



**US Environmental Protection Agency  
Office of Pesticide Programs**

**Table 4: Refillable Container  
Requirements (40 CFR Part 165  
Subpart C)**

**October 2008**

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Short Description	Reg Cite	Requirement
<b>SCOPE AND APPLICABILITY</b>		
Who must comply?	165.40(b)	<ul style="list-style-type: none"> <li>• Registrants who distribute or sell a pesticide product in refillable containers must comply with all of the requirements.</li> <li>• Refillers (that are not registrants) must comply with the standards for stationary pesticide containers.</li> <li>• Refillers (including independent refillers) may be exempted from some of the DOT requirements. See the container design standards/DOT requirements for more details.</li> </ul>
Which pesticides must comply?	165.43	<p>Manufacturing use products, plant-incorporated protectants and certain antimicrobial products (see Table 2) are exempt.</p> <p>All other products are subject to the refillable container requirements, although antimicrobial products used in swimming pools and closely related sites are subject to a reduced set of the requirements.</p>
Are there any other exceptions?	165.43(h)	The refillable container regulations do not apply to: (1) transport vehicles that hold pesticides in tanks that are integral parts of the vehicle or (2) refillable containers for gaseous pesticides.
<b>COMPLIANCE DATE</b>		
When is compliance required?	165.40(c)	Any pesticide product packaged in a refillable container and released for shipment after August 16, 2011 must be in compliance with these requirements.
<b>CONTAINER DESIGN STANDARDS</b>		
DOT regulations <sup>1</sup>	165.45(a)&(b)	<ul style="list-style-type: none"> <li>• A pesticide product that <b>is not</b> a DOT hazardous material must be packaged in a container that, if portable, is designed, constructed and marked to comply with the requirements of 49 CFR 173.4, 173.5, 173.6, 173.24, 173.24a, 173.24b, 173.28, 173.155, 173.203, 173.213, 173.240(c) &amp; (d), 173.241(c) &amp; (d), Part 178 and Part 180 that are applicable to a Packing Group III material, or, if subject to a special permit, according to the applicable requirements of 49 CFR part 107 subpart B. These requirements apply to the pesticide product as it is packaged for transportation in commerce.</li> <li>• A pesticide product that <b>is</b> a DOT hazardous material must be packaged in a container that, if portable, complies with the requirements of 49 CFR Parts 171-180 as required by DOT, or, if subject to a special permit, according to the applicable requirements of 49 CFR part 107 subpart B. These requirements apply to the pesticide product as it is packaged for transportation in commerce.</li> <li>• A refiller is not required to comply with 49 CFR 173.28(b)(2) [leakproofness testing] if the refillable container complies with these regulations and the repackaging is in compliance with Subpart D.</li> </ul>

Permanent marking	165.45(d)	<ul style="list-style-type: none"> <li>• All refillable containers must be durably marked<sup>2</sup> with a serial number or other identifying code.</li> <li>• Antimicrobial products used in swimming pools and closely related sites are not required to comply with this marking requirement.</li> </ul>
One-way valves or tamper-evident devices (for liquid portable containers)	165.45(e)	<ul style="list-style-type: none"> <li>• Each opening (other than a vent) of a portable pesticide container designed to hold liquids must have a one-way valve, a tamper-evident device, or both.</li> <li>• Antimicrobial products used in swimming pools and closely related sites are not required to comply with the one-way valve/tamper-evident device requirement.</li> </ul>
Container integrity (for large stationary containers) <sup>3</sup>	165.45(f)(1)	<ul style="list-style-type: none"> <li>• Applies to stationary containers at refilling establishments.</li> <li>• Applies to stationary containers with capacities equal to or greater than 500 gallons (1,890 liters) for liquids or 4,000 pounds (1,818 kilograms) for dry pesticides.</li> <li>• Stationary containers must be resistant to extreme changes in temperature and be constructed of materials that are adequately thick and that are resistant to corrosion, puncture and cracking.</li> <li>• Stationary containers must be capable of withstanding all foreseeable operating stresses.</li> </ul>
Vent, gauge, and shutoff valve standards (for large stationary containers of liquid pesticides) <sup>3</sup>	165.45(f)(2)	<ul style="list-style-type: none"> <li>• Applies to stationary containers of liquid pesticides at refilling establishments.</li> <li>• Applies to stationary containers with capacities equal to or greater than 500 gallons (1,890 liters).</li> <li>• Each stationary container of liquid pesticides must have a vent and a shutoff valve, which is capable of being locked.</li> <li>• External site gauges are prohibited.</li> </ul>
<b>ADMINISTRATIVE STANDARDS</b>		
Waivers or modifications	165.45(g)&(h)	<ul style="list-style-type: none"> <li>• Registrants may request a waiver from or a modification to the incorporated DOT regulations for refillable containers.</li> <li>• The regulations describe the conditions that must be met (as determined by EPA) before EPA will waive or modify any requirement.</li> <li>• The rule describes the process and required information for written requests for a waiver or modification.</li> </ul>
Recordkeeping	Not applicable	There is no recordkeeping associated with the refillable container requirements.
Reporting incidents	165.47	No reporting is required by these regulations. Refer to the regulations in 40 CFR Part 159 to determine if information on container failures or other incidents must be reported to EPA under FIFRA section 6(a)(2).

Notes

1. If DOT proposes to change any of the regulations that are incorporated into §165.145(a) & (b), EPA will provide notice of the proposed changes and the opportunity to comment in the Federal Register before taking final action regarding whether or not to revise its rules.
2. Durable marking includes, but is not limited to, etching, embossing, ink jetting, stamping, heat stamping, mechanically attaching a plate, molding, and marking with durable ink.
3. Stationary pesticide container is defined as a refillable container that is fixed at a single facility or establishment or, if not fixed, remains at the facility or establishment for at least 30 consecutive days, and that holds pesticide the entire time.