

How to Comply with the USEPA Portable Refillable Container Regulations (Pesticide Minibulks) by August 16, 2011

In this guide we're going to break down this USEPA regulation for you in understandable terms so that you'll be ready for the August 16, 2011 compliance date.

This brochure is intended primarily for agricultural retailers and covers the rule from that perspective. We've broken the rule into these sections:

Scope & Definitions

Requirements for Portable Refillable Containers (PRCs)

Paperwork

Inspections, Compliance & Penalties

Additional Resources

How to Comply – The Basics

Commonly Asked Questions



Please contact Kevin Runkle or Jean Payne at the Illinois Fertilizer & Chemical Association at (309) 827-2774 if you have questions about this regulation.

**Illinois Fertilizer &
Chemical Association**
Supply • Service • Stewardship

Scope of the PRC Rule & Definitions: READ THIS SECTION FIRST

If you have authorization from a pesticide manufacturer (registrant) to repackage pesticides, you must comply with this regulation. The pesticide labels that the registrants provide to you will state that you must refill only into authorized portable refillable containers (PRCs).

Ag retailers are not the only ones who have to comply. The person who owns the PRC must comply with these regulations be it a manufacturer, distributor, retailer or farmer. For example, if a farmer brings you a PRC to fill, it has to meet all the requirements of this rule in order for you to fill it.

Key Definitions

Portable Refillable Container (PRC): A container that is intended to be filled with a pesticide more than once for sale or distribution. There is no size limit on a PRC.

Non-Refillable Container: Some registrants or distributors may ship pesticides directly to you in portable non-refillable containers. The pesticide label will state that the product is in a non-refillable container. The container may also be labeled with the words “**Non Refillable Container. Do not reuse or refill this container.**” You cannot refill this container with pesticides or any other product under any circumstances. Once it is empty it must be recycled with a reputable recycler or destroyed.

Service Container: These are containers that you fill with pesticides for use in your custom application business. If you refill service containers for use in your own sprayers, they are not regulated by this rule. We recommend you keep service containers segregated from other PRCs to avoid confusion.

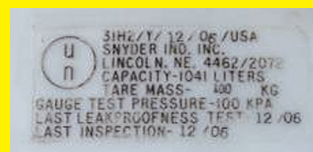
Refiller: A “refiller” is a person who refills pesticides into a PRC. If you were already repackaging pesticides, you already have many of these items in place. In order to be legal, a refiller must:

- a. Register your establishment (company, location) with USEPA;
- b. You must not change the formulation of the pesticide when repackaging;
- c. You can only refill into containers that are on the registrant’s repackaging agreement;
- d. You must have the following at the facility where repackaging occurs prior to repackaging:
 1. Current repackaging agreement from the pesticide manufacturer for each facility;
 2. The pesticide label; PRC’s must also show the net contents and refiller’s EPA establishment #
 3. The pesticide manufacturer’s PRC cleaning instructions and description of acceptable PRCs
- e. You must report your repackaging activities annually to USEPA (your Pesticide Producing Establishment Report).

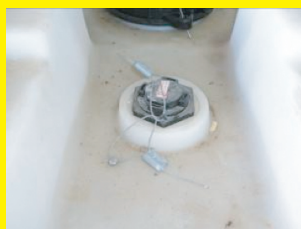


Requirements for Portable Refillable Containers (PRC's)

- PRCs must be in a USDOT approved container with a minimum Packing Group III designation. You will usually see a "UN" marking on the tank if it's DOT approved. However, some tanks may be DOT approved but not have a visible DOT mark; when in doubt refer to the pesticide manufacturer's list of approved containers. If the container is on the list, the pesticide manufacturer has already made certain it is DOT approved and you are good to go.



- The PRC must be on the pesticide manufacturer's list of approved containers.
- PRCs must be durably marked with a unique serial number or identifying code. You can make up your own serial numbers or codes for your PRCs in whatever method that makes sense to you. You will refer to the tank serial number or code each time you record the tank being filled or cleaned. We recommend you utilize durable labels.
- PRCs must have a tamper evident device or a one-way valve or both on each opening other than a vent. Standard zip-ties are not acceptable for a tamper evident device, you should use something unique to your business or not easily replicated by a customer.



- The refiller must record each time a PRC is filled noting the pesticide, amount, EPA date, and the tank serial # or code.
- If the PRC leaves your facility and returns with a broken tamper evident device, you must clean the container per the pesticide manufacturer's instructions before refilling the PRC again. The cleaning event must be recorded.
- All DOT tanks must be tested every 2 ½ years according to DOT re-testing procedures. There is a month/year date stamp near the UN marking that indicates the original certification date. You may choose to retest the tanks at your facility but the procedures are too detailed for this guidance document; we'll provide additional guidance on re-testing procedures at www.ifca.com

Explanation: USEPA requires that pesticide PRCs be DOT approved to ensure that tanks are capable of withstanding the stress of transportation. USEPA also wants to prevent cross-contamination, which is why they require the one-way valve and tamper evident devices. If a PRC goes to a customer and is returned with the tamper evident device broken, you cannot be certain that another pesticide wasn't introduced into the container, thus you must clean the tank before refilling it again, and document when you cleaned the tank.

Requirements for PRC's continued

Exception: USEPA does not regulate Service Containers (see definition of service container). However, it is recommended that these tanks be DOT Packaging Group III tanks, and net contents and the pesticide label should also accompany the service container. If you fill a PRC and provide it to a farmer, it is NOT a service container. It's only a service container if it stays completely within the scope of your custom application business.

Non-Refillable Containers: We expect that some distributors will utilize only non-refillable containers in order to minimize the recordkeeping and cleaning requirements of this regulation.

Non-refillable containers will be clearly marked with this label: **"Non Refillable Container. Do not reuse or refill this container."** IFCA recommends that after they are emptied the one and only time, that you or your customers have a way to recycle or properly dispose of them. Contact your distributor for recycling options; IFCA will also offer a recycling program. In all cases the containers should be properly cleaned when they are emptied.

Cleaning PRCs: If a PRC comes back from a customer and the tamper evident device has been removed, you must clean the tank per the manufacturer's instructions and document it. We recommend that you educate your customers about this new regulation and encourage them to not break the seals on the tank, although we realize this will happen if a product needs to be re-circulated. Cleaning must be done according to the manufacturers' instructions for the product you will be filling.

Recycling: Please see the enclosed IFCA recycling registration forms; if you have non-compliant tanks this is your opportunity to get rid of them in a responsible manner. Tanks must be CLEAN or we won't accept them in this program.

Paperwork (Documentation)

Each time you refill a PRC, you must:

1. Identify the pesticide that was previously in the PRC (by looking at the label);
2. Visually inspect the PRC to ensure that it's in good shape;
3. Clean the container if necessary. PRCs that do not have intact one-way valves or unbroken tamper evident devices need to be cleaned each time they are refilled.
4. Ensure the PRC is properly labeled by August 16, 2011.
5. Record the date, serial number/code of the PRC, and the EPA registration # of the pesticide; and
6. Maintain records of pesticide production (amount you repackage) as currently required by your Pesticide Production Establishment Report authorization.

You must keep records that you performed all these functions for two years.

Many software suppliers that you currently use to track inventory, do billing, etc. are working to include PRC recordkeeping features in their software. You should check with your software providers about the availability of these services or contact IFCA for a list of companies that offer these services.

Records can also be maintained on a checklist, on 3 x 5 note cards for each tank, or in whatever method that you can easily access them and make them available for inspection.

Standards For Stationary Bulk Pesticide Storage Tanks

Stationary pesticide storage tanks holding at least 500 gallons and at the facility of a refiller operating under a repackaging agreement with a registrant must:

1. Be durably marked with a serial number or other identifying code
2. Meet certain integrity/strength standards
3. Have a vent
4. Have a shut-off valve on any connection below the normal liquid level
5. Not have an external sight gauge
6. Be anchored or elevated (this was effective August 16, 2009). If your tanks are not elevated, you must calculate the buoyancy of the tanks and take steps to ensure against flotation. For instructions on calculating buoyancy, go to www.aginspect.org and click on "Guidance Documents Related to PCC Regulations."

Note: To calculate tank buoyancy in secondary containment go to www.ifca.com.

Inspections, Compliance and Penalties

This regulation becomes effective August 16, 2011. Only PRCs that are filled on August 17, 2011 or later must comply with this regulation. If you fill a PRC on August 1 and then release it for shipment on August 17 or later, the PRC does not have to comply with these new rules. However, we recommend you document the fill date to demonstrate you filled the PRC prior to August 16, 2011.

The Illinois Department of Agriculture serves as the state lead agency for administration of the Federal Fungicide Insecticide Rodenticide Act (FIFRA) through a performance agreement with USEPA. IDA conducts Producer Establishment inspections of repackaging facilities based upon an agreed inspection strategy with USEPA Region 5 that is based upon guidance from USEPA HQ. These new requirements for PRCs will be incorporated into that inspection program.

IDA inspectors are authorized to review your PRC records and inspect PRCs at any time. USEPA personnel may also conduct facility inspections to ensure compliance with this rule. Penalties can exceed \$5,000 per violation according to USEPA enforcement guidelines.

Additional Resources at www.ifca.com

The IFCA webpage provides helpful documents on various aspects of this regulation. This includes:

- Frequently Asked Questions about Repacking and the PRC Rule
- A PRC Refilling Fact Sheet from USEPA
- How to Spot DOT Markings on PRC's
- IDA's PowerPoint Presentation on the Rule Given at IFCA Convention, Jan 2011
- Requirements for Operational & Secondary Containment
- Cleaning Instructions
- Recycling Options

How to Comply - The Basics

- Make sure you have Repackaging Agreements at the facility performing the repackaging
- Identify that all your PRC's are DOT approved containers
- Determine which PRCs will be Service Containers vs. Customer Containers
- Identify PRCs with a unique code or serial # for tracking and recordkeeping purposes
- Ensure that PRCs going to customers have tamper evident devices and one-way valves
- PRCs that will not be refilled must be labeled as such:
Non Refillable Container. Do Not Reuse or Refill this Container.
- Implement a recordkeeping system for PRCs (checklist or computer software)
- Clean PRC's according to the manufacturer's specifications and document the cleaning
- Implement a responsible method to recycle non-refillable PRCs or old PRCs
- Ensure that bulk pesticide containment and storage areas comply with all state and federal regulations; contact IDA or IFCA for questions about bulk storage
- **Contact IFCA for assistance on compliance: (309) 827-2774**

Commonly Asked Questions

Q: If I fill a sprayer or other type of container with pesticides that are blended with water or fertilizer, does this rule apply?

A: No, pesticides mixed with water or fertilizer are considered custom blends and are not subject to this regulation.

Q: Is a pump that is attached to the container considered an opening that requires a one-way valve or tamper evident device?

A: Yes. Each opening of a portable pesticide container for liquid materials other than a vent must have a one-way valve, a tamper-evident device or both. If there is a practical way for a person to introduce material into the container through the pump, then the pump would need to be fitted with a tamper-evident device and/or a one-way valve to prevent someone from introducing material through the pump into the container.

Q: How do I determine if the minibulks I currently have on hand can be used after Aug 16, 2011?

A: Look at the repackaging agreement. The registrant will provide a list of tanks are suitable for their products to be refilled into. If your existing tanks are on this list but do not have one-way valves, you can retrofit the tanks with after-market valves or tamper evident devices. Go to www.ifca.com for a guide on acceptable aftermarket products available to retrofit tanks.

Q: If the farmer breaks the seal but cleans the tank himself, do I have to clean it again?

A: If you believe a customer will need to break a seal to re-circulate the pesticide, you should provide the farmer with a copy of the tank cleaning instructions and can encourage him to properly clean the tank when he empties it into his sprayer. You can document that you provided the cleaning instructions, and the farmer can sign an agreement with you that he cleaned the tank before returning it. If you inspect the tank and determine it is clean, document your inspection and you can then proceed with refilling. If there is any doubt the tank was not properly cleaned, you should clean it yourself and document it as required.