Requirements for Expanded Polystyrene Food Service Ware Frequently Asked Questions (FAQ)

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Introduction

The Plastic Pollution Prevention and Packaging Producer Responsibility Act (the law) requires producers of expanded polystyrene (EPS) food service ware to meet specific recycling rates in order to continue selling, offering for sale, distributing, or importing EPS food service ware in or into the state. Producers were required to demonstrate to CalRecycle that they met statutorily mandated recycling rates for all EPS covered material as of January 1, 2025.

This FAQ document is part of CalRecycle's ongoing compliance assistance efforts to help regulated entities understand and comply with the law.

EPS Food Service Ware Requirements

What is the current status of the EPS food service ware requirements?

- As of 2026, EPS food service ware producers have not demonstrated the statutorily required recycling rate for all EPS covered material. As a result, EPS food service ware producers are restricted from selling, offering for sale, distributing, or importing EPS food service ware, in or into California.
    - CalRecycle shares this information through the Packaging EPR email list and webpage.

Who is affected by these requirements?

- Entities with statutory and regulatory obligations under the law related to EPS food service ware include:
    - Producers, as defined in the law
    - Producer Responsibility Organization (PRO)
- Other entities that handle EPS food service ware may experience operational impacts even if they are not producers. These entities include:
    - Food and service facilities, such as restaurants, food trucks, and cafes
    - Retail food facilities, such as grocery stores and markets
    - Institutional food service establishments, such as cafeterias in hospitals, schools, or correctional facilities
    - Consumers
- To help determine your regulatory obligation under the law, refer to the "EPS Food Service Ware Producers" section of this document.

When did these requirements take effect?

- The initial 25% recycling rate requirement took effect on January 1, 2025. Because producers did not demonstrate this rate, they are not eligible to sell or distribute EPS food service ware in California. Future recycling rate requirements increase over time as outlined in PRC section 42057(i). Refer to the "EPS Food Service Ware Recycling Rate" section for more details.

EPS Food Service Ware

What materials are considered EPS food service ware and therefore are currently restricted from sale or distribution?

- Expanded polystyrene food service ware refers to expanded polystyrene as defined in PRC section 42041(k) and single-use food service ware items as defined in PRC section 42041(e)(1)(B). These items include trays, plates, bowls, clamshells, lids, cups, and hinged or lidded containers.
    - For example, clamshell takeout containers, EPS school lunch trays, and to-go drink cups are food service ware and are subject to the sales and distribution requirement described in PRC section 42057(i).

What materials are not considered EPS food service ware?

- Expanded polystyrene materials that are not used to serve or consume food or beverages, such as packaging materials, crafting foam, or sports equipment, are **not** considered EPS food service ware.
    - For example, EPS egg cartons, foam coolers, and foam trays used to sell pre-packaged raw meat are **not** classified as food service ware under the law. These items are **not subject** to the sales and distribution requirements described in PRC section 42057(i).

What can be used instead of EPS food service ware?

- There are many materials available in the marketplace that are suitable for food service ware. CalRecycle does **not** endorse or promote specific material replacements.
- Many jurisdictions in California and across the U.S. have implemented EPS requirements. Businesses operating in those communities may offer insights into successful, market-driven alternatives. Evaluating those examples can help identify viable options.

EPS Food Service Ware Producers

Who is regulated as the producer of EPS food service ware?

- The definition of 'producer' is found in PRC section 42041(w) and 14 California Code of Regulations section 18980.1.1. It applies to producers of covered material, which includes EPS food service ware.
- Please refer to the CalRecycle EPS Webpage and EPS Brochure for more information.
- Industry organizations and the designated PRO, Circular Action Alliance, may also provide educational materials to help businesses determine who qualifies as a producer for a given item.

Who is exempted from this requirement?

- The requirement applies only to producers, as defined in PRC section 42041(w).
- Entities that are not producers are not subject to the sales and distribution requirements.
- Additionally, PRC section 42060 provides exemptions for small producers, retailers, and wholesalers based on size, revenue, number of retail locations, and market share.

What compliance assistance resources are available?

- CalRecycle provides education and assistance to help regulated businesses comply with the law. This will evolve based on the regulated community's needs and may include:
    - **Educational partnerships** with industry organizations (e.g., Circular Action Alliance).
    - **Direct communication** through the packagingcompliance@calrecycle.ca.gov inbox.
    - **Educational materials,** including this FAQ and future guidance documents.
    - **Online resources** on CalRecycle's Expanded Polystyrene Food Service Ware Requirements webpage.

Local Jurisdictions and Recycling Service Providers

How can we prepare?

- Local jurisdictions, special districts, and recycling service providers can prepare by:
    - Reviewing current use of EPS food service ware
    - Identifying and sourcing alternative materials
    - Sharing CalRecycle guidance and resources with local businesses, residents, and interested parties
    - Updating consumer education materials
    - Working with businesses, residents, and other interested parties to support the transition to reusable, recyclable, or compostable options

How might this affect us?

- You may:
  - Receive questions from residents and businesses
  - See a shift in the waste stream from EPS to alternative materials
  - Need to update outreach and education efforts

Owners and Licensees of a Brand or Trademark Associated with EPS Food Service Ware

How might this apply to us?

- Owners or licensees of brands or trademarks associated with EPS food service ware might be considered 'producers' under this law. For more information, refer to the:
  - Compliance Guidance for Owners or Licensees of Private-Label Expanded Polystyrene Food Service ware

If our business is a producer, what must we do?

- If you are a producer, you are prohibited from selling, offering for sale, distributing, or importing EPS food service ware in or into California. For more information, see the:
  - Producer Guidance - CalRecycle Home Page

What if our business is not a producer?

- If you believe you are not considered a 'producer,' you can find additional details in the:
  - Impacted Businesses and Establishments Guidance Document

EPS Food Service Ware Recycling Rate

Who determines if the recycling rate has been met?

- CalRecycle reviews submitted recycling rate demonstrations to determine compliance with the law.

Who must submit the recycling rate demonstration?

- EPS food service ware **producers** must demonstrate to CalRecycle that **all EPS** covered material (including packaging and food service ware) meets the required recycling rate.

What materials are included in the recycling rate demonstration?

- The statewide recycling rate demonstration must include **all EPS covered material** — not just specific products or producers.
- **To calculate the recycling rate, use the following formula:**

Recycling Rate = Weight of EPS covered material recycled / (Weight of all EPS covered material recycled + Weight of all EPS covered material disposed of)

When do the required recycling rates increase?

- Effective January 1, 2025, the recycling rate requirement is 25%.
- According to PRC section 42057(i), future required statewide recycling rates are:
  - 30% on and after 2028
  - 50% on and after 2030
  - 65% on and after 2032, and annually thereafter

When can EPS producers resubmit recycling rate data?

- Producers may submit data **at any time** to demonstrate the recycling rate. To continue selling, offering for sale, distributing, or importing EPS food service ware in or into California, producers must demonstrate compliance with the applicable statewide recycling rate in effect at the time of submission (PRC section 42057(i)).

Enforcement

How are these requirements enforced?

- CalRecycle prioritizes education and compliance assistance. Enforcement is the last step in the compliance process. CalRecycle is currently:
  - Educating producers about their legal obligations and providing support to help them meet those obligations
  - Providing assistance to other members of the marketplace that may be impacted by the law
  - Responding to questions and providing technical support
  - Sharing information with retailers and restaurants to inform purchasing decisions

How can I report noncompliance?

- Use CalRecycle's EPS Public Reporting System to provide details about EPS food service ware you notice in stores or restaurants.
- Email concerns or additional information to CalRecycle through the packagingcompliance@calrecycle.ca.gov inbox.

Other Questions

Is this the first time EPS food service ware has been regulated?

- No. EPS has already been restricted or banned in:
  - 11 U.S. states
  - 131 California communities
  - 250 cities and counties nationwide

Where can I find more information?

- Visit CalRecycle's webpage on the Plastic Pollution Prevention and Packaging Producer Responsibility Act
- Email: PackagingCompliance@CalRecycle.ca.gov
- Sign up for email updates (and review past messages): calrecycle.ca.gov/emailupdates/38-2