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Fertilizer and Pesticide Containment in Nebraska Fact Sheet

Do you have or use fertilizer storage containers larger than 500 gallons?

Do you have or use pesticide containers larger than 55 gallons?

Do you apply pesticide or fertilizer solutions for hire?

If you answered yes to any of these questions, you may be subject to the secondary containment regulations in **Title 198 - Rules and Regulations Pertaining to Agricultural Chemical Containment**, which require you to have secondary containment (diking) and load-out facilities (load or rinse pad).

The Title 198 regulations initially were approved in 1992 and amended in 1994 and 1999. The regulations apply to both private and commercial storage, as well as to commercial applicators of fertilizers and pesticides. The secondary containment and load-out facility requirements for pesticide storage and use have been in effect for everyone since January 1, 1995. The secondary containment and load-out facility requirements for fertilizer storage and use have been in effect for everyone since January 1, 1999. The Nebraska Department of Water, Energy, and Environment (DWEE) administers Title 198.

When is pesticide containment required? Secondary containment and a load-out facility are required when bulk pesticide storage capacity exceeds 500 gallons. Even if secondary containment is not required, a custom applicator must have a load-out facility when using pesticides from original containers larger than 3 gallons or when using pesticide or fertilizer mixtures of more than 100 gallons.

For example, if you have 3 containers of bulk pesticide, and each one has a 200-gallon capacity, the combined capacity of the three containers is 600 gallons. The total capacity exceeds the 500-gallon threshold; therefore, secondary containment and a load-out facility are required.

Another example is a custom applicator who uses pesticides from 2.5-gallon containers, but prepares a pesticide mixture that fills a 200-gallon tank mounted on a truck. Since the pesticide mixture exceeds the 100-gallon limit, a load-out facility is required, unless all load-out activities (i.e. loading, rinsing, mixing, washing, etc.) are conducted at the application site as part of the normal application.

When is fertilizer containment required? The situations in which bulk fertilizer storage must be contained are a little more complicated. Secondary containment is required when:

1. the capacity of a single container exceeds 2,000 gallons;
2. the capacity of two or more containers exceeds 3,000 gallons; **or**
3. fertilizer storage exceeds 25 percent of the container capacity for any container larger than 500 gallons any time from November 1 through March 15.

One exception to the above secondary containment requirement is provided for by the 1999 amendment. This exception allows the use of one or more containers (up to 6,000 gallons of combined capacity) at the application site from March 15 through October 1, for up to 21 consecutive days without secondary containment. However, this exception is specific to that application site and does not apply to containers used in chemigation or to nurse

tanks used for satellite-type operations to other fields. Other requirements also must be met, such as distance to surface water and wells.

For example, a 2,500-gallon stationary liquid fertilizer container requires containment, as do two 1,600-gallon containers (except at the application site, as noted above). However, a single 1,600-gallon container does **not** have to be contained -- as long as it does not have more than 400 gallons (25 percent of 1,600 gallons) of fertilizer in it at any time from November 1 through March 15.

A load-out facility is required in conjunction with liquid fertilizer storage when the stored amount exceeds 5,000 gallons. An exception exists for application site load-out activities, including those load-out activities for up to 6,000-gallon fertilizer containers used at the application site (within the limitations noted above).

Some other special situations and exceptions are worth noting. By definition, anhydrous ammonia and feedlot manure are not considered bulk fertilizer and are not subject to the Title 198 regulations. Containers designed and used for transportation and application site load-out activities also are excluded, except when used in chemigation. Nurse tanks or similar trailer-type containers that are parked and used for storage are considered the same as any other stationary container.

The transportation-related and 6,000-gallon application site exceptions categorically do not apply to containers used in chemigation. The regulations specify that any container used in the application of a bulk pesticide or bulk fertilizer through a chemigation system is considered storage and is subject to the regulations and volume limits as appropriate.

For example, a single 1,600-gallon container placed on the ground or on a trailer and used for chemigation is not required to have secondary containment as long as it is not used for storage of more than 400 gallons (i.e. over 25 percent of its capacity) at any time from November 1 through March 15. However, a 2,100-gallon container mounted on a truck or trailer and used only for chemigation during the summer is required to have secondary containment, because the container is used for chemigation and its capacity is over 2,000 gallons.

Title 198 regulations do not require either registration or a permit. However, a construction plan and a management program for secondary containment and load-out facilities are required. The construction plan for new facilities must either be a generic or standardized design that has been approved by the Department, or include certification from a Nebraska registered Professional Engineer that the facility design complies with the regulations. Currently no generic or standardized designs are available.

As with all its programs, DWEE encourages voluntary compliance. However, DWEE can seek court-ordered injunctions, fines, or other legal remedies as provided for in the Nebraska Environmental Protection Act in order to obtain compliance with the regulations.

The Department may conduct site inspections throughout the year to determine compliance.

For specific information or a copy of the Title 198 regulations please contact the Livestock and Agriculture Section, Nebraska Department of Water, Energy, and Environment, 245 Fallbrook Blvd, Suite 100, Lincoln, NE 68521, or phone (402) 471-4233, or visit our website at <https://dwee.nebraska.gov/>.