

## **CHAPTER 89-02-05.1 EMERGENCY DRAIN PERMITS**

### Section

89-02-05.1-01	Scope of Chapter [Repealed]
89-02-05.1-02	Definitions [Repealed]
89-02-05.1-03	Permit to be Temporary
89-02-05.1-04	Emergency Defined [Repealed]
89-02-05.1-05	Application Form
89-02-05.1-06	Consideration of Permit Application
89-02-05.1-07	Decision on Permit Application - Conditions
89-02-05.1-08	Requirement for Permanent Permit Application
89-02-05.1-09	Closure of Drain
89-02-05.1-09.1	Extension of Permit
89-02-05.1-10	License Does Not Absolve Liability for Damages [Repealed]

### **89-02-05.1-01. Scope of chapter.**

Repealed effective January 1, 2015.

### **89-02-05.1-02. Definitions.**

Repealed effective January 1, 2015.

### **89-02-05.1-03. Permit to be temporary.**

Emergency drain permits received under this chapter are only valid for six months plus any valid extensions.

**History:** Effective June 1, 1998; amended effective January 1, 2015.

**General Authority:** NDCC 28-32-02, 61-03-13

**Law Implemented:** NDCC 61-32-03

### **89-02-05.1-04. Emergency defined.**

Repealed effective January 1, 2015.

### **89-02-05.1-05. Application form.**

An emergency drain permit application must be written and include:

1. Landowner's name and address.
2. Legal description of land where the emergency drain will be located.
3. A map showing the drain location.
4. An estimate of the surface acreage of the pond, slough, lake, sheetwater, or any series thereof and the volume of water to be drained by the emergency drain.
5. A list of all downstream adjacent landowners for a distance of one mile [1.6 kilometers] from the discharge point, along with the addresses and telephone numbers of these landowners.
6. Copies of any written permission received from downstream landowners.
7. A compilation of any written or oral permission and refusals from downstream landowners.

8. A description of the emergency.
9. Written permission allowing the state engineer and board to inspect the drain.

**History:** Effective June 1, 1998; amended effective January 1, 2015.

**General Authority:** NDCC 28-32-02, 61-03-13

**Law Implemented:** NDCC 61-32-03

#### **89-02-05.1-06. Consideration of permit application.**

An emergency drain permit application must be sent simultaneously to the board and the state engineer. The application will be reviewed for completeness by the board and the state engineer. The state engineer must make a preliminary determination as to the existence of an emergency. As soon as possible, a conference call or onsite meeting among the board, the state engineer, and other affected parties as determined by the state engineer must be held. The applicant or any other affected party may make a statement concerning the emergency drain permit application during the conference call or onsite meeting. Any conference call or onsite meeting must be electronically recorded. During the call or onsite meeting, but after all parties have been given an opportunity to present their views, the board must make a recommendation to the state engineer whether the permit should be granted.

**History:** Effective June 1, 1998; amended effective January 1, 2015.

**General Authority:** NDCC 28-32-02, 61-03-13

**Law Implemented:** NDCC 61-32-03

#### **89-02-05.1-07. Decision on permit application - Conditions.**

After completion of the conference call or onsite meeting, the state engineer must consider:

1. The written information received;
2. The matters discussed;
3. The board's recommendation; and
4. Whether the emergency permit should be granted.

If the permit is granted, the state engineer may place any condition upon it, including a requirement for a bond and that receipt of an emergency drain permit does not relieve an applicant from liability for damages resulting from any activity conducted under the permit.

**History:** Effective June 1, 1998; amended effective January 1, 2015.

**General Authority:** NDCC 28-32-02, 61-03-13

**Law Implemented:** NDCC 61-32-03

#### **89-02-05.1-08. Requirement for permanent permit application.**

If the drain is to be permanent, the applicant must submit a drain permit application to the state engineer under chapter 89-02-01. If the application is submitted at least thirty days before the emergency permit expires and the permanent drain has the same alignment as the emergency drain, the state engineer may extend the term of the emergency permit until final action on the drain permit application has been taken. If the watershed of the permanent drain is the same as the emergency drain, but has a different alignment, the emergency drain permit must only be extended under section 89-02-05.1-09.1.

**History:** Effective June 1, 1998; amended effective January 1, 2015.

**General Authority:** NDCC 28-32-02, 61-03-13

**Law Implemented:** NDCC 61-32-03

**89-02-05.1-09. Closure of drain.**

If a permanent drain permit application is not submitted thirty days before the emergency permit expires, the applicant must immediately prepare to close the drain unless the applicant has applied for an extension under section 89-02-05.1-09.1. Preparations must include obtaining any permission or authorizations. Closure of the drain must be completed by the emergency permit expiration date. The applicant must keep the board and the state engineer informed of the applicant's progress in closing the drain. The applicant must notify the board and the state engineer in writing when the emergency drain has been completely closed.

**History:** Effective June 1, 1998; amended effective January 1, 2015.

**General Authority:** NDCC 28-32-02, 61-03-13

**Law Implemented:** NDCC 61-32-03

**89-02-05.1-09.1. Extension of permit.**

The applicant must submit a written request for an extension at least thirty days before the expiration of the emergency permit. If it is determined that an emergency still exists, the state engineer may issue a one-time, six-month extension to the permit's expiration date. If an emergency continues to exist after the one-time extension, an applicant may reapply under chapter 89-02-05.1 for a new emergency drain permit.

**History:** Effective January 1, 2015.

**General Authority:** NDCC 28-32-02, 61-03-13

**Law Implemented:** NDCC 61-32-03

**89-02-05.1-10. License does not absolve liability for damages.**

Repealed effective January 1, 2015.