EPA Pesticide Container and Repackaging Regulations,
Flow Chart 2: Can I fill this large portable refillable container (greater than 119 gallons)? (end notes 1 & 2)

1. Is the container labeled as a nonrefillable container or a refillable container?

- Nonrefillable container
  - The container CANNOT be refilled or reused.
- Refillable container

2. Is the container included on the registrant’s description of acceptable containers for that pesticide? [40 CFR 165.70(e)(3)]

- NO: The container CANNOT be refilled with the pesticide in question.
- YES: The description of acceptable containers identify the container.

3. How does the description of acceptable containers identify the container?

- The container is identified either by performance standards that include meeting the DOT Packing Group (PG) III standards (at least) or by a specific container design (e.g., using photos) that meets the DOT PG III standards (at least). The container is called an intermediate bulk container (IBC) by DOT.
- The container is identified by a specific container design (e.g., using photos) that is not marked with the UN symbol or DOT marking. The container is called a “non-DOT Specification portable tank” by DOT.

4(a) What DOT marking is required?

- The UN symbol
- The DOT marking, which includes 6-8 pieces of information (end note 3), including the:
  - Container code in the first slot
  - Packing Group (X, Y or Z) in the 2nd slot
  - Date of last leakproofness test
  - Date of last DOT inspection. [49 CFR 178.703]

4(b) What DOT testing is required?

- Has the container passed the leakproofness test in the last 2.5 years and is it marked with that date by month and year (e.g., 01 12)? [49 CFR 180.352]
  - NO: The container must be leakproofness tested per 49 CFR 180.352(b)(1) and marked with the date. Keep records per 49 CFR 180.352(g).
  - YES: No DOT testing is required.

4(c) What DOT inspections are required?

- Has the container passed the DOT external inspection in the last 2.5 years and is it marked with that date by month and year? [49 CFR 180.352]
  - NO: The container must be externally inspected per 49 CFR 180.352(b)(2) and marked with the date. Keep records per 49 CFR 180.352(g).
  - YES: No DOT inspections are required.

- Has the container passed the DOT internal inspection in the last 5 years? [49 CFR 180.352]
  - NO: The container must be internally inspected per 49 CFR 180.352(b)(3) and marked with the date. Keep records per 49 CFR 180.352(g).
  - YES: No DOT inspections are required.

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5. Is the container durably marked with a serial number or other identifying code? [40 CFR 165.45(d)]

6. Does the container pass the EPA inspection each time before it is refilled?

   6(a) Is the container compromised by showing signs of rupture, cracks, significant defects or damage that might render it unsafe for transportation? [40 CFR 165.70(f)(1)] (end note 4)

   YES

   NO

   The container must be durably marked with a serial number or other identifying code.

   The container fails the inspection and cannot be refilled. It must be removed from service until it is repaired, reconditioned, or remanufactured to be in compliance with the relevant DOT requirements.

6(b) Is the container durably marked with a serial number/identifying code and any required DOT marking AND is all of the marking legible? [40 CFR 165.70(f)(2)]

   YES

   NO

   The container must be retrofitted so all of the required marking is durable and legible.

   (end note 5)

7. Are vents designed to minimize the amount of material that can be introduced into the container through the vent? [40 CFR 165.45(e)]

   YES

   NO

   The vent must be retrofitted so it would be difficult to put material through the vent into the container, which includes ensuring that the vent device is not easily removed.

8. Does each opening (other than a vent) have a one-way valve OR a tamper-evident device OR both (or will have one after the container is filled)? [40 CFR 165.45(e)]

   YES

   NO

   A one-way valve or a tamper-evident device must be installed on each opening (that is not a vent) before the container is released for shipment.

9. Does the container need to be cleaned? (end note 6)

   9(a) Were all of the container’s tamper-evident devices and one-way valves intact when the refiller received the container? [40 CFR 165.70(g)(1)]

   YES

   NO

   The refiller must clean the container using the cleaning procedure from the registrant of the pesticide being repackaged into the container.

   The container does not need to be cleaned.

9(b) Is the container being refilled with the same pesticide product (as determined by the label)? [40 CFR 165.70(g)(2)]

   YES

   NO

9(c) Is the container being refilled with a pesticide that has the same single active ingredient in a compatible formulation? [40 CFR 165.70(g)(3)]

   YES

   NO

   The container must clean the container using the cleaning procedure from the registrant of the pesticide being repackaged into the container.

   The container does not need to be cleaned.
10. The container can be refilled with the registrant’s pesticide.

After refilling the container, the refiller must take the following final actions:

- Close the fill port according to the container manufacturer’s instructions and seal the fill port with a tamper-evident device OR a one-way valve OR both. [49 CFR 173.24(f)(2) and 40 CFR 165.45(e)]
- Ensure that the label of the pesticide is securely attached to the container and complies with all label requirements, which includes:
  - Adding the net contents and the refiller's EPA Establishment number (if not on the label); and
  - Having the new refillable container instructions, including language like “Refillable container. Refill this container with pesticide only. Do not reuse this container for any other purpose.” [40 CFR 165.70(i) & 156.140 – 156.156]
- Record the date of repackaging, the container serial number/identifying code and the EPA Registration number of the pesticide and keep that record for three years. [40 CFR 165.70(j)(2)]

End Notes:

(1) The volume of 119 gallons is based on the Department of Transportation (DOT) regulations and specifically the cutoff between non-bulk and bulk packagings. This flow chart covers intermediate bulk containers (IBCs), which are a type of bulk packaging. (49 CFR 171.8)

(2) This flowchart is intended to provide general guidance. See the regulations in 40 CFR Part 165 for complete details. This flowchart is based on the scenario that a refiller at a registered producing establishment (40 CFR Part 167) has a portable refillable container to be filled with a specific pesticide and is trying to determine how to do that in compliance with the refillable container and repackaging regulations. The scenario assumes that: (a) the facility complies with all of the repackaging regulations in 40 CFR 165.60 – 165.70 (such as having entered into a contract with the pesticide’s registrant); (b) the pesticide is subject to the refillable container and repackaging regulations (e.g., it is not a manufacturing use product or an antimicrobial product that meets all of the criteria for exemption); and (c) the container is subject to the refillable container and repackaging regulations because it is being used to sell or distribute the pesticide (e.g., it is not a service container, which is when an applicator transfers a pesticide into the container for the purposes of that applicator applying the pesticide).

(3) The rest of the information in the DOT marking includes the month & year of manufacture; the country authorizing allocation of the mark; the name & address or symbol of the container manufacturer; the stacking test load; and the maximum permissible gross mass. Additional information for rigid plastic and composite IBCs includes the rated capacity, tare mass and gauge test pressure. (49 CFR 178.703)

(4) The citations for EPA’s repackaging regulations are from the section for “independent” (non-registrant) refillers in §165.70. There are comparable requirements for registrants who are refillers in §165.65.

(5) You cannot add the UN symbol or DOT marking to a container unless you have the required test data. DOT regulations state that a container “may be marked with the United Nations symbol and other specification markings only if it fully conforms to the requirements of” 49 CFR Part 178. (49 CFR 178.3(b))

(6) The questions regarding cleaning in #9 assume that the container had previously been used to sell/distribute a pesticide and is received by the refiller with the label of that pesticide still on the container.

For more information:
- See the pesticide container regulations (40 CFR Part 165) or
- EPA’s container web page: http://www.epa.gov/pesticides/regulating/containers.htm
- Contact Nancy Fitz, 703-305-7385, fitz.nancy@epa.gov