

ESPLASTICOS comments to Draft Ministerial Order for determining when plastic waste undergoing mechanical treatment and destined for the manufacture of plastic products ceases to be waste

TRIS PROCEDURE

Object of the TRIS contribution:

Within the Ministerial Order that establishes the criteria to determine when plastic waste subjected to mechanical treatments and intended for the manufacture of plastic products ceases to be waste in accordance with Law 7/2022, of April 8, on waste and contaminated soils for a circular economy, a differentiation has been incorporated in the event that the products resulting from the recycling process are going to be destined for an application in contact with food.

“Article 4. Recycled plastic material intended for the manufacture of materials in contact with food.

In accordance with the regulations in force at European level, when the destination of the recycled plastic material is going to be the manufacture of materials or articles in contact with food, the waste will reach the end of the waste condition in the facilities of the plastic waste managers that comply with the provisions of Regulation (EC) 282/2008 of the Commission, of March 27, 2008, on recycled plastic materials and objects intended to come into contact with food and by which the Regulation (EC) 2023/2006, and all other applicable European provisions.”

Article 4 of this Ministerial Order requires that the users of the product of the recycling plants become waste managers, in the event that it is destined to manufacture articles for contact with food. Currently this industry does not have the authorization of a waste manager and generates a distortion with respect to the recycled flake from other countries. Specifically, Portugal, the only country with regulations for the end of waste status for mechanically treated plastic waste, in its [Law nº 245/2017](#), does not incorporate this differentiation and considers that the recycled flake regardless of the final application, provided that it meets the requirements set out in LAW 245/2017, it will be considered as a product.

The PET flake already has the capacity to be used directly and can replace the virgin plastic raw material in the manufacturing industry of various plastic products. The PET recycling sector is characterized by the production of PET flakes in plastic recycling plants and the customer, the transformation industry, will be the one that, in the event that it produces items that require food grade, has integrated into its process the super cleaning process, which is a process approved by the EFSA for this purpose, producing food grade rPET. As it is the same flake that already has the capacity to replace the virgin raw material and could be used directly by the transformation industry, it is sent with the safety data sheets and uses the UNE-EN 15348 technical standard, we consider that: recycler that produces PET flake and markets it in this format, can voluntarily request to benefit from this order for all its product without differentiating whether the customer is going to use it for food contact or not.

PROPOSAL:

We request the elimination of article 4 since in our opinion the end of the waste condition should not be related to the food grade, or if its elimination is not considered appropriate, we request the modification of article 4 in the following way:

Producers who want to market recycled plastic as a product will have to comply with the criteria established in this ministerial order, regardless of the final application. In the event that the product is used for the manufacture of articles in contact with food, the manufacturing process of the article intended to be in contact with food must comply with the specific regulations for this purpose, Regulation (CE) 282/2008 of the Commission, of March 27, 2008, on recycled plastic materials and objects intended to come into contact with food and amending Regulation (EC) 2023/2006, and all other applicable European provisions.

IMPLICATIONS

The current wording of the Draft Ministerial Order would have the following implications for the plastic recyclers sector:

- The producers of rPET flake destined for the transforming industry for the super-cleaning process and food destination could not obtain the end of waste condition for that flake, instead they would have the end of waste condition for the flake used in the manufacture of articles that do not need food grade, while in other countries it is independent of the final application and if they obtain this purpose of waste status in the recycler becoming a producer.
- Spanish manufacturers that manufacture items in contact with food would have to register as waste managers, while those from other countries such as Portugal do not.
- The end of waste condition must be indifferent to the final application, otherwise, the companies that manufacture articles in contact with food will compete in the market in a position of inferiority compared to the rest of the companies that manufacture plastic articles in contact with food. of countries of the European Union, both in the national and European markets. In the rest of the countries of the European Union, the companies that use recycled raw material (the plastics transformation sector) are not waste managers nor do they have to bear the bureaucratic burdens that this entails.