

Update on EPA's Proposed Pesticide Container Recycling Rule

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I. Status

2007 Activities

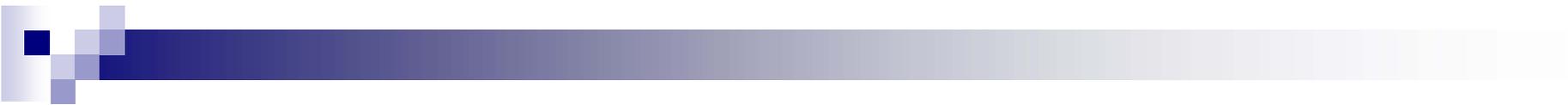
- Drafted proposed rule: January – March
- Final Agency Review: March – April
- High level EPA deliberations: April – May
 - Proposed rule vs. Advanced Notice of Proposed Rulemaking (ANPRM)
- Letters encouraging EPA to move forward with proposed rule: June – September
- EPA senior leadership evaluating options to determine proper role for EPA to play in promoting recycling efforts.
- Senior management decided to move forward with proposed rule: January 2008



I. Status **Congressional Interest**

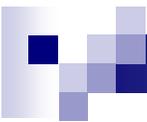
Senate Report 110-91 Supporting “Department of the Interior, Environment and Related Agencies Appropriations Bill, 2008” 465 (page 59, 2007)

The recycling of agricultural and specialty pesticide containers is a significant component of the human health and environmental protection goals of the Federal Insecticide, Fungicide and Rodenticide Act. The Committee continues to support EPA’s efforts on recycling but is concerned with the delay in establishing regulations to make recycling a part of the comprehensive effort to ensure the safe use and disposal of pesticide containers. The Committee strongly encourages EPA to adopt pesticide container recycling regulations within 180 days of enactment.



I. Status **Schedule - 2008**

- Jan/Feb: Finalize rule, economic analysis, other supporting documents
- Feb: OPPTS review
- Mar – June: Office of Management and Budget Review
- Late summer: Revise rule, EPA sign-off
- Fall 2008: Publish proposed rule for public comment (60 days)
- TBD: Publish final rule

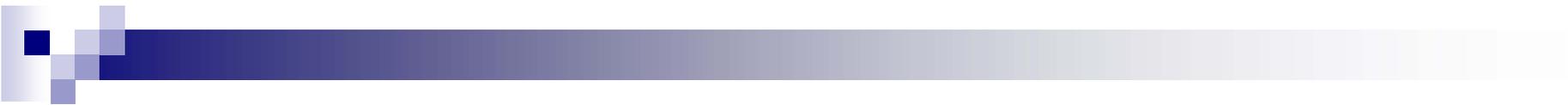


II. Objectives

General Rule Approach

To ensure a rule that protects human health and the environment, we have developed the following principles as the framework:

- **Mandatory for agricultural & professional specialty pesticide registrants** to support recycling programs.
- Recycling **VOLUNTARY for retailers and pesticide users.**
- Programs meet **ANSI/ASABE** container recycling consensus **standard.**
- Performance-based approach: Each registrant putting HDPE containers into stream of commerce is responsible for recycling at a minimum **recycling rate.**
- Minimize **operational overhead** for EPA, through a third party certification system
 - Goal is a light federal presence, e.g., receive simple reports
 - Looking at approaches modeled elsewhere that require parties gaining benefit to pay for certification through well-established ANSI-accredited process
- Allow registrants enough **flexibility** to tailor program to their circumstances.



II. Objectives Problem Statement

- An estimated 43 million pounds of disposable HDPE pesticide containers are used annually in agricultural & professional specialty markets. Pesticide users must recycle or dispose of the containers.
 - Disposal options (burning, dumping, landfilling) have specific drawbacks.
 - Some pesticide users face constraints on disposal options; recycling may be their only legal option.
 - Disposing of HDPE wastes a valuable resource.
- Container recycling can be an important contributor to achieving public health and environmental protection goals.
 - Recycling results in cleaner containers because inspection step motivates pesticide users to properly rinse containers.
- A successful voluntary stewardship program that has recycled plastic pesticide containers for about 15 years is at risk of collapse because not all registrants participate financially. ACRC collects all industry plastic, even that belonging to non-members.
- Don't want to move backwards. If existing system fails:
 - 8 million pounds of plastic would be landfilled, burned or dumped.
 - Could lose or disrupt existing infrastructure; partnerships among pesticide registrants, retailers, states, extension, industry trade associations & end users.



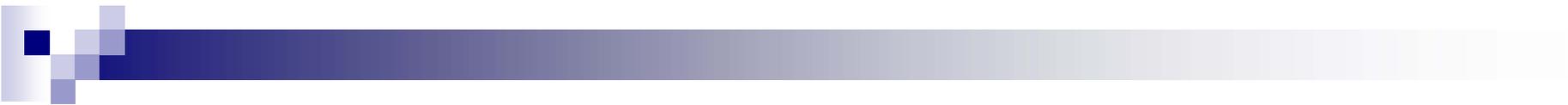
II. Objectives **Build on Container & Containment Rule**

- Final Pesticide Container & Containment Rule (August 2006) laid the groundwork for this proposed rule
- One goal: **facilitate** container disposal/**recycling**
 - Establishes a “cleanability” standard to ensure that containers come clean when they are properly rinsed.
 - Labels will be revised to:
 - Require pesticide users to rinse promptly
 - Provide a detailed description of proper rinsing procedures
 - Include a statement promoting recycling (or reconditioning)
- Another goal: **encourage** the use of **refillable containers**
- Although rule requires protective practices, it alone does not change behavior or ensure compliance. The availability of a recycling option **compliments the rule requirements and promotes safe practices.**



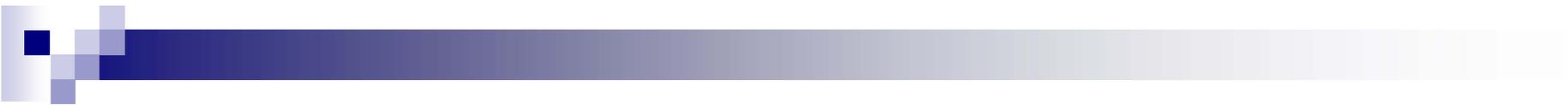
III. Rule Requirements

- A registrant must recycle an amount of HDPE that is X% of its previous year's weight of HDPE pesticide containers in a pesticide container recycling program that:
 - Complies with the ANSI/ASABE Standard S596 *Recycling Plastic Containers from Pesticides and Pesticide-Related Products* and
 - Is certified by an ANSI-accredited third party organization as being in compliance with the ANSI/ASABE Standard S596.
- Annually, registrants must report:
 - Amount of nonrefillable HDPE pesticide containers used
 - Amount of HDPE recycled
- Registrants & recycling programs must keep records documenting the information reported.



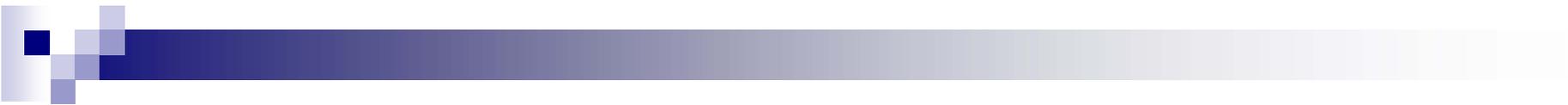
III. Rule Scope of Rule: Which Pesticides & Which Containers?

- The proposed rule would apply to **agricultural and professional specialty** pesticides.
 - Agricultural: pesticides labeled for use in nursery or greenhouse or for use in production of an agricultural commodity
 - Professional specialty: pesticides used by professional end users in turf, ornamental, structural pest control, & aquatic and terrestrial vegetation management
- Proposed rule would apply to **pesticide containers that are:**
 - Nonrefillable containers (defined in container rule)
 - High density polyethylene (HDPE)
 - 55 gallons or smaller.



III. Rule **Scope of Rule: Which Businesses?**

- Proposed rule would establish requirements for:
 - **Pesticide registrants**
 - Organizations that are part of a **pesticide container recycling program**, i.e., that:
 - Inspect & collect containers
 - Store, transport or process (shred, bale, wash, etc.) the containers/plastic
 - Manufacture plastic products from the recycled plastic
 - **Third party certifying organizations**
- Proposed rule would not establish requirements for:
 - Pesticide retailers
 - Pesticide end users
 - Adjuvant manufacturers/formulators



III. Rule **Recycling Rate: Definition of Rate**

- To ensure adequate effort by registrants, proposed rule would specify a mandatory minimum recycling rate.

- **Recycling rate** =

Pounds of HDPE (pesticide & pesticide-related product cntrs) recycled

Pounds of HDPE used in pesticide containers

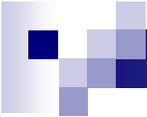
- Proposed rule will discuss a **range of potential rates: 20%, 30% & 40%**
- Proposal will discuss pros and cons of each possible rate to facilitate comment, will request information & suggestions for other possible rates.



III. Rule **Recycling Rate: What is current rate?**

- **Information we know** (2001-2004):
 - On average, ACRC recycled 7.25 million lbs of HDPE per year
 - On average, ACRC member companies used about 18 million lbs HDPE in pesticide containers per year
 - The amount of HDPE recycled by ACRC was equivalent to about 40% of the amount of HDPE used by those companies each year.

- **Estimate** of annual quantity **of all pesticide containers**:
 - Agricultural pesticides: 38 million lbs
 - Professional specialty pesticides: 5 million lbs
 - The amount of HDPE recycled by ACRC was equivalent to about 17% of the estimated total of 43 million lbs of HDPE used in agricultural & professional specialty pesticide containers.



III. Rule

Geographic Coverage

- **Proposed rule will not include a geographic coverage requirement.**
 - Leave it to the market. Flexible, most cost-effective
- Setting a minimum rate would not ensure/facilitate access to recycling programs by pesticide users nationwide.
- Proposal will discuss **options for geographic coverage** rqmts that could be included in **final rule**. Request comments and additional information.
 - Broad nationwide coverage: Collect containers in every state where the registrant does business.
 - State commitment: Collect containers in every state if state commits to some activities as a recycling partner.
 - De minimus exclusion: Collect containers in every state except those excluded by de minimus criterion (pesticide sales? pesticide usage? # applicators?)



III. Rule

Economic Analysis

- **Quantity of containers** used annually
 - Ag: about 38 million pounds
 - Professional specialty: about 5 million pounds
- **Costs of recycling**
 - Capital, operation & maintenance, administrative labor, transportation
- **Costs of third party certification process**
- **Overall cost estimates** (10-year average)
 - Incremental (“flat” baseline)
 - \$2.2 – 4.4 million for 20%; \$3.2 – 5.8 million at 40%
 - Total cost (“zero” baseline)
 - \$5.2 – 7.7 million for 20%; \$6.2 – 8.8 million at 40%
- **Benefits**
 - Avoided landfill fees
 - Qualitative: maintain infrastructure, safe management of containers, energy savings, reduced greenhouse gas emissions



IV. Wrap Up

- Publish proposed rule in fall 2008
- Proposal will describe many options for final rule: public comments and additional information will be key in decision making for final rule