

PESTICIDE MINOR CONTAINER REPAIR

Guidance

Background

In 1947 Congress passed the Federal Insecticide, Fungicide, and Rodenticide Act 7 U.S.C. §§136-136(y) (FIFRA), which governs the distribution, sale, and use of all types of pesticides, including insecticides, herbicides, fungicides, rodenticides, and antimicrobials both in inter- and intra-state commerce. Any pesticide to be sold in the United States must be registered with the U.S. Environmental Protection Agency (U.S. EPA). The U.S. EPA will only register a pesticide if the registrant can demonstrate that the product will not cause any unreasonable adverse effects on the environment or humans, or create a dietary risk through pesticide residues left on food consumed by humans. Registration is the primary vehicle for ensuring that pesticides are brought under FIFRA's regulatory scheme.

7 U.S.C. §136e requires that all pesticides or active ingredients used in pesticides be produced only in establishments registered with the Administrator of the U.S. EPA. The U.S. EPA promulgated administrative rules under 7 U.S.C. §136, including one defining commonly used terms in the statute provisions. 40 C.F.R. §167.3 defines "produce" as used in 7 U.S.C. §136e as:

“..to manufacture, prepare, propagate, compound, or process any pesticide, including any pesticide produced pursuant to section 5 of the Act, any active ingredient or device, or to package, repack, label, relabel, or otherwise change the container of any pesticide or device.”

The effect of this administrative rule relevant to most wholesalers and retailers of pesticides is that it prevents any facility that is not an establishment registered as a producer with the U.S. EPA from repackaging, relabeling, or otherwise repairing damage to a pesticide container. When pesticide bags at retail or wholesale locations rip or tear, even when only minimal product has spilled out, the bag of product cannot be patched and sold. Any damaged container and its contents must be disposed of as waste. The U.S. EPA estimates that roughly five million pounds of pesticide products are disposed of annually in the U.S. due to rips and tears in the containers.

Container Repair Programs

In order to reduce the amount of pesticides being disposed each year, the U.S. EPA issued a [Pesticide Container Repair Interim Policy on October 9, 2009](#). The policy allows a person to implement a minor pesticide container repair program without being registered as a pesticide producer, so long as the repair program has been approved by U.S. EPA. Under the interim policy, the U.S. EPA will consider and approve minor pesticide container repair programs on a case-by-case basis. To be eligible for approval, a repair program must maintain:

- 1. Label integrity** – Any damage or repair of damage must not make the label of the product and/or any required information on the label illegible.
- 2. Product integrity** – No spilled product can be returned to the container, no foreign matter can be introduced to the product, the composition or physical characteristics of the product cannot be appreciably altered, and the net weight of the container after repair cannot be appreciably less than the weight listed on the product label.
- 3. Container integrity** – Any repair to the container must be strong enough and secure enough to remain affixed during normal conditions and use, and the program must ensure repairs are applied appropriately.

To simplify the application and review process, the Michigan Department of Environmental Quality (MDEQ) has developed the following template/example proposal and transmittal letter for submitting a proposed pesticide container repair program. The template was designed to include elements consistent with an approved program. It is intended to serve as a guide and is not required for use to seek or obtain an approved program. The template

PESTICIDE CONTAINER MINOR REPAIR PROGRAM – GUIDANCE

was reviewed by the U.S. EPA FIFRA program staff and confirmed to be consistent with the interim policy; however each program must be submitted for review/approval and will be reviewed on a case by case basis. The template was also reviewed by the Michigan Department of Agriculture and Rural Development and verified consistent with Michigan's pesticide regulations. Some states do not allow pesticide container repairs and some may have repair requirements beyond what is provided in the template. When developing a proposal, applicants need to review and identify any unique state requirements in advance of submitting a proposed repair plan for approval and include that information in the proposed plan for all states in which the plan will be utilized.

Applicants are encouraged to develop a draft employee manual or draft training guide for use upon approval and to compliment the program proposal. The training materials should include the details necessary to achieve container, label, and product integrity. The training materials should include proper instruction of how to handle, evaluate, and repair or dispose of damaged pesticide products. Employees should be informed how to protect themselves with personal protective equipment (PPE), when to dispose of a damaged product rather than repair the container, what regulations apply to disposal of pesticide products and how to follow them. Documentation of training or guidance manuals help demonstrate the program will be consistently and faithfully carried out by employees and should be provided as an attachment to the proposed program.

Applicants who receive plan approval are encouraged to keep careful records as shown in the template, to assist with measuring the value of the program and future rulemaking.

Please send proposals for minor repair programs to the Director of the Office of Pesticide Programs at: U.S. EPA, Office of Pesticide Programs (7501P), 1200 Pennsylvania Avenue, NW, Washington, D.C., 20460. Please also send a duplicate copy of the complete proposal electronically to Ms. Nancy Fitz at fitz.nancy@epa.gov.

Questions on pesticide container repair program proposals can be directed to Nancy Fitz, U.S. EPA, Office of Pesticide Programs at 703-305-7385 or Fitz.Nancy@epa.gov. For questions on this guidance, please contact Christine Grossman, MDEQ, Office of Environmental Assistance at 517-284-6860 or grossmanc@michigan.gov. For questions on state programs and requirements please see the National Pesticide Information Center's [State Pesticide Regulatory Agency Web page](http://npic.orst.edu/reg/state_agencies.html#map) (http://npic.orst.edu/reg/state_agencies.html#map).

This publication is intended for guidance only and may be impacted by changes in legislation, rules, policies, and procedures adopted after the date of publication. Although this publication makes every effort to teach users how to meet applicable compliance obligations, use of this publication does not constitute the rendering of legal advice.

Example/Template Patching Program Proposal

COMPANY NAME] FIFRA PATCHING PROGRAM [DATE]

The purpose of this document is to provide an overview of [COMPANY NAME]'s approach to minimizing the waste of FIFRA-regulated bagged pesticide products resulting from minor damage to the bags. The following document outlines [COMPANY NAME]'s proposed bag repair program. [COMPANY NAME] requests the proposed program be approved by the U.S. EPA as a “minor repair program” pursuant to the U.S. EPA’s published Pesticide Container Repair Interim Policy. [COMPANY NAME] provides as attachments excerpts from the draft employee manual (or other guidance document or training) instructing employees how to manage, repair, and/or dispose of damaged pesticide containers. This guidance/training will ensure that the program outlined below will be carried out consistently and properly by employees of [COMPANY NAME].

1. The Minor Repair Program applies to [ITEM NUMBERS AND/OR DESCRIPTION OF THE PRODUCTS AND CONTAINERS COMPANY CURRENTLY REGULARLY CARRIES TO WHICH THE PATCH PROGRAM WILL APPLY, i.e. bags of Brand XYZ of pesticides] damaged in normal operations at [COMPANY NAME]'s retail or retail distribution facility. The Minor Repair Program applies to [COMPANY NAME] retail operations occurring in [INSERT STATES IN WHICH THE PROGRAM WILL BE IMPLEMENTED].
2. For the purpose of this program, pesticides include any insecticide, herbicide, fungicide, rodenticide, antimicrobials, or any product mixed with one or more of the above products (e.g. fertilizer mixed with weed control or insecticide).
3. Customer returns will not be repaired.
4. Damaged bags will be repaired with special adhesive patches made of [DESCRIPTION OF THE MATERIAL], with dimensions [2.5” BY 3.5” OR LARGER].
5. Employees handling the damaged container will be required by [COMPANY NAME]'s policy to wear personal protective equipment (PPE) during handling. The type of PPE to be worn shall, at a minimum, be chemical resistant gloves such as those made from rubber, nitrile, or vinyl; goggles; and a chemical resistant apron. If the label of any products being handled in the program require more PPE, the program will specify that PPE [INCLUDE AS AN ATTACHMENT AN EXCERPT FROM THE EMPLOYEE GUIDE OR TRAINING MANUAL DESCRIBING THE PROCEDURES EMPLOYEES MUST FOLLOW WHEN APPLYING PPE AND DISPOSING OF IT AFTER USE. ENSURE THE MINIMUM PPE REQUIRED BY THE POLICY IS THE MOST PPE REQUIRED FOR ALL OF THE PESTICIDES HANDLED THROUGH THE MINOR REPAIR PROGRAM]
6. Employees handling damaged bags of pesticides will be required to follow the procedures for handling and/or disposal explained in the employee manual or other training guide. [INCLUDE AS AN ATTACHMENT AN EXCERPT OF THE MANUAL DESCRIBING THE HANDLING OR DISPOSAL PROCEDURES FOR VARIOUS CATEGORIES OF PRODUCTS]
7. The damage to any bag being repaired will be damage not affecting the labeling required under FIFRA. That is, any damage, or repair of damage, to a container must not render the labelling illegible, missing, altered, detached, defaced, or otherwise destroyed. Damage or a repair must not cover any part of the information appearing on the label. The information includes but may not be limited to:
 - a. directions for use of the product;
 - b. description of the product’s environmental, physical, and/or chemical hazards;
 - c. storage and disposal instructions;
 - d. first aid instructions;
 - e. U.S. EPA registration number;
 - f. U.S. EPA establishment number;
 - g. net weight of the product;
 - h. ingredient statement; and
 - i. company name and address.

PESTICIDE CONTAINER MINOR REPAIR PROGRAM – GUIDANCE

[INCLUDE SAMPLE PHOTOS OF REPAIRABLE DAMAGE AND NON-REPAIRABLE DAMAGE. NOTE: THE LIST OF LABEL ELEMENTS HERE IS TO BE THE SAME AS THE LIST INCLUDED IN ITEM 3 OF THE EMPLOYEE TRAINING GUIDE, SAME ITEMS ELEMENTS, SAME WORDING, ALL LISTED IN THE SAME ORDER.]

8. Repairs will only be made to punctures, rips, tears, or holes in bags that are equal to or smaller than 2.5 inches by 3.5 inches. Any hole larger than 2.5 inches by 3.5 inches will not be repaired and the product will be required to be properly bagged and managed as waste under the applicable waste regulations. One patch must completely cover an individual puncture, rip, tear or hole . **[INCLUDE AN EXCERPT FROM THE EMPLOYEE MANUAL OR TRAINING GUIDE SHOWING A SIZE SAMPLE OF THE LARGEST HOLE IN A CONTAINER THAT MAY BE ACCEPTABLY REPAIRED. NOTE: THE SIZE OF THE ALLOWABLE DAMAGE IS LIMITED BY THE SIZE OF THE PATCH.]**
9. No more than two repair patches may be used on any given bag.
10. No more than one patch is used to repair a single puncture, rip, tear or hole.
11. A bag will not be repaired if the product loss from the damaged container is greater than the weights provided in the following table:

Bag Weight	Maximum Product Loss	Approximate Volume
≤ 5 lbs.	.1 pounds	1/5 cup
> 5 lbs. and ≤ than 17 lbs.	.5 pounds	1 cup
> 17 lbs. and ≤ 50 lbs.	1 pound	2 cups

12. Any given bag will not be repaired if the physical characteristics of the product have changed (e.g. hardening due to exposure to liquid).
13. Any spilled contents shall NOT be placed back into the bag for sale. Any spilled contents must be disposed as required by **[COMPANY NAME]**'s policy in accordance with the applicable waste regulations. **[INCLUDE AN EXCERPT FROM THE EMPLOYEE MANUAL OR TRAINING GUIDE THAT DIRECTS EMPLOYEES TO THE APPLICABLE REGULATIONS FOR EACH CATEGORY OF PRODUCT]**
14. A bag will not be repaired if foreign material has been introduced to it.
15. Any repaired bag will have a sticker or tag affixed to it stating the item will be sold "as is" to provide notice to consumers that the product may not contain the full weight stated on the label. The sticker will be in a conspicuous location that does not cover the required FIFRA labelling.
16. **[COMPANY NAME]** will keep the following records available for review upon request by state or federal FIFRA or RCRA authorities for the duration of approval to assist with measuring the waste minimization value of the program and future rulemaking:
 - a. The number and weight of broken bags of pesticide products handled by **[COMPANY NAME]** in aggregate (across all retail and warehouse locations) and by site.
 - b. The number and weight of broken bags of pesticides repaired and sold by **[COMPANY NAME]** in aggregate (across all retail and warehouse locations) and by site.
 - c. The number and weight of broken bags of pesticides disposed by **[COMPANY NAME]** in aggregate (across all retail and warehouse locations) and by site.
17. **[INSERT ADDITIONAL PROVISIONS NECESSARY TO MEET ALL STATE REQUIREMENTS AND LIMITATIONS]**

Example/Template Employee Training Guide – Repairing Damaged Pesticide Bag

Bags of pesticide products that arrive at [COMPANY NAME]'s store damaged or are damaged during handling must be repaired prior to marking down for sale in the store, or else they will need to be processed for disposal. The following procedure provides details regarding how to repair bags and the requirements for sale.

SPILLED PESTICIDE PRODUCTS

Any pesticide product that has spilled out of a damaged bag must never be placed back in the bag. Spilled product must be disposed of according to applicable waste regulations and procedure. **[INCLUDE INFORMATION ABOUT PROCEDURE CURRENTLY IN PLACE FOR SPILL RESPONSE]**

CUSTOMER RETURNS

Customer return of damaged fertilizer cannot be resold. Instead, damaged bags of pesticides returned by customers should be **[INCLUDE INFORMATION ABOUT PROCEDURE CURRENTLY IN PLACE ON HOW TO PROCESS CUSTOMER RETURNS REQUIRING DISPOSAL]**

PESTICIDE HANDLING PPE GUIDE

Before touching, evaluating, or otherwise handling a pesticide product that you suspect is damaged, put on required personal protective equipment (PPE). PPE includes (in the order they should be put on) goggles, chemical resistant gloves, and a chemical resistant apron. **[NOTE: IF THE LABEL OF ANY PRODUCTS BEING HANDLED IN THE PROGRAM REQUIRE MORE PPE, THE PROGRAM SHOULD SPECIFY THAT PPE AND ADJUST THE INSTRUCTION BELOW ACCORDINGLY.]** After handling a damaged pesticide product, remove your PPE in the reverse order you put it on – that is:

1. Clean any pesticide products off the apron and goggles with water wetted paper wipes
2. Dispose of the paper wipes in a **[IDENTIFYING FEATURES, SUCH AS COLOR]** bucket bearing the label "Hazardous Waste – Contaminated PPE".
3. Remove the chemical resistant gloves and place them in the same bucket.
4. Remove the goggles and apron to wherever they are typically stored
5. Wash hands with soap and warm water for at least 20 seconds, taking care to lather and scrub the backs of your hands, between your fingers and under your nails

PESTICIDE PATCHING GUIDE

Pesticide products that have minor damage to their bags can be repaired if they meet certain requirements. If you encounter a damaged pesticide product, take the following actions:

1. Put on PPE as described above
2. Clean up any spilled product, either on the ground or on the bag, following the spill procedures for the type of spill, hazardous waste or non-hazardous waste in accordance with spill procedure.
3. Inspect the bag to determine if it can be repaired. A bag can be repaired only if it meets all of the following requirements:
 - the damage, or any repair done to it, would not cover, alter, or make illegible any part of:
 - directions for use of the product;
 - description of the product's environmental, physical, and/or chemical hazards;
 - storage and disposal instructions;
 - first aid instructions;
 - U.S. EPA registration number;
 - U.S. EPA establishment number;
 - net weight of the product;
 - ingredient statement; and
 - company name and address.

[NOTE: THE LIST OF LABEL ELEMENTS HERE IS TO BE THE SAME AS THE LIST INCLUDED IN ITEM 7 OF THE PROPOSED PATCHING PROGRAM, SAME ITEMS ELEMENTS, SAME WORDING, ALL LISTED IN THE SAME ORDER.]

PESTICIDE CONTAINER MINOR REPAIR PROGRAM – GUIDANCE

- each puncture, rip, tear, or hole is smaller than 2.5” by 3.5”
[NOTE: THE SIZE OF THE ALLOWABLE DAMAGE IS LIMITED BY THE SIZE OF THE PATCH.]
- no bag has more than 2 punctures, rips, or tears
- no more than one patch is used to repair a puncture, rip, tear or hole
- no bag will be repaired if the product loss from the damaged container is greater than the weight provided in the following table:

Bag Weight	Maximum Product Loss	Approximate Volume
≤ 5 lbs.	.1 pounds	1/5 cup
> 5 lbs. and ≤ than 17 lbs.	.5 pounds	1 cup
> 17 lbs. and ≤ 50 lbs.	1 pound	2 cups

- no dust, dirt, debris, liquid, or other foreign material has been introduced into the container through the damaged area
 - the product has not come into contact with any water or other liquid
 - the physical characteristics of the product have not changed due to exposure to other materials (for example – hardening due to exposure to liquid)
 - a patch applied to the bag will stay completely affixed during normal conditions and use of the product
4. If the damaged bag meets all of the above requirements, it can be repaired. Retrieve no more than 2 adhesive repair patches from **[INCLUDE PLACE WHERE ADHESIVE REPAIR PATCHES FOR PESTICIDE PRODUCTS ARE STORED]**.
 5. Apply the patch(es) over the damaged spot(s) on the bag. Press them down firmly, then smooth your hands over them to remove air bubbles and ensure the patch is properly stuck down.
 6. Check to make sure no product spilled onto the ground or bag during the repair process. If it did, follow step 2 above.
 7. Remove the PPE and clean it or dispose of it as described above.
 8. **[INCLUDE INFORMATION ABOUT RECORDING PROCEDURES CURRENTLY IN PLACE]**
Example: Record and file that a bag of pesticide product at your facility was damaged and has been repaired, identifying the product name, type, item number, and the date.
 9. **[INSERT PROCEDURAL INFORMATION AS TO HOW TO MARK OR PRICE ITEM FOR SALE]**
Example: Affix a “sold as is” sticker to the product, being careful not to cover any part of the labeling. The product may now be shelved and sold.
NOTE: Containers that cannot be repaired should be **[INCLUDE INFORMATION ABOUT PROCEDURES CURRENTLY IN PLACE TO HANDLE BROKEN BAGS REQUIRING DISPOSAL IN ACCORDANCE WITH STATE AND FEDERAL REGULATIONS.]**
 10. **[INSERT ADDITIONAL PROVISIONS NECESSARY TO MEET ALL STATE REQUIREMENTS AND LIMITATIONS]**

Example/Template Transmittal Letter for Proposed Patching Program

The following may be completed by an applicant and submitted as summarized above. The template provisions are not required and have been provided to help facilitate submittal and approval of a patching program.

Date: MM/DD/YYYY

Director, Office of Pesticide Programs
U.S. Environmental Protection Agency
Office of Pesticide Programs (7501P)
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Director¹:

The purpose of this letter is to submit **[COMPANY NAME]**'s proposal for our minor repair of pesticides containers program for approval under the U.S. EPA's published Pesticide Container Repair Interim Policy. **[COMPANY NAME]** seeks to reduce the amount of pesticide waste currently generated by **[COMPANY NAME]** due to damage incurred by containers during normal conditions either in transport to or at **[COMPANY NAME]**'s facilities. Instead of simply disposing of pesticide products whose containers show minor damage, **[COMPANY NAME]** would like to repair the container and sell the product for its intended use. **[COMPANY NAME]** has made a good faith effort in constructing its proposed program to comply with the aims and the requirements enumerated by the Policy. **[COMPANY NAME]** looks forward to engaging in a dialogue with the U.S. EPA and making certain changes to its proposed program based on the U.S. EPA's recommendations. Please find the full proposed program attached.

In order to reduce the amount of pesticide waste generated by **[COMPANY NAME]**, we would like to immediately begin taking the internal steps necessary to ensure proper execution of the repair program. Our goal is to implement the program throughout our entire domestic chain as soon as the U.S. EPA gives us final approval.

On behalf of **[COMPANY NAME]**, thank you for the U.S. EPA's assistance in this matter. We look forward to continued cooperation with the agency as we work towards solutions that contribute to the reduction of unnecessary waste.

Best regards,

Name
Position
[COMPANY NAME]
[TITLE]
[CONTACT INFORMATION]

cc: Nancy Fitz, U.S. EPA

¹ For more information regarding the current director of OPP and the organizational chart of the EPA, please consult <https://www.epa.gov/pesticide-contacts>.