

Minibulk Recertification: The Good, the Bad and the Ugly

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The Good, the Bad & the Ugly

Good



Bad



Ugly



It is after August 16,
2011! Are you in
compliance with the
container regulations?

Your First Container Inspection



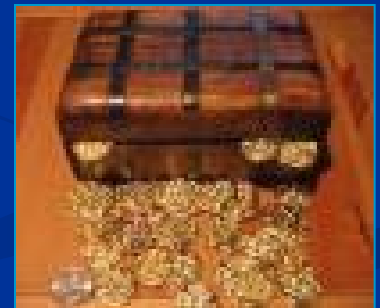
Good

Bad

Ugly



U.S. EPA
NOTICE OF
WARNING



Agenda

- **Container & Containment Rule**
 - Quick review of requirements with August 16, 2011 compliance date
 - Questions & answers about:
 - Which containers?
 - Container requirements
 - Rinsate management
- **Other Questions**

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

August 16, 2011 Deadline

- The new label, refillable container & repackaging 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 filled a minibulk, labeled it, closed it and it is in the condition you will ship it. The container & label do not have to comply with the new regs. (Hope you documented 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.

Label Requirements

- New info is required on labels of pesticides released for shipment after August 16, 2011
- Required on both nonrefillable containers and refillable containers
- New container-related instructions include:
 - Identify as nonrefillable or refillable
 - Prohibit or limit reuse and refill
 - Recycling or reconditioning (nonrefillables only)
 - Cleaning instructions

Refillable Containers & Repackaging

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

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

Portable Refillable Containers

The refiller must repackage into portable refillable containers that:

- Comply with the adopted DOT standards (Packing Group III);
- Are durably marked with a serial number/identifying code;
- Have a tamper-evident device or 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)]



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:
 - Complies with the adopted DOT standards (PG III);
 - 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.

Questions & Answers

- Which containers are covered?
- Refillable container requirements
- Rinsate management
- Other

Which containers?

- Question 1: 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.



Which containers?

- **Question 2**: Do minibulks that dealers use for their own application purposes have to comply?
- **Answer**: No, service containers are not subject to the container regulations.
 - If an applicator transfers a pesticide into a container for the purposes of that applicator applying the pesticide, the container is considered to be a service container. (71 FR 47383, August 16, 2006)
 - EPA recommends that the contents of the service container are identified & the label is available to the applicator.

Which containers?

- Question 3: How will EPA's regulations affect containers like this (strapped to trailers) and that are used for sale or distribution (e.g., grower goes to retailer or retailer delivers to grower)?



Answer to Question 3

- This situation does not meet the exemption from the refillable container requirements in §165.45(h)(1) for transport vehicles with pesticide-holding tanks that are an integral part of the transport vehicle. Therefore:
 - The tank must comply with the refillable container requirements and the relevant repackaging requirements, including being on the registrant's description of acceptable containers & being cleaned if necessary.
 - This appears to be a tank designed for storage and not transport. See Purdue Extension document PPP-77 for guidance on plastic tanks in general:
<https://mdc.itap.purdue.edu/>

Which containers?

- **Question 4: Can a retailer fill a refillable container on a farm and, if so, what are the applicable regs?**
- **Answer**: Yes, a retailer can fill a refillable container on a farm as long as all of the conditions for repackaging are met and:
 - Containers must be properly labeled;
 - Portable refillable containers must meet all four standards (slide 12); and
 - Stationary refillable containers must be on description of acceptable containers & be durably marked with a serial number.
- Federal regs do not require containment at farms; state regulations might.

5. 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.

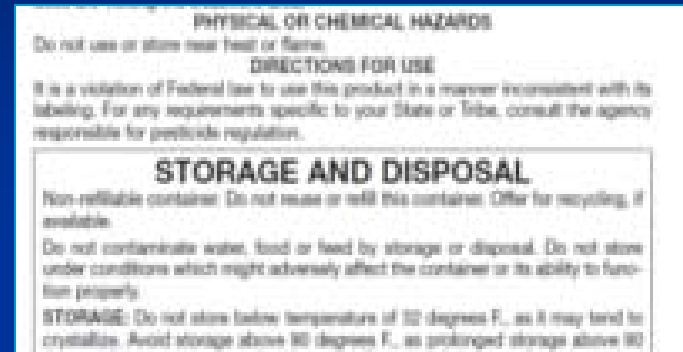
[§165.3.]



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!**

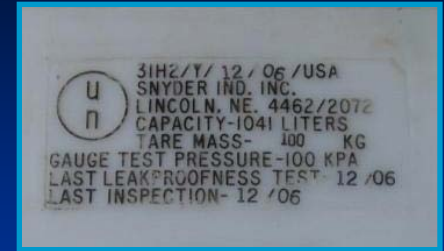
6. How do I know if a container is nonrefillable or refillable?

- Look at the label – Storage & Disposal Instructions
- Acceptable (not preferred) to have instructions for multiple containers if:
 - Instructions are presented so they are sufficiently clear to be read & understood by end user; and
 - They will not detract from other label provisions.



7. Can I use a tank that doesn't have the DOT marking?

- Answer: It depends on the registrant's description of acceptable containers.
- The DOT standards that are incorporated in §165.45(a) authorize the use of some “non-specification portable tanks” that do not require the UN marking.
- Registrant's responsibility: ensure that containers on the description of acceptable containers meets the refillable container requirements.



7. Can I use this tank that doesn't have the DOT marking?

- Yes, if description of acceptable containers includes:



- 150 gallon capacity.
- Company-identified tamper evident 3" one-way dip-tube valve, either a 5" tamper evident closure or 3" tamper evident fill valve, and tamper evident vent.

- No, if description of acceptable containers includes:

- Meet at least DOT Packaging Group III specifications;
- Equipped with tamper evident seal, one-way valve or both;
- Contain a capacity of one gallon or greater;
- Contain a serial number;
- Constructed of approved materials of construction specified for the pesticide in the repackaging contract

8. When does a refillable container need to be leakproofness tested?

- It depends on the container size and whether the pesticide is a DOT hazardous material.
- For containers with capacities > 119 gallons (IBCs)
[Same for all pesticides - DOT haz mat & not haz mat]:
 - Prior to its first use in transportation & every 2.5 years thereafter, starting from the date of manufacture or date of “significant” repair. (49 CFR 180.352)

8. When does a refillable container need to be leakproofness tested?

- Continued....
- For containers with capacities \leq 119 gallons (nonbulk) & hold pesticides that are DOT haz mats:
 - Before each reuse unless certain conditions in DOT regs are met (49 CFR 173.28(b))
- For containers with capacities \leq 119 gallons (nonbulk) & hold pesticides that are not DOT haz mats:
 - EPA regs (§165.45(a)(2)) exempt refillers from 49 CFR 173.28(b) if container & repackaging comply with EPA regulations

9. Can a retailer conduct the leakproofness test on a minibulk?

- **Answer:** Yes, a retailer (or anyone) can conduct the leakproofness test & DOT inspections on a minibulk if he/she:
 - Follows procedure in DOT regs in 49 CFR 180.352;
 - Marks the container;
 - Keeps records; and
 - Is DOT-haz mat trained [49 CFR 172.704 & 173.1]



10. As a refiller, 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.

Rinsate

- Question 11: Can a corporate operation that has a central repackaging & distribution location utilize its satellite application sites to rinse minibulks?



Answer to Question 11

- **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.

Rinsate

- **Question 12**: 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.

13. If a registrant fills a minibulk, does it have to have a serial number/identifying code?

- Answer: Yes, portable refillable containers filled by a registrant must have a serial number or other code durably marked on them.
- §165.40(b): You must comply with the refillable container regulations if you are a registrant who distributes or sells pesticide in refillable containers.
- In addition, registrants must keep records of the date, container ID & pesticide. [§165.65]

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>

Other Questions?

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