

**HAND-OUT OF PROPOSED REVISED TEXT
15-DAY PUBLIC COMMENT PERIOD
RPPC WORKSHOP
OCTOBER 5, 2011**

*(Note: The single underline and strikethrough represent the initial 45-day comment period revisions. The double underline and strikethrough represent the second 45-day comment period revisions. The **16 point bolded double underline and strikethrough** represent the 15-day comment period revisions. **Yellow highlights** show Section & Subsections.)*

SECTION 17943. DEFINITIONS

(c) "Container Line" means a group of rigid plastic packaging containers ~~holding the same product~~ **and** manufactured with identical plastic resin(s), layers, style, shape, volume and weight.

SECTION 17945.3 PRODUCT MANUFACTURER CERTIFICATION INFORMATION

17945.3 (a) HAS NOT BEEN CHANGED SINCE THE 2ND 45-DAY PUBLIC COMMENT REVISION.

(~~a~~b) General Product Manufacturer Information

(1) ~~Your~~ The company's product manufacturer's name, mailing address, web address (if available), e-mail and telephone number(s), and the name and title of the person responsible for supplying the required information.

(2) ~~The~~ advertised name of your product containers regulated by this article and the resin type used for the containers; A statement of product manufacturer compliance including whether the product manufacturer sold or offered for sale **products held in** rigid plastic packaging containers into ~~the state~~ California, and ~~of~~ whether **some or all of the products were approved for a waiver pursuant to Section 17946, and whether** some or all of the containers qualified for an exemption pursuant to Section 17946.5.

(3) ~~The~~ compliance option, as described in Sections 17943 and 17944 of this Article, used to attain compliance or a statement that the product container is not in compliance with program requirements. The information you are required to provide depends on the compliance option used. If the product manufacturer is a corporation, the certification must be signed under penalty of perjury by the president or other head of the corporation, a vice president, a secretary or assistant secretary, a treasurer, a general manager, or other such person authorized by the corporation to accept service of process. If the product manufacturer is a partnership or sole proprietorship, the certification must be signed by a general partner or the sole proprietor. The certification signature shall include ~~be according to~~ the following statement, ~~format~~ **and** the title of the signatory and the date of signature.

CONT: SECTION 17945.3 (b)(3) GENERAL PRODUCT MANUFACTURER INFORMATION

"I certify under penalty of perjury under the laws of the State of California that to the best of my knowledge and belief the foregoing information and all supporting data provided is accurate, true and complete."

~~"I certify under penalty of perjury under the laws of the State of California that the foregoing and all supporting data supplied is true and correct."~~

~~(Date) (Signature) (Title)~~

17945.3 (c) HAS NOT BEEN CHANGED SINCE THE 2ND 45-DAY PUBLIC COMMENT REVISION.

(ed) Product Manufacturer Certification Requirements for Each Compliance Option

17945.3 (d)(1) HAS NOT BEEN CHANGED SINCE THE 2ND 45-DAY PUBLIC COMMENT REVISION.

(2) Source Reduction – Reduced Container Weight Compliance ~~Based On Reduced Weight~~

For rigid plastic packaging containers where compliance is claimed ~~sought~~ pursuant to Section 17944(a)(4) through a reduction in container weight:

(A) The weight, in grams, of each rigid plastic packaging container ~~used for a product prior to source reduction; and the weight, in grams, of each rigid plastic packaging container for that product after source reduction;~~

(B) The percentage each rigid plastic packaging container was source reduced for that product as calculated using the applicable formula(s) in Section 17945.5(d)~~;~~; ~~and;~~

(C) The date (e.g., month/year) of the source reduction.

(3) Source Reduction – Product Concentration Compliance

For rigid plastic packaging containers where compliance is claimed pursuant to Section 17944(a)(4) through a concentration of product:

(A) ~~A description of how the product was concentrated including the~~ **The number of product uses per unit before and after the product concentration. This shall be supported by providing the methodology used to calculate this change; ~~and~~**

(B) The percentage the product was source reduced as calculated using the applicable formula in Section 17945.5(d); ~~and~~

(C) The date (e.g., month/year) of the source reduction.

CONT: SECTION 17945.3 (d) SOURCE REDUCTION COMPLIANCE

(34) Source Reduction – Product Concentration/Reduced Container Weight Compliance ~~Based On Concentration of Product~~

For rigid plastic packaging containers where compliance is claimed ~~sought~~ pursuant to Section 17944(a)(4) through either concentrating the product or by a combination of concentrating the product and reducing the weight of the rigid plastic packaging container that holds the product:

(A) The weight, in grams, ~~per unit or use of product for~~ of each rigid plastic packaging container prior to source reduction ~~and the weight, in grams, per unit or use of that product for each rigid plastic packaging container after source reduction;~~

(B) The percentage by which each rigid plastic packaging container was source reduced;

(B) ~~A description of how the product was concentrated including~~ ~~the~~ number of product uses per unit before and after the product concentration. **This shall be supported by providing the methodology used to calculate this change; and**

(C) The weight, in grams, per unit of product use for each rigid plastic packaging container before and after source reduction; ~~and~~

(D) The percentage by which each rigid plastic packaging container was source reduced as calculated using the applicable formula(s) in Section 17945.5(d); ~~and~~

(E) The date (e.g., month/year) of the source reduction.

~~(D) A copy of all container manufacturer certifications and information pursuant to Section 17945.4;~~
~~and~~

~~(E) An indication whether the rigid plastic packaging container data is based on sales in California or nationally; and~~

~~(F) Any other information that the Department Board determines is necessary to verify compliance.~~

(45) Source Reduction – Comparison to Similar Products Compliance ~~Based On Comparison to Similar Products~~

For rigid plastic packaging containers where compliance is claimed ~~sought~~ pursuant to Section 17944(a)(4) through a comparison to similar products in similar rigid plastic packaging containers:

(A) The advertised brand name(s) of the product(s) in the similar rigid plastic packaging container(s), and the name(s) of the primary product manufacturer, distributor, or importer on the label(s) of the similar rigid plastic packaging container(s);

(B) The weight, in grams, and the volume of each similar rigid plastic packaging container; and

(C) ~~The weight, in grams, of the source reduced rigid plastic packaging container;~~

CONT: SECTION 17945.3 (d)(5) SOURCE REDUCTION COMPLIANCE

~~(D) A copy of all container manufacturer certifications and information pursuant to Section 17945.4; (E) An indication whether the rigid plastic packaging container data is based on sales in California or nationally; and (F) Any other information the Department Board determines is necessary to verify compliance, including physical samples of the similar rigid plastic packaging containers the Department determines necessary to verify compliance.~~

SECTION 17946.5. EXEMPT RIGID PLASTIC PACKAGING CONTAINERS

(a) Pursuant to Public Resources Code Section 42340, the following rigid plastic packaging containers are exempt from the requirements of this Article.

(1) Rigid plastic packaging containers produced in or out of ~~the state~~ **California** which are destined for shipment to other destinations outside ~~the state~~ **California** and which remain with the products ~~upon~~ **during** that shipment. "Destined for shipment to other destinations outside the state" means that the sale of the rigid plastic packaging container to the final end user occurs outside California.

(2) Rigid plastic packaging containers that contain drugs, ~~medical devices~~, cosmetics, food, ~~medical devices~~, medical food, or infant formula as defined in the federal Food, Drug and Cosmetic Act (21 U.S.C. 301 et seq.).

(3) Rigid plastic packaging containers that contain ~~toxic or hazardous~~ products regulated by the federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

(4) Rigid plastic packaging containers that are manufactured for use in the shipment of hazardous materials and are prohibited from being manufactured with used material by federal packaging material specifications and testing standards set forth in Section 178.509 and 178.522 of Title 49 of the Code of Federal Regulations, or are subject to testing standards set forth in Sections 178.600 to 178.609, inclusive, of Title 49 of the Code of Federal Regulations, or to which recommendations of the United Nations on the transport of dangerous goods are applicable.

(b) To ~~receive claim~~ an exemption ~~under paragraph (a)(3) and (a)(4) of this section~~, a product manufacturer, within 90 calendar days of receiving a certification notice pursuant to Section 17945.1(d) ~~only during the compliance certification process~~, shall submit to the Department Board ~~a written request containing~~ the **following** information ~~below~~:

(1) A ~~photograph description~~ of the rigid plastic packaging container(s) **and label(s) which clearly shows the product's name** for which the exemption is being claimed;

(2) The basis for the exemption, which shall include specific citation **and supporting documentation** to any applicable federal **statutes**, regulations, any applicable registration numbers, ~~any applicable Material Safety Data Sheets~~, or other **documentation written evidence as** needed to support the exemption claim; and

CONT: SECTION 17946.5. (b) EXEMPT RIGID PLASTIC PACKAGING CONTAINERS

(3) The name, mailing address, e-mail, and telephone number of the person to whom the Department Board shall direct future communication relating to the exemption. _____ The documentation must be submitted under penalty of perjury, according to and include the following format statement, and the title of the signatory and the date of the signature.

“I certify under penalty of perjury under the laws of the State of California that to the best of my knowledge and belief the foregoing information and all supporting data provided is accurate, true and complete.”
~~“I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.”~~

(Date) (Signature) Title

SECTION 17949. VIOLATIONS AND PENALTIES

(bc) ~~What may result if I do not comply with the program requirements?~~ Any violation of this Article is a public offense and is punishable by a fine not to exceed \$100,000. In addition, violators may be subject to a civil penalty not to exceed \$50,000 per violation. Total fines and penalties are not to exceed \$100,000 per annum **(i.e., calendar year certification cycle)** for each violator. ~~Annually, on and after July 1, 1996, On or before July 1st of each year, the Department Board shall publish a list setting forth any fines or penalties that have been levied against a violator of this Article in the preceding calendar year for failure to comply with the requirements of this Article of all violators of these requirements and the amount of the fines they were assessed.~~