

Introduced by

1 A BILL for an Act

2 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

3 **SECTION 1. AMENDMENT.** Section 19-20.2-01 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **19-20.2-014.1-37-01. Anhydrous ammonia safety rules.**

6 The agriculture commissioner shall adopt rules necessary to implement this chapter and
7 adopt the ~~1989~~2014 American national standard safety requirements for the storage and
8 handling of anhydrous ammonia, ~~except sections 2.5, 5.2.1, 5.2.2.1, and 5.2.2.2. Sections 2.5,~~
9 ~~5.2.1, 5.2.2.1, and 5.2.2.2 of the 1989 American national standard safety requirements are~~
10 ~~adopted as follows:~~ The commissioner may adopt rules that deviate from the 2014 American
11 national standard safety requirements if certain provisions of the standard impose undue
12 hardship or if literal adherence to the provisions fails to provide adequate safety.

13 1. ~~(2.5) Refers to paragraphs U-68, U-69, U-200, or U-201 of section VIII of the boiler~~
14 ~~and pressure vessel code of the American society of mechanical engineers, 1949-~~
15 ~~edition, or to section VIII division I of the boiler and pressure vessel code of the~~
16 ~~American society of mechanical engineers, 1950 edition, through the current edition~~
17 ~~including addenda and applicable code case interpretations.~~

18 Where referenced in this standard only section VIII division I of the American
19 society of mechanical engineers code applies except that paragraphs UG-125 through
20 UG-135 and paragraph UW-2 do not apply.

21 2. ~~(5.2.1) Containers used with systems covered in sections 6, 9, 11, and 12 must be~~
22 ~~made of steel or other material compatible with ammonia and tested in accordance~~
23 ~~with the current American society of mechanical engineers code. An exception to the~~

- 1 American society of mechanical engineers code requirements is that construction
2 under table UW-12 at a basic joint efficiency of under eighty percent is not authorized.
- 3 ~~3. (5.2.2.1) For new containers installed or purchased after January 1, 1996, the entire~~
4 ~~container must be post-weld heat treated after completion of all welds in or to the~~
5 ~~shells and heads. The method employed must be as prescribed in the American-~~
6 ~~society of mechanical engineers code. It is recommended that post-weld heat~~
7 ~~treatment be performed in a furnace of a size sufficient to accommodate the entire~~
8 ~~container. Welded attachments to pads may be made after post-weld heat treatment.~~
9 ~~An implement of husbandry does not require post-weld heat treatment if the implement~~
10 ~~is fabricated with hot formed heads or with cold formed heads that have been stress-~~
11 ~~relieved.~~
- 12 ~~4. (5.2.2.2) Steels used in fabricating pressure-containing parts of a container may not~~
13 ~~exceed a specified tensile strength of seventy thousand pounds per square inch~~
14 ~~[482636 kilopascals], as noted in the American society of mechanical engineers code,~~
15 ~~section II, part D, except that this does not apply to sections 8, 9, and 10. An~~
16 ~~implement of husbandry may be fabricated from steel having a specified tensile-~~
17 ~~strength of seventy-five thousand pounds per square inch [517110 kilopascals].~~

NOTE: After discussion with the Department of Agriculture, it was determined that by adopting the 2014 safety standards, references to individual provisions of those standards no longer need to be included in the statutory provision. This would not constitute a substantive change to the law.

18 **SECTION 2. AMENDMENT.** Section 19-20.2-01.1 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **~~19-20.2-01.14.1-37-02. Definition.~~**

21 ~~"Anhydrous~~As used in this chapter, "anhydrous ammonia storage facility" means a bulk
22 anhydrous ammonia storage facility with a capacity exceeding six thousand gallons
23 [22712.47 liters] which is owned or operated by a user or vendor of anhydrous ammonia.

24 **SECTION 3. AMENDMENT.** Section 19-20.2-02 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **~~19-20.2-02. License required – Existing anhydrous ammonia storage facilities.~~**

27 ~~Any user or vendor of anhydrous ammonia owning or operating an anhydrous ammonia~~
28 ~~storage facility shall apply for an operator's license to the agriculture commissioner and the~~
29 ~~board of county commissioners of the county in which the facility is located. Any permanent~~

1 ~~anhydrous ammonia storage facility constructed before July 1, 1985, is exempt from the siting~~
2 ~~requirements of this chapter and may receive a license under this chapter regardless of~~
3 ~~noncompliance with the siting requirements. The commissioner may deny a license for failure to~~
4 ~~remit the proper fee with the application or failure to comply with the rules adopted pursuant to~~
5 ~~this chapter. The license is valid indefinitely but may not be transferred.~~

NOTE: This section is eliminated but language is moved to Section 4 of this draft regarding applications and the siting exemption for facilities constructed before July 1, 1985. Language regarding indefinite duration and nontransfer of licenses is moved to Section 5 of this draft.

6 **SECTION 4. AMENDMENT.** Section 19-20.2-03 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **19-20.2-03.1-37-03. License required - Anhydrous ammonia facilities constructed**
9 **after June 30, 1985.**

10 ~~The owner or operator of an anhydrous ammonia storage facility shall apply to the~~
11 ~~agriculture commissioner and to the board of county commissioners for a license to site and~~
12 ~~operate the facility. An anhydrous ammonia storage facility may not be operated without a~~
13 ~~license issued by the agriculture commissioner and the board of county commissioners of the~~
14 ~~county in which the facility is ~~constructed~~located. An application for a license to site and operate~~
15 ~~an anhydrous ammonia storage facility must be made to the agriculture commissioner and to~~
16 ~~the board of county commissioners~~Any permanent anhydrous ammonia storage facility
17 constructed before July 1, 1985, is exempt from the siting requirements of this chapter and may
18 receive a license under this chapter regardless of noncompliance with the siting requirements.
19 ~~The commissioner or the board may deny a license for failure to remit the proper fee to the~~
20 ~~agriculture commissioner, for failure to comply with the siting requirements of this chapter and~~
21 ~~rules adopted pursuant to~~under ~~this chapter if constructed after June 30, 1985, or for failure to~~
22 ~~comply with local siting requirements. The agriculture commissioner also may deny a license if~~
23 ~~the facility does not meet the initial inspection standards required by this chapter and by any~~
24 ~~rules adopted pursuant to~~under ~~this chapter. In order to~~To ~~obtain a license, an~~
25 ~~individual applicant shall submit~~ with the application ~~two sets of drawings or photographs and~~
26 ~~signed affidavits stating and showing, and two signed affidavits stating, the facility has been~~
27 ~~measured and meets the siting requirements along with the application for license. The~~
28 ~~drawings or photographs must show the proposed location of the tank, the locations, and the~~
29 ~~surroundings in all directions. One~~A set of drawings or photographs is for ~~must be provided to~~

1 the agriculture commissioner and ~~the other is for a set~~ must be provided to the board of county
2 commissioners.

NOTE: "Constructed" was replaced with "located" to maintain consistency with the language of the chapter.

NOTE: After discussions with the Department of Agriculture and the Insurance Department, it was determined that the Chief Boiler Inspector does not need to be included and that reference in the previous version of this draft was removed.

3 **SECTION 5. AMENDMENT.** Section 19-20.2-04 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **~~19-20.2-044.1-37-04.~~ State license fee.**

6 The agriculture commissioner shall charge a one-time twenty-five dollar fee for a license for
7 each anhydrous ammonia storage facility. ~~The licensing fee is twenty-five dollars for an~~
8 ~~anhydrous ammonia storage facility~~ and an additional one hundred dollars for each retail and
9 storage site. Expansion of an existing anhydrous ammonia storage facility, ~~including the~~
10 ~~expansion of a facility constructed before July 1, 1985,~~ does not require reapplication for
11 licensing, but all siting requirements must be met. When the license is valid indefinitely but may
12 not be transferred. A new license is required when an anhydrous ammonia storage facility
13 changes ownership, ~~the new owner shall obtain a license.~~

14 **SECTION 6. AMENDMENT.** Section 19-20.2-05 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **~~19-20.2-054.1-37-05.~~ State siting requirements - Anhydrous ammonia storage facilities**
17 **constructed after June 30, 1985.**

18 For facilities constructed after June 30, 1985:

- 19 1. Any anhydrous ammonia storage facility with a container nominal capacity of less than
20 one hundred thousand gallons [378541.2 liters] must be located at least:
 - 21 a. Fifty feet [15.24 meters] from the line of any adjoining property, which may be
22 built upon, or any highway or railroad mainline.
 - 23 b. Four hundred fifty feet [137.16 meters] from any place of public assembly or
24 residence, other than the company's business office.
 - 25 c. Seven hundred fifty feet [213.36 meters] from any institutional residence.
- 26 2. Any anhydrous ammonia storage facility with container nominal capacity of one
27 hundred thousand gallons [378541.2 liters] or more must be located at least:

- 1 a. Fifty feet [15.24 meters] from the property line of adjoining property, which may
- 2 be built upon, or any highway or railroad mainline.
- 3 b. Six hundred feet [182.88 meters] from any place of public assembly or residence,
- 4 other than the company's business office.
- 5 c. One thousand feet [300.48 meters] from any institutional residence.
- 6 3. Upon relocation of any permanent storage container to an anhydrous ammonia
- 7 storage facility, the container must be hydrostatically pressure tested at the maximum
- 8 allowable working pressure of the vessel or, wet fluorescent magnetic particle tested,
- 9 also referred to as black light tested, or any other acceptable testing method as
- 10 determined by the agriculture commissioner. Before the container may be put into
- 11 service and before licensing may occur, proof of testing must be supplied to the board
- 12 of county commissioners and the agriculture commissioner.

NOTE: The reference to the Chief Boiler Inspector in the previous version of this draft has been removed.

- 13 4. All valves and other appurtenances to any anhydrous ammonia storage facility must
- 14 be protected against physical damage. All shutoff valves must be kept closed and
- 15 locked when not in use and when the facility is unattended.
- 16 5. Any anhydrous ammonia storage facility relocated or constructed after August 1, 1995,
- 17 may not be located within city limits, unless approved by the city.

18 **SECTION 7. AMENDMENT.** Section 19-20.2-06 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **~~19-20.2-064.1-37-06.~~ Transfer hose requirements.**

21 ~~The following requirements apply to any~~Any transfer hose utilized at an anhydrous
22 ammonia storage facility:

- 23 1. ~~Any liquid transfer hose that~~Which is a liquid transfer hose and is not drained of liquid
- 24 upon completion of transfer operations must be equipped with an approved shutoff
- 25 valve at the discharge end.
- 26 2. ~~AMust have a~~ hydrostatic relief valve or equivalent ~~must be~~ installed in each section of
- 27 hose or pipe in which liquid ammonia can be isolated between shutoff valves to relieve
- 28 the pressure that could develop from the trapped liquid. If an equivalent pressure relief
- 29 device is used, the maximum accumulated pressure possible within the system may
- 30 not exceed the limits of the system. A hydrostatic relief valve must be installed

1 between each pair of valves in which liquid is trapped. The start-to-discharge pressure
2 setting of the relief valve must not be less than three hundred fifty pounds per square
3 inch [2413.18 kilopascals] gauge nor more than four hundred pounds per square inch
4 [2757.92 kilopascals] gauge.

5 3. ~~A transfer hose must~~Must have etched, cast, or impressed on the outer coating all of
6 the following:

- 7 a. The words "ANHYDROUS AMMONIA".
- 8 b. The maximum working pressure of the transfer hose.
- 9 c. The name of the manufacturer of the hose.
- 10 d. The date of manufacture or the expiration date of the hose.

11 4. ~~A transfer hose~~Which is cut, scraped, cracked, or weathered so that the inner white
12 cord is visible must be replaced. A transfer hose with an expiration date printed on the
13 hose must be replaced prior to that date. Transfer hoses without an expiration date
14 must be replaced as follows:

- 15 a. Rayon hoses must be replaced within two years of the date of manufacture.
- 16 b. Nylon hoses must be replaced within four years of the date of manufacture.
- 17 c. Steel-reinforced hoses must be replaced within six years of the date of
18 manufacture.

19 Notwithstanding the replacement dates determined under this subsection for transfer
20 hoses with or without an expiration date, an additional year must be allowed for
21 replacement of transfer hoses in order to take into account delays in the original
22 installation of transfer hoses.

23 **SECTION 8. AMENDMENT.** Section 19-20.2-06.1 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 ~~19-20.2-06.14.1-37-07.~~ **Pressure relief devices.**

26 Bulk storage containers constructed according to the American society of mechanical
27 engineers code, and all nurse tanks, must be equipped with pressure relief valves constructed
28 according to the American society of mechanical engineers code and capacity certified by the
29 national board of boiler and pressure vessel inspectors. A pressure relief valve using
30 nonmetallic seats must be replaced every five years with a new valve meeting the standards
31 referencedspecified in this section. A pressure relief valve using metallic seats must be tested,

1 ~~and repaired if deemed necessary,~~ every five years in lieu of replacement, ~~and repairs, if-~~
2 ~~deemed necessary.~~ Repairs deemed necessary must be made by the valve manufacturer or by
3 a safety valve repair organization having a valid "VR" certificate of authorization for the repairs
4 from the national board of boiler and pressure vessel inspectors.

5 **SECTION 9. AMENDMENT.** Section 19-20.2-07 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 ~~19-20.2-07.1-37-08.~~ **Inspection.**

- 8 1. The agriculture commissioner shall develop and implement an initial and periodic
9 inspection program for anhydrous ammonia storage facilities.
- 10 2. The agriculture commissioner shall inspect each anhydrous ammonia storage facility
11 at least once every five years and may inspect any ~~farm transportation wagon or~~
12 ~~vehicle~~ implement of husbandry designed to apply anhydrous ammonia which is in the
13 vicinity of an anhydrous ammonia storage facility.
- 14 3. The agriculture commissioner may inspect any anhydrous ammonia storage facility
15 where the commissioner has reason to believe violations of the safety standards ~~under~~
16 ~~this chapter~~ exist.
- 17 4. The agriculture commissioner may revoke or suspend the license of any anhydrous
18 ammonia storage facility ~~violating for a violation of a provision of~~ this chapter or the
19 rules adopted under this chapter. The commissioner may order the discontinuance of
20 use of any ~~farm transportation wagon or implement of husbandry~~ implement of
21 husbandry designed to apply anhydrous ammonia which is found unsafe or
22 hazardous.

23 **SECTION 10. AMENDMENT.** Section 19-20.2-07.1 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 ~~19-20.2-07.14.1-37-09.~~ **Reinstalled and secondhand anhydrous ammonia storage**
26 **containers - Requirement.**

- 27 1. ~~Before anhydrous ammonia may be stored in a reinstalled or secondhand container,~~
28 ~~including a nurse tank, the~~ A person intending to store the anhydrous ammonia in a
29 reinstalled or secondhand container, including a nurse tank, shall furnish the
30 agriculture commissioner with:

1 a. Evidence that the container is registered with the national board of boiler and
2 pressure vessel inspectors; or

3 b. The manufacturer's data report for the container.

4 2. Subsection 1 is ~~not~~only applicable to the owner of an anhydrous ammonia storage
5 container installed in this state before November 1, 1987, ~~unless~~if the storage
6 container is reinstalled at another location.

7 **SECTION 11. AMENDMENT.** Section 19-20.2-08 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 ~~19-20.2-08.1-37-10. Promotion of safety-- Use of excess fees - Safety promotion -~~
10 **Administration - Inspections.**

11 All fees collected under this chapter must be used by the agriculture commissioner to
12 promote safety in anhydrous ammonia use and storage, ~~in the administration of~~administer the
13 program, and ~~in the inspection of~~inspect facilities.

NOTE: There is usually a reference to deposit of fees in a fund. Is there a fund where the
fees are held for use?

14 **SECTION 12. AMENDMENT.** Section 19-20.2-08.2 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 ~~19-20.2-08.24.1-37-11. Prohibitions.~~

17 The following ~~actions~~actions are prohibited:

18 1. Filling a nurse tank directly from a railcar;:

19 2. Filling or using a nurse tank that has an outdated hose;:

20 3. Filling or using a nurse tank that has outdated relief valves;:

21 4. Towing more than two nurse tanks on a public road;:

22 5. Filling department of transportation transport containers not meeting the requirements
23 of the department of transportation;:

24 6. Filling anhydrous ammonia storage containers not meeting the requirements of this
25 chapter;:

26 7. Filling a storage container or nurse tank while unattended;

27 8. Making repairs or additions of appurtenances directly to pressurized storage
28 containers or nurse tanks by any individual not authorized under rules adopted by the
29 commissioner;

1 9. Painting or obscuring the American society of mechanical engineers data plates on
2 storage containers or nurse tanks;

3 10. Painting hydrostatic safety and safety relief valves on storage containers or nurse
4 tanks;

5 11. Filling nonrefrigerated storage containers or nurse tanks beyond the filling densities
6 permitted by the American national standards institute K61.1, section 5.9.1; and

7 12. Using the American society for testing and materials A-53 type f piping for anhydrous
8 ammonia piping systems.

9 **SECTION 13. AMENDMENT.** Section 19-20.2-08.3 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **19-20.2-08.34.1-37-12. Anhydrous ammonia - Bulk delivery.**

12 Upon obtaining a commercial driver's license with an endorsement for hazardous materials,
13 a ~~person~~ an individual may transport anhydrous ammonia in a bulk delivery vehicle and may fill,
14 ~~from the bulk delivery vehicle,~~ nurse tanks with anhydrous ammonia from the bulk delivery
15 vehicle.

16 **SECTION 14. AMENDMENT.** Section 19-20.2-08.4 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **19-20.2-08.44.1-37-13. Hydrostatic test procedures.**

19 Any hydrostatic test conducted under section ~~19-20.2-054.1-37-05~~ must comply with the
20 requirements of the national board inspection code (ANSI-NB 23) and be conducted in a
21 manner approved by the agriculture commissioner.

22 **SECTION 15. AMENDMENT.** Section 19-20.2-08.5 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **19-20.2-08.54.1-37-14. Wet fluorescent magnetic particle test procedures.**

25 Any wet fluorescent magnetic particle test of a pressure vessel weld conducted under
26 section ~~19-20.2-054.1-37-05~~ must comply with the requirements of the society for
27 nondestructive testing SNT-TC-1A standard and must be conducted by a person certified as a
28 level II technician by the society.

29 **SECTION 16. AMENDMENT.** Section 19-20.2-09 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 ~~19-20.2-094.1-37-15.~~ **Enforcement.**

- 2 1. The agriculture commissioner shall enforce the requirements of this chapter and any
3 rules issued under it.
- 4 2. The commissioner may bring an action to enjoin the violation or threatened violation of
5 this chapter, or any rule issued pursuant to this chapter, in the district court of the
6 county in which the violation occurs or ~~is about to~~ may occur.
- 7 3. The agriculture commissioner may issue a cease and desist order to any person
8 allegedly violating this chapter. If any person violates the cease and desist order, the
9 commissioner shall file the appropriate criminal complaint.
- 10 4. ~~For the purpose of carrying out this chapter, the~~ The agriculture commissioner may
11 enter upon any public or private premises at reasonable times to:
- 12 a. Inspect any equipment subject to this chapter and the premises on which the
13 equipment is stored or used;:
- 14 b. Inspect or investigate complaints; or
- 15 c. Inspect any premises or other place where anhydrous ammonia or related
16 devices are held for distribution, sale, or use.
- 17 5. If a civil penalty ~~pursuant to section 19-20.2-10~~ is imposed under section 4.1-37-16 by
18 the agriculture commissioner through an administrative hearing and the civil penalty is
19 not paid, the commissioner may ~~collect the civil penalty by~~ initiate a civil action in any
20 appropriate court. Additionally, the commissioner may suspend or revoke a license
21 issued ~~pursuant to~~ under this chapter for failure to pay a civil penalty within thirty days
22 after a final determination is made.

23 **SECTION 17. AMENDMENT.** Section 19-20.2-10 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 ~~19-20.2-104.1-37-16.~~ **Penalty.**

- 26 1. Any person violating this chapter is guilty of a class A misdemeanor.
- 27 2. When construing and enforcing this chapter, the act, omission, or failure of any officer,
28 agent, or other person acting for or employed by any person is deemed to be the act,
29 omission, or failure of the person as well as that of the person employed.
- 30 3. In addition to the criminal sanctions that may be imposed, a person found guilty of
31 violating this chapter or the rules adopted under this chapter is subject to a civil

1 penalty not to exceed five thousand dollars for each violation. The civil penalty may be
2 imposed by a court in a civil proceeding or by the agriculture commissioner through an
3 administrative hearing.

4 **SECTION 18. AMENDMENT.** Section 19-20.3-01 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 ~~19-20.3-014.1-38-01.~~ **(Contingent effective date – See note.) Risk management**
7 **program - Anhydrous ammonia.**

8 ~~In order to~~To determine compliance with the risk management program requirements set
9 forth in section 112 of the Clean Air Act of 1990 [42 U.S.C. 7401 et seq.], as amended through
10 June 30, 2011, the agriculture commissioner may:

- 11 1. Request information from any person that:
 - 12 a. Sells, stores, or handles anhydrous ammonia for agricultural purposes; and
 - 13 b. Is required to comply with the risk management program requirements;
- 14 2. Conduct inspections of any person that:
 - 15 a. Sells, stores, or handles anhydrous ammonia for agricultural purposes; and
 - 16 b. Is required to comply with the risk management program requirements; and
- 17 3. Obtain and review risk management plans required under 40 Code of Federal
18 Regulations, part 68, as amended through June 30, 2011, and other records
19 applicable to any person that:
 - 20 a. Sells, stores, or handles anhydrous ammonia for agricultural purposes; and
 - 21 b. Is required to comply with the risk management program requirements.

22 **SECTION 19. AMENDMENT.** Section 19-20.3-02 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 ~~19-20.3-024.1-38-02.~~ **(Contingent effective date – See note.) Risk management**
25 **program - Enforcement authority.**

26 If the agriculture commissioner determines that there is noncompliance on the part of any
27 person that sells, stores, or handles anhydrous ammonia for agricultural purposes and that is
28 required to comply with the risk management program requirements referenced in section
29 ~~19-20.3-014.1-38-01,~~ the agriculture commissioner may:

- 30 1. Bring an action to enjoin a violation or a threatened violation;
- 31 2. Issue a cease and desist order; and

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- 1 3. Impose a civil penalty through an administrative hearing in an amount not exceeding
- 2 ten thousand dollars per day for each violation.