

# New EPA Pesticide Container and Containment Rule

## Questions and Answers

### RETURNED PRODUCT

**As a bulk pesticide retailer, what can I do with product that is returned in a refillable mini-bulk with one-way valves or tamper-evident devices that aren't intact?**

The integrity of the returned product should be considered questionable. Although there are no regulations specifically stating the product cannot be resold, in this situation, it is assumed that a registrant would not want to have joint liability regarding the integrity of this returned product. Repackaging contracts will most likely address "allowable uses" of product with questionable integrity. The product repackaging contract will generally determine what options are available to you.

The container with the returned contents may be labeled as "not for retail sale" and the container could be stored on location for the customer. Some repackaging locations have reported that they intend to implement a "no returns accepted" policy. We recommend sharing your company policy with your customer when the containers are delivered to them.

Containers returned with one-way valves or tamper-evident devices that *are not* intact must be emptied and cleaned prior to reuse. The cleaning process to follow is the one required by the registrant of the subsequent product to be repackaged into that container. The non-intact valves or tamper-evident devices must be replaced upon container refill.

If product is returned in a container that has all tamper-evident devices (seals, zip ties, etc.) and one-way valves intact, then the product may remain in the container for future sale and the container would not need to be cleaned out. Remember that the outside of the container must be clean and free of residues.

### PRESSURE TESTING

**The EPA rule states that containers being pressure tested must be tested using air. Does this mean "only air" or can there be some amount of liquid inside the container while the container is pressure tested with air?**

Someone from industry asked if they could put 15 gallons of clean water into a mini-bulk and apply 3 psi of air for 5 minutes to pressure test the container or can testing only be done with air. We've shared this question with EPA and we're waiting for a final decision.

### LEAK-PROOF TESTING

**Do pesticide repackagers have to conduct leak-proof testing 2-1/2 years from the start of this rule (Aug 17, 2011)?**

Starting on August 17, 2011, all repackaging of bulk pesticides must be done using compliant containers. A compliant container is one which has been leak-proof tested within the last 2-1/2 years. If the container used for repackaging after August 17, 2011 has not been leak-proof tested within the last 30 months, then the repackager would need to pressure test the container prior to using it.

### DURABLE IDENTIFIER

**As a pesticide repackager, each container used for repackaging must have a durably marked identifier such as LM-T0001. I must record this identifier as part of the record keeping requirements each time I test or fill the container. If I'm refilling into a compliant refillable container with a durably marked identifier that was created by a different company, can I still use the identifier for my record keeping purposes?**

Yes. The container identifier you record does not have to be an identifier that your company created. However, your company may find it easier to track a specific container by placing your own durably marked identifier on the container, but it is not necessary to do so.

## TAMPER-EVIDENT DEVICES

### What can I use as a tamper-evident device?

The repackaging contracts provided by the registrants may contain language informing repackagers of their options. Registrants may require repackagers to use devices provided by the registrants. A variety of zip-ties and adhesive seals appear to be the most popular forms of providing a tamper-evident device. Tamper-evident devices should be proprietary in nature. The zip-tie shouldn't be the generic form purchased from the local hardware store. Likewise, tape that might be used shouldn't be generic duct tape. Tamper-evident devices should be proprietary in nature and thus would not be an item available to the general public.

## TENDER TANKS

### Do the mini-bulk tanks that we fill to tender our own sprayers need to comply with the new regulations?

No, they do not need to comply with the new EPA container regulations. The new regulations only apply to refillable containers that are repackaged *for retail sale or distribution* to customers. Service containers/containers used to tender your own sprayers are not regarded as being available for retail sale or as EPA States, "made ready for shipment." These "tendering tanks" will still need to comply with other regulations that have been in place for quite some time (such as pertinent DOT regulations).

**Note:** If a refilled "tendering tank" is not a compliant tank, and it is located at a repackaging location, then the container should be labeled as "Not For Retail Sale" or "For Tendering Use Only," or "Service Container." Another option is to store the container in an area of the warehouse that is clearly separated from an area designated for containers available for retail sale. DATCP would prefer the labeling option be used along with the physical separation to prevent mishaps. If a non-compliant "tendering container" is located among other tanks being offered for retail sale and it is not labeled in a manner that conveys that it is not for retail sale, then the container would be regarded as a "For Retail Sale" container. This determination would result in a finding of violation with the new EPA rule.

## DEDICATED CONTAINERS

**We have mini-bulk containers that previously held product and are now empty but not cleaned. We consider each container to always have been "dedicated" to a specific product. We will refill them on or after August 17, 2011 and will add tamper-evident devices to openings and retrofit the valves at that time. Must we clean the containers before refilling, even if we're refilling each container with the same product it previously held?**

Yes, the containers must be cleaned before refilling since the tamper-evident devices and one-way valves are not intact. EPA states the following at

<http://www.epa.gov/pesticides/regulating/regulations-glance-table-5.pdf> (Underlining and bolding added for emphasis):

A refiller **must** clean a refillable container according to the residue removal procedure **unless** each tamper-evident device **and** one-way valve (if required) is intact **and** either of these conditions is met:

- The refillable container is being refilled with the same pesticide product; or
- The container previously held a pesticide with a single active ingredient, the container is being used to repackage a pesticide with the same single active ingredient, and there is change that causes the repackaged pesticide to not meet the product integrity standard.

***If a tamper-evident device or one-way valve is not intact, the refiller must clean the container using the residue removal procedure of the product being repackaged.*** In addition, other procedures may be necessary to assure that the product's integrity is maintained.

**Note:** Antimicrobial products used in swimming pools and closely related sites are not required to comply with the one-way valve/tamper-evident device requirements.

**NEED FOR ONE-WAY CHECK VALVES**  
**If I can pour liquid into the end of the dispensing hose that is attached to the pump on top of a refillable container (mini-bulk), and the liquid ultimately is allowed to flow into the container, would I be required to install a one-way check valve or a similar device to prevent this from possibly occurring?**

Yes. All openings on refillable containers, with the exception of a vent, must have a one-way

valve or a tamper-evident device (or both) protecting the opening. A dispensing hose that allows liquid to freely flow into a refillable container would be considered an opening that would qualify as needing a one-way valve or a tamper evident device, or both. Some pumps may already have a check valve or a one-way valve incorporated into them. Dispensing hoses and their potential to be a point of entry into refillable containers will more than likely need to be evaluated on a pump by pump basis.



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