



# **Final Pesticide Container and Containment Regulations At A Glance**

**August 16, 2006**

## **Final Pesticide Container and Containment Regulations At A Glance**

The purpose of this document is to provide an outline of many of the requirements of the 2006 final regulations, Standards for Pesticide Containers and Containment. This document is provided to facilitate the public's ability to determine who is subject to the rule and how to comply.

Because this is a summary, many details are not included. Refer to the final regulatory text (71 FR 47330-47437; August 16, 2006) for the full version.

This document includes the following pieces:

1. A one-page overview table of who must comply, a list of major requirements and the compliance date for each of the five kinds of regulatory standards.
2. A one-page overview table of the products that are subject to the nonrefillable, refillable and repackaging regulations.
3. A short summary of each of the five kinds of final regulatory standards, addressing:
  - Nonrefillable containers;
  - Refillable containers;
  - Repackaging pesticide products;
  - Container labeling; and
  - Containment structures.

**Table 1: Overview of the Pesticide Container and Containment Structure Regulations**

Category	Nonrefillable Containers	Refillable Containers	Repackaging Pesticide Products	Container Labeling	Containment Structures
Who must comply	<ul style="list-style-type: none"> <li>• Registrants</li> </ul>	<ul style="list-style-type: none"> <li>• Registrants</li> <li>• Refillers (retailers, distributors)</li> </ul>	<ul style="list-style-type: none"> <li>• Registrants</li> <li>• Refillers (retailers, distributors)</li> </ul>	<ul style="list-style-type: none"> <li>• Registrants</li> <li>• Pesticide users (must follow new directions)</li> </ul>	<ul style="list-style-type: none"> <li>• Ag retailers</li> <li>• Ag commercial applicators</li> <li>• Ag custom blenders</li> </ul>
Major Requirements	<ul style="list-style-type: none"> <li>• DOT container design, construction and marking standards</li> <li>• Container dispensing capability</li> <li>• Standard closures</li> <li>• Residue removal</li> <li>• Recordkeeping</li> </ul>	<ul style="list-style-type: none"> <li>• DOT container design, construction and marking standards</li> <li>• Serial number marking</li> <li>• One-way valves or tamper-evident devices</li> <li>• Stationary container requirements</li> </ul>	<ul style="list-style-type: none"> <li>• Registrants develop information</li> <li>• Registrants and refillers comply with specified conditions</li> <li>• Refillers obtain and follow registrant information, and clean, inspect and label containers before refilling them</li> </ul>	<ul style="list-style-type: none"> <li>• Identify container as nonrefillable or refillable (<i>all</i>)</li> <li>• Statements to prohibit reuse and offer for recycling; batch code (<i>all nonrefillables</i>)</li> <li>• Cleaning instructions (<i>some nonrefillables</i>)</li> <li>• Cleaning instructions before final disposal (<i>all refillables</i>)</li> </ul>	<ul style="list-style-type: none"> <li>• Secondary containment structures (dikes) around stationary tanks</li> <li>• Containment pads for pesticide dispensing areas</li> <li>• Good operating procedures</li> <li>• Monthly inspections of tanks and structures</li> <li>• Recordkeeping</li> <li>• Provisions for States with existing programs</li> </ul>
Compliance Date	August 16, 2009 (within 3 years)	August 16, 2011 (within 5 years)	August 16, 2011 (within 5 years)	August 16, 2009 (within 3 years)	August 16, 2009 (within 3 years)

**Table 2: Products that are Subject to the Nonrefillable Container, Refillable Container and Repackaging Regulations**

Category	Nonrefillable Containers	Refillable Containers	Repackaging Pesticide Products
<p>Products that <b>are not subject</b> to the regulations.</p>	<p>(1) Manufacturing use products,            (2) Plant-incorporated protectants, and            (3) Antimicrobial pesticide products that satisfy all four of these criteria:</p> <ul style="list-style-type: none"> <li>• The product is an antimicrobial pesticide (as defined in FIFRA section 2(mm)) or it has antimicrobial properties (as defined in FIFRA section 2(mm)(1)(A)) and is subject to a tolerance or a food additive regulation.</li> <li>• Its label includes directions for use on a site in at least one of the 10 antimicrobial product use categories identified as “household, industrial or institutional.”</li> <li>• It is not a hazardous waste when it is intended to be disposed, as defined in 40 CFR Part 261.</li> <li>• EPA has not specifically found that the product must be subject to these provisions to prevent an unreasonable adverse effect on the environment.</li> </ul>	<p>(1) Manufacturing use products,            (2) Plant-incorporated protectants, and            (3) Antimicrobial pesticide products that satisfy all four of the criteria listed in the nonrefillable container column.</p>	<p>(1) Manufacturing use products,            (2) Plant-incorporated protectants, and            (3) Antimicrobial pesticide products that satisfy all four of the criteria listed in the nonrefillable container column.</p>
<p>Products that <b>are subject</b> to the regulations</p>	<p>A product <b>is subject to ALL nonrefillable container</b> requirements if it satisfies at least one of the following criteria:</p> <ul style="list-style-type: none"> <li>• It meets the criteria of Toxicity Category I in 40 CFR § 156.62.</li> <li>• It meets the criteria of Toxicity Category II in 40 CFR § 156.62.</li> <li>• It is a restricted use product.</li> </ul> <p>If a product does not meet any of these criteria, the product <b>is subject to</b> only the basic Department of Transportation requirements in the <b>nonrefillable container</b> regulations.</p>	<p>All products not listed above.</p>	<p>All products not listed above.</p>

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

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)	Within 3 years (by August 16, 2009), all pesticide products distributed or sold in nonrefillable containers 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 is designed, constructed and marked to comply with the requirements of 49 CFR 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.</li> <li>• A pesticide product that <b>is</b> a DOT hazardous material must be packaged according to 49 CFR Parts 171-180 as required by DOT.</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> </ul>

		<ul style="list-style-type: none"> <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 flowable 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 flowable 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> </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.

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

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> </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)	Within 5 years (by August 16, 2011), all pesticide products distributed or sold in refillable containers 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 is designed, constructed and marked to comply with the requirements of 49 CFR 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.</li> <li>• A pesticide product that <b>is</b> a DOT hazardous material must be packaged according to 49 CFR Parts 171-180 as required by DOT.</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</li> </ul>

		related sites are not required to comply with the one-way valve/tamper-evident device requirement.
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 liquid stationary containers) <sup>3</sup>	165.45(f)(2)	<ul style="list-style-type: none"> <li>• Applies to stationary containers for 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 liquid container 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.



**Table 5: Requirements for Repackaging Pesticide Products into Refillable Containers  
(40 CFR Part 165 Subpart D)**

Short Description	Reg Cite	Requirement
<b>SCOPE AND APPLICABILITY</b>		
Who must comply?	165.60(b), 165.65(a), 165.67(a), 165.70(a)	<ul style="list-style-type: none"> <li>• Registrants who distribute or sell a pesticide product directly in refillable containers</li> <li>• Registrants who distribute or sell a pesticide product to a refiller that is not part of its company</li> <li>• Refillers<sup>1</sup> that are not registrants</li> </ul>
Which pesticides must comply?	165.63	<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?	165.63(h)	The repackaging regulations do not apply to: (1) transport vehicles that hold pesticides in tanks that are integral parts of the vehicle; (2) refillable containers for gaseous pesticides; or (3) custom blending.
<b>COMPLIANCE DATE</b>		
When is compliance required?	165.60(c)	Within 5 years (by August 16, 2011), all pesticide products repackaged into refillable containers for distribution or sale must be in compliance with these requirements.
<b>CONDITIONS FOR REPACKAGING</b>		
Conditions for repackaging by a refiller (that is not the registrant of the product)	165.67(b)&(c), 165.70(b)&(c)	<p>A registrant may allow a refiller to repackage its pesticide into refillable containers and to sell or distribute that pesticide if all of these conditions are met:</p> <ul style="list-style-type: none"> <li>• The repackaging results in no change in the pesticide formulation.</li> <li>• One of the following conditions is met: (1) The pesticide is repackaged <b>at</b> a registered refilling establishment (per §167.20); or (2) The pesticide is repackaged at the site of a user who intends to use or apply the product <b>by</b> a registered refilling establishment.</li> <li>• The registrant has entered into a written contract with the refiller to repackage the pesticide and to use the product's label.</li> <li>• The pesticide is repackaged only into refillable containers that meet the standards in Subpart C.</li> <li>• The pesticide is labeled and there are no changes to the label other than adding the appropriate net contents and the refiller's EPA establishment number.</li> </ul>
<b>REGISTRANT RESPONSIBILITIES<sup>2</sup></b>		
Pesticide integrity	165.65(b), 165.67(e)	Registrants are responsible for the integrity of pesticides repackaged into refillable containers. This applies when registrants

		conduct the refilling and when refillers operating under contract to the registrant conduct the refilling.
Develop information: cleaning procedure	165.65(c)(1), 165.67(f)(1)	Registrants must develop a written residue removal procedure that describes how to clean refillable containers (portable and stationary) before they are refilled. The procedure must ensure the integrity of the pesticide sold or distributed in the refillable containers.
Develop information: list of acceptable containers	165.65(c)(2), 165.67(f)(2)	<ul style="list-style-type: none"> <li>• Registrants must develop a list of acceptable refillable containers (portable and stationary) that can be used to sell or distribute their pesticide.</li> <li>• An acceptable container must meet the refillable container standards in Subpart C and must be compatible with the pesticide.</li> <li>• Registrants must identify the containers by specifying the container materials of construction and information necessary to confirm compliance with the refillable container requirements.</li> </ul>
Recordkeeping	165.65(i)(1), 165.67(h)(2) &(3)	Registrants must keep the following records for the current operating year and for three years after that: (1) the residue removal procedure; and (2) the list of acceptable containers.
Additional requirements for registrants who distribute or sell pesticides to refillers for repackaging	165.67(b), (d), (g) & (h)(1)	<ul style="list-style-type: none"> <li>• The registrant must comply with the conditions for repackaging described above.</li> <li>• The registrant must provide the written contract to the refiller <b>before</b> selling or distributing pesticide to the refiller.</li> <li>• The registrant must provide the residue removal procedure, list of acceptable containers and the pesticide's label <b>before or at</b> the time of distribution or sale of the pesticide to the refiller.</li> <li>• The registrant must keep records of each written contract entered into with a refiller for the current operating year and for three years after that.</li> </ul>
<b>REFILLER RESPONSIBILITIES<sup>3</sup></b>		
Pesticide integrity	165.65(b), 165.70(d)	Refillers are responsible for the integrity of pesticides repackaged into refillable containers. This applies when registrants conduct the refilling and when refillers operating under contract to the registrant conduct the refilling.
Registered establishment	165.65(d)(1), 165.70(e)(1)	The refiller's establishment must be registered with EPA as a producing establishment, as required by 40 CFR 167.20.
No change to formulation	165.65(d)(2), 165.70(e)(2)	The refiller cannot change the pesticide formulation unless the refiller has a registration for the new formulation
Acceptable containers	165.65(d)(3), 165.70(e)(3)	The pesticide must be repackaged into a refillable container that is identified on the list of acceptable containers.
No quantity or size limits	165.65(d)(4), 165.70(e)(4)	<ul style="list-style-type: none"> <li>• The refiller can repackage any quantity of pesticide into a refillable container, up to the rated capacity of the container.</li> <li>• There are no limits on the size of the refillable containers.</li> </ul>

Items in possession	165.65(d)(5), 165.70(e)(5)	Before repackaging a pesticide, a refiller must have all of the following items for the pesticide: (1) the label and labeling; (2) the residue removal procedure; and (3) the list of acceptable containers.
Identify previous pesticide	165.65(d)(6), 165.70(e)(6)	A refiller must identify the pesticide previously contained in the container (by looking at the label) to determine if it is necessary to clean the container.
Inspection	165.65(d)(7)&(e), 165.70(e)(7)&(f)	A refiller must visually inspect the container before repackaging pesticide into it to determine whether the container meets the specified criteria <sup>4</sup> with respect to continued container integrity, required markings and openings.
Cleaning	165.65(d)(8), (f) & (g) 165.70(e)(8), (g) & (h)	<p>A refiller must clean a refiller container according to the residue removal procedure unless each tamper-evident device and one-way valve (if required) is intact and either of these conditions is met:</p> <ul style="list-style-type: none"> <li>• The refillable container is being refilled with the same pesticide product; or</li> <li>• The container previously held a pesticide with a single active ingredient, the container is being used to repackage a pesticide with the same single active ingredient, and there is change that causes the repackaged pesticide to not meet the product integrity standard.</li> </ul> <p>If a tamper-evident device or one-way valve is not intact, the refiller must clean the container using the residue removal procedure of the product being repackaged. In addition, other procedures may be necessary to assure that the product's integrity is maintained.</p> <p>Note: Antimicrobial products used in swimming pools and closely related sites are not required to comply with the one-way valve/tamper-evident device requirements.</p>
Labeling	165.65(d)(9)&(h), 165.70(e)(9)&(i)	A refiller must ensure that the pesticide's label is securely attached to the refillable container. The label and labeling must comply with 40 CFR Part 156 and, in particular, the refiller must ensure that the net contents and EPA establishment number appear on the label.
Recordkeeping - for each pesticide	165.65(d)(10) & (i)(1) 165.70(e)(10) & (j)(1)	A refiller must keep the following records for the current operating year and for three years after that: (1) the residue removal procedure; and (2) the list of acceptable containers.
Recordkeeping - refilling containers	165.65(d)(10) & (i)(2) 165.70(e)(10) & (j)(2)	<ul style="list-style-type: none"> <li>• Each time a pesticide is repackaged, a refiller must generate the following records and keep them for three years after the date of repackaging: (1) the EPA registration number of the pesticide; (2) the date of repackaging; and (3) the serial number of the container.</li> <li>• Refillers of antimicrobial products used in swimming pools and closely related sites are not required to comply with this recordkeeping requirement.</li> </ul>
Other requirements	165.65(d)(11) &(12) 165.70(e)(11) &(12)	<ul style="list-style-type: none"> <li>• The refiller must maintain records as required by 40 CFR Part 169 (Books and Records of Pesticide Production and Distribution).</li> <li>• The refiller must report as required by 40 CFR Part 167 (Registration of Pesticide and Active Ingredient Producing Establishments; Submission of Pesticide Reports).</li> </ul>

Additional requirements for refillers that are not registrants	165.70(b), (e)(5)(i), (e)(13), (e)(14) & (j)(1)(i)	<ul style="list-style-type: none"> <li>• The refiller must comply with the conditions for repackaging described above.</li> <li>• Before repackaging a pesticide, a refiller must have the written contract from the pesticide's registrant.</li> <li>• The stationary pesticide containers at a refiller's establishment must meet the applicable requirements in the refillable container regulations (§165.45(f)).</li> <li>• Refillers may be required to comply with the containment standards in Subpart E.</li> <li>• The refiller must keep records of the written contract from the registrant for the current operating year and for three years after that.</li> </ul>
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1. Refiller is defined in the final regulations as a person who engages in the activity of repackaging pesticide product into refillable containers. This could include a registrant or a person operating under contract to a registrant.

2. The repackaging requirements in the regulations are split into three different sections, one for each of the three groups identified in the applicability section: (A) registrants who distribute or sell a pesticide product directly in refillable containers; (B) registrants who distribute or sell a pesticide product to a refiller that is not part of its company; and (C) refillers that are not registrants. The requirements listed in the registrant section of the table apply to registrants in both of the first two categories, unless otherwise specified.

3. The repackaging requirements in the regulations are split into three different sections, one for each of the three groups identified in the applicability section: (A) registrants who distribute or sell a pesticide product in refillable containers; (B) registrants who distribute or sell a pesticide product to a refiller that is not part of its company; and (C) refillers that are not registrants. The requirements listed in the refiller section of the table apply to all refillers – registrants who distribute or sell a pesticide product directly in refillable containers and refillers that are not registrants – unless otherwise specified.

4. The container fails the inspection and cannot be refilled unless it is repaired, reconditioned or remanufactured if the integrity of the container is compromised in at least one of the following ways:

- The container shows signs of rupture or other damage which reduces its structural integrity;
- The container has visible pitting, significant reduction in material thickness, metal fatigue, damaged threads or closures, or other significant defects;
- The container has cracks, warpage, corrosion or any other damage which might render it unsafe for transportation; or
- There is damage to the fittings, valves, tamper-evident devices or other appurtenances that may cause failure of the container.

The container fails the inspection and cannot be refilled until the container meets the refillable container standards in Subpart C if either or both of the following conditions exist:

- The container does not bear the required markings or the markings are not legible; or
- The container does not have an intact and functioning one-way valve or tamper-evident device on each opening other than a vent, if required.

Note: Antimicrobial products used in swimming pools and closely related sites are not required to comply with the serial number marking or the one-way valve/tamper-evident device requirements. However, refillable containers holding these products must comply with any applicable DOT marking requirements.

**Table 6: Container Labeling (40 CFR Part 156 Subpart H)**

Short Description	Reg Cite	Requirement
<b>SCOPE AND APPLICABILITY</b>		
Who must comply?	existing 40 CFR Part 156	<ul style="list-style-type: none"> <li>• Registrants must ensure that their labels comply with the standards.</li> <li>• Pesticide users must follow the new label directions.</li> </ul>
Which pesticides must comply?	Existing 40 CFR Part 156	In general, all pesticides must comply with the label instructions in 40 CFR Part 156. However, see the applicability description in each section of the table for more details.
<b>COMPLIANCE DATE</b>		
When is compliance required?	156.159	Within 3 years (by August 16, 2009), all pesticide products distributed or sold must have labels that comply with these requirements.
<b>IDENTIFICATION OF CONTAINER TYPES</b>		
Which pesticides must comply?	156.140	All pesticide products other than plant-incorporated protectants must comply with these standards (identification of container types).
Location of the information	156.140	These statements must be on the label or the container. If placed on container, they must be durably marked on the container anywhere other than the closure. If placed on the label, the required text, other than the batch code, must be under the heading "Storage and Disposal."
Nonrefillable containers - Identification	156.140(a)(1)	The phrase "Nonrefillable container" is required.
Nonrefillable containers – Reuse statement	156.140(a)(2)	<p>One of the following statements is required. Products with labels that allow household/residential use must use (1) or (3):</p> <p>(1) "Do not reuse or refill this container."</p> <p>(2) "Do not reuse this container to hold materials other than pesticides or dilute pesticides (rinsate). After emptying and cleaning, it may be allowable to temporarily hold rinsate or other pesticide-related materials in the container. Contact your state regulatory agency to determine allowable practices in your state."</p> <p>(3) The following statement may be used if a product is "ready-to-use" and its directions for use allow a different product (that is a similar, but concentrated formulation) to be poured into the container and diluted by the end user: "Do not reuse or refill this container unless the directions for use allow a different (concentrated) product to be diluted in the container."</p>
Nonrefillable containers – Recycling or reconditioning	156.140(a)(3)	<p>One of the following statements is required:</p> <ul style="list-style-type: none"> <li>• "Offer for recycling if available."</li> <li>• "Once cleaned, some agricultural plastic pesticide containers</li> </ul>

statement		<p>can be taken to a container collection site or picked up for recycling. To find the nearest site, contact your chemical dealer or manufacturer or contact [a pesticide container recycling organization] at [phone number] or [web site].” For example, this statement could be “Once cleaned, some agricultural plastic pesticide containers can be taken to a container collection site or picked up for recycling. To find the nearest site, contact your chemical dealer or manufacturer or contact the Ag Container Recycling Council (ACRC) at 1-877-952-2272 (toll free) or www.acrecycle.org.”</p> <ul style="list-style-type: none"> <li>• A recycling statement approved by EPA and published in an EPA document, such as a Pesticide Registration Notice.</li> <li>• An alternative recycling statement that has been reviewed and approved by EPA.</li> <li>• “Offer for reconditioning if appropriate.”</li> </ul>
Nonrefillable containers – Batch code	156.140(a)(4)	A lot number or other code used by the registrant or producer to identify the batch of the pesticide product which is distributed or sold is required.
Refillable containers	156.140(b)	<p>One of the following statements is required:</p> <ul style="list-style-type: none"> <li>• “Refillable container. Refill this container with pesticide only. Do not reuse this container for any other purpose.”</li> <li>• “Refillable container. Refill this container with <i>[common chemical name]</i> only. Do not reuse this container for any other purpose.”</li> </ul>
<b>CLEANING INSTRUCTIONS FOR NONREFILLABLE CONTAINERS</b>		
Which pesticides must comply?	156.144(a)&(c), 156.146	<p>Residential/household use pesticides are exempt from the requirements for cleaning instructions.</p> <p>For all other pesticides, dilutable pesticides (liquid or dry) in rigid nonrefillable containers must comply with these standards (cleaning instructions for nonrefillable containers).</p>
Location of the information	156.144(b)	All cleaning instructions must be placed under the heading “Storage and Disposal.”
Timing of the rinsing procedure	156.146(a)	<p>One of the following statements is required immediately before the rinsing instructions:</p> <ul style="list-style-type: none"> <li>• “Clean container promptly after emptying.”</li> <li>• “Triple rinse or pressure rinse container (or equivalent) promptly after emptying.”</li> <li>• “Triple rinse container (or equivalent) promptly after emptying.”</li> </ul>
Which rinsing procedure?	156.146(b)&(c)	The label <b>must</b> include triple rinsing instructions and <b>may</b> include pressure rinsing instructions.
Triple rinsing instructions	156.146(b)	<ul style="list-style-type: none"> <li>• For liquid dilutable pesticides in containers small enough to shake:</li> </ul> <p>“Triple rinse as follows: Empty the remaining contents into application equipment or a mix tank and drain for 10 seconds after the flow begins to drip. Fill the container ¼ full with water</p>

		<p>and recap. Shake for 10 seconds. Pour rinsate into application equipment or a mix tank or store rinsate for later use or disposal. Drain for 10 seconds after the flow begins to drip. Repeat this procedure two more times.”</p> <ul style="list-style-type: none"> <li>• The statement for solid dilutable pesticides in containers small enough to shake is similar.</li> <li>• For containers that are too large to shake:  “Triple rinse as follows: Empty remaining contents into application equipment or a mix tank. Fill the container ¼ full with water. Replace and tighten closures. Tip container on its side and roll it back and forth, ensuring at least one complete revolution, for 30 seconds. Stand the container on its end and tip it back and forth several times. Turn the container over onto its other end and tip it back and forth several times. Empty the rinsate into application equipment or a mix tank or store rinsate for later use or disposal. Repeat this procedure two more times.”</li> </ul>
Pressure rinsing instructions	156.146(c)	<ul style="list-style-type: none"> <li>• For liquid dilutable pesticides:  “Pressure rinse as follows: Empty the remaining contents into application equipment or a mix tank and continue to drain for 10 seconds after the flow begins to drip. Hold container upside down over application equipment or mix tank to collect rinsate for later use or disposal. Insert pressure rinsing nozzle in the side of the container and rinse at about 40 PSI for at least 30 seconds. Drain for 10 seconds after the flow begins to drip.”</li> <li>• The statement for solid dilutable pesticides is similar.</li> </ul>
Non-water diluent	156.146(d)	If a registrant wants to include instructions to rinse a container with a diluent other than water, the registrant must submit a request, meeting certain criteria, and receive approval from EPA before including such cleaning instructions on the label.
<b>CLEANING INSTRUCTIONS FOR REFILLABLE CONTAINERS</b>		
Which pesticides must comply?	156.144(a)&(c), 156.156	<p>Residential/household use pesticides are exempt from the requirements for cleaning instructions.</p> <p>All other pesticides distributed or sold in refillable containers must comply with these standards (cleaning instructions for refillable containers).</p>
Location of the information	156.144(b)	All cleaning instructions must be placed under the heading “Storage and Disposal.”
Timing	156.156(a)	<p>One of the following statements is required immediately before the cleaning instructions:</p> <ul style="list-style-type: none"> <li>• “Cleaning the container before final disposal is the responsibility of the person disposing of the container. Cleaning before refilling is the responsibility of the refiller.”</li> <li>• “Pressure rinsing the container before final disposal is the responsibility of the person disposing of the container. Cleaning before refilling is the responsibility of the refiller.”</li> </ul>
Cleaning procedure	156.156(b)(1)	The label must include instructions for cleaning each refillable

– general standard		container before disposal. The instructions must be appropriate for the characteristics of the pesticide and be adequate to protect human health and the environment.
Cleaning instructions	156.156(b)(2)	<p>The instructions for cleaning refillable containers could include any of the following:</p> <ul style="list-style-type: none"> <li>• The refilling residue removal procedure developed by the registrant;</li> <li>• Standard industry practices for cleaning refillable containers;</li> <li>• For pesticides that require dilution prior to application, the following statement:            “To clean the container before final disposal, empty the remaining contents from this container into application equipment or mix tank. Fill the container about 10 percent full with water. Agitate vigorously or recirculate water with the pump for 2 minutes. Pour or pump rinsate into application equipment or rinsate collection system. Repeat this procedure two more times.”</li> <li>• Any other statement the registrant considers appropriate.</li> </ul>
<b>MODIFICATIONS TO EXISTING 40 CFR PART 156</b>		
Which pesticides must comply?	Existing 40 CFR Part 156	All pesticides must comply with the label instructions in 40 CFR Part 156.
Location of the information	Existing 40 CFR Part 156	There are no changes to the location of the net contents, EPA establishment number and storage and disposal instructions that are currently specified in 40 CFR 156.10.
Net contents	156.10(d)(7)	Add a paragraph that allows registrants to leave a blank area on labels of pesticides packaged in refillable containers, which would allow refillers to mark in the net contents.
EPA establishment number	156.10(f)	Modify the existing paragraph to allow registrants to leave a blank area on labels of pesticides packaged in refillable containers, which would allow refillers to mark in the EPA establishment number.
Storage and disposal instructions	156.10(i)(2)(ix)	Modify the existing paragraph to refer to the new Subpart H (Container Labeling) and other changes made by this final rule.



**Table 7: Standards for Containment Structures (40 CFR Part 165 Subpart D)**

Short Description	Reg Cite	Requirement
<b>SCOPE AND APPLICABILITY</b>		
Who must comply	165.80(b)	<ul style="list-style-type: none"> <li>• Refilling establishments whose principal business is retail sale</li> <li>• Custom blenders</li> <li>• Commercial applicators</li> </ul>
Pesticides that must comply	165.80(b)	Agricultural pesticides
Stationary containers that are subject	165.81(a) & (b)	<p>Stationary pesticide containers<sup>1</sup> in affected facilities must have secondary containment except for:</p> <ul style="list-style-type: none"> <li>• Empty containers;</li> <li>• Containers holding only rinsate or wash water and so labeled;</li> <li>• Containers holding pesticides which are gaseous at atmospheric temperature and pressure; and</li> <li>• Containers dedicated to non-pesticide use and so labeled.</li> </ul>
Pesticide dispensing areas that are subject	165.82(a)	<p>Dispensing areas in affected facilities must have containment pads if:</p> <ul style="list-style-type: none"> <li>• Refillable containers of agricultural pesticide are emptied, cleaned or rinsed;</li> <li>• Agricultural pesticides are dispensed from a stationary containers designed to hold undivided quantities of agricultural pesticides equal to or greater than 500 gallons liquid or 4,000 pounds dry for any purpose;</li> <li>• Agricultural pesticides are dispensed from a transport vehicle for purposes of refilling a refillable container; or</li> <li>• Agricultural pesticides are dispensed from any other container for the purpose of refilling a refillable container for sale or distribution.</li> </ul>
Define existing structure	165.83(b)	An existing containment structure is a structure for which installation began on or before November 16, 2006.
Define new structure	165.83(a)	A new containment structure is a structure for which installation began after November 16, 2006 if certain conditions regarding permits, construction and contracts are met.
<b>COMPLIANCE DATE</b>		
Compliance date	165.80(c)	Within 3 years (by August 16, 2009) all containment structures must comply with the specific standards applicable to them.
<b>GENERAL STANDARDS FOR NEW STRUCTURES<sup>2</sup></b>		
Material	165.85(a)	<ul style="list-style-type: none"> <li>• Containment structures must be constructed of steel, reinforced concrete or other rigid material capable of withstanding the full hydrostatic head and load placed on the structure and must be compatible with the pesticides stored.</li> <li>• The structure must be liquid-tight with cracks, seams and joints</li> </ul>

		sealed. <ul style="list-style-type: none"> <li>Natural earthen material, unfired clay and asphalt are prohibited.</li> </ul>
Protect appurtenances	165.85(b)(1)	Appurtenances and containers must be protected against damage from personnel and moving equipment.
Configuration of drains	165.85(b)(2)	<ul style="list-style-type: none"> <li>Appurtenances, discharge outlets or drains must not be configured through the base or wall except for direct connections between containment structures.</li> <li>Appurtenances must be configured so leaks can be readily observed.</li> </ul>
Stormwater control	165.85(b)(3)	All containment structures must be constructed with sufficient freeboard to contain precipitation and prevent water and other liquids from seeping into or flowing onto them from adjacent land or structures.
<b>CAPACITY STANDARDS FOR NEW STRUCTURES</b>		
Capacity: liquids	165.85(c)(1) & (2)	New secondary containment units must have a capacity of 110% (for outdoor) or 100% (for indoor) of the largest stationary container plus the displaced volume of other tanks and appurtenances.
Capacity: pads	165.85(c)(3) & (4)	All containment pads must have a capacity of: (1) 750 gallons; or (2) 100% of the capacity of the largest container or equipment used on the pad (if no container or equipment on the pad exceeds 750 gallons).
<b>SPECIFIC STANDARDS FOR NEW LIQUID CONTAINMENT</b>		
Flotation prevention	165.85(d)	Stationary liquid pesticide containers must be anchored or elevated to prevent flotation.
<b>SPECIFIC STANDARDS FOR NEW PADS</b>		
Pad design	165.85(e)	<p>New containment pads must:</p> <ul style="list-style-type: none"> <li>be designed to intercept leaks and spills;</li> <li>have enough surface area to extend under containers on it;</li> <li>must accommodate at least the portion of the vehicle where the hose or device couples to it, for transport vehicles delivering pesticide;</li> <li>allow for removal/recovery of spilled, leaked or discharged material and rainfall;</li> <li>have no automatic pumps without overflow cutoffs;</li> <li>have a surface sloped to a watertight sump or depression.</li> </ul>
<b>SPECIFIC STANDARDS FOR NEW DRY CONTAINMENT</b>		
Protection from precipitation	165.85(f)	<ul style="list-style-type: none"> <li>Stationary dry pesticide containers must be:</li> <li>protected from wind and precipitation;</li> <li>on pallets or raised concrete;</li> <li>enclosed by a minimum of a 6-inch high curb that extends at least 2 feet beyond the perimeter of the container.</li> </ul>
<b>GENERAL STANDARDS FOR EXISTING STRUCTURES</b>		
Material	165.87(a)	Containment structures must be constructed of steel, reinforced concrete or other rigid material capable of withstanding the full

		<p>hydrostatic head and load placed on the structure and must be compatible with the pesticides stored.</p> <ul style="list-style-type: none"> <li>• The structure must be liquid-tight with cracks, seams and joints sealed.</li> <li>• Natural earthen material, unfired clay and asphalt are prohibited.</li> </ul>
Protect appurtenances	165.87(b)(1)	Appurtenances and containers must be protected against damage from personnel and moving equipment.
Configuration of drains	165.87(b)(2)	Appurtenances, discharge outlets or drains through the base or wall must be sealed, except direct connections between containment structures.
Stormwater control	165.87(b)(3)	All containment structures must be constructed with sufficient freeboard to contain precipitation and prevent water and other liquids from seeping into or flowing onto them from adjacent land or structures.
<b>CAPACITY STANDARDS FOR EXISTING STRUCTURES</b>		
Capacity: liquids	165.87(c)(1)	Existing secondary containment units must have a capacity of 100% (for indoor or outdoor) of the largest stationary container plus the displaced volume of other tanks and appurtenances.
Capacity: pads	165.87(c)(2) & (3)	All containment pads must have a capacity of 750 gallons; or (2) 100% of the capacity of the largest container or equipment used on the pad (if no container or equipment on the pad exceeds 750 gallons).
<b>SPECIFIC STANDARDS FOR EXISTING LIQUID CONTAINMENT</b>		
Flotation prevention	165.87(d)	Stationary liquid pesticide containers must be anchored or elevated to prevent flotation.
<b>SPECIFIC STANDARDS FOR EXISTING PADS</b>		
Pad design	165.87(e)	<p>Existing containment pads must:</p> <ul style="list-style-type: none"> <li>• be designed to intercept leaks;</li> <li>• have enough surface area to extend under containers on it;</li> <li>• must accommodate at least the portion of the vehicle where the hose or device couples to it, for transport vehicles delivering pesticide;</li> <li>• allow for removal/recovery of spilled, leaked or discharged material and rainfall;</li> <li>• have no automatic pumps without overflow cutoffs.</li> </ul>
<b>SPECIFIC STANDARDS FOR EXISTING DRY CONTAINMENT</b>		
Protection from precipitation	165.85(f)	<p>Stationary dry pesticide containers must be:</p> <ul style="list-style-type: none"> <li>• protected from wind and precipitation;</li> <li>• on pallets or raised concrete;</li> <li>• enclosed by a minimum of a 6-inch high curb that extends at least 2 feet beyond the perimeter of the container.</li> </ul>
<b>STANDARDS FOR ALL STRUCTURES</b>		

Operational	165.90(a)	The owner/operator must: <ul style="list-style-type: none"> <li>• Prevent pesticides from escaping the structure;</li> <li>• Clean up spills no later than the end of the day of occurrence;</li> <li>• Manage spilled and leaked materials according to the label and all regulations;</li> <li>• Ensure that transfers of pesticides are attended.</li> <li>• Lock valves on stationary pesticide containers when the facility is unattended, if lockable valves are required.</li> </ul>
Inspection	165.90(b)(1)	The owner/operator must inspect each container and its appurtenances monthly during use.
Maintenance	165.90(b)(2) & (3)	The owner/operator must immediately repair any areas showing damage and must seal cracks and gaps. Pesticides cannot be stored until repairs have been made.
Integrated systems	165.92	Containment pads and secondary containment units may be combined as integrated systems if the requirements for each are satisfied.
Recordkeeping	165.95	The owner/operator must maintain the following records for 3 years: <ul style="list-style-type: none"> <li>• Name of person conducting inspection or maintenance and date;</li> <li>• Conditions noted and specific maintenance performed;</li> <li>• Records of how long non-stationary tanks (with the specified capacities) remain at the facility;</li> <li>• Record of the construction date of the structure (for as long as the structure is in use and for 3 years afterwards).</li> </ul>
<b>STATES WITH EXISTING CONTAINMENT PROGRAMS</b>		
Option to continue implementing State containment regulations	165.97	<ul style="list-style-type: none"> <li>• States that have already published containment regulations and that have primary enforcement responsibility and/or certification programs have the option of continuing to implement their own programs in lieu of these federal containment regulations.</li> <li>• States may request authority to continue implementing containment regulations by submitting a letter and supporting documentation showing that the State's program is at least as environmentally protective as these federal regulations.</li> <li>• EPA will determine whether the State's program is adequate to provide at least equivalent environmental protection and will inform the State of that determination.</li> </ul>

Notes

1. A 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 during the entire time. Stationary pesticide containers are subject to the regulations if they are designed to hold undivided quantities of pesticides equal to or greater than 500 gallons (1,890 liters) for liquids or 4,000 pounds (1,818 kilograms) for dry pesticides.

2. Several of the requirements for existing standards are slightly different from the requirements for new standards. These are requirements which would entail minimal cost when incorporated into construction of new structures, but which would be expensive to retrofit into existing structures and which would not have measurable environmental benefit.