LEBENSMITTELVERBAND Deutschland

IK Industrievereinigung Kunststoffverpackungen e.V.

IPV INDUSTRIEVERBAND PAPIER- UND FOLIENVERPACKUNG e.V.

PPWR and plastic food packaging

Information on the exemption from the recycled content obligation under Article 7(5)(a) PPWR (updated)

(revised version: August 2026)

The implementation of Regulation (EU) 2025/40 on packaging and packaging waste (PPWR) poses a challenge for plastic food packaging and raises a number of questions.

Under the definitions of the PPWR, food packaging that is in principle subject to the requirements of Framework Regulation (EC) No 1935/2004 qualifies as so-called "contact-sensitive packaging".

The PPWR prescribes minimum shares (quotas) of post-consumer recycled material (PCR) for various types of plastic packaging; for food packaging, Article 7(1) requires a minimum share of 10 % from 1 January 2030. Among other exemptions, Article 7(5)(a) sets out a general exemption clause for food packaging from the prescribed quotas for

> "*plastic packaging that is intended to come into contact with food where the quantity of recycled content poses a threat to human health and results in non-compliance of packaged products with Regulation (EC) No 1935/2004;*"

Objective

This information paper by the associations IK, IPV and Lebensmittelverband Deutschland addresses the significance of the exemption in Article 7(5)(a) PPWR. The aim is to establish a coordinated interpretation at this early stage, for the information of the respective memberships and as a basis for a common understanding along the supply chains.

Conclusion

The exemption in Article 7(5)(a) PPWR serves as a ***safety-net provision*** in the event that, by 1 January 2030, no (mechanical) recycling processes for plastics other than PET have been authorised for use in food packaging and the Commission has not fulfilled in good time its obligation to assess the authorisation status and availability of corresponding "suitable recycling technologies" and to adopt derogations under Article 7(12). The exemption applies directly and EU-wide to all companies and does not require any measure on the part of the European Commission or a national authority. The European Commission has clarified this in its guidelines on the PPWR. However, a manufacturer relying on the exemption is subject to obligations to provide evidence as part of the technical documentation supporting the EU declaration of conformity.

Reasoning

1. Meaning of the exemption

The exemption in Article 7(5)(a) applies to food packaging with a plastic share (of 5 % or more, see Article 7(5)(b)) where the mandatory *share* of recycled content would result in the (filled sales) packaging posing a threat to human health due to the quantity of recyclate and *therefore* (see the English language version: "*and results in*") being incompatible with the food law provisions of EU Framework Regulation (EC) No 1935/2004.

The following scenarios must be distinguished here:

- From 2030 onwards, the obligation to use recyclates in food packaging made from plastics other than PET could mean that recycling processes would have to be used that are not *authorised* for the manufacture of food contact materials under Commission Regulation (EU) 2022/1616 (hereinafter "Recycled Plastics Regulation (EU) 2022/1616"). This also applies to so-called *novel (recycling) technologies* within the meaning of Article 10 of Recycled Plastics Regulation (EU) 2022/1616, as these have not (yet) been authorised as so-called *suitable recycling technologies* for use in contact with food, and a risk to health can therefore not be ruled out (see below). Accordingly, all packaging for which no authorised recycling processes exist to date for the plastics concerned is exempt from the recycled content obligation. The decisive factor is therefore the inclusion of the respective recycling technology in Annex I to Recycled Plastics Regulation (EU) 2022/1616.

- Alternatively, the Commission could in future set limits on the maximum use of recyclates overall, or limits relating to specific recycled plastics. Should these maximum limits fall below the minimum recycled content quotas, the packaging concerned would be exempt from the corresponding recycled content obligation.

2. Purpose of the exemption

The protection of human health is one of the three main objectives of the PPWR (see Article 1(2) and Recitals 2, 19, 34, 38 and 51), of waste management as a whole (see Article 1 of Waste Framework Directive 2008/98/EC) and of the relevant food law provisions (see the principles of General Food Law Regulation (EC) No 178/2002 and Framework Regulation (EC) No 1935/2004).

By its *wording*, the exemption in Article 7(5)(a) PPWR, which was inserted during the legislative procedure, establishes the ***primacy of health protection and food safety over blanket recycled content quotas,*** where recyclates cannot (yet) be used safely in contact with food.

In systematic terms, this exemption complements the other exemptions in Article 7(4) and serves as a ***safety-net provision***, above all in the first scenario (see above), should no (mechanical) recycling processes for plastics other than PET have been authorised for use in food packaging by 1 January 2030 and should the Commission not fulfil in good time its obligation under Article 7(12) to assess the authorisation status and availability of corresponding suitable recycling technologies. It thus constitutes a packaging-specific expression of the general waste hierarchy, which allows departures in order to protect human health (Article 4(2), third subparagraph, of Waste Framework Directive 2008/98/EC). In its guidelines on the PPWR of 30 March 2026 (Chapter 7, C (2026) 3702 final), the European Commission confirmed that the exemption applies directly to companies.

The mere notification of a so-called *novel (recycling) technology* under Article 10 of Recycled Plastics Regulation (EU) 2022/1616 is not in itself sufficient to rule out a "threat to human health" and non-compliance with Framework Regulation (EC) No 1935/2004. This is because fulfilling the notification

and information obligations for novel recycling technologies merely creates the formal entitlement to place recyclates intended for food contact on the market.

In addition, the substantive safety requirements of the Framework Regulation must be met in full. Furthermore, the notification of a novel recycling technology applies individually to one specific recycling installation only, and not generally to the recycling of specific plastics. Reliance on the exemption in Article 7(5)(a) is therefore possible even if a novel recycling technology has been notified for the plastic concerned.

The legislative history of the PPWR further shows that health protection was also regarded as a ***non-negotiable core***. During the deliberations, it was emphasised that the use of recyclates must not create any risks for consumers (e.g. through contamination) (see e.g. Recitals 48 and 51). This reflects the historical intention to balance EU-wide standards (as in Single-Use Plastics Directive (EU) 2019/904, Article 1 and Recital 14) with the protection of consumer health.

The purpose and intent of the exemption is to protect public health from potential risks posed by recyclates (e.g. due to contamination with chemical residues). The exemption resolves the conflict of objectives between the use of recyclates and health protection in favour of health protection, prevents disproportionate burdens on the food industry and promotes innovation in safe recycling technologies. A "*high level of protection of […] human health*" (see Recital 48 PPWR) presupposes that the only recycling technologies regarded as safe for food contact are those that have been *authorised* as a so-called "*suitable recycling technology*" (see Article 3 thereof) under Recycled Plastics Regulation (EU) 2022/1616. This is reinforced by Recital 50 PPWR, according to which, for plastics other than PET, an assessment is to be carried out ahead of the date of application of the minimum recycled content requirements that also covers the "*state of authorisation* under relevant Union rules and the installation in practice of such technology".

3. Requirements for the manufacturer

A prerequisite for invoking the exemption is that the manufacturer of the packaging or of the packaged product demonstrates in the ***technical documentation*** accompanying the EU declaration of conformity (see Article 15(2) PPWR) that

- for the specifically named ***polymer used***
- ***no suitable recycling technology for this polymer*** is ***listed in Annex I*** to Regulation (EU) 2022/1616 (i.e. authorised).

The Commission confirms this in the PPWR guidelines (Chapter 7). This demonstrates that, in the specific individual case, compliance with the minimum recycled content would result in an infringement of food law safety requirements, since no recycling technology authorised as suitable is available for these plastics and a risk to health can therefore not be ruled out.

In addition, the Commission suggests that the manufacturer should also demonstrate that, for the recycling process,

- ***no recycling technology on an industrial scale*** is available.

The Commission's indication that, beyond the fact of non-authorisation, the manufacturer should also demonstrate that no suitable recycling technology is available on an industrial scale for the manufacture of this polymer has no counterpart in the wording of the legislation; nor do the PPWR, the guidelines or Recycled Plastics Regulation (EU) 2022/1616 specify on what basis an "industrial scale" could be determined.

In this respect, the additional requirements are to be understood as explanatory. In the Commission's view, however, the exemption under Article 7(5)(a) PPWR does not depend solely on whether a recycling technology for a polymer is authorised in abstract terms under Regulation (EU) 2022/1616. The decisive factor is whether a suitable recycling technology for the specific polymer used is actually also available on an industrial scale, so that safe or suitable recyclates for food contact materials can be supplied in sufficient quantities. If this is not the case, meeting the minimum recycled content would compromise safety under food law.

The exemption under Article 7(5)(a) PPWR then applies directly, without the need for prior approval or a separate legal act by the Commission. The manufacturer must document the conditions in the technical documentation pursuant to Article 15(2) PPWR in conjunction with Annex VII PPWR.

Dr. Martin Engelmann
Director General
IK Industrieverband Kunststoffverpackungen e. V.
Kaiser-Friedrich-Promenade 43, 61348 Bad Homburg

Karsten Hunger
Managing Director
IPV Industrieverband Papier- und Folienverpackung e. V.
Kleine Hochstraße 8, 60313 Frankfurt (Main)

Dr. Sieglinde Stähle
Scientific Director
Lebensmittelverband Deutschland e. V.
Claire-Waldoffstr. 7, 10117 Berlin

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