

CHAPTER 33-20-02.1
PERMIT PROVISIONS AND PROCEDURES

Section

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33-20-02.1-01. Solid waste management permit required.

Every person who treats or transports solid waste or operates a solid waste management unit or facility is required to have a valid permit issued by the department, unless the activity is an emergency, exemption, or exception as provided in this section.

1. If the department determines an emergency exists, it may issue an order citing the existence of such emergency and require that certain actions be taken as necessary to meet the emergency in accordance with the provisions of North Dakota Century Code section 23-29-10.
2. A solid waste management permit is not required for the following activities or facilities:
 - a. Backyard composting of leaves, grass clippings, or wood chips;
 - b. A collection point for parking lot or street sweepings;
 - c. Collection sites for wastes collected and received in sealed plastic bags from such activities as periodic cleanup campaigns for cities, rights of way, or roadside parks;
 - d. Places which receive one or more recyclable materials, excluding garbage, for storage or for processing after which the material is transported for resource recovery, disposal, or storage;
 - e. Onsite incinerators used by hospitals, clinics, laboratories, or other similar facilities solely for incineration of commercial waste or infectious waste generated onsite;
 - f. Rock and dirt fills that receive any combination of rock, dirt, or sand; and
 - g. Surface impoundments for storage, handling, and disposal of oil and gas exploration and production wastes on a lease or area permitted through the North Dakota industrial commission under North Dakota Century Code section 38-08-04.
 - h. The disposal into the mine spoils of the following wastes generated in the mining operation:
 - (1) Rock, boulders, and dirt; and
 - (2) Trees and brush.
 - i. The disposal of the following mining operation wastes into areas designated in a surface coal mining permit issued by the North Dakota public service commission for such disposal:
 - (1) Inert waste from inspected farmsteads;
 - (2) Wood materials including pallets, lumber, lathe, cables, pools, and fenceposts;

- (3) Brick, concrete block, and cured concrete; and
 - (4) Plastic material and pipe.
3. A permit for the transportation of solid waste is not required by persons who:
- a. Transport solely their own waste to a solid waste management unit or facility;
 - b. Transport waste entirely within a facility regulated under this article or entirely on their property; or
 - c. Transport a recyclable material other than used oil or scrap tires.

History: Effective December 1, 1992; amended effective October 1, 1994; August 1, 1995.

General Authority: NDCC 23-29-04

Law Implemented: NDCC 23-29-04, 23-29-07

33-20-02.1-02. Permits by rule.

The owner or operator of the following facilities is deemed to have obtained a permit for a solid waste management facility without making application for it as long as the owner or operator remains in compliance with section 33-20-04.1-01 and the rules and requirements provided in the respective subsections of this section:

- 1. A facility for inert waste operated for municipalities which together have one thousand or fewer people provided:
 - a. The owner or operator of a new facility or lateral expansion of a landfill notifies the department, on forms available from the department, ninety days prior to any construction;
 - b. The facility is in compliance with sections 33-20-02.1-04, 33-20-04.1-02, and 33-20-04.1-09 and with chapter 33-20-05.1.
- 2. A drop box facility in compliance with subsection 2 of section 33-20-04.1-06.
- 3. A waste pile for composting only grass and leaves that is operated for ten thousand or fewer people in compliance with section 33-20-04.1-07 provided the owner or operator notifies the department, on forms available from the department, ninety days prior to construction.
- 4. A pile of scrap tires accumulated by a tire dealer, a municipality, or a county which contains either one thousand three hundred or fewer car tires, twenty-five tons [22.7 metric tons] or less of shredded tires or a pile of tires, which is equivalent in volume to one twin-axle semitrailer load or less, provided that no public nuisance is created and the following requirements are addressed:
 - a. Access to the facility is monitored or controlled;
 - b. The location is accessible by fire control and emergency equipment; and
 - c. The owner or operator has appropriate provisions and financial arrangements for the recycling or disposal of tires.

History: Effective December 1, 1992; amended effective October 1, 1994.

General Authority: NDCC 23-29-04

Law Implemented: NDCC 23-29-04, 23-29-07

33-20-02.1-03. Permit compliance.

All solid waste management facilities and activities must be performed, constructed, operated, and closed in a manner consistent with the permit application and subject to any modifications specified through permit conditions.

History: Effective December 1, 1992.

General Authority: NDCC 23-29-04

Law Implemented: NDCC 23-29-04, 23-29-07

33-20-02.1-04. Record of notice.

1. Within sixty days of the issuance of a permit for any landfill, surface impoundment or land treatment unit if not already completed, the owner or operator shall record a notarized affidavit with the county register of deeds. The affidavit must specify that this facility, as noted in the legal description, is permitted to accept solid waste for disposal. This affidavit must specify that another affidavit must be recorded upon the facility's final closure.
2. Within sixty days of completion of final closure of any landfill, surface impoundment or land treatment facility and prior to sale or lease of the property on which the facility is located, the owner shall comply with North Dakota Century Code section 23-29-13. The record or plat shall, in perpetuity, notify any person conducting a title search that the land has been used as a solid waste disposal facility. The record or plat must indicate the types and quantities of solid waste placed in the site and details on the site's construction, operation, or closure (including precautions against any building, earth moving, or tillage on the closed site) that are necessary to ensure the long-term maintenance and integrity of the closed facility.
3. The department must be provided a certified copy of any affidavit or plat within sixty days of recording.

History: Effective December 1, 1992; amended effective October 1, 1994.

General Authority: NDCC 23-29-04

Law Implemented: NDCC 23-29-04, 23-29-07

33-20-02.1-05. Property rights.

An applicant for a permit for a solid waste management unit or facility shall acquire or possess a right to the use of the property for which a permit is sought, including the access route thereto. After closure, the applicant shall maintain the right of access to the site throughout the postclosure period.

History: Effective December 1, 1992.

General Authority: NDCC 23-29-04

Law Implemented: NDCC 23-29-04, 23-29-07

33-20-02.1-06. Permit modification, suspension, or revocation.

1. A permit may be modified, suspended, revoked, or denied by the department for reasons pertaining to: circumstances which do not meet the purpose and provisions of this article, the provisions of the permit, or the plans and specifications submitted as part of the application for permit; or, violations of any applicable laws or rules. The department shall provide written notice to the permittee.
2. If a change occurs during the life of a permit for transporting solid waste (such as the number or type of vehicles used to transport waste, the service area, the waste categories transported, or the solid waste management facilities use), the permittee shall notify the department in writing within thirty days.

3. If a change occurs during the life of a permit for a solid waste management unit or facility, as specified in subsection 4, the permittee shall apply for and receive a modification of the permit prior to enacting the change. Routine maintenance, repair, or replacement, or an increase in hours of operations may not be considered a construction or operation change. Changes, including frequency of monitoring and reporting, waste sampling or analysis method, schedules of compliance, and revised cost estimates for closure and postclosure may be effected through written notice to and approval by the department.
4. The following changes at a permitted solid waste management unit or facility require a permit modification:
 - a. A change to the facility boundaries or acreage;
 - b. An increase in average daily solid waste specified in the permit or permit application, calculated by weight or volume for any twelve consecutive months;
 - c. A change in the solid waste characteristics;
 - d. An increase or decrease in finished height or finished slope of a landfill;
 - e. Any increase in landfill trench or excavation depth;
 - f. A change in facility site development which will result in impact to or encroachment into a one hundred-year floodplain, a ravine, a wetland, or a drainageway;
 - g. A change in site drainage or management of runoff or run-on;
 - h. A change in facility site development which will result in disposal of wastes closer to site boundaries than originally approved;
 - i. The addition of solid waste management units, which, if sited independently, would require a permit; or
 - j. Other changes that could have an adverse affect on the safety, health, or welfare of nearby residents, property owners, or the environment.
5. An application for modification of a solid waste management unit or facility shall follow the procedures and provisions of section 33-20-03.1-02.

History: Effective December 1, 1992; amended effective October 1, 1994.

General Authority: NDCC 23-29-04

Law Implemented: NDCC 23-29-04, 23-29-07

33-20-02.1-07. Renewal of permit.

An application for renewal of any permit must be submitted at least sixty days prior to the expiration date. The application for renewal must follow the procedures and provisions of section 33-20-03.1-02. The conditions of an expired permit continue in force until the effective date of a new permit, if the permittee has submitted a timely and complete application for a new permit and the department, through no fault of the permittee, does not issue a new permit with an effective date on or before the expiration date of the previous permit.

History: Effective December 1, 1992; amended effective October 1, 1994.

General Authority: NDCC 23-29-04

Law Implemented: NDCC 23-29-04, 23-29-07