

ADMINISTRATIVE RULES COMMITTEE
December 7, 2015
Amendments to the North Dakota
Hazardous Waste Management Rules
N.D.A.C. Article 33-24

1. These amendments did not result from statutory changes made by the Legislative Assembly.
2. The amendments address changes to the Federal Regulations promulgated April 12, 1996 and all Federal Regulations promulgated from April 26, 2004, through April 17, 2015. The Hazardous Waste Management Rules were last amended in 2003. To remain authorized by the United States Environmental Protection Agency to administer the Hazardous Waste Program, the state is required to ensure that its rules address the same universe of waste to the same degree as the federal regulations.
3. Public hearing notices for the proposed amendments were published in the state's county newspapers. A Notice of Hearing was also sent to the Legislative Council. A public hearing was held on June 15, 2015, in Bismarck. On July 1, 2015, the text of the rules was submitted to the Attorney General for a legal opinion. The State Health Council approved the amendments on August 11, 2015, contingent upon the Attorney General's opinion. The Attorney General's opinion approving the adoption of the amendments was issued on July 29, 2015.
4. No comments, written or verbal, from the public were filed with the Department concerning these amendments.
5. The cost for publication of the Public Hearing Notice was \$1,772.30.
6. The amendments address the following major federal regulations promulgated through April 17, 2015:
 - a. Regulation identifies wastes that are subject to a graduated system of procedural and substantive controls when they move across national borders within the Organization for Economic Cooperation and Development for recovery.
 - b. Regulation revises the Uniform Hazardous Waste Manifest to standardize the content and appearance of the manifest form used to track hazardous waste from a generator's site to the site of disposition.
 - c. Regulation amends a variety of testing and monitoring requirements in the hazardous and non-hazardous solid waste regulations and for certain Clean Air Act regulations that relate to hazardous waste combustors.

These amendments allow more flexibility when conducting hazardous waste sampling and analysis.

- d. Regulation adds mercury-containing equipment to the list of universal waste. This rule eases the regulatory burden on entities that generate or collect these wastes and encourages recycling.
- e. Regulation allows for a “standardized permit” for treatment, storage, and disposal facilities that generate and then store or non-thermally treat hazardous waste on-site in tanks, containers and containment buildings.
- f. Regulation promulgates changes to the regulatory requirements to reduce the paperwork burden these requirements impose on the states, EPA and the regulated community.
- g. Regulation corrects errors in the regulations as a result of printing omissions, typographical errors, misspellings and other errors.
- h. Regulation streamlines management requirements for recycling of used cathode ray tubes and glass removed from cathode ray tubes. The amendments exclude these materials from the definition of solid waste if certain conditions are met.
- i. Regulation amends an existing exclusion to the definition of solid waste that applies to oil-bearing hazardous secondary materials generated at a petroleum refinery when these materials are recycled.
- j. Regulation establishes an alternative set of generator requirements applicable to laboratories owned by eligible academic entities.
- k. Regulation implements changes to the agreements concerning the transboundary movement of hazardous waste among countries belonging to the Organization for Economic Cooperation and Development.
- l. Regulation conditionally excludes solvent-contaminated wipes that are cleaned and reused and revises the definition of hazardous waste to exclude solvent-contaminated wipes that are disposed.
- m. Regulation establishes the use of electronic manifests to track shipments of hazardous waste from a generator’s site to the disposal site.
- n. Regulation revises the definition of solid waste to exclude certain hazardous secondary materials which are being reclaimed from regulation under the hazardous waste regulations. These regulations also establish requirements and regulations for generators of hazardous secondary

materials and facilities reclaiming hazardous secondary materials.

- o. Regulation amends the solid wastes that are not hazardous waste exclusion for the disposal of coal combustion residuals from electric utilities.

These amendments also address other minor promulgated Federal Regulations, technical changes, and typographical corrections and clarifications. To remain authorized to administer the Hazardous Waste Program, the state is required to demonstrate that it has the authority under state law and rules to regulate the same universe of waste to the same degree as the federal requirements.

- 7. A regulatory analysis, as required by Section 28-32-08 NDCC, was not prepared as the amendments do not impact the regulated community in excess of \$50,000.
- 8. A regulatory analysis and an economic impact statement of impact on small entities were prepared, as required by Section 28-32-08.1. NDCC, for those amendment provisions not mandated by federal law due to possible adverse impact on small entities (copy attached). These provisions may be considered more stringent than the federal regulations. A copy of a stringency justification for these provisions is attached. These provisions are:
 - a. Require exporters of cathode ray tubes to notify the Department of an intended export before the cathode ray tubes are scheduled to leave the state and to file an annual report with the Department.
 - b. Require importers, exporters and recovery facilities shipping to or receiving from Organization for Economic Cooperation and Development member countries to notify the Department of their activities prior to shipping or receiving hazardous waste.
 - c. Facilities applying for a standardized permit cannot be located within a floodplain.
 - d. Allow for the extension of the record retention period during enforcement actions for exporters of hazardous waste to Organization for Economic Cooperation and Development member countries.
- 9. A fiscal note was not prepared as these amendments have no probable fiscal effect on state revenues and expenditures, including funds controlled by the State Department of Health.
- 10. A constitutional taking's assessment was not prepared, as required by NDCC Section 28-32-09, as the implementation of these amendments will not result in a taking or regulatory taking.

11. These amendments were not adopted as emergency (interim final) rules under NDCC Section 28-32-03.

INTER

**North Dakota
Department of
Health**

OFFICE

MEMO

File: Hazardous Waste Correspondence - Proposed Hazardous Waste Rules

To: File

From: Curtis L. Erickson, Manager *CE*
Hazardous Waste Program - Division of Waste Management

Subject: Regulatory Analysis for Proposed Amendments to NDAC Article 33-24

Date: April 27, 2015

The North Dakota Department of Health, Division of Waste Management, is proposing amendments to Article 33-24, North Dakota Hazardous Waste Management Rules. Section 28-32-08.1. NDCC requires the adopting agency to prepare a regulatory analysis and an economic impact statement before adopting any proposed rules that would adversely impact small entities. Seven of the thirty-six proposed rule amendments are mandated by federal law and section 28-32-08.1. NDCC would not apply. The remaining twenty-nine proposed amendments are considered either equivalent or less stringent than the existing rules.

Below is a regulatory analysis and economic impact as required by subsections 2. and 3. of 28-32-08.1. NDCC for the proposed rule amendments that are not contained within the federal regulations and are considered more stringent. All of the proposed rule amendments listed below, other than items 12 and 16, require an entity to notify or submit documentation to not only the Environmental Protection Agency but also the state or Department which would be considered more stringent than the federal regulations. For those more stringent amendments requiring notifying or submitting documentation to the state or Department, the additional costs for the regulated entity would be the cost of making an additional copy of the document and the postage to mail the document to the Department or state.

1. Section 33-24-02-25.1.e.1. NDAC of the proposed rule amendment reads:
"Notify the environmental protection agency and the department of an intended export before the cathode ray tubes are scheduled to leave the United States. A complete notification should be submitted sixty days before the initial shipment is intended to be shipped offsite. This notification may cover export activities extending over a twelve month or lesser period. The notification must be in writing, signed by the exporter, and include the following information:". The federal

regulations only reference the environmental protection agency. The proposed rule amendment does not require a more stringent compliance schedule or deadline, performance standard or additional reporting requirements for small entities. The proposed rule amendment would not subject additional small entities to the proposed rule. The effective Hazardous Waste Management Rules require exporters of regulated hazardous waste to notify the department and the environmental protection agency sixty days prior to exporting. Private persons and consumers would not be affected by the proposed rule amendment and there would be no probable effect on state revenues. There are no costs associated with this proposed rule amendment other than making an additional copy and postage costs.

2. Section 33-24-03-25.1.e.10. NDAC of the proposed rules amendment reads: "Cathode ray tube exporters must file with the environmental protection agency and the department no later than March 1 of each year, an annual report summarizing the quantities (in kilograms), frequency of shipment, and ultimate destinations (for example, the facility or facilities where the recycling occurs) of all used cathode ray tubes exported during the previous calendar year. Such reports must also include the following:". The federal regulations only reference the environmental protection agency. The proposed rule amendment does not require a more stringent compliance schedule or deadline, performance standard or additional reporting requirements for small entities. The proposed rule amendment would not subject additional small entities to the proposed rule. The effective Hazardous Waste Management Rules require exporters of regulated hazardous waste to submit an annual report to the department and the environmental protection agency. Private persons and consumers would not be affected by the proposed rule amendment and there would be no probable effect on state revenues. There are no costs associated with this proposed rule amendment other than making an additional copy and postage costs.
3. Section 33-24-03-27.1. NDAC of the proposed rules amendment reads: "Cathode ray tube exporters who export used, intact cathode ray tubes for reuse must send a notification to the department and the environmental protection agency. This notification may cover export activities extending over a twelve month or lesser period." The federal regulations only reference the environmental protection agency. The proposed rule amendment does not require a more stringent compliance schedule or deadline, performance standard or additional reporting requirements for small entities. The proposed rule amendment would not subject additional small entities to the proposed rule. The effective Hazardous Waste Management Rules require exporters of regulated hazardous waste to notify the department and the environmental protection agency prior to exporting. Private persons and consumers would not be affected by the proposed rule amendment and there would be no probable effect on state revenues. There are no costs associated with this proposed rule amendment other than making an additional copy and postage costs.
4. Section 33-24-03-52.4. NDAC of the proposed rule amendment reads: "When a transboundary movement of wastes subject to the Amber control procedures cannot be completed in accordance with the terms of the contract or the consents and alternative arrangements cannot be made to recover the wastes in an

environmentally sound manner in the country of import, the waste must be returned to the country of export or re-exported to a third country. The provisions of subsection 3 apply to any shipments to be reexported to a third country. The following provisions apply to shipments to be returned to the country of export as appropriate: Return from the United States to the country of export: The United States importer must inform the environmental protection agency at the specified address in paragraph 1 of subdivision a of subsection 2 of section 33-24-03-53 and the state of the need to return the shipment. The environmental protection agency will then inform the competent authorities of the countries of export and transit, citing the reasons for returning the wastes. The United States importer must complete the return within ninety days from the time the environmental protection agency informs the country of export of the need to return the waste, unless informed in writing by the environmental protection agency of another time frame agreed to by the concerned member countries. If the return shipment will cross any transit country, the return shipment may only occur after the environmental protection agency provides notification to and obtains consent from the competent authority of the country of transit, and provides a copy of that consent to the United States importer. Return from the country of import to the United States: The United States exporter must provide for the return of the hazardous waste shipment within ninety days from the time the country of import informs the environmental protection agency of the need to return the waste or such other period of time as the concerned member countries agree. The United States exporter must submit an exception report to the environmental protection agency and the state in accordance with subsection 2 of section 33-24-03-57." The federal regulations only reference the environmental protection agency to be informed by the United States importer and the submission of an exception report by the United States exporter. The proposed rule amendment does not require a more stringent compliance schedule or deadline, performance standard or additional reporting requirements for small entities. The proposed rule amendment would not subject additional small entities to the proposed rule. The effective Hazardous Waste Management Rules require exporters of regulated hazardous waste to file an exception report to the department and the environmental protection agency if the waste is returned to the United States. Private persons and consumers would not be affected by the proposed rule amendment and there would be no probable effect on state revenues. There are no costs associated with this proposed rule amendment other than making an additional copy and postage costs.

5. Section 33-24-03-52.5. NDAC of the proposed rule amendment reads: "When a transboundary movement of wastes subject to the Amber control procedures does not comply with the requirements of the notification and movement documents or otherwise constitutes illegal shipment, and if alternative arrangements cannot be made to recover these wastes in an environmentally sound manner, the waste must be returned to the country of export. The following provisions apply as appropriate. Return from the United States (as country of transit) to the country of export. The United States transporter must inform the environmental protection agency at the specified address in paragraph 1 of subdivision a of subsection 2 of section 33-24-03-53 and the state of the need to return the shipment. The environmental protection agency will then inform the competent authority of the country of export, citing the reasons for returning the waste. The United States transporter must complete the return within ninety days from the time the

environmental protection agency informs the country of export of the need to return the waste, unless informed in writing by the environmental protection agency of another time frame agreed to by the concerned member countries. Return from the country of transit to the United States (as country of export): The United States exporter must provide for the return of the hazardous waste shipment within ninety days from the time the competent authority of the country of transit informs the environmental protection agency of the need to return the waste or such other period of time as the concerned member countries agree. The United States exporter must submit an exception report to the environmental protection agency and the state in accordance with subsection 2 of section 33-24-03-57." The federal regulations only reference the environmental protection agency to be informed by the United States transporter and the submission of an exception report by the United States exporter. The proposed rule amendment does not require a more stringent compliance schedule or deadline, performance standard or additional reporting requirements for small entities. The proposed rule amendment would not subject additional small entities to the proposed rule. The effective Hazardous Waste Management Rules require exporters of regulated hazardous waste to file an exception report to the department and the environmental protection agency if the waste is returned to the United States. Private persons and consumers would not be affected by the proposed rule amendment and there would be no probable effect on state revenues. There are no costs associated with this proposed rule amendment other than making an additional copy and postage costs.

6. Section 33-24-03-52.6.c. NDAC of the proposed rule amendment reads: "As soon as possible, but no later than thirty days after the completion of the R12 or R13, or both, recovery operation and no later than one calendar year following the receipt of the waste, the R12 or R13 facilities shall send a certificate of recovery to the foreign exporter and to the competent authority of the country of export and to the office of enforcement and compliance assurance, office of federal activities, international compliance assurance division (2254A), environmental protection agency, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460, and to the state, by email, email without digital signature followed by mail, or fax followed by mail." The federal regulations only reference the environmental protection agency to receive a certificate of recovery. The proposed rule amendment does not require a more stringent compliance schedule or deadline, performance standard or additional reporting requirements for small entities. The proposed rule amendment would not subject additional small entities to the proposed rule. Private persons and consumers would not be affected by the proposed rule amendment and there would be no probable effect on state revenues. There are no costs associated with this proposed rule amendment other than making an additional copy and postage costs.
7. Section 33-24-03-53.2.a.1. NDAC of the proposed rule amendment read: "At least forty-five days prior to commencement of each transboundary movement, the exporter must provide written notification in English of the proposed transboundary movement to the office of enforcement and compliance assurance, office of federal activities, international compliance assurance division (2254A), environmental protection agency, 1200 Pennsylvania Avenue NW, Washington, D.C. 20460, and the state, with the words "Attention: Organization for Economic

Cooperation and Development Export Notification” prominently displayed on the envelope. This notification must include all of the information identified in subsection 4. In cases where wastes having similar physical and chemical characteristics, the same United Nations classification, the same hazardous waste codes, and are to be sent periodically to the same recovery facility by the same exporter, the exporter may submit one general notification of intent to export these wastes in multiple shipments during a period of up to one year. Even when a general notification is used for multiple shipments, each shipment still must be accompanied by its own movement document pursuant to section 33-24-03-54.” The federal regulations only reference the environmental protection agency. The proposed rule amendment does not require a more stringent compliance schedule or deadline, performance standard or additional reporting requirements for small entities. The proposed rule amendment would not subject additional small entities to the proposed rule. The effective Hazardous Waste Management Rules require exporters of regulated hazardous waste to notify the department and the environmental protection agency prior to exporting. Private persons and consumers would not be affected by the proposed rule amendment and there would be no probable effect on state revenues. There are no costs associated with this proposed rule amendment other than making an additional copy and postage costs.

8. Section 33-24-03-53.2.b.1. NDAC of the proposed rule amendment reads: “The exporter must provide the environmental protection agency, and the state, a notification that contains all the information identified in subsection 4 in English, at least ten days in advance of commencing shipment to a preapproved facility. The notification must indicate that the recovery facility is preapproved, and may apply to a single specific shipment or to multiple shipments as described in paragraph 1 of subdivision a. This information must be sent to the office of enforcement and compliance assurance, office of federal activities, international compliance assurance division (2254A), environmental protection agency, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460, and the state, with the words “Organization for Economic Cooperation and Development Export Notification – Preapproved Facility” prominently displayed on the envelope. General notifications that cover multiple shipments as described in paragraph 1 of subdivision a may cover a period of up to three years. Even when a general notification is used for multiple shipments, each shipment still must be accompanied by its own movement document pursuant to section 33-24-03-54.” The federal regulations only reference the environmental protection agency to receive a notification. The effective Hazardous Waste Management Rules require exporters of regulated hazardous waste to notify the department and the environmental protection agency prior to exporting, in general, not just to a preapproved facility. The proposed rule amendment does not require a more stringent compliance schedule or deadline, performance standard or additional reporting requirements for small entities. The proposed rule amendment would not subject additional small entities to the proposed rule. Private persons and consumers would not be affected by the proposed rule amendment and there would be no probable effect on state revenues. There are no costs associated with this proposed rule amendment other than making an additional copy and postage costs.

9. Section 33-24-03-54.5. NDAC of the proposed rule amendment reads: "Within three working days of the receipt of imports subject to sections 33-24-03-50 through 33-24-03-59, the owner or operator of the United States recovery facility must send signed copies of the movement document to the exporter, to the office of enforcement and compliance assurance, office of federal activities, international compliance assurance division (2254A), environmental protection agency, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460, to the state and to the competent authorities of the countries of export and transit. If the concerned United States recovery facility is a R12 or R13, or both, recovery facility as defined under section 33-24-03-51, the facility shall retain the original of the movement document for three years." The federal regulations do not reference the state to receive signed copies of the movement document from the United States recovery facility. The proposed rule amendment does not require a more stringent compliance schedule or deadline, performance standard or additional reporting requirements for small entities. The proposed rule amendment would not subject additional small entities to the proposed rule. Private persons and consumers would not be affected by the proposed rule amendment and there would be no probable effect on state revenues. There are no costs associated with this proposed rule amendment other than making an additional copy and postage costs.
10. Section 33-24-03-57.1. NDAC of the proposed rule amendments reads: "For all waste movements subject to sections 33-24-03-50 through 33-24-03-59, persons (for example, exporters and recognized traders) who meet the definition of primary exporter in section 33-24-03-18 or who initiate the movement documentation under section 33-24-03-54 shall file an annual report with the office of enforcement and compliance assurance, office of federal activities, international compliance assurance division (2254A), environmental protection agency, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460 and the state, no later than March 1 of each year summarizing the types, quantities, frequency, and ultimate destination of all such hazardous waste exported during the previous calendar year. (If the primary exporter or the person who initiates the movement document under section 33-24-03-54 is required to file an annual report for waste exports that are not covered under sections 33-24-03-50 through 33-24-03-59, the primary exporter or the person who initiates the movement document under section 33-24-03-54 may include all export information in one report provided the following information on exports of waste destined for recovery within the designated Organization for Economic Cooperation and Development member countries is contained in a separate section.) Such reports shall include all of the following:". The federal regulations only reference the environmental protection agency. The proposed rule amendment does not require a more stringent compliance schedule or deadline, performance standard or additional reporting requirements for small entities. The proposed rule amendment would not subject additional small entities to the proposed rule. The effective Hazardous Waste Management Rules require exporters of regulated hazardous waste to submit an annual report to the department and the environmental protection agency. Private persons and consumers would not be affected by the proposed rule amendment and there would be no probable effect on state revenues. There are no costs associated with this proposed rule amendment other than making an additional copy and postage costs.

11. Section 33-24-03-57.2. NDAC of the proposed rule amendments reads: "Any person who meets the definition of primary exporter in section 33-24-03-18 or who initiates the movement document under section 33-24-03-54 must file an exception report in lieu of the requirements of section 33-24-03-15 (if applicable) with the office of enforcement and compliance assurance, office of federal activities, international compliance assurance division (2254A), environmental protection agency, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460 and the state, if any of the following occurs:". The federal regulations only require the submission of an exception report to the environmental protection agency. The proposed rule amendment does not require a more stringent compliance schedule or deadline, performance standard or additional reporting requirements for small entities. The proposed rule amendment would not subject additional small entities to the proposed rule. The effective Hazardous Waste Management Rules require exporters of regulated hazardous waste to file an exception report to the department and the environmental protection agency if the waste is returned to the United States. Private persons and consumers would not be affected by the proposed rule amendment and there would be no probable effect on state revenues. There are no costs associated with this proposed rule amendment other than making an additional copy and postage costs.
12. Section 33-24-03-57.3.b. NDAC of the proposed rule amendments reads: "The periods of retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the administrator or the department." The federal regulations only reference the administrator. The proposed rule amendment does not require a more stringent compliance schedule or deadline, performance standard or additional reporting requirements for small entities. The proposed rule amendment would not subject additional small entities to the proposed rule. Small entities would be required to maintain records, as required by the federal regulations and proposed rules amendment for at least three years, unless there is unresolved enforcement action, and would not incur additional administrative or other costs to comply with this requirement. Other sections of the effective Hazardous Waste Management Rules have this same requirement, such as section 33-24-03-24 related to exporters. Private persons and consumers would not be affected by the proposed rule amendment and there would be no probable effect on state revenues. There are no costs associated with this proposed rule amendment.
13. Section 33-24-05-03.1. NDAC of the proposed rule amendments reads: "The owner or operator of a recovery facility that has arranged to receive hazardous waste subject to sections 33-24-03-50 through 33-24-03-59 must provide a copy of the movement document bearing all required signatures to the foreign exporter; to the office of enforcement and compliance assurance, office of federal activities, international compliance assurance division (2254A), environmental protection agency, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460; the state; and to the competent authorities of all other countries concerned within three working days of receipt of the shipment. The original of the signed movement document must be maintained at the facility for at least three years. In addition, such owner or

operator shall, as soon as possible, but no later than thirty days after the completion of recovery and no later than one calendar year following the receipt of the hazardous waste, send a certificate of recovery to the foreign exporter; to the competent authority of the country of export; to the environmental protection agency's office of enforcement and compliance assurance at the above address, and the state, by mail, email without a digital signature followed by mail, or fax followed by mail." The federal regulations do not reference the state receiving a copy of the movement document or a certificate of recovery. The proposed rule amendment does not require a more stringent compliance schedule or deadline, performance standard or additional reporting requirements for small entities. The proposed rule amendment would not subject additional small entities to the proposed rule. Private persons and consumers would not be affected by the proposed rule amendment and there would be no probable effect on state revenues. There are no costs associated with this proposed rule amendment other than making an additional copy of each document and postage costs.

14. Section 33-24-05-38.1.c. NDAC of the proposed rule amendment reads: "Hazardous waste imported from a foreign source, the receiving facility must mail a copy of the manifest and documentation confirming the environmental protection agency's consent to the import of hazardous waste to the department and to the following address within thirty days of delivery: office of enforcement and compliance assurance, office of federal activities, international compliance assurance division (2254A), environmental protection agency, 1200 Pennsylvania Avenue NW, Washington, D.C. 20460." The federal regulations do not reference the department. The proposed rule amendment does not require a more stringent compliance schedule or deadline, performance standard or additional reporting requirements for small entities. The proposed rule amendment would not subject additional small entities to the proposed rule. Private persons and consumers would not be affected by the proposed rule amendment and there would be no probable effect on state revenues. There are no costs associated with this proposed rule amendment other than making an additional copy and postage costs.
15. Section 33-24-05-38.4. NDAC of the proposed rule amendment reads: "Within three working days of the receipt of a shipment subject to sections 33-24-03-50 through 33-24-03-59, the owner or operator of the facility must provide a copy of the movement document bearing all required signatures to the exporter, to the office of enforcement and compliance assurance, office of federal activities, international compliance assurance division (2254A), environmental protection agency, 1200 Pennsylvania Avenue, Washington, D.C. 20460, the state, and to competent authorities of all other concerned countries. The original copy of the movement document must be maintained at the facility for at least three years from the date of signature." The federal regulations do not reference the state. The proposed rule amendment does not require a more stringent compliance schedule or deadline, performance standard or additional reporting requirements for small entities. The proposed rule amendment would not subject additional small entities to the proposed rule. Private persons and consumers would not be affected by the proposed rule amendment and there would be no probable effect on state revenues. There are no costs associated with this proposed rule amendment other than making an additional copy and postage costs.

16. Section 33-24-05-968 NDAC of the proposed rule amendment reads: "Location standards. The department will not issue or approve a permit to any facility or portion of a facility which is or will be constructed in a location with a geology, hydrogeology, hydrology, or topography which the department reasonably believes is incompatible with the type of hazardous waste management activity occurring or proposed to occur. Locations which are specifically within the meaning of this section include but are not limited to floodplains, ground water recharge areas, highly permeable soils, high ground water tables, and areas of high topographic relief." The federal regulations only require that the facility not be located within 200 feet of a fault that has had displacement in Holocene time and if located in a 100-year flood plain the facility must be designed, constructed, operated and maintained to prevent washout of any hazardous waste by a 100-year flood. This proposed rule amendment is identical and consistent to the location standards in our effective Hazardous Waste Management Rules for facilities obtaining and being issued a traditional hazardous waste permit. The proposed rule amendments do not require a more stringent compliance schedule or deadline, performance standard or additional reporting requirements for small entities. The proposed rule amendments would not subject additional small entities to the proposed rule. Private persons and consumers would not be affected by the proposed rule amendments and there would be no probable effect on state revenues.

17. Section 33-24-05-1011.4. NDAC of the proposed rule amendment reads: "Within three working days of the receipt of a shipment subject to sections 33-24-03-50 through 33-24-03-59, the owner or operator of the facility must provide a copy of the tracking document bearing all required signatures to the notifier, to the department, to the office of enforcement and compliance assurance, office of compliance, enforcement planning, targeting and data division (2222A), environmental protection agency, 1200 Pennsylvania Avenue NW, Washington, D.C. 20460, and to competent authorities of all other concerned countries. The original copy of the tracking document must be maintained at the facility for at least three years from the date of signature." The federal regulations do not a copy of the completed tracking document to be submitted to the department. The proposed rule amendments do not require a more stringent compliance schedule or deadline, performance standard or additional reporting requirements for small entities. The proposed rule amendments would not subject additional small entities to the proposed rule. Private persons and consumers would not be affected by the proposed rule amendments and there would be no probable effect on state revenues. There are no costs associated with these proposed rule amendments other than making an additional copy and postage costs.

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