

begin physical construction of the containment structure; AND

(2) You have either begun a continuous on-site physical construction or installation program OR you have entered into contractual obligations. The contract must be such that it cannot be canceled or modified without substantial loss, and must be for the physical construction or installation of the containment structure within a specific and reasonable time frame.

(b) *What is an existing containment structure?* An existing containment structure is defined as one whose installation began on or before November 16, 2006.

§ 165.85 Design and capacity requirements for new structures.

(a) *For all new containment structures, what construction materials must I use?* These are the material specifications for a new containment structure:

(1) The containment structure must be constructed of steel, reinforced concrete or other rigid material capable of withstanding the full hydrostatic head, load and impact of any pesticides, precipitation, other substances, equipment and appurtenances placed within the structure. The structure must be liquid-tight with cracks, seams and joints appropriately sealed.

(2) The structure must not be constructed of natural earthen material, unfired clay, or asphalt.

(3) The containment structure must be made of materials compatible with the pesticides stored. In this case, compatible means able to withstand anticipated exposure to stored or transferred substances and still provide containment of those same or other substances within the containment area.

(b) *For all new containment structures, what are the general design requirements?* These are the general design requirements for new containment structures:

(1) You must protect appurtenances and pesticide containers against damage from operating personnel and moving equipment. Means of protection include, but are not limited to, supports to prevent sagging, flexible connections, the use of guard rails, barriers, and protective cages.

(2) Appurtenances, discharge outlets or gravity drains must not be config-

ured through the base or wall of the containment structure, except for direct interconnections between adjacent containment structures which meet the requirements of this subpart. Appurtenances must be configured in such a way that spills or leaks are easy to see.

(3) The containment structure must be constructed with sufficient freeboard to contain precipitation and prevent water and other liquids from seeping into or flowing onto it from adjacent land or structures.

(4) Multiple stationary pesticide containers may be protected within a single secondary containment unit.

(c) *For new secondary containment units for stationary containers of liquid pesticides and new containment pads in pesticide dispensing areas, what are the capacity requirements?* These are the capacity requirements:

(1) New secondary containment units for stationary containers of liquid pesticides, if protected from precipitation, must have a capacity of at least 100 percent of the volume of the largest stationary pesticide container plus the volume displaced by other containers and appurtenances within the unit.

(2) New secondary containment units for stationary containers of liquid pesticides, if exposed to or unprotected from precipitation, must have a capacity of at least 110 percent of the volume of the largest stationary pesticide container plus the volume displaced by other containers and appurtenances within the unit.

(3) New containment pads in pesticide dispensing areas which have a pesticide container or pesticide-holding equipment with a volume of 750 gallons or greater must have a holding capacity of at least 750 gallons.

(4) New containment pads in pesticide dispensing areas which do not have a pesticide container or pesticide-holding equipment with a volume of at least 750 gallons must have a holding capacity of at least 100 percent of the volume of the largest pesticide container or pesticide-holding equipment used on the pad.

(d) *For new secondary containment units for stationary containers of liquid pesticides, what are the specific design requirements?* You must either anchor or

elevate each stationary container of liquid pesticides protected by a new secondary containment unit to prevent flotation in the event that the secondary containment unit fills with liquid.

(e) *For new containment pads in pesticide dispensing areas, what are the specific design requirements?* Each new containment pad in a pesticide dispensing area must:

(1) Be designed and constructed to intercept leaks and spills of pesticides which may occur in the pesticide dispensing area.

(2) Have enough surface area to extend completely beneath any container on it, with the exception of transport vehicles dispensing pesticide for sale or distribution to a stationary pesticide container. For such vehicles, the surface area of the containment pad must accommodate at least the portion of the vehicle where the delivery hose or device couples to the vehicle. This exception does not apply to transport vehicles that are used for prolonged storage or repeated on-site dispensing of pesticides.

(3) Allow, in conjunction with its sump, for removal and recovery of spilled, leaked, or discharged material and rainfall, such as by a manually activated pump. Automatically-activated pumps which lack automatic overflow cutoff switches for the receiving container are prohibited.

(4) Have its surface sloped toward an area where liquids can be collected for removal, such as a liquid-tight sump or a depression, in the case of a single-pour concrete pad.

(f) *For new secondary containment units for stationary containers of dry pesticides, what are the specific design requirements?* These are the specific design requirements for new secondary containment units for stationary containers of dry pesticides:

(1) The stationary containers of dry pesticides within the containment unit must be protected from wind and precipitation.

(2) Stationary containers of dry pesticides must be placed on pallets or a raised concrete platform to prevent the accumulation of water in or under the pesticide.

(3) The storage area for stationary containers of dry pesticides must include a floor that extends completely beneath the pallets or raised concrete platforms on which the stationary containers of dry pesticides must be stored.

(4) The storage area for stationary containers of dry pesticides must be enclosed by a curb a minimum of 6 inches high that extends at least 2 feet beyond the perimeter of the container.

[71 FR 47422, Aug. 16, 2006, as amended at 73 FR 64227, Oct. 29, 2008]

§ 165.87 Design and capacity requirements for existing structures.

(a) *For all existing containment structures, what construction materials must I use?* These are the material specifications for an existing containment structure:

(1) The containment structure must be constructed of steel, reinforced concrete or other rigid material capable of withstanding the full hydrostatic head, load and impact of any pesticides, precipitation, other substances, equipment and appurtenances placed within the structure. The structure must be liquid-tight with cracks, seams and joints appropriately sealed.

(2) The structure must not be constructed of natural earthen material, unfired clay, or asphalt.

(3) The containment structure must be made of materials compatible with the pesticides stored. In this case, compatible means able to withstand anticipated exposure to stored or transferred substances and still provide containment of those same or other substances within the containment area.

(b) *For all existing containment structures, what are the general design requirements?* These are the general design requirements for existing containment structures:

(1) You must protect appurtenances and pesticide containers against damage from operating personnel and moving equipment. Means of protection include, but are not limited to, supports to prevent sagging, flexible connections, the use of guard rails, barriers, and protective cages.

(2) You must seal all appurtenances, discharge outlets and gravity drains