plastic Recycling", and 2009 Moore Recycling study completed for the Canadian Plastic Industry Association, along with our internal survey of sales for 2009, the supply of PCR is less than half of what is needed by our manufacturers and, indeed, some members have reported that in 2011 they were unable to obtain even 10% of their requirements.	See L-05-02 and L-05-03	No change.	17944 (a)(1)
L5-02-03	Darrell Davis, Plastic Container Shipping Institute via Pansy Leo, Ropak Packaging and Plastic Shipping Container Institute	Manufacturers have experienced and reported a lack of PCR that is certified to meet the quality standards (for safety and performance) required for rigid shipping containers.	See L-05-03.	No change.	17944 (a)(1)
L5-03-01	Allison Schumacher, Consumer Electronics Assn, etc.	We reiterate our deep concern that the proposed change to the definition of RPPC will bring clamshell packaging under the scope of the RPPC program because of the change to include containers capable of at least one (rather than multiple) closures. We urge CalRecycle to exclude packaging containers capable of only one closure (e.g., clamshells).	See L-05-01	No change.	17943 (aa)
L5-03-02	Allison Schumacher, Consumer Electronics Assn, etc.	The Department's objective to "level the playing field" does not justify the proposed change to the definition of RPPC because RPPCs designed for reclosure are significantly different than those not designed for reclosure. Clamshells (sealed) are chosen for protective qualities, anti-theft and retail benefits, and aren't designed for reuse.	See L-05-01 and L3-04-02	No change.	17943 (aa) and (z)
L5-03-03	Allison Schumacher, Consumer Electronics Assn, etc.	Including clamshells as RPPCs will impose enormous cost and design change burdens and logistical difficulties on an industry which does not manufacture on a state-by-state basis. Electro-industry products are sold into broad distribution networks, frequently owned by retailers, which preclude manufacturers from determining where the products ultimately appear for retail sale.	See L-05-01 and L3-04-03.	No change.	17943 (aa) Economic Analysis

L5-03-04	Allison Schumacher, Consumer Electronics Assn, etc.	The compliance options in Section 17944 are not feasible because high quality, reasonably priced postconsumer plastic resins are unavailable or inadequate to meet the electro-industry's needs. Also many of our products are made and packaged overseas requiring the availability of PCM there, and there is no evidence for the economic feasibility of large amounts of recycled plastics in such markets.	See L-05-03 and L-04-04.	No change.	17944
L5-03-05	Allison Schumacher, Consumer Electronics Assn, etc.	The proposed rule may result in unforeseen demand for postconsumer resin, leading to speculative price increases and possible material shortages. We therefore urge CalRecycle to initiate a study of the impact of these regulations on the postconsumer resin market before adopting this rule change. Alternatively, we recommend a phased approach involving smaller percentages of PCM initially required and rising gradually to allow supplies to adjust.	See L-05-03, L2-03-03 and L-04-05.	No change.	17943 (aa); 17944; Economic Analysis
L5-03-06	Allison Schumacher, Consumer Electronics Assn, etc.	The 45% recycling rate compliance option is not feasible because it's too high a rate for packaging that has no dedicated infrastructure or operational mechanism beyond the blue bins. Data from other programs (e.g., glass bottles) suggest the likelihood of achieving a 45% rate is unlikely where no disposal ban exists. We urge CalRecycle to reconsider using resources to monitor and enforce an unachievable recycling rate.	See L-05-02, L-05-03, S-09-01 and L2-03-04.	No change.	17944
L5-03-07	Allison Schumacher, Consumer Electronics Assn, etc.	The reusable and refillable package options are inapplicable for electro-technical products, which are typically packaged in heat-sealed packages to deter theft and pilfering and prevent opening and resealing.	See L2-03-05 and L-05-02.	No change.	17944
L5-03-08	Allison Schumacher, Consumer Electronics Assn, etc.	Eliminating the resin switching allowance in the source reduction option renders source reduction as worthless for the electro-technical industry. We encourage CalRecycle to retain the resin switching option as long as the regulated entity can demonstrate that the resin/material choice produces overall environmental improvements.	See L-05-08 and L-05-02	No change.	17943 (af) and 17944;
L5-03-09	Allison Schumacher, Consumer Electronics Assn, etc.	Because heat-sealed clamshells will be subject to these requirements for the first time and will not be able to take advantage of the averaging method of compliance, CalRecycle should reinstate some compliance options allowed in the past: the "all container rate" option (removed in 2005 by SB 1729), and the resin switching option.	See L3-04-09.	No change.	17944, 17944.1, 17945.5 (b)(2), (c), (d)(4), (e)(5) and (f)(2)
L5-03-10	Allison Schumacher, Consumer Electronics Assn, etc.	We encourage CalRecycle to consider providing new compliance options for newly covered RPPCs.	See L3-04-10.	No change.	17944
L5-03-11	Allison Schumacher, Consumer Electronics Assn, etc.	We urge CalRecycle to include a process whereby regulated entities can petition to have certain RPPCs excluded from the rule for such reasons as unreliable supplies of postconsumer resins, speculative prices for postconsumer resins, and technical or functional considerations unique to the covered packaging.	See L3-04-11.	No change.	17944 and 17946
L5-03-12	Allison Schumacher, Consumer Electronics Assn, etc.	What types of packaging will be covered by the proposed rule?	Regulated RPPC are defined in Section 17943 (aa) of the proposed regulations. All RPPC meeting this definition will be covered by the proposed regulations.	No change.	17943 (aa)
L5-03-13	Allison Schumacher, Consumer Electronics Assn, etc.	What are the responsibilities of companies not selected for certification?	Except as otherwise provided within the law, all product manufacturers, using regulated RPPC, are required to be in compliance at all times.	No change.	17945.2

L5-03-14	Allison Schumacher, Consumer Electronics Assn, etc.	What documents or other information will CalRecycle require to demonstrate compliance with the 25% Postconsumer Material and the Source Reduction options?	The documentation required of product manufacturers certifying under these compliance options is outlined in Section 17945.3 (b), (c), and (d)(1) through (5) of the proposed regulations.	No change.	17945.3
L5-03-15	Allison Schumacher, Consumer Electronics Assn, etc.	How must Source Reduction be measured over time? That is, if a package originally produced in 1996 is reduced in weight by 10% in 2012, will this weight reduction be counted each year until the package is discontinued?	See L-10A-04.	No change.	17945.3 (d)(2)
L5-03-16	Allison Schumacher, Consumer Electronics Assn, etc.	We urge CalRecycle to consider the impact of the expanded scope of these regulations on the State's budget, particularly in terms of enforcement and administrative expenses to oversee the rules.	See L-05-01.	No change.	17943 (aa)