



RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (7/10/97)

Agency: Agriculture

- Permanent Rule
- Emergency Rule
- Expedited Adoption
- Expedited Repeal

(1) Date of adoption: November 17, 2000

(2) Purpose: To revise WAC 16-229, Rules Related to Secondary and Operational Area Containment for Bulk Pesticide Storage Facilities. The rule addresses issues and concerns raised since the implementation of the Original rule in March, 1994.

(3) Citation of existing rules affected by this order: WAC 16-229

Repealed: 16-229-300 and 470

Amended: 16-229-010, 020, 025, 030, 040, 050, 060, 070, 080, 090, 110, 120, 130, 180, 200, 210, 220, 240, 260, 270, 280, 310, 400, 410, 480.

(4) Statutory authority for adoption: RCW 15.58 and RCW 17.21

Other Authority:

PERMANENT RULE ONLY (Including EXPEDITED ADOPTION)

Adopted under notice filed as WSR 00-19-089 on 9-20-2000 (date).

Describe any changes other than editing from proposed to adopted version:

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

EXPEDITED REPEAL ONLY

Under Preproposal Statement of Inquiry filed as WSR _____ on _____ (date)

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?:

- Yes
 - No
- If Yes, explain:

(6) Effective date of rule:

Permanent Rules
or Expedited Repeal

Emergency Rules

- 31 days after filing
- Other (specify) _____*
- Immediately
- Later (specify) _____

*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

Name (Type or Print)

Jim Jesernig

Signature

Title
Director

Date

11/17/00

CODE REVISER USE ONLY

CODE REVISER USE ONLY

STATE OF WASHINGTON

NOV 17 2000

312

TIME _____

WSR 00-23-074 (P)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	<u>25</u>	Repealed	<u>2</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	<u>12</u>	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	<u>25</u>	Repealed	<u>2</u>

WAC 16-229-010 Definitions. The definitions set forth in this section shall apply throughout this chapter unless the context otherwise requires:

(1) **"Approved air gap"** means a physical separation between the free-flowing end of a water supply pipeline and the overflow rim of an open or nonpressurized receiving vessel. To be an approved air gap, the separation must be at least:

(a) Twice the diameter of the supply piping measured vertically from the overflow rim of the receiving vessel, and in no case be less than one inch, when unaffected by vertical surfaces (sidewalls); or

(b) Three times the diameter of the supply piping, if the horizontal distance between the supply pipe and a vertical surface (sidewall) is less than or equal to three times the diameter of the supply pipe, or if the horizontal distance between the supply pipe and intersecting vertical surfaces (sidewalls) is less than or equal to four times the diameter of the supply pipe and in no case less than one and one-half inches.

(2) **"Approved reduced pressure principle backflow prevention assembly (RPBA)"** means an RPBA of a make, model and size that is approved by the Washington State Department of Health.

((1)) (3) **"Appurtenances"** means all valves, pumps, fittings, pipes, hoses, metering devices, and mechanical devices which are connected to a storage container, or which are used to transfer a material into or out of such container.

((2)) (4) **"Bulk pesticide"** means any registered pesticide which is transported or held in an individual container in undivided quantities of greater than fifty-five U.S. gallons liquid measure or one hundred pounds net dry weight.

(5) **"Certified engineer"** means a licensed professional engineer, registered in the state of Washington in the discipline in which he/she is practicing.

((3)) (6) **"Department"** means the Washington state department of agriculture.

((4)) (7) **"Discharge"** means a spill, leak, or release, accidental or otherwise, from a storage container, container or appurtenance. It does not include a fully contained transfer of pesticide which is made pursuant to sale, storage, distribution or use.

((5)) (8) **"Dry pesticide"** means pesticide which is in solid form prior to any application or mixing for application, and includes formulations such as dusts, wettable powders, dry flowable powders, granules, and water dispersible granules.

((6)) (9) **"Liquid pesticide"** means pesticide in liquid form, and includes solutions, emulsions, suspensions, slurries, and pesticide rinsates.

((7)) (10) **"Mini-bulk pesticide"** means an amount of liquid pesticide greater than fifty-five gallons but not exceeding five hundred gallons which is held in a single container designed for ready handling and transport, which has been filled by the original pesticide manufacturer or repackager, and to which no substance has been added by any person.

(11) **"Not technically feasible"** means compliance is not physically or technically possible or feasible, and/or compliance cannot be achieved without compromising operational safety, and/or significantly compromising operational access. Monetary cost of compliance alone shall not be sufficient for the department to determine that compliance is not technically feasible.

((8)) (12) **"Operational area"** means an area or areas where pesticides are transferred, loaded, unloaded, mixed, repackaged, refilled or where pesticides are cleaned, or rinsed from containers or application, handling, storage or transportation equipment.

((9)) (13) **"Operational area containment"** means any structure or system designed and constructed to intercept and contain discharges, including storage container or equipment wash water, rinsates, and rainwater from the operational area(s).

((10)) (14) "**Permanent mixing/loading site**" means a site (location) at which more than three hundred gallons of liquid pesticide (formulated product) or three thousand pounds of dry pesticide or at which a total of fifteen hundred pounds of pesticides as active ingredients are being mixed, repackaged or transferred from one container to another within a calendar year: Provided, That wood preservative application systems already regulated by 40 CFR, Parts 264.570-575 and Parts 265.440-445 shall be exempt.

((11)) (15) "**Permanent storage facility**" means a location at which liquid bulk pesticide in a single container or aggregate quantities in excess of five hundred U.S. gallons or dry bulk pesticide in undivided quantities in excess of two thousand pounds is held in storage: Provided, That mini-bulk pesticide containers are exempt from this chapter(~~Provided further, That temporary field storage of up to two thousand five hundred gallons of bulk liquid pesticide is allowed for a period of no more than fourteen days in a six-month period at any one location. Temporary field storage may be extended upon written permit by the department. Provided further, That liquid bulk pesticide containers directly attached to an apparatus for the purpose of chemigation are exempt from this chapter.~~

((12)) (16) "**Pesticide**" means, but is not limited to:

(a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, snail, slug, fungus, weed, and any other form of plant or animal life or virus, except virus on or in a living person or other animal which is normally considered to be a pest or which the director may declare to be a pest;

(b) Any substance or mixture of substances intended to be used as a plant regulator, defoliant or desiccant; and

(c) Any spray adjuvant.

(d) For the purpose of establishing permanent mixing/loading site threshold values petroleum oils are exempt from this chapter.

((13)) (17) "**Primary containment**" means the storage of liquid or dry bulk pesticide in storage containers at a permanent storage facility.

((14)) (18) "**Rinsate**" means the liquid generated from the rinsing of any equipment or container that has come in direct contact with any pesticide, including: recovered sedimentation, washwater, contaminated precipitation, or other contaminated debris.

((15)) (19) "**Secondary containment**" means a device or structure designed, constructed, and maintained to hold or confine a discharge of a liquid pesticide from a permanent storage facility.

((16)) (20) "**Storage container**" means a container, including a rail car, nurse tank or other mobile container, that is used or intended for the storage of bulk liquid or dry pesticide. It does not include a mobile container at a storage facility for less than fifteen days if this storage is incidental to the loading or unloading of a storage container at the bulk pesticide storage facility. Storage container does not include underground storage containers or surface impoundments such as lined ponds or pits.

(21) "**Substantially similar protection**" means alternative containment and management practices that prevent or control releases to the environment to the same or similar degree as the protections afforded by full compliance with this chapter.

(22) "**Temporary field storage**" means a storage container with the capacity to store two thousand five hundred gallons or less of bulk liquid pesticide that remains in the same location for no more than fourteen consecutive days in any six-month period. Liquid bulk pesticide application tanks directly attached to an apparatus for the purpose of chemigation are exempt from this chapter.

((17)) (23) "**Washwater**" means the liquid generated from the rinsing of the exterior of any equipment, containers or secondary containment or operational areas which have or may have come in direct contact with any pesticide.

WAC 16-229-020 Secondary containment of liquid bulk pesticides--General requirements. Primary storage of bulk liquid pesticides at a permanent storage facility shall be located within ~~((a))~~ secondary containment ~~((facility))~~ designed to prevent the release of discharged pesticides. ~~((A))~~ Secondary containment ~~((facility))~~ shall consist of:

- (1) A wall and liner with a sloped floor as provided in WAC 16-229-030 and 16-229-040; or
- (2) A prefabricated facility as provided in WAC 16-229-050.

(3) Secondary containment ~~((facilities))~~ in operation prior to March 1, 1994, which ~~((do))~~ does not have sloped floors shall be exempt from this section: Provided, That upon alteration to the ~~((facility))~~ secondary containment or increase of storage volume, the ~~((facility))~~ secondary containment shall be brought into full compliance with this section.

WAC 16-229-025 Secondary containment of liquid bulk pesticides--Capacity. (1) ~~((The))~~ Secondary containment ~~((facility))~~ shall contain at least one hundred twenty five percent of the volume of the largest storage container within the area plus the displacement of all other tanks, appurtenances, and other items within the containment area.

(2) If the secondary containment ~~((facility))~~ is located indoors or under a roof to prevent accumulation of rainfall, the area shall contain at least one hundred ten percent of the volume of the largest storage container plus the displacement of all other tanks, appurtenances and other items within the containment area.

(3) Secondary containment ~~((facilities))~~ in operation prior to March 1, 1994, ~~((and which have))~~ having a minimum capacity of one hundred ten percent of the volume of the largest storage container within the area plus the displacement of all other tanks, appurtenances and other items within the containment area shall be considered to be in compliance with this section: Provided, That upon alteration to the ~~((facility))~~ containment or increase of storage container volume the ~~((facility))~~ secondary containment shall be brought into full compliance with the specific capacity requirements of this section.

WAC 16-229-030 Secondary containment of liquid bulk pesticides--Walls and floors.

(1) ~~((The walls of a secondary containment facility shall be constructed of steel, poured reinforced concrete, precast concrete modules, solid masonry, or other materials that will provide similar protection. The wall shall be designed to withstand a full hydrostatic head of any discharged liquid, and shall be properly sealed to prevent leakage.))~~ The secondary containment floor shall slope to one or more liquid tight collection points or sumps that allows spilled or deposited materials to be easily removed.

(2) ~~The walls and floor of secondary containment shall be constructed of steel, poured reinforced concrete, precast concrete modules, solid masonry, or other materials or combination of materials that:~~

- (a) Shall be designed to withstand a full hydrostatic head of any discharged liquid
- (b) Shall have sufficient thickness and chemical resistance to contain a release until it is recovered.

(c) Shall be constructed and maintained to a permeability standard of 1×10^{-6} cm/sec as determined by ASTM test method D-5084 Measurement of Hydraulic Conductivity of Saturated

Porous Materials Using a Flexible Wall Permeameter or other test method approved by the department;

(d) Shall have sufficient structural strength to maintain the containment's integrity under normally anticipated loadings;

(e) Shall be chemically compatible with the materials being stored; and

(f) Shall be properly sealed to prevent leakage.

((2)) (3) Any piping through the outside walls of ((a)) secondary containment ((facility)) shall be installed and maintained such that the structural integrity of the wall is preserved and in such a manner as to prevent leaks.

AMENDATORY SECTION (Amending Order 5018, filed 11/2/93, effective 3/1/94)

WAC 16-229-040 Secondary containment of liquid bulk pesticides—~~((Lining)) Synthetic Liners.~~ ~~((The base of a secondary containment facility shall be lined with steel, concrete or synthetic liner. The secondary containment floor shall slope to a liquid tight collection point or sump that allows spilled or deposited materials to be easily removed.))~~

~~(1) ((Concrete liners. Concrete liners shall be designed according to good engineering practices to withstand any foreseeable loading conditions, including a full hydrostatic head of discharged liquid, and shall be properly sealed to prevent leakage.)) A synthetic liner may be used to meet the applicable standards set forth in WAC 16-229-030.~~

~~(2) ((Synthetic liners:~~

~~(a)) Synthetic liners shall be chemically compatible with the materials being stored within the permanent storage facility and have a minimum thickness of 30 mils +/- 1 mil. A written confirmation of compatibility and a written estimate of the life of the liner from the manufacturer shall be kept on file at the permanent storage facility or the nearest local office from which the permanent storage facility is administered.~~

~~((b)) (3) Synthetic liners shall be installed under the supervision of a qualified representative of the manufacturer, a contractor certified by the manufacturer, or a certified engineer. All field constructed seams shall be tested, and repaired if necessary, in accordance with the manufacturer's recommendations.~~

AMENDATORY SECTION (Amending Order 5018, filed 11/2/93, effective 3/1/94)

WAC 16-229-050 Secondary containment of liquid bulk pesticides--Prefabricated facilities. (1) ~~((A)) Prefabricated ((facility)) secondary containment~~ shall be composed of a rigid prefabricated basin having both a base and walls constructed of steel or synthetic materials which are resistant to corrosion, puncture or cracking. Materials used in the ~~((facility)) secondary containment~~ shall be chemically compatible with the products being stored within the ~~((facility)) secondary containment~~. A written confirmation of compatibility from the basin manufacturer shall be kept on file at the permanent storage facility or at the nearest local office from which the permanent storage facility is administered.

(2) The prefabricated ~~((facility)) secondary containment~~ shall be designed and installed to withstand all foreseeable loading conditions, including the tank load and a full hydrostatic head of any discharged liquid. Multiple basins connected to provide the capacity required in WAC 16-229-025 shall be connected in a manner which assures an adequate transfer of discharged liquid between basins.

AMENDATORY SECTION (Amending Order 5018, filed 11/2/93, effective 3/1/94)

WAC 16-229-060 Secondary containment of liquid bulk pesticides--Discharge outlets or valves. Secondary containment ((facilities;)) including prefabricated ((facilities)) secondary containment, shall not have discharge outlets or valves. Discharge outlets or valves on existing ((facilities)) secondary containment shall be sealed. Secondary containments ((facilities)) may be interconnected.

AMENDATORY SECTION (Amending Order 5018, filed 11/2/93, effective 3/1/94)

WAC 16-229-070 Secondary containment of liquid bulk pesticides--Storage with other ((commodities)) material. (1) No ((other commodity except pesticide, pesticide rinsate, recovered pesticide discharges, or fertilizer rinsate)) material may be stored within ((a))pesticide secondary containment ((facility)) unless the material is compatible with all other material stored within the secondary containment. For the purposes of this section, compatible means that the materials, when mixed together, will not react in a manner that will cause a human health or environmental hazard.

((2) A pesticide secondary containment facility may share a wall or portion of a wall, with a fertilizer secondary containment facility.))

AMENDATORY SECTION (Amending Order 5018, filed 11/2/93, effective 3/1/94)

WAC 16-229-080 Secondary containment of liquid bulk pesticides--Precipitation accumulations. Precipitation may not be allowed to accumulate in ((a)) secondary containment ((facility)) to the point where it ((may tend to)):

(1) Reduces the capacity of the ((facility)) secondary containment below one hundred ten percent of the volume of the largest storage container within the area plus the displacement of all other ((tanks)) storage containers, appurtenances and other items within the containment area((:));

(2) Increases corrosion of storage containers or appurtenances((:)); or

(3) Impairs the stability of storage containers.

AMENDATORY SECTION (Amending Order 5018, filed 11/2/93, effective 3/1/94)

WAC 16-229-090 Secondary containment of liquid bulk pesticides--Recovery of discharges. Discharges within ((a)) secondary containment ((facility)) shall be immediately recovered.

AMENDATORY SECTION (Amending Order 5018, filed 11/2/93, effective 3/1/94)

WAC 16-229-110 Primary containment of bulk liquid pesticides--Prohibition against underground storage. No person shall store liquid bulk pesticide, pesticide spills or rinsates in an underground storage container or surface impoundment, such as a lined pond or pit. A watertight catch basin or sump used for the temporary collection of rinsate or runoff from transfer and loading areas is exempt from this section.

AMENDATORY SECTION (Amending Order 5018, filed 11/2/93, effective 3/1/94)

WAC 16-229-120 Primary containment of bulk liquid pesticides--Abandoned storage containers. (1) Storage containers used at a permanent storage facility, or used for temporary field storage to hold liquid bulk pesticide or pesticide rinsate are considered abandoned if they have been out of service for more than six consecutive months because of a weakness or leak, or have been out of service for any reason for more than two years without an integrity test having been performed.

(2) Abandoned underground storage containers containing pesticides which meet the definition of hazardous substance underground storage tank system in chapter 173-360 WAC are subject to the applicable requirements in that chapter.

(3) Abandoned above ground storage containers shall be thoroughly cleaned. All hatches on the storage containers shall be secured and all valves or connections shall be severed or plugged with vents being left functional.

(4) Abandoned above ground storage containers shall be posted with a clearly legible tag with the words "Out of Service."

(5) Abandoned storage containers shall not be allowed to be put back in service on the same site without first installing secondary containment protection.

AMENDATORY SECTION (Amending Order 5018, filed 11/2/93, effective 3/1/94)

WAC 16-229-130 Primary containment of bulk liquid pesticides--Anchoring of storage containers. Storage containers shall be secured, ((as)) if necessary, to prevent flotation or instability which might occur as a result of liquid accumulations within a secondary containment facility.

AMENDATORY SECTION (Amending Order 5018, filed 11/2/93, effective 3/1/94)

WAC 16-229-180 Primary containment of bulk ((liquid)) pesticides--Labeling. (1) All bulk pesticide storage containers shall be labeled in accordance with the Washington Pesticide Control Act (chapter 15.58 RCW) and the Federal Insecticide, Fungicide and Rodenticide Act. The registered product label shall be attached to the bulk storage container in a prominent location. The label shall be designed to remain intact and legible through active use of the container.

(2) All bulk pesticide storage containers shall bear a label or placard in accordance with Uniform Fire Code Standard No. 79-3, identifying the materials therein.

(3) All bulk pesticide storage containers used for temporary field storage shall be labeled with the owner's name, the capacity of the tank, and an identifying number. Lettering shall be a minimum of two inches in height and in a color contrasting to the background.

(4) All bulk pesticide storage containers used for temporary field storage shall have attached, in a weather-proof enclosure, a record of the date the storage container was put in place.

AMENDATORY SECTION (Amending Order 5018, filed 11/2/93, effective 3/1/94)

WAC 16-229-200 Primary containment of bulk liquid pesticides--Temporary Field storage. (1) Containers used for temporary field storage of liquid bulk pesticide shall comply with the following sections: WAC 16-229-100, 16-229-110, 16-229-120, 16-229-140, 16-229-150, 16-229-160, and 16-229-180.

(2) All bulk pesticide storage containers and appurtenances used for field storage shall be inspected for leakage and soundness daily when in use.

(3) Valves on storage containers shall be closed and locked or otherwise secured when left unattended.

(4) The physical location and identifying number of all temporary field storage shall be provided to the department upon request.

(5) The department may issue a permit to extend the time temporary field storage may be in one place during any six-month period due to weather related conditions upon written request. No advisory group review, pursuant to WAC 16-229-310 (2) is required for this type of permit.

AMENDATORY SECTION (Amending Order 5018, filed 11/2/93, effective 3/1/94)

WAC 16-229-210 Operational area containment of liquid pesticides--Permanent storage facility. (1) All operational area activities shall take place on or within ((an)) operational area containment ((facility)): Provided, That during the unloading or loading of railcars, marine vessels, or manned trucks when product is unloaded from direct shipments from manufacturers, individual basins or portable storage containers shall be used to recover spillage and leakage from transfer connections and pumps.

(2) ((The)) Operational area containment ((facility)) shall be designed and constructed to contain pesticides, rinsates, washwater and other materials spilled or deposited during mixing, loading, unloading, draining, rinsing and washing activities.

(3) The walls and floor of operational area containment ((facility)) shall be constructed of steel, poured reinforced concrete, precast concrete modules, solid masonry, or other materials ((with similar permeability:)) or combination of materials that:

(a) Are designed to withstand a full hydrostatic head of any discharged liquid;

(b) Have sufficient thickness and chemical resistance to contain a release until it is recovered.

(c) Are constructed and maintained to a permeability standard of 1×10^{-6} cm/sec as determined by ASTM test method D-5084 Measurement of Hydraulic Conductivity of Saturated Porous Materials Using a Flexible Wall Permeameter or other test method approved by the department.

(4) If synthetic materials are used in construction they shall be chemically compatible with the products handled at the site. A written confirmation of compatibility from the manufacturer shall be kept on file at the site or the nearest location from which the site is administered.

(5) ((The facility)) Operational area containment shall be constructed to withstand the weight of any vehicles or storage containers which will be on ((the facility)) it.

(6) ((The facility)) Operational area containment shall be constructed with sufficient surface area, using curbs or other means, to prevent any discharge from leaving the containment area.

(7) ((The facility)) Operational area containment shall have a capacity of at least fifteen hundred gallons of containment. If no storage container or mobile storage container used at the ((facility)) operational area containment to transfer liquid bulk pesticides has a capacity of more than one thousand gallons, the operational area containment ((facility)) shall be of adequate size and design to contain one hundred twenty-five percent the capacity of the largest storage container, or mobile storage container used.

(8) ((The)) Operational area containment ((facility)) shall slope to ((a)) one or more liquid tight collection points or sumps that allows spilled or deposited materials to be easily recovered. An above ground ((tank)) storage container may be used in conjunction with the operational area containment ((facility)) to meet the capacity requirement. If an above ground ((tank)) storage container is used for temporary storage, the ((tank)) storage container shall be located within secondary containment. The ((tank)) storage container shall be clearly and conspicuously labeled

"pesticide rinsate" followed by the major category of pesticide such as insecticide, herbicide, fungicide.

(9) Any pump used for recovering material from the operational area containment ((facility)) shall be manually activated.

(10) The operational area containment ((facility)) shall not have a discharge outlet or valve. Discharge outlets or valves on existing ((facilities)) operational areas shall be sealed. Operational area containments ((facilities)) may be interconnected.

AMENDATORY SECTION (Amending Order 5018, filed 11/2/93, effective 3/1/94)

WAC 16-229-220 Operational area containment of liquid pesticides—Temporary field storage. (1) During loading and unloading of liquid bulk pesticide at temporary field storage locations individual basins or portable storage containers shall be used to recover spillage and leakage from transfer connections and pumps.

(2) Liquid bulk pesticide storage containers used for temporary field storage shall be located at least one hundred feet from wells and surface water, except, for purposes of this section, irrigation water flowing directly to a field, or on a field, is not considered surface water unless the water could be carried beyond the field being irrigated.

AMENDATORY SECTION (Amending Order 5018, filed 11/2/93, effective 3/1/94)

WAC 16-229-240 Backflow prevention. (1) ~~((If plumbing))~~ When piping within ((a)) secondary containment ((facility)) or an operational area ((facility)) is directly connected to a water source such as a well or public water ((supply)) system, an approved air gap or an approved reduced pressure principle ((a)) backflow prevention ((device)) assembly (RPBA) shall be installed to protect the water source. ((All equipment)) Approved air gaps and approved RPBA's shall be installed, operated, inspected and/or tested and maintained per WAC 246-290-490. ((and manufacturer's recommendations. The minimum safety equipment shall be one of the following:

(a) A reduced pressure principle backflow prevention assembly approved by the Washington state department of health:

(b) ~~Air gap separation. Air gap is a physical separation between the free flowing discharge end of a water supply line and the fill opening of a water storage tank. The end of the discharge pipe shall be located a distance of at least two times the diameter of the supply line measured vertically above the flood rim of the tank. The gap should be increased if the fill pipe is located next to a wall. If the discharge pipe is located within a secondary containment or operational area facility the end of the pipe shall be at least two pipe diameters above the highest liquid holding capacity of the containment facility.)~~

(2) ~~((Reduced pressure principle backflow prevention assemblies)) Approved RPBA's shall be inspected and tested by a Washington state department of health certified backflow assembly tester, and approved air gaps shall be inspected by a Washington state department of health certified backflow assembly tester or cross-connection control specialist:~~

~~(a) At the time of installation, alteration or relocation, and~~

~~((b)) at least on an annual schedule thereafter. ((once per year and air gap systems shall be inspected once per year by a Washington state department of health certified backflow assembly tester pursuant to WAC 246-290-490.))~~

WAC 16-229-260 Maintenance and inspection. (1) The operator of a pesticide bulk storage facility shall inspect and maintain storage containers, appurtenances, secondary containment ((facilities)) and operational area ((facilities)) containment to minimize the risk of a pesticide release. The inspection shall include a visual observation for any evidence of leaks, spills, cracks, solar decay or wear.

(2) Maintenance of the pesticide bulk storage facilities shall be performed as needed to ensure that the integrity of the bulk pesticide storage containers, secondary containment ((facilities)) and operational area containment ((facilities)) is maintained.

(3) Bulk pesticide storage containers and appurtenances shall be inspected at least once per month when in use. Secondary containment and operational area ((facilities)) containment shall be inspected at least once per month when in use.

(4) All secondary and operational area ((facilities)) containment shall be maintained free of debris and foreign matter.

(5) A written record of all inspections and maintenance shall be made on the day of the inspection or maintenance and kept at the storage site or at the nearest local office from which the storage site is administered.

(6) Inspection records shall contain the name of the person making the inspection, the date of the inspection, conditions noted and maintenance performed.

WAC 16-229-270 Recordkeeping requirements. The following records shall be maintained at ((pesticide bulk)) permanent storage facilities or at the nearest local office from which the permanent storage facility is administered:

(1) A record of construction materials and methods of construction to show compliance with WAC 16-229-025, 16-229-030, 16-229-040, 16-229-050, 16-229-060, and 16-229-210. These records shall be maintained as permanent records.

(2) A record of the method(s) used to use or dispose of product or contaminated materials recovered from discharges outside secondary or operational area containment ((facilities)). This record applies only to discharges required to be reported to the Washington state department of ecology by the Washington state Dangerous waste regulations, chapter 173-303 WAC. These records shall be maintained for a period of at least three years.

(3) A monthly inventory reconciliation showing the amount of liquid bulk pesticide from each storage container which is lost or unaccounted for at the end of each monthly period during which pesticide is stored in the container. These records shall be maintained for a period of at least three years.

(4) Inspection and maintenance records required by WAC 16-229-260. These records shall be maintained for a period of at least three years.

(5) Manufacturer's compatibility statements required by WAC 16-229-040 and 16-229-050. These records shall be maintained as permanent records.

(6) A copy of the permanent storage facility's spill response plan required by WAC 16-229-280. This record shall be maintained as a permanent document.

(7) Records required in WAC 16-229-250 for use or disposal of rinsate, washwater and contaminated precipitation. These records shall be maintained for a period of at least three years.

(8) Inspection records required by WAC 16-229-100(9). These records shall be maintained as permanent records.

(9) Records required by WAC 16-229-240, Backflow prevention.

WAC 16-229-280 Spill response plan. (1) The operator of a permanent storage facility shall prepare a written spill response plan for the permanent storage facility. If all or portions of the information required by the spill response plan have been prepared for plans required by other government agencies, they need not be prepared for this plan: Provided, That the information is readily accessible to emergency responders and department personnel. However, when copies of the plan are distributed all the required information must be provided.

The plan shall include the following elements:

(a) The identity and telephone numbers of the persons and agencies who are to be contacted in the event of a spill including persons responsible for the stored pesticide.

(b) For each pesticide stored at the permanent storage facility a complete copy of the storage container labeling required in WAC 16-229-180 and the labeling required to accompany sale of the pesticide under the Washington Pesticide Control Act, chapter 15.58 RCW.

(c) A material safety data sheet for each pesticide stored at the permanent storage facility.

(d) The procedures to be used for controlling and recovering, or otherwise responding to a spill for each type of bulk pesticide stored at the permanent storage facility.

(e) The procedures to be followed in using or disposing of a recovered spill.

(2) The spill response plan shall be kept current at all times.

(3) A copy of the spill response plan shall be kept readily available for inspection and use at the permanent storage facility or at the nearest local office from which the storage facility is administered and shall be available for inspection and copying by the department.

(4) A copy of the spill response plan shall be provided to the local fire department.

(5) Persons employed at ((bulk pesticide)) permanent storage facilities shall be trained in spill response procedures pursuant to the spill response plan.

(6) Emergency equipment and supplies: Every permanent storage facility shall have access to pumps and recovery containers which can be used to control and recover spills. Pumps, recovery containers and persons capable of deploying and operating them shall be readily available in an emergency. Pumps and recovery containers may include those operated by a local fire department or other persons: Provided, That the use and availability of the pumps and recovery containers is arranged in advance as part of the spill response plan. Absorbent materials and other equipment suitable for the control and cleanup of smaller spills shall be available at the storage facility. The permanent storage facility shall maintain a list showing the types and locations of clean-up supplies and equipment. The list shall be maintained at the permanent storage facility or the nearest local office from which the facility is administered.

WAC 16-229-310 Permits. (1) The department may issue a permit exempting any person from a requirement under Part 2 of this chapter if compliance is not technically feasible in the judgment of the department and the department finds that alternative measures provide substantially similar protection. All information required to prove that substantially similar protection is possible shall be provided to the department by the person requesting the permit.

(2) At the request of the department, advisory group, or permittee an advisory group appointed by the director shall evaluate and advise the department on ((aff)) any requests for permits from the rule.

WAC 16-229-400 Operational area containment at permanent mixing/loading sites.

(1) All operational area activities ((occurring at a permanent mixing/loading site)) shall take place on or within ((an)) operational area containment ((facility)):

(2) ((The)) Operational area containment ((facility)) shall be designed and constructed to contain pesticides, rinsates, washwater and other materials spilled or deposited during mixing, loading, unloading, draining, rinsing and washing activities.

(3) The walls and floor of operational area containment ((facility)) shall be constructed of steel, poured reinforced concrete, precast concrete modules, solid masonry, or other materials ((with similar permeability:)) or combination of materials that:

(a) Are designed to withstand a full hydrostatic head of any discharged liquid;

(b) Have sufficient thickness and chemical resistance to contain a release until it is recovered.

(c) Are constructed and maintained to a permeability standard of 1×10^{-6} cm/sec as determined by ASTM test method D-5084 Measurement of Hydraulic Conductivity of Saturated Porous Materials Using a Flexible Wall Permeameter or other test method approved by the department.

(4) If synthetic materials are used in construction they shall be chemically compatible with the products ((mixed and loaded)) handled at the site. A written confirmation of compatibility from the manufacturer shall be kept on file at the site or the nearest location from which the site is administered.

((4)) (5) ((The facility)) Operational area containment shall be constructed to withstand the weight of any vehicles or storage containers which will be on ((the facility)) it.

((5)) (6) ((The facility)) Operational area containment shall be constructed with sufficient surface area, using curbs or other means, to prevent any discharge from leaving the containment area.

((6)) (7) ((The)) Operational area containment ((facility)) shall be of adequate size and design to contain one hundred twenty-five percent the capacity of the largest storage container, or application equipment used at the facility up to a maximum of fifteen hundred gallons.

((7)) (8) Operational area ((facilities)) containment constructed prior to March 1, 1994, and which have been constructed to contain one hundred ten percent of the capacity of the largest storage container or application equipment used at the facility shall be considered to be in compliance with this chapter.

((8)) (9) ((The)) Operational area containment ((facility)) shall slope to ((a)) one or more liquid tight collection points or sumps that allows spilled or deposited materials to be easily recovered. An above ground ((tank)) storage container may be used in conjunction with the operational area containment ((facility)) to meet the capacity requirement. If an above ground ((tank or tanks)) storage container(s) are used for temporary storage, the ((tanks)) storage containers shall be located within operational area or secondary containment. The ((tank)) storage container shall be clearly and conspicuously labeled "pesticide rinsate" followed by the major category of pesticide such as insecticide, herbicide, fungicide.

((9)) (10) Any pump used for recovering material from the operational area containment ((facility)) shall be manually activated.

((10)) (11) The operational area containment ((facility)) shall not have a discharge outlet or valve. Discharge outlets or valves on existing ((facilities)) operational areas shall be sealed. Operational area containments ((facilities)) may be interconnected.

AMENDATORY SECTION (Amending Order 5018, filed 11/2/93, effective 3/1/94)

WAC 16-229-410 Backflow prevention. (1) ~~((if plumbing))~~ When piping within a permanent mixing/loading site is directly connected to a water source such as a well or public water ~~((supply))~~ system, an approved air gap or an approved reduced pressure principle ~~((a))~~ backflow prevention ~~((device))~~ assembly (RPBA) shall be installed to protect the water source. ~~((All equipment))~~ Approved air gaps and approved RPBA's shall be installed, operated, inspected and/or tested and maintained per WAC 246-290-490. ~~((and manufacturer's recommendations. The minimum safety equipment shall be one of the following:~~

~~(a) A reduced pressure principle backflow prevention assembly approved by the Washington state department of health.~~

~~(b) Air gap separation. Air gap is a physical separation between the free flowing discharge end of a water supply line and the fill opening of a water storage tank. The end of the discharge pipe shall be located a distance of at least two times the diameter of the supply line measured vertically above the flood rim of the tank. The gap should be increased if the fill pipe is located next to a wall. If the discharge pipe is located within a secondary containment or operational area facility the end of the pipe shall be at least two pipe diameters above the highest liquid holding capacity of the containment facility.))~~

~~(2) ((Reduced pressure principle backflow prevention assemblies)) Approved RPBA's shall be inspected and tested once per year ((and air gap systems shall be inspected once per year)) by a Washington state department of health certified backflow assembly tester, and approved air gaps shall be inspected by a Washington state department of health certified backflow assembly tester or cross-connection control specialist ((pursuant to WAC 246-290-490.)):~~

~~(a) At the time of installation, alteration or relocation, and at least on an annual schedule thereafter.~~

AMENDATORY SECTION (Amending Order 5018, filed 11/2/93, effective 3/1/94)

WAC 16-229-480 Permits. (1) The department may issue a permit exempting any person from a requirement under Part 3 of this chapter if compliance is not technically feasible in the judgment of the department and the department finds that alternative measures provide substantially similar protection. All information required to prove that substantially similar protection is possible shall be provided to the department by the person requesting the permit.

~~(2) At the request of the department, advisory group, or permittee an advisory group appointed by the director shall evaluate and advise the department on ((all)) any requests for permits from this chapter.~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-229-300 Compliance schedule.

WAC 16-229-470 Compliance.