



BERGESON & CAMPBELL, P.C.

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MEMORANDUM

Via E-Mail

DATE: January 12, 2004

TO: Firm Clients and Friends

FROM: Bergeson & Campbell, P.C.

RE: EPA Releases Documents Regarding FIFRA Reporting Requirement

The U.S. Environmental Protection Agency (EPA) has released updated instructions for completing EPA Form 3540-16 for reporting year 2003, which include “Common Questions and Answers: Reporting Requirements for Pesticide, Active Ingredient, and Device Producers (EPA Form 3540-16)” ([available online](#)). The instructions state that the reports are due to EPA by **March 1, 2004**, even if there has been no production. The question and answer document provides the following information:

■ Q: What must I report?

A: Each producer operating an establishment must submit the following information for each pesticide, active ingredient, or pesticide device [including, but not limited to, unregistered pesticides, Experimental Use Permits, Special Local Need products under § 24(c) of FIFRA, or pesticides produced for export only]:

- Types and amounts produced in 2003;
- Types and amounts sold/distributed in 2003, regardless when the product was produced; and
- An estimate of the amount expected to be produced in **2004**.



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- Q: How is the information I provide used by the EPA?

A: The information is used by EPA's Office of Enforcement and Compliance Assurance and the Office of Prevention, Pesticides, and Toxic Substances to support risk-benefit analysis, inspection, compliance, and enforcement activities.

- Q: What constitutes "bulk repackaging" of pesticides?

A: "Bulk repackaging" means the repackaging of pesticides into refillable containers which are designed and constructed to accommodate the return and refill of greater than 55 gallons or 100 pounds of product, in accordance with EPA's July 11, 1977, Bulk Enforcement Policy, and the Amendment dated March 4, 1991.

- Q: What constitutes "custom blends" of pesticides? What is a "custom blender?"

A: A custom blender is any establishment which provides the service of mixing registered pesticides to a customer's specifications, specifically, a pesticide-pesticide, pesticide-fertilizer, or pesticide-animal feed mixture. The blend must not be held in inventory, the pesticides used in the blend must bear end-use labeling which does not prohibit the use of the pesticide in the blend, and the blend is delivered to the end-user with the labeling of the pesticide(s) used in the blend and a statement specifying the composition of the mixture. A facility where only custom blending activities take place is not considered a pesticide-producing establishment and therefore does not need to be registered. An establishment that custom blends in addition to pesticide production activities, must report only the pesticide production activities, not the custom blending activities.

EPA Form 3540-16 is available on the Internet at <http://www.epa.gov/opp00001/regulating/establishments/pestrprt.PDF>. Domestic producers can obtain assistance in completing the report from the EPA regional office covering the location of their company headquarters. Foreign producers can obtain assistance from EPA's headquarters.



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We hope this information is helpful. As always, please call if you have any questions.

[Attachment](#)