



Japan Machinery Center
for Trade and Investment

March 23, 2023

New Jersey Department of Environmental Protection
401 E State St
Trenton, New Jersey 08608

Dear Sirs,

Our comment on implementation of Rigid Plastic Container Law by State of New Jersey

The Japan Machinery Center for Trade and Investment (“**JMC**”) is a non-profit organization. It was established in December 1952 in accordance with the Japanese Export and Import Trade Law under the authorization of the Minister of Economy, Trade and Industry of Japan. The objective of the JMC is to engage in activities that enhance the common benefit of member companies and promote the sound development of international trade and investment by the machinery industry. JMC comprises member companies engaged in machinery and systems-related exports and foreign investments such as machinery manufacturers, trading houses and engineering companies. At present, the total number of JMC member companies is about 240.

Our committee handles environmental and product safety issues regarding products for trade and is strongly concerned with overseas environment- and product safety-related regulations on products. From this standpoint, we would like to comment on implementation of the Rigid Plastic Container Law by the State of New Jersey.

Rm. 401, Kikai Shinko Bldg., 3-5-8 Shiba-koen Minato-ku, Tokyo 105-0011, Japan

Tel : 81-3-3431-9230 , Fax : 81-3-3436-6455

E-mail : morikawa@jmcti.or.jp

URL : <https://www.jmcti.or.jp>



Japan Machinery Center
for Trade and Investment

If you have any questions, please feel free to contact our secretariat (Mr. Chiaki Morikawa, E-mail: morikawa@jmcti.or.jp)).

Sincerely yours,

A handwritten signature in black ink that reads 'Kanno Yasuhiko' in a cursive style.

KANNO Yasuhiko

Chairman

Environment Law Committee



Our comments on implementation of Rigid Plastic Container Law by State of New Jersey

We have learned from the following FAQ that in order to implement “An Act concerning the use of postconsumer recycled content in certain containers and packaging products (abbreviated as “this act”) and supplementing Title 13 of the Revised Statutes”: Senate Bill S2515), the state Department of Environmental Protection (hereinafter referred to as “NJ DEP”) will develop implementing regulations.

https://www.nj.gov/dep/dshw/recycled-content/recycled_content_faqs.pdf

We are pleased that the implementing regulations will enable manufacturers to take specific steps to comply with this act.

We have been vigorously committed to protecting human health and the environment, to reduce plastic waste worldwide, to voluntarily promote assessment activities that take into account the entire life cycle, and to comply with national regulations. In particular, we have been active in complying with regulations on plastic waste by a number of countries, including the U.S. and those in Europe.

We support the intent of this act to stimulate the market for recycled materials by mandating the use of recycled materials in rigid plastic containers in order to reduce the amount of plastic disposed of in New Jersey landfills and to make better use of resources. However, the implementation of this act on rigid plastic containers used for electrical and electronic equipment (hereinafter referred to as “EEE”) would impose a significant burden on industry, including manufacturers and importers, as well as the American public, in exchange of its contribution to achieving above objective. Therefore, we would like to request that the implementation of this act be carefully considered.

EEE holds a significant amount of precision equipment, and high-quality rigid plastic packaging may be essential to delivering the products to customers in the State of New Jersey without compromising their performance. The rigid plastic container of EEE is not just a packaging material, but also an important component that plays a role in protecting the quality of EEE over the long term, and the introduction of recycled materials requires extremely careful and long-term consideration.

On the other hand, some rigid plastic containers for EEE are also used by consumers to store EEE after purchase, and these packages are unlikely to be disposed of immediately and landfilled, so we believe that regulating them will not contribute much to achieving the original purpose of this act. Therefore, in light of the above advantages and disadvantages, we believe that it is appropriate to exclude rigid plastic containers for EEE from the scope of this act.

If the NJ DEP's conclusion, after sufficient review of the advantages and disadvantages of this act, is that it should be applied to some EEE rigid plastic containers, we would like to ask you to harmonize the regulations across the U.S. so as not to impede the distribution of EEE throughout the U.S.

Thus, we would like to submit the following comments to ensure that the implementation of this act does no more harm to the EEE industry (including manufacturers and importers) or the American public than is necessary to achieve its legitimate objectives.

1. Exclusion of rigid plastic containers of EEE from the scope of this act

EEE is used in a wide range of fields, including medical equipment, infrastructure equipment, and telecommunications equipment, as well as consumer electronics, and are goods constituting the basis of the lives of U.S. citizens.

As a component part of EEE, the rigid plastic container of EEE plays an important role in protecting EEE from shock during transportation, as well as protecting EEE from moisture, toxic chemical substances, and dust in the environment during storage. For this reason, rigid plastic containers for EEE are required to meet the same strict quality standards as EEE. When the recycled materials are introduced, it is expected that the required quality standards will not be met due to aging deterioration of the resin, contamination of toxic chemical substances, etc., requiring long-term consideration including major design changes.

Due to this background, the current situation is that taking into consideration the advantages and disadvantages of using recycled material, the recycled materials have hardly been introduced into rigid plastic containers for EEE. When implementing this act, uniformly requiring the use of recycled materials for EEE rigid plastic containers will lead to a degradation of EEE quality and will be a great disadvantage not only to the EEE industry (including manufacturers and importers) but also to many U.S. citizens.

For the above reasons, we would like to request that rigid plastic containers of EEE be excluded from the scope of this act.

2. Harmonization of rigid plastic container requirements across the U.S.: (align with California Rigid Plastic Packaging Container Law)

Even if NJ DEP's full risk assessment determines that certain EEE rigid plastic containers need to be regulated, we would like to ask that the applicable rigid plastic requirements be harmonized across the U.S. so as not to impede distribution and trade into the U.S.

Specifically, in implementing this act, we would like to request that the scope of application be consistent with the existing California Rigid Plastic Packaging Container (RPPC) Law ^{※1} (hereinafter

referred to as CA RPPC). When exporting to the U.S., we generally cannot restrict EEE's shipments to only certain states, and all products exported to the U.S. will need to conform to a law enacted in single state.

※1 <https://calrecycle.ca.gov/Plastics/RPPC/>

Currently, we are ensuring compliance with the CA RPPC for all EEE shipped to the U.S. and are promoting the introduction of the recycled materials or source reduction for clamshell packages, etc. We are also working to ensure that all EEE shipped to the U.S. complies with the CA RPPC. If this act imposes requirements beyond the CA RPPC, EEE entities will be required to comply with the additional requirements for all products shipped to the U.S. This will require significant design changes and a long evaluation period to ensure quality. If EEE entities cannot ensure quality by the deadline, they will be forced to abandon shipments of their products and electronic components, to the great detriment of the industries and U.S. citizens.

Therefore, we would like to make the following recommendations based on the differences with the CA RPPC. The following is an explanation of the requirements of this act that exceed those of the CA RPPC. The requirements for "rigid plastic containers" in this act and the CA RPPC are largely equivalent, but this act omits the following requirements.

- (1) The definition of rigid plastic container is broader than the existing CA RPPC and covers a wider range of EEE packaging materials (containers without lids; parts trays, etc.).

Extracted from CA RPPC § 17943. Definitions

Rigid plastic packaging containers are capable of at least one closure (including but not limited to closure occurring during the production or manufacturing process), are sold holding a product, and are composed entirely of plastic except that rigid plastic packaging containers may have:

- (A) Caps, lids, labels, handles, hinges, and other incidental packaging elements made of non-plastic material; and
- (B) Additives such as pigments, colorants, fillers, and stabilizers that are part of the plastic polymer compound.

As a result, a wide range and vast variety of rigid plastic packaging containers that "are NOT capable of at least one closure (containers without lids)" and "plastic packaging containers that are NOT composed entirely of plastic," which were previously not subject to the regulation, are now included in the list of containers, for example, from "trays used to store semiconductor components for mounting electronic components" to "trays used to store small EEEs and their components."

EEE manufacturers will need an enormous amount of man-hours and a long study period to select the recycled materials and ensure their quality, and if they are unable to deliver them by the production

schedule deadline, they will be forced to stop shipping their products throughout the U.S. As a result, U.S. citizens will suffer great disadvantages, including difficulties in obtaining EEE that they need for their daily lives.

For these reasons, if the scope of application is to include rigid plastic containers for EEE, we would like to request that “containers that are NOT capable of at least one closure (containers without lids)” or “plastic packaging containers that are NOT composed entirely of plastic” be excluded from the scope, consistent with the CA RPPC.

- (2) “Source reduction”, which is allowed as an option in CA RPPC, is not allowed in this act, and the use of PCR (post-consumer recycled) materials is mandatory.

CA RPPC Container Compliance Options

Source Reduction (achieved by):

Reduced Container Weight: The RPPC’s weight must be reduced by at least 10%.

(14CCR Section 17945.3 (d)(2))

Product Concentration: Product held within the RPPC must be concentrated by at least 10 %. (14CCR Section 17945.3 (d)(3))

Product Concentration and Reduced Container Weight Combination: The RPPC has a combination of increased product concentration and reduced container weight. (14CCR Section 17945.3 (d)(4))

Comparison to Similar Products: The RPPC, when compared to another product manufacturer’s container that is alike in material type, shape, and volume, must weigh at least 10% less. (14CCR Section 17945.3 (d)(5))

We believe that reducing the volume or weight of the product as source reduction will achieve the original goal of the New Jersey Rigid Plastic Container Law. Therefore, we would like to request that the exemption be granted if source reduction is addressed as a Container Compliance Option.

3. Exclusion of certain EEE rigid plastic containers from the scope of application

Although there is some overlap with the explanation in 2. above, we would like to request that at least the following EEE rigid plastic containers be exempted from this act. While revisions to current law may be required for 1. and 2. above, we believe the following interpretation can be clarified by DEP by means of issuing guidance without amending the current text of the act.

(1) Trays for electronic parts

Trays for electronic parts are the type of containers that store electronic components such as semiconductors and are attached directly to mounting machines when mounting on printed circuit boards. They play an important role in protecting electronic components from impacts, moisture, gases, and toxic chemical substances in the environment during transportation, storage, and mounting. Currently, it is difficult to introduce the recycled materials because they may impair the performance of electronic components and lead to degradation of EEE safety. We would like you to clarify that these trays are part of the manufacturing equipment and out of scope of the requirements in the Act.

(2) Plastic trays packaged in paper boxes

Small EEEs are often packaged in plastic trays containing the EEE itself and its accessories and other parts, which are then further packaged in cardboard or other paper boxes. This plastic tray plays an important role in protecting the EEE from impacts, moisture, gases, and toxic chemical substances in the environment during transportation and storage. In addition, since small EEE is directly touched and used by consumers, special consideration must be given to the use of toxic chemical substances and the safety of the EEE, and it is difficult to introduce the use of the recycled materials. This package falls under the category of multi-material packages that the NJ DEP interprets as out of scope in the first place, and should be considered out of scope in the same way as blister packs, etc. As such, if the tray alone is not a complete package and is only complete as a package when integrated with a packaging component made of other materials, such as a paper box, we would like you to clarify that it is not subject to this act.

(3) Corrugated cartons with plastic window

Some small EEEs are shipped directly packed in corrugated cartons with plastic windows, not in plastic trays. Since such packages fall under the category of multi-material packages in the first place, we would like to request that it be clarified that they are exempt from the scope of the act, as is the case with blister packs.

(4) Reel-type tape carrier packages

Reel-type tape carrier packages are plastic packaging containers that are attached to mounting machines to transport and store semiconductors and other electronic components and to mount electronic components on the printed circuit boards. These packages play an important role in protecting electronic components from shocks during transportation and storage, and during mounting machine operation, as well as from moisture, gases, and toxic chemical substances in the environment, making it difficult to introduce recycled materials.

We would like you to clarify that these packages are not subject to this act because they also function as part of the manufacturing facility. In the first place, this reel-type tape carrier package should be excluded from the scope of application because it is flexible and irregularly shaped and does not meet the requirement of a rigid plastic container that “is capable of maintaining its shape while empty or while holding other products.”

(5) Cushioning materials such as EPS

As for EEE, especially for precision equipment, cushioning materials made of EPS or other rigid plastic materials are used to protect products from vibration and impact during transportation.

Although some of these cushioning materials are shaped to wrap the products, it should be clarified that they are not subject to this act because they are not intended to function as containers.

We would appreciate it if you would consider how to implement this act in a way that achieves its objectives and is not detrimental to industry (including manufacturers and importers) and U.S. citizens, with reference to the above comments.

End