Subpart A—General

§ 165.1 Scope.
The part 165 regulations establish standards and requirements for pesticide containers, repackaging pesticides, and pesticide containment structures.

§ 165.3 Definitions.
Terms used in this part have the same meaning as in the Act and part 152 of this chapter. In addition, as used in this part, the following terms shall have the meanings set forth below.


Agricultural pesticide means any pesticide product labeled for use in or on a farm, forest, nursery, or greenhouse.

Appurtenance means any equipment or device which is used for the purpose of transferring a pesticide from a stationary pesticide container or to any refillable container, including but not limited to, hoses, fittings, plumbing, valves, gauges, pumps and metering devices.

Capacity means, as applied to containers, the rated capacity of the container.

Container means any package, can, bottle, bag, barrel, drum, tank, or other containing-device (excluding any application tanks) used to enclose a pesticide. Containers that are used to sell or distribute a pesticide product and that also function in applying the product (such as spray bottles, aerosol cans and containers that become part of a direct injection system) are considered to be containers for the purposes of this part.

Containment pad means any structure that is designed and constructed to intercept and contain pesticides, rinsates, and equipment wash water at a pesticide dispensing area.

Containment structure means either a secondary containment unit or a containment pad.

Subpart B—Nonrefillable Container Standards: Container Design and Residue Removal

§ 165.20 General provisions.

§ 165.23 Scope of pesticide products included.

§ 165.25 Nonrefillable container standards.

§ 165.27 Reporting and recordkeeping.

Subpart C—Refillable Container Standards: Container Design

§ 165.40 General provisions.

§ 165.43 Scope of pesticide products included.

§ 165.45 Refillable container standards.

§ 165.47 What information must I report about my refillable containers?

Subpart D—Standards for Repackaging Pesticide Products into Refillable Containers

§ 165.60 General provisions.

§ 165.63 Scope of pesticide products included.

§ 165.65 Registrants who distribute or sell pesticide products in refillable containers.

§ 165.67 Registrants who distribute or sell pesticide products to refiners for repackaging.

§ 165.70 Refillers who are not registrants.

Subpart E—Standards for Pesticide Containment Structures

§ 165.80 General provisions.

§ 165.81 Scope of stationary pesticide containers included.

§ 165.82 Scope of pesticide dispensing areas included.

§ 165.83 Definition of new and existing structures.

§ 165.85 Design and capacity requirements for new structures.

§ 165.87 Design and capacity requirements for existing structures.

§ 165.90 Operational, inspection and maintenance requirements for all new and existing containment structures.

§ 165.92 What if I need both a containment pad and a secondary containment unit?

§ 165.95 What recordkeeping do I have to do as a facility owner or operator?
Custom blending means the service of mixing pesticides to a customer's specifications, usually a pesticide(s)-fertilizer(s), pesticide-pesticide, or a pesticide-animal feed mixture, when:

- The blend is prepared to the order of the customer and is not held in inventory by the blender;
- The blend is to be used on the customer's property (including leased or rented property);
- The pesticide(s) used in the blend bears end-use labeling directions which do not prohibit use of the product in such a blend;
- The blend is prepared from registered pesticides; and
- The blend is delivered to the end-user along with a copy of the end-use labeling of each pesticide used in the blend and a statement specifying the composition of the mixture.

Dilutable means that the pesticide product's labeling allows or requires the pesticide product to be mixed with a liquid diluent prior to application or use.

Dry pesticide means any pesticide that is in solid form and that has not been combined with liquids; this includes formulations such as dusts, wettable powders, dry flowables, water-soluble powders, granules, and dry baits.

Establishment means any site where a pesticidal product, active ingredient, or device is produced, regardless of whether such site is independently owned or operated, and regardless of whether such site is domestic and producing a pesticidal product for export only, or whether the site is foreign and producing any pesticidal product for import into the United States.

Facility means all buildings, equipment, structures, and other stationary items which are located on a single site or on contiguous or adjacent sites and which are owned or operated by the same person (or by any person who controls, who is controlled by, or who is under common control with such person).

Nonrefillable container means a container that is not a refillable container and that is designed and constructed for one-time use and is not intended to be filled again with a pesticide for sale or distribution. Reconditioned containers are considered to be nonrefillable containers.

One-way valve means a valve that is designed and constructed to allow virtually unrestricted flow in one direction and no flow in the opposite direction, thus allowing the withdrawal of material from, but not the introduction of material into, a container.

Operator means any person in control of, or having responsibility for, the daily operation of a facility at which a containment structure is located.

Owner means any person who owns a facility at which a containment structure is required.

Pesticide compatible as applied to containers means that the container construction materials will not chemically react with the formulation. A container is not compatible with the formulation if, for example, the formulation:

- Is corrosive to the container;
- Causes softening, premature aging, or embrittlement of the container;
- Otherwise causes the container to weaken or to create the risk of discharge;
- Reacts in a significant chemical, electrolytic, or galvanic manner with the container, or
- Interacts in a way, such as the active ingredient permeating the container wall, that would cause the formulation to differ from its composition as described in the statement required in connection with its registration under FIFRA section 3.

Pesticide compatible as applied to containment means that the containment construction materials are able to withstand anticipated exposure to stored or transferred substances without losing the capability to provide the required containment of the same or other substances within the containment area.

Pesticide dispensing area means an area in which pesticide is transferred out of or into a container.

Portable pesticide container means a refillable container that is not a stationary pesticide container.

Produce means to manufacture, prepare, propagate, compound, or process any pesticide, including any pesticide produced pursuant to section 5 of the
Act, and any active ingredient or device, or to package, repackage, label, repack, or otherwise change the container of any pesticide or device.

Producer means any person, as defined by the Act, who produces any pesticide, active ingredient, or device (including packaging, repackaging, labeling and relabeling).

Refillable container means a container that is intended to be filled with pesticide more than once for sale or distribution.

Refiller means 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.

Refilling establishment means an establishment where the activity of repackaging pesticide product into refillable containers occurs.

Repackage means, for the purposes of this part, to transfer a pesticide formulation from one container to another without a change in the composition of the formulation, the labeling content, or the product’s EPA registration number, for sale or distribution.

Rinsate means the liquid resulting from the rinsing of the interior of any equipment or container that has come in direct contact with any pesticide.

Runoff means surface water leaving the target site.

Secondary containment unit means any structure, including rigid diking, that is designed and constructed to intercept and contain pesticide spills and leaks and to prevent runoff and leaching from stationary pesticide containers.

Stationary pesticide container means 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.

Suspension concentrate means a stable suspension of solid particulate active ingredients in a liquid intended for dilution with water before use.

Tamper-evident device means a device which can be visually inspected to determine if a container has been opened.

Transport vehicle means a cargo-carrying vehicle such as an automobile, van, tractor, truck, semitrailer, tank car or rail car used for the transportation of cargo by any mode.

Washwater means the liquid resulting from the rinsing of the exterior of any equipment or containers that have or may have come in direct contact with any pesticide or system maintenance compound, such as oil or antifreeze.

§ 165.23 Scope of pesticide products included.

(a) Are manufacturing use products subject to the regulations in this subpart? No, the regulations in this subpart do not apply to manufacturing use products, as defined in §158.133(h) of this chapter.

(b) Are plant-incorporated protectants subject to the regulations in this subpart? No, the regulations in this subpart do