

Environmental Packaging Compliance Tips

By Victor Bell, President, Environmental Packaging International

Published in [STATE RECYCLING LAWS UPDATE Year-End Edition August 1998](#)

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Today packaging and product manufacturers are required to comply with an ever-increasing number of packaging requirements. These range from minimum content standards for rigid plastic containers in California to the maximum allowable empty space for packaging in Korea. The following seven compliance tips should keep you out of trouble and allow you to avoid fines and penalties.

1. Maintain a database;
2. Know where your product or packaging is being sold;
3. Understand the requirements of each state or country in which your packaging or product is being sold;
4. Get signed certifications from your packaging suppliers;
5. Determine the environmental labeling you must use, you can use and you cannot use;
6. Do not assume that your suppliers maintain the data or information you need; and that
7. Perception is reality

For those of you that are selling products only in the US, the following are the major environmental packaging requirements with which you should comply:

- California's Rigid Plastic Packaging Container (RPPC) Law;
- Wisconsin's Rigid Plastic Packaging Container (RPPC) Law;
- FTC Environmental Labeling Guidance;
- The SPI labeling requirements for Rigid Plastic Packaging Container; and
- CONEG Heavy Metal limits.

The California and Wisconsin RPPC's laws are outlined below.

California Rigid Plastic Packaging Container (RPPC) Laws

California is now enforcing their Rigid Plastic Packaging Container (RPPC) Laws. They are mailing certifications to approximately 500 randomly selected manufacturers. As you all may remember in January 1997 the California Integrated Waste Management Board found that the "all-container" recycling rate was between 23.3% and 25.9%, therefore containers sold in 1995 did not require certification. (The PET recycling rate never reached the required 55% and I would not count on this to happen in the near future)

In January 1998, the Board adopted an all-container rate of 23.2%. Because the rate was less than 25%, product manufacturers that used RPPCs during 1996 are required to demonstrate that their containers **were** in compliance with one of the other criteria:

- o Be made from 25% postconsumer materials, as certified by product manufacturers using these containers;
- o Be source reduced compared to a base year, as certified by product manufacturers using these containers;
- o Be reusable or refillable, as certified by product manufacturers using these containers; or
- o Have a recycling rate of 45% for the "product-associated" or "particular-type" containers, as certified by product manufacturers using these containers.

Since it is impossible to know if California will meet the 25% recycling rate until 24 months after you are required to meet it or one of the other criteria. We would recommend that all non-exempt 8oz to 5 gallons RPPC be made from 25% post-consumer material, be source reduced, or be reusable or refillable if sold in California. Further, you need the data to prove it.

Compliance Tip for California.

1. What is a RPPC

- o It is made entirely of plastic, except that the caps lids and labels may be made of some other material;
- o It is a packaging container in which a product is sold, offered for sale or distributed in California;
- o It is capable of maintaining its shape while holding a product;
- o It is capable of multiple re-closures with an attached or unattached lid or cap;
- o It contains a minimum of (8) fluid ounces but not more than five (5) gallons ; and
- o It is normally used to store a product for at least (7) days.

If you have a question as to if your container is a RPPC you can send it to the California Integrated Waste Management Board

1. What containers are exempt

All food, drugs, medical devices and cosmetic containers are exempt from the law. The definitions of food and drugs are quite clear. The definition of cosmetic is given below to show that soap is not considered a cosmetic:

"Cosmetic" means those articles pursuant to the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321 (i), and pertinent regulations in effect as of

January 1, 1994. which are 1) Intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and 2) articles intended for use as a component of any such articles; except that such term shall not include soap as defined in 21 C.F.R. 701.20 (a)(1) and (2). Products intended for cleansing the human body and which are not "soap" pursuant to 21 C.F.R. 701.20 (a)(1) are classified as "cosmetics."

Additionally RPPC's that hold toxic or hazardous product or that are manufactured for use in the shipment of hazardous materials are exempt.

2. Are you eligible for a waiver

You can get a waiver if:

- Your product was or is new to the California market. You will have 12 months to be in compliance.

If you try to claim that it is technologically infeasible to use recycled content material or that the FDA will not allow its use, California now states you must meet one of the other criteria.

1. What records do you need

- If you are using recycled content material;
- Certification for the container manufacturer
- Size, Resin Type, Weight of all resins used, Weight of Postconsumer resin, Percent of Postconsumer resin.
- If you are claiming the source reduction option;
- Certification for the container manufacturer
- Size, Original weight of container, Date of Original container, Weight of source reduced container, Percent Reduction.

Wisconsin

Wisconsin has done little enforcement of its 10% recycled content law. Wisconsin's law requires "at least 10% recycled or remanufactured material, by weight, beginning on January 1, 1995" for all 8oz or greater RPPC. Therefore, Pre, Post and Industry Scrap materials can be counted towards the 10% requirement.

Wisconsin's RPPC law does exempt food, beverage, cosmetic and medical devices. But this exemption is removed if the Federal Food and Drug

Administration has approved the use of the specified recycled or remanufactured content in that plastic container. The regulations state that if a company demonstrates compliance with California's law, then it would meet Wisconsin's law.

Note: Compliance is a lot more complex outside the U.S.