

Update on EPA's Proposed
Pesticide Container Recycling Rule
and Overview of California's
Pesticide Container Recycling Law

The Pesticide Stewardship Alliance Conference

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Nancy Fitz

U.S. EPA, Office of Pesticide Programs

EPA - 2008 Activities

- **Dec 2007**: Appropriations report – Congressional support for recycling rule
- **Jan – Feb**: Finalize proposed rule, economic analysis, other supporting documents
- **Mar**: EPA Review
- **Apr – July**: OMB Review
- **July 3**: OMB returned rule to EPA
- **Summer**: Farm Bill added language to FIFRA that provided clear authority; discretionary not mandatory
- **Sept**: Received additional economic info from CLA & ACRC

Congressional Interest (December 2007)

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.

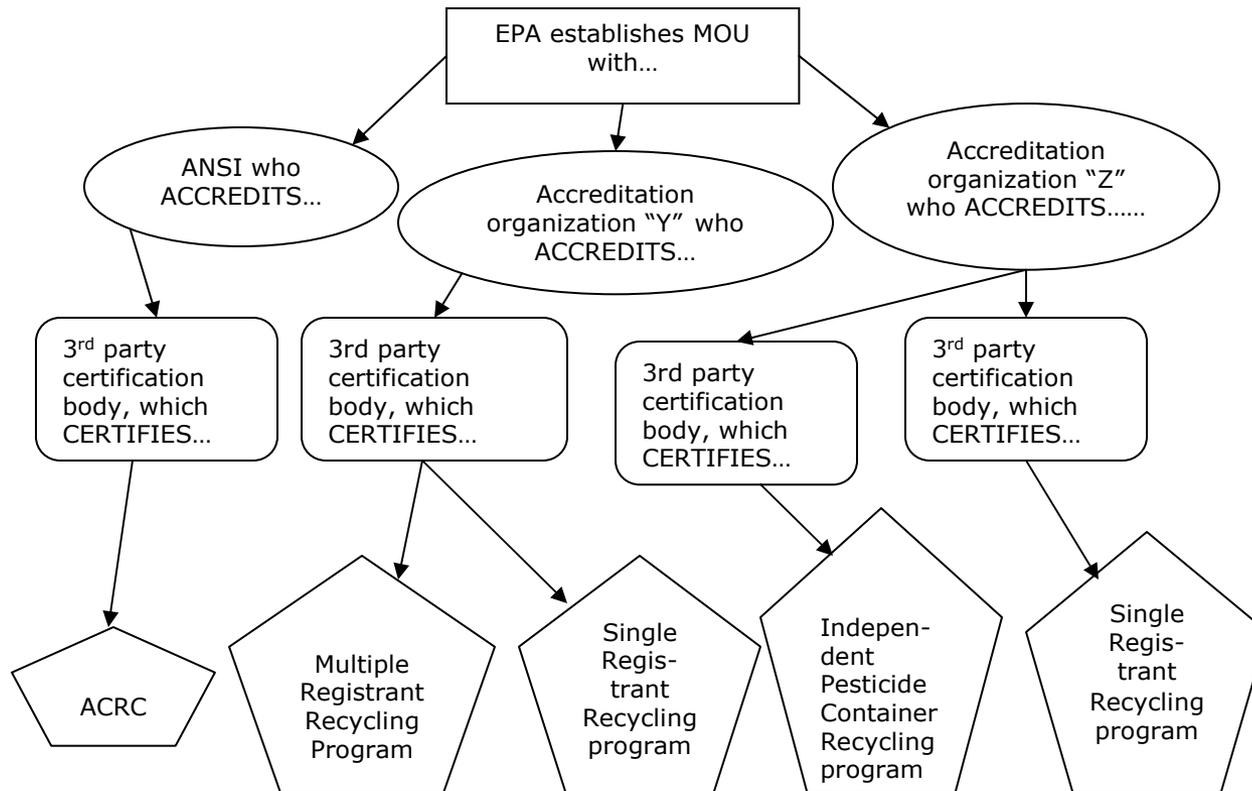
General Approach of Draft Proposed Rule

To ensure a rule that would protect human health and the environment, EPA developed the following principles as the framework:

- **Mandatory for agricultural & professional specialty pesticide registrants** to support recycling programs.
 - Rigid HDPE containers, 55-gallons or smaller
- 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.**
- Implement compliance with ANSI/ASABE standard through a **third party certification system**

Third Party Certification System

Accreditation vs. Certification



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 – Incremental (“flat” baseline)
 - \$2,200 - \$79,000 for 20%; \$114,300 - \$115,000 at 40%
 - Qualitative: maintain infrastructure, safe management of containers

OMB Review

- On April 1, 2008, EPA submitted proposed pesticide container recycling rule to OMB.
- On July 3, 2008, OMB returned the draft proposed rule to EPA for further consideration and analysis:
 - OMB acknowledged that illegal and improper disposal of these pesticide containers may create hazards but **questioned whether providing the proposed recycling program would result in a meaningful reduction** in the improper disposal of these containers.
 - EPA's analysis of the proposed program indicates that the quantified **costs** imposed by the proposed recycling program **would exceed the quantified benefits by more than two orders of magnitude.**
 - OMB said that **EPA did not analyze other alternatives**, including alternatives that may increase net benefits and potentially reduce burdens on small businesses and that EPA should determine whether alternatives exist that would imposed the least burden on society and ensure that the benefits of the intended regulation justify its costs.

2008 Farm Bill

- Amended FIFRA section 19(a):
 - (4) CONTAINER RECYCLING.— The **secretary may promulgate** a regulation for the return and recycling of disposable pesticide containers used for the distribution or sale of registered pesticide products in interstate commerce. Any such regulation requiring recycling of disposable pesticide containers **shall not apply to antimicrobial pesticides** (as defined in section 2) or other pesticide products intended for **non-agricultural uses**.

EPA - 2008

- **Summer:** OPP works with ORD on study of emissions from burned pesticide containers
- **Sept:** Received additional economic information from ACRC/CLA that would refine cost and benefit analysis.
 - Could change benefit-to-cost ratio to 0.3 - 0.5 (rather than 0.01)
 - Still benefits < costs & didn't address OMB's philosophical concerns
- **Oct:** New info does not address fundamental issues raised by OMB; in absence of data that specifically addresses those concerns, EPA is suspending work on proposed recycling rule.
 - <http://www.epa.gov/pesticides/regulating/container-recycling.htm>
- **Nov 4:** ...

New California Law

- Pesticide Container Recycling
- SB 1723 (Maldonado)
- Added section 12841.4 to the Food and Agricultural Code
- Passed CA legislature August 2008
- Effective January 1, 2009

CA Pesticide Container Recycling

- Who does it impact?
 - Every person who is the first to sell any agricultural-use or structural-use pesticide product for use in CA
- Which containers are included?
 - Rigid, high-density polyethylene (HDPE)
 - 55 gallons or less

CA Pesticide Container Recycling

- **First Seller's Requirements**
 - Establish a recycling program or demonstrate participation in a recycling program to ensure HDPE containers are recycled.
 - Container recycling must comply with ANSI/ ASABE S596 "Recycling Plastic Containers from Pesticides and Pesticide-Related Products" (February 2006)
 - Recycling program must be certified by an ANSI-accredited third-party organization as being in compliance with ANSI/ASABE S596
 - Records must be kept for 3 years and subject to audit by CDPR.
 - Annually provide to CPDR a document certifying this requirement has been met

CA Pesticide Container Recycling

- Department of Pesticide Regulation (DPR) Requirements
 - May adopt regulations
 - Annual notification to licensed first sellers
 - Audit for compliance
 - Estimate recycling rate and post annually on DPR's website (beginning Sept 1, 2010)
 - Upon a federal pesticide container recycling program being adopted, may adopt regulations to conform to the federal program.

CDPR Contact Information

➤ Product Compliance Branch

➤ http://www.cdpr.ca.gov/docs/dept/prec/2008/cont_recycling.pdf

➤ Lynn Owen

➤ 916-445-3851

➤ lowen@cdpr.ca.gov

➤ Nancy Grussing

➤ 916-445-4581

➤ ngrussing@cdpr.ca.gov