



Bureau of  
Agrichemical  
Management

Wisconsin Department of Agriculture, Trade and Consumer Protection

Division of Agricultural Resource Management

2811 Agriculture Dr., P.O. Box 8911, Madison, WI 53708-8911 <https://datcp.wi.gov>

## Fertilizer and Containment Program Information

### Bulk Agrichemical Containment Rules Overview for Waste Product Conversion to Fertilizer

#### Dry Bulk Fertilizer Storage

- Plan submittal required (professionally designed). *Wis. Admin. Code s. ATCP 33.10(1)*
- Storage buildings must be designed, constructed, and maintained to keep fertilizer in and keep precipitation out. *Wis. Admin. Code s. ATCP 33.22(1)*

#### Dry Bulk Fertilizer Loading

- Loading pad required, plan submittal required (professionally designed).  
*Wis. Admin. Code s. ATCP 33.10(1)*
- Dry product pads must be designed, constructed, and maintained to catch and contain all reasonably foreseeable spillage and allow for complete recovery of spilled fertilizer.  
*Wis. Admin. Code s. ATCP 33.30(2)*
- Dry product pas must be constructed of portland cement or asphalt cement concrete.  
*Wis. Admin. Code s. ATCP 33.34(2)*

#### Liquid Bulk Fertilizer (and Pesticide) Storage

- Storage containers must be designed, constructed, and maintained to operate effectively and prevent releases. *Wis. Admin. Code s. ATCP 33.20(1)*
- Secondary containment required, plan submittal required (professionally designed).  
*Wis. Admin. Code ss. ATCP 33.10(1) & 33.40(1)*
- Secondary containment must be able to contain 125% of the largest container (110% if indoors), plus the volume displaced in the structure by all remaining containers, piping, and equipment. *Wis. Admin. Code s. ATCP 33.42(2)*
- Concrete structures must be designed to satisfy Wisconsin Minimum Design and Construction Standards for Concrete Mixing and Loading Pads and Secondary Containment Structures (the minimum design standards). *Wis. Admin. Code s. ATCP 33.44(1)*

#### Liquid Bulk Fertilizer (and Pesticide) Mix/Load (for Liquid Transfers)

- Mix/load pad required, plan submittal required (professionally designed).  
*Wis. Admin. Code s. ATCP 33.10(1)*
- Mix/load pads must contain at least 1,000 gallons, or 125% of largest container loaded to or from (but exceeding 1,000 gallons). *Wis. Admin. Code s. ATCP 33.32(4)*
- Concrete pads must be designed to satisfy Wisconsin Minimum Design and Construction Standards for Concrete Mixing and Loading Pads and Secondary Containment Structures (the minimum design standards). *Wis. Admin. Code s. ATCP 33.32(5)*

Facilities must maintain an emergency response plan for responding to spills.

*Wis. Admin. Code s. ATCP 33.58(1)*



Bureau of  
Agrichemical  
Management

## Fertilizer License, Permits, and Tonnage

### License

- Required to manufacture or distribute fertilizer. S. 94.64(3), Wis. Stats.
- “Distribute” means to import, consign, sell, offer for sale, solicit orders for sale, or supply for sale or use in this state. s. 96.64(1)(d), Wis. Stats.
- Annual license, October 1-September 30. Fee \$30/year. s. 94.64, Wis. Stats. and s. ATCP 40.04, Wis. Admin. Code.

### Permit s. 94.64(3m), Wis. Stats., and s ATCP 40.12, Wis. Admin. Code

- Low-analysis fertilizer products shall have either a non-agricultural or a special-use permit. Low-analysis fertilizers have less than 24% N-P-K (e.g. a 4-3-2 product).
- The permit fee is \$25/permit. Permits remain in effect until you change the product's label or formulation.
- Individual product permits required in addition to business license.

### Tonnage Report and Fee s. 94.64(4) and (5), Wis. Stats., and s. ATCP 40.06, Wis. Adm. Code.

- Annually, businesses report tonnage and pay fees of \$0.62/ton of fertilizer distributed in Wisconsin.

### Fertilizer Applications

- Other relevant state statutes and codes regulate the application of fertilizer products for agricultural production or non-agricultural uses.
- The fertilizer license and permit are limited to the manufacturing and distribution of fertilizers.

## Waste and Byproduct Materials Used as Fertilizer

### Fertilizer Toxic Substances s. ATCP 40.18 Wis. Admin. Code

- Fertilizers cannot contain a substance that is toxic or injurious to plants, animals, or humans unless the fertilizer label discloses the substance and hazard.
- Metal concentrations cannot exceed maximum allowable concentration specified in the Official Publication of the Association of American Plant Food Control Officials.
- Failure to disclose hazards is unacceptable s. ATCP 40.54 Wis. Admin. Code.

### Other State and Federal Laws and Codes Regulate Waste and Byproduct Materials

- These regulations may also apply to your facility and the materials handled, e.g. DNR Wisconsin Pollution Discharge Elimination Permit (WPDES) requirements.
- Contact the Department of Natural Resources (DNR) to confirm which regulations are applicable to your waste materials.
- Do not presume you are exempt.

When evaluating the conversion of byproduct type material into a fertilizer, you need to evaluate at what point in the manufacturing process the material is converted into a regulated fertilizer, and the required containment needs.