

## Refillable Container and Repackaging Fact Sheet (03/18/11)

### 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 (and release it for shipment<sup>1</sup>) after August 16, 2011:

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

#### 1. Standards for Stationary Tanks

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

- Be durably marked with a serial number or other identifying code;
- Meet certain 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

Independent refillers (that are not the registrant of the pesticide) must repackage into portable refillable containers that:

- Comply with at least DOT Packing Group III standards that EPA adopted;
- Are durably marked with a serial number/identifying code (except for antimicrobial pesticides for use only in swimming pools);
- Have a tamper-evident device or a one-way valve or both on each opening other than a vent (except for antimicrobial pesticides for use only in swimming pools<sup>2</sup>); and
- Are on the registrant's description of acceptable containers. [§165.45(a)-(e); §165.70(e)(3)]

#### 3. Repackaging Requirements

The repackaging regulations include the following types of requirements. The first and third types are described in more detail below.

- Conditions for repackaging under a registrant's existing registration, which apply to registrants and independent refillers [§165.67(b); §165.70(b)]
- Registrants must develop and provide certain information to each independent refiller:
  - Written contract;
  - A refilling residue removal procedure that describes how to clean the container before it is refilled, if cleaning is necessary; and
  - A description of acceptable containers that can be refilled with that pesticide [§165.67(d), (f) & (g)]
- Requirements for independent (non-registrant) refillers [§165.70(e)]

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<sup>1</sup> A product becomes released for shipment when the producer has packaged and labeled it in the manner in which it will be distributed or sold, or has stored it in an area where finished products are ordinarily held for shipment. See 40 CFR 152.3 for the full definition.

<sup>2</sup> "Antimicrobial pesticides for use only in swimming pools" includes products that are labeled for use only in swimming pools and the related sites of spas, hot tubs and whirlpools.

## **A. Conditions for Repackaging**

Under §165.67(b) and §165.70(b), a registrant may allow an independent refiller to repack a pesticide under the registrant's existing registration if:

- There is no change to the pesticide formulation;
- The refiller's establishment is registered with EPA;
  - And the pesticide is repackaged at the establishment or at the site of an end user who intends to use/apply the pesticide
- The registrant and refiller have entered into a written contract to repack the pesticide and use the pesticide's label;
- The pesticide is repackaged only into containers that comply with the refillable container requirements; and
- The pesticide is labeled, with the only changes being the net contents and the refiller's EPA establishment number.

## **B. Refiller Requirements**

An independent refiller must comply with all of the requirements in §165.70(e). The following requirements set general requirements for the repackaging. The refiller must:

1. Register the establishment as presently required by 40 CFR 167.20;
2. Not change the formulation;
3. Repack only into a refillable container on the registrant's description of acceptable containers;
4. Can repack any quantity into a refillable container and there are no container size limits in the regulations;
5. Have the following items at the facility before repackaging:
  - Written contract with the registrant
  - Pesticide label and labeling
  - The cleaning procedure (refilling residue removal procedure) for that pesticide from the registrant; and
  - The description of acceptable containers for that pesticide from the registrant.

The following requirements apply each time a container is refilled. The refiller must:

6. Identify the pesticide previously in the container (by looking at the label);
7. Visually inspect the container to ensure that it is in good shape;
8. Clean the container if necessary;
  - The refillable container must be cleaned between uses unless all tamper-evident devices and one-way valves are intact (if they are required) and the container is filled with the same or a very similar product; and
9. Ensure the container is properly labeled.

The following recordkeeping and reporting requirements apply to the refillers. A refiller must:

10. Maintain records of the information from the registrant (contract, cleaning procedure and description of acceptable containers);
11. Each time the container is refilled, the refiller must record the date, serial number/code of the container; and the EPA registration number of the pesticide (except for antimicrobial pesticides for use only in swimming pools); and
12. Maintain records of pesticide production and distribution as presently required by 40 CFR Part 169 and report production as presently required by 40 CFR Part 167.

You can obtain the complete rule and additional information (such as frequently asked questions) from EPA's Container and Containment web page: <http://www.epa.gov/pesticides/regulating/containers.htm>.