



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

**Table 3: Nonrefillable Container  
Requirements (40 CFR Part 165  
Subpart B)**

**October 2008**

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Short Description	Reg Cite	Requirement
<b>SCOPE AND APPLICABILITY</b>		
Who must comply?	165.20(b)	Registrants who distribute or sell a pesticide product in nonrefillable containers
Which pesticides must comply?	165.23	<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 nonrefillable container requirements as follows:</p> <ul style="list-style-type: none"> <li>• Products in Toxicity Category I or II are subject to all of the nonrefillable container requirements listed below.</li> <li>• Restricted use products are subject to all of the nonrefillable container requirements listed below.</li> <li>• Other products (those in Toxicity Category III or IV and that are not restricted use products) must comply only with the basic DOT packaging requirements in 49 CFR 173.24.</li> </ul>
<b>COMPLIANCE DATE</b>		
When is compliance required?	165.20(c)	Any pesticide product packaged in a nonrefillable container and released for shipment after August 16, 2009 must be in compliance with these requirements.
<b>CONTAINER DESIGN STANDARDS</b>		
DOT regulations <sup>1</sup>	165.25(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, 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> </ul>
Standard closures	165.25(d)	<ul style="list-style-type: none"> <li>• The container must have one of four specified closures<sup>2</sup>, which include two bungs and two screw caps.</li> <li>• Applies to liquid agricultural pesticides in containers that are rigid and have capacities equal to or larger than 3 liters (0.79 gallons).</li> <li>• Does not apply to aerosol containers or pressurized containers.</li> </ul>

Container dispensing capability	165.25(e)	<ul style="list-style-type: none"> <li>• The container must allow the contents: (1) to pour in a continuous, coherent stream (without “glugging”); (2) to be poured with a minimum amount of dripping down the outside of the container.</li> <li>• Applies to liquid pesticides in containers that have capacities of less than or equal to 5 gallons (18.9 liters).</li> <li>• Does not apply to aerosol containers, pressurized containers or spray bottles.</li> </ul>
Residue removal standard	165.25(f)	<ul style="list-style-type: none"> <li>• Each container/formulation combination must be capable of attaining at least 99.99 percent removal<sup>3</sup> using the prescribed testing procedure.</li> <li>• Applies to dilutable pesticides (liquid and dry) in containers that are rigid and have capacities less than or equal to 5 gallons (18.9 liters) for liquids or 50 pounds (22.7 kilograms) for solid formulations.</li> <li>• Testing is only required for suspension concentrate formulations or if EPA requests it on a case by case basis.</li> </ul>
<b>ADMINISTRATIVE STANDARDS</b>		
Waivers or modifications	165.25(g)&(h)	<ul style="list-style-type: none"> <li>• Registrants may request a waiver from or a modification to any of the nonrefillable container design requirements.</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	165.27(b)	<ul style="list-style-type: none"> <li>• Registrants must keep records to show compliance with the standard closure and container dispensing requirements.</li> <li>• If the product is a suspension concentrate or if EPA specifically requests the records on a case by case basis, registrants must keep records to show compliance with the residue removal standard.</li> <li>• A copy of EPA’s approval of a waiver or modification is an acceptable record for any of the requirements.</li> </ul>
Reporting incidents	165.27(a)	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 §165.125(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. The four closures identified in the regulations are:
  - Bung, 2 inch pipe size (2.375 inches in diameter), external threading, 11.5 threads per inch, National Pipe Straight (NPS) standard;
  - Bung, 2 inch pipe size (2.375 inches in diameter), external threading, 5 threads per inch, buttress threads.
  - Screw cap, 63 millimeters, at least one thread revolution at 6 threads per inch; and
  - Screw cap, 38 millimeters, at least one thread revolution at 6 threads per inch.
3. Percent removal represents the percent of the original concentration of the active ingredient in the pesticide product when compared to the concentration of that active ingredient in the fourth rinse.

