

Fact Sheet: Broken Bag Policy (March 10, 2016)

Subtitle: Can a retailer repair a broken pesticide bag and sell it? (Answer: It depends.)

EPA's Pesticide Container Repair Interim Policy

The EPA's Pesticide Container Repair Interim Policy (the "Bag Patch" policy) was issued on October 9, 2009 and is available at: <http://www.epa.gov/pesticide-worker-safety/pesticide-containers#interim>.

As an interim measure pending USEPA's full consideration of a generally applicable policy, USEPA will consider, on a case-by-case basis, whether individual proposals for "minor repair programs" constitute "production" under 40 CFR 167.3, and thus whether minor damage to pesticide containers may be repaired, and the product may be sold or distributed, under the terms of the existing registration.

Patching and repairing pesticide containers is considered a repackaging or a relabeling activity which would normally be considered a form of production requiring compliance with the requirements of FIFRA Section 7. The interim policy does not exempt all facilities from the Section 7 requirements if they engage in bag patching repairs - only those who have an approved program.

Who is eligible to participate?

The policy does not specify who qualifies for participation in such a program, but the three programs that have been approved so far are retailers: Walmart/Sams' Club, Home Depot, and John Deere Landscapes.

What standards must a container repair program meet?

The policy states that a pesticide container minor repair program must demonstrate that the program maintains:

- Label integrity – including ensuring that the labeling is legible and all required information is on the label;
- Product integrity – addressing the loss of contents and the composition of the product; and
- Container integrity – including strength of the patch and the container, how to apply the patch/repair, and how to ensure that people will apply the patch correctly.

How are container repair programs approved?

A proposed container repair program should be submitted to the Director of the Office of Pesticide Programs. (It is helpful to send a cc: to Nancy Fitz.) The proposal is reviewed by OPP, OECA and OGC to determine whether it meets those standards. The internal workgroup discusses issues with the submitter until the company submits a minor repair program that meets the standards or withdraws its request. When a program is approved, OPP sends a letter documenting approval of the minor repair program to the company.

What should an inspector ask for regarding broken bags during an inspection (if that is an issue)?

If broken bags are an issue, an inspector should ask how damaged bags are handled. If bags are being patched and sold, the inspector should obtain a copy of the in-store policy or standard operating procedure along with any other documentation and observations of actual bag repair practices. After the inspection, the inspector should contact Nancy Fitz to obtain a copy of the approved container repair program (if there is one).

Where can I get more information about EPA's interim container repair policy?

The interim container repair policy and the list of companies with approved programs is available online at the link provided above. For additional information, contact Nancy Fitz at 703-305-7385 or fitz.nancy@epa.gov.