

CHAPTER 33.1-20-03.1 PERMIT APPLICATION PROVISIONS

Section

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33.1-20-03.1-01. Preapplication procedures.

1. For all new solid waste management facilities subject to the location standards of subsection 2 of section 33.1-20-04.1-01, a preapplication consisting of a preliminary facility description and a site assessment must be submitted to the department for review prior to submitting a permit application.
 - a. The preliminary facility description must include, at a minimum, the location of the facility; a projection of capacity, size, daily waste receipts, type of waste accepted, years of operation, description of operation, and costs; and a discussion of the proposed facility's compliance with local zoning requirements.
 - b. The preliminary site assessment must include available information pertaining to the site's geology, hydrogeology, topography, soils, and hydrology based on existing information.
2. Within sixty days of receipt of a preapplication, the department shall provide written notification of approval or disapproval of the preapplication. If, after review of all information received, the department makes the determination to disapprove the preapplication, the department shall inform the applicant in writing of the reasons for the disapproval. If the preapplication is disapproved, the applicant may submit a new preapplication. A disapproval must be without prejudice to the applicant's right to a hearing before the department pursuant to North Dakota Century Code chapter 28-32.
3. An application may be filed only after approval of the preapplication and a finding by the department, after consultation with the state geologist and department of water resources, that the site is geologically and hydrogeologically suitable for further evaluation and consideration.

History: Effective January 1, 2019; amended effective October 1, 2024.

General Authority: NDCC 23.1-08-03; S.L. 2017, ch. 199, § 1

Law Implemented: NDCC 23.1-08-03, 23.1-08-09, 23.1-08-13, 23.1-08-17; S.L. 2017, ch. 199, § 23

33.1-20-03.1-02. Permit application procedures.

1. An application for a permit must be submitted on forms available from the department by any person desiring to transport solid waste or to establish, construct, or operate a solid waste management unit or facility.
2. The application for a permit must be prepared by the applicant or the applicant's authorized agent and signed by the applicant.
3. One print copy and one searchable electronic copy of the application and supporting documents must be submitted to the department with the fee specified in chapter 33.1-20-15.
4. Within thirty days of the submission of an application for a permit for a new solid waste management unit or facility or for facility changes listed in subsection 4 of section 33.1-20-02.1-07, the applicant shall publish a public notice indicating that an application has been submitted to the department. The public notice must indicate the type and location of the

unit or facility and must be made by two separate publications in the official county newspaper in the county in which the site or operation is located. The applicant shall provide proof of publication by submitting to the department, within sixty days after the second publication of the notice, and affidavit from the publisher accompanied by a copy of the published notice, which shows the dates of publication. Failure to publish the public notice and provide proof of publication to the department will extend the permit review timeline in section 33.1-20-03.1-04 until proof of publication is received by the department.

5. Applicants proposing a solid waste management facility in a mining permit area for disposal of coal processing waste also must file a copy of the application with the public service commission in accordance with subdivision a of subsection 1 of section 69-05.2-19-02.
6. Applications for a solid waste management unit or facility permit must include the following information where applicable:
 - a. A completed application form, subsection 1;
 - b. A description of the anticipated physical and chemical characteristics, estimated amounts, and sources of solid waste to be accepted, including the demonstration required by North Dakota Century Code section 23.1-08-14;
 - c. The site characterization of section 33.1-20-13-01 and a demonstration that the site fulfills the location standards of section 33.1-20-04.1-01;
 - d. Soil survey and segregation of suitable plant growth material;
 - e. Demonstrations of capability to fulfill the general facility standards of section 33.1-20-04.1-02;
 - f. Facility engineering specifications adequate to demonstrate the capability to fulfill performance, design, and construction criteria provided by this article and enumerated in this subdivision:
 - (1) Transfer stations and drop box facilities, section 33.1-20-04.1-06.
 - (2) Waste piles, section 33.1-20-04.1-07.
 - (3) Resource recovery, section 33.1-20-04.1-08.
 - (4) Land treatment, section 33.1-20-04.1-09 and chapter 33.1-20-09.
 - (5) Non-CCR surface impoundments, section 33.1-20-04.1-09 and chapter 33.1-20-08.1.
 - (6) Any disposal, section 33.1-20-04.1-09.
 - (7) Inert waste landfill, chapter 33.1-20-05.1.
 - (8) Municipal waste landfill, chapter 33.1-20-06.1.
 - (9) Industrial waste landfill, chapters 33.1-20-07.1 or 33.1-20-10.
 - (10) TENORM waste landfill, chapters 33.1-20-07.1 or 33.1-20-10 and 33.1-20-11.
 - (11) Special waste landfill, chapter 33.1-20-07.1
 - (12) CCR unit, chapter 33.1-20-08.
 - (13) Municipal solid waste ash landfills, chapter 33.1-20-10.

- (14) Regulated infectious waste unit, chapter 33.1-20-12;
 - g. The plan of operation of section 33.1-20-04.1-03;
 - h. Demonstration of the treatment technology of section 33.1-20-01.1-12;
 - i. The place where the operating record is or will be kept, section 33.1-20-04.1-04;
 - j. Demonstration of capability to fulfill the ground water monitoring standards, sections 33.1-20-08-06 or 33.1-20-13-02;
 - k. Construction quality assurance and quality control;
 - l. Demonstrations of capability to fulfill the closure standards, section 33.1-20-04.1-05 and otherwise provided by this article;
 - m. Demonstrations of capability to fulfill the postclosure standards, section 33.1-20-04.1-09 and otherwise provided by this article; and
 - n. A disclosure statement as required by North Dakota Century Code section 23.1-08-17.
7. Applications for a solid waste transporter's permit must include the following information:
- a. A completed application form, subsection 1;
 - b. Description of the types of solid waste to be transported, approximate quantities, and anticipated collection sources;
 - c. A list of the anticipated solid waste management facilities that will store, treat, process, recycle, or dispose the solid waste;
 - d. Description of equipment and transportation spill prevention as required by section 33.1-20-01.1-05; and
 - e. A disclosure statement as required by North Dakota Century Code section 23.1-08-17.

History: Effective January 1, 2019; amended effective July 1, 2020; October 1, 2024.

General Authority: NDCC 23.1-08-03; S.L. 2017, ch. 199, § 1

Law Implemented: NDCC 23.1-08-03, 23.1-08-09, 23.1-08-14, 23.1-08-17; S.L. 2017, ch. 199, § 23

33.1-20-03.1-03. Permit application review and action.

1. The department shall review the applications, plans, and specifications for solid waste transporters and for solid waste management facilities and information submitted as a result of the public notices.
2. Upon completion of the department's review, the application for permit must be approved, returned for clarification and additional information, or denied.
 - a. The basis for approval must be an application which demonstrates compliance with this article and North Dakota Century Code chapter 23.1-08.
 - b. The basis for return must be an application that is procedurally or technically incomplete, inaccurate, or deficient in detail, or that precludes an orderly review and evaluation. If the application is returned, the applicant may resubmit an application, complete with all necessary information to satisfy deficiencies. If the applicant does not resubmit an application within six months, the department shall consider the application withdrawn, and any subsequent application must be considered a new application.

- c. The basis for denial must be an application that contains false, misleading, misrepresented, or substantially incorrect or inaccurate information; fails to demonstrate compliance with this article; proposes construction, installation, or operation of a solid waste management unit or facility which will result in a violation of any part of this article; or is made by an applicant for whom an environmental compliance background review reveals any of the circumstances listed in subsection 14 of North Dakota Century Code section 23.1-08-03.
3. If the department makes a preliminary determination to issue a permit for a solid waste management facility or for a general permit, the department shall prepare a draft permit. The department may impose reasonable conditions upon a permit. The draft permit must be available for public review and comment after the department publishes a notice of its consideration to issue the permit.

The public notice for a draft solid waste management facility permit must be published in the official county newspaper in the county in which the solid waste management unit or facility is or proposed to be located and in a multiday newspaper of general circulation in the area of the facility. The public notice for a draft general permit must be published in all multiday newspapers of general circulation in the state.

- a. Interested persons may submit written comments to the department on the draft permit within thirty days of the final public notice. All written comments must be considered by the department in the formulation of its final determinations.
 - b. The department may hold a hearing if it determines there is significant public interest in holding such a hearing. Public notice for a hearing will be made in the same manner as for a draft permit. The hearing must be before the department and must be held at least fifteen days after the public notice has been published.
4. If, after review of all information received, the department approves the permit application, the department shall:
 - a. Issue a permit if it is for the renewal of an existing solid waste management facility or a solid waste management facility operated as part of an energy conversion facility or part of a surface coal mining and reclamation operation, if the solid waste management facility disposes of only waste generated by the energy conversion facility or surface coal mining and reclamation operation; or
 - b. Notify the board of county commissioners in which a new solid waste management facility will be located of the intent to issue a permit, and the county's opportunity to call a special election to be held within sixty days after receiving notice from the department to allow the qualified electors of the county to vote to approve or disapprove of the facility based on public interest and impact on the environment. If a majority vote to disapprove of the facility, the department may not issue the permit and the facility may not be located in that county. If the voters approve the facility or if a special election is not called, the department shall issue the permit.
5. If, after review of all information received, the department makes the determination to deny the permit, the applicant shall be notified, in writing, of the denial. The department shall set forth in any notice of denial the reasons for denial. If the application is denied, the applicant may submit a new application, which will require a new public notice. A denial must be without prejudice to the applicant's right to a hearing before the department pursuant to North Dakota Century Code chapter 28-32.

History: Effective January 1, 2019; amended effective July 1, 2020; October 1, 2024.

General Authority: NDCC 23.1-08-03; S.L. 2017, ch. 199, § 1

Law Implemented: NDCC 23.1-08-03, 23.1-08-09; S.L. 2017, ch. 199, § 23

33.1-20-03.1-04. Permit application review timeline.

Upon receipt of a complete permit application in accordance with section 33.1-20-03.1-02, the department has one hundred twenty days to review and approve or disapprove the application and notify the applicant of the decision. The department may extend the period an additional one hundred twenty days if the applicant submits a significant change that in the department's judgment requires additional time to review.

History: Effective January 1, 2019; amended effective October 1, 2024.

General Authority: NDCC 23.1-08-03; S.L. 2017, ch. 199, § 1

Law Implemented: NDCC 23.1-08-03, 23.1-08-09; S.L. 2017, ch. 199, § 23