

## Chapter ATCP 32

### FERTILIZER BULK STORAGE

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**Note:** Chapter Ag 162 was renumbered ch ATCP 32 under 13.93 (2m) (b) 1., Stats., Register, April, 1993, No. 448.

**Note:** See ch. ATCP 33 for rules on pesticide bulk storage. Under ch. ATCP 35, the department may reimburse certain agricultural chemical contamination cleanup costs. This may include partial reimbursement for the cost of a containment structure, required by s. ATCP 32.03 or 32.04, which must be removed in order to clean up contamination beneath the structure. A person may not claim reimbursement for a structure built after January 1, 1998 unless the soil beneath the structure was tested for contamination before the structure was built. See s. ATCP 35.04 (5) and (6) for more information.

#### ATCP 32.01 Definitions. As used in this chapter:

(1) "Appurtenances" means all valves, pumps, fittings, pipes, hoses, metering devices, mixing containers and dispensing devices which are connected to a storage container, or which are used to transfer liquid bulk fertilizer into or out of a storage container.

(2) "Bulk fertilizer" means fertilizer distributed in a nonpackaged form. It does not include fertilizer distributed in bags, bottles, or any other container having a capacity of not more than 55 gallons (208 liters) or 500 pounds (226 kilograms).

(3) "Department" means the department of agriculture, trade and consumer protection.

(4) "Discharge" means a spill, leak, accidental or intentional release, or other emission of liquid bulk fertilizer from a container or appurtenance, and includes a discharge into secondary containment. It does not include a fully contained transfer of liquid bulk fertilizer which is made pursuant to sale, storage or distribution.

(5) "Distribute" means to import, consign, sell, offer for sale, solicit orders for sale or otherwise supply fertilizer for sale or use in this state.

(6) "Fertilizer" has the meaning specified under s. 94.64 (1) (e), Stats., except that it does not include anhydrous ammonia.

(7) "Groundwater" means any of the waters of the state occurring in a saturated subsurface geological formation of rock or soil.

(8) "Inorganic soil" means a soil composed of less than 30% organic matter, measured as less than 15% organic carbon by weight.

(9) "Liquid fertilizer" means a fertilizer in fluid form, and includes solutions, suspensions and slurries.

(10) "Manufacture" means to process, granulate, compound, produce, mix, blend or alter the composition of fertilizer.

(11) "Mini-bulk container" means either of the following:

(a) A storage container, designed for ready handling and transport, that holds more than 55 gallons (208 liters) but not more than 300 gallons (1,135 liters) of liquid fertilizer.

(b) A container that holds at least 100 pounds (45 kilograms) but not more than 2,500 pounds (1,136 kilograms) of dry fertilizer.

(12) "Mobile container" means any storage container, anchored to a vehicle, trailer or axles, that an operator uses to store liquid bulk fertilizer. "Mobile container" includes rail cars, application equipment and nurse tanks.

(13) "Operator" means all of the following persons, and includes their employees and agents:

(a) A person who owns or controls a storage facility, unless both of the following apply:

1. The person is not a fertilizer manufacturer or distributor.
2. The person is storing fertilizer only for his or her own use.

**Note:** A farmer who stores fertilizer solely for the farmer's own use is not an "operator" under par. (a).

(b) A fertilizer manufacturer or distributor who contracts with another person to store bulk fertilizer for the manufacturer or distributor.

**Note:** If a fertilizer manufacturer or distributor contracts with a farmer for on-farm storage of a bulk fertilizer owned by the manufacturer or distributor, the manufacturer or distributor is responsible as an "operator" of that storage facility under par. (b).

(14) "Person" means an individual, corporation, partnership, cooperative association, limited liability company, trust, or other organization or entity.

(15) "Storage" means storage of bulk fertilizer by a person who manufactures or distributes bulk fertilizer.

(16) "Storage container" means a container used to store liquid bulk fertilizer at a storage facility.

(17) "Storage facility" means a place where bulk fertilizer is held in storage. "Storage facility" does not include a field or other site at which a mobile container is temporarily parked while being unloaded if all of the following apply:

(a) None of the persons who own or control the parking site are fertilizer manufacturers or distributors.

(b) The fertilizer is unloaded at the parking site with the consent of a person who owns or controls the parking site.

(c) The fertilizer is unloaded at the parking site for no more than 3 persons.

(d) The mobile container, if unloaded for any person other than the person who owns or controls the parking site, has a capacity of no more than 500 gallons.

(18) "Waters of the state" has the meaning given in s. 281.01 (18), Stats.

**History:** Cr. Register, September, 1985, No. 357, eff. 12-29-85; cr. (2m), r. and recr. (12), Register, February, 1988, No. 386, eff. 3-1-88; r. (10), (12) and (13), renum. (2m) and (3) to (9), (11) and (14) to be (3) to (10), (15) and (18) and am. (7) and (18), and cr. (11) to (14), (16) and (17), Register, September, 1998, No. 513, eff. 10-1-98.

**ATCP 32.02 Storage containers and appurtenances; liquid fertilizer. (1) GENERAL REQUIREMENTS.** (a) Storage containers and appurtenances shall be constructed, installed and maintained to prevent the discharge of liquid bulk fertilizer.

(b) Storage containers and appurtenances shall be constructed of materials that resist corrosion, puncture and cracking.

(c) Materials used to construct or repair a storage container or appurtenance may not react chemically or electrolytically with stored bulk fertilizer in a way that may weaken the storage container or appurtenance, or create a risk of discharge.

(d) Metals used for storage container valves, fittings or repairs shall be compatible with other metals in the storage container, so that the combination of metals does not cause or increase corrosion or electrolytic reactions that may weaken the storage container or its appurtenances, or create a risk of discharge.

(e) Storage containers and appurtenances shall be designed to handle foreseeable mechanical stresses, including static head and pressure buildup from pumps and compressors.

**(2) APPURTENANCES.** (a) Every storage container connection, except a safety relief connection, shall be equipped with a shut-off valve located on the storage container or at a distance from the storage container dictated by standard engineering practice. Valves shall be secured to protect against vandalism or accidental valve openings which may result in a discharge.

(b) Pipes and fittings shall be adequately supported to prevent sagging and possible breakage because of gravity and other forces which may be encountered in the ordinary course of operations.

**(3) LIQUID LEVEL GAUGING DEVICE.** (a) Every storage container shall be equipped with a gauging device that an operator can use to determine, safely and reliably, the level of liquid in the storage container. A gauging device is not required if the operator has other means to determine, safely and reliably, the level of liquid in the storage container.

(b) If a storage container has an external sight gauge, the storage container shall also have a valve that can stop the flow of liquid from the storage container to the sight gauge. The operator shall close and secure the valve when the operator is not using the sight gauge.

**(4) PROHIBITED MATERIALS.** (a) Storage containers and appurtenances used for the storage of nitrogen solutions may not be constructed of copper, brass, zinc, or copper base alloys.

(b) Storage containers and appurtenances used for the storage of liquid fertilizers containing phosphates or chlorides may not be constructed of aluminum or aluminum alloys.

(c) Storage containers and appurtenances used for the storage of low pH liquid fertilizers may not be constructed of ferrous materials other than stainless steel unless the materials are coated or treated with protective substances which are adequate to inhibit corrosion.

(d) Storage containers and appurtenances used for the storage of phosphoric acid may not be constructed of ferrous materials other than 316 or 317 stainless steel unless the container is lined with a suitable substance to prevent corrosion.

(e) Storage containers and appurtenances used for the storage of liquid fertilizers containing potassium chloride (potash) may not be constructed of ferrous materials other than stainless steel, unless:

1. The containers and appurtenances are coated or treated with protective substances which are adequate to inhibit corrosion; or

2. The container or appurtenance is used for storage periods of not more than 3 months each, and is completely emptied between storage periods. Empty containers and appurtenances shall be cleaned and inspected for leaks prior to being refilled for any subsequent storage period.

**(5) ANCHORING STORAGE CONTAINERS.** An operator shall anchor a storage container, as necessary, to prevent flotation or instability that could occur as a result of liquid accumulations within a secondary containment structure under s. ATCP 32.04.

**(6) SECURITY.** (a) Except as provided under par. (b), an operator shall secure a storage container and its appurtenances by doing at least one of the following:

1. Keeping them in a locked building.

2. Keeping them in a locked outdoor enclosure. The enclosure shall consist of a secure wall or fence that is at least 5 feet tall at every point, and free of gaps that would allow unauthorized persons to enter.

3. Locking all valves on the storage container and its appurtenances.

(b) Paragraph (a) does not apply if either of the following applies:

1. The operator is present at the storage facility.

2. The storage container and its appurtenances are empty.

**(7) FILLING STORAGE CONTAINERS.** An operator may not fill a storage container beyond the capacity for which it is designed, taking into account the density and potential thermal expansion of the fertilizer stored in the container.

**(8) INSPECTION AND MAINTENANCE.** (a) An operator shall routinely inspect and maintain storage facilities, storage containers and appurtenances to minimize the risk of a discharge. An operator shall inspect storage container valves and appurtenances for leakage at least weekly except when no bulk fertilizer is stored in the containers.

(b) Except as provided in par. (c) or (d), an operator shall measure the liquid fertilizer level in each storage container at least once a week.

(c) Except as provided in par. (d), An operator shall measure the fertilizer level in a storage container at least monthly from April 1 to July 31 if the operator is transferring liquid fertilizer into or out of the storage container at least weekly.

(d) Paragraphs (b) and (c) do not apply to a storage container if all of the following apply:

1. The storage container is located within a fully enclosed building.

2. The storage container is located within a secondary containment structure that complies with s. ATCP 32.04 and has a concrete liner or is a prefabricated structure.

3. The operator visually inspects the storage container for leakage at least weekly.

(e) On the same day that an operator inspects, measures or performs maintenance under this section, the operator shall make a written record of the inspection, measurement or maintenance. The operator shall keep the record at the storage facility or at the nearest local office from which the operator administers the storage facility.

**(9) LABELING STORAGE CONTAINERS.** An operator shall clearly and conspicuously label every storage container with the name or grade of fertilizer which it contains.

**History:** Cr. Register, September, 1985, No. 357, eff. 12-29-85; r. and recr. (1), (3) and (5) to (9), Register, September, 1998, No. 513, eff. 10-1-98.

**ATCP 32.03 Loading areas.** **(1) SPILL CONTAINMENT REQUIRED.** An operator who mixes or loads liquid bulk fertilizer, or who mixes or loads nonliquid bulk fertilizer after January 1, 2000, shall mix or load that fertilizer over a spill containment surface that complies with this section.

**(2) SPILL CONTAINMENT SURFACE; GENERAL.** A spill containment surface under sub. (1) shall comply with all of the following:

(a) It shall be designed to catch and contain all reasonably foreseeable spills of fertilizers mixed or loaded over that spill containment surface.

(b) It shall be made of asphalt, concrete or other nonabsorbent materials approved by the department, and shall be durable enough to withstand all foreseeable loading conditions.

**Note:** The department will maintain a list of approved paving and lining materials for various fertilizer compounds, and will provide the current list to interested persons upon request. The department may add approved materials to this list if the person requesting approval provides the department with information demonstrating the adequacy of the materials under intended conditions of use. Persons seeking approval should provide information related to chemical compatibility, permeability, physical characteristics and durability. A tarpaulin may be used as a spill containment surface for nonliquid fertilizers if it complies with this section.

(c) It shall extend beneath any conveyor used to load or unload fertilizer unless the conveyor is fully enclosed within a housing that is adequate to contain all spillage from the conveyor.

**(3) SPILL CONTAINMENT SURFACE; LIQUID FERTILIZERS.** (a) A spill containment surface under sub. (1) shall comply with all of the following if any liquid bulk fertilizer is mixed or loaded over that surface:

1. It shall be curbed or sloped to contain spillage, and to prevent liquids from adjacent surfaces from flowing onto it.

2. It shall drain into or form a liquid-tight catch basin that meets the capacity requirements under sub. (4).

(b) A tarpaulin may not be used as a spill containment surface for liquid bulk fertilizers.

(4) **CATCH BASIN.** (a) Except as provided under par. (b), the catch basin under sub. (3) (a) 2. shall have an available capacity of at least 1,500 gallons (5,680 liters). To attain this required capacity, the catch basin may include a sump equipped with an automatically activated pump that transfers liquids to an above-ground container that complies with s. ATCP 32.02 (1) and is located within a secondary containment structure that complies with s. ATCP 32.04.

(b) If an operator does not load or unload any storage container having a capacity of more than 1,000 gallons, the available capacity of the catch basin under sub. (3) (a) 2. shall be at least 125 percent of the capacity of the largest storage container which the operator loads or unloads at the storage facility.

(5) **RECOVERING DISCHARGES.** An operator shall promptly recover fertilizer discharged onto a spill containment surface if that discharge reduces the effective capacity of that surface or the catch basin to which the surface drains.

(6) **STORING SPILLS AND RINSATE.** A container used to hold liquid fertilizer spills or rinsate shall be located within a secondary containment structure that complies with s. ATCP 32.04. No spilled fertilizers or spilled materials containing fertilizers may be stored below ground level.

(7) **PREVENTING DAMAGE BY MOVING VEHICLES.** An operator shall protect storage containers and appurtenances, including pipes, against reasonably foreseeable risks of damage by trucks and other moving vehicles engaged in loading or unloading bulk fertilizer.

**History:** Cr. Register, September, 1985, No. 357, eff. 1-1-88; am. (1) (a), Register, February, 1988, No. 386, eff. 3-1-88; r. and recr., Register, September, 1998, No. 513, eff. 10-1-98.

**ATCP 32.04 Secondary containment; liquid fertilizer.** (1) **GENERAL REQUIREMENTS.** Except as provided in sub. (9), storage containers shall be enclosed in a secondary containment structure that is adequate, in the event of a discharge, to prevent the movement of liquid fertilizer to groundwater or other waters of the state. A secondary containment structure shall consist of at least one of the following:

- (a) A wall and liner that comply with subs. (3) and (4).
- (b) A prefabricated structure that complies with sub. (5).
- (c) A drainage and basin structure that complies with sub. (6).

(2) **CAPACITY.** The capacity of a secondary containment structure shall equal or exceed the sum of all the following:

(a) The greatest volume of liquid that could be discharged from the largest storage container located within the secondary containment structure.

(b) Twenty-five percent of the capacity of the largest storage container located within the secondary containment structure if the structure is not fully covered by a roof, or 10% of the capacity of the largest storage container located within the secondary containment structure if the structure is fully covered by a roof.

(c) The total volume of discharged liquid that would be displaced by the submerged portions of all storage containers, fixtures and materials located within the secondary containment structure if the structure were filled to capacity with discharged liquid.

**Note:** A secondary containment structure for liquid pesticides may be located within or may share a wall with a secondary containment structure for liquid fertilizer, so that the capacity of the fertilizer secondary containment structure includes the capacity of the pesticide secondary containment structure.

(3) **WALLS.** The walls of a secondary containment structure shall be constructed of earth, steel, concrete or solid masonry, and

shall be designed to withstand a full hydrostatic head of any discharged liquid. Cracks and seams shall be sealed to prevent leakage. Walls constructed of earth or other permeable materials shall be lined as provided under sub. (4). Earthen walls shall have a horizontal-to-vertical slope of at least 3 to one, unless a steeper slope is consistent with good engineering practice, and shall be protected from erosion. Walls may not extend more than 6 feet (1.8 meters) above interior grade unless the operator provides for normal access and necessary emergency access to tanks, valves and other equipment, and for safe exit from the secondary containment structure.

(4) **LINING.** (a) *General requirement.* The base of a secondary containment structure, and any earthen walls of the structure shall be lined with one of the following:

1. An asphalt or concrete liner that complies with par. (b).
2. A synthetic liner that complies with par. (c) and does not use bentonite or clay as a hydraulic barrier.
3. A soil liner that complies with par. (d).

(b) *Asphalt or concrete liners.* Asphalt or concrete liners shall be designed according to good engineering practices to withstand any foreseeable loading conditions, including a full hydrostatic head of discharged liquid. Cracks and seams shall be sealed to prevent leakage.

(c) *Synthetic liners.* Synthetic liners shall be approved by the department. The department may approve a synthetic liner if all of the following apply:

1. The liner is at least 30 mils (0.8 millimeters) thick.
2. The liner manufacturer certifies that the liner is chemically compatible with all fertilizers that may be stored within the secondary containment structure.

3. The liner manufacturer provides a written estimate of the liner's effective life. An operator may not use a synthetic liner beyond that effective life, except with the department's written approval.

4. The liner is protected by a 6 inch (15 centimeter) protection layer below the liner, and a 12 inch (30 centimeter) protection layer above the liner. Both protection layers shall be composed of soil, sand, or smooth gravel less than 1/2 inch in diameter. The protection layers shall be free of large rocks, angular stones, sticks or other materials that may puncture the liner.

5. A qualified representative of the liner manufacturer is present when the liner is installed, and supervises the installation.

6. Liner seams constructed at the installation site are tested, and repaired if necessary, according to the manufacturer's recommendations.

(d) *Soil liners.* 1. A liner may be constructed of natural soil, or of natural soil treated with bentonite clay, provided that the liner meets the requirements of this paragraph. The liner shall be designed and constructed according to good engineering practices, to achieve a coefficient of permeability not to exceed 1 x 10<sup>-6</sup> cm/sec, with a thickness of not less than 6 inches (15 centimeters). The liner shall be covered by an inorganic soil layer not less than 6 inches (15 centimeters) thick, and shall be maintained, as necessary, to prevent cracking. Liners may not be constructed of frost-susceptible soils, which include silts and silty sand.

2. A natural soil may not be used in a soil liner if less than 50% by weight of the natural soil passes a No. 200 sieve, or if more than 5% by weight of the natural soil is retained on a No. 4 sieve. Natural soil liners shall contain less than 2% organic material and shall have a plasticity index of at least 15.

3. Bentonite treated liners shall consist of a uniform mixture of natural soil and bentonite. The natural soil used in the mixture shall have a plasticity index of at least 12. At least 30% by weight of the natural soil shall pass a No. 200 sieve, and less than 5% by weight of the natural soil shall be retained on a No. 4 sieve. Ninety percent of the bentonite by weight shall pass a No. 80 sieve, and

the soil-bentonite mixture shall contain at least 5% bentonite by weight.

4. An operator shall reconstruct or recompact every soil liner and every bentonite treated liner at least once every 15 years. Before an operator reconstructs or recompacts a liner, the operator shall analyze the liner material for compliance with subds. 2. and 3., and for nutrients stored within the secondary containment structure during the past 15 years. An operator is not required to remove a storage container having a capacity of 50,000 gallons or more before reconstructing or recompacting the liner of a secondary containment structure enclosing that container.

(5) **PREFABRICATED STRUCTURES.** A prefabricated secondary containment structure shall consist of a rigid prefabricated basin having a base and walls constructed of steel or synthetic materials that resist corrosion, puncture and cracking. Materials used in the structure shall be chemically compatible with all fertilizers that may be stored within the structure. An operator shall obtain a written confirmation of compatibility from the basin manufacturer, and shall keep that confirmation on file at the storage facility or at the nearest local office from which the operator administers the storage facility. The prefabricated structure and the foundation on which it is placed shall be designed and installed to withstand all foreseeable loading conditions, including the tank load and a full hydrostatic head of any discharged liquid. If multiple basins are connected to provide the capacity required under sub. (2), the basins shall be connected in a manner that ensures an unrestricted transfer of discharge liquid between basins.

(6) **DRAINAGE AND BASIN STRUCTURE.** (a) A drainage and basin structure shall consist of a curbed and lined base which diverts upslope runoff and drains completely into a lined holding basin having the capacity specified in sub. (2). The base and the drainage path shall be lined in compliance with sub. (4). The holding basin shall be lined in compliance with sub. (4) (c) or (4) (d), except that if a soil liner is used, the soil liner shall be at least 12 inches (30 centimeters) thick and shall be constructed in lifts of not more than 6 inches (15 centimeters) each.

(b) An operator may use a drainage and basin structure as a secondary containment structure if the department reviews and approves that structure for that use. The department may approve the use of a drainage and basin structure for secondary containment if the department finds that the structure, when compared to other possible methods of secondary containment, provides substantially similar protection for the waters of the state. Persons seeking department approval under this paragraph shall submit a written proposal to the department. The proposal shall include all of the following:

1. The proposed site plan. The site plan shall specify the size, type and location of each storage container. It shall also indicate the size, shape and location of the lined base, drainage path and holding basin.
2. A topographic survey of the site showing the relief at 2 foot intervals, the intended flow pattern of liquid on and around the drainage and basin system, and the method of upslope diversion to be used.
3. A subsurface investigation report based on a minimum of 3 soil borings to a depth of 25 feet (7.6 meters), or to the water table. The report shall indicate soil classifications and locations of major geological features including bedrock and water table.
4. Specifications for the lined base and drainage path to the holding basin.
5. Specifications for the holding basin, including the capacity of the holding basin and the type and thickness of the basin liner.
6. A monitoring plan specifying the intended timing and frequency of groundwater and holding basin monitoring.
7. A management plan for the disposal of liquid and solid accumulations within the drainage and basin system.

8. Any other information which the department may require, if the information has a reasonable bearing on the request for approval of the drainage and basin structure.

(7) **INSPECTION AND MAINTENANCE.** (a) *General.* An operator shall inspect every secondary containment structure at least once every 12 months, and shall maintain the structure to comply with this section. The operator shall make a written record of every inspection and maintenance action on the day of the inspection or maintenance. The operator shall keep the record at the storage facility or at the nearest local office from which the operator administers the storage facility.

(b) *Accumulated precipitation.* An operator may not allow precipitation to accumulate in a secondary containment structure to the point where the accumulation may tend to do any of the following:

1. Impair the adequacy of the structure for discharge containment purposes.
2. Cause or increase the corrosion of storage containers or appurtenances.
3. Impair the stability of storage containers.

(8) **RECOVERY OF DISCHARGES.** Discharges at a storage facility shall be promptly recovered, to the maximum extent feasible. Pumps and recovery containers for this purpose shall be readily available, as provided in s. ATCP 32.07 (2).

(9) **EXEMPTIONS.** (a) *Exemptions from secondary containment requirements.* The secondary containment requirements under this section do not apply to any of the following:

1. A mobile container stored for less than 15 days at a storage facility that has a spill containment surface and catch basin that comply with s. ATCP 32.03 (2) to (4).
2. An empty and cleaned storage container. For mini-bulk containers that cannot be opened, the operator shall clean the outside of the container before storing it outside a secondary containment structure.
3. An empty railcar.
4. An abandoned storage container for which the operator has taken the actions required under s. ATCP 32.06.

(b) *Large storage containers; exemption from liner requirements.* An operator is not required to install a liner beneath a storage container having a capacity of 100,000 gallons (378,000 liters) or more if all of the following apply:

1. The storage container was constructed on site and put into use before July 1, 1985.
2. The storage container has a second bottom constructed of steel or another material approved by the department. The department may approve a second bottom constructed of a material other than steel if, considering the substances held in the storage container, that second bottom protects the waters of the state to the same degree as a liner under sub. (4). A person requesting department approval shall provide the department with a plan, certified by a licensed professional engineer, which shows that the second bottom provides the required protection.
3. The operator installs the second bottom over the original bottom, with a minimum 6 inch (15 centimeter) layer of coarse sand or fine smooth gravel separating the original bottom from the second bottom. The operator shall maintain a system for detecting leaks from the second bottom to the sand or gravel layer.
4. The operator tests the original bottom of the storage container for leaks before installing the sand or gravel layer and second bottom. The operator shall keep the test record on file at the storage facility, or at the nearest local office from which the operator administers the facility.
5. The operator tests the second bottom for leaks before storing any liquid fertilizer on it. The operator shall keep the test record on file at the storage facility, or at the nearest local office from which the operator administers the facility.

6. The operator tests the second bottom for leaks at least once every 2 years, using an effective leak detection method. The operator shall keep the test records at the storage facility, or at the nearest local office from which the operator administers the facility.

**History:** Cr. Register, September, 1985, No. 357, eff. 1-1-88; am. (9) (a) 1. and 3. to 5., Register, February, 1988, No. 386, eff. 3-1-88; r. and recr. (1) and (2), (4) (a) and (c), (7) and (9), am. (3), (5), (6) (a), (b) (intro.) and 8., cr. (4) (d) 4., Register, September, 1998, No. 513, eff. 10-1-98.

**ATCP 32.05 Underground liquid storage prohibited.**

No person may store liquid bulk fertilizer below ground level. This section does not prohibit a person from temporarily collecting spills or rinsate in a watertight catch basin, pursuant to s. ATCP 32.03.

**History:** Cr. Register, September, 1985, No. 357, eff. 12-29-85; r. and recr., Register, September, 1998, No. 513, eff. 10-1-98.

**ATCP 32.06 Abandoned containers. (1) GENERAL.** A storage container or loading area catch basin is abandoned, for purposes of this section, if it is out of service for more than 6 months because of a weakness or leak, or is out of service for more than 2 years for any reason.

**(2) UNDERGROUND CONTAINERS.** (a) An operator shall do one of the following to every abandoned underground storage container or catch basin that the operator owns or controls:

1. Thoroughly clean it and remove it from the ground.
2. Thoroughly clean it, sever and seal all its connections and vents, and fill it with an inert solid.

(b) The operator shall keep a permanent record of every abandoned underground storage container and catch basin that the operator owns or controls. The record shall include all of the following:

1. The size and location of the container or catch basin.
2. The actions which the operator has taken under par. (a).

**(3) ABOVE-GROUND CONTAINERS.** An operator shall thoroughly clean every abandoned above-ground container which the operator owns or controls, and shall sever and seal all of its valves and connections. The operator shall leave open all hatches on the container, but shall screen the hatches to prevent access by wild-life or unauthorized persons.

**Note:** Hatches must be left open for venting and to maintain container integrity.

**History:** Cr. Register, September, 1985, No. 357, eff. 12-29-85; r. and recr., Register, September, 1998, No. 513, eff. 10-1-98.

**ATCP 32.07 Preparing to control and recover discharges. (1) DISCHARGE RESPONSE PLAN.** The operator of a storage facility shall prepare a written discharge response plan for that storage facility. The operator shall:

- (a) Keep the plan current at all times.
- (b) Keep a copy of the plan readily available at the storage facility and at the nearest local office from which the operator administers the storage facility.
- (c) Make the plan available to the department for inspection and copying upon request.
- (d) Notify the local fire department, police department and emergency planning committee of the plan, and any revisions to the plan, and provide them with copies upon request.

**Note:** Federal law under 42 USC 11002 and 11003 also requires response plans for certain chemicals. A single response plan may satisfy requirements under sub. (1) and federal law.

**(2) PLAN CONTENTS.** A discharge response plan under sub. (1) shall include all of the following:

- (a) The identity and telephone number of each person or agency to be contacted in the event of a discharge, including the person responsible for the stored fertilizer.
- (b) The types of fertilizer stored at the facility.
- (c) The location of every storage container, and the type of liquid bulk fertilizer stored in that container. A plan need not refer to mini-bulk containers individually, provided that it discloses the collective location and contents of the mini-bulk containers.

(d) Procedures for controlling, recovering and responding to a discharge of liquid bulk fertilizer at the storage facility.

(e) Procedures for using or disposing of a recovered discharge.

**Note:** The department can help an operator identify options for using, treating or disposing of recovered liquid fertilizer.

**(3) EQUIPMENT AND SUPPLIES.** (a) An operator shall have all of the following readily available for any emergency action which may be needed in response to a fertilizer discharge:

1. Pumps, recovery containers, and personal protective equipment and clothing.

2. Persons capable of deploying and operating the equipment under par. (a).

(b) An operator may arrange with a local fire department or other persons to provide the equipment and personnel required under par. (a) if the operator makes those arrangements in advance as part of the operator's discharge response plan.

(c) The operator of a storage facility shall keep available, at that storage facility, absorbent materials that may be used to control and clean up small discharges of liquid bulk fertilizer.

(d) An operator shall promptly decontaminate equipment and supplies used to control and recover liquid fertilizer discharges, before using them again.

**(4) TRAINING.** Persons employed at a storage facility shall be trained in discharge response procedures, pursuant to the discharge response plan.

**(5) REPORTING.** The operator of a storage facility shall immediately notify the state of Wisconsin department of natural resources whenever a reportable amount of a hazardous material under ch. NR 706 is discharged at that storage facility.

**Note:** See s. 292.11 (2) (a), Stats. An operator should also report fertilizer discharges to the department of agriculture, trade and consumer protection at (608) 224-4518.

**History:** Cr. Register, September, 1985, No. 357, eff. 12-29-85; r. and recr., Register, September, 1998, No. 513, eff. 10-1-98.

**ATCP 32.08 Recordkeeping; liquid fertilizer storage. (1) RECORDS REQUIRED.** An operator storing liquid bulk fertilizer shall make and keep all of the following records:

(a) A record of every discharge from the storage facility, including the date and time of discharge, the type of liquid bulk fertilizer discharged, the cause of the discharge, any action taken to control or recover the discharge, and the method used to dispose of any recovered discharge. On the day that the operator discovers the discharge, the operator shall record all of the required information that is available to the operator. Whenever the operator acquires additional information or takes action to control, recover, use or dispose of the discharge, the operator shall immediately update that record to include that additional information or action.

(b) Inspection and maintenance records required under ss. ATCP 32.02 (8) and 32.04 (7).

(c) Records of liquid fertilizer levels in storage containers, as required under s. ATCP 32.02 (8).

(d) An annual inventory reconciliation, prepared by August 15 of each year, which does all of the following:

1. Compares the amount of liquid fertilizer in inventory on June 30 of that calendar year to the amount in inventory on July 1 of the preceding calendar year.
2. Accounts for all liquid fertilizer added to or removed from inventory during the intervening one year period, based on the operator's purchase, sales and production records.
3. Identifies any unexplained loss of inventory.

(e) Manufacturers' compatibility statements required under s. ATCP 32.04 (4) (c) and (5).

(f) Records of abandoned underground storage containers, catch basins and secondary containment structures, as required under s. ATCP 32.06 (2) (b).

**(2) RECORD RETENTION.** An operator shall keep the records required under sub. (1) for at least 3 years, except that:

(a) An operator shall keep records under sub. (1) (a) for at least 5 years.

(b) An operator shall keep permanent records under sub. (1) (e) and (f).

**(3) RECORD LOCATION; INSPECTION AND COPYING.** An operator shall keep the records required under sub. (1) at the storage facility, or at the nearest local office from which the operator administers that facility. The operator shall make the records available to the department for inspection and copying upon request.

**History:** Cr. Register, September, 1985, No. 357, eff. 12-29-85; r. and recr., Register, September, 1998, No. 513, eff. 10-1-98.

**ATCP 32.09 Storage of non-liquid fertilizer.**

**(1)** Muriate of potash and other non-liquid fertilizer, if stored outdoors, shall be covered with a tarpaulin or other suitable cover-

ing to prevent seepage or runoff to waters of the state including groundwater.

**(2)** Non-liquid fertilizer which is spilled while being loaded or unloaded to or from storage shall be promptly recovered, so as to prevent possible seepage or runoff to waters of the state including groundwater.

**History:** Cr. Register, September, 1985, No. 357, eff. 12-29-85.

**ATCP 32.10 Exemptions.** The department may exempt any person from a requirement under this chapter if the department finds that alternative measures provide substantially similar protection for the waters of the state. A person requesting an exemption shall provide the department with adequate information to show that alternative measures provide substantially similar protection for the waters of the state.

**History:** Cr. Register, September, 1985, No. 357, eff. 12-29-85; am., Register, September, 1998, No. 513, eff. 10-1-98.