

PROPOSED RULES

NORTH DAKOTA ADMINISTRATIVE CODE

CHAPTER 7-12-02

**ANHYDROUS AMMONIA NURSE TANK AND STORAGE CONTAINER LOCK
PILOT PROGRAM**

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7-12-02-01. Definitions.

1. “Approved locking device” means a device approved by the commissioner that locks and completely covers a nurse tank or applicator tank liquid withdrawal valve or a storage container main stop valve, including the valve stem and handle, thereby preventing the opening of the valve. The commissioner will maintain a list of approved locking devices.
2. “Commissioner” means insurance commissioner.
3. “Equipped with” means an approved locking device is on hand and can be installed when required.
4. “Installed” means an approved locking device is actually installed on the liquid withdrawal valve and it is locked to prevent unauthorized opening.
5. “Owner or operator” means the owner or operator of an anhydrous ammonia storage facility and includes persons employed by or acting as the agent of the owner or operator.
6. “Unattended” means a person is not present to monitor the transfer and storage of anhydrous ammonia.

History: Effective April 1, 2004.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 19-20.2-11

7-12-02-02. Identification of a critical methamphetamine use zone – Duration of pilot project. The designated critical methamphetamine use zone is Williams County and McKenzie County.

History: Effective April 1, 2004.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 19-20.2-11

7-12-02-03. General requirements.

1. An owner or operator of an anhydrous ammonia storage facility may not fill a nurse tank or applicator tank unless the tank is equipped with an approved locking device.
2. Unless an anhydrous ammonia nurse tank or applicator tank is empty, an owner or operator of an anhydrous ammonia storage facility may not store an unattended nurse tank or applicator tank at a facility unless the tank has an approved locking device installed. The Commissioner may exempt an anhydrous ammonia storage facility from this requirement upon a showing that the facility is equipped with an alternative security device such as fencing or electronic surveillance.
3. Unless an anhydrous ammonia nurse tank or applicator tank is empty, a person in possession of the tank outside of an anhydrous ammonia storage facility must install an approved locking device on the tank if the tank is left unattended overnight.
4. Unless a locking device is integral to the liquid withdrawal valve, a person transporting a nurse tank or applicator tank must remove the locking device during transit.
5. An anhydrous ammonia storage facility owner or operator must be present at the pickup of a nurse tank or applicator tank at a facility unless the tank is empty.
6. Unless a nurse tank or an applicator tank is empty, a person in possession of a nurse tank or an applicator tank may not drop off the tank at an anhydrous ammonia storage facility unless the owner or operator of the facility is present.
7. Anhydrous ammonia may not be transferred from an anhydrous ammonia bulk delivery vehicle to a nurse tank or applicator tank unless the tank is equipped with an approved locking device.
8. A storage container must have approved locking devices installed on the main container stop valves whenever the storage facility is unattended.

History: Effective April 1, 2004.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 19-20.2-11

7-12-02-04. Enforcement.

1. The commissioner may bring an action to enjoin the violation or threatened violation of these rules in the district court of the county in which the violation occurs or is about to occur.
2. The commissioner may issue a cease and desist order to any person allegedly violating these rules. If a person violates the cease and desist order, the commissioner shall file a criminal complaint.
3. The commissioner may collect a civil penalty by a civil action in any appropriate court.
4. The act, omission, or failure of any officer, agent, or other person acting for or employed by any person is deemed to be the act, omission, or failure of the person as well as that of the person employed.
5. The commissioner or the commissioner's authorized agent may inspect a nurse tank, an applicator tank, or a storage container at any reasonable time at any location to assure compliance with this section.

History: Effective April 1, 2004.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 19-20.2-11

7-12-02-05. Penalty. A person who violates any provision of these rules is subject to a civil penalty not to exceed five thousand dollars for each violation. The civil penalty may be imposed by the commissioner through an administrative hearing and may be in addition to any criminal punishment.

History: Effective April 1, 2004.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 19-20.2-11

7-12-02-06. Effective date. This chapter is effective April 1, 2004.

History: Effective April 1, 2004.

General Authority: NDCC 28-32-02

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