



**RULE-MAKING ORDER**

**(RCW 34.05.360)**

**CR-103 (7/22/01)**

**Agency:** Washington State Department of Agriculture

- Permanent Rule
- Emergency Rule
- Expedited Rule Making

**(1) Date of adoption:** 11/19/03

**(2) Purpose:** The primary purpose of the adopted rule is to keep the length of time that temporary field storage can be in place at 21 days. There are also some minor housekeeping changes for purposes of clarification.

**(3) Citation of existing rules affected by this order:**

Repealed:  
 Amended: WAC 16-201-010 and WAC 16-201-180  
 Suspended:

**(4) Statutory authority for adoption:** Chapter 15.54 RCW and Chapter 34.05 RCW  
Other Authority:

**PERMANENT RULE ONLY (Including Expedited Rule Making)**

Adopted under notice filed as WSR 03-20-118 on 10/1/03 (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:

**(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**

- 31 days after filing
- Other (specify) \_\_\_\_\_\*

**Emergency Rules**

- 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)**

Valoria Loveland

**Signature**

*Valoria A Loveland*

**Title**

Director

**Date**

11/19/03

**CODE REVISER USE ONLY**

CODE REVISER'S OFFICE  
STATE OF WASHINGTON  
FILED

NOV 19 2003

TIME 10:31 AM

WSR 03-23-130 PM

**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:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	_____	Amended	_____	Repealed	_____

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

New	_____	Amended	_____	Repealed	_____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

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	Repealed	_____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

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted using:**

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	New	_____	Amended	_____	Repealed	_____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	New	_____	Amended	_____	Repealed	_____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	Repealed	_____

AMENDATORY SECTION (Amending WSR 00-23-075, filed 11/17/00, effective 12/18/00)

**WAC 16-201-010 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.

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

(4) **"Bulk fertilizer"** means commercial fertilizer distributed in a nonpackage form such as, but not limited to, tote bags, tanks, trailers, spreader trucks, and railcars.

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

(6) **"Commercial fertilizer"** means any substance containing one or more recognized plant nutrients and which is used for its plant nutrient content and/or which is designated for use or claimed to have value in promoting plant growth, and shall include limes, gypsum, and manipulated animal and vegetable manures. It shall not include unmanipulated animal and vegetable manures and other products exempted by the department by rule: Provided, That for the purpose of this chapter calcium carbonate (lime) and anhydrous ammonia are exempt: Provided further, That this rule does not apply to materials (including but not limited to compost, biosolids, or municipal sewage sludge), or to products derived therefrom, which are regulated pursuant to the provisions of chapter 70.95 or 70.95J RCW, or rules adopted thereunder.

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

(8) **"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 fertilizer made pursuant to sale, storage, distribution or use.

(9) **"Dry fertilizer"** means fertilizer in solid form.

(10) **"Liquid fertilizer"** means fertilizer in liquid form, and includes solutions, emulsions, suspensions and slurries. Liquid fertilizer does not include anhydrous ammonia.

(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.

(12) **"Operational area"** means an area or areas at a fertilizer bulk permanent storage facility where fertilizers are transferred, loaded, unloaded, mixed, repackaged, refilled or where fertilizers are cleaned, washed or rinsed from containers or application, handling, storage or transportation equipment.

(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) of fertilizer bulk storage facilities.

(14) **"Permanent storage facility"** means a location at which undivided quantities of liquid bulk fertilizer in excess of five hundred U.S. gallons or undivided quantities of dry bulk fertilizer in excess of fifty thousand pounds is held in storage: Provided, That temporary field storage is not considered a permanent storage facility.

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

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

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

(18) **"Storage container"** means a container, including a railcar, nurse tank or other mobile container, that is used or intended for the storage of bulk liquid or dry fertilizer. 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 fertilizer storage facility. Storage container does not include underground storage containers or surface impoundments such as lined ponds or pits.

(19) **"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.

(20) **"Temporary field storage"** means a storage container with the capacity to store no more than ten thousand gallons ((or less)) of liquid bulk fertilizer ~~((that remains in the same location for no more than twenty-one consecutive days in any six-month period. Effective March 1, 2004, "temporary field storage" shall mean a storage container of ten thousand gallons or less that remains in the same location for no more than fourteen consecutive days in any six-month period))~~ and that is used for the temporary storage of liquid bulk fertilizer during application. Liquid bulk fertilizer application tanks directly attached to an apparatus for the purpose of fertigation are exempt from this chapter.

(21) **"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 fertilizer.

AMENDATORY SECTION (Amending WSR 00-23-075, filed 11/17/00, effective 12/18/00)

**WAC 16-201-180 Primary containment of liquid bulk fertilizers--Temporary field storage.** (1) ~~((Storage containers used for))~~ Temporary field storage ~~((of liquid bulk fertilizer))~~ shall comply with the following sections: WAC 16-201-100, 16-201-110, 16-201-120, 16-201-140, 16-201-150, and 16-201-170.

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

(3) Valves on temporary field 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) Once temporary field storage is set in place, it may remain at that location without secondary containment for a maximum of twenty-one consecutive days commencing from the date of placement in any six-month period, after which it must be removed. Upon written request, 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 16-201-280(2) is available for this type of permit.