

Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal Impact:

- State
- Local
- Substantive (≥\$3,000,000)
- None

CHAPTER 05 – OFFICE OF STATE FIRE MARSHAL

SUBCHAPTER 05A - FIRE AND RESCUE

SECTION .0800 – CIGARETTE FIRE-SAFETY STANDARDS

11 NCAC 05A .0801 CERTIFICATIONS

(a) Certifications and fees submitted pursuant to G.S. 58-92-20 shall be sent to:

NCDOL-OSFM
Attn: Fire Safety Program Administrator
1202 Mail Service Center
Raleigh, NC 27699-1202

(b) OSFM shall disapprove and return incomplete certifications. The submitter shall complete or correct the original submittal within 90 days after the date of disapproval. If the submitter fails to return a completed or corrected submittal within the 90-day period, the submitter shall pay the fee specified in G.S. 58-92-20(e) for each subsequent submittal.

Authority G.S. 58-2-40; 58-92-20; 58-92-35.

CHAPTER 12 - LIFE AND HEALTH DIVISION

SECTION .0700 - CREDIT INSURANCE AND CREDIT LIFE: ACCIDENT AND HEALTH INSURANCE

11 NCAC 12 .0705 REFUND OF UNEARNED PREMIUM AT DEATH: CREDIT LIFE/CREDIT ACCIDENT/HEALTH INSURANCE

~~A refund of unearned premium is required in the event of death of an insured debtor under a Credit Life or Credit Accident and Health certificate or policy and such refund shall be made in accordance with the provisions of G.S. 58-57-50.~~

Authority G.S. 58-2-40; 58-57-50.

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Environmental Management Commission intends to amend the rules cited as 15A NCAC 02N .0901, .0903.

Proposed Effective Date: November 1, 2009

Public Hearing:

Date: May 28, 2009

Time: 2:00 – 4:00 p.m.

Location: Rm. 1H-120, 2728 Capital Blvd., Raleigh, NC 27604

Reason for Proposed Action: *On December 3, 2007, a petition to amend secondary containment rules for underground storage tank (UST) systems was submitted to the Environmental Management Commission (EMC). The petition proposed adding electronic liquid detecting sensor monitoring as an allowable method of monitoring the interstitial space of a double-walled tank for releases. DENR recommended that the EMC deny the petition because the proposed method does not continuously check the inner and outer walls of a double-walled tank for breaches of integrity like the methods already allowed by the rules. DENR contended that the proposed method is not as effective as those already allowed in detecting tank wall failures. However, on March 13, 2008, the EMC approved the petition, but requested that DENR staff prepare additional rule language incorporating standards for operation, maintenance and testing of USTs if electronic liquid detecting sensors are used for leak detection monitoring. On May 8, 2008, the EMC approved the language prepared by DENR and directed DENR to hold public hearings on the amendments. These amendments are the subject of this rule-making action.*

Procedure by which a person can object to the agency on a proposed rule: *A person may submit written objections concerning this rule to the UST Section of the Division of Waste Management of the Department of Environment and Natural Resources. Such correspondence should be submitted to the attention of Ruth A. Strauss, NCDENR/DWM/UST Section, 1637 Mail Service Center, Raleigh, NC 27699-1637, fax (919) 733-9413, email ruth.strauss@ncmail.net.*

Comments may be submitted to: *Ruth A. Strauss, NCDENR/DWM/UST, 1637 Mail Service Center, Raleigh, NC 27699-1637, phone (919) 733-8486, fax (919) 733-9413, email ruth.strauss@ncmail.net*

Comment period ends: June 30, 2009

Procedure for Subjecting a Proposed Rule to Legislative Review: *If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting*

review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal Impact:

- State
- Local
- Substantive (≥\$3,000,000)
- None

CHAPTER 02 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 02N - UNDERGROUND STORAGE TANKS

SECTION .0900 - PERFORMANCE STANDARDS FOR UST SYSTEM OR UST SYSTEM COMPONENT INSTALLATION OR REPLACEMENT COMPLETED ON OR AFTER NOVEMBER 1, 2007

15A NCAC 02N .0901 GENERAL REQUIREMENTS

(a) This Section applies to an UST system or UST system component installation or replacement completed on or after November 1, 2007.

(b) An UST system or UST system component shall not be installed or replaced within an area defined at 15A NCAC 02N .0301(b).

(c) A tank shall meet the requirements for secondary containment including interstitial release detection monitoring in accordance with this Rule.

(d) All UST system components other than tanks including connected piping, underground ancillary equipment, dispensers, line leak detectors, submersible pumps, spill buckets, siphon bars, and remote fill pipes shall meet the requirements for secondary containment including interstitial release detection monitoring in accordance with this Rule. Gravity-fed vertical fill pipes, vapor recovery, vent lines, and containment sumps are excluded from the secondary containment requirements in this Rule.

(e) An UST system design is required for installation or replacement of an UST system, UST, or connected piping. If required by G.S. 89C, UST system designs must be prepared by a Professional Engineer licensed by the North Carolina Board of Examiners for Engineers and Surveyors.

[Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined via letter dated December 20, 1993, that preparation of a UST system design constitutes practicing engineering under G.S. 89C.]

(f) If required by the equipment manufacturer, persons installing, replacing or repairing UST systems or UST system components must be trained and certified by the equipment manufacturer or the equipment manufacturer's authorized representative to install, replace or repair such equipment.

(g) UST systems or UST system components shall be installed, tested, operated, and maintained in accordance with the manufacturer's specifications and the codes of practice, and industry standards described at 15A NCAC 02N .0907.

(h) UST systems or UST system components shall not be installed or replaced in areas where they will be in contact with contaminated soil or free product.

(i) Secondary containment systems shall be designed, constructed, installed and maintained to:

- (1) Detect the failure of the inner wall and outer wall for UST system components with double wall construction;
- (2) Contain regulated substances released from an UST system until they are detected and removed;
- (3) Prevent a release of regulated substances to the environment outside of the containment system;
- (4) Direct releases to a monitoring point or points;
- (5) Provide a release detection monitoring device or monitoring method for the interstitial space;
- (6) Continuously monitor the interstitial-space inner and outer walls of double-walled tanks for releases-breaches of integrity using pressure, vacuum or hydrostatic monitoring methods; methods or monitor the interstitial space of double-walled tanks for releases using an electronic liquid detecting sensor method along with periodic testing as specified in Rule .0903(f) of this Section;
- (7) Continuously monitor the interstitial-space inner and outer walls of double-walled non-tank components for releases-breaches of integrity using pressure, vacuum, or hydrostatic methods, or monitor a non-tank component for releases by using an electronic liquid detecting sensor placed in a containment sump and in the interstitial space of a double-walled spill bucket; bucket along with periodic integrity testing as specified in Rule .0904(h), .0905(f), and .0906(e) of this Section; and
- (8) Provide a printed record of release detection monitoring results and an alarm history for each month.
- (9) Electronic liquid detecting sensors used to monitor the interstitial space of double-walled tanks and non-tank components shall meet the following requirements:
 - (1) Electronic liquid detecting sensors used for tanks and spill buckets must be located at the lowest point in the interstitial space. Electronic liquid detecting sensors used for containment sumps must be located as specified in Rule .0905(d) of this Section.
 - (2) A tank must have a method to verify that an electronic liquid detecting sensor is located at the lowest point

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of the interstitial space. Verification of the sensor location must be readily available for inspection.

(3) Electronic liquid detecting sensors must detect the presence of any liquid in the interstitial space and shall not discriminate between liquid types.

(4) Any liquid detected in the interstitial space must be removed within 48 hours of discovery.

(j) New or replacement dispensers shall be provided with under dispenser containment sumps and shall meet the secondary containment requirements and performance standards of this Rule.

(k) All release detection monitoring equipment shall be installed, calibrated, operated and maintained in accordance with manufacturer's instructions. All release detection monitoring equipment shall be checked annually for operability, proper operating condition and proper calibration in accordance with the manufacturers written guidelines. The results of the last annual check must be recorded, maintained at the UST site or the tank owner or operator's place of business, and made available for inspection.

(l) Releases detected in an interstitial space shall be reported in accordance with .0601 and investigated in accordance with the manufacturers written guidelines. Any changes in the original physical characteristics or integrity of a piping system or a containment sump must also be reported in accordance with .0601 and investigated in accordance with the manufacturer's written guidelines.

(m) UST systems and UST system components shall also meet all of the installation requirements specified in 40 CFR 280.20(c), (d) and (e). In addition, overfill prevention equipment shall be checked annually for operability, proper operating condition and proper calibration in accordance with the manufacturer's written guidelines. The results of the last annual check must be recorded, maintained at the UST site or the tank owner or operator's place of business, and made available for inspection.

Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h).

15A NCAC 02N .0903 TANKS

(a) Tanks must be protected from external corrosion in accordance with 40 CFR 280.20(a)(1), (3) or (5).

(b) The exterior surface of a tank shall bear a permanent marking, code stamp or label showing the following information:

- (1) The engineering standard used;
- (2) The diameter in feet;
- (3) The capacity in gallons;
- (4) The materials of construction of the inner and outer walls of the tank including any external or internal coatings;
- (5) Serial number or other unique identification number designated by the tank manufacturer;
- (6) Date manufactured; and
- (7) Identity of manufacturer.

(c) Whenever an existing tank is removed prior to installation of a new tank, piping that does not meet the standards of this Section shall also be removed. The replacement tank shall not be connected to piping that does not meet the standards of this Section.

(d) Tanks that will be reused must be certified by the tank manufacturer prior to re-installation and must meet all of the requirements of this Section. Proof of certification must be submitted to the Division along with a notice of intent (Rule .0902).

(e) Tanks shall be tested for ~~tightness~~ before and after installation in accordance with the following requirements:

(1) ~~Pre- Installation Tightness Test~~ - Before installation, the primary containment and the interstitial space shall be tested in accordance with the manufacturers written guidelines and PEI/RP100, "Recommended Practice for Installation of Underground Liquid Storage Systems." PEI/RP100, "Recommended Practice for Installation of Underground Liquid Storage Systems" is hereby incorporated by reference including subsequent amendments and editions. A copy can be obtained from Petroleum Equipment Institute, P.O. Box 2380, Tulsa, Oklahoma 74101-2380 at a cost of ninety-five dollars (\$95.00). The presence of soap bubbles or water droplets during a pressure test, any change in vacuum beyond the limits specified by the tank manufacturer during a vacuum test, or any change in liquid level in an interstitial space liquid reservoir beyond the limits specified by the tank manufacturer, shall be considered a failure of the integrity of the tank.

(2) ~~Post-installation Tightness Test~~ - The interstitial space shall be checked for a loss of pressure or vacuum, or a change in liquid level in an interstitial space liquid reservoir. Any loss of pressure or vacuum beyond the limits specified by the tank manufacturer, or a change in liquid level beyond the limits specified by the tank manufacturer, shall be considered a failure of the integrity of the tank.

(3) If a tank fails a ~~tightness pre-installation or post-installation~~ test, tank installation shall be suspended until the tank is replaced or repaired in accordance with the manufacturer's specifications. Following any repair, the tank shall be re-tested for ~~tightness~~ in accordance with Subparagraph (e)(1) of this Rule if it failed the pre-installation ~~tightness~~ test and in accordance with Subparagraph (e)(2) of this Rule if it failed the post-installation ~~tightness~~ test.

(f) The interstitial spaces of tanks that are not monitored using vacuum, pressure or hydrostatic methods must be tested for tightness before UST system start-up, between six months and the first anniversary of start-up and every three years thereafter. The interstitial space shall be tested using an interstitial tank

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tightness test method that is capable of detecting a 0.10 gallon per hour leak rate with a probability of detection (Pd) of at least 95 percent and a probability of false alarm (Pfa) of no more than five percent. The test method must have a written third-party performance claim that describes the procedure used to demonstrate that the test method can detect a 0.10 gallon per hour leak rate with a Pd of at least 95 percent and a Pfa of no more than five percent for the specific tank model being tested. If a tank fails an interstitial tank tightness test, it must be replaced or repaired by the manufacturer or the manufacturer's authorized representative in accordance with manufacturer's specifications. All failed interstitial tank tightness tests shall be reported to the Division within 24 hours. Following any repair, the tank interstitial space shall be re-tested for tightness. The most recent periodic tightness test record must be maintained at the UST site or the tank owner's place of business and must be readily available for inspection.

Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h).

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Public Health intends to adopt the rules cited as 15A NCAC 18C .2201, .2202 and amend the rules cited as 15A NCAC 18C .0714, .1301 - .1303, .2002, .2004, .2006 - .2008.

Proposed Effective Date: October 1, 2009

Public Hearing:

Date: June 15, 2009

Time: 1:00 p.m.

Location: Conference Room 1A224, 2728 Capital Blvd., Raleigh, NC 27604

Reason for Proposed Action:

15A NCAC 18C .0714 – This State rule became effective July 1, 1994 and contains outdated levels of treatment requirements that conflict with and are less stringent than the Federal Regulations that North Carolina later adopted by reference in the year 2000 under 15A NCAC 18C .2007. Therefore, the treatment requirement of 2.0 log removal of Giardia cysts is being changed to 3.0 log, and 0.5 NTU turbidity is being changed to 0.3 NTU to be consistent with the regulations that are currently being enforced.

15A NCAC 18C .2007 – In order to meet the conditions of the primacy agreement with the US Environmental Protection Agency, North Carolina must adopt rules that are no less stringent than the Federal Regulations as required in Section 1413 of the Safe Drinking Water Act. There are 134 public water systems in North Carolina which use surface water or ground water under the direct influence of surface water (GWUDI) as their source. These 134 systems serve approximately 5.7 million people. These water sources carry microbial contaminants, some of which pose significant risks to public health. The primary issue of concern addressed by this rule is the risk to public health from water supplies which do not provide adequate treatment for the microorganism,

Cryptosporidium. The US EPA is particularly concerned about *Cryptosporidium* because it is resistant to many commonly used drinking water disinfectants, such as chlorine, and it poses significant health risks, including death. Moreover, there is no effective drug available to cure cryptosporidiosis, the health condition caused by *Cryptosporidium* infection. The purposes of the rule are to improve control of microbial pathogens (specifically the protozoan *Cryptosporidium*) in drinking water and address risk trade-offs with disinfection byproducts. While systems make treatment plant changes to comply with newly applicable disinfection byproducts standards, existing levels of microbial protection in public water systems must also be maintained. The presence of microbiological pathogens in public water supplies is a health concern, and if finished water supplies contain microbiological contaminants, illnesses and disease outbreaks may result. This rule focuses on reducing the risk associated with disinfection-resistant pathogens, such as *Cryptosporidium*, however, other pathogens may also be removed more efficiently due to the implementation of this rule's provisions.

15A NCAC 18C .2008 – In order to meet the conditions of the primacy agreement with the US Environmental Protection Agency, North Carolina must adopt rules that are no less stringent than the Federal Regulations as required in Section 1413 of the Safe Drinking Water Act. The Stage 2 DBPR is one part of the Microbial and Disinfection Byproducts Rules (MDBPs), which are a set of interrelated regulations that address risks from microbial pathogens and disinfectants/disinfection byproducts. The Stage 2 DBPR will reduce potential cancer and reproductive and developmental health risks from disinfection byproducts (DBPs) in drinking water, which form when disinfectants are used to control microbial pathogens. This final rule strengthens public health protection for customers by tightening compliance monitoring requirements for two groups of DBPs, trihalomethanes (TTHM) and haloacetic acids (HAA5). The rule targets systems with the greatest risk and builds incrementally on existing rules. This regulation will reduce DBP exposure and related potential health risks and provide more equitable public health protection. The Stage 2 DBPR is being promulgated simultaneously with the Long Term 2 Enhanced Surface Water Treatment Rule to address concerns about risk tradeoffs between pathogens and DBPs.

15A NCAC 18C .2201 and .2202 – This new proposed Section to our Rules Governing Public Water Systems sets minimum disinfectant residual level requirements for systems that use ground water. This Section also adopts the federal Ground Water Rule with several exceptions. The most notable exception to the federal Ground Water Rule is that the State adopts Assessment Source Monitoring as a requirement for certain water systems that rank as high-risk in State's source water vulnerability assessments and have history of microbial contamination. Other factors will also be used to identify systems required to perform this assessment. Other exceptions specify State-allowed microbial indicators and introduce criteria for availability of 4-log treatment for viruses to systems with known fecal contamination.

15A NCAC 18C .1301, 1302, and .1303 – The proposed rule relaxes the existing rule requiring daily operator visits for all