

**CHAPTER 33-24-03  
STANDARDS FOR GENERATORS**

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**33-24-03-01. Scope and applicability.**

This chapter establishes standards for generators of hazardous waste.

1. Subsections 3 and 4 of section 33-24-02-05 must be used to determine the applicability of provisions of this chapter that are dependent on calculations of the quantity of hazardous waste generated per month.

2. A generator who treats, stores, or disposes of hazardous waste onsite must only comply with the following sections of this chapter with respect to that waste: Section 33-24-03-02 for determining whether or not the generator has a hazardous waste, section 33-24-03-03 for obtaining an identification number, section 33-24-03-12 for accumulation of hazardous waste, subsections 3 and 4 of section 33-24-03-13 for recordkeeping, section 33-24-03-16 for additional reporting and if applicable, section 33-24-03-40 for farmers.
3. Any person who exports or imports hazardous waste into the United States through this state must comply with the standards applicable to generators established in this chapter.
4. Any person who exports or imports wastes that are considered hazardous under United States national procedures to or from the countries listed in subdivision a of subsection 1 of section 33-24-03-25 for recovery must comply with sections 33-24-03-50 through 33-24-03-59. A waste is considered hazardous under United States national procedures if the waste meets the federal definition of hazardous waste in 40 CFR 261.3 and is subject to manifesting requirements at sections 33-24-03-04 through 33-24-03-07, the universal waste management standards of sections 33-24-05-700 through 33-24-05-799 or the export requirements in the spent lead-acid battery management standards of sections 33-24-05-235 through 33-24-05-249.
5. A farmer who generates waste pesticides which are hazardous waste and who complies with all the requirements of section 33-24-03-40 is not required to comply with other standards in chapters 33-24-03, 33-24-05, and 33-24-06 with respect to such pesticides.
6. A person who generates a hazardous waste as defined in chapter 33-24-02 is subject to the compliance requirements and penalties prescribed in North Dakota Century Code chapter 23-20.3 if the person does not comply with the requirements of this chapter.
7. An owner or operator who initiates a shipment of hazardous waste from a treatment, storage, or disposal facility must comply with the generator standards established in this chapter.
8. Persons responding to an explosives or munitions emergency in accordance with subparagraph d of paragraph 1 of subdivision g of subsection 6 of section 33-24-05-01 or paragraph 4 of subdivision g of subsection 6 of section 33-24-05-01 or 40 CFR 265.1(c)(11)(i) (D) or (iv) as incorporated by reference at subsection 5 of section 33-24-06-16, and item 4 of subparagraph a and subparagraph c of paragraph 9 of subdivision b of subsection 2 of section 33-24-06-01, are not required to comply with the standards of chapter 33-24-03.
9. The laboratories owned by an eligible academic entity that chooses to be subject to the requirements of sections 33-24-03-60 through 33-24-03-77 are not subject to (for purposes of this subsection, the terms "laboratory" and "eligible academic entity" shall have the meaning as defined in section 33-24-03-61):
  - a. The requirements of section 33-24-03-02 or subsection 3 of section 33-24-03-12, for large quantity generators and small quantity generators, except as provided in sections 33-24-03-60 through 33-24-03-77; and
  - b. The conditions of subsection 2 of section 33-24-02-05, for conditionally exempt small quantity generators, except as provided in sections 33-24-03-60 through 33-24-03-77.

Note 1: The provisions of section 33-24-03-12 are applicable to the onsite accumulation of hazardous waste by generators. Therefore, the provisions of section 33-24-03-12 only apply to owners or operators who are shipping hazardous waste that they generated at that facility.

Note 2: A generator who treats, stores, or disposes of hazardous waste onsite must comply with the applicable standards and permit requirements set forth in chapters 33-24-05 and 33-24-06.

**History:** Effective January 1, 1984; amended effective December 1, 1988; January 1, 1994; July 1, 1997; December 1, 2003; January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

### **33-24-03-02. Hazardous waste determination.**

A person who generates a solid waste as defined in section 33-24-02-02 must determine if that waste is a hazardous waste using the following method:

1. The person should first determine if the waste is excluded from regulation under section 33-24-02-04;
2. The person must then determine if the waste is listed as a hazardous waste in chapter 33-24-02; and
3. For purposes of compliance with sections 33-24-05-250 through 33-24-05-299, or if the waste is not listed in sections 33-24-02-15 through 33-24-02-18, the generator must then determine whether the waste is identified in sections 33-24-02-10 through 33-24-02-14 by either:
  - a. Testing the waste according to the methods set forth in chapter 33-24-02 or an equivalent method as approved by the department; or
  - b. Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used.
  - c. All waste analysis pursuant to subdivision a must be conducted by a laboratory approved by the department's certification procedures.
4. If the waste is determined to be hazardous, the generator must refer to chapter 33-24-02 and sections 33-24-05-01 through 33-24-05-559, sections 33-24-05-700 through 33-24-05-1149, and subsection 5 of section 33-24-06-16 for possible exclusions or restrictions pertaining to management of the generator's specific waste.

**History:** Effective January 1, 1984; amended effective December 1, 1988; December 1, 1991; January 1, 1994; July 1, 1997; January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

### **33-24-03-03. Identification number and registration certificate.**

1. A generator may not treat, store, dispose of, transport, or offer for transportation hazardous waste without having received an identification number and a registration certificate from the department.
2. A generator who has not received an identification number and a registration certificate may obtain one by applying to the department. Upon receiving the request the department will assign an identification number and issue a registration certificate to the generator.
3. A generator may not offer the generator's hazardous waste to transporters that have not received an identification number and a transporter permit, or to treatment, storage, or disposal facilities that have not received an identification number and applied for a hazardous waste permit.
4. The department may assess and collect reasonable fees for the issuance of registration certificates.

**History:** Effective January 1, 1984; amended effective December 1, 2003; January 1, 2016.

**General Authority:** NDCC 23-20.3-03, 23-20.3-05.1

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04, 23-20.3-05.1

**33-24-03-04. General requirements of the manifest.**

1. A generator who transports, or offers for transport a hazardous waste for offsite treatment, storage, or disposal, or a treatment, storage, and disposal facility who offers for transport a rejected hazardous waste load, must prepare a manifest on environmental protection agency form 8700-22, and if necessary, environmental protection agency form 8700-22A, according to instructions included in appendix I to this chapter.
  - a. The revised manifest form and procedures in sections 33-24-01-04, 33-24-02-07, 33-24-03-04, 33-24-03-05, subsection 6 of section 33-24-03-07, sections 33-24-03-10, 33-24-03-12, 33-24-03-21, 33-24-03-30, and appendix I to this chapter, shall not apply until September 5, 2006, or article 33-24 is amended and effective, but not prior to September 5, 2006. The manifest form and procedures in sections 33-24-01-04, 33-24-02-07, 33-24-03-04, 33-24-03-05, 33-24-03-10, 33-24-03-12, 33-24-03-21, 33-24-03-30, and appendix I to this chapter contained in article 33-24, amended December 1, 2003, shall be applicable until September 5, 2006, or when amended, but not prior to September 5, 2006.
  - b. Electronic manifest. In lieu of using the manifest form specified in subsection 1, a person required to prepare a manifest under subsection 1 may prepare and use an electronic manifest, provided that the person:
    - (1) Complies with the requirements in subsection 8 of section 33-24-03-07 for use of electronic manifests; and
    - (2) Complies with the requirements of 40 CFR 3.10 for the reporting of electronic documents to the environmental protection agency.
2. A generator must designate on the manifest one facility which is permitted to handle the waste described on the manifest.
3. A generator may also designate on the manifest one alternate facility which is permitted to handle the generator's waste in the event an emergency prevents delivery of the waste to the primary designated facility.
4. If the transporter is unable to deliver the hazardous waste to the designated facility or the alternate facility, the generator must either designate another facility or instruct the transporter to return the waste.
5. The requirements of sections 33-24-03-04 through 33-24-03-07 do not apply to hazardous waste produced by generators of greater than one hundred kilograms but less than one thousand kilograms in a calendar month where:
  - a. The waste is reclaimed under a contractual agreement pursuant to which:
    - (1) The type of waste and frequency of shipments are specified in the agreement; and
    - (2) The vehicle used to transport the waste to the recycling facility and to deliver regenerated material back to the generator is owned and operated by the reclaimer of the waste; and
  - b. The generator maintains a copy of the reclamation agreement in the generator's files for a period of at least three years after termination or expiration of the agreement.

6. The requirements of sections 33-24-03-04 through 33-24-03-07 and subsection 2 of section 33-24-03-10 do not apply to the transport of hazardous wastes on a public or private right of way within or along the border of contiguous property under the control of the same person, even if such contiguous property is divided by a public or private right of way. Notwithstanding subsection 1 of section 33-24-04-01, the generator or transporter must comply with the requirements for transporters set forth in sections 33-24-04-07 and 33-24-04-08 in the event of a discharge of hazardous waste on a public or private right of way.

**History:** Effective January 1, 1984; amended effective October 1, 1986; December 1, 1988; December 1, 2003; January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

### **33-24-03-05. Manifest tracking numbers, manifest printing, and obtaining manifests.**

1. A registrant:
  - a. May not print, or have printed, the manifest for use of distribution unless it has received approval from the environmental protection agency director of the office of resource conservation and recovery to do so under subsections 3 and 5.
  - b. The approved registrant is responsible for ensuring that the organizations identified in its application are in compliance with the procedures of its approved application and the requirements of this section. The registrant is responsible for assigning manifest tracking numbers to the registrant's manifests.
2. A registrant must submit an initial application to the environmental protection agency director of the office of resource conservation and recovery that contains the following information:
  - a. Name and mailing address of registrant;
  - b. Name, telephone number, and email address of contact person;
  - c. Brief description of registrant's government or business activity;
  - d. Environmental protection agency identification number of the registrant, if applicable;
  - e. Description of the scope of the operations that the registrant plans to undertake in printing, distributing, and using its manifests, including:
    - (1) A description of the printing operation. The description should include an explanation of whether the registrant intends to print the registrant's manifests in-house (for example, using the registrant's own printing establishments) or through a separate (for example, unaffiliated) printing company. If the registrant intends to use a separate printing company to print the manifest on the registrant's behalf, the application must identify this printing company and discuss how the registrant will oversee the company. If this includes the use of intermediaries (for example, prime and subcontractor relationships), the role of each must be discussed. The application must provide the name and mailing address of each company. It also must provide the name and telephone number of the contact person at each company.
    - (2) A description of how the registrant will ensure that the registrant's organization and unaffiliated companies, if any, comply with the requirements of this section. The application must discuss how the registrant will ensure that a unique manifest tracking number will be preprinted on each manifest. The application must describe the internal control procedures to be followed by the registrant and unaffiliated

companies to ensure that numbers are tightly controlled and remain unique. In particular, the application must describe how the registrant will assign manifest tracking numbers to its manifests. If computer systems or other infrastructure will be used to maintain, track, or assign numbers, these should be indicated. The application must also indicate how the printer will preprint a unique number on each form (for example, crash or press numbering). The application also must explain the other quality procedures to be followed by each establishment and printing company to ensure that all required print specifications are consistently achieved and that printing violations are identified and corrected at the earliest practicable time.

- (3) An indication of whether the registrant intends to use the manifests for the registrant's own business operations or to distribute the manifests to a separate company or to the general public (for example, for purchase).
  - f. A brief description of the qualifications of the company that will print the manifest. The registrant may use readily available information to do so (for example, corporate brochures, product samples, customer references, documentation of international organization for standardization certification), so long as such information pertains to the establishments or company being proposed to print the manifest.
  - g. Proposed unique three letter manifest tracking number suffix. If the registrant is approved to print the manifest, the registrant must use this suffix to preprint a unique manifest tracking number on each manifest.
  - h. A signed certification by a duly authorized employee of the registrant that the organizations and companies in the registrant's application will comply with the procedures of its approved application and the requirements of this section and that the registrant will notify the environmental protection agency director of the office of resource conservation and recovery of any duplicated manifest tracking numbers on manifests that have been used or distributed to other parties as soon as this becomes known.
3. The environmental protection agency will review the application submitted under subsection 2 and either approve the application or request additional information or modification before approving the application.
  4. The environmental protection agency upon approval of the application under subsection 3:
    - a. Will provide the registrant an electronic file of the manifest, continuation sheet, and manifest instructions and ask the registrant to submit three fully assembled manifests and continuation sheet samples, except as noted in subdivision c of this subsection. The registrant's samples must meet all of the specifications in subsection 6 and be printed by the company that will print the manifest as identified in the application approved under subsection 3.
    - b. The registrant must submit a description of the manifest samples as follows:
      - (1) Paper type (for example, manufacturer and grade of the manifest paper);
      - (2) Paper weight of each copy;
      - (3) Ink color of the manifest's instructions. If screening of the ink was used, the registrant must indicate the extent of the screening; and
      - (4) Method of binding the copies.

- c. The registrant need not submit samples of the continuation sheet if the registrant will print the registrant's continuation sheet using the same paper type, paper weight of each copy, ink color of the instructions, and binding method as its manifest form samples.
5. The environmental protection agency will evaluate the forms and either approve the registrant to print the forms as proposed or request additional information or modification to the forms before approval. The environmental protection agency will notify the registrant of the environmental protection agency's decision by mail. The registrant cannot use or distribute the registrant's forms until the environmental protection agency approves the forms. An approved registrant must print the manifest and continuation sheet according to the registrant's application approved under subsection 3 and the manifest specifications in subsection 6. The registrant also must print the forms according to the paper type, paper weight, ink color of the manifest instructions and binding method of the registrant's approved forms.
6. Paper manifests and continuation sheets must be printed according to the following specifications:
  - a. The manifest and continuation sheet must be printed with the exact format and appearance as environmental protection agency forms 8700-22 and 8700-22a, respectively. However, information required to complete the manifest may be preprinted on the manifest form.
  - b. A unique manifest tracking number assigned in accordance with a numbering system approved by environmental protection agency must be preprinted in item 4 of the manifest. The tracking number must consist of a unique three letter suffix following nine digits.
  - c. The manifest and continuation sheet must be printed on eight and one half by eleven inch white paper, excluding common stubs (for example, top or side bound stubs). The paper must be durable enough to withstand normal use.
  - d. The manifest and continuation sheet must be printed in black ink that can be legibly photocopied, scanned, and faxed, except that the marginal words indicating copy distribution must be printed with a distinct ink color or with another method (for example, white text against black background, in text box, or, black text against gray background in text box) that clearly distinguishes the copy distribution notations from the other text and data entries on the form.
  - e. The manifest and continuation sheet must be printed as six copy forms. Copy to copy registration must be exact within one thirty-second of an inch. Handwritten and typed impressions on the form must be legible on all six copies. Copies must be bound together by one or more common stubs that reasonably ensure that they will not become detached inadvertently during normal use.
  - f. Each copy of the manifest and continuation sheet must indicate how the copy must be distributed, as follows:
    - (1) Page 1 (top copy): "designated facility to destination state (if required)".
    - (2) Page 2: "designated facility to generator state (if required)".
    - (3) Page 3: "designated facility to generator".
    - (4) Page 4: "designated facility's copy".
    - (5) Page 5: "transporters' copy".

- (6) Page 6 (bottom copy): "generator's initial copy".
- g. The instructions in the appendix to 40 CFR regulations part 262 must appear legibly on the back of the copies of the manifest and continuation sheet as provided in subsection 6. The instructions must not be visible through the front of the copies when photocopied or faxed.
  - (1) Manifest form 8700-22.
    - (a) The "instructions for generators" on copy 6;
    - (b) The "instructions for international shipment block" and "instructions for transporters" on copy 5; and
    - (c) The "instructions for treatment, storage, and disposal facilities" on copy 4.
  - (2) Manifest form 8700-22a.
    - (a) The "instructions for generators" on copy 6;
    - (b) The "instructions for transporters" on copy 5; and
    - (c) The "instructions for treatment, storage, and disposal facilities" on copy 4.
- 7. A generator:
  - a. May use manifests printed by any source so long as the source of the printed form has received approval from the environmental protection agency to print the manifest under subsections 3 and 5. A registered source may be a:
    - (1) State agency;
    - (2) Commercial printer;
    - (3) Hazardous waste generator, transporter or treatment, storage, or disposal facility; or
    - (4) Hazardous waste broker or other preparer who prepares or arranges shipments of hazardous waste for transportation.
  - b. Must determine whether the generator state or the consignment state for a shipment regulates any additional wastes (beyond those regulated federally) as hazardous wastes under these states' authorized programs. Generators also must determine whether the consignment state or generator state requires the generator to submit any copies of the manifest to these states. In cases where the generator must supply copies to either the generator's state or the consignment state, the generator is responsible for supplying legible photocopies of the manifest to these states.
- 8. Registrant requests.
  - a. If an approved registrant would like to update any of the information provided in its application approved under subsection 3 (for example, to update a company phone number or name of contact person), the registrant must revise the application and submit it to the environmental protection agency director of the office of resource conservation and recovery, along with an indication or explanation of the update, as soon as practicable after the change occurs. The agency either will approve or deny the revision. If the agency denies the revision, the agency will explain the reasons for the denial, and the agency will contact the registrant and request further modification before approval.

- b. If the registrant would like a new tracking number suffix, the registrant must submit a proposed suffix to the environmental protection agency director of the office of resource conservation and recovery, along with the reason for requesting a new tracking number suffix. The agency will either approve the suffix or deny the suffix and provide an explanation why the proposed suffix is not acceptable.
  - c. If a registrant would like to change the paper type, paper weight, ink color of the manifest instructions, or binding method of the registrant's manifest or continuation sheet subsequent to approval under subsection 5, then the registrant must submit three samples of the revised form for the environmental protection agency review and approval. If the approved registrant would like to use a new printer, the registrant must submit three manifest samples printed by the new printer, along with a brief description of the printer's qualifications to print the manifest. The environmental protection agency will evaluate the manifests and either approve the registrant to print the forms as proposed or request additional information or modification to the manifests before approval. The environmental protection agency will notify the registrant of the agency's decision by mail. The registrant cannot use or distribute the registrant's revised forms until the environmental protection agency approves the forms.
9. If, subsequent to the registrant's approval under subsection 5, a registrant typesets the registrant's manifest or continuation sheet instead of using the electronic file of the forms provided by the environmental protection agency, the registrant must submit three samples of the manifest or continuation sheet to the registry for approval. The environmental protection agency will evaluate the manifest or continuation sheet and either approve the registrant to print the manifest or continuation sheet as proposed or request additional information or modification to the manifest or continuation sheet before approval. The environmental protection agency will notify the registrant of the agency's decision by mail. The registrant cannot use or distribute its typeset forms until the environmental protection agency approves the forms.
10. The environmental protection agency may exempt a registrant from the requirement to submit form samples under subsection 4 or subdivision c of subsection 8 if the agency is persuaded that a separate review of the registrant's forms would serve little purpose in informing an approval decision (for example, a registrant certifies that it will print the manifest using the same paper type, paper weight, ink color of the instructions and binding method of the form samples approved for some other registrant). A registrant may request an exemption from the environmental protection agency by indicating why an exemption is warranted.
11. An approved registrant must notify the environmental protection agency by phone or email as soon as it becomes aware that it has duplicated tracking numbers on any manifests that have been used or distributed to other parties.
12. If, subsequent to approval of a registrant under subsection 5, the environmental protection agency becomes aware that the approved paper type, paper weight, ink color of the instructions, or binding method of the registrant's form is unsatisfactory, the environmental protection agency will contact the registrant and require modifications to the form.
13. The environmental protection agency:
- a. May suspend and, if necessary, revoke printing privileges if the agency find that the registrant:
    - (1) Has used or distributed forms that deviate from the registrant's approved form samples in regard to paper weight, paper type, ink color of the instructions, or binding method; or

- (2) Exhibits a continuing pattern of behavior in using or distributing manifests that contain duplicate manifest tracking numbers.
- b. Will send a warning letter to the registrant that specifies the date by which the registrant must come into compliance with the requirements. If the registrant does not come in compliance by the specified date, the environmental protection agency will send a second letter notifying the registrant that the environmental protection agency has suspended or revoked the registrant's printing privileges. An approved registrant must provide information on the registrant's printing activities to the environmental protection agency if requested.

**History:** Effective January 1, 1984; amended effective October 1, 1986; January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

### **33-24-03-06. Number of copies of the manifest.**

The manifest must consist of at least the number of copies which will provide the generator, each transporter, and the owner or operator of the designated facility with one copy each for their records and another copy to be returned to the generator.

**History:** Effective January 1, 1984.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

### **33-24-03-07. Use of the manifest.**

1. The generator must:
  - a. Sign the manifest certification by hand;
  - b. Obtain the handwritten signature of the initial transporter and date of acceptance on the manifest; and
  - c. Retain one copy, in accordance with subsection 1 of section 33-24-03-13.
2. The generator must give the transporter the remaining copies of the manifest.
3. For shipments of hazardous waste within the United States solely by water (bulk shipments only), the generator must send three copies of the manifest dated and signed in accordance with this section to the owner or operator of the designated facility or the last water (bulk shipment) transporter to handle the waste in the United States if exported by water. Copies of the manifest are not required for each transporter.
4. For rail shipments of hazardous waste within the United States which originate at the site of generation, the generator must send at least three copies of the manifest dated and signed in accordance with this section to:
  - a. The next nonrail transporter, if any;
  - b. The designated facility if transported solely by rail; or
  - c. The last rail transporter to handle the waste in the United States if exported by rail.
5. For shipments of hazardous waste to a designated facility in an authorized state which has not yet obtained authorization to regulate that particular waste as hazardous, the generator must assure that the designated facility agrees to sign and return the manifest to the generator, and that any out-of-state transporter signs and forwards the manifest to the designated facility.

6. Waste minimization certification. A generator who initiates a shipment of hazardous waste must certify to one of the following statements in item 15 of the uniform hazardous waste manifest:
  - a. "I am a large quantity generator. I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and I have selected the practicable method of treatment, storage, or disposal currently available to me which minimizes the present and future threat to human health and the environment;" or
  - b. "I am a small quantity generator. I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford."
7. For rejected shipments of hazardous waste or container residues contained in nonempty containers that are returned to the generator by the designated facility (following the procedures of subsection 6 of section 33-24-05-39), the generator must:
  - a. Sign either:
    - (1) Item 20 of the new manifest if a new manifest is used for the returned shipment; or
    - (2) Item 18c of the original manifest if the original manifest is used for the returned shipment.
  - b. Provide the transporter a copy of the manifest;
  - c. Within thirty days of delivery of the rejected shipment or container residues contained in nonempty containers, send a copy of the manifest to the designated facility that returned the shipment to the generator; and
  - d. Retain at the generator's site a copy of each manifest for at least three years from the date of delivery.
8. Use of the electronic manifest. Electronic manifests are equivalent to paper manifests.
  - a. Legal equivalence to paper manifests. Electronic manifests that are obtained, completed, and transmitted in accordance with subdivision b of subsection 1 of section 33-24-03-04, and used in accordance with this subsection in lieu of environmental protection agency forms 8700-22 and 8700-22a are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in these rules to obtain, complete, sign, provide, use, or retain a manifest.
    - (1) Any requirement in these rules to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of 40 CFR 262.25.
    - (2) Any requirement in these rules to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when an electronic manifest is transmitted to the other person by submission to the system.
    - (3) Any requirement in these rules for a generator to keep or retain a copy of each manifest is satisfied by retention of a signed electronic manifest in the generator's account on the national e-manifest system, provided that such copies are readily available for viewing and production if requested by any environmental protection agency or authorized department representative.

- (4) No generator may be held liable for the inability to produce an electronic manifest for inspection under this subsection if the generator can demonstrate that the inability to produce the electronic manifest is due exclusively to a technical difficulty with the electronic manifest system for which the generator bears no responsibility.
  - b. A generator may participate in the electronic manifest system either by accessing the electronic manifest system from the generator's own electronic equipment, or by accessing the electronic manifest system from portable equipment brought to the generator's site by the transporter who accepts the hazardous waste shipment from the generator for offsite transportation.
  - c. Restriction on use of electronic manifests. A generator may prepare an electronic manifest for the tracking of hazardous waste shipments involving any hazardous waste only if it is known at the time the manifest is originated that all waste handlers named on the manifest participate in the electronic manifest system.
  - d. Requirement for one printed copy. To the extent the hazardous materials regulation on shipping papers for carriage by public highway requires shippers of hazardous materials to supply a paper document for compliance with 49 CFR 177.817, a generator originating an electronic manifest must also provide the initial transporter with one printed copy of the electronic manifest.
  - e. Special procedures when electronic manifest is unavailable. If a generator has prepared an electronic manifest for a hazardous waste shipment, but the electronic manifest system becomes unavailable for any reason prior to the time that the initial transporter has signed electronically to acknowledge the receipt of the hazardous waste from the generator, then the generator must obtain and complete a paper manifest and if necessary, a continuation sheet in accordance with the manifest instructions in appendix I to this chapter, and use these paper forms from this point forward in accordance with the requirements of subsections 1 through 5 and 7.
  - f. Special procedures for electronic signature methods undergoing tests. If a generator has prepared an electronic manifest for a hazardous waste shipment, and signs this manifest electronically using an electronic signature method which is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, then the generator shall also sign with an ink signature the generator or offeror certification on the printed copy of the manifest provided under subdivision d.
  - g. Imposition of user fee. A generator who is a user of the electronic manifest may be assessed a user fee by the environmental protection agency for the origination of each electronic manifest. The environmental protection agency shall maintain and update from time-to-time the schedule of electronic manifest user fees, which shall be determined based on current and projected system costs and level of use of the electronic manifest system. The schedule of electronic manifest user fees shall be published by the environmental protection agency as an appendix to 40 CFR Part 262.
9. Electronic manifest signatures. Electronic signature methods for the e-manifest system shall:
- a. Be a legally valid and enforceable signature under applicable environmental protection agency and other federal requirements pertaining to electronic signatures; and
  - b. Be a method that is designed and implemented in a manner that the environmental protection agency considers to be as cost-effective and practical as possible for users of the manifest.

**History:** Effective January 1, 1984; amended effective December 1, 1988; December 1, 1991; January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

### **33-24-03-08. Packaging.**

Before transporting hazardous waste or offering hazardous waste for transportation offsite, a generator must package the waste in accordance with the applicable department of transportation regulations on packaging under 49 CFR parts 173, 178, and 179.

**History:** Effective January 1, 1984.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

### **33-24-03-09. Labeling.**

Before transporting or offering hazardous waste for transportation offsite, a generator must label each package in accordance with the applicable department of transportation regulations on hazardous materials under 49 CFR part 172.

**History:** Effective January 1, 1984.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

### **33-24-03-10. Marking.**

1. Before transporting or offering hazardous waste for transportation offsite, a generator must mark each package of hazardous waste in accordance with the applicable department of transportation regulations on hazardous materials under 49 CFR part 172.
2. Before transporting hazardous waste or offering hazardous waste for transportation offsite, a generator must mark each container of one hundred nineteen gallons or less used in such transportation with the following words and information in accordance with the requirements of 49 CFR part 172.304:

HAZARDOUS WASTE - Federal Law prohibits improper disposal. If found, contact the nearest police or public safety authority or the United States Environmental Protection Agency.

Generator's Name and Address \_\_\_\_\_.

Generator's Identification Number \_\_\_\_\_.

Manifest Tracking Number \_\_\_\_\_.

**History:** Effective January 1, 1984; amended effective January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

### **33-24-03-11. Placarding.**

Before transporting hazardous waste or offering hazardous waste for transportation offsite, a generator must placard or offer the initial transporter the appropriate placards according to department of transportation regulations for hazardous materials under 49 CFR part 172, subpart F.

**History:** Effective January 1, 1984.

**General Authority:** NDCC 23-20.3-03

**33-24-03-12. Accumulation time.**

1. Except as provided in subsections 4, 5, and 6, a generator may accumulate hazardous waste onsite for ninety days or less without a permit or without having interim status provided that:
  - a. The waste is placed:
    - (1) In containers and the generator complies with the applicable requirements of sections 33-24-05-89 through 33-24-05-102 and sections 33-24-05-400 through 33-24-05-474;
    - (2) In tanks and the generator complies with the applicable requirements of sections 33-24-05-103 through 33-24-05-115 and sections 33-24-05-400 through 33-24-05-474, except subsection 3 of section 33-24-05-110 and section 33-24-05-113;
    - (3) On drip pads and the generator complies with sections 33-24-05-501 through 33-24-05-524 and maintains the following records at the facility:
      - (a) A description of procedures that will be followed to ensure that all wastes are removed from the drip pad and associated collection system at least once every ninety days; and
      - (b) Documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal; or
    - (4) In containment buildings and the generator complies with sections 33-24-05-475 through 33-24-05-500 and has placed its professional engineer certification that the building complies with the design standards specified in section 33-24-05-476 in the facility's operating record no later than sixty days after the date of initial operation of the unit. After February 18, 1993, professional engineer certification will be required prior to operation of the unit. The owner or operator shall maintain the following records at the facility:
      - (a) A written description of procedures to ensure that each waste volume remains in the unit for no more than ninety days, a written description of the waste generation and management practices for the facility showing that they are consistent with respecting the ninety-day limit, and documentation that the procedures are complied with; or
      - (b) Documentation that the unit is emptied at least once every ninety days.

In addition, such a generator is exempt from all the requirements in sections 33-24-05-59 through 33-24-05-88, except for sections 33-24-05-60 and 33-24-05-63;

- b. The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;
- c. While being accumulated onsite, each container and tank is properly labeled or marked with the words "Hazardous Waste"; and
- d. The generator complies with the requirements for owners or operators in sections 33-24-05-15 through 33-24-05-36, with section 33-24-05-07, and with all applicable requirements under sections 33-24-05-250 through 33-24-05-299.

2. A generator of one thousand kilograms or greater of hazardous waste in a calendar month, or greater than one kilogram of acute hazardous waste listed in section 33-24-02-16 or subsection 5 of section 33-24-02-18 in a calendar month, who accumulates hazardous waste or acute hazardous waste for more than ninety days is an operator of a storage facility and is subject to the requirements of sections 33-24-05-01 through 33-24-05-190, 33-24-05-300 through 33-24-05-524, 33-24-05-550 through 33-24-05-559, 33-24-05-800 through 33-24-05-819, 33-24-05-950 through 33-24-05-1149, subsection 5 of section 33-24-06-16 and the permit requirements of chapter 33-24-06 unless the generator has been granted an extension to the ninety-day period. Such extension may be granted by the department if hazardous wastes must remain onsite for longer than ninety days due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to thirty days may be granted at the discretion of the department on a case-by-case basis.
3. A generator may accumulate as much as fifty-five gallons of hazardous waste or one quart of acutely hazardous waste listed in section 33-24-02-16 or subsection 5 of section 33-24-02-18 in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with subsections 1 or 4 provided the operator:
  - a. Complies with sections 33-24-05-90, 33-24-05-91, and subsection 1 of section 33-24-05-92; and
  - b. Marks the operator's containers either with the words "Hazardous Waste" or with other words that identify the contents of the containers.
  - c. A generator who accumulates either hazardous waste or acutely hazardous waste listed in section 33-24-02-16 or subsection 5 of section 33-24-02-18 in excess of the amounts listed in subsection 3 at or near any point of generation must, with respect to that amount of excess waste, comply within three days with subsection 1 or other applicable provisions of this section. During the three-day period, the generator must continue to comply with subdivisions a and b. The generator must mark the container holding the excess accumulation of hazardous waste with the date the excess amount began accumulating.
4. A generator who generates greater than one hundred kilograms but less than one thousand kilograms of hazardous waste in a calendar month may accumulate hazardous waste onsite for one hundred eighty days or less without a permit or without having interim status provided that:
  - a. The quantity of waste accumulated onsite never exceeds six thousand kilograms;
  - b. The generator complies with requirements of sections 33-24-05-89 through 33-24-05-102, except sections 33-24-05-95 and 33-24-05-98;
  - c. The generator complies with the requirements of section 33-24-05-114;
  - d. The generator complies with the requirements of subdivisions b and c of subsection 1, sections 33-24-05-12 through 33-24-05-21, with all applicable requirements of sections 33-24-05-250 through 33-24-05-299; and
  - e. The generator complies with the following requirements:
    - (1) At all times there must be at least one employee either on the premises or on call (for example, available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all the emergency response measures specified in paragraph 4. This employee is the emergency coordinator.

- (2) The generator shall post the following information next to the telephone:
  - (a) The name and telephone number of the emergency coordinator;
  - (b) Location of fire extinguishers and spill control material and, if present, fire alarm; and
  - (c) The telephone number of the fire department, unless the facility has a direct alarm.
- (3) The generator shall ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies;
- (4) An emergency coordinator or the emergency coordinator's designee shall respond to any emergency that arises. The applicable responses are as follows:
  - (a) In the event of a fire, call the fire department or attempt to extinguish it using a fire extinguisher;
  - (b) In the event of a spill, contain the flow of hazardous waste to the extent possible, and as soon as is practicable, clean up the hazardous waste and any contaminated materials or soil; and
  - (c) In the event of a fire, explosion, or other release which could threaten human health outside the facility, or when the generator has knowledge that a spill has reached surface water, the generator shall immediately notify the national response center using their twenty-four-hour toll-free number 1-800-424-8802. The report must include the following information:
    - [1] The name, address, and identification number of the generator;
    - [2] Date, time, and type of incident (for example, spill or fire);
    - [3] Quantity and type of hazardous waste involved in the incident;
    - [4] Extent of injuries, if any; and
    - [5] Estimated quantity and disposition of recovered materials, if any.
5. A generator who generates greater than one hundred kilograms but less than one thousand kilograms of hazardous waste in a calendar month and who must transport the waste, or offer the waste for transportation, over a distance of two hundred miles or more for offsite treatment, storage, or disposal may accumulate hazardous waste onsite for two hundred seventy days or less without a permit or without having interim status provided the generator complies with the requirements of subsection 4.
6. A generator who generates greater than one hundred kilograms but less than one thousand kilograms of hazardous waste in a calendar month and who accumulates hazardous waste in quantities exceeding six thousand kilograms or accumulates hazardous waste for more than one hundred eighty days (or for more than two hundred seventy days if the generator shall transport the waste or offer the waste for transportation, over a distance of two hundred miles [321.87 kilometers] or more) is an operator of a storage facility and is subject to the requirements of sections 33-24-05-01 through 33-24-05-190, 33-24-05-300 through 33-24-05-524, 33-24-05-550 through 33-24-05-559, 33-24-05-800 through 33-24-05-819, 33-24-05-950 through 33-24-05-1149, subsection 5 of section 23-24-06-16 and the permit requirements of chapter 33-24-06 unless the generator has been granted an extension to one

hundred eighty days (or two hundred seventy days if applicable). Such extension may be granted by the department if hazardous waste must remain onsite for longer than one hundred eighty days (or two hundred seventy days if applicable) due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to thirty days may be granted at the discretion of the department on a case-by-case basis.

7. A generator who generates one thousand kilograms or greater of hazardous waste per calendar month who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the hazardous waste code F006, may accumulate F006 waste onsite for more than ninety days, but not more than one hundred eighty days without a permit or without having interim status provided that:
  - a. The generator has implemented pollution prevention practices that reduce the amount of any hazardous substances, pollutants, or contaminants entering F006 or otherwise released to the environment prior to its recycling;
  - b. The F006 waste is legitimately recycled through metals recovery;
  - c. No more than twenty thousand kilograms of F006 waste is accumulated onsite at any one time; and
  - d. The F006 waste is managed in accordance with the following:
    - (1) The F006 waste is placed:
      - (a) In containers and the generator complies with the applicable requirements of sections 33-24-05-89 through 33-24-05-102 and sections 33-24-05-400 through 33-24-05-474;
      - (b) In tanks and the generator complies with the applicable requirements of sections 33-24-05-103 through 33-24-05-117 and sections 33-24-05-400 through 33-24-05-474, except for subsection 3 of section 33-24-05-110 and section 33-24-05-113;
      - (c) In containment buildings and the generator complies with sections 33-24-05-475 through 33-24-05-500, and has placed its professional engineer certification that the building complies with the design standards specified in section 33-24-05-476 in the facility's operating record prior to operation of the unit. The owner or operator must maintain the following records at the facility:
        - [1] A written description of procedures to ensure that the F006 waste remains in the unit for no more than one hundred eighty days, a written description of the waste generation and management practices for the facility showing that they are consistent with the one-hundred-eighty-day limit, and documentation that the generator is complying with the procedures; or
        - [2] Documentation that the unit is emptied at least once every one hundred eighty days.
      - (d) Or any combination of subparagraphs a, b, and c, as applicable;
    - (2) In addition, such a generator is exempt from all the requirements in sections 33-24-05-59 through 33-24-05-88, except for sections 33-24-05-60 and 33-24-05-63;

- (3) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;
  - (4) While being accumulated onsite, each container and tank is labeled or marked clearly with the words, "Hazardous Waste"; and
  - (5) The generator complies with the requirements for owners or operators in sections 33-24-05-15 through 33-24-05-36, with section 33-24-05-07, and with subdivision e of subsection 1 of section 33-24-05-256.
8. A generator who generates one thousand kilograms or greater of hazardous waste per calendar month who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the hazardous waste code F006, and who must transport this waste, or offer this waste for transportation, over a distance of two hundred miles [321.87 kilometers] or more for offsite metals recovery, may accumulate F006 waste onsite for more than ninety days, but not more than two hundred seventy days without a permit or without having interim status if the generator complies with the requirements of subdivisions a through d of subsection 7.
9. A generator accumulating F006 waste in accordance with subsections 7 and 8 who accumulates F006 waste onsite for more than one hundred eighty days (or for more than two hundred seventy days if the generator must transport this waste, or offer this waste for transportation, over a distance of two hundred miles [321.87 kilometers] or more), or who accumulates more than twenty thousand kilograms of F006 waste onsite is an operator of a storage facility and is subject to the requirements of sections 33-24-05-01 through 33-24-05-190, 33-24-05-300 through 33-24-05-524, 33-24-05-550 through 33-24-05-559, 33-24-05-800 through 33-24-05-819, 33-24-05-950 through 33-24-05-1149, subsection 5 of section 33-24-06-16, and the permit requirements of chapter 33-24-06 unless the generator has been granted an extension to the one hundred eighty day (or two hundred seventy day if applicable) period or an exception to the twenty thousand kilogram accumulation limit. Such extensions and exceptions may be granted by the department if F006 waste must remain onsite for longer than one hundred eighty days (or two hundred seventy days if applicable) or if more than twenty thousand kilograms of F006 waste must remain onsite due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to thirty days or an exception to the accumulation limit may be granted at the discretion of the department on a case-by-case basis.
10. A generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and later receives that shipment back as a rejected load or residue in accordance with the manifest discrepancy provisions of section 33-24-05-39 may accumulate the returned waste onsite in accordance with subsections 1 and 2 or 4, 5 and 6, depending on the amount of hazardous waste onsite in that calendar month. Upon receipt of the returned shipment, the generator must:
  - a. Sign item 18c of the manifest, if the transporter returned the shipment using the original manifest; or
  - b. Sign item 20 of the manifest, if the transporter returned the shipment using a new manifest.

**History:** Effective January 1, 1984; amended effective October 1, 1986; December 1, 1988; December 1, 1991; January 1, 1994; July 1, 1997; December 1, 2003; January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

### **33-24-03-13. Recordkeeping.**

1. A generator must keep a copy of each manifest signed in accordance with subsection 1 of section 33-24-03-07 for three years or until the generator receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter.
2. A generator must keep a copy of each biennial report and exception report for a period of at least three years from the due date of the report.
3. A generator must keep records of any test results, waste analyses, or other determinations made in accordance with section 33-24-03-02 for at least three years from the date the waste was last sent to onsite or offsite treatment, storage, or disposal.
4. The periods for 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 department.

**History:** Effective January 1, 1984; amended effective July 1, 1997; December 1, 2003; January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

### **33-24-03-14. Biennial reporting.**

1. A generator who ships any hazardous waste offsite to a treatment, storage, or disposal facility within the United States shall prepare and submit a single copy of a biennial report to the department by March first of each even-numbered year. The biennial report must be submitted on department-approved forms, must cover generator activities during the previous calendar year, and must include the following information:
  - a. The identification number, name, and address of the generator;
  - b. The calendar year covered by the report;
  - c. The identification number, name, and address for each offsite treatment, storage, or disposal facility in the United States to which waste was shipped during the year;
  - d. The name and identification number of each transporter used during the reporting year for shipments to a treatment, storage, or disposal facility within the United States;
  - e. A description, hazardous waste number (from chapter 33-24-02), department of transportation hazard class, and quantity of each hazardous waste shipped offsite for shipments to a treatment, storage, or disposal facility within the United States. This information must be listed by identification number of each such offsite facility to which waste was shipped;
  - f. A description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated;
  - g. A description of the changes in volume and toxicity of waste actually achieved during the year in comparison to the previous year to the extent such information is available for years prior to 1984; and
  - h. The certification signed by the generator or authorized representative.

2. Any generator who treats, stores, or disposes of hazardous waste onsite must submit a biennial report covering those wastes in accordance with the provisions of chapters 33-24-05 and 33-24-06.
3. Reporting for exports of hazardous waste is not required on the biennial report form. A separate annual report requirement is set forth in section 33-24-03-23.

**History:** Effective January 1, 1984; amended effective October 1, 1986; December 1, 1988; July 1, 1997; January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

### **33-24-03-15. Exception reporting.**

1. A generator of one thousand kilograms or greater of hazardous waste in a calendar month, or greater than one kilogram of acute hazardous waste listed in section 33-24-02-16 or subsection 5 of section 33-24-02-18 in a calendar month, who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within thirty-five days of the date the waste was accepted by the initial transporter shall contact the transporter or the owner or operator, or both, of the designated facility to determine the status of the hazardous waste.
2. A generator of one thousand kilograms or greater of hazardous waste in a calendar month, or greater than one kilogram of acute hazardous waste listed in section 33-24-02-16 or subsection 5 of section 33-24-02-18 in a calendar month, must submit an exception report to the department if the generator has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within forty-five days of the date the waste was accepted by the initial transporter. The exception report must be submitted to the department within sixty days of the date the waste was accepted by the initial transporter and must include:
  - a. A legible copy of the manifest for which the generator does not have confirmation of delivery; and
  - b. A cover letter signed by the generator or the generator's authorized representative explaining the efforts taken to locate the hazardous waste and the results of those efforts.
3. A generator of greater than one hundred kilograms but less than one thousand kilograms of hazardous waste in a calendar month who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within sixty days of the date the waste was accepted by the initial transporter shall submit a legible copy of the manifest, with some indication that the generator has not received confirmation of delivery, to the department.
4. For rejected shipments of hazardous waste or container residues contained in nonempty containers that are forwarded to an alternate facility by a designated facility using a new manifest (following the procedures of paragraphs a through f of subsection 5 of section 33-24-05-39), the generator must comply with the requirements of subsections 1 through 3, as applicable, for the shipment forwarding the material from the designated facility to the alternate facility instead of for the shipment from the generator to the designated facility. For purposes of subsections 1 through 3 for a shipment forwarding such waste to an alternate facility by a designated facility:
  - a. The copy of the manifest received by the generator must have the handwritten signature of the owner or operator of the alternate facility in place of the signature of the owner or operator of the designated facility; and

- b. The thirty-five, forty-five, or sixty-day time frames begin the date the waste was accepted by the initial transporter forwarding the hazardous waste shipment from the designated facility to the alternate facility.

**History:** Effective January 1, 1984; amended effective December 1, 1988; December 1, 1991; January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

### **33-24-03-16. Additional reporting.**

1. A generator of greater than one thousand kilograms of hazardous waste in a calendar month who makes an offsite shipment of hazardous waste shall send to the department a legible copy of the signed manifest or shipping paper within twenty-one days of the date:
  - a. When first signed by the generator and transporter; and
  - b. As signed by and received from the designated facility or alternate facility.
2. The department, as it deems necessary, may require generators to furnish additional reports concerning the quantities and disposition of wastes identified or listed in this article.

**History:** Effective January 1, 1984; amended effective October 1, 1986; December 1, 1988.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

### **33-24-03-17. Exports of hazardous waste.**

Sections 33-24-03-17 through 33-24-03-25 establish requirements applicable to exports of hazardous waste. Except to the extent section 33-24-03-25 provides otherwise, a primary exporter of hazardous waste must comply with the special requirements of sections 33-24-03-17 through 33-24-03-25 and a transporter transporting hazardous waste for export shall comply with applicable requirements of chapter 33-24-04. Section 33-24-03-25 sets forth the requirements of international agreements between the United States and receiving countries which establish different notice, export, and enforcement procedures for the transportation, treatment, storage, and disposal of hazardous waste for shipments between the United States and those countries.

**History:** Effective January 1, 1984; amended effective October 1, 1986; December 1, 1988; July 1, 1997; January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

### **33-24-03-18. Definitions.**

In addition to the definitions set forth in section 33-24-01-04, the following definitions apply to sections 33-24-03-17 through 33-24-03-25:

1. "Consignee" means the ultimate treatment, storage, or disposal facility in a receiving country to which the hazardous waste will be sent.
2. "Environmental protection agency acknowledgment of consent" means the cable sent to the environmental protection agency from the United States embassy in a receiving country that acknowledges the written consent of the receiving country to accept the hazardous waste and describes the terms and conditions of the receiving country's consent to the shipment.
3. "Primary exporter" means any person who is required to originate the manifest for a shipment of a hazardous waste in accordance with chapter 33-24-03, which specifies a treatment,

storage, or disposal facility in a receiving country as the facility to which the hazardous waste will be sent and any intermediary arranging for the export.

4. "Receiving country" means a foreign country to which a hazardous waste is sent for the purpose of treatment, storage, or disposal (except short-term storage incidental to transportation).
5. "Transit country" means any foreign country, other than a receiving country, through which a hazardous waste is transported.

**History:** Effective January 1, 1984; amended effective December 1, 1988.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

### **33-24-03-19. General requirements.**

Exports of hazardous wastes are prohibited except in compliance with the applicable requirements of sections 33-24-03-17 through 33-24-03-25 and chapter 33-24-04. Exports of hazardous waste are prohibited unless:

1. Notification in accordance with section 33-24-03-20 has been provided;
2. The receiving country has consented to accept the hazardous waste;
3. A copy of the environmental protection agency acknowledgment of consent to the shipment accompanies the hazardous waste shipment and, unless exported by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment)); and
4. The hazardous waste shipment conforms to the terms of the receiving country's written consent as reflected in the environmental protection agency acknowledgment of consent.

**History:** Effective December 1, 1988.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

### **33-24-03-20. Notification of intent to export.**

1. A primary exporter of hazardous waste shall notify the department and the environmental protection agency of an intended export before such waste is 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 primary exporter, and include the following information:
  - a. Name, mailing address, telephone number, and identification number of the primary exporter; and
  - b. By consignee, for each hazardous waste type:
    - (1) A description of the hazardous waste and hazardous waste number (from chapter 33-24-02), United States department of transportation proper shipping name, hazard class, and identification number (UN/NA) for each hazardous waste as identified in 49 CFR part 171-177;
    - (2) The estimated frequency or rate at which such waste is to be exported and the period of time over which such waste is to be exported;

- (3) The estimated total quantity of the hazardous waste in units as specified in the instructions to the uniform hazardous waste manifest form (8700-22);
  - (4) All points of entry to and departure from each foreign country through which the hazardous waste will pass;
  - (5) A description of the means by which each shipment of the hazardous waste will be transported (for example, mode of transportation vehicle (air, highway, rail, water, etc.)), types of container (drums, boxes, tanks, etc.);
  - (6) A description of the manner in which the hazardous waste will be treated, stored, or disposed of in the receiving country (for example, land or ocean incineration, other land disposal, ocean dumping, recycling);
  - (7) The name and site address of the consignee and any alternate consignee; and
  - (8) The name of any transit countries through which the hazardous waste will be sent and a description of the approximate length of time the hazardous waste will remain in such country and the nature of its handling while there.
2. Notifications sent by mail must be sent to the department and to the following mailing address: 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. Hand-delivered notifications should be sent to: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division, Environmental Protection Agency, Ariel Rios Building, Room 6144, 12<sup>th</sup> Street and Pennsylvania Avenue NW., Washington, D.C. 20004. In both cases, the following shall be prominently displayed on the front of the envelope: "Attention: Notification of Intent to Export".
  3. Except for changes to the telephone number in subdivision a of subsection 1, changes to paragraph 5 of subdivision b of subsection 1, and decreases in the quantity indicated pursuant to paragraph 3 of subdivision b of subsection 1 when the conditions specified on the original notification change (including any exceedance of the estimate of the quantity of hazardous waste specified in the original notification), the primary exporter shall provide the department and the environmental protection agency with a written renotification of the change. The shipment cannot take place until consent of the receiving country to the changes (except for changes to paragraph 8 of subdivision b of subsection 1 and in the ports of entry to and departure from transit countries pursuant to paragraph 4 of subdivision b of subsection 1) has been obtained and the primary exporter receives an environmental protection agency acknowledgment of consent reflecting the receiving country's consent to the changes.
  4. Upon request by the department or the environmental protection agency, a primary exporter shall furnish to the department or the environmental protection agency any additional information which a receiving country requests in order to respond to a notification.
  5. A notification is complete when the department receives a notification which the department determines satisfies the requirements of subsection 1 and the requirements of the environmental protection agency such that an environmental protection agency acknowledgment of consent is issued to the primary exporter.
  6. The primary exporter shall provide the department with a copy of the environmental protection agency acknowledgment of consent prior to shipment offsite.

**History:** Effective December 1, 1988; amended effective January 1, 1994; July 1, 1997; December 1, 2003; January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

**33-24-03-21. Special manifest requirements.**

A primary exporter shall comply with the manifest requirements of sections 33-24-03-04 through 33-24-03-07 except that:

1. In lieu of the name, site address, and identification number of the designated permitted facility, the primary exporter shall enter the name and site address of the consignee;
2. In lieu of the name, site address, and identification number of a permitted alternate facility, the primary exporter may enter the name and site address of any alternate consignee;
3. In the International Shipments block, the primary exporter must check the export box and enter the point of exit (city and state) from the United States;
4. The following statement must be added to the end of the first sentence of the certification set forth in item 16 of the uniform hazardous waste manifest form: "and conforms to the terms of the attached environmental protection agency acknowledgment of consent";
5. The primary exporter may obtain the manifest from any source that is registered with the United States environmental protection agency as a supplier of manifests (for example, states, waste handlers, or commercial forms printers);
6. The primary exporter shall require the consignee to confirm in writing the delivery of the hazardous waste to that facility and to describe any significant discrepancies (as defined in subsection 1 of section 33-24-05-39) between the manifest and the shipment. A copy of the manifest signed by such facility may be used to confirm delivery of the hazardous waste;
7. In lieu of the requirements of subsection 4 of section 33-24-03-04, where a shipment cannot be delivered for any reason to the designated or alternate consignee, the primary exporter shall:
  - a. Renotify the state and the environmental protection agency of a change in the conditions of the original notification to allow shipment to a new consignee in accordance with subsection 3 of section 33-24-03-20 and obtain an environmental protection agency acknowledgment of consent prior to delivery; or
  - b. Instruct the transporter to return the waste to the primary exporter in the United States or designate another facility within the United States; and
  - c. Instruct the transporter to revise the manifest in accordance with the primary exporter's instructions.
8. The primary exporter shall attach a copy of the environmental protection agency acknowledgment of consent to the shipment to the manifest which must accompany the hazardous waste shipment. For exports by rail or water (bulk shipments), the primary exporter shall provide the transporter with an environmental protection agency acknowledgment of consent which must accompany the hazardous waste but which need not be attached to the manifest except that for exports by water (bulk shipments) the primary exporter shall attach the copy of the environmental protection agency acknowledgment of consent to the shipping paper; and
9. The primary exporter shall provide the transporter with an additional copy of the manifest for delivery to the United States customs official at the point the hazardous waste leaves the United States in accordance with subdivision d of subsection 7 of section 33-24-04-04.

**History:** Effective December 1, 1988; amended effective January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

### **33-24-03-22. Exception reports for exporters.**

In lieu of the requirements of section 33-24-03-15, a primary exporter shall file an exception 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 department if any of the following occurs:

1. The primary exporter has not received a copy of the manifest signed by the transporter stating the date and place of departure from the United States within forty-five days from the date it was accepted by the initial transporter; or
2. Within ninety days from the date the waste was accepted by the initial transporter, the primary exporter has not received written confirmation from the consignee that the hazardous waste was received; or
3. The waste is returned to the United States.

**History:** Effective December 1, 1988; amended effective January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

### **33-24-03-23. Annual reports for exporters.**

1. Primary exporters of hazardous waste shall file with the environmental protection agency administrator and the department no later than March first of each year, a report summarizing the types, quantities, frequency, and ultimate destination of all hazardous waste exported during the previous calendar year. Such reports must include the following:
  - a. The identification number, name, mailing, and site address of the exporter;
  - b. The calendar year covered by the report;
  - c. The name and site address of each consignee;
  - d. By consignee, for each hazardous waste exported, a description of the hazardous waste, the hazardous waste number (from chapter 33-24-02), department of transportation hazard class, the name and identification number (where applicable) for each transporter used, the total amount of waste shipped, and number of shipments pursuant to each notification;
  - e. Except for hazardous waste produced by exporters of greater than one hundred kilograms but less than one thousand kilograms in a calendar month, unless provided pursuant to section 33-24-03-14, in even-numbered years:
    - (1) A description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated; and
    - (2) A description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent such information is available for years prior to 1984.
  - f. A certification signed by the primary exporter which states: I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals

immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment.

2. Annual reports submitted by mail must be sent to the department and to the following mailing address: 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. Hand-delivered reports should be sent to: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division, Environmental Protection Agency, Ariel Rios Building, Room 6144, 12<sup>th</sup> Street and Pennsylvania Avenue NW, Washington, D.C. 20004.

**History:** Effective December 1, 1988; amended effective January 1, 1994; July 1, 1997; January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

### **33-24-03-24. Recordkeeping.**

1. For all exports a primary exporter shall:
  - a. Keep a copy of each notification of intent to export for a period of at least three years from the date the hazardous waste was accepted by the initial transporter;
  - b. Keep a copy of each environmental protection agency acknowledgment of consent for a period of at least three years from the date the hazardous waste was accepted by the initial transporter;
  - c. Keep a copy of each confirmation of delivery of the hazardous waste from the consignee for at least three years from the date the hazardous waste was accepted by the initial transporter; and
  - d. Keep a copy of each annual report for a period of at least three years from the due date of the report.
2. 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 department or the administrator.

**History:** Effective December 1, 1988; amended effective January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

### **33-24-03-25. International agreements.**

1. Any person who exports or imports wastes that are considered hazardous under United States national procedures to or from designated member countries of the Organization for Economic Cooperation and Development as defined in subdivision a for purposes of recovery is subject to sections 33-24-03-50 through 33-24-03-59. The requirements of sections 33-24-03-17 through 33-24-03-25 and section 33-24-03-30 do not apply to such exports and imports. A waste is considered hazardous under United States national procedures if the waste meets the federal definition of hazardous waste in 40 CFR 261.3 and is subject to manifesting requirements at sections 33-24-03-04 through 33-24-03-07, the universal waste management standards of sections 33-24-05-700 through 33-24-05-799 or the export requirements in the spent lead-acid battery management standards of sections 33-24-05-235 through 33-24-05-249.

- a. For the purposes of sections 33-24-03-50 through 33-24-03-59, the designated Organization for Economic Cooperation and Development member countries consist of Australia, Austria, Belgium, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Poland, Portugal, the Republic of Korea, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, the United Kingdom, and the United States.
  - b. For the purposes of sections 33-24-03-50 through 33-24-03-59, Canada and Mexico are considered Organization for Economic Cooperation and Development member countries only for the purposes of transit.
2. Any person who exports hazardous waste to or imports hazardous waste from: A designated Organization for Economic Cooperation and Development member country for purposes other than recovery (for example, incineration, disposal), Mexico (for any purpose), or Canada (for any purpose) remains subject to the requirements of sections 33-24-03-17 through 33-24-03-25 and section 33-24-03-30, and is not subject to the requirements of sections 33-24-03-50 through 33-24-03-59.

**History:** Effective January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

**33-24-03-26. [Reserved]**

**33-24-03-27. [Reserved]**

**33-24-03-28. [Reserved]**

**33-24-03-29. [Reserved]**

**33-24-03-30. Imports of hazardous waste.**

1. Any person who imports hazardous waste from a foreign country into the United States shall comply with the requirements of this chapter and the special requirements of this section.
2. When importing a hazardous waste, a person shall meet all the requirements of section 33-24-03-04 for the manifest except that:
  - a. In place of the generator's name, address, and identification number, the name and address of the foreign generator and the importer's name, address, and identification number must be used.
  - b. In place of the generator's signature on the certification statement, the United States importer or his agent shall sign and date the certification and obtain the signature of the initial transporter.
3. A person who imports hazardous waste may obtain the manifest form from any source that is registered with the United States environmental protection agency as a supplier of manifests (for example, states, waste handlers, or commercial forms printers).
4. In the International Shipments block, the importer must check the import box and enter the point of entry (city and state) into the United States.

5. The importer must provide the transporter with additional copies of the manifest to be submitted by the receiving facility to the environmental protection agency and the department in accordance with subdivision c of subsection 1 of section 33-24-05-38 and the applicable requirements of subsection 5 of section 33-24-06-16.

**History:** Effective December 1, 1988; amended effective January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

**33-24-03-31. [Reserved]**

**33-24-03-32. [Reserved]**

**33-24-03-33. [Reserved]**

**33-24-03-34. [Reserved]**

**33-24-03-35. [Reserved]**

**33-24-03-36. [Reserved]**

**33-24-03-37. [Reserved]**

**33-24-03-38. [Reserved]**

**33-24-03-39. [Reserved]**

**33-24-03-40. Farmers.**

A farmer disposing of waste pesticides from the farmer's own use which are hazardous wastes is not required to comply with the standards in this chapter or chapters 33-24-05 and 33-24-06 for those wastes provided the farmer triple rinses each emptied pesticide container in accordance with subdivision a, b, or c of subsection 5 of section 33-24-02-07 and disposes of the pesticide residues on the farmer's own farm in a manner consistent with the disposal instructions on the pesticide label.

**History:** Effective December 1, 1988; amended effective December 1, 2003; January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

**33-24-03-41. [Reserved].**

**33-24-03-42. [Reserved].**

**33-24-03-43. [Reserved].**

**33-24-03-44. [Reserved].**

**33-24-03-45. [Reserved].**

**33-24-03-46. [Reserved].**

**33-24-03-47. [Reserved].**

**33-24-03-48. [Reserved].**

**33-24-03-49. [Reserved].**

**33-24-03-50. Transboundary movements of hazardous waste for recovery within the Organization for Economic Cooperation and Development.**

Sections 33-24-03-50 through 33-24-03-59 establish requirements applicable to transboundary movements of hazardous waste for recovery within the Organization for Economic Cooperation and Development.

1. The requirements of sections 33-24-03-50 through 33-24-03-59 apply to imports and exports of wastes that are considered hazardous under United States national procedures and are destined for recovery operations in the countries listed in subdivision a of subsection 1 of section 33-24-03-25. A waste is considered hazardous under United States national procedures if the waste:
  - a. Meets the federal definition of a hazardous waste in 40 CFR 261.3; and
  - b. Is subject to the manifesting requirements at sections 33-24-03-04 through 33-24-03-07, the universal waste management standards of sections 33-24-05-700 through 33-24-05-799 or the export requirements in the spent lead-acid battery management standards of sections 33-24-05-235 through 33-24-05-249.
2. Any person (exporter, importer, or recovery facility operator) who mixes two or more wastes (including hazardous and nonhazardous wastes) or otherwise subjects two or more wastes (including hazardous and nonhazardous wastes) to physical or chemical transformation operations, and thereby creates a new hazardous waste, becomes a generator and assumes all subsequent generator duties under chapter 33-24-03 and any exporter duties, if applicable, under sections 33-24-03-50 through 33-24-03-59.

**History:** Effective January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

**33-24-03-51. Definitions.**

In addition to the definitions set forth in section 33-24-01-04, the following definitions apply to sections 33-24-03-50 through 33-24-03-59:

1. "Competent authority" means the regulatory authority or authorities of concerned countries having jurisdiction over transboundary movements of wastes destined for recovery operations.
2. "Countries concerned" means the Organization for Economic Cooperation and Development member countries of export or import and any Organization for Economic Cooperation and Development member countries of transit.
3. "Country of export" means any designated Organization for Economic Cooperation and Development member country listed in subdivision a of subsection 1 of section 33-24-03-25

from which a transboundary movement of hazardous wastes is planned to be initiated or is initiated.

4. "Country of import" means any designated Organization for Economic Cooperation and Development member country listed in subdivision a of subsection 1 of section 33-24-03-25 to which a transboundary movement of hazardous wastes is planned or takes place for the purpose of submitting the wastes to recovery operations therein.
5. "Country of transit" means any designated Organization for Economic Cooperation and Development member country listed in subdivisions a and b of subsection 1 of section 33-24-03-25 other than the country of export or country of import across which a transboundary movement of hazardous wastes is planned or takes place.
6. "Exporter" means the person under the jurisdiction of the country of export who has, or will have at the time the planned transboundary movement commences, possession or other forms of legal control of the wastes and who proposes transboundary movement of the hazardous wastes for the ultimate purpose of submitting them to recovery operations. When the United States is the country of export, exporter is interpreted to mean a person domiciled in the United States.
7. "Importer" means the person to whom possession or other form of legal control of the waste is assigned at the time the waste is received in the country of import.
8. "Organization for Economic Cooperation and Development area" means all land or marine areas under the national jurisdiction of any Organization for Economic Cooperation and Development member country listed in section 33-24-03-25. When the regulations refer to shipments to or from an Organization for Economic Cooperation and Development member country, this means Organization for Economic Cooperation and Development area.
9. "OECD" means the Organization for Economic Cooperation and Development.
10. "Recognized trader" means a person who, with appropriate authorization of countries concerned, acts in the role of principal to purchase and subsequently sell wastes; this person has legal control of such wastes from time of purchase to time of sale; such a person may act to arrange and facilitate transboundary movements of wastes destined for recovery operations.
11. "Recovery facility" means a facility which, under applicable domestic law, is operating or is authorized to operate in the country of import to receive wastes and to perform recovery operations on them.
12. "Recovery operations" means activities leading to resource recovery, recycling, reclamation, direct reuse or alternative uses, which include:
  - a. R1 - Use as a fuel (other than in direct incineration) or other means to generate energy.
  - b. R2 - Solvent reclamation/regeneration.
  - c. R3 - Recycling/reclamation of organic substances which are not used as solvents.
  - d. R4 - Recycling/reclamation of metals and metal compounds.
  - e. R5 - Recycling/reclamation of other inorganic materials.
  - f. R6 - Regeneration of acids or bases.
  - g. R7 - Recovery of components used for pollution abatement.

- h. R8 - Recovery of components used from catalysts.
  - i. R9 - Used oil rerefining or other reuses of previously used oil.
  - j. R10 - Land treatment resulting in benefit to agriculture or ecological improvement.
  - k. R11 - Uses of residual materials obtained from any of the operations numbered R1 through R10.
  - l. R12 - Exchange of wastes for submission to any of the operations numbered R1 through R11.
  - m. R13 - Accumulation of material intended for any operation numbered R1 through R12.
13. "Transboundary movement" means any movement of wastes from an area under the national jurisdiction of one Organization for Economic Cooperation and Development member country to an area under the national jurisdiction of another Organization for Economic Cooperation member country.

**History:** Effective January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

**33-24-03-52. General conditions.**

1. The level of control for exports and imports of waste is indicated by assignment of the waste to either a list of wastes subject to the Green control procedures or a list of wastes subject to the Amber control procedures and by the national procedures of the United States, as defined in subsection 1 of section 33-24-03-50. The Organization for Economic Cooperation and Development Green and Amber lists are incorporated by reference in subsection 4 of section 33-24-03-59.
  - a. Listed wastes subject to the Green control procedures.
    - (1) Green wastes that are not considered hazardous under United States national procedures as defined in subsection 1 of section 33-24-03-50 are subject to existing controls normally applied to commercial transactions.
    - (2) Green wastes that are considered hazardous under United States national procedures as defined in subsection 1 of section 33-24-03-50 are subject to the Amber control procedures set forth in sections 33-24-03-50 through 33-24-03-59.
  - b. Listed wastes subject to the Amber control procedures.
    - (1) Amber wastes that are considered hazardous under United States national procedures as defined in subsection 1 of section 33-24-03-50 are subject to the Amber control procedures set forth in sections 33-24-03-50 through 33-24-03-59.
    - (2) Amber wastes that are considered hazardous under United States national procedures as defined in subsection 1 of section 33-24-03-50, are subject to the Amber control procedures in the United States, even if they are imported to or exported from a designated member country listed in subdivision a of subsection 1 of section 33-24-03-25 that does not consider the waste to be hazardous. In such an event, the responsibilities of the Amber control procedures shift as provided.
      - (a) For United States exports, the United States shall issue an acknowledgment of receipt and assume other responsibilities of the competent authority of the country of import.

- (b) For United States imports, the United States recovery facility or importer, or both, and the United States shall assume the obligations associated with the Amber control procedures that normally apply to the exporter and country of export, respectively.
- (3) Amber wastes that are not considered hazardous under United States national procedures as defined in subsection 1 of section 33-24-03-50, but are considered hazardous by an Organization for Economic Cooperation and Development member country are subject to the Amber control procedures in the Organization for Economic Cooperation and Development member country that considers the waste hazardous. All responsibilities of the United States importer or exporter, or both, shift to the importer or exporter, or both, of the Organization for Economic Cooperation and Development member country that considers the waste hazardous unless the parties make other arrangements through contracts.

[Note to subdivision b: Some wastes subject to the Amber control procedures are not listed or otherwise identified as hazardous under the Resource Conservation and Recovery Act, and therefore are not subject to the Amber control procedures of sections 33-24-03-50 through 33-24-03-59. Regardless of the status of the waste under the Resource Conservation and Recovery Act, however, other federal environmental statutes (for example, the Toxic Substances Control Act) restrict certain waste imports or exports. Such restrictions continue to apply with regard to sections 33-24-03-50 through 33-24-03-59.]

c. Procedures for mixtures of wastes.

- (1) A Green waste that is mixed with one or more other Green wastes such that the resulting mixture is not considered hazardous under United States national procedures as defined in subsection 1 of section 33-24-03-50 shall be subject to the Green control procedures, provided the composition of this mixture does not impair its environmentally sound recovery.

[Note to paragraph 1: The regulated community should note that some Organization for Economic Cooperation and Development member countries may require, by domestic law, that mixtures of different Green wastes be subject to the Amber control procedures.]

- (2) A Green waste that is mixed with one or more Amber wastes, in any amount, de minimis or otherwise, or a mixture of two or more Amber wastes, such that the resulting waste mixture is considered hazardous under United States national procedures as defined in subsection 1 of section 33-24-03-50 are subject to the Amber control procedures, provided the composition of this mixture does not impair its environmentally sound recovery.

[Note to paragraph 2: The regulated community should note that some Organization for Economic Cooperation and Development member countries may require, by domestic law, that a mixture of a Green waste and more than a de minimis amount of an Amber waste or a mixture of two or more Amber wastes be subject to the Amber control procedures.]

d. Wastes not yet assigned to an Organization for Economic Cooperation and Development waste list are eligible for transboundary movements, as follows:

- (1) If such wastes are considered hazardous under United States national procedures as defined in subsection 1 of section 33-24-03-50, such wastes are subject to the Amber control procedures.

- (2) If such wastes are not considered hazardous under United States national procedures as defined in subsection 1 of section 33-24-03-50, such wastes are subject to the Green control procedures.

2. **General conditions applicable to transboundary movements of hazardous waste:**

- a. The waste must be destined for recovery operations at a facility that, under applicable domestic law, is operating or is authorized to operate in the importing country;
- b. The transboundary movement must be in compliance with applicable international transport agreements; and

[Note to subdivision b: These international agreements include, but are not limited to, the Chicago Convention (1944), ADR (1957), ADN (1970), MARPOL Convention (1973/1978), SILAS Convention (1974), IMDG Code (1985), COTIF (1985), and RID (1985).]

- c. Any transit of waste through a non-Organization for Economic Cooperation and Development member country must be conducted in compliance with all applicable international and national laws and regulations.

3. **Provisions relating to re-export for recovery to a third country:**

- a. Re-export of wastes subject to the Amber control procedures from the United States, as the country of import, to a third country listed in subdivision a of subsection 1 of section 33-24-03-25 may occur only after an exporter in the United States provides notification to and obtains consent from the competent authorities in the third country, the original country of export, and any transit countries. The notification must comply with the notice and consent procedures in section 33-24-03-53 for all countries concerned and the original country of export. The competent authorities of the original country of export, as well as the competent authorities of all other countries concerned have thirty days to object to the proposed movement.

- (1) The thirty-day period begins once the competent authorities of both the initial country of export and new country of import issue Acknowledgments of Receipt of the notification.

- (2) The transboundary movement may commence if no objection has been lodged after the thirty-day period has passed or immediately after written consent is received from all relevant Organization for Economic Cooperation and Development importing and transit countries.

- b. In the case of re-export of Amber wastes to a country other than those listed in subdivision a of subsection 1 of section 33-24-03-25, notification to and consent of the competent authorities of the Organization for Economic Cooperation and Development member country of export and any Organization for Economic Cooperation and Development member countries of transit is required as specified in subdivision a, in addition to compliance with all international agreements and arrangements to which the first importing Organization for Economic Cooperation and Development member country is a party and all applicable regulatory requirements for exports from the first country of import.

4. **Duty to return or re-export wastes subject to the Amber control procedures.** 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 re-exported to a third country. The following provisions apply to shipments to be returned to the country of export as appropriate:

- a. 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.
- b. 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.

5. **Duty to return wastes subject to the Amber control procedures from a country of transit.** 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:

- a. 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.
- b. 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.

6. **Requirements for wastes destined for and received by R12 and R13 facilities.** The transboundary movement of wastes destined for R12 and R13 operations must comply with all Amber control procedures for notification and consent as set forth in section 33-24-03-53 and for the movement document as set forth in section 33-24-03-54. Additional responsibilities of R12 or R13, or both, facilities include:

- a. Indicating in the notification document the foreseen recovery facility or facilities where the subsequent R1 through R11 recovery operation takes place or may take place.
  - b. Within three days of the receipt of the wastes by the R12 or R13, or both, recovery facility or facilities, the facilities shall return a signed copy of the movement document to the exporter and to the competent authorities of the countries of export and import. The facilities shall retain the original of the movement document for three years.
  - c. 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.
  - d. When an R12 or R13, or both, recovery facility delivers wastes for recovery to an R1 through R11 recovery facility located in the country of import, it shall obtain as soon as possible, but no later than one calendar year following delivery of the waste, a certification from the R1 through R11 facility that recovery of the wastes at that facility has been completed. The R12 or R13, or both, facility must promptly transmit the applicable certification to the competent authorities of the countries of import and export, identifying the transboundary movements to which the certification pertain.
  - e. When an R12 or R13, or both, recovery facility delivers wastes for recovery to an R1 through R11 recovery facility located:
    - (1) In the initial country of export, Amber control procedures apply including a new notification;
    - (2) In a third country other than the initial country of export, Amber control procedures apply, with the additional provision that the competent authority of the initial country of export shall also be notified of the transboundary movement.
7. **Laboratory analysis exemption.** The transboundary movement of an Amber waste is exempt from the Amber control procedures if it is in certain quantities and destined for laboratory analysis to assess its physical or chemical characteristics, or to determine its suitability for recovery operations. The quantity of such waste shall be determined by the minimum quantity reasonably needed to perform the analysis in each particular case adequately but in no case exceed twenty-five kilograms. Waste destined for laboratory analysis must still be appropriately packaged and labeled.

**History:** Effective January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

### **33-24-03-53. Notification and consent.**

1. **Applicability.** Consent must be obtained from the competent authorities of the relevant Organization for Economic Cooperation and Development countries of import and transit prior to exporting hazardous waste destined for recovery operations subject to sections 33-24-03-50 through 33-24-03-59. Hazardous wastes subject to the Amber control procedures are subject to the requirements of subsection 2; and wastes not identified on any list are subject to the requirements of subsection 3.

2. **Amber wastes.** Exports of hazardous wastes from the United States as described in subsection 1 of section 33-24-03-50 that are subject to the Amber control procedures are prohibited unless the notification and consent requirements of subdivision a or b of subsection 2 are met.
  - a. Transactions requiring specific consent:
    - (1) **Notification.** 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.
    - (2) **Tacit consent.** If no objection has been lodged by any countries concerned (for example, exporting, importing, or transit) to a notification provided pursuant to paragraph 1 within thirty days after the date of issuance of the acknowledgment of receipt of notification by the competent authority of the country of import, the transboundary movement may commence. Tacit consent expires one calendar year after the close of the thirty-day period; renotification and renewal of all consents are required for exports after that date.
    - (3) **Written consent.** If the competent authorities of all the relevant Organization for Economic Cooperation and Development importing and transit countries provide written consent in a period less than thirty days, the transboundary movement may commence immediately after all necessary consents are received. Written consent expires for each relevant Organization for Economic Cooperation and Development importing and transit country one calendar year after that date of that country's consent unless otherwise specified; renotification and renewal of each expired consent is required for exports after that date.
  - b. Transboundary movements to facilities preapproved by the competent authorities of the importing countries to accept specific wastes for recovery:
    - (1) **Notification.** 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.

- (2) Exports to preapproved facilities may take place after the elapse of seven working days from the issuance of an acknowledgment of receipt of the notification by the competent authority of the country of import unless the exporter has received information indicating that the competent authority of any countries concerned objects to the shipment.
3. **Wastes not covered in the Organization for Economic Cooperation and Development Green and Amber lists.** Wastes destined for recovery operations, that have not been assigned to the Organization for Economic Cooperation and Development Green and Amber lists, incorporated by reference in subsection 4 of section 33-24-03-59, but which are considered hazardous under United States national procedures as defined in subsection 1 of section 33-24-03-50, are subject to the notification and consent requirements established for the Amber control procedures in accordance with subsection 2. Wastes destined for recovery operations, that have not been assigned to the Organization for Economic Cooperation and Development Green and Amber lists incorporated by reference in subsection 4 of section 33-24-03-59, and are not considered hazardous under United States national procedures as defined by subsection 1 of section 33-24-03-50 are subject to the Green control procedures.
  4. **Notifications submitted under this section must include the following information:**
    - a. Serial number or other accepted identifier of the notification document;
    - b. Exporter name and identification number (if applicable), address, telephone, fax numbers, and email address;
    - c. Importing recovery facility name, address, telephone, fax number, email address, and technologies employed;
    - d. Importer name (if not the owner or operator of the recovery facility), address, telephone, fax numbers, and email address; whether the importer will engage in waste exchange recovery operation R12 or waste accumulation recovery operation R13 prior to delivering the waste to the final recovery facility and identification of recovery operations to be employed at the final recovery facility;
    - e. Intended transporters or their agents, or both, address, telephone, fax, and email address;
    - f. Country of export and relevant competent authority, and point of departure;
    - g. Countries of transit and relevant competent authorities and points of entry and departure;
    - h. Country of import and relevant competent authority, and point of entry;
    - i. Statement of whether the notification is a single notification or a general notification. If general, include period of validity requested;
    - j. Dates foreseen for commencement of transboundary movements;
    - k. Means of transport envisaged;
    - l. Designation of waste types from the appropriate Organization for Economic Cooperation and Development list incorporated by reference in subsection 4 of section 33-24-03-59,

descriptions of each waste type, estimated total quantity of each, hazardous waste code, and the United Nations number for each waste type;

- m. Specification of the recovery operations as defined in section 33-24-03-51.
- n. Certification signed by the exporter that states:

I certify that the above information is complete and correct to the best of my knowledge. I also certify that legally-enforceable written contractual obligations have been entered into, and that any applicable insurance or other financial guarantees are or shall be in force covering the transboundary movement.

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

[Note to subdivision n: The United States does not currently require financial assurance for these waste shipments. However, United States exporters may be asked by other governments to provide and certify to such assurance as a condition of obtaining consent to a proposed movement.]

- 5. **Certificate of Recovery.** As soon as possible, but no later than thirty days after the completion of recovery and no later than one calendar year following receipt of the waste, the United States recovery facility shall send a certificate of recovery to the exporter and to the competent authorities of the countries of export and import by mail, email without a digital signature followed by mail, or fax followed by mail. The certificate of recovery shall include a signed, written and dated statement that affirms that the waste materials were recovered in the manner agreed to by the parties to the contract required under section 33-24-03-55.

**History:** Effective January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

### **33-24-03-54. Movement document.**

- 1. All United States parties subject to the contract provisions of section 33-24-03-55 must ensure that a movement document meeting the conditions of subsection 2 of this section accompanies each transboundary movement of wastes subject to the Amber control procedures from the initiation of the shipment until it reaches the final recovery facility, including cases in which the waste is stored or sorted, or both, by the importer prior to shipment to the final recovery facility, except as provided in subdivisions a and b of subsection 1.
  - a. For shipments of hazardous waste within the United States solely by water (bulk shipments only), the generator must forward the movement document with the manifest to the last water (bulk shipment) transporter to handle the waste in the United States if exported by water (in accordance with the manifest routing procedures at subsection 3 of section 33-24-03-07).
  - b. For rail shipments of hazardous waste within the United States which originate at the site of generation, the generator must forward the movement document with the manifest (in accordance with the routing procedures for the manifest in subsection 4 of section 33-24-03-07) to the next nonrail transporter, if any, or the last rail transporter to handle the waste in the United States if exported by rail.

2. The movement document must include all information required under section 33-24-03-53 (for notification), as well as the following information:
  - a. Date movement commenced;
  - b. Name (if not exporter), address, telephone, fax numbers, and email of primary exporter;
  - c. Company name and identification number of all transporters;
  - d. Identification (license, registered name or registration number) of means of transport, including types of packaging envisaged;
  - e. Any special precautions to be taken by transporters;
  - f. Certification signed by the exporter that no objection to the shipment has been lodged, as follows:

I certify that the above information is complete and correct to the best of my knowledge. I also certify that legally-enforceable written contractual obligations have been entered into, that any applicable insurance or other financial guarantees are or shall be in force covering the transboundary movement, and that:

1. All necessary consents have been received; or
2. The shipment is directed to a recovery facility within the Organization for Economic Cooperation and Development area and no objection has been received from any of the countries concerned within the thirty-day tacit consent period; or
3. The shipment is directed to a recovery facility preapproved for that type of waste within the Organization for Economic Cooperation and Development area; such an authorization has not been revoked, and no objection has been received from any of the countries concerned.

(Delete sentences that are not applicable)

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

- g. Appropriate signatures for each custody transfer (for example, transporter, importer, and owner or operator of the recovery facility).
3. Exporters also must comply with the special manifest requirements of subsections 1, 2, 3, 5, and 9 of section 33-24-03-21, and importers must comply with the import requirements of section 33-24-03-30.
4. Each United States person that has physical custody of the waste from the time the movement commences until it arrives at the recovery facility must sign the movement document (for example, transporter, importer, and owner or operator of the recovery facility).
5. 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.

**History:** Effective January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

### **33-24-03-55. Contracts.**

1. Transboundary movements of hazardous wastes subject to the Amber control procedures are prohibited unless they occur under the terms of a valid written contract, chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity). Such contracts or equivalent arrangements must be executed by the exporter and the owner or operator, or both, of the recovery facility, and must specify responsibilities for each. Contracts or equivalent arrangements are valid for the purposes of this section only if persons assuming obligations under the contracts or equivalent arrangements have appropriate legal status to conduct the operations specified in the contract or equivalent arrangements.
2. Contracts or equivalent arrangements must specify the name and identification number, where available, of subdivisions a through d:
  - a. The generator of each type of waste;
  - b. Each person who will have physical custody of the wastes;
  - c. Each person who will have legal control of the wastes; and
  - d. The recovery facility.
3. Contracts or equivalent arrangements must specify which party to the contract will assume responsibility for alternate management of the wastes if their disposition cannot be carried out as described in the notification of intent to export. In such cases, contracts must specify that:
  - a. The person having actual possession or physical control over the wastes will immediately inform the exporter and the competent authorities of the countries of export and import and, if the wastes are located in a country of transit, the competent authorities of that country; and
  - b. The person specified in the contract will assume responsibility for the adequate management of the wastes in compliance with applicable laws and regulations including, if necessary, arranging the return of wastes and, as the case may be, shall provide the notification for re-export.
4. Contracts must specify that the importer will provide the notification required in subsection 3 of section 33-24-03-52 prior to the re-export of controlled wastes to a third country.
5. Contracts or equivalent arrangements must include provisions for financial guarantees, if required by the competent authorities of any countries concerned, in accordance with applicable national or international law requirements.

[Note to subsection 5: Financial guarantees so required are intended to provide for alternate recycling, disposal, or other means of sound management of the wastes in cases where arrangements for the shipment and the recovery operations cannot be carried out as foreseen. The United States does not require such financial guarantees at this time; however, some Organization for Economic Cooperation and Development member countries do. It is

the responsibility of the exporter to ascertain and comply with such requirements; in some cases, transporters or importers may refuse to enter into the necessary contracts absent specific references or certifications to financial guarantees.]

6. Contracts or equivalent arrangements must contain provisions requiring each contracting party to comply with all applicable requirements of sections 33-24-03-50 through 33-24-03-59.
7. Upon request by the environmental protection agency, United States exporters, importers, or recovery facilities must submit to the environmental protection agency copies of contracts, chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity). Information contained in the contracts or equivalent arrangements for which a claim of confidentiality is asserted in accordance with 40 CFR 2.203(b) will be treated as confidential and will be disclosed by the environmental protection agency only as provided in 40 CFR 260.2.

[Note to subsection 7: Although the United States does not require routine submission of contracts at this time, the Organization for Economic Cooperation and Development decision allows member countries to impose such requirements. When other Organization for Economic Cooperation and Development member countries require submission of partial or complete copies of the contract as a condition to granting consent to proposed movements, the environmental protection agency will request the required information; absent submission of such information, some Organization for Economic Cooperation and Development member countries may deny consent for the proposed movement.]

**History:** Effective January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

#### **33-24-03-56. Provisions relating to recognized traders.**

1. A recognized trader who takes physical custody of a waste and conducts recovery operations (including storage prior to recovery) is acting as the owner or operator of a recovery facility and must be so authorized in accordance with all applicable federal laws and state rules.
2. A recognized trader acting as an exporter or importer for transboundary shipments of waste must comply with all the requirements of sections 33-24-03-50 through 33-24-03-59 associated with being an exporter or importer.

**History:** Effective January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

#### **33-24-03-57. Reporting and recordkeeping.**

1. **Annual reports.** 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:

- a. The identification number, name, and mailing and site address of the exporter filing the report;
- b. The calendar year covered by the report;
- c. The name and site address of each final recovery facility;
- d. By final recovery facility, for each hazardous waste exported, a description of the hazardous waste, the hazardous waste number (from sections 33-24-02-10 through 33-24-02-19), designation of waste types and applicable waste codes from the appropriate Organization for Economic Cooperation and Development waste list incorporated by reference in subsection 4 of section 33-24-03-59, department of transportation hazard class, the name and identification number (where applicable) for each transporter used, the total amount of hazardous waste shipped pursuant to sections 33-24-03-50 through 33-24-03-59, and number of shipments pursuant to each notification;
- e. In even numbered years, for each hazardous waste exported, except for hazardous waste produced by exporters of greater than one hundred kilograms but less than one thousand kilograms in a calendar month, and except for hazardous waste for which information was already provided pursuant to section 33-24-03-14.
  - (1) A description of the efforts undertaken during the year to reduce the volume and toxicity of the waste generated; and
  - (2) A description of the changes in volume and toxicity of the waste actually achieved during the year in comparison to previous years to the extent such information is available for years prior to 1984; and
- f. A certification signed by the person acting as primary exporter or initiator of the movement document under section 33-24-03-54 that states:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment.

2. **Exception reports.** 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:

- a. The primary exporter or the person who initiates the movement document has not received a copy of the hazardous waste manifest (if applicable) signed by the transporter identifying the point of departure of the waste from the United States, within forty-five days from the date it was accepted by the initial transporter;

- b. Within ninety days from the date the waste was accepted by the initial transporter, the exporter has not received written confirmation from the recovery facility that the hazardous waste was received;
- c. The waste is returned to the United States.

**3. Recordkeeping.**

- a. Persons who meet the definition of primary exporter in section 33-24-03-18 or who initiate the movement document under section 33-24-03-54 shall keep the following records:
  - (1) A copy of each notification of intent to export and all written consents obtained from the competent authorities of countries concerned for a period of at least three years from the date the hazardous waste was accepted by the initial transporter;
  - (2) A copy of each annual report for a period of at least three years from the due date of the report;
  - (3) A copy of any exception reports and a copy of each confirmation of delivery (for example, movement document) sent by the recovery facility to the exporter for at least three years from the date the hazardous waste was accepted by the initial transporter or received by the recovery facility, whichever is applicable; and
  - (4) A copy of each certificate of recovery sent by the recovery facility to the exporter for at least three years from the date that the recovery facility completed processing the waste shipment.
- b. 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.

**History:** Effective January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

**33-24-03-58. Preapproval for United States recovery facilities. [Reserved].**

**33-24-03-59. Organization for Economic Cooperation and Development waste lists.**

- 1. For the purposes of sections 33-24-03-50 through 33-24-03-59, a waste is considered hazardous under United States national procedures, and subject to sections 33-24-03-50 through 33-24-03-59, if the waste:
  - a. Meets the federal definition of hazardous waste in 40 CFR 261.3; and
  - b. Is subject to either the manifesting requirements at sections 33-24-03-04 through 33-24-03-07, the universal waste management standards of sections 33-24-05-700 through 33-24-05-799 or the export requirements in the spent lead-acid battery management standards of sections 33-24-05-235 through 33-24-05-249.
- 2. If a waste is hazardous under subsection 1 of this section, it is subject to the Amber control procedures, regardless of whether it appears in Appendix 4 of the Organization for Economic Cooperation and Development decision, as defined in section 33-24-03-51.
- 3. The appropriate control procedures for hazardous wastes and hazardous waste mixtures are addressed in section 33-24-03-52.

4. The Organization for Economic Cooperation and Development waste lists, as set forth in Annex B ("Green List") and Annex C ("Amber List") (collectively "Organization for Economic Cooperation and Development waste lists") of the 2009 "guidance manual for the implementation of council decision C(2001) 107/FINAL, as amended, on the control of transboundary movements of wastes destined for recovery operations," are incorporated by reference. This incorporation by reference was approved by the director of the federal register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. This material is incorporated as it exists on the date of the approval and a notice of any change in these materials will be published in the federal register. The materials are available for inspection at the United States Environmental Protection Agency, Docket Center Public Reading Room, Environmental Protection Agency West, Room 3334, 1301 Constitution Avenue NW, Washington, D.C. 20004, (Docket #EPA-HQ-RCRA-2005-0018) or at the national archives and records administration, and may be obtained from the Organization for Economic Cooperation and Development, Environment Directorate, 2 rue Andre Pascal, F-75775 Paris Cedex 16, France. For information on the availability of this material at the national archives and records administration, call 202-741-6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>. To contact the environmental protection agency docket center public reading room, call 202-566-1744. To contact the Organization for Economic Cooperation and Development, call +33(0) 1 45 24 81 67.

**History:** Effective January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

**33-24-03-60. Alternative requirements for hazardous waste determination and accumulation of unwanted material for laboratories owned by eligible academic entities.**

Sections 33-24-03-60 through 33-24-03-77 apply to laboratories owned by eligible academic entities that generate hazardous waste and choose to comply with these alternative requirements.

**History:** Effective January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

**33-24-03-61. Definitions.**

In addition to the definitions set forth in section 33-24-01-04, the following definitions apply to sections 33-24-03-60 through 33-24-03-77:

1. "Central accumulation area" means an onsite hazardous waste accumulation area subject to either subsections 1 and 2 of section 33-24-03-12 (large quantity generators), or subsections 4 through 6 of sections 33-24-03-12 (small quantity generators). A central accumulation area at an eligible academic entity that chooses to be subject to sections 33-24-03-60 through 33-24-03-77 must also comply with section 33-24-03-72 when accumulating unwanted material, or hazardous waste, or both.
2. "College or university" means a private or public, post-secondary, degree-granting, academic institution, that is accredited by an accrediting agency listed annually by the United States department of education.
3. "Eligible academic entity" means a college or university, or a nonprofit research institute that is owned by or has a formal written affiliation agreement with a college or university, or a teaching hospital that is owned by or has a formal written affiliation agreement with a college or university.

4. "Formal written affiliation agreement" for a nonprofit research institute means a written document that establishes a relationship between institutions for the purposes of research or education, or both, and is signed by authorized representatives, as defined by section 33-24-01-04, from each institution. A relationship on a project-by-project, or grant-by-grant basis, is not considered a formal written affiliation agreement. A formal written affiliation agreement for a teaching hospital means a master affiliation agreement and program letter of agreement, as defined by the accreditation council for graduate medical education, with an accredited medical program or medical school.
5. "Laboratory" means an area owned by an eligible academic entity where relatively small quantities of chemicals and other substances are used on a nonproduction basis for teaching or research (or diagnostic purposes at a teaching hospital) and are stored and used in containers that are easily manipulated by one person. Photo laboratories, art studios, and field laboratories are considered laboratories. Areas such as chemical stockrooms and preparatory laboratories that provide a support function to teaching, or research laboratories (or diagnostic laboratories at teaching hospitals), are also considered laboratories.
6. "Laboratory clean-out" means an evaluation of the inventory of chemicals and other materials in a laboratory that are no longer needed or that have expired and the subsequent removal of those chemicals or other unwanted materials from the laboratory. A clean-out may occur for several reasons. It may be on a routine basis (for example, at the end of a semester or academic year), or as a result of a renovation, relocation, or change in laboratory supervisor, or occupant, or both. A regularly scheduled removal of unwanted material as required by section 33-24-03-69 does not qualify as a laboratory clean-out.
7. "Laboratory worker" means a person who handles chemicals, or unwanted material, or both, in a laboratory and may include, but is not limited to, faculty, staff, postdoctoral fellows, interns, researchers, technicians, supervisors or managers, and principal investigators. A person does not need to be paid or otherwise compensated for work in the laboratory to be considered a laboratory worker. Undergraduate and graduate students in a supervised classroom setting are not laboratory workers.
8. "Nonprofit research institute" means an organization that conducts research as its primary function and files as a nonprofit organization under the tax code of 26 United States code 501(c)(3).
9. "Reactive acutely hazardous unwanted material" means an unwanted material that is one of the acutely hazardous commercial chemical products listed in subsection 5 of section 33-24-02-18 for reactivity.
10. "Teaching hospital" means a hospital that trains students to become physicians, nurses, or other health or laboratory personnel.
11. "Trained professional" means a person who has completed the applicable hazardous waste training requirements of section 33-24-05-07 for large quantity generators, or is knowledgeable about normal operations and emergencies in accordance with paragraph 3 of subdivision e of subsection 4 of section 33-24-03-12 for small quantity generators and conditionally exempt small quantity generators. A trained professional may be an employee of the eligible academic entity or may be a contractor or vendor who meets the requisite training requirements.
12. "Unwanted material" means any chemical, mixtures of chemicals, products of experiments, or other material from a laboratory that is no longer needed, wanted, or usable in the laboratory and that is destined for hazardous waste determination by a trained professional. Unwanted materials include reactive acutely hazardous unwanted materials and materials that may eventually be determined not to be solid waste pursuant to section 33-24-02-02, or a

hazardous waste pursuant to section 33-24-02-03. If an eligible academic entity elects to use another equally effective term in lieu of "unwanted material", as allowed by paragraph 1 of subdivision a of subsection 1 of section 33-24-03-67, the equally effective term has the same meaning and is subject to the same requirements as "unwanted material" under sections 33-24-03-60 through 33-24-03-77.

13. "Working container" means a small container (for example, two gallons or less) that is in use at a laboratory bench, hood, or other work station, to collect unwanted material from a laboratory experiment or procedure.

**History:** Effective January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

**33-24-03-62. Applicability of sections 33-24-03-60 through 33-24-03-77.**

1. Large quantity generators and small quantity generators. Sections 33-24-03-60 through 33-24-03-77 provide alternative requirements to the requirements in section 33-24-03-02 and subsection 3 of section 33-24-03-12 for the hazardous waste determination and accumulation of hazardous waste in laboratories owned by eligible academic entities that choose to be subject to sections 33-24-03-60 through 33-24-03-77, provided that the eligible academic entity completes the notification requirements of section 33-24-03-64.
2. Conditionally exempt small quantity generators. Sections 33-24-03-60 through 33-24-03-77 provide alternative requirements to the conditional exemption in subsection 2 of section 33-24-02-05 for the accumulation of hazardous waste in laboratories owned by eligible academic entities that choose to be subject to sections 33-24-03-60 through 33-24-03-77, provided that the eligible academic entity completes the notification requirements of section 33-24-03-64.

**History:** Effective January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

**33-24-03-63. Complying with sections 33-24-03-60 through 33-24-03-77 is optional for eligible academic entities.**

1. Large quantity generators and small quantity generators. Eligible academic entities have the option of complying with sections 33-24-03-60 through 33-24-03-77 with respect to the eligible academic entity's laboratories, as an alternative to complying with the requirements of section 33-24-03-02 and subsection 3 of section 33-24-03-12.
2. Conditionally exempt small quantity generators. Eligible academic entities have the option of complying with sections 33-24-03-60 through 33-24-03-77 with respect to the eligible academic entity's laboratories, as an alternative to complying with the conditional exemption of subsection 2 of section 33-24-02-05.

**History:** Effective January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

**33-24-03-64. Notification by an eligible academic entity electing to comply with sections 33-24-03-60 through 33-24-03-77.**

1. An eligible academic entity must notify the department, in writing, using the identification form that the eligible academic entity is electing to be subject to the requirements of sections 33-24-03-60 through 33-24-03-77 for all the laboratories owned by the eligible academic entity

under the same identification number. An eligible academic entity that is a conditionally exempt small quantity generator and does not have an identification number must notify that the eligible academic entity is electing to be subject to the requirements of sections 33-24-03-60 through 33-24-03-77 for all the laboratories owned by the eligible academic entity that are onsite, as defined by section 33-24-01-04. An eligible academic entity must submit a separate notification for each identification number (or site, for conditionally exempt small quantity generators) that is electing to be subject to the requirements of sections 33-24-03-60 through 33-24-03-77, and must submit the identification form before the eligible academic entity begins operating under sections 33-24-03-60 through 33-24-03-77.

2. When submitted the identification form, the eligible academic entity must, at a minimum, fill out the following fields on the form:
  - a. Reason for submittal.
  - b. Identification number (except for conditionally exempt small quantity generators).
  - c. Site name.
  - d. Site location information.
  - e. Site land type.
  - f. North American industry classification system (NAICS) codes for the site.
  - g. Site mailing address.
  - h. Site contact person.
  - i. Operator and legal owner of the site.
  - j. Type of regulated waste activity.
  - k. Certification.
3. An eligible academic entity must keep a copy of the notification on file at the eligible academic entity for as long as eligible academic entity's laboratories are subject to sections 33-24-03-60 through 33-24-03-77.
4. A teaching hospital that is not owned by a college or university must keep a copy of the teaching hospital's formal written affiliation agreement with a college or university on file at the teaching hospital for as long as the teaching hospital's laboratories are subject to sections 33-24-03-60 through 33-24-03-77.
5. A nonprofit research institute that is not owned by a college or university must keep a copy of the nonprofit research institute's formal written affiliation agreement with a college or university on file at the nonprofit research institute for as long as the nonprofit research institute's laboratories are subject to sections 33-24-03-60 through 33-24-03-77.

**History:** Effective January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

**33-24-03-65. Notification by an eligible academic entity electing to withdraw from complying with sections 33-24-03-60 through 33-24-03-77.**

1. An eligible academic entity must notify the department, in writing, using the identification form, that it is electing to no longer be subject to the requirements of sections 33-24-03-60 through

33-24-03-77 for all the laboratories owned by the eligible academic entity under the same identification number and that the eligible academic entity will comply with the requirements of section 33-24-03-02 and subsection 3 of section 33-24-03-12 for small quantity generators and large quantity generators. An eligible academic entity that is a conditionally exempt small quantity generator and does not have an identification number must notify that the eligible academic entity is withdrawing from the requirements of sections 33-24-03-60 through 33-24-03-77 for all the laboratories owned by the eligible academic entity that are onsite and that the eligible academic entity will comply with the conditional exemption in subsection 2 of section 33-24-02-05. An eligible academic entity must submit a separate notification (identification form) for each identification number (or site, for conditionally exempt small quantity generators) that is withdrawing from the requirements of sections 33-24-03-60 through 33-24-03-77 and must submit the identification form before the eligible academic entity begins operating under the requirements of section 33-24-03-02 and subsection 3 of section 33-24-03-12 for small quantity generators and large quantity generators, or subsection 2 of section 33-24-02-05 for conditionally exempt small quantity generators.

2. When submitting the identification form, the eligible academic entity must, at a minimum, fill out the following fields on the form:
  - a. Reason for submittal.
  - b. Identification number (except for conditionally exempt small quantity generators).
  - c. Site name.
  - d. Site location information.
  - e. Site land type.
  - f. North American industry classification system (NAICS) codes for the site.
  - g. Site mailing address.
  - h. Site contact person.
  - i. Operator and legal owner of the site.
  - j. Type of regulated waste activity.
  - k. Certification.
3. An eligible academic entity must keep a copy of the withdrawal notice on file at the eligible academic entity for three years from the date of the notification.

**History:** Effective January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

### **33-24-03-66. Requirements of sections 33-24-03-60 through 33-24-03-77.**

An eligible academic entity that chooses to be subject to sections 33-24-03-60 through 33-24-03-77 is not required to have interim status or a hazardous waste permit for the accumulation of unwanted material and hazardous waste in an eligible academic entity's laboratories, provided the laboratories comply with the provisions of sections 33-24-03-60 through 33-24-03-77, and the eligible academic entity has a laboratory management plan in accordance with section 33-24-03-75 that describes how the laboratories owned by the eligible academic entity will comply with the requirements of sections 33-24-03-60 through 33-24-03-77.

History: Effective January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

**33-24-03-67. Labeling and management standards for containers of unwanted material in laboratories.**

An eligible academic entity must manage containers of unwanted material while in the laboratory in accordance with the requirements in this section.

1. Label unwanted material as follows:
  - a. The following information must be affixed or attached to the container:
    - (1) The words "unwanted material" or another equally effective term that is to be used consistently by the eligible academic entity and that is identified in part 1 of the laboratory management plan; and
    - (2) Sufficient information to alert emergency responders to the contents of the container. Examples of information that would be sufficient to alert emergency responders to the contents of the container include, but are not limited to:
      - (a) The name of the chemicals; and
      - (b) The type or class of chemical, such as organic solvents or halogenated organic solvents.
  - b. The following information may be affixed or attached to the container, but must at a minimum be associated with the container:
    - (1) The date that the unwanted material first began accumulating in the container; and
    - (2) Information sufficient to allow a trained professional to properly identify whether an unwanted material is a solid and hazardous waste and to assign the proper hazardous waste codes, pursuant to section 33-24-03-02. Examples of information that would allow a trained professional to properly identify whether an unwanted material is a solid or hazardous waste include, but are not limited to:
      - (a) The name or description of the chemical contents, or both, or composition of the unwanted material, or, if known, the product of the chemical reaction;
      - (b) Whether the unwanted material has been used or is unused; and
      - (c) A description of the manner in which the chemical was produced or processed, if applicable.
2. Management of containers in the laboratory. An eligible academic entity must properly manage containers of unwanted material in the laboratory to assure safe storage of the unwanted material, to prevent leaks, spills, emissions to the air, adverse chemical reactions, and dangerous situations that may result in harm to human health or the environment. Proper container management must include the following:
  - a. Containers are maintained and kept in good condition and damaged containers are replaced, overpacked, or repaired; and
  - b. Containers are compatible with their contents to avoid reactions between the contents and the container; and are made of, or lined with, material that is compatible with the unwanted material so that the container's integrity is not impaired, and

- c. Containers must be kept closed at all times, except:
  - (1) When adding, removing, or bulking unwanted material; or
  - (2) A working container may be open until the end of the procedure or work shift, or until it is full, whichever comes first, at which time the working container must either be closed or the contents emptied into a separate container that is then closed; or
  - (3) When venting of a container is necessary.
    - (a) For the proper operation of laboratory equipment, such as with in-line collection of unwanted materials from high performance liquid chromatographs; or
    - (b) To prevent dangerous situations, such as buildup of extreme pressure.

**History:** Effective January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

### **33-24-03-68. Training.**

An eligible academic entity must provide training to all individuals working in a laboratory at the eligible academic entity, as follows:

1. Training for laboratory workers and students must be commensurate with their duties so they understand the requirements in sections 33-24-03-60 through 33-24-03-77 and can implement them.
2. An eligible academic entity can provide training for laboratory workers and students in a variety of ways, including, but not limited to:
  - a. Instruction by the professor or laboratory manager before or during an experiment;
  - b. Formal classroom training;
  - c. Electronic or written training, or both;
  - d. On-the-job training; or
  - e. Written or oral exams.
3. An eligible academic entity that is a large quantity generator must maintain documentation for the durations specified in subsection 5 of section 33-24-05-07 demonstrating training for all laboratory workers that is sufficient to determine whether laboratory workers have been trained. Examples of documentation demonstrating training can include, but are not limited to, the following:
  - a. Sign-in or attendance sheets for training sessions, or both;
  - b. Syllabus for training sessions;
  - c. Certificate of training completion; or
  - d. Test results.
4. A trained professional must:

- a. Accompany the transfer of unwanted material and hazardous waste when the unwanted material and hazardous waste is removed from the laboratory; and
- b. Make the hazardous waste determination, pursuant to section 33-24-03-02, for unwanted material.

**History:** Effective January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

**33-24-03-69. Removing containers of unwanted material from the laboratory.**

1. Removing containers of unwanted material on a regular schedule. An eligible academic entity must either:
  - a. Remove all containers of unwanted material from each laboratory on a regular interval, not to exceed six months; or
  - b. Remove containers of unwanted material from each laboratory within six months of each container's accumulation start date.
2. The eligible academic entity must specify in part I of its laboratory management plan whether the eligible academic entity will comply with subdivision a or b of subsection 1 for the regular removal of unwanted material from the eligible academic entity's laboratories.
3. The eligible academic entity must specify in part II of its laboratory management plan how the eligible academic entity will comply with subdivision a or b of subsection 1 and develop a schedule for regular removals of unwanted material from the eligible academic entity's laboratories.
4. Removing containers of unwanted material when volumes are exceeded.
  - a. If a laboratory accumulates a total volume of unwanted material (including reactive acutely hazardous unwanted material) in excess of fifty-five gallons before the regularly scheduled removal, the eligible academic entity must ensure that all containers of unwanted material in the laboratory (including reactive acutely hazardous unwanted material):
    - (1) Are marked on the label that is associated with the container (or on the label that is affixed or attached to the container) with the date that fifty-five gallons is exceeded; and
    - (2) Are removed from the laboratory within ten calendar days of the date that fifty-five gallons was exceeded, or at the next regularly scheduled removal, whichever comes first.
  - b. If a laboratory accumulates more than one quart of reactive acutely hazardous unwanted material before the regularly scheduled removal, then the eligible academic entity must ensure that all containers of reactive acutely hazardous unwanted material:
    - (1) Are marked on the label that is associated with the container (or on the label that is affixed or attached to the container) with the date that one quart is exceeded; and
    - (2) Are removed from the laboratory within ten calendar days of the date that one quart was exceeded, or at the next regularly scheduled removal, whichever comes first.

**History:** Effective January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

**33-24-03-70. Where and when to make the hazardous waste determination and where to send containers of unwanted material upon removal from the laboratory.**

1. Large quantity generators and small quantity generators. An eligible academic entity must ensure that a trained professional makes a hazardous waste determination, pursuant to section 33-24-03-02, for unwanted material in any of the following areas:
  - a. In the laboratory before the unwanted material is removed from the laboratory, in accordance with section 33-24-03-71.
  - b. Within four calendar days of arriving at an onsite central accumulation area, in accordance with section 33-24-03-72.
  - c. Within four calendar days of arriving at an onsite interim status or permitted treatment, storage, or disposal facility, in accordance with section 33-24-03-73.
2. Conditionally exempt small quantity generators. An eligible academic entity must ensure that a trained professional makes a hazardous waste determination, pursuant to section 33-24-03-02, for unwanted material in the laboratory before the unwanted material is removed from the laboratory, in accordance with section 33-24-03-71.

**History:** Effective January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

**33-24-03-71. Hazardous waste determination in the laboratory before the unwanted material is removed.**

If an eligible academic entity makes the hazardous waste determination, pursuant to section 33-24-03-02, for unwanted material in the laboratory, the eligible academic entity must comply with the following:

1. A trained professional must make the hazardous waste determination, pursuant to section 33-24-03-02, before the unwanted material is removed from the laboratory.
2. If an unwanted material is a hazardous waste, the eligible academic entity must:
  - a. Write the words "hazardous waste" on the container label that is affixed or attached to the container, before the hazardous waste may be removed from the laboratory;
  - b. Write the appropriate hazardous waste codes on the label that is associated with the container (or the label that is affixed or attached to the container) before the hazardous waste is transported offsite; and
  - c. Count the hazardous waste toward the eligible academic entity's generator status, pursuant to subsections 3 and 4 of section 33-24-02-05, in the calendar month that the hazardous waste determination was made.
3. A trained professional must accompany all hazardous waste that is transferred from the laboratory, or laboratories, to an onsite central accumulation area or onsite interim status or permitted treatment, storage, or disposal facility.
4. When hazardous waste is removed from the laboratory:

- a. Large quantity generators and small quantity generators must ensure it is taken directly from the laboratory, or laboratories, to an offsite central accumulation area, or onsite interim status or permitted treatment, storage, or disposal facility, or transported offsite.
  - b. Conditionally exempt small quantity generators must ensure it is taken directly from the laboratory, or laboratories, to any of the types of facilities listed in subdivision c of subsection 6 of section 33-24-02-05 for acute hazardous waste, or subdivision c of subsection 7 of section 33-24-02-05 for hazardous waste.
5. An unwanted material that is a hazardous waste is subject to all applicable provisions of article 33-24, North Dakota hazardous waste management rules, when it is removed from the laboratory.

**History:** Effective January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

**33-24-03-72. Hazardous waste determination at an onsite central accumulation area.**

If an eligible academic entity makes the hazardous waste determination, pursuant to section 33-24-03-02, for unwanted material at an onsite central accumulation area, the eligible academic entity must comply with the following:

1. A trained professional must accompany all unwanted material that is transferred from the laboratory, or laboratories, to an onsite central accumulation area.
2. All unwanted material removed from the laboratory, or laboratories, must be taken directly from the laboratory, or laboratories, to the onsite central accumulation area.
3. The unwanted material becomes subject to the generator accumulation requirements of subsection 1 of section 33-24-03-12 for large quantity generators or subsections 4 through 6 of section 33-24-03-12 for small quantity generators as soon as the unwanted material arrives in the central accumulation area, except for the "hazardous waste" labeling requirements of subdivision c of subsection 1 of section 33-24-03-12.
4. A trained professional must determine, pursuant to section 33-24-03-02, if the unwanted material is a hazardous waste within four calendar days of the unwanted material's arrival at the onsite central accumulation area.
5. If the unwanted material is a hazardous waste, the eligible academic entity must:
  - a. Write the words "hazardous waste" on the container label that is affixed or attached to the container, within four calendar days of arriving at the onsite central accumulation area and before the hazardous waste may be removed from the onsite central accumulation area; and
  - b. Write the appropriate hazardous waste codes on the container label that is associated with the container (or on the label that is affixed or attached to the container) before the hazardous waste may be treated, or disposed of onsite or transported offsite; and
  - c. Count the hazardous waste toward the eligible academic entity's generator status, pursuant to subsections 3 and 4 of section 33-24-02-05 in the calendar month that the hazardous waste determination was made; and
  - d. Manage the hazardous waste according to all applicable provisions of article 33-24, North Dakota hazardous waste management rules.

**History:** Effective January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

**33-24-03-73. Hazardous waste determination at an onsite interim status or permitted treatment, storage, or disposal facility.**

If an eligible academic entity makes the hazardous waste determination, pursuant to section 33-24-03-02, for unwanted material at an onsite interim status or permitted treatment, storage, or disposal facility, the eligible academic entity must comply with the following:

1. A trained professional must accompany all unwanted material that is transferred from the laboratory, or laboratories, to an onsite interim status or permitted treatment, storage, or disposal facility.
2. All unwanted material removed from the laboratory, or laboratories, must be taken directly from the laboratory, or laboratories, to the onsite interim status or permitted treatment, storage, or disposal facility.
3. The unwanted material becomes subject to the terms of the eligible academic entity's hazardous waste permit or interim status as soon as it arrives in the onsite treatment, storage, or disposal facility.
4. A trained professional must determine, pursuant to section 33-24-03-02, if the unwanted material is a hazardous waste within four calendar days of the unwanted material's arrival at the onsite interim status or permitted treatment, storage, or disposal facility.
5. If the unwanted material is a hazardous waste, the eligible academic entity must:
  - a. Write the words "hazardous waste" on the container label that is affixed or attached to the container within four calendar days of arriving at the onsite interim status or permitted treatment, storage, or disposal facility and before the hazardous waste may be removed from the onsite interim status or permitted treatment, storage, or disposal facility; and
  - b. Write the appropriate hazardous waste codes on the container label that is associated with the container (or on the label that is affixed or attached to the container) before the hazardous waste may be treated or disposed onsite, or transported offsite; and
  - c. Count the hazardous waste toward the eligible academic entity's generator status, pursuant to subsections 3 and 4 of section 33-24-02-05 in the calendar month that the hazardous waste determination was made; and
  - d. Manage the hazardous waste according to all applicable provisions of article 33-24, North Dakota hazardous waste management rules.

**History:** Effective January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

**33-24-03-74. Laboratory clean-outs.**

1. One time per twelve-month period for each laboratory, an eligible academic entity may choose to conduct a laboratory clean-out that is subject to all the applicable requirements of sections 33-24-03-60 through 33-24-03-77, except that:
  - a. If the volume of unwanted material in the laboratory exceeds fifty-five gallons (or one quart of reactive acutely hazardous unwanted material), the eligible academic entity is

not required to remove all unwanted materials from the laboratory within ten calendar days of exceeding fifty-five gallons (or one quart of reactive acutely hazardous unwanted material), as required by section 33-24-03-69. Instead, the eligible academic entity must remove all unwanted materials from the laboratory within thirty calendar days from the start of the laboratory clean-out; and

- b. For the purposes of onsite accumulation, an eligible academic entity is not required to count a hazardous waste that is an unused commercial chemical product (listed in sections 33-24-02-15 through 33-24-02-19, or exhibiting one or more characteristics in sections 33-24-02-10 through 33-24-02-14) generated solely during the laboratory clean-out toward its hazardous waste generator status, pursuant to subsections 3 and 4 of section 33-24-02-05. An unwanted material that is generated prior to the beginning of the laboratory clean-out and is still in the laboratory at the time the laboratory clean-out commences must be counted toward hazardous waste generator status, pursuant to subsections 3 and 4 of section 33-24-02-05, if it is determined to be hazardous waste; and
  - c. For the purposes of offsite management, an eligible academic entity must count all its hazardous waste, regardless of whether the hazardous waste was counted toward generator status under subdivision b, and if the eligible academic entity generates more than one kilogram per month of acute hazardous waste, or one hundred kilograms per month of hazardous waste (for example, the conditionally exempt small quantity generator limits of section 33-24-02-05), the hazardous waste is subject to all applicable hazardous waste regulations when the hazardous waste is transported offsite; and
  - d. An eligible academic entity must document the activities of the laboratory clean-out. The documentation must, at a minimum, identify the laboratory being cleaned out, the date the laboratory clean-out begins and ends, and the volume of hazardous waste generated during the laboratory clean-out. The eligible academic entity must maintain the records for a period of three years from the date the clean-out ends; and
2. For all other laboratory clean-outs conducted during the same twelve-month period, an eligible academic entity is subject to all the applicable requirements of sections 33-24-03-60 through 33-24-03-77, including, but not limited to:
    - a. The requirement to remove all unwanted materials from the laboratory within ten calendar days of exceeding fifty-five gallons (or one quart of reactive acutely hazardous unwanted material), as required by section 33-24-03-69; and
    - b. The requirement to count all hazardous waste, including unused hazardous waste, generated during the laboratory clean-out toward its hazardous waste generator status, pursuant to subsections 3 and 4 of section 33-24-02-05.

**History:** Effective January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

### **33-24-03-75. Laboratory management plan.**

An eligible academic entity must develop and retain a written laboratory management plan, or revise an existing written plan. The laboratory management plan is a site-specific document that describes how the eligible academic entity will manage unwanted materials in compliance with sections 33-24-03-60 through 33-24-03-77. An eligible academic entity may write one laboratory management plan for all the laboratories owned by the eligible academic entity that have chosen to be subject to sections 33-24-03-60 through 33-24-03-77, even if the laboratories are located at sites with different identification numbers. The laboratory management plan must contain two parts with a total of nine

elements identified in subsections 1 and 2. In part I of the eligible academic entity's laboratory management plan, an eligible academic entity must describe the eligible academic entity's procedures for each of the elements listed in subsection 1. An eligible academic entity must implement and comply with the specific provisions that the eligible academic entity develops to address the elements in part I of the laboratory management plan. In part II of the eligible academic entity's laboratory management plan, an eligible academic entity must describe the eligible academic entity's best management practices for each of the elements listed in subsection 2. The specific actions taken by an eligible academic entity to implement each element in part II of the eligible academic entity's laboratory management plan may vary from the procedures described in the eligible academic entity's laboratory management plan, without constituting a violation of sections 33-24-03-60 through 33-24-03-77. An eligible academic entity may include additional elements and best management practices in part II of the eligible academic entity's laboratory management plan if the eligible academic entity chooses.

1. The eligible academic entity must implement and comply with the specific provisions of part I of the eligible academic entity's laboratory management plan. In part I of the eligible academic entity's laboratory management plan, an eligible academic entity must:
  - a. Describe procedures for container labeling in accordance with subsection 1 of section 33-24-03-67, as follows:
    - (1) Identifying whether the eligible academic entity will use the term "unwanted material" on the containers in the laboratory. If not, identify an equally effective term that will be used in lieu of "unwanted material" and consistently by the eligible academic entity. The equally effective term, if used, has the same meaning and is subject to the same requirements as "unwanted material".
    - (2) Identifying the manner in which information that is "associated with the container" will be imparted.
  - b. Identify whether the eligible academic entity will comply with subdivisions a or b of subsection 1 of section 33-24-03-69 for regularly scheduled removals of unwanted material from the laboratory.
2. In part II of laboratory management plan, an eligible academic entity must:
  - a. Describe intended best practices for container labeling and management (see the required standards at section 33-24-03-67).
  - b. Describe intended best practices for providing training for laboratory workers and students commensurate with their duties (subsection 1 of section 33-24-03-68).
  - c. Describe intended best practices for providing training to ensure safe onsite transfers of unwanted material and hazardous waste by trained professionals (subdivision a of subsection 4 of section 33-24-03-68).
  - d. Describe intended best practices for removing unwanted material from the laboratory, including:
    - (1) For regularly scheduled removals. Develop a regular schedule for identifying and removing unwanted materials from its laboratories (subdivisions a and b of subsection 1 of section 33-24-03-69).
    - (2) For removals when maximum volumes are exceeded:
      - (a) Describe intended best practices for removing unwanted materials from the laboratory within ten calendar days when unwanted materials have exceeded

the unwanted materials maximum volumes (subsection 4 of section 33-24-03-69).

- (b) Describe intended best practices for communicating that unwanted materials have exceeded the unwanted materials maximum volumes.
- e. Describe intended best practices for making hazardous waste determinations, including specifying the duties of the individuals involved in the process (section 33-24-03-02, and sections 33-24-03-70 through 33-24-03-73).
- f. Describe intended best practices for laboratory clean-outs, if the eligible academic entity plans to use the incentives for laboratory clean-outs provided in section 33-24-03-74, including:
  - (1) Procedures for conducting laboratory clean-outs (subdivisions a through c of subsection 1 of section 33-24-03-74).
  - (2) Procedures for documenting laboratory clean-outs (subdivision d of subsection 1 of section 33-24-03-74).
- g. Describe intended best practices for emergency prevention, including:
  - (1) Procedures for emergency prevention, notification, and response, appropriate to the hazards in the laboratory; and
  - (2) A list of chemicals that the eligible academic entity has, or is likely to have, that become more dangerous when the chemicals exceed their expiration date, or as they degrade, or both; and
  - (3) Procedures to safely dispose of chemicals that become more dangerous when the chemicals exceed their expiration date, or as they degrade, or both; and
  - (4) Procedures for the timely characterization of unknown chemicals.
- 3. An eligible academic entity must make the eligible academic entity's laboratory management plan available to laboratory workers, students, or any others at the eligible academic entity who request the laboratory management plan.
- 4. An eligible academic entity must review and revise the eligible academic entity's laboratory management plan, as needed.

**History:** Effective January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

**33-24-03-76. Unwanted material that is not solid waste or hazardous waste.**

- 1. If an unwanted material does not meet the definition of solid waste in section 33-24-02-02, the unwanted material is no longer subject to sections 33-24-03-60 through 33-24-03-77, or to article 33-24, North Dakota hazardous waste management rules.
- 2. If an unwanted material does not meet the definition of hazardous waste in section 33-24-02-03, the unwanted material is no longer subject to sections 33-24-03-60 through 33-24-03-77, or to article 33-24, North Dakota hazardous waste management rules, but must be managed in compliance with any other application rules, or conditions, or both.

**History:** Effective January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

**33-24-03-77. Nonlaboratory hazardous waste generated at an eligible academic entity.**

An eligible academic entity that generates hazardous waste outside of a laboratory is not eligible to manage that hazardous waste under sections 33-24-03-60 through 33-24-03-77; and

1. Remains subject to the generator requirements of section 33-24-03-02 and subsection 3 of section 33-24-03-12 for large quantity generators and small quantity generators (if the hazardous waste is managed in a satellite accumulation area), and all other applicable generator requirements of chapter 33-24-03, with respect to that hazardous waste; or
2. Remains subject to the conditional exemption of subsection 2 of section 33-24-02-05 for conditionally exempt small quantity generators, with respect to that hazardous waste.

**History:** Effective January 1, 2016.

**General Authority:** NDCC 23-20.3-03

**Law Implemented:** NDCC 23-20.3-03, 23-20.3-04

**33-24-03-78. [Reserved].**

**33-24-03-79. [Reserved].**

**33-24-03-80. [Reserved].**

**33-24-03-81. [Reserved].**

**33-24-03-82. [Reserved].**

**33-24-03-83. [Reserved].**

**33-24-03-84. [Reserved].**

**33-24-03-85. [Reserved].**

## APPENDIX I

### UNIFORM HAZARDOUS WASTE MANIFEST AND INSTRUCTIONS (Environmental Protection Agency Forms 8700-22 and 8700-22A and Their Instructions)

United States Environmental Protection Agency Form 8700-22

Read all instructions before completing this form.

1. This form has been designed for use on a 12-pitch (elite) typewriter which is also compatible with standard computer printers; a firm point pen may also be used - press down hard.
2. State and federal regulations require generators and transporters of hazardous waste and owners or operators of hazardous waste treatment, storage, and disposal facilities to use this form (8700-22) and, if necessary, the continuation sheet (form 8700-22A) for both interstate and intrastate transportation of hazardous waste.
3. State regulations also require generators and transporters of hazardous waste and owners or operators of hazardous waste treatment, storage and disposal facilities to complete the following information:
  - a. State regulations under section 33-24-03-16 (additional reporting) requires the generator to provide the department with a signed copy of the manifest when first signed by the generator and transporter and as signed by and received from the designated facility or alternate facility.

\* \* \* \* \*

The following statement must be included with each uniform hazardous waste manifest, either on the form, in the instructions to the form, or accompanying the form:

Public reporting burden for this collection of information is estimated to average: thirty minutes for generators, ten minutes for transporters, and twenty-five minutes for owners or operators of treatment, storage, and disposal facilities. This includes time for reviewing instructions, gathering data, completing, reviewing, and transmitting the form. Any correspondence regarding the Paperwork Reduction Act burden statement for the manifest must be sent to the director of the collection strategies division in environmental protection agency's office of information collection at the following address: United States Environmental Protection Agency (2822T), 1200 Pennsylvania Avenue NW, Washington, D.C. 20460. Do not send the completed form to this address.

#### I. Instructions for generators

##### Item 1. Generator's identification number

Enter the generator's environmental protection agency twelve digit identification number, or the state generator identification number if the generator site does not have an environmental protection agency identification number.

##### Item 2. Page 1 of \_\_

Enter the total number of pages used to complete this manifest (for example, the first page (environmental protection agency form 8700-22) plus the number of continuation sheets (environmental protection agency form 8700-22A), if any).

##### Item 3. Emergency response phone number

Enter a phone number for which emergency response information can be obtained in the event of an incident during transportation. The emergency response phone number must:

1. Be the number of the generator or the number of an agency or organization who is capable of and accepts responsibility for providing detailed information about the shipment;
2. Reach a phone that is monitored twenty-four hours a day at all times the waste is in transportation (including transportation related storage); and
3. Reach someone who is either knowledgeable of the hazardous waste being shipped and has comprehensive emergency response and spill cleanup or incident mitigation, or both, information for the material being shipped or has immediate access to a person who has that knowledge and information about the shipment.

NOTE: Emergency response phone number information should only be entered in item 3 when there is one phone number that applies to all the waste materials described in item 9b. If a situation (for example, consolidated shipments) arises where more than one emergency response phone number applies to the various wastes listed on the manifest, the phone numbers associated with each specific material should be entered after its description in item 9b.

#### **Item 4. Manifest tracking number**

This unique tracking number must be preprinted on the manifest by the forms printer.

#### **Item 5. Generator's mailing address, phone number, and site address**

Enter the name of the generator, the mailing address to which the completed manifest signed by the designated facility should be mailed, and the generator's telephone number. Note, the telephone number (including area code) should be the normal business number for the generator, or the number where the generator or the generator's authorized agent may be reached to provide instructions in the event the designated, or alternate, or both, (if any) facility rejects some or all of the shipment. Also enter the physical site address from which the shipment originates only if this address is different than the mailing address.

#### **Item 6. Transporter 1 company name and identification number**

Enter the company name and environmental protection agency identification number of the first transporter who will transport the waste. Vehicle or driver information may not be entered here.

#### **Item 7. Transporter 2 company name and identification number**

If applicable, enter the company name and environmental protection agency identification number of the second transporter who will transport the waste. Vehicle or driver information may not be entered here. If more than two transporters are needed, use a continuation sheet or sheets (environmental protection agency form 8700- 22A).

#### **Item 8. Designated facility name, site address, and identification number**

Enter the company name and site address of the facility designated to receive the waste listed on this manifest. Also enter the facility's phone number and the environmental protection agency twelve digit identification number of the facility.

#### **Item 9. United States department of transportation description (including proper shipping name, hazard class or division, identification number, and packing group)**

**Item 9a. If the wastes identified in item 9b consist of both hazardous and nonhazardous materials, then identify the hazardous materials by entering an "X" in this item next to the corresponding hazardous material identified in item 9b.**

**Item 9b. Enter the United States department of transportation proper shipping name, hazard class or division, identification number (UN/NA) and packing group for each waste as identified**

**in 49 CFR 172. Include technical name or names and reportable quantity references, if applicable.**

NOTE: If additional space is needed for waste descriptions, enter these additional descriptions in item 27 on the continuation sheet (environmental protection agency form 8700–22A). Also, if more than one emergency response phone number applies to the various wastes described in either item 9b or item 27, enter applicable emergency response phone numbers immediately following the shipping descriptions for those items.

**Item 10. Containers (number and type)**

Enter the number of containers for each waste and the appropriate abbreviation from table I (below) for the type of container.

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**Table I. - Types of Containers**

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BA	=	Burlap, cloth, paper, or plastic bags
CF	=	Fiber or plastic boxes, cartons, cases
CM	=	Metal boxes, cartons, cases (including roll-offs)
CW	=	Wooden boxes, cartons, cases
CY	=	Cylinders
DF	=	Fiberboard or plastic drums, barrels, kegs
DM	=	Metal drums, barrels, kegs
DT	=	Dump truck
DW	=	Wooden drums, barrels, kegs
HG	=	Hopper or gondola cars
TC	=	Tank cars
TP	=	Portable tanks
TT	=	Cargo tanks (tank trucks)

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**Item 11. Total quantity**

Enter, in designated boxes, the total quantity of waste. Round partial units to the nearest whole unit, and do not enter decimals or fractions. To the extent practical, report quantities using appropriate units of measure that will allow the generator to report quantities with precision. Waste quantities entered should be based on actual measurements or reasonably accurate estimates of actual quantities shipped. Container capacities are not acceptable as estimates.

**Item 12. Units of measure (weight or volume)**

Enter, in designated boxes, the appropriate abbreviation from table II (below) for the unit of measure.

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**Table II - Units of Measure**

---

G	=	Gallons (liquids only)
K	=	Kilograms

- L = Liters (liquids only)
  - M = Metric tons (1000 kilograms)
  - N = Cubic meters
  - P = Pounds
  - T = Tons (2000 pounds)
  - Y = Cubic yards
- 

NOTE: Tons, metric tons, cubic meters, and cubic yards should only be reported in connection with very large bulk shipments, such as rail cars, tank trucks, or barges.

**Item 13. Waste codes**

Enter up to six federal and state waste codes to describe each waste stream identified in item 9b. State waste codes that are not redundant with federal codes must be entered here, in addition to the federal waste codes which are most representative of the properties of the waste.

**Item 14. Special handling instructions and additional information.**

1. Generators may enter any special handling or shipment specific information necessary for the proper management or tracking of the materials under the generator's or other handler's business processes, such as waste profile numbers, container codes, bar codes, or response guide numbers. Generators also may use this space to enter additional descriptive information about their shipped materials, such as chemical names, constituent percentages, physical state, or specific gravity of wastes identified with volume units in item 12.
2. This space may be used to record limited types of federally required information for which there is no specific space provided on the manifest, including any alternate facility designations; the manifest tracking number of the original manifest for rejected wastes and residues that are reshipped under a second manifest; and the specification of polychlorinated biphenyl waste descriptions and polychlorinated biphenyl out of service dates required under 40 CFR 761.207. Generators, however, cannot be required to enter information in this space to meet state regulatory requirements.

**Item 15. Generator's or offeror's certifications**

1. The generator must read, sign, and date the waste minimization certification statement. In signing the waste minimization certification statement, those generators who have not been exempted by statute or regulation from the duty to make a waste minimization certification under section 3002(b) of Resource Conservation and Recovery Act are also certifying that they have complied with the waste minimization requirements. The generator's certification also contains the required attestation that the shipment has been properly prepared and is in proper condition for transportation (the shipper's certification). The content of the shipper's certification statement is as follows: "I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, or placarded, or both, and are in all respects in proper condition for transport by highway according to applicable international and national governmental regulations. If export shipment and I am the primary exporter, I certify that the contents of this consignment conform to the terms of the attached environmental protection agency acknowledgment of consent". When a party other than the generator prepares the shipment for transportation, this party may also sign the shipper's certification statement as the offeror of the shipment.

2. Generator or offeror personnel may preprint the words, “on behalf of” in the signature block or may hand write this statement in the signature block prior to signing the generator or offeror certification, to indicate that the individual signs as the employee or agent of the named principal.

NOTE: All of the above information except the handwritten signature required in item 15 may be preprinted.

## **II. Instructions for international shipment block**

### **Item 16. International shipments**

For export shipments, the primary exporter must check the export box, and enter the point of exit (city and state) from the United States. For import shipments, the importer must check the import box and enter the point of entry (city and state) into the United States. For exports, the transporter must sign and date the manifest to indicate the day the shipment left the United States. Transporters of hazardous waste shipments must deliver a copy of the manifest to the United States customs when exporting the waste across United States borders.

## **III. Instructions for transporters**

### **Item 17. Transporters' acknowledgments of receipt**

Enter the name of the person accepting the waste on behalf of the first transporter. That person must acknowledge acceptance of the waste described on the manifest by signing and entering the date of receipt. Only one signature per transportation company is required. Signatures are not required to track the movement of wastes in and out of transfer facilities, unless there is a change of custody between transporters. If applicable, enter the name of the person accepting the waste on behalf of the second transporter. That person must acknowledge acceptance of the waste described on the manifest by signing and entering the date of receipt.

NOTE: Transporters carrying imports, who are acting as importers, may have responsibilities to enter information in the international shipments block. Transporters carrying exports may also have responsibilities to enter information in the international shipments block. See above instructions for item 16.

## **IV. Instructions for owners and operators of treatment, storage, and disposal facilities**

### **Item 18. Discrepancy**

#### **Item 18a. Discrepancy indication space**

1. The authorized representative of the designated (or alternate) facility's owner or operator must note in this space any discrepancies between the waste described on the manifest and the waste actually received at the facility. Manifest discrepancies are: significant differences (as defined by subsection 2 of section 33-24-05-39) between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity and type of hazardous waste a facility actually receives, rejected wastes, which may be a full or partial shipment of hazardous waste that the treatment, storage, or disposal facility cannot accept, or container residues, which are residues that exceed the quantity limits for “empty” containers set forth in subsections 3, 4, and 5 of section 33-24-02-07.
2. For rejected loads and residues (subsections 4, 5, and 6 of section 33-24-05-39 or the applicable requirements of subsection 5 of section 33-24-06-16), check the appropriate box if the shipment is a rejected load (for example, rejected by the designated or alternate facility, or both, and is sent to an alternate facility or returned to the generator) or a regulated residue that cannot be removed from a container. Enter the reason for the rejection or the inability to

remove the residue and a description of the waste. Also, reference the manifest tracking number for any additional manifests being used to track the rejected waste or residue shipment on the original manifest. Indicate the original manifest tracking number in item 14, the special handling block and additional information block of the additional manifests.

3. Owners or operators of facilities located in unauthorized states (for example, states in which the environmental protection agency administers the hazardous waste management program) who cannot resolve significant differences in quantity or type within fifteen days of receiving the waste must submit to their regional administrator a letter with a copy of the manifest at issue describing the discrepancy and attempts to reconcile it (subsection 3 of section 33-24-05-39 and the applicable requirements of subsection 5 of section 33-24-06-16).
4. Owners or operators of facilities located in authorized states (for example, those states that have received authorization from the environmental protection agency to administer the hazardous waste management program) should contact their state agency for information on where to report discrepancies involving "significant differences" to state officials.

#### **Item 18b. Alternate facility (or generator) for receipt of full load rejections**

Enter the name, address, phone number, and environmental protection agency identification number of the alternate facility which the rejecting treatment, storage, or disposal facility has designated, after consulting with the generator, to receive a fully rejected waste shipment. In the event that a fully rejected shipment is being returned to the generator, the rejecting treatment, storage, or disposal facility may enter the generator's site information in this space. This field is not to be used to forward partially rejected loads or residue waste shipments.

#### **Item 18c. Alternate facility (or generator) signature**

The authorized representative of the alternate facility (or the generator in the event of a returned shipment) must sign and date this field of the form to acknowledge receipt of the fully rejected wastes or residues identified by the initial treatment, storage, or disposal facility.

#### **Item 19. Hazardous waste report management method codes**

Enter the most appropriate hazardous waste report management method code for each waste listed in item 9. The hazardous waste report management method code is to be entered by the first treatment, storage, or disposal facility that receives the waste and is the code that best describes the way in which the waste is to be managed when received by the treatment, storage, or disposal facility.

#### **Item 20. Designated facility owner or operator certification of receipt (except as noted in item 18a)**

Enter the name of the person receiving the waste on behalf of the owner or operator of the facility. That person must acknowledge receipt or rejection of the waste described on the manifest by signing and entering the date of receipt or rejection where indicated. Since the facility certification acknowledges receipt of the waste except as noted in the discrepancy space in item 18a, the certification should be signed for both waste receipt and waste rejection, with the rejection being noted and described in the space provided in item 18a. Fully rejected wastes may be forwarded or returned using item 18b after consultation with the generator. Enter the name of the person accepting the waste on behalf of the owner or operator of the alternate facility or the original generator. That person must acknowledge receipt or rejection of the waste described on the manifest by signing and entering the date they received or rejected the waste in item 18c. Partially rejected wastes and residues must be reshipped under a new manifest, to be initiated and signed by the rejecting treatment, storage, or disposal facility as offeror of the shipment.

#### **Manifest continuation sheet**

Instructions - continuation sheet, environmental protection agency form 8700–22A

Read all instructions before completing this form. This form has been designed for use on a 12-pitch (elite) typewriter; a firm point pen may also be used - press down hard.

This form must be used as a continuation sheet to form 8700–22 if:

1. More than two transporters are to be used to transport the waste; or
2. More space is required for the United States department of transportation descriptions and related information in item 9 of environmental protection agency form 8700–22. State and federal regulations require generators and transporters of hazardous waste and owners or operators of hazardous waste treatment, storage, or disposal facilities to use the uniform hazardous waste manifest (environmental protection agency form 8700-22) and, if necessary, this continuation sheet (environmental protection agency form 8700-22A) for both interstate and intrastate transportation.

**Item 21. Generator’s identification number**

Enter the generator’s environmental protection agency twelve digit identification number or, the state generator identification number if the generator site does not have an environmental protection agency identification number.

**Item 22. Page \_\_\_ -**

Enter the page number of this continuation sheet.

**Item 23. Manifest tracking number**

Enter the manifest tracking number from item 4 of the manifest form to which this continuation sheet is attached.

**Item 24. Generator’s name -**

Enter the generator’s name as it appears in item 5 on the first page of the manifest.

**Item 25. Transporter - company name**

If additional transporters are used to transport the waste described on this manifest, enter the company name of each additional transporter in the order in which they will transport the waste. Enter after the word “transporter” the order of the transporter. For example, transporter three company name. Also, enter the environmental protection agency twelve digit identification number of the transporter described in item 25.

**Item 26. Transporter - company name**

If additional transporters are used to transport the waste described on this manifest, enter the company name of each additional transporter in the order in which they will transport the waste. Enter after the word “transporter” the order of the transporter. For example, transporter four company name. Each continuation sheet can record the names of two additional transporters. Also enter the environmental protection agency twelve digit identification number of the transporter named in item 26.

**Item 27. United States department of transportation description including proper shipping name, hazardous class, and identification number (UN/NA)**

For each row enter a sequential number under item 27b that corresponds to the order of waste codes from one continuation sheet to the next, to reflect the total number of wastes being shipped. Refer to instructions for item 9 of the manifest for the information to be entered.

**Item 28. Containers (number and type)**

Refer to the instructions for item 10 of the manifest for information to be entered.

**Item 29. Total quantity**

Refer to the instructions for item 11 of the manifest form.

**Item 30. Units of measure (weight or volume)**

Refer to the instructions for item 12 of the manifest form.

**Item 31. Waste codes**

Refer to the instructions for item 13 of the manifest form.

**Item 32. Special handling instructions and additional information**

Refer to the instructions for item 14 of the manifest form.

**Transporters**

**Item 33. Transporter - acknowledgment of receipt of materials**

Enter the same number of the transporter as identified in item 25. Enter also the name of the person accepting the waste on behalf of the transporter (company name) identified in item 25. That person must acknowledge acceptance of the waste described on the manifest by signing and entering the date of receipt.

**Item 34. Transporter - acknowledgment of receipt of materials**

Enter the same number of the transporter as identified in item 26. Enter also the name of the person accepting the waste on behalf of the transporter (company name) identified in item 26. That person must acknowledge acceptance of the waste described on the manifest by signing and entering the date of receipt.

**Owner and operators of treatment, storage, or disposal facilities**

**Item 35. Discrepancy indication space**

Refer to item 18. This space may be used to more fully describe information on discrepancies identified in item 18a of the manifest form.

**Item 36. Hazardous waste report management method codes**

For each field here, enter the sequential number that corresponds to the waste materials described under item 27, and enter the appropriate process code that describes how the materials will be processed when received. If additional continuation sheets are attached, continue numbering the waste materials and process code fields sequentially, and enter on each sheet the process codes corresponding to the waste materials identified on that sheet.

**APPENDIX I**  
**Uniform Hazardous Waste Manifest Form Example - Page 1 of 2**

Please print or type. (Form designed for use on elite (12-pitch) typewriter.) Form Approved. OMB No. 2050-0039

<b>UNIFORM HAZARDOUS WASTE MANIFEST</b>	1. Generator ID Number	2. Page 1 of	3. Emergency Response Phone	4. Manifest Tracking Number								
	5. Generator's Name and Mailing Address		Generator's Site Address (if different than mailing address)									
Generator's Phone:												
6. Transporter 1 Company Name			U.S. EPA ID Number									
7. Transporter 2 Company Name			U.S. EPA ID Number									
8. Designated Facility Name and Site Address			U.S. EPA ID Number									
Facility's Phone:												
<b>GENERATOR</b>	9a. HM	9b. U.S. DOT Description (including Proper Shipping Name, Hazard Class, ID Number, and Packing Group (if any))	10. Containers		11. Total Quantity	12. Unit WL/Vol.	13. Waste Codes					
			No.	Type								
	1.											
	2.											
	3.											
4.												
14. Special Handling Instructions and Additional Information												
<p>15. <b>GENERATOR'S/OFFEROR'S CERTIFICATION:</b> I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgment of Consent. I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) is true.</p>												
Generator's/Offeror's Printed/typed Name							Signature			Month	Day	Year
<b>TRANSPORTER INTL</b>	16. International Shipments <input type="checkbox"/> Import to U.S. <input type="checkbox"/> Export from U.S. Port of entry/exit: _____											
	Transporter signature (for exports only): _____ Date leaving U.S.: _____											
	17. Transporter Acknowledgment of Receipt of Materials											
Transporter 1 Printed/typed Name							Signature			Month	Day	Year
Transporter 2 Printed/typed Name							Signature			Month	Day	Year
<b>DESIGNATED FACILITY</b>	18. Discrepancy											
	18a. Discrepancy Indication Space <input type="checkbox"/> Quantity <input type="checkbox"/> Type <input type="checkbox"/> Residue <input type="checkbox"/> Partial Rejection <input type="checkbox"/> Full Rejection											
	Manifest Reference Number: _____											
	18b. Alternate Facility (or Generator)							U.S. EPA ID Number				
Facility's Phone:												
18c. Signature of Alternate Facility (or Generator)							Signature			Month	Day	Year
19. Hazardous Waste Report Management Method Codes (i.e., codes for hazardous waste treatment, disposal, and recycling systems)												
1.		2.		3.		4.						
20. Designated Facility Owner or Operator: Certification of receipt of hazardous materials covered by the manifest except as noted in item 18a												
Printed/typed Name							Signature			Month	Day	Year

EPA Form 8700-22 (Rev. 3-05) Previous editions are obsolete. **DESIGNATED FACILITY TO DESTINATION STATE (IF REQUIRED)**

