# CHAPTER 33-21-02
# SERVICING OF SEPTIC OR HOLDING TANKS, PRIVIES, OR PORTABLE RESTROOMS


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### 33-21-02-01. Authority.

The department has been authorized to provide and administer this chapter relating to septic system servicing under the provisions of North Dakota Century Code section 61-28-04.1.

**History:** Effective January 1, 2014; amended effective October 1, 2018.
**General Authority:** NDCC 61-28-04, 61-28-04.1
**Law Implemented:** NDCC 61-28-04.1

### 33-21-02-02. Scope and purpose.

This chapter establishes procedures governing the servicing of septic systems, including portable restrooms, holding tanks, and similar devices that receive domestic wastewater and establishes standards for the use and disposal of wastewater from those sources while protecting the general public and waters of the state from contamination by septage.

**History:** Effective January 1, 2014.
**General Authority:** NDCC 61-28-04, 61-28-04.1
**Law Implemented:** NDCC 61-28-04.1

### 33-21-02-03. Definitions.

The terms used throughout this chapter have the same meaning as in North Dakota Century Code chapter 61-28, except:

1. "Incorporation" means the mixing of septage with topsoil to a minimum depth of four inches within forty-eight hours.

2. "Injection" means the subsurface placement of septage to a depth of four inches to twelve inches.

3. "Land application" means the spraying or spreading of septage onto the land surface, the injection of septage below the land surface, or the incorporation of septage into the soil.

4. "Litter" means nonbiodegradable material, such as plastics or glass.

5. "Nonpublic contact site" means land not frequently visited or used by the public. Examples include agricultural land, forests, and reclamation sites.

6. "Portable restroom" means a self-contained portable enclosure containing a holding tank designed to directly receive human excrement.

7. "Privy" means a self-enclosure over a watertight structure located in a pit designed to directly receive human excrement.

8. "Public contact site" means land with a high potential for contact by the public. Examples include public parks, ballfields, golf courses, and cemeteries.

9. "Rural single-family residence" means a dwelling occupied by a single family or household situated on land greater than five acres and used primarily for agricultural or horticultural purpose. Examples include growing and harvesting crops and raising livestock.

10. "Snow-covered ground" means ground upon which the snow is at a depth greater than eight inches.

11. "Spill" means to cause or allow to fall, flow, or run out so as to be lost or wasted.

12. "Wastewater treatment facility" means a treatment system permitted by the department and designed to remove biological or chemical waste products from water.

**History:** Effective January 1, 2014.
**General Authority:** NDCC 61-28-04, 61-28-04.1
**Law Implemented:** NDCC 61-28-04.1

**33-21-02-04. Septic pumper classification.**

1. Class I classification is defined as a septic system servicer that operates three or more permitted servicing vehicles or at least one portable toilet servicing vehicle.

2. Class II classification is defined as all septic system servicers not classified as class I.

**History:** Effective January 1, 2014.
**General Authority:** NDCC 61-28-04, 61-28-04.1
**Law Implemented:** NDCC 61-28-04.1

**33-21-02-05. Permit application and renewal.**

1. Permit required. A person wishing to engage in the business of servicing septic systems, portable restrooms, holding tanks, and similar devices that receive domestic wastewater shall submit an application for a permit to the department on a form provided by the department.

2. Applicant information. All applicants shall provide the following information to the department:

   a. The full name and physical business address of the applicant;

   b. The mailing address of the applicant, if different from the physical address;

   c. Septic system servicers that have held a permit in North Dakota within the past five years must submit records in accordance with subsection 4;

   d. A copy of a North Dakota state training certificate or other acceptable training course as preapproved by the department;

   e. A list of all counties in which business is conducted;

   f. A list of all disposal methods and land application sites, not exempted under North Dakota Century Code section 61-28-04.1, that the applicant proposes to use, if applicable; and

g. The signature of the landowner, facility operator, or designated representative of the owner or operator, on a designated form granting permission to use the site for land application, disposal, or treatment.

3. Land application. Class I septic system servicers shall obtain the department's approval of all land application sites under subsection 2 of section 33-21-02-08. In addition, class I applicants shall include the following information on all land application sites--even sites that have already been approved--that they propose to use for the permit period:

   a. The name of the property owner;

   b. The street address or directions to the site;

   c. The location of the property by township, range, section, and quarter section or the latitude and longitude of the property in degrees decimal;

   d. The type of vegetation on the land application site (fallow land, pasture, range, forest, or other) and the nitrogen requirements for the vegetation;

   e. The estimated depth in feet to seasonally high ground water at the site and the basis for the estimates;

   f. A statement of the specific soil type (clay, gravel, sandy loam, or other) at each site;

   g. The approximate slope of the land;

   h. The acreage available for land application;

   i. A proposed summer and winter disposal operation and maintenance plan for each land application site, including provisions for access control and the types and sources of wastes to be managed on the site; and

   j. Indicate land application sites to be utilized between November fifteenth and April first.

4. Permit renewals. A permit shall expire on December thirty-first of each year. A permitholder shall have a grace period to submit a renewal application with the appropriate application fee to the department by March first of the following year. After March first, a new permit application with the appropriate application fee shall be submitted to the department. Until the new permit application is approved by the department, a septic system servicer is not permitted to operate.

   a. An applicant for permit renewal must submit the same information required of a new permit applicant.

   b. In addition, septic system servicers shall submit an annual report of disposal activities to the department when applying for a permit renewal. The annual report must include:

      (1) A list of the disposal sites used, including all multiple-use land application sites and wastewater treatment facilities;

      (2) The type of treatment done to address pathogen and vector control requirements;

      (3) The total volume of gallons handled; and

      (4) A record of all spills.

5. Permit transfers. Septic system servicers must notify the department upon sale or transfer of business within ninety days. Upon notification and the new owner's written agreement to

comply with the permit's terms, the new owner becomes the permitholder for the remainder of the calendar year and shall submit a renewal application in accordance with subsection 4.

6. Fees. An applicant shall pay the permit or renewal fee to the department at the time the permit or renewal application is submitted. A permit may not be issued or renewed prior to payment of the appropriate fee as follows:

   a. A new permit applicant shall pay an application fee of one hundred dollars and a fifty dollar fee per servicing vehicle.

   b. A permitholder shall pay a renewal fee of fifty dollars per servicing vehicle.

   c. A new servicing unit may be added to an existing permit for a fee of fifty dollars.

   d. A permit replacement fee of twenty-five dollars shall apply. Examples include lost or damaged plates.

   e. An applicant who holds a valid plumber's license under North Dakota Century Code chapter 43-18 and operates no more than one septic servicing unit is exempt from these fees.

7. Application review. The department shall review each submitted application for a new or renewed permit. If additional information is required, the department shall notify the applicant within thirty days after the department receives the application and processing shall be postponed until the application is complete. If the department does not receive the requested information within ninety days of the request, a new application may be required. The department shall review the completed application and either issue, deny, or renew a permit within thirty days after the completed application is received.

**History:** Effective January 1, 2014; amended effective October 1, 2018.
**General Authority:** NDCC 61-28-04, 61-28-04.1
**Law Implemented:** NDCC 61-28-04.1

**33-21-02-06. Training requirements.**

1. Septic system servicers and their employees engaged in the servicing of septic systems are required to pass an annual examination provided by the department.

2. Septic system servicers are required to attend a training course provided by the department once every five years.

3. Other examinations or training courses taken may be substituted for the requirements in subsections 1 and 2 with the department's prior approval.

**History:** Effective January 1, 2014.
**General Authority:** NDCC 61-28-04, 61-28-04.1
**Law Implemented:** NDCC 61-28-04.1

**33-21-02-07. Vehicles and equipment.**

1. Septic system servicers shall allow the department to inspect the equipment used in servicing at any reasonable time and place designated by the department.

2. Vehicles used in servicing shall meet the following identification requirements:

   a. A valid septic pumper plate, as provided by the department, shall be prominently displayed on the rear of the servicing unit.

b. The septic system servicer's name shall be displayed on the side of the vehicle in writing no less than three inches tall with one-half-inch minimum thickness and in a color distinct from its background.

3. All servicing vehicles shall conform to the following:

   a. Be maintained in operational condition.

   b. Expressly used for the hauling or servicing of septage or municipal wastewater treatment sludge and for no other purpose. However, the use of the vehicle for fire protection service, oil recovery, and industrial wastes not regulated under this chapter is permissible if the tank is flushed or cleaned as necessary prior to and after use.

   c. Stored in a manner which will not cause a public nuisance.

4. All approvable holding tanks or containers shall be attached to the vehicle by welding or bolts on a truck chassis.

   a. Holding tanks shall be constructed of suitable metal or materials approved by the department.

   b. Each tank shall be strong enough for all conditions of operation, leakproof, contain inertia baffles, and be designed to be kept tightly closed to prevent spillage or escape of odors while in transit or storage.

   c. Discharge valves on tanks shall be watertight, capped when not in use, and constructed and located so as to permit unobstructed discharge.

5. Pumps shall be adequate for the required service. The installation shall be designed to prevent backflow or leakage. Connections shall be provided with caps or seals.

6. Hoses and piping, when not in use, shall be stored in a manner to prevent leakage or dripping of septage in transit.

7. All servicing equipment used for land application of septage shall have a splash plate or some other department-approved method or device to facilitate uniform septage application in land spreading.

8. Facilities used for washing the vehicles, tanks, implements, and tools shall be designed to prevent a public nuisance and shall comply with North Dakota Century Code chapter 61-28.

**History:** Effective January 1, 2014.
**General Authority:** NDCC 61-28-04, 61-28-04.1
**Law Implemented:** NDCC 61-28-04.1

**33-21-02-08. Septage disposal.**

1. Septage must be disposed of at a department-permitted wastewater treatment facility, or it may be land-applied. All septic system servicers shall submit disposal site information to the department with their permit applications under subsection 2 of section 33-21-02-05.

2. Class I septic system servicers shall obtain the department's written preapproval for land application sites. Approval requests may be submitted with a permit application or during the term of the permit. Approval requests not included in the permit application shall include the information on the proposed land application site listed in subsection 3 of section 33-21-02-05. If the approval request contains all the required information, the land application sites may be given conditional approval within thirty days of submission. Full approval is contingent on a site assessment conducted by the department and will be granted automatically unless

otherwise notified by the department. The department may not approve sites that may cause harm to the environment or threaten the public. Once given full approval by the department, land application sites shall retain approval for a period of not less than five years, unless additional future information indicates a change in the environmental status of the property. Examples for cause of termination of approval include excessive runoff, odor complaints, illegal disposal, etc.

Class II septic system servicers shall follow all general land application requirements as outlined in subsections 4 through 8.

3. A septic system servicer land applying septage from a rural single-family residence on property owned or leased by the owner or lessee of the rural single-family residence is exempt from obtaining the department's written approval for the land application site. General land application site requirements still apply and must be followed.

4. General land application site requirements shall be followed by all septic pumper classifications, including rural single-family exemptions, and are as follows:

   a. Application of septage is not allowed on a designated one hundred-year floodplain as defined by federal emergency management agency flood maps nor below the ordinary high water mark.

   b. Application of septage is not allowed on areas of a site ponded with water or septage.

   c. Septage cannot be applied when soils are saturated.

   d. Septage cannot be applied by spraying from public roads or across road right of ways.

   e. All septage that is land-applied must be uniformly distributed over the area by use of a distribution device, such as a splash plate or spreader.

   f. Measures must be taken to ensure that the ponding or septage and runoff does not occur.

   g. Slope restrictions are as follows:

      (1) Surface application, injection, or immediate incorporation of septage is allowed on slopes six percent and less.

      (2) Injection of septage is required on slopes greater than six percent up to twelve percent.

      (3) Land application of septage is not allowed on slopes greater than twelve percent.

   h. Separation distances are as follows:

      (1) Private drinking water wells must have two hundred feet of separation from land application of septage.

      (2) Public drinking water supply wells must have one thousand feet of separation from land application of septage.

      (3) Irrigation wells must have fifty feet of separation from land application of septage.

      (4) Residences must have one thousand feet of separation from land application of septage, unless permission is obtained by the owner and resident to reduce this distance.

(5) Surface water features must have two hundred feet of separation distance from land application of septage.

(6) Public contact sites, including roads, must have a separation distance of two hundred feet from surface-applied and incorporated septage. A separation distance of fifty feet is required for injection of septage.

i. Public contact sites shall be posted with no trespassing signs for thirty days after application.

j. Septage shall be applied at a rate of less than twenty thousand gallons per acre per day and less than one hundred pounds of nitrogen per acre per year. The department may waive these rates upon a site-by-site review basis.

k. Land application sites shall be maintained free of liter.

l. The discharge from the servicing units shall be controlled so that pooling or ponding of septage during land application does not occur.

5. Pathogen reduction measures shall be taken by all classes in accordance with one of the following alternatives:

a. Alternative 1. Septic system servicers shall pump domestic septage from a septic tank or holding tank and land apply it without treatment. Crop, grazing, and site restrictions apply.

(1) Crop restrictions:

(a) Food crops with harvested parts that touch the septage and soil mixture and are totally aboveground shall not be harvested for fourteen months after application of domestic septage.

(b) Food crops with harvested parts below the surface of the land shall not be harvested for thirty-eight months after application of domestic septage.

(c) Animal feed, fiber, and those food crops that do not touch the soil surface shall not be harvested for thirty days after the application of the domestic septage.

(d) Turf grown on land where domestic septage is applied shall not be harvested for one year after application of the domestic septage when the harvested turf is placed on either a lawn or land with a high potential for public exposure, unless otherwise specified by the permitting authority.

(2) Grazing restrictions. Animals shall not be allowed to graze on the land for thirty days after application of domestic septage.

(3) Site restrictions. Public access to land with a low potential for public exposure shall be restricted for thirty days after application of domestic septage. Examples of restricted access include remoteness of site, posting with no trespassing signs, or simple fencing.

b. Alternative 2. Septic system servicers shall pump domestic septage from a septic tank or holding tank that has had its pH raised to twelve or higher by the addition of alkaline material and, without addition of more alkaline material, the septage must remain at a pH level of twelve or higher for at least thirty minutes prior to being land-applied. Crop restrictions apply.

(1) Crop restrictions:

(a) Food crops with harvested parts that touch the septage and soil mixture and are totally aboveground shall not be harvested for fourteen months after application of domestic septage.

(b) Food crops with harvested parts below the surface of the land shall not be harvested for twenty months after application of domestic septage when the domestic septage remains on the land surface for four months or longer prior to incorporation into the soil.

(c) Food crops with harvested parts below the surface of the land shall not be harvested for thirty-eight months after application of domestic septage when the domestic septage remains on the land surface for less than four months prior to incorporation into the soil.

(d) Animal feed, fiber, and those food crops that do not touch the soil surface shall not be harvested for thirty days after application of the domestic septage.

(e) Turf grown on land where domestic septage is applied shall not be harvested for one year after application of the domestic septage when the harvested turf is placed on either a lawn or land with a high potential for public exposure, unless otherwise specified by the permitting authority.

c. Other equivalent alternatives may be acceptable with prior department approval.

6. Vector attraction reduction measures shall be taken by all classes in accordance with one of the following alternatives:

a. Alternative 1. Septic system servicers shall inject domestic septage below the surface of the land, and no significant amount of the septage shall be present on the land surface within one hour after the septage is injected.

b. Alternative 2. Septic system servicers shall incorporate domestic septage applied to the land surface into the soil surface plow layer within forty-eight hours after application.

c. Alternative 3. Septic system servicers shall raise the pH of domestic septage to twelve or higher by addition of alkaline material and, without addition of more alkaline material, the septage must remain at a pH level of twelve or higher for thirty minutes prior to being land-applied.

d. Other equivalent alternatives may be acceptable with prior department approval.

7. Snow-covered ground application is acceptable if there are less than eight inches of snow and less than a six percent slope onsite and according to general land application requirements of subsection 4 of section 33-21-02-08.

8. Storage of septage greater than twenty-five thousand gallons requires department approval. All storage sites shall be designed and maintained to prevent a public nuisance and shall be in compliance with North Dakota Century Code chapter 61-28.

**History:** Effective January 1, 2014.
**General Authority:** NDCC 61-28-04, 61-28-04.1
**Law Implemented:** NDCC 61-28-04.1

**33-21-02-09. Spill reporting and cleanup.**

1. Septic system servicers and their employees shall report all spills to the department as soon as possible, but within twenty-four hours. The septic system servicers shall keep a copy of the spill report for five years. The report shall include:

   a. Spill location;

   b. Spill volume;

   c. Type of material spilled; and

   d. Steps taken to clean up the spill.

2. Septage shall be transported in a manner where it will not leak or spill onto public roads or into areas where it could enter surface or ground water. A written procedure for spill and accident cleanup must be developed by each permitholder, and a copy of the procedure must be kept in each permitted septic vehicle. When a spill occurs, a septic system servicer and any responsible employees shall:

   a. Contain the spill to minimize the impact to the environment and general public;

   b. Notify the department of all spills in accordance with notification requirements of subsection 4 of section 33-16-02.1-11;

   c. Clean the spill area to render it harmless to humans and the environment; and

   d. Properly dispose of spilled material.

**History:** Effective January 1, 2014.
**General Authority:** NDCC 61-28-04, 61-28-04.1
**Law Implemented:** NDCC 61-28-04.1

**33-21-02-10. Recordkeeping and reporting requirements.**

1. Septic system servicers must keep records of all their servicing and disposal activities. Each septic system servicer shall maintain records for not less than five years. Records must be available to the department for review upon request.

2. The records must contain:

   a. The origin of the septage;

   b. The location of the site where the septage is applied or taken;

   c. The number of acres to which septage is applied at each site;

   d. The date and time of each septage application;

   e. Crop or vegetation on each site during the year;

   f. The gallons of septage which are applied to the site during the specified three hundred sixty-five-day period;

   g. A description of how the pathogen requirements are met for each land application of septage; and

   h. A description of how the vector attraction reduction requirements are met for each land application of septage.

**History:** Effective January 1, 2014.
**General Authority:** NDCC 61-28-04, 61-28-04.1
**Law Implemented:** NDCC 61-28-04.1