

## **CHAPTER 33-20-19**

### **MUNICIPAL WASTE LANDFILL RELEASE COMPENSATION FUND**

#### **Section**

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#### **33-20-19-01. Definitions.**

The terms used in this chapter have the same meaning as in North Dakota Century Code section 23-29.1-04.

**History:** Effective October 1, 1994.

**General Authority:** NDCC 23-29.1-04

**Law Implemented:** NDCC 23-29.1-04

#### **33-20-19-02. Landfill notification.**

Owners of active disposal units must include in the notification a landfill site survey plot delineating all closed disposal areas and the active disposal unit so as to allow detection of any release occurring from the active disposal unit.

**History:** Effective October 1, 1994.

**General Authority:** NDCC 23-29.1-04

**Law Implemented:** NDCC 23-29.1-04, 23-29.1-16

#### **33-20-19-03. Compliance demonstration.**

Owners of active disposal units must demonstrate through written documentation required by section 33-20-03.1-04 and by chapters 33-20-04.1 and 33-20-06.1 that the disposal unit complies with this article. Owners of new disposal units may provide the demonstration through the permit application process required by chapter 33-20-03.1 and the certification required by subsection 1 of section 33-20-04.1-04. The required form will include a comprehensive compliance checklist which must be certified by the owner.

**History:** Effective October 1, 1994.

**General Authority:** NDCC 23-29.1-04

**Law Implemented:** NDCC 23-29.1-04, 23-29.1-15, 23-29.1-16

#### **33-20-19-04. Notification of eligibility procedures.**

Once the department receives notification of a release, the department shall undertake or cause to be undertaken the following procedures:

1. Verify that the disposal unit is eligible.
2. Verify that a release has occurred from an eligible disposal unit through the provisions of chapter 33-20-13 and article 33-16.
3. Verify that the release was discovered and reported after April 1, 1994.
4. Verify that the owner or operator has paid all annual premium fees.

5. If the release did not occur from an eligible disposal unit or if the owner or operator is not in compliance under subsections 1, 2, 3, or 4, send a letter of ineligibility to the owner or operator.
6. Develop and implement a plan for corrective action through the provisions of article 33-16.
7. Purchase of financial assurance in the amount of one hundred thousand dollars, or so much thereof as necessary, through the provisions of section 33-20-14-05.

**History:** Effective October 1, 1994.

**General Authority:** NDCC 23-29.1-04

**Law Implemented:** NDCC 23-29.1-04, 23-29.1-15, 23-29.1-16, 23-29.1-17, 23-29.1-18

### **33-20-19-05. Reimbursement procedures.**

1. No payment will be made from the fund unless a completed application has been received by the department. The application must contain, but is not limited to, the following information:
  - a. Name and address of the owner or operator.
  - b. Street or highway description of the release location.
  - c. The legal description of the release location.
  - d. The date the release was discovered.
  - e. Name, address, and telephone number of the contact person.
  - f. A narrative description of the release.
  - g. A narrative description of the correction action.
  - h. Expense documentation.
2. Payment must be made for eligible costs. Eligible costs for a corrective action include the following:
  - a. Labor.
  - b. Testing.
  - c. Use of machinery.
  - d. Materials and supplies.
  - e. Professional services.
  - f. Consultant fees, if authorized by the department.
  - g. Any other costs the department deems to be reasonable and necessary to remedy the release.
3. Payment will not be made for costs which are not eligible. The following are not eligible costs:
  - a. The costs of making improvements to the disposal unit beyond those that are required for corrective action.
  - b. Decreased property value.
  - c. Bodily injuries or property damages.

- d. Attorney's fees.
  - e. Costs associated with preparing, filing, and prosecuting an application for reimbursement or assistance.
  - f. Any costs resulting from negligence or misconduct on the part of the owner or operator.
  - g. Costs in excess of those deemed reasonable by the department.
4. No payment will be made until the owner or operator has submitted complete expense documentation along with legible copies of invoices, providing a description of:
- a. Any work performed.
  - b. Who performed the work.
  - c. Where the work was performed.
  - d. The date the work was performed.
  - e. Time and materials.
  - f. The unit cost.
  - g. The total amount.
5. No payment will be made until the owner or operator has submitted evidence that the amounts shown on expense documentation for which the payment is requested to have either:
- a. Been paid in full; or
  - b. If an assignment of payment has been signed by the owner or operator, that a contractor hired by the owner or operator has expended time and materials for which payment must be made.
  - c. The submitted evidence must be accompanied by either:
    - (1) Business receipts indicating payments received;
    - (2) Canceled checks;
    - (3) The certification of a certified public accountant that the expenses for which reimbursement is requested have been paid in full; or
    - (4) Unpaid invoices from a contractor for time and materials expended broken out by unit costs.
6. No payment will be made until the owner or operator has demonstrated payment of the first one hundred thousand dollars of the costs of corrective action.
7. The department may provide partial payments if it is determined the corrective action is proceeding according to the proposed plan. The payment may be made to the owner or operator or the owner's or operator's assigned representative if an assignment is completed and submitted to the department.
8. Prior to payment, the department must be satisfied that the corrective action taken has met all state, federal, and local laws or regulations and that the corrective action has adequately addressed the release in terms of public health, welfare, and environment resources.

9. All payments are subject to the availability of funds in the municipal waste landfill release compensation fund.

**History:** Effective October 1, 1994.

**General Authority:** NDCC 23-29.1-04

**Law Implemented:** NDCC 23-29.1-04, 23-29.1-05, 23-29.1-08, 23-29.1-09, 23-29.1-11, 23-29.1-17, 23-29.1-18, 23-29.1-19, 23-29.1-22, 23-29.1-25