

Updates on the Pesticide Container and Containment Regulations

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Container-Containment Rule Overview

Category	Nonrefillable Containers	Refillable Containers	Repackaging Products	Container Labeling	Containment Structures
Who must comply?	Registrants	Registrants	Registrants Refillers	Registrants Users	Ag retailers Ag commercial applicators Ag custom blenders
Major Requirements	<ul style="list-style-type: none"> - DOT container design, construction & marking standards - Dispensing capability - Standard closures - Residue removal (99.99% removal) 	<ul style="list-style-type: none"> - DOT container design, construction & marking standards - One-way valves or tamper-evident devices - Vent, gauge & shutoff valve standards for large tanks 	<ul style="list-style-type: none"> - Registrants & refillers comply with specified conditions - Registrants develop & provide certain information - Refillers obtain & follow information; and clean, inspect & label containers before refilling them 	<ul style="list-style-type: none"> - Identify container as nonrefillable or refillable (<i>all</i>) - Statement to prohibit reuse and offer for recycling; batch code (<i>all nonrefillables</i>) - Cleaning instructions (<i>some nonrefillables</i>) - Cleaning instructions before disposal (<i>all refillables</i>) 	<ul style="list-style-type: none"> - Secondary containment structures (dikes) around large tanks - Containment pads for pesticide dispensing areas - Good operating procedures - Monthly inspections of tanks & structures
Compliance Date	Aug 17, 2009	Aug 17, 2011	Aug 17, 2011	Aug 17, 2011	Aug 17, 2009

What is the difference between nonrefillable & refillable containers?

- **Nonrefillable container:** designed & constructed for one-time use and not intended to be filled again with a pesticide for sale or distribution.
- **Refillable container:** intended to be filled with pesticide more than once for sale or distribution.

[§165.3.]



A nonrefillable container will have a label that says: “Nonrefillable container. Do not reuse or refill this container.” **These containers cannot legally be reused or refilled!**

New Requirements in 2011

If you repackage pesticides under contract/ agreement with a registrant, you must comply with the following requirements when you repackage a pesticide (& release it for shipment) after **August 16, 2011**:

1. Standards for your **stationary bulk tanks**;
2. Standards for your **portable refillable containers** (i.e., minibulks, IBCs); and
3. Operational and recordkeeping requirements regarding **repackaging**.

1. Standards for Stationary Tanks

Stationary tanks (capacity of 500 gallons or more & at the facility of a refiller operating under contract with a registrant) must:

- Be durably marked with a serial number/identifying code;
- Meet integrity/strength standards;
- Have a vent;
- Have a shut-off valve on any connection below the normal liquid level; and
- Not have an external sight gauge.

[§165.45(d) & (f)]



2. Portable Refillable Containers

You must repackage into portable refillable containers that:

- Comply with at least DOT Packing Group III standards;
- Are durably marked with a serial number/identifying code;
- Have a tamper-evident device, one-way valve or both on each opening other than a vent; and
- Are on the registrant's description of acceptable containers.

[§165.45(a)-(e); §165.70(e)(3)]



3. Repackaging Requirements

- Conditions for repackaging under a registrant's existing registration [**§165.70(b)**]
- Registrants develop and provide certain information to each refiller: [**§165.67(d), (f) & (g)**]
 - Written contract
 - Refilling residue removal procedure
 - Description of acceptable containers
- Requirements for independent (non-registrant) refillers [**§165.70(e)**]



Key New Requirements for Refillers

- Repackage only into compliant refillable containers. For portable containers, this means the container:
 - Is DOT compliant;
 - Is marked with a serial number/identifying code;
 - Has tamper-evident devices and/or one-way valves; and
 - Is on the registrant's description of acceptable containers.
- Clean container between uses unless all tamper-evident devices & one-way valves are intact and you are refilling with the same or a very similar product.
- Get the cleaning procedure & description of acceptable containers from the registrant for each product.
- For each refill, record the date, serial number/code of container; and pesticide.

Frequently Asked Questions

FAQs: August 16, 2011 Deadline

- **Question 1: Has EPA changed the compliance date for the refillable container and repackaging regulations?**
- **Answer: No.**
 - Last year, we extended the deadline for the label requirements from August 16, 2010 to August 16, 2011.
 - However, the deadline for the refillable container & repackaging regs has always been August 16, 2011 and we have no plans to change it.

FAQs: August 16, 2011 Deadline

- **Question 2: If I fill a minibulk container on August 1, 2011, does it have to comply with the regulations?**
- **Answer: It depends.** The regs apply to pesticides that are released for shipment after 8/16/11. “Released for shipment” basically means the producer has packaged & labeled the pesticide in the manner in which it will be distributed or sold.
- **On 8/1/11**, you fill a minibulk, label it, close it and it is in the condition you will ship it. The container & label do not have to comply with the new regs. (Good to document the date.)
- **On 8/17/11**, you fill, label and close a minibulk. This must be done in compliance with the refillable container & repackaging regs and the label must have the new statements.

FAQs: August 16, 2011 Deadline

- **Question 3**: Is it a problem if I have old, non-compliant minibulk containers in my storage area after 8/16/11?
- **Answer**: They are a temptation, not a violation!
 - It is not illegal to have old, non-compliant containers sitting in your storage area.
 - It is only a violation if you fill those containers and use them to sell or distribute a pesticide after 8/16/11.

FAQs: Containers

- Question 4: If a farmer owns a minibulk, does it have to comply?
- Answer: Yes. It doesn't matter who owns the tank. If the minibulk is being used to sell or distribute a pesticide, it must comply with all relevant requirements.



Question 5: This is a new tank that the registrant says meets the DOT standards, but it does not have the UN marking on it. Would this container meet EPA's requirements?



- A. Yes
- B. No
- C. Maybe

Answer to Question 5

C. Maybe

- ❖ The DOT standards that are incorporated in §165.45(a) authorize a limited number of “portable tanks” that comply but do not require the UN marking.
- ❖ If you come across a tank without the UN marking, check to see if the tank is on the registrant’s description of acceptable containers. If so, you (as the refiller) are in compliance.
- ❖ It is the registrant’s responsibility to ensure that a container identified on the description of acceptable containers meets the refillable container requirements.

FAQs: Repackaging

- **Question 6: Do I have to track my minibulk containers?**
- **Answer:** The regulations do not require you to know exactly where each minibulk container is at any given point in time. The regulations do require you to record the following info each time you refill a container:
 - (1) Date; (2) serial number/code of container; and (3) EPA Reg. No. of the pesticide.
 - Also, if you do the DOT leakproofness testing and DOT inspections, you must keep records of those.

FAQs: Repackaging

- Question 7: Can a corporate operation that has a central repackaging & distribution location utilize its satellite application sites to rinse minibulks?



Answer to Question 7

- Answer: It is acceptable for a corporate operation to utilize its satellite application locations to rinse minibulks if:
 - The corporation cleans the minibulks according to the registrant's residue removal procedure for that product;
 - The practice of using satellite sites to rinse containers is consistent with the repackaging contract with the registrant (not prohibited); and
 - The corporation follows other applicable regulatory requirements.

FAQs: Repackaging

- **Question 8:** The regs require a refiller to rinse the container if necessary before refilling it. It is possible for farmers to do that rinsing?
- **Answer:** In general, it is possible for a refiller to enter into a contract with another person to conduct certain activities, e.g., cleaning minibulks.
 - Entering into contract does not relieve refiller of the responsibilities in the regs
 - Must be consistent w/ repackaging contract (not prohibited)
 - Contractor must follow registrant's residue removal procedure

For More Information

Environmental Protection Agency (EPA)

- <http://www.epa.gov/pesticides/regulating/containers.htm>
- Nancy Fitz, 703-305-7385; fitz.nancy@epa.gov

American Agronomic Stewardship Alliance (AASA)

- <http://www.aginspect.org/USEPA.html>

CropLife America (CLA)

- <http://www.croplifeamerica.org> & www.croplifefoundation.org

Mid America CropLife Association (MACA)

- <http://www.maca.org/edu>

Pesticide Stewardship: See Container Handling for inspection video

- <http://pesticidestewardship.org/Pages/default.aspx>

State Inspector Training

- <http://pirt.pested.psu.edu/resources>