

# **NORTH DAKOTA ADMINISTRATIVE CODE**

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**TITLE 10**  
**ATTORNEY GENERAL**



**JULY 2021**

**CHAPTER 10-16-04**

**10-16-04-01. Game description.**

To play POWERBALL®, a player selects five different white numbers, between one and sixty-nine, and one additional red number (powerball) between one and twenty-six. The additional number may be the same as one of the first five numbers selected. The price of a play is two dollars. A grand prize is paid, at the election of a winning player or by a default election made according to these rules, either on an annuitized pari-mutuel basis or as a cash lump sum payment of the total cash held for the prize pool on a pari-mutuel basis. A set prize (cash prize of one million dollars or less) is paid on a single-payment cash basis. Draws are held every Monday, Wednesday, and Saturday.

**History:** Effective February 1, 2004; amended effective November 8, 2005; January 4, 2009; January 15, 2012; October 4, 2015; August 23, 2021.

**General Authority:** NDCC 53-12.1-13

**Law Implemented:** NDCC 53-12.1-13

## CHAPTER 10-16-11

### 10-16-11-01. Game description.

To play LUCKY FOR LIFE®, a player selects five different numbers, between one and forty-eight, and one additional number (Lucky Ball) between one and eighteen. The additional number may be the same as one of the first five numbers selected. The price of a play is two dollars. Draws are held every ~~Monday and Thursday~~ day of the week.

**History:** Effective January 31, 2016; amended effective October 29, 2017; July 19, 2021.

**General Authority:** NDCC 53-12.1-13

**Law Implemented:** NDCC 53-12.1-13

**TITLE 20**  
**STATE BOARD OF DENTAL EXAMINERS**



**JULY 2021**

**CHAPTER 20-01-02**

**20-01-02-01. Definitions.**

Unless specifically stated otherwise, the following definitions are applicable throughout this title:

1. "Advertising" means any public communication, made in any form or manner, about a licensee's professional service or qualifications, for the purpose of soliciting business.
2. ~~"Anxiolysis" means diminution or elimination of anxiety.~~
- ~~3.~~ "Basic full upper and lower denture" means replacement of all natural dentition with artificial teeth. This replacement includes satisfactory tissue adaptation, satisfactory function, and satisfactory aesthetics. Materials used in these replacements must be nonirritating in character and meet all the standards set by the national institute of health and the bureau of standards and testing agencies of the American dental association for materials to be used in or in contact with the human body.
- 4.3. "Board certified" means the dentist has been certified in a specialty area in which there is a certifying body approved by the commission on dental accreditation of the American dental association.
- 5.4. "Board eligible" means the dentist has successfully completed a duly accredited training program or in the case of a dentist in practice at the time of the adoption of these rules has experience equivalent to such a training program in an area of dental practice in which there is a certifying body approved by the commission on dental accreditation of the American dental association.
- 6.5. "Bona fide specialties" means the specialties of dental public health, endodontics, oral and maxillofacial pathology, oral and maxillofacial radiology, oral and maxillofacial surgery, orthodontics and dentofacial orthopedics, pediatric dentistry, periodontics, dental anesthesiology, oral medicine, and prosthodontics. The licensee has successfully completed a qualifying postdoctoral educational program and holds a current certification by a qualifying specialty board or organization as set forth in section 20-02-01-01.
- 7.6. "Cardiopulmonary resuscitation course" means the American heart association's health care provider course, the American red cross professional rescuer course, or an equivalent course.
- 8.7. "Certified dental assistant" means a dental assistant who meets the education or experience prerequisites, or both, established by the dental assisting national board and passes the dental assisting national board's certified dental assistant examination, is currently cardiopulmonary resuscitation-certified, and continues to maintain the credential by meeting

the dental assisting national board requirements. A certified dental assistant must be registered by the board as a qualified dental assistant or registered dental assistant to provide ~~any~~ expanded duties.

~~9.8.~~ "Code of ethics" means the ~~January 2009~~ November 2020 version of the American dental association's principles of ethics and code of professional conduct.

~~10.~~ "~~Combination inhalation—enteral conscious sedation~~" (~~combined conscious sedation~~) means ~~conscious sedation using inhalation and enteral agents.~~

~~When the intent is anxiolysis only, and the appropriate dosage of agents is administered, then the definition of enteral or combined inhalation-enteral conscious sedation (combined conscious sedation), or both, does not apply.~~

~~Nitrous oxide/oxygen when used in combination or with sedative agents may produce anxiolysis, conscious or deep sedation, or general anesthesia.~~

~~11.9.~~ "Complete evaluation" means an examination, review of medical and dental history, the formulation of a diagnosis, and the establishment of a written treatment plan, documented in a written record to be maintained in the dentist's office or other treatment facility or institution.

~~12.~~ "~~Conscious sedation~~" means ~~depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command and that is produced by a pharmacological or nonpharmacological method or a combination thereof. The drugs or technique, or both, should carry a margin of safety wide enough to render unintended loss of consciousness unlikely. Patients whose only response is reflex withdrawal from repeated painful stimuli would not be considered to be in a state of conscious sedation.~~

~~13.10.~~ "Contiguous supervision" means that the dentist whose patient is being treated and has personally authorized the procedures to be performed. The supervising dentist is continuously onsite and physically present in the treatment facility while the procedures are performed by the qualified dental anesthesia auxiliary staff member and capable of responding immediately in the event of an emergency. The term does not require a supervising dentist to be physically present in the operatory.

~~14.11.~~ "Clinical continuing education" means information that relates to the examination and treatment of patients.

~~12.~~ "Coronal polishing" is the mechanical polishing of clinical crowns using a rubber cup or brush only and not to include use of any instrumentation.

~~15.~~ "~~Deep sedation~~" is ~~an induced state of depressed consciousness accompanied by partial loss of protective reflexes, including the inability to continually maintain an airway independently or to respond purposefully to physical stimulation or verbal command, and is produced by pharmacological or nonpharmacological method, or combination thereof.~~

~~16.13.~~ "Direct supervision" means the dentist is physically present in the dental office or treatment facility, personally diagnoses the condition to be treated, personally authorizes the procedures and remains in the dental office or treatment facility while the procedures are being performed by the dental hygienist or dental assistant, and before dismissal of the patient, evaluates the performance of the dental hygienist or dental assistant.

~~17.14.~~ "Direct visual supervision" means ~~supervision by a~~ the dentist ~~by~~ is physically present to issue a verbal command ~~and~~ under direct line of sight.

- ~~18-15.~~ "Evaluation" means the act or process by a dentist of assessing and determining the patient's oral health status, the progress of dental therapy, or the performance of the dental hygienist or dental assistant.
- ~~19.~~ ~~"General anesthesia" means an induced state of unconsciousness accompanied by a partial or complete loss of protective reflexes, including the inability to continually maintain an airway independently and respond purposefully to physical stimulation or verbal command, and is produced by a pharmacological or nonpharmacological method, or a combination thereof.~~
- ~~20-16.~~ "Final scan by digital capture" means the digital or analog image, compilation of images approved and submitted by the supervising dentist for a diagnosis, or the construction of casts which is captured by the digital scanning of any hard or soft tissue-bearing area, whether intraorally or extraorally for the purpose of fabricating a prescriptive device.
- ~~17.~~ "Foreign practitioner" means an individual who currently holds and maintains a license in good standing to engage in an occupation or profession in a state or jurisdiction other than this state and who is not the subject of a pending disciplinary action in any state or jurisdiction.
- ~~18.~~ "Good standing" means a foreign practitioner who holds a current license that is not issued on a temporary or restricted basis, is not encumbered or on probation, and is not suspended or revoked.
- ~~19.~~ "General supervision" means the dentist has authorized the procedures and they are carried out in accordance with the dentist's diagnosis, if necessary, and treatment plan. The dentist is not required to be in the treatment facility. A new patient who has not been examined by the authorizing dentist may be seen by a dental hygienist authorized to provide duties under general supervision. Limitations are contained in North Dakota Century Code section 43-20-03.
- ~~21-20.~~ "Inactive status" means the licensee shall not engage in the practice of dentistry or dental hygiene in the state of North Dakota. The license that is placed on inactive status remains on that status until such time as the license is reinstated.
- ~~22-21.~~ "Indirect supervision" means that a dentist is physically present in the dental office or treatment facility, has personally diagnosed the condition to be treated, authorizes the procedures, and remains in the dental office or treatment facility while the procedures are being performed by the dental hygienist or dental assistant.
- ~~23-22.~~ "Local anesthesia" means the elimination of sensations in one part of the body by regional injection of drugs without causing the loss of consciousness.
- ~~23.~~ "Military spouse" is a foreign practitioner who is the spouse of a member of the armed forces of the United States or a reserve component of the armed forces of the United States stationed in North Dakota in accordance with military orders or stationed in North Dakota before a temporary assignment to duties outside of North Dakota.
24. "Oral assessment" means the evaluation of data pertaining to the patient's condition to help identify dental problems leading to a professional treatment plan. The final diagnosis of disease or treatment plan is the sole responsibility of the supervising or collaborative dentist.
25. "Oral hygiene treatment planning" is a component of a comprehensive treatment plan developed by the hygienist or dentist to provide the hygienist a framework for addressing the preventative, educational, and clinical treatment needs of the patient.
26. "Patient of record" means a patient who has undergone a complete dental evaluation ~~performed by a licensed dentist, has had a medical and dental history completed and evaluated by a dentist, or a patient who has been examined, and has had oral conditions~~

diagnosed and a written plan developed by the licensed dentist, or dental hygiene treatment authorized by a dentist, and the patient has compensated the dentist or dental facility for a procedure.

27. "Primary practice site" means the office location that is to be considered the main location of the dental practice. This office location would be listed first on the biennial registration.

28. "Qualified dental assistant" means a dental assistant who has been employed and trained as a dental assistant and has received at least ~~six~~three hundred ~~fifty~~ hours of on-the-job training, has completed a board-approved infection control seminar and passed the x-ray and infection control portions of the dental assisting national board examination, and has applied to the board and paid the certificate fee and met any other requirements of section 20-03-01-05.

29. "Qualified dental staff member" means an individual trained and competent in the use of monitoring and emergency equipment capable of assisting with procedures and emergency incidents that may occur as a result of the sedation or secondary to an unexpected medical complication.

30. "Registered dental assistant" means a dental assistant who is a graduate of a dental assistant program accredited by the commission on dental accreditation of the American dental association or a substantially equivalent curriculum approved by the board or has been certified by the dental assistant national board, and has applied to the board and paid the registration fee and met any other requirements of section 20-03-01-05.

31. "Remedial education" means an educational intervention prescribed by the board that is designed to restore an identified practice deficiency of a licensee. Remediation may include successful demonstration by the licensee that the learned knowledge and skills have been incorporated into the licensee's practice.

~~30-32.~~ "Satellite office" means an office, building, or location used at any time by a dentist for the practice of dentistry other than the office listed on the dentist's biennial registration certificate.

33. "Screening" means an inspection used for the early identification of individuals at potentially high risk for a specific condition or disorder and can indicate a need for further evaluation or preliminary intervention. A screening is neither diagnostic nor a definitive indication of a specific condition and does not involve making diagnoses that lead to treatment plans.

34. "Self-study", for the purposes of continuing education requirements, means the licensee engages in obtaining education without direct supervision, without attendance in a classroom setting, or without a proctor during online education. A certificate of completion must be obtained as proof of education.

35. "Telehealth" means the federal Health Insurance Portability and Accountability Act compliant practice of providing health care to a patient of record, using electronic technology or secure communication technologies between a licensee in one location and a patient in another location.

36. "Webinar", for the purposes of continuing education requirements, means the licensee engages in a live web-based seminar or presentation using video conferencing software. A webinar is interactive and has the ability to give, receive, and discuss information in real-time. A certificate of completion indicating "webinar", or other evidence of attendance must be maintained as proof of education.

**History:** Effective September 1, 1980; amended effective February 1, 1992; October 1, 1993; May 1, 1996; August 1, 1998; April 1, 2000; June 1, 2002; July 1, 2004; April 1, 2006; October 1, 2007; January 1, 2011; April 1, 2015; July 1, 2017; April 1, 2021.

**General Authority:** NDCC 43-20-10; 43-28-06

**Law Implemented:** NDCC 43-20, 43-28

## CHAPTER 20-02-01 GENERAL REQUIREMENTS

### Section

20-02-01-01	Advertising
20-02-01-02	Office Emergency
20-02-01-03	Nitrous Oxide <del>[Repealed]</del>
20-02-01-03.1	Additional Requirements for Licensure by Examination
20-02-01-03.2	Additional Requirements for Licensure by Credential Review
20-02-01-03.3	Additional Requirements for Applications
20-02-01-03.4	Clinical Competency Examination Retakes
20-02-01-04	Temporary License to Practice Dentistry
20-02-01-04.1	Restricted License to Practice Dentistry [Repealed]
20-02-01-04.2	Volunteer License to Practice Dentistry
20-02-01-04.3	Inactive Status - License Reinstatement
20-02-01-05	<del>Permit for Anesthesia Use</del> <u>Anesthesia and Sedation Permit Requirements</u>
20-02-01-06	Continuing Dental Education for Dentists
20-02-01-07	Removable Dental Prostheses Owner Identification
20-02-01-08	Discontinuance of Practice - Retirement - Discontinuance of Treatment
20-02-01-09	<del>Retention of Patient</del> <u>Records</u>
20-02-01-10	Authorization of Laboratory Services
20-02-01-11	Permit for the Use of Dermal Fillers and Botulinum Toxin for Dental Use
20-02-01-12	Dental Prescribers and Use of the Prescription Drug Monitoring Program
20-02-01-13	Exceptions to the Review Requirement

### **20-02-01-01. Advertising.**

1. Advertising by dentists is permitted to disseminate information for the purpose of providing the public a sufficient basis upon which to make an informed selection of dentists. In the interest of protecting the public health, safety, and welfare, advertising which is false, deceptive, or misleading is prohibited.
2. All advertising must contain the legal name of the dentist, or a reasonable variation thereof. In the case of a partnership or corporation, the name used in the advertisement may be the true name of the partnership or corporation. The advertisement must also contain the location, or locations, of the dentist, partnership, or corporation. It is false or misleading for a dentist to hold themselves out to the public as a specialist, or any variation of that term, in a practice area unless the dentist:
  - a. Has completed a qualifying postdoctoral educational program in that area as set forth in subsection 3; or
  - b. Holds a current certification by a qualifying specialty board or organization as set forth in subsection 3.
3. A dentist engaged in general practice who wishes to announce the services available in the dentist's practice is permitted to announce the availability of those services as long as the dentist avoids using language that expresses or implies that the dentist is a specialist. If a dentist, other than a specialist, wishes to advertise a limitation of practice, such advertisement must state that the limited practice is being conducted by a general dentist. A dentist who is a specialist may announce the dentist's bona fide specialty provided that the dentist has successfully completed ana qualifying postdoctoral educational program accredited by the commission on accreditation of dental and dental auxiliary educational programs an agency recognized by the United States department of education, of full-time study two or more years in length, as specified by the commission on dental accreditation of the American dental association resulting in a master of science degree or certificate from an accredited program or

be a diplomate of a nationally recognized certifying board. Such a dentist may announce that the dentist's practice is limited to the special area of dental practice in which the dentist has or wishes to announce. In determining whether an organization is a qualifying specialty board or organization, the board shall consider the following standards:

- a. Whether the organization requires completion of an educational program with didactic, clinical, and experiential requirements appropriate for the specialty or subspecialty field of dentistry in which the dentist seeks certification, and the collective didactic, clinical, and experiential requirements are similar in scope and complexity to a qualifying postdoctoral educational program. Programs that require solely experiential training, continuing education classes, on-the-job training, or payment to the specialty board may not constitute a qualifying specialty board or organization;
  - b. Whether the organization requires all dentists seeking certification to pass a written or oral examination, or both, that tests the applicant's knowledge and skill in the specialty or subspecialty area of dentistry and includes a psychometric evaluation for validation;
  - c. Whether the organization has written rules on maintenance of certification and requires periodic recertification;
  - d. Whether the organization has written bylaws and a code of ethics to guide the practice of its members;
  - e. Whether the organization has staff to respond to consumer and regulatory inquiries; and
  - f. Whether the organization is recognized by another entity whose primary purpose is to evaluate and assess dental specialty boards and organizations.
4. A dentist who advertises on radio or television must retain a recorded copy of such advertising for a period of one year following the termination of the use of such advertising, and is responsible to make recorded copies of such advertising available to the North Dakota state board of dental examiners within thirty days following a request from the board for such copies.
  5. No dentist may advertise the dentist, the dentist's staff, the dentist's services, or the dentist's method or methods of delivery of dental services to be superior to those of any other licensed dentist, unless such claim or claims can be substantiated by the advertiser, upon whom rests the burden of proof.
  6. This section may not be construed to prohibit a dentist who does not qualify to hold themselves out to the public as a specialist under subsection 3 from restricting the dental practice to one or more specific areas of dentistry or from advertising the availability of dental services, provided that such advertisements do not include the term "specialist," or any variation of that term, and must state that the services advertised are to be provided by a general dentist. No advertising by a dentist may contain representations or other information contrary to the provisions of North Dakota Century Code section 43-28-18 or North Dakota Administrative Code title 20.

**History:** Effective September 1, 1980; amended effective February 1, 1992; October 1, 1993; April 1, 2015; April 1, 2021.

**General Authority:** NDCC 43-28-06

**Law Implemented:** NDCC 43-28-06

**20-02-01-03. Nitrous oxide.**

Repealed effective April 1, 2021.

~~—A duly licensed dentist may use nitrous oxide for treating patients only when the following conditions are met:~~

- ~~1. Documentation has been provided by the dentist to the board that verifies completion of fourteen hours of instruction or continuing professional education dealing specifically with the use of nitrous oxide. In the absence of documentation of classroom training, the dentist must provide proof acceptable to the board that demonstrates three years of practical experience in the use of nitrous oxide.~~
- ~~2. A dentist who induces a patient into a state of psychosedation or relative analgesia using nitrous oxide shall ensure that the patient will be continually and personally monitored by a dentist. A dentist may delegate the monitoring tasks to a licensed dental hygienist or a registered dental assistant utilizing indirect supervision only after the patient has been stabilized at the desired level of conscious sedation or relative analgesia by the action of the dentist. The licensed dental hygienist or registered dental assistant who is assigned the monitoring task shall remain in the treatment room with the patient at all times. A dental hygienist or a dental assistant may not initiate the administration of nitrous oxide to a patient. A dental hygienist or a registered dental assistant may terminate or reduce the amount of nitrous oxide previously administered by the dentist.~~
- ~~3. The dentist must provide and document training for the dental hygienist or registered dental assistant in the proper and safe operation of the analgesia machine being used prior to the registered dental hygienist or registered dental assistant monitoring the patient. Training shall include emergency procedures to be employed if required.~~

~~**History:** Effective February 1, 1992; amended effective May 1, 1996; April 1, 2000; October 1, 2007; January 1, 2011; April 1, 2015.~~

~~**General Authority:** NDCC 43-20-10, 43-28-06~~

~~**Law Implemented:** NDCC 43-20-03, 43-20-10, 43-20-12, 43-20-13, 43-28-06~~

#### **20-02-01-04.2. Volunteer license to practice dentistry.**

A patient who is seen by a dentist who holds a volunteer license to practice dentistry shall not be considered a patient of record of the volunteer dentist. The dentist is not obligated to treat the patient outside of the volunteer practice setting. Between meetings of the board, the executive director of the board may review the volunteer license application and grant a provisional license if all the requirements are met. A volunteer license to practice dentistry in North Dakota, renewable annually by application to the board, may be granted when the following conditions are met:

1. The applicant was formerly licensed and actively practicing in the state of North Dakota or another jurisdiction for at least three of the five years immediately preceding application, where the requirements are at least substantially equivalent to those of this state; or
  - a. The applicant is the resident of a board-approved specialty program; or
  - b. The board determines that the applicant is qualified and satisfies the criteria specified under North Dakota Century Code section 43-28-10.1.
2. The applicant agrees to provide primary health services without remuneration directly or indirectly in a board-approved setting.
3. The applicant holds a current cardiopulmonary resuscitation course certification.
4. The applicant has completed continuing education requirements of the board.
5. The applicant has made application for a volunteer dental license in a manner prescribed by the board.

6. The board may collect from the applicant the nonrefundable application and license fee prescribed by the board.
7. The board may apply such restrictions as it deems appropriate to limit the scope of the practice of dentistry under the authority of the volunteer license.

**History:** Effective April 1, 2000; amended effective January 1, 2011; April 1, 2015; [April 1, 2021](#).

**General Authority:** NDCC 43-28-06

**Law Implemented:** NDCC 43-28-06

### **20-02-01-04.3. Inactive status - License reinstatement.**

A dentist may, upon payment of the fee determined by the board, place the dentist's license on inactive status. A dentist on inactive status shall be excused from the payment of renewal fees, except inactive status renewal fees, and continuing education. A dentist on inactive status shall not practice in North Dakota. To reinstate a license on inactive status, the dentist shall apply on the form as prescribed by the board, pay a reinstatement fee, and meet all of the following requirements:

1. The applicant has passed a clinical competency examination administered by a regional dental testing service, approved by the board in section 20-02-01-03.1, within five years of application or provides evidence of the clinical practice of dentistry within the previous five years. The board may, within the board's discretion, waive this requirement.
2. The applicant passes a written examination on the laws and rules governing the practice of dentistry in this state administered by the board at a meeting.
3. The applicant has completed thirty-two hours of continuing education in accordance with section 20-02-01-06 within two years of application.
4. The applicant has successfully completed a cardiopulmonary resuscitation course within two years of application.
5. Grounds for denial of the application under North Dakota Century Code section 43-28-18 do not exist.

**History:** Effective April 1, 2006; amended effective January 1, 2011; July 1, 2017; [April 1, 2021](#).

**General Authority:** NDCC 43-28-06

**Law Implemented:** NDCC 43-28-17

### **20-02-01-05. ~~Permit for anesthesia use~~ Anesthesia and sedation permit requirements.**

~~1.—~~The rules in this chapter are adopted for the purpose of defining standards for the administration of anesthesia and sedation by dentists or a dentist who collaborates with a qualified and licensed anesthesia or sedation provider. ~~The standards specified in this chapter shall apply equally to general anesthesia, deep sedation, moderate (conscious) sedation, or a combination of any of these with inhalation, but do not apply to sedation administered through inhalation alone.~~ A dentist licensed under ~~North Dakota Century Code chapter 43-28 and practicing in North Dakota~~ may not use any form of sedation if the intent is beyond anxiolysis on any patient unless such dentist has a permit, currently in effect, issued by the board, and renewable biennially thereafter, authorizing the use of such general anesthesia, deep sedation, or moderate (conscious) sedation, ~~or minimal sedation when used in combination with inhalation.~~

~~2.—~~ An applicant may not be issued a permit initially as required in subsection 1 unless:

- ~~a.—~~ The board of dental examiners approves the applicant's facility and any other facility, clinic, or mobile dental clinic where anesthesia services are provided after an inspection conducted by an individual or individuals designated by the dental examiners;

- ~~b. The board of dental examiners is satisfied that the applicant is in compliance with the American dental association's most recent policy statement: the use of sedation and general anesthesia by dentists;~~
- ~~c. The initial application includes payment of a fee in the amount determined by the dental examiners; and~~
- ~~d. If the application appears to be in order, the board may issue a temporary permit prior to the site evaluation. The temporary permit may be revoked if the applicant fails the site inspection or if the applicant fails to cooperate with the timely scheduling of the site inspection.~~
- ~~3. The board of dental examiners may renew such permit biennially, provided:~~
  - ~~a. Requirements of the permit application have been met;~~
  - ~~b. Application for renewal and renewal fee is received by the dental examiners before the date of expiration of such permit. If the renewal application and renewal fee have not been received by the expiration of the permit, late fees as determined by the board shall apply; and~~
  - ~~c. An onsite evaluation of the dentist's facility may be conducted by an individual designated by the board of dental examiners, and the board of dental examiners must approve the results of each such evaluation. Each facility where anesthesia is administered must be evaluated.~~
- ~~4. A North Dakota licensed anesthesia or sedation provider authorized by the board shall reevaluate the credentials, facilities, equipment, personnel, and procedures of a permitholder within every five years following a successful initial application or renewal. Drugs and techniques used must carry a margin of safety wide enough to render the unintended loss of consciousness unlikely, factoring in titration and the patient's age, weight, and ability to metabolize drugs. The qualified dentist must have the training, skills, drugs, and equipment immediately available in order to rapidly identify and manage an adverse occurrence until either emergency medical assistance arrives or the patient returns to the intended level of sedation or full recovery without airway, respiratory, or cardiovascular complications.~~

1. For purposes of this chapter, the following definitions apply:

- a. "Aldrete score" means a measurement of recovery after anesthesia that includes gauging consciousness, activity, respiration, and blood pressure.

Aldrete Scoring Guidelines				
Activity	Respiration	Circulation	Consciousness	Oxygenation
2 <u>Able to move four extremities voluntarily on command and/or returned to preprocedure level</u>	2 <u>Patient can cough and deep breathe on command and/or respirations unlabored, oxygen saturation at preprocedure level</u>	2 <u>Blood pressure and heart rate +/- 20 percent of pre sedation level and/or asymptomatic alteration</u>	2 <u>Fully awake (able to answer questions) or at preprocedure level</u>	2 <u>Able to maintain oxygen saturation greater than 92 percent or at preprocedure level</u>  <u>Pink or normal skin color</u>
1 <u>Able to move two extremities voluntarily on command</u>	1 <u>Dyspnea or limited breathing or requires oxygen greater</u>	1 <u>Blood pressure and heart rate +/- 20 to 50 percent of pre-anesthetic</u>	1 <u>Arousable on calling (arousable only to calling)</u>	1 <u>Needs oxygen to maintain adequate oxygenation</u>

and/or moves weakly, unable to stand	than baseline level to maintain adequate saturation	level or mildly symptomatic alteration that requires fluid bolus intervention or dopamine at less than ten micrograms per kilogram per minute for heart failure patients		Pale, dusky, blotchy, jaundiced, or other
0 Unable to move	0 Apneic or requires airway support	0 Blood pressure and heart rate greater than 50 percent =/- pre sedation levels and/or requires pharmacological intervention, or dopamine at greater than ten micrograms per kilogram per minute for heart failure patients	0 Unresponsive	0 Oxygen saturation less than 90 percent adult, less than 92 percent peds even with oxygen support.  Cyanotic
Target 2	Target 2	Target 1-2	Target 1-2	Target 2
A score of less than 8, re-evaluate q 15 minutes/greater than 8 discharge to recovery or greater than or equal to discharge home				

b. "Capnography" means a process to determine the presence and percent of carbon dioxide in a patient's breath through the use of a carbon dioxide monitor, the noninvasive measurement of the partial pressure of carbon dioxide in exhaled breath expressed as the carbon dioxide concentration over time and is graphically represented. Carbon dioxide measured at the airway can be displayed as a function of time (carbon dioxide concentration over time) or exhaled tidal volume (carbon dioxide concentration over volume).

c. "Dental anesthesia assistant" means an individual who has successfully completed a board-approved dental anesthesia assistant education and training course and is authorized by permit to provide dental anesthesia assistant duties under the supervision of a dentist authorized by permit to provide parenteral sedation pursuant to sections 20-03-01-01.1 and 20-04-01-01.

d. "Direct supervision of moderate sedation or general anesthesia" means the anesthesia or sedation permitholder is in the immediate presence of a patient while sedated or anesthesia is being administered to that patient and:

(1) A patient under general anesthesia is considered "sedated" for that period of time beginning with the first administration of general anesthetic agents until that time when the patient is again conscious with a full return of protective reflexes, including the ability to respond purposely to physical stimulation or verbal command, or both when no additional agents will be administered, the dental procedures have been completed, and after the maximum effects of all agents have been experienced by the patient.

(2) A patient under moderate sedation is considered "sedated" for that period of time beginning with the first administration of sedation agents until that time when no

additional agents will be administered, the dental procedures have been completed, and after the effects of previous dosing have been fully appreciated by the patient. The dentist is relieved of supervising the patient when the patient is considered to have recovered.

(3) A patient is deemed to be "recovering from" sedation or general anesthesia from the time the patient is no longer "sedated" as defined in paragraph 1 or 2 until the dentist has evaluated the patient and has determined the patient is responsive, alert, has stable vital signs, and is ambulatory or capable of being safely transported. A qualified dental staff member may monitor the recovering patient under indirect supervision.

e. "General anesthesia" means a drug-induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to maintain ventilator function is often impaired. Patients often require assistance in maintaining patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.

f. "Incremental dosing" means administration of multiple doses of a drug until a desired effect is reached.

g. "Maximum recommended dose" means the maximum United States food and drug administration recommended dose of a drug, as printed in the food and drug administration-approved labeling for unmonitored home use.

h. "Minimal sedation" means a drug-induced depression of consciousness, which retains the patient's ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal command. Although cognitive function and coordination may be modestly impaired, ventilatory and cardiovascular functions are unaffected. Minimal sedation may be achieved by the administration of a single drug administered in a single or divided dose not to exceed the maximum recommended dose. A permit is not required for minimal sedation.

i. "Moderate sedation" means a drug-induced depression of consciousness during which a patient responds purposefully to verbal commands either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained. Administration of sedative drugs exceeding the maximum recommended dose for unmonitored home use during a single appointment and use of nitrous oxide inhalation therapy, or use of more than one enteral drug administered, with or without concomitant use of nitrous oxide is considered moderate sedation.

j. "Nitrous oxide inhalation analgesia" means a technique in which the inhalation of nitrous oxide enables treatment to be carried out and in which purposeful verbal contact with the patient can be maintained or the patient responds appropriately to light tactile stimulation throughout the administration of nitrous oxide inhalation analgesia, and the drugs and techniques used have a margin of safety wide enough to render unintended loss of consciousness extremely unlikely.

k. "Parenteral moderate sedation" means the intravenous, intramuscular, intranasal, subcutaneous, sublingual, submucosal, transdermal, or rectal administration of pharmacological agents with the intent to obtain a depressed level of consciousness that meets the definition of moderate sedation.

- l. "Patient monitoring of minimal sedation" means a dentist or qualified dental staff member responsible for patient monitoring is continuously in the presence of the patient in the office, operatory, and recovery area before administration or if the patient self-administered the sedative agent immediately upon arrival, and throughout recovery until the patient is discharged by the dentist.
- m. "Patient monitoring of moderate sedation or general anesthesia" means a qualified dentist, anesthesiologist, or certified registered nurse anesthetist, must remain in the operatory room to monitor the patient continuously until the patient meets the criteria pursuant to this section for recovery. When active treatment concludes and the patient recovers to a minimally sedated level, a qualified dental staff member may be directed by the dentist to remain with the patient. The dentist may not leave the facility until the patient meets the criteria for discharge and is discharged from the facility.
- n. "Pediatric patient" means a dental patient twelve years of age or younger.
- o. "Supplemental dosing" means during minimal sedation, supplemental dosing is a single additional dose of the initial drug that is necessary for prolonged procedures.
- p. "Time-oriented anesthesia record" means documentation at appropriate intervals of drugs, doses, and physiologic data obtained during patient monitoring.
- q. "Titration" means administration of incremental doses of an intravenous or inhalation drug until a desired effect is reached.
- r. "Topical anesthesia" means the elimination of sensation, especially pain, in one part of the body by skin or mucous membrane surface application of a drug.
- s. "Transdermal or transmucosal" means a technique of administration in which the drug is administered by patch or iontophoresis.

2. Administration of nitrous oxide inhalation analgesia - Requirements. The following standards apply to the administration of nitrous oxide inhalation analgesia:

- a. Inhalation equipment must have a fail-safe system that is appropriately checked and calibrated. The equipment also must have either a functioning device that prohibits the delivery of less than thirty percent oxygen or an appropriately calibrated and functioning in-line oxygen analyzer with audible alarm. A scavenging system must be available if gases other than oxygen or air are used.
- b. Patient dental records must include the concentration administered and duration of administration.
- c. A dentist may not delegate monitoring of nitrous oxide inhalation analgesia once the patient has ingested an enteral drug for the purpose of minimal sedation.
- d. Prior to authorizing a dental hygienist or registered dental assistant to administer nitrous oxide inhalation analgesia, the dentist must have provided and documented training in the proper and safe operation of the nitrous oxide inhalation analgesia equipment.
- e. A patient receiving nitrous oxide inhalation analgesia must be monitored continually by a dental hygienist or a registered dental assistant. A dental hygienist or a registered dental assistant may terminate or reduce the amount of nitrous oxide previously administered by the nitrous oxide inhalation analgesia provider.

f. The board may issue a permit authorizing the administration of nitrous oxide inhalation to a dentist or dental hygienist or registered dental assistant when the following requirements are met:

(1) Evidence of successful completion of a twelve-hour, board-approved course of training or course provided by a program accredited by an accrediting body recognized by the United States department of education, and either:

(a) Completed the course within thirteen months prior to application; or

(b) Completed the course more than thirteen months prior to application, has legally administered nitrous oxide inhalation analgesia for a period of time during the three years preceding application, and provides written documentation from a dentist who has employed or supervised the applicant, attesting to the current clinical proficiency of the applicant to administer nitrous oxide inhalation analgesia.

(2) Evidence of current certification in basic life support by the American heart association for the health care provider, or an equivalent program approved by the board.

3. Administration of minimal sedation. A dentist administering minimal sedation shall maintain basic life support certification and comply with the following standards:

a. An appropriate sedative record must be maintained and must contain the names and time of all drugs administered, including local anesthetics and nitrous oxide. The time and condition of the patient at discharge from the treatment area and facility requires documentation.

b. Medications used to produce minimal sedation are limited to a single enteral drug, administered either singly or in divided doses, by the enteral route to achieve the desired clinical effect, not to exceed the maximum recommended dose in a single appointment. The administration of enteral drugs exceeding the maximum recommended dose during a single appointment is considered to be moderate sedation.

c. A supplemental dose should not exceed one-half of the initial dose and should not be administered until the dentist has determined the clinical half-life of the initial dosing has passed. The total aggregate dose may not exceed one and one-half times the maximum recommended dose on the day of treatment.

d. Combining two or more enteral drugs, excluding nitrous oxide, prescribing or administering drugs that are not recommended for unmonitored home use, or administering any parenteral drug constitutes moderate sedation and requires that the dentist must hold a moderate sedation permit.

e. Excluding minimal sedation by inhalation therapy alone, pre-sedation vitals, including blood pressure and heart rate must be obtained and recorded. Facilities and equipment must include:

(1) Suction equipment capable of aspirating gastric contents from the mouth and pharynx;

(2) Portable oxygen delivery system, including full face masks and a bag-valve-mask combination with appropriate connectors capable of delivering positive pressure, oxygen enriched ventilation to the patient;

(3) Blood pressure cuff (or sphygmomanometer) of appropriate size;

(4) Automated external defibrillator or defibrillator;

(5) Stethoscope or equivalent monitoring device; and

(6) The following emergency drugs must be available and maintained:

(a) Bronchodilator;

(b) Sugar (or glucose);

(c) Aspirin;

(d) Antihistaminic;

(e) Coronary artery vasodilator; and

(f) Anti-anaphylactic agent.

f. A dentist shall ensure any advertisements related to the availability of antianxiety premedication, or minimal sedation clearly reflect the level of sedation provided and are not misleading.

4. Administration of moderate sedation. Before administering moderate sedation, a dentist licensed under North Dakota Century Code chapter 43-28 must have a permit issued by the board and renewable biennially thereafter. An applicant for an initial permit must meet the following educational requirements:

a. Successfully completed a comprehensive sixty-hour predoctoral dental school, postgraduate education or continuing education in moderate sedation with a participant-faculty ratio of not more than four-to-one. The course must include courses in enteral and parenteral moderate sedation plus individual management of twenty live patient clinical case experiences by the intravenous route and provide certification of competence in rescuing patients from a deeper level of sedation than intended, including managing the airway, intravascular or intraosseous access, and reversal medications. The formal training program must be sponsored by or affiliated with a university, teaching hospital, or other facility approved by the board or provided by a curriculum of an accredited dental school and have a provision by course director or faculty of additional clinical experience if participant competency has not been achieved in allotted time.

b. The course must be directed by a dentist or physician qualified by experience and training with a minimum of three years of experience, including formal postdoctoral training in anxiety and pain control. The course director must possess a current permit or license to administer moderate sedation and general anesthesia in at least one state.

c. A dentist utilizing moderate sedation must maintain current certification in advanced cardiac life support if treating adult patients or pediatric advanced life support if treating patients twelve years of age or less and maintain cardiopulmonary resuscitation for health professionals.

d. A permit holder may not administer or employ any agents that have a narrow margin for maintaining consciousness, including ultra-short acting barbiturates, propofol, ketamine, or similarly acting drugs, agents, or techniques, or any combination thereof that likely would render a patient deeply sedated, generally anesthetized, or otherwise not meeting the conditions of moderate sedation.

e. During moderate sedation the adequacy of ventilation must be evaluated by continual observation of qualitative clinical signs and monitoring for the presence of exhaled

carbon dioxide unless precluded or invalidated by the nature of the patient, procedure, or equipment.

f. This section does not apply to a dentist who has maintained a parenteral sedation permit in North Dakota and has been administering parenteral sedation in a dental office prior to April 1, 2021.

5. Moderate sedation site evaluations. A licensed dentist utilizing moderate sedation is required to have an evaluation of the location where sedation or anesthesia services are rendered initially and every five years thereafter and shall maintain a properly equipped facility. An initial inspection must be completed within sixty days of the approval of the initial permit application. A North Dakota licensed anesthesia or sedation provider authorized by the board shall re-evaluate the credentials, facilities, equipment, personnel, and procedures of a permit holder within every five years following a successful initial application or renewal. The purpose of the evaluation is to assess the patient's anesthetic risk and assess a site's ability to provide emergency care; therefore, the site evaluation emphasizes recognition and management of emergencies and complications associated with office administration of sedation. Requirements of the site evaluation are as follows:

a. Submit a completed permit application and permit application fee on a form provided by the board;

b. The dentist's facility must meet the requirements of this chapter and maintain the following properly operating equipment and supplies appropriate for the age of the patient during the provision of moderate sedation by the permit holder or physician anesthesiologist or certified registered nurse anesthetist or other qualified sedation provider:

(1) Emergency drugs as required by the board.

(2) Positive pressure oxygen and supplemental oxygen delivery system.

(3) Stethoscope.

(4) Suction equipment, including tonsillar or pharyngeal and emergency backup medical suction device.

(5) Oropharyngeal and nasopharyngeal airways.

(6) Pulse oximeter.

(7) Auxiliary lighting.

(8) Blood pressure monitor with an automated time determined capability and method for recording the data.

(9) Cardiac defibrillator or automated external defibrillator.

(10) Capnography.

(11) Electrocardiogram.

c. Maintains a staff of supervised personnel capable of handling procedures, complications, and emergency incidents, including at least one qualified dental staff member.

d. Maintains a current permit to prescribe and administer controlled substances in this state issued by the United States drug enforcement administration.

6. Administration of general anesthesia. A dentist must have a permit issued by the board and renewable biennially thereafter. An applicant for an initial permit shall submit a completed application and application fee on a form provided by the board and meet the following educational requirements:

a. Within the three years before submitting the permit application, provide evidence the applicant successfully has completed an advanced education program accredited by the commission on dental accreditation that provides training in general anesthesia and formal training in airway management, and completed a minimum of one year of advanced training in anesthesiology and related academic subjects beyond the undergraduate dental school level in a training program approved by the board; or

b. Be, within the three years before submitting the permit application, a diplomate of the American board of oral and maxillofacial surgeons or eligible for examination by the American board of oral and maxillofacial surgeons, a fellow of the American association of oral and maxillofacial surgeons, a fellow of the American dental society of anesthesiology, a diplomate of the national dental board of anesthesiology, or a diplomate of the American dental board of anesthesiology or eligible for examination by the American dental board of anesthesiology; or

c. For an applicant who completed the requirements of subdivision a or b more than three years before submitting the permit application, provide on a form provided by the board, a written affidavit affirming that the applicant has administered general anesthesia to a minimum of twenty-five patients within the year before submitting the permit application or seventy-five patients within the last five years before submitting the permit application and the following documentation:

(1) A copy of the general anesthesia permit in effect in another jurisdiction or certification of military training in general anesthesia from the applicant's commanding officer; and

(2) On a form provided by the board, a written affidavit affirming the completion of thirty-two hours of continuing education pertaining to oral and maxillofacial surgery or general anesthesia taken within three years prior to application.

d. Successfully completed the site evaluation required by this chapter.

7. General anesthesia site evaluations. A licensed dentist authorized to administer general anesthesia is required to have an evaluation of the location where sedation or anesthesia services are rendered initially and every five years thereafter and shall maintain a properly equipped facility. An initial inspection must be completed within sixty days of the approval of the initial permit application. After review of the application by the anesthesia committee, privileges to provide anesthesia services may be temporarily granted to the applicant. Prior to the final granting of approval to administer general anesthesia or moderate sedation; however, office inspection and evaluation must be scheduled for each location where sedation will be administered. The purpose of the evaluation is to assess the patient's anesthetic risk and assess a site's ability to provide emergency care; therefore, the site evaluation emphasizes recognition and management of emergencies and complications associated with office administration of sedation.

a. The dentist's facility must meet the requirements of this chapter and maintain the following properly operating equipment and supplies appropriate for the age of the patient during the provision of anesthesia and sedation by the permit holder, a physician anesthesiologist, a dental anesthesiologist, certified registered nurse anesthetist, or other qualified sedation provider:

- (1) Emergency drugs;
- (2) Electrocardiograph monitor;
- (3) Pulse oximeter;
- (4) Cardiac defibrillator or automated external defibrillator;
- (5) Positive pressure oxygen and supplemental oxygen;
- (6) Suction equipment, including endotracheal, tonsillar, or pharyngeal and emergency backup medical suction device;
- (7) Laryngoscope, multiple blades, backup batteries, and backup bulbs;
- (8) Endotracheal tubes and appropriate connectors;
- (9) Magill forceps;
- (10) Oropharyngeal and nasopharyngeal airways;
- (11) Auxiliary lighting;
- (12) End-tidal carbon dioxide monitor;
- (13) Stethoscope; and
- (14) Blood pressure monitoring device with an automated time determined capability and method for recording the data;

b. Pulse oximetry, heart rate, respiratory rate, and blood pressure must be recorded continually until an Aldrete score greater than or equal to eight is met.

c. During general anesthesia where volatile inhalation agents or succinylcholine is used, temperature must be continually monitored.

d. Maintain patient charts to include preoperative and postoperative vital signs, drugs administered, dosage administered, time-oriented anesthesia record, and monitors used.

e. Maintains a staff of supervised personnel capable of handling procedures, complications, and emergency incidents. A qualified dental staff member involved in administering and monitoring general anesthesia or moderate sedation shall hold a current course completion confirmation in advanced cardiac life support if treating adult patients or pediatric advanced life support if treating patients twelve years of age or younger.

f. Hold a current registration to prescribe and administer controlled substances in this state issued by the United States drug enforcement administration.

g. Provide confirmation of completing coursework within the two years prior to submitting the permit application in one or more of the following:

- (1) Advanced cardiac life support from the American heart association or another agency that follows the same procedures, standards, and techniques for training as the American heart association;

- (2) Pediatric advanced life support in a practice treating pediatric patients.

8. Other anesthesia providers. A dentist who is not authorized by permit to provide anesthesia or sedation services and who intends to use the services of a certified registered nurse

anesthetist, anesthesiologist, or another dentist authorized by permit to administer moderate sedation or general anesthesia, shall notify the board prior to sedation services being provided and arrange a site evaluation with the board-appointed anesthesia professional. The sedation provider is responsible for discharge assessment. The treating dentist shall run a mock code biannually with the sedation team and maintain a record of the mock code schedule and attendance. The anesthesia provider and the treating dentist shall remain at the facility until the sedated patient is discharged. The treating dentist shall maintain advanced cardiovascular life support certification if treating adult patients and pediatric advanced life support certification if children under twelve are being sedated.

9. Standards for all offices administering moderate sedation or general anesthesia.

a. Site evaluations. A facility or office where moderate sedation or general anesthesia are administered shall be evaluated and inspected by an individual approved by the board and meet the following standards:

- (1) Prior to the onsite evaluation and inspection, the applicant shall provide a complete list of emergency medication to the evaluator not less than two weeks prior to the scheduled evaluation. The applicant is responsible with scheduling a site evaluation. A dentist shall schedule a site evaluation with a board-appointed anesthesia provider within sixty days of submitting to the board a permit application for authorization to administer moderate sedation or anesthesia. An applicant who has successfully completed the course may be granted a temporary permit by the board prior to the onsite inspection and evaluation. Failure to pass the inspection and evaluation must result in the immediate and automatic termination of the temporary permit.
- (2) An applicant who has failed the inspection and evaluation on the basis of a failure to demonstrate knowledge and ability in recognition and treatment of any or all of the simulated emergencies may be re-evaluated only on the simulated emergencies provided the re-evaluation is within thirty days.
- (3) Prior to the issuance or renewal of a permit, the board may require an onsite inspection and evaluation. The permit of any dentist who has failed an onsite inspection and evaluation automatically must be suspended thirty days after the date on which the board notifies the dentist of the failure unless, within that time period, the dentist has retaken and passed an onsite inspection and evaluation.
- (4) Respiratory rate, oxygen saturation, heart rate, blood pressure, and cardiac rhythm must be monitored and recorded every five minutes during the intraoperative period. When endotracheal anesthesia is used, expired carbon dioxide levels and temperatures are recorded every five minutes until extubation.
- (5) Unused controlled pharmaceuticals must be secured and maintained in accordance with state and federal guidelines and must be discarded immediately with documentation of disposal in conformance with drug enforcement administration requirements.
- (6) Monitoring equipment should be checked and calibrated in accordance with the manufacturer's recommendations and documented on an annual basis.
- (7) Because sedation is a continuum, it is not always possible to predict how an individual patient will respond. Therefore, practitioners intending to produce a given level of sedation should be able to rescue patients whose level of sedation becomes deeper than initially intended. The qualified sedation or anesthesia provider shall

correct adverse physiologic consequences of the deeper than intended level of sedation and return the patient to the originally intended level of sedation.

(8) For use of nasal versed, rules of the general sedation site evaluation apply.

b. Renewal of permit and site evaluation. Both the sedation permit and the site evaluation are subject to renewal. All sedation and anesthesia permits must be renewed biennially, concurrent with the dentist's license renewal. The state board of dental examiners may renew such permit biennially, provided:

(1) Continuing education requirements of the permit application have been met;

(2) Application for renewal and renewal fee is received by the board before the date of expiration of such permit. If the renewal application and renewal fee have not been received by the expiration of the permit, late fees apply and the dentist's sedation or anesthesia privileges are suspended.

(3) An onsite evaluation of the dentist's facility or satellite clinic conducted by an individual designated by the state board of dental examiners where sedation or anesthesia services are provided by a qualified anesthesia provider must be in good standing; or

(4) A North Dakota licensed anesthesia or sedation provider authorized by the board has successfully re-evaluated the credentials, facilities, equipment, personnel, and procedures of a permit holder within five years following the successful initial application or previous site evaluation.

c. Qualified dental staff members. For purposes of moderate sedation and general anesthesia, a qualified dental staff member shall meet the following requirements:

(1) A qualified dental staff member may assist in the anesthesia and sedation duties pursuant to section 20-04-01-01 and administer direct patient care, before, during, or after, administration of moderate sedation, or general anesthesia, and must have:

(a) Current certification as a dental anesthesia assistant by the American association of oral and maxillofacial surgeons, or certification from the American dental society of anesthesiology and holds a class I or II permit pursuant to section 20-03-01-05.1 or 20-04-01-03.1; or

(b) Appropriate medical training acquired directly by a planned sequence of instruction in an educational institution resulting in competency in monitoring the patient's blood pressure, heart rate, oxygenation, and level of consciousness, assisting in direct patient care, before, during, or after administration of sedation or anesthesia.

(2) A qualified dental staff member shall maintain basic life support for health professionals or advanced cardiac life support certification and participate in mock codes conducted by the authorizing dentist.

(3) A qualified dental staff member responsible for patient monitoring shall:

(a) Be continuously in the presence of the patient in the office, operatory, and recovery area;

[1] Once the sedative is initiated or if the patient has self-administered a sedative agent, immediately upon arrival;

[2] Throughout the administration of drugs;

[3] Throughout the treatment of the patient; and

[4] Throughout recovery until the patient is discharged by the dentist;

(b) Have the patient's entire body in sight;

(c) Be in close proximity so as to speak with the patient;

(d) Converse with the patient to assess the patient's ability to respond;

(e) Closely observe the patient for coloring, breathing, level of physical activity, facial expressions, eye movement, and bodily gestures in order to immediately recognize and bring any changes in the patient's condition to the attention of the treating dentist;

(f) Read, report, and record the patient's vital signs and physiological measures; and

(g) Monitor pulse oximetry.

d. Patient evaluation required.

(1) The decision to administer controlled drugs for dental treatment must be based on a documented evaluation of the health history and current medical condition of the patient in accordance with the class I through V risk category classifications of the American society of anesthesiologists in effect at the time of treatment. The findings of the evaluation, the American society of anesthesiologists' risk assessment class assigned, and any special considerations must be recorded in the patient's record.

(a) Any level of sedation and general anesthesia may be provided for a patient who is American society of anesthesiologists' class I and class II.

(b) A patient in American society of anesthesiologists' class III only may be provided moderate sedation or general anesthesia by:

[1] A physician anesthesiologist, dentist anesthesiologist, certified registered nurse anesthetist, or independently practicing qualified anesthesia health care provider licensed in North Dakota; or

[2] An oral and maxillofacial surgeon who has performed a physical evaluation and documented the findings and the American society of anesthesiologists' risk assessment category of the patient and any special monitoring requirements that may be necessary.

[3] Moderate sedation or general anesthesia may not be provided in a dental office for patients in American society of anesthesiologists' class IV and class V.

e. Recordkeeping requirements for moderate sedation and general anesthesia include:

(1) Notation of the patient's American society of anesthesiologists' classification;

(2) Review of medical history and current conditions, including the patient's weight and height or, if appropriate, the body mass index;

(3) Preoperative and postoperative vital signs;

(4) Drugs administered, dosage, notations of the time sedation or anesthesia in minutes, and monitors used. Capnography, pulse oximetry, heart rate, respiratory rate, and blood pressure must be recorded continually until an Aldrete score greater than or equal to eight;

(5) Monitoring records of all required vital signs and physiological measures recorded every five minutes, and time and assessment of patient at discharge; and

(6) A list of staff participating in the administration, treatment, and monitoring, including name, position, and assigned duties.

f. Informed written consent. Prior to administration of any level of sedation or general anesthesia, the dentist shall discuss the nature and objectives of the planned level of sedation or general anesthesia along with the risks, benefits, and alternatives and shall obtain informed, written consent from the patient or other responsible party for the administration and for the treatment to be provided. The written consent must be maintained in the patient record.

g. Pediatric patients. Sedating medication may not be prescribed for or administered to a patient twelve years of age or younger prior to the patient's arrival at the dentist office or treatment facility.

h. Emergency management. The licensed dentist authorized by permit to administer sedation and staff with patient care duties shall be trained in emergency preparedness. Written protocols must include training requirements and procedures specific to the permit holder's equipment and drugs for responding to emergency situations involving sedation or anesthesia, including information specific to respiratory emergencies. The permit holder shall document this review of office training or mock codes. Protocols must include the American heart association's basic life support or cardiopulmonary resuscitation and advanced cardiac life support or pediatric advanced life support for any practitioner administering moderate or general anesthesia.

(1) If a patient enters a deeper level of sedation than the dentist is qualified and prepared to provide, the dentist shall stop the dental procedure until the patient returns to and is stable at the intended level of sedation.

(2) A dentist in whose office sedation or anesthesia is administered shall have written basic emergency procedures established and staff trained to carry out such procedures.

(3) Biannual mock codes to simulate office medical emergencies must be documented and available during a site evaluation.

i. Authorization of duties. A dentist who authorizes the administration of general anesthesia or moderate sedation in the dentist's dental office is responsible for assuring that:

(1) The equipment for administration and monitoring is readily available and in good working order prior to performing dental treatment with anesthesia or sedation. The equipment either must be maintained by the dentist in the dentist's office or provided by the anesthesia or sedation provider;

(2) The person administering the anesthesia or sedation is appropriately licensed;

(3) The individual authorized to monitor the patient is qualified;

(4) A physical evaluation and medical history is taken prior to administration of general anesthesia or sedation. A dentist holding a permit shall maintain records of the

physical evaluation, medical history, and general anesthesia or sedation procedures; and

(5) Administration of sedation by another qualified provider requires the operating dentist to maintain advanced cardiac life support if the patient is twelve years of age or older and pediatric advanced live support if the patient is less than twelve years of age.

j. Reporting. All licensed dentists in the practice of dentistry in this state shall submit a report within a period of seven days to the board office of any mortality or other incident which results in temporary or permanent physical or mental injury requiring hospitalization of the patient during, or as a result of, antianxiety premedication, nitrous oxide inhalation analgesia, or sedation. The report must include responses to at least the following:

(1) Description of dental procedure.

(2) Description of preoperative physical condition of patient.

(3) List of drugs and dosage administered.

(4) Description, in detail, of techniques utilized in administering the drugs utilized.

(5) Description of adverse occurrence:

(a) Description, in detail, of symptoms of any complications, to include onset and type of symptoms in patient.

(b) Treatment instituted on the patient.

(c) Response of the patient to the treatment.

(6) Description of the patient's condition on termination of any procedures undertaken.

k. Violations. A violation of any provision of this article constitutes unprofessional conduct and is grounds for the revocation or suspension of the dentist's permit, license, or both, or the dentist may be reprimanded or placed on probation.

**History:** Effective October 1, 1993; amended effective May 1, 1996; June 1, 2002; July 1, 2004; April 1, 2006; October 1, 2007; January 1, 2011; April 1, 2015; July 1, 2017; [April 1, 2021](#).

**General Authority:** NDCC 43-28-06

**Law Implemented:** NDCC 43-28-06

### **20-02-01-06. Continuing dental education for dentists.**

Each dentist shall provide evidence on forms supplied by the board that the dentist has attended or participated in continuing clinical dental education in accordance with the following conditions:

1. Continuing education activities include publications, seminars, symposiums, lectures, college courses, and online education.
2. The continuing dental education hours will accumulate on the basis of one hour of credit for each hour spent in education. Subject matter directly related to clinical dentistry will be accepted by the board without limit.
3. The minimum number of hours required within a two-year cycle for dentists is thirty-two. Of these hours, a dentist may earn no more than sixteen hours from self-study. Self-study is an educational process designed to permit a participant to learn a given subject without

involvement of a proctor. Cardiopulmonary resuscitation courses must provide hands-on training. All other continuing education requirements may be satisfied from online education. The continuing education must include:

- a. Two hours of ethics or jurisprudence. Passing the laws and rules examination is the equivalent of two hours of ethics or jurisprudence.
  - b. Two hours of infection control.
  - c. A cardiopulmonary resuscitation course.
  - d. For sedation and anesthesia permit holders, four hours related to sedation or anesthesia.
4. Mere registration at a dental convention without specific attendance at continuing education presentations will not be creditable toward the continuing ~~dental~~ education requirement.
  5. All dentists must hold a current cardiopulmonary resuscitation certificate. ~~Anesthesia permit holders are required to~~ General anesthesia and moderate sedation providers shall maintain current advanced cardiac life support certification or pediatric advanced life support as specified by permit. A dentist who utilizes the services of other qualified anesthesia providers to administer moderate sedation or general anesthesia in the dentist's facility or satellite office shall maintain current advanced cardiac life support certification. A dentist who utilizes minimal sedation shall maintain basic life support certification.
  6. The board may audit the continuing education credits of a dentist. Each licensee shall maintain certificates or records of continuing education activities from the previous renewal cycle. Upon receiving notice of an audit from the board, a licensee shall provide satisfactory documentation of attendance at, or participation in the continuing education activities ~~listed on the licensee's continuing education form~~. Failure to comply with the audit is grounds for nonrenewal of or disciplinary action against the license.
  7. A dentist who maintains a license on inactive status is not subject to continuing education requirements.

**History:** Effective October 1, 1993; amended effective May 1, 1996; August 1, 1998; June 1, 2002; April 1, 2006; October 1, 2007; January 1, 2011; April 1, 2015; July 1, 2017; April 1, 2021.

**General Authority:** NDCC 43-28-06

**Law Implemented:** NDCC 43-28-06, 43-28-16.2

#### **20-02-01-08. Discontinuance of practice - Retirement - Discontinuance of treatment.**

These rules are adopted for the purpose of avoiding practice abandonment. A licensed dentist shall maintain patient records in a manner consistent with the protection of the welfare of the patient. Upon request of the patient or patient's legal guardian, the dentist shall furnish the dental records or copies of the records, including dental radiographs or copies of the radiographs. The dentist may charge a nominal fee for duplication of records as provided by North Dakota Century Code section 23-12-14, but may not refuse to transfer records for nonpayment of any fees.

1. A licensee, upon retirement, or upon discontinuation of the practice of dentistry, or upon moving from a community, shall notify all active patients in writing and by publication once a week for three consecutive weeks in a newspaper of general circulation in the community that the licensee intends to discontinue the practice of dentistry. The licensee shall make reasonable arrangements with active patients for the transfer of patient records, or copies thereof, to the succeeding licensee. In the event of a transfer of patient records to another licensee assuming the practice, written notice must be furnished to all patients as hereinbefore specified. "ActiveFor purposes of this section, "active patient" is defined as a person whom the licensee has examined, treated, cared for, or otherwise consulted with

during the two-year period prior to the discontinuation of the practice of dentistry by the licensee. In the event of a nontransfer of records, a licensee shall have the ongoing obligation of ~~not less than~~ at least two years to afford the licensee's prior patients access to those records not previously provided to the patient.

2. In the event of termination of a dentist-patient relationship by a licensee, notice of the termination must be provided to the patient. A dentist-patient relationship exists if a dentist has provided treatment to a patient on at least one occasion within the preceding year. The dentist who is the owner or custodian of the patient's dental records shall mail notice of the termination of the dentist's relationship to the patient, which shall provide the following:
  - a. The date that the termination becomes effective, and the date on which the dentist and patient relationship may resume, if applicable;
  - b. A location at which the patient may receive emergency dental care for at least thirty days following the termination of the dentist and patient relationship;
  - c. A statement of further dental treatment required, if any; and
  - d. The dentist shall respond to a written request to examine or copy a patient's record within ten working days after receipt. A dentist shall comply with North Dakota Century Code section 23-12-14 for all patient record requests.
3. If a licensee dies or becomes unable to practice dentistry due to disability, for the purpose of selling or otherwise disposing of the deceased or disabled licensee's dental practice, a person who is not licensed to practice dentistry but who is the personal representative of the estate of a deceased dentist or the personal representative of a disabled dentist may contract with a dentist to manage the dental practice for a period not to exceed twenty-four months.
4. If a dentist agrees to provide dental care without remuneration to underserved patients in the absence of a public health setting, the patient may not be considered a patient of record of the dentist providing the donated dental service.
5. If a licensee retires from a group practice and continuity of patient dental care will not be interrupted, the dentist is exempt from notifying active patients in writing. The licensee shall notify patients by publication once a week for three consecutive weeks in a newspaper of general circulation in the community that the licensee intends to discontinue the practice of dentistry.

**History:** Effective April 1, 2006; amended effective April 1, 2015; April 1, 2021.

**General Authority:** NDCC 43-28-06

**Law Implemented:** NDCC 43-28-06

#### **20-02-01-09. Retention of records.**

A Dental records must be legible and include a chronology of the patient's progress throughout the course of all treatment and postoperative visits. All entries in the patient record must be dated, initialed, and handwritten in ink or computer printed. Digital radiographs must be transferred by compact or optical disc, electronic communication, or printing on high quality photographic paper. All transferred film or digital radiographs must reveal images of diagnostic quality using proper exposure settings and processing procedures. For purposes of this section:

1. "Dental record" or "patient's chart" means the detailed history of the physical examination, diagnosis, treatment, patient-related communications, and management of a patient documented in chronological order. The dental record must contain the following components:

- a. Personal data to include name, address, date of birth, name of patient's parent or guardian, name and telephone number of a person to contact in case of an emergency, and patient's insurance information.
- b. Patient's reason for visit or chief complaint.
- c. Dental and physical health history.
- d. Clinical examination must include record of existing oral health status, radiographs used, and any other diagnostic aids used.
- e. Diagnosis.
- f. Dated treatment plan except for routine dental care such as preventive services.
- g. Informed consent must include notation of treatment options discussed with the patient, including prognosis of such treatment plan, benefits and risks of each treatment, and documentation of the treatment the patient has chosen.
- h. Corrections of records must be legible, written in ink, and contain no erasures or use of "white-outs." If incorrect information is placed in the record, it must be crossed out with one single line and initialed by a dental health care worker.
- i. Progress notes must include a chronology of the patient's progress throughout the course of all treatment and postoperative visits of treatment provided; medications used; materials placed; the treatment provider by name or initials; name of collaborating dentist; administration information of nitrous oxide inhalation; any medication dispensed before, during, or after discharge; and patient status at discharge.
- j. Each patient shall have access to health provider information as it pertains to their treating doctor or potential doctors. Any entity, utilizing telehealth must provide upon request of a patient the name of the dentist, telephone number, practice address, and state license number of any dentist who was involved with the provision of services to a patient before, prior to, or during the rendering of dental services.

2. "Patient" means an individual who has received dental care services from a provider for treatment of a dental condition.

3. "Retention of records" means a dentist shall retain a patient's dental record for a minimum of six years after the patient's last examination, prescription, or treatment. Records for minors shall be retained for a minimum of either one year after the patient reaches the age of eighteen or six years after the patient's last examination, prescription, or treatment, whichever is longer. Proper safeguards shall be maintained to ensure safety of records from destructive elements. The requirements of this rule apply to electronic records as well as to records kept by any other means.

**History:** Effective April 1, 2006; amended effective January 1, 2011; April 1, 2021.

**General Authority:** NDCC 43-28-06

**Law Implemented:** NDCC 43-28-06

**20-02-01-11. Permit for the use of dermal fillers and botulinum toxin for dental use.**

- 1. The rules in this chapter are adopted for the purpose of defining standards for the administration of dermal fillers and botulinum toxin by a dentist if the use is limited to the practice of dentistry as defined in North Dakota Century Code section 43-28-01(7). Notwithstanding a dentist who specializes in oral and maxillofacial surgery, the board may issue a permit to a dentist who applies on forms prescribed by the board and pays the initial

fee or biennial renewal fee as required by section 20-05-01-01(1) to administer botulinum toxin or dermal fillers for the purpose of functional, therapeutic, and aesthetic dental treatment purposes under the following conditions:

- a. The dentist provides evidence that demonstrates:
- (1) The applicant has completed a course and received satisfactory training in a residency or other educational program accredited by the commission on dental accreditation of the American dental association; ~~or~~
  - (2) The applicant has successfully completed a board-approved continuing education course of instruction within the previous three months of application which includes neurophysiology, including facial tissues, parasympathetic, sympathetic, and peripheral nervous systems relative to the peri-oral tissue, and facial architecture, and:
    - (a) Patient assessment and consultation for botox and dermal fillers;
    - (b) Indications and contraindications for techniques;
    - (c) Proper preparation and delivery techniques for desired outcomes;
    - (d) Enhancing and finishing esthetic dentistry cases with dermal fillers;
    - (e) Botulinum neurotoxin treatment of temporomandibular joint syndrome and bruxism;
    - (f) Knowledge of adverse reactions and management and treatment of possible complications;
    - (g) Patient evaluation for best esthetic and therapeutic outcomes;
    - (h) Integrating botulinum neurotoxin and dermal filler therapy into dental therapeutic and esthetic treatment plans; and
    - (i) Live patient hands-on training, including diagnosis, treatment planning, and proper dosing and delivery of botox and dermal fillers; ~~or~~
  - (3) The applicant has successfully completed a continuing education course of instruction substantially equivalent to the requirements of this state and provides evidence from another state or jurisdiction where the applicant legally is or was authorized to administer dermal fillers and botulinum toxin.

**History:** Effective April 1, 2015; amended effective July 1, 2017; April 1, 2021.

**General Authority:** NDCC 43-28-06

**Law Implemented:** NDCC 43-28-02

## CHAPTER 20-03-01

### 20-03-01-01. Duties.

A dental assistant may perform the duties listed in subsections 1 through 56 under direct, indirect, or general supervision of a dentist as follows:

1. A dental assistant who is not registered with the board employed by a dentist may perform the following basic supportive dental duties under direct supervision:
  - a. Take and record pulse, blood pressure, and temperature.
  - b. Take and record preliminary dental and medical history for the interpretation by the dentist.
  - c. Apply topical medications and drugs to oral tissues, including topical anesthetic, but not including desensitizing or caustic agents or anticariogenic agents.
  - d. Receive removable dental prosthesis for cleaning or repair.
  - e. Take impressions for study casts.
  - f. Hold impression trays in the mouth (e.g., reversible hydrocolloids, rubber base).
  - g. Retract patient's cheek, tongue, or other tissue parts during a dental procedure.
  - h. Remove such debris as is normally created in the course of treatment during or after dental procedures by vacuum devices, compressed air, mouthwashes, and water.
  - i. Isolate the operative field, not to include rubber dams.
  - j. Hold a curing light for any dental procedure. Such curing lights may not include a laser capable of cutting, burning, or damaging hard or soft tissue or for electrosurgery for tissue retraction.
  - k. Take dental photographs, including the use of intraoral cameras on a patient of record.
2. A qualified dental assistant may perform the duties set forth in subsection 1 and take dental radiographs on a patient of record under the direct supervision of a dentist.
3. A registered dental assistant may perform the duties set forth in ~~subsection~~subsections 1 and 2 and the following duties under the direct supervision of a dentist:
  - a. Place and remove arch wires or appliances that have been activated by a dentist.
  - b. Acid etch enamel surfaces prior to direct bonding of orthodontic brackets or composite restorations.
  - c. Place orthodontic brackets using an indirect bonding technique by seating the transfer tray loaded with brackets previously positioned in the dental laboratory by a licensed dentist.
  - d. Take face bow transfers.
  - e. Place and remove matrix bands and wedges.
  - f. Adjust permanent crowns outside of the mouth.
  - g. Orally transmit a prescription that has been authorized by the supervising dentist.

- h. Administer emergency medications to a patient in order to assist the dentist in an emergency.
4. A registered dental assistant may perform the following duties on a patient of record under the direct or indirect supervision of a dentist:
- a. Apply anticariogenic agents, flouride varnish, and silver diamine flouride topically.
  - b. Apply desensitizing solutions to the external surfaces of the teeth.
  - c. Dry root canal with paper points.
  - d. Place and remove rubber dams.
  - e. Take occlusal bite registration for study casts.
  - f. Place retraction cord in the gingival sulcus of a prepared tooth prior to the dentist taking an impression of the tooth.
  - g. Remove excess cement from inlays, crowns, bridges, and orthodontic appliances with hand instruments or a slow-speed handpiece only.
  - h. Perform nonsurgical clinical and laboratory diagnosis tests, including pulp testing, for interpretation by the dentist.
  - i. Place and remove periodontal dressings, dry socket medications, and packing.
  - j. Monitor a patient who has been inducted by a dentist into nitrous oxide relative inhalation analgesia.
  - k. Take impressions for fixed or removable orthodontic appliances, athletic mouth guards, bleaching trays, bite splints, flippers, and removable prosthetic repairs.
  - l. Preselect and prefit orthodontic bands.
  - m. Place, tie, and remove ligature wires and elastic ties, and place orthodontic separators.
  - n. Take dental radiographs.
  - o. Apply bleaching solution, activate light source, monitor, and remove bleaching materials.
  - p. Produce on a patient of record, a final scan by digital capture for review by the authorizing dentist for a prescriptive removable or permanent appliance.
  - q. Take impressions or occlusal bite registrations for study casts.
5. A registered dental assistant may assist a dentist authorized by permit under direct or indirect supervision to provide the following duties as set forth in subsection 9 of section 20-02-01-05 as follows:
- a. Sedation procedure preparation and presedation documentation, including date of procedure, nothing by mouth status, availability of responsible adult escort, and allergies.
  - b. Emergency equipment and use preparedness.
  - c. Monitor a patient discharged by a dentist once the patient is in recovery.
  - d. Documentation of patient responsiveness, vital signs, including heart rate, respiratory rate, blood pressure, oxygen saturation, and expired carbon dioxide.

e. Training must be documented and may be acquired directly by an employer-dentist, by a planned sequence of instruction in an educational institution or by in-office training.

~~5-6.~~ A registered dental assistant may perform the following duties under the ~~direct, indirect, or~~ general supervision of a dentist:

a. Take and record pulse, blood pressure, and temperature.

b. Take and record preliminary dental and medical history for the interpretation by the dentist.

c. Apply topical medications and drugs to oral tissues, including topical anesthetic, ~~but not including~~ topical fluoride, fluoride varnish, and desensitizing ~~or~~ agents, but not including caustic agents ~~or anticariogenic agents.~~

d. Receive removable dental prosthesis for cleaning or repair.

~~e. Take impressions or occlusal bite registrations for study casts.~~

~~f.~~ Fabricate, adjust, place, recement, or remove a temporary crown, bridge, or onlay or temporary restorative material. This applies only to dentitions actively under treatment for which a permanent restoration is being fabricated.

~~g-f.~~ Remove sutures.

~~h-g.~~ Cut and remove arch wires or replace loose bands, loose brackets, or other orthodontic appliances for palliative treatment.

~~i-h.~~ Provide oral hygiene education and instruction.

~~j-i.~~ Provide an oral assessment for interpretation by the dentist.

~~k-j.~~ Repack dry socket medication and packing for palliative treatment.

~~l-k.~~ Apply pit and fissure sealants if the registered dental assistant has provided documentation of a board-approved sealant course. Adjust sealants with slow-speed handpiece.

~~m-l.~~ Polish the coronal surfaces of the teeth with a rubber cup or brush.

~~n-m.~~ Polish restorations with a slow-speed handpiece.

n. Provide screenings as defined in section 20-01-02-01.

**History:** Effective September 1, 1980; amended effective February 1, 1992; October 1, 1993; May 1, 1996; August 1, 1998; April 1, 2000; June 1, 2002; July 1, 2004; April 1, 2006; January 1, 2011; April 1, 2015; July 1, 2017; April 1, 2021.

**General Authority:** NDCC 43-20-10

**Law Implemented:** NDCC 43-20-01.1, 43-20-08, 43-20-10, 43-20-13

### **20-03-01-01.1. Expanded duties of registered dental assistants.**

A registered dental assistant shall apply for a permit to perform the following duties:

1. A registered dental assistant authorized by permit and under the direct supervision of a dentist may perform the following restorative functions:

a. Place, carve, and adjust class I, II, and class V amalgam or glass ionomer restorations with hand instruments or a slow-speed handpiece;

- b. Adapt and cement stainless steel crowns; and
  - c. Place, contour, and adjust class I, II, and class V composite restorations where the margins are entirely within the enamel with hand instruments or a slow-speed handpiece.
2. A registered dental assistant authorized by permit and under the contiguous supervision of a dentist authorized by permit to provide parenteral sedation may provide anesthesia duties as follows:
    - a. Initiate and discontinue an intravenous line for a patient being prepared to receive intravenous medications, sedation or general anesthesia;
    - b. Adjust the rate of intravenous fluids infusion only to maintain or keep the line patent or open;
    - c. Prepare anesthesia equipment and perform patient monitoring; and
    - d. Assist with emergency treatment and protocols.
  3. A registered dental assistant authorized by permit and under the direct visual supervision of a dentist authorized by permit to provide parenteral sedation shall provide anesthesia duties as follows:
    - a. Draw up and prepare medications;
    - b. Follow instructions to deliver medication into an intravenous line upon verbal command of the supervising dentist;
    - c. Adjust the rate of intravenous fluids infusion beyond a keep-open rate upon verbal command of the supervising dentist; and
    - d. Adjust an electronic device to provide medications, such as an infusion pump upon verbal command of the supervising dentist.

4. A registered dental assistant authorized by permit and under the indirect supervision of a dentist may administer nitrous oxide analgesia to a patient who has not taken sedative medications prior to treatment in accordance with subsection 2 of section 20-02-01-05.

**History:** Effective April 1, 2015; amended effective July 1, 2017; [April 1, 2021](#).

**General Authority:** NDCC 43-20-10

**Law Implemented:** NDCC 43-20-01.1, 43-20-08, 43-20-10, 43-20-13

#### **20-03-01-02. Prohibited services.**

A dental assistant, qualified dental assistant, or registered dental assistant may not perform the following services:

1. Diagnosis and treatment planning.
2. Surgery on hard or soft tissue.
3. Administer local anesthetics, sedation or general anesthesia drugs or titrate local anesthetics, sedation or general anesthesia drugs without a board authorized permit.
4. Any irreversible dental procedure or procedures which require the professional judgment and skill of a licensed dentist.
5. Adjust a crown which has been cemented by a dentist.

6. Activate any type of orthodontic appliance or fabricate orthodontic impressions for an individual who is not a patient of record.
7. Cement or bond orthodontic bands or brackets that have not been previously placed by a dentist.
8. Place bases or cavity liners.
9. Scaling, root planing, or gingival curettage.
10. Measure the gingival sulcus with a periodontal probe.
11. Use a high-speed handpiece inside the mouth.
12. Monitor a patient who has been induced to a level of moderate sedation or general anesthesia until the dentist authorized by permit to administer sedation or anesthesia determines that the patient may be discharged for recovery.

**History:** Effective February 1, 1992; amended effective October 1, 1993; April 1, 2000; June 1, 2002; July 1, 2004; January 1, 2011; April 1, 2015; April 1, 2021.

**General Authority:** NDCC 43-20-10

**Law Implemented:** NDCC 43-20-01.1, 43-20-08, 43-20-10, 43-20-13

#### **20-03-01-05. Registration of registered and qualified dental assistants.**

An individual seeking registration as a registered or qualified dental assistant shall apply on forms prescribed by the board. The application must be notarized and include the application fee.

1. The board may grant registration as a registered dental assistant to an applicant meeting all the following requirements:
  - a. The applicant meets any of the following requirements:
    - (1) The applicant successfully completed a dental assisting program, accredited by the commission on dental accreditation of the American dental association or approved by the board, within one year of application.
    - (2) The applicant was certified by the dental assisting national board within one year of application.
    - (3) The applicant successfully completed a dental assisting program, accredited by the commission on dental accreditation of the American dental association or approved by the board, and completed, within two years before application, sixteen hours of continuing education in accordance with section 20-03-01-06.
    - (4) The applicant was certified by the dental assisting national board, and completed, within two years before application, sixteen hours of continuing education in accordance with section 20-03-01-06.
    - (5) The applicant successfully completed the examination administered by the joint commission on national dental examinations or the dental hygiene certification board of Canada and completed within two years of application sixteen hours of continuing education in accordance with section 20-03-01-06.
  - b. The applicant passed a written examination on the laws and rules governing the practice of dentistry in North Dakota within one year of application.

- c. The applicant successfully completed a cardiopulmonary resuscitation course within two years of application.
  - d. Grounds for denial of the application under North Dakota Century Code section 43-20-05 do not exist.
2. The board may grant registration as a qualified dental assistant to an applicant meeting all the following requirements:
- a. The applicant meets any of the following requirements:
    - (1) The applicant passed the ~~infection control and radiation parts of~~ national entry level dental assistant certification administered by the dental assisting national board ~~examination~~ and completed three hundred hours of on-the-job training within one year of application.
    - (2) The applicant passed the ~~infection control and radiation parts of~~ national entry level dental assistant certification administered by the dental assisting national board ~~examination~~, have three hundred hours of on-the-job training, and completed, within two years before application, sixteen hours of continuing education in accordance with section 20-03-01-06.
    - (3) The applicant successfully completed the national entry level dental assistant certification administered by the dental assisting national board and successfully completed the North Dakota department of career technical education dental assisting education program and submits evidence of three hundred hours of on-the-job training within one year of application.
  - ~~b. The applicant completed six hundred fifty hours of dental assistance instruction, including on-the-job training.~~
  - ~~c.~~ The applicant passed a written examination on the laws and rules governing the practice of dentistry in North Dakota within one year of application.
  - ~~d.c.~~ The applicant successfully completed a cardiopulmonary resuscitation course within two years of application.
  - ~~e.d.~~ Grounds for denial of the application under North Dakota Century Code section 43-20-05 do not exist.

**History:** Effective January 1, 2011; amended effective April 1, 2021.

**General Authority:** NDCC 43-20-10

**Law Implemented:** NDCC 43-20-13.2

### **20-03-01-06. Continuing dental education for qualified and registered dental assistants.**

Each qualified or registered dental assistant shall ~~provide evidence~~ maintain documentation on forms supplied by the board that the qualified or registered dental assistant has attended or participated in continuing clinical dental education in accordance with the following conditions:

1. Continuing education activities include publications, seminars, symposiums, lectures, college courses, and online education.
2. The continuing ~~dental~~ education hours will accumulate on the basis of one hour of credit for each hour spent in education. Subject matter directly related to clinical dentistry will be accepted by the board without limit.

3. The minimum number of hours required within a two-year cycle is sixteen. Of these hours, a qualified or registered dental assistant may earn no more than eight hours from self-study. Self-study is an educational process designed to permit a participant to learn a given subject without involvement of a proctor. Cardiopulmonary resuscitation courses must provide hands-on training. All other continuing education requirements may be satisfied from ~~online education~~ webinars or classroom style learning. The continuing education must include:
  - a. Two hours of ethics or jurisprudence. Passing the laws and rules examination is the equivalent of two hours of ethics or jurisprudence.
  - b. Two hours of infection control.
  - c. A cardiopulmonary resuscitation course.
  - d. For registered dental anesthesia assistant permitholders, two hours related to sedation or anesthesia.
  - e. For registered dental restorative assistant permitholders, two hours related to restorative dentistry.
4. Mere registration at a dental convention without specific attendance at continuing education presentations will not be creditable toward the continuing dental education requirement.
5. All qualified or registered dental assistants must hold a current cardiopulmonary resuscitation certificate.
6. The board may audit continuing education credits of a registered dental assistant. Proof of continuing education shall be maintained from the previous renewal cycle. Upon receiving notice of an audit from the board, a registered dental assistant shall provide satisfactory documentation of attendance at, or participation in, the continuing education activities ~~listed on the licensee's continuing education form~~. Failure to comply with the audit is grounds for nonrenewal of or disciplinary action against the registration.

**History:** Effective January 1, 2011; amended effective April 1, 2015; July 1, 2017; April 1, 2021.

**General Authority:** NDCC 43-20-10

**Law Implemented:** NDCC 43-20-13.1

## CHAPTER 20-04-01

### 20-04-01-01. Duties.

A dental hygienist may perform the following services under the general, direct, direct visual, indirect, or ~~contiguous~~contiguous supervision of a dentist:

1. Complete prophylaxis to include removal of accumulated matter, deposits, accretions, or stains from the natural and restored surfaces of exposed teeth. The dental hygienist may also do root planing and soft tissue curettage upon direct order of the dentist.
2. Polish and smooth existing restorations with a slow-speed handpiece.
3. Apply topical applications of drugs to the surface tissues of the mouth and to exposed surfaces of the teeth, including anticariogenic agents and desensitizing solutions.
4. Take impressions for study casts on a patient of record.
5. Take and record preliminary medical and dental histories for the interpretation by the dentist.
6. Take and record pulse, blood pressure, and temperature.
7. Provide oral hygiene treatment planning after an oral assessment or dentist's diagnosis.
8. Take dental radiographs.
9. Apply therapeutic agents subgingivally for the treatment of periodontal disease.
10. Hold impression trays in the mouth after placement by a dentist (e.g., reversible hydrocolloids, rubber base, etc.).
11. Receive removable dental prosthesis for cleaning and repair.
12. Dry root canal with paper points.
13. Place and remove rubber dams.
14. Place and remove matrix bands or wedges.
15. Take occlusal bite registration for study casts.
16. Place retraction cord in the gingival sulcus of a prepared tooth prior to the dentist taking an impression of the tooth.
17. Fabricate, adjust, place, recement, or remove a temporary crown, bridge, onlay, or temporary restorative material. This applies only to dentitions actively under treatment for which a permanent restoration is being fabricated.
18. Adjust permanent crowns outside of the mouth.
19. Perform nonsurgical clinical and laboratory oral diagnostic tests for interpretation by the dentist.
20. Apply pit and fissure sealants. Adjust sealants with slow speed handpiece.
21. Place and remove periodontal dressings, dry socket medications, and packing.
22. Remove sutures.

23. Monitor a patient who has been inducted by a dentist into nitrous-oxide relative inhalation analgesia.
24. Take impressions for fixed or removable orthodontic appliances, athletic mouth guards, bleaching trays, bite splints, flippers, and removable prosthetic repairs.
25. Preselect and prefit orthodontic bands.
26. Place, tie, and remove ligature wires and elastic ties, and place orthodontic separators.
27. Place and remove arch wires or appliances that have been activated by a dentist.
28. Cut and remove arch wires or replace loose bands, loose brackets, or other orthodontic appliances for palliative treatment.
29. Acid-etch enamel surfaces prior to pit and fissure sealants, direct bonding of orthodontic brackets, or composite restorations.
30. Place orthodontic brackets using an indirect bonding technique by seating the transfer tray loaded with brackets previously positioned in the dental laboratory by a dentist.
31. Take face bow transfers.
32. Orally transmit a prescription that has been authorized by the supervising dentist.
33. Repack dry socket medication and packing for palliative treatment.
34. Administer emergency medications to a patient in order to assist the dentist.
35. Screenings as defined in section 20-01-02-01.
36. Produce on a patient of record, a final scan by digital capture for review by the authorizing dentist for a prescriptive removable or permanent appliance.
37. Apply bleaching solution, activate light source, and monitor and remove bleaching materials.
38. Apply interim therapeutic restorations using the standards and protocols established by an authorizing dentist and after completion of a board-approved course.
39. A dental hygienist under direct or indirect supervision may assist a dentist authorized by permit as set forth in section 20-02-01-05 as follows:
  - a. Sedation procedure preparation and pre-sedation documentation, including date of procedure, nothing by mouth status, availability of responsible adult escort, and allergies.
  - b. Emergency equipment and use preparedness.
  - c. Monitor a patient discharged by a dentist once the patient is in recovery.
  - d. Documentation of patient responsiveness, vital signs, including heart rate, respiratory rate, blood pressure, oxygen saturation, and expired carbon dioxide.
  - e. Training must be documented and may be acquired directly by an employer-dentist, by a planned sequence of instruction in an educational institution or by in-office training.
40. A dental hygienist authorized by permit and under contiguous supervision of a dentist authorized by permit to provide moderate parenteral sedation may:

- a. Initiate and discontinue an intravenous line for a patient being prepared to receive intravenous medications, sedation or general anesthesia.
- b. Adjust the rate of intravenous fluids infusion only to maintain or keep the line patent or open.
- c. Prepare anesthesia equipment and perform patient monitoring.
- d. Assist with emergency treatment and protocols.

36.41. A dental hygienist authorized by permit and under direct visual supervision of a dentist authorized by permit to provide parenteral sedation may:

- a. Draw up and prepare medications;
- b. Follow instructions to deliver medication into an intravenous line upon verbal command of the supervising dentist;
- c. Adjust the rate of intravenous fluids infusion beyond a keep-open rate upon verbal command of the supervising dentist; and
- d. Adjust an electronic device to provide medications, such as an infusion pump upon the verbal command of the supervising dentist.

37.42. A dental hygienist authorized by permit and under the direct supervision of a dentist may:

- a. Place, carve, and adjust class I, II, and class V amalgam or glass ionomer restorations with hand instruments or a slow-speed handpiece;
- b. Adapt and cement stainless steel crowns; and
- c. Place, contour, and adjust class I, II, and class V composite restorations where the margins are entirely within the enamel with hand instruments or a slow-speed handpiece.

43. A dental hygienist authorized by permit and under the indirect supervision of a dentist may administer nitrous oxide analgesia to a patient who has not taken sedative medications prior to or for the duration of the dental hygiene treatment in accordance with subsection 2 of section 20-02-01-05.

**History:** Effective September 1, 1980; amended effective February 1, 1992; October 1, 1993; May 1, 1996; August 1, 1998; April 1, 2000; July 1, 2004; April 1, 2006; January 1, 2011; April 1, 2015; July 1, 2017; April 1, 2021.

**General Authority:** NDCC 43-20-10

**Law Implemented:** NDCC 43-20-03, 43-20-11, 43-20-12

**20-04-01-02. Prohibited services.**

A dental hygienist may not perform the following services:

- 1. Diagnosis and treatment planning.
- 2. Surgery on hard or soft tissue.
- 3. Administer anesthetics, except topical and local anesthetic, as permitted under sections 20-04-01-01 and 20-04-01-03, or titrate local anesthetics, sedation or general anesthesia drugs without a board authorized permit.

4. Monitor a patient who has been induced to moderate sedation or general anesthesia until the dentist authorized by permit to administer sedation or anesthesia determines the patient may be discharged for recovery.
- ~~5.~~ Any irreversible dental procedure or procedures which require the professional judgment and skill of a dentist.
- ~~5:6.~~ Adjust a crown which has ~~not~~ been permanently cemented ~~by a dentist~~without a restorative functions permit.
- ~~6:7.~~ Activate any type of orthodontic appliance or fabricate impressions for an individual who is not a patient of record.
- ~~7:8.~~ Cement or bond orthodontic bands or brackets that have not been previously placed by a dentist.
- ~~8:9.~~ Place bases or cavity liners.
- ~~9:10.~~ Use a high-speed handpiece inside the mouth.

**History:** Effective February 1, 1992; amended effective October 1, 1993; July 1, 2004; January 1, 2011; April 1, 2015; April 1, 2021.

**General Authority:** NDCC 43-20-10

**Law Implemented:** NDCC 43-20-03; 43-20-11, 43-20-12, 43-20-12.3

#### **20-04-01-03. Duties of dental hygienists.**

A dental hygienist may perform the following services under the direct supervision of a dentist:

1. A licensed dental hygienist may apply for a permit to administer local anesthesia to a patient who is at least eighteen years old, under the direct supervision of a licensed dentist. ~~To be considered for a permit,~~

#### 2. Requirements for local anesthesia authorization are as follows:

- a. Submit evidence that a hygienist must have successfully completed a didactic and clinical course in local anesthesia within the last twenty-four months sponsored by a dental or dental hygiene program accredited by the commission on dental accreditation of the American dental association resulting in the dental hygienist becoming clinically competent in the administration of local anesthesia.; or

- ~~2. b. A licensed dental~~Submit evidence that the hygienist ~~applying for a local anesthesia permit who has been permitted~~authorized to administer local anesthesia in another jurisdiction and ~~who has continuously administered local anesthesia~~provide verification of clinical competency during the ~~past three years~~ must provide verification of the permit and continuous use to the North Dakota board of dental examinersprevious twelve months. Verification may consist of the following:

- ~~a.~~ (1) A letter from the accredited school with the school seal affixed. Photocopies will not be accepted.
- ~~b.~~ (2) A notarized copy of the certification of the local anesthesia course ~~completed.~~
- ~~c.~~ (3) A notarized letter from a licensed dentist stating ~~that~~ the licensed dental hygienist has administered local anesthesia ~~within the last three years~~competently.

- ~~d.~~ A notarized copy of the dental hygiene transcript with the local anesthesia course recorded.

3. c. A licensed dental hygienist requesting a ~~permit~~ authorization to administer local anesthesia who cannot provide verification as required in ~~subsection 2 subdivision a~~ must ~~retake and successfully pass~~ submit evidence of successful completion of a didactic and clinical course in local anesthesia sponsored by a dental or dental hygiene program accredited by the commission on dental accreditation of the American dental association.

**History:** Effective July 1, 2004; amended effective April 1, 2021.

**General Authority:** NDCC 43-20-10

**Law Implemented:** NDCC 43-20-03

#### **20-04-01-07. Inactive status - License reinstatement.**

A dental hygienist may, upon payment of the fee determined by the board, place the dental hygienist's license on inactive status. A dental hygienist on inactive status shall be excused from ~~the payment of renewal fees, except inactive status renewal fees, and continuing education~~ continuing education requirements. Inactive status must be renewed annually by completing the inactive status renewal application and paying the renewal fee. A dental hygienist on inactive status shall not practice dental hygiene in North Dakota. To reinstate a license on inactive status, the dental hygienist shall apply on a form prescribed by the board, pay a reinstatement fee, and meet all of the following requirements:

1. The applicant has passed a clinical competency examination administered by a regional dental testing service, approved by the board in section 20-04-01-04, within two years of application. The board may, within the board's discretion, waive this requirement.
2. The applicant passes a written examination on the laws and rules governing the practice of dentistry in this state administered by the board at a meeting.
3. The applicant has completed sixteen hours of continuing education in accordance with section 20-04-01-08 within two years of application.
4. The applicant has successfully completed a cardiopulmonary resuscitation course within two years of application.
5. Grounds for denial of the application under North Dakota Century Code section 43-20-05 do not exist.

**History:** Effective January 1, 2011; amended effective July 1, 2017; April 1, 2021.

**General Authority:** NDCC 43-20-10

**Law Implemented:** NDCC 43-20-06

#### **20-04-01-08. Continuing dental education for dental hygienists.**

Each dental hygienist shall provide evidence on forms supplied by the board that the dental hygienist has attended or participated in continuing dental education in accordance with the following conditions:

1. Continuing education activities include publications, seminars, symposiums, lectures, college courses, and online education.
2. The continuing dental education hours will accumulate on the basis of one hour of credit for each hour spent in education. Subject matter directly related to clinical dentistry will be accepted by the board without limit.
3. The minimum number of hours required within a two-year cycle is sixteen. Of these hours, a dental hygienist may earn no more than eight hours from self-study. Self-study is an educational process designed to permit a participant to learn a given subject without

involvement of a proctor. Cardiopulmonary resuscitation courses must provide hands-on training. All other continuing education requirements may be satisfied from ~~online education~~ webinars or classroom style learning. The continuing education must include:

- a. Two hours of ethics or jurisprudence. Passing the laws and rules examination is the equivalent of two hours of ethics or jurisprudence.
  - b. Two hours of infection control.
  - c. A cardiopulmonary resuscitation course.
  - d. For registered dental anesthesia hygienist permit holders, two hours related to sedation or anesthesia.
  - e. For registered dental restorative hygienist permit holders, two hours related to restorative dentistry.
  - f. For a dental hygienist practicing under general supervision, two hours related to medical emergencies.
4. Mere registration at a dental convention without specific attendance at continuing education presentations will not be creditable toward the continuing dental education requirement.
  5. All dental hygienists must hold a current cardiopulmonary resuscitation certificate.
  6. A dental hygienist who maintains a license on inactive status is not subject to continuing education requirements.
  7. The board may audit the continuing education credits of a dental hygienist. Each licensee shall maintain certificates or records of continuing education activities from the previous renewal cycle. Upon receiving notice of an audit from the board, a licensee shall provide satisfactory documentation of attendance at, or participation in the continuing education activities listed ~~on the licensee's continuing education form~~. Failure to comply with the audit is grounds for nonrenewal of or disciplinary action against the license.

**History:** Effective January 1, 2011; amended effective April 1, 2015; July 1, 2017; April 1, 2021.

**General Authority:** NDCC 43-20-10

**Law Implemented:** NDCC 43-20-01.4

## CHAPTER 20-05-01

### 20-05-01-01. Fees.

The board shall charge the following nonrefundable fees:

1. For dentists:

a. License by examination application fee	<del>\$440.00</del> <u>\$485.00</u>
b. License by credential review application fee	<del>\$1,200.00</del> <u>\$1,320.00</u>
c. Renewal fee	<del>\$400.00</del> <u>\$440.00</u>
d. Late fee	<del>\$400.00</del> <u>\$440.00</u>
e. Temporary license application and license fee	<del>\$250.00</del> <u>\$275.00</u>
f. Volunteer license application and license fee	<del>\$65.00</del> <u>\$25.00</u>
g. Inactive status application fee	<del>\$35.00</del> <u>\$40.00</u>
h. Inactive status <u>annual</u> renewal fee	<del>\$35.00</del> <u>\$40.00</u>
i. Inactive status reinstatement fee	<del>\$400.00</del> <u>\$485.00</u>
j. Dermal fillers and botulinum toxin permit	\$200.00
<u>k. Dermal fillers and botulinum toxin permit renewal</u>	<u>\$100.00</u>

2. For dental hygienists:

a. License by examination application fee	<del>\$200.00</del> <u>\$220.00</u>
b. License by credential review application fee	<del>\$450.00</del> <u>\$495.00</u>
c. Renewal fee	<del>\$150.00</del> <u>\$165.00</u>
d. Late fee	<del>\$150.00</del> <u>\$165.00</u>
e. Inactive status application fee	<del>\$35.00</del> <u>\$42.00</u>
f. <u>Volunteer license application and license fee</u>	<u>\$25.00</u>
<u>g.</u> Inactive status <u>annual</u> renewal fee	<del>\$35.00</del> <u>\$40.00</u>
<del>g.</del> <u>h.</u> Inactive status reinstatement fee	<del>\$150.00</del> <u>\$220.00</u>

3. For registered and qualified dental assistants:

a. Application fee	<del>\$130.00</del> <u>\$145.00</u>
b. Renewal fee	<del>\$100.00</del> <u>\$110.00</u>
c. Late fee	<del>\$100.00</del> <u>\$110.00</u>

4. For anesthesia permits:

a. Application fee	\$200.00
b. Inspection fee	actual cost
c. Renewal fee	\$200.00

d. Late fee \$200.00

5. For a duplicate license, registration, or permit ~~\$45.00~~\$50.00

**History:** Effective May 1, 1992; amended effective October 1, 1993; May 1, 1996; August 1, 1998; April 1, 2000; June 1, 2002; July 1, 2004; April 1, 2006; January 1, 2008; January 1, 2011; April 1, 2015; [April 1, 2021](#).

**General Authority:** NDCC 43-20-10, 43-28-06

**Law Implemented:** NDCC 43-20-01.2, 43-20-01.3, 43-20-01.4, 43-20-06, 43-20-13.1, 43-20-13.2, 43-28-11, 43-28-16.2, 43-28-17, 43-28-24, 43-28-27

**TITLE 33.1**  
**DEPARTMENT OF ENVIRONMENTAL QUALITY**



**JULY 2021**

**CHAPTER 33.1-10-03.1**

**33.1-10-03.1-01. Adoption by reference of several sections in 10 Code of Federal Regulations part 30.**

10 Code of Federal Regulations 30.1, 30.2, 30.3, 30.4, 30.7, 30.9, 30.10, 30.11, 30.12, 30.13, 30.14, 30.15, 30.18, 30.19, 30.20, 30.21, 30.22, 30.31, 30.32, 30.33, 30.34, 30.35, 30.36, 30.37, 30.38, 30.39, 30.41, 30.50, 30.51, 30.52, 30.53, 30.61, 30.62, 30.70, 30.71, and 30.72 and appendix A through appendix E to part 30 are adopted by reference as they exist on ~~December 1, 2015~~January 14, 2019, with the following exceptions:

1. Not adopted by reference is 10 Code of Federal Regulations 30.21(c), 30.3(b)(1), 30.3(b)(2), 30.3(b)(3), 30.34(d), 30.34(e)(1), 30.34(e)(3), 30.41(b)(6), paragraph (2) of the definition of "commencement of construction", and paragraph (9)(ii) of the definition of "construction".
2. Requirements in 10 Code of Federal Regulations part 30 that apply to "byproduct material" also apply to naturally occurring or ~~accelerator-produced~~accelerator-produced radioactive material.
3. Where the words "NRC", "commission", "nuclear regulatory commission", "United States nuclear regulatory commission", "NRC regional office", or "administrator of the appropriate regional office" appear in 10 Code of Federal Regulations part 30, substitute the words "department of environmental quality" except when used in 10 Code of Federal Regulations 30.12, 30.21(c), 30.34(h)(1), and 30.50(c)(1).
4. 10 Code of Federal Regulations 30.7 employee protection also applies to violations of North Dakota Century Code chapters 23.1-02 and 23.1-03.
5. "Act" includes North Dakota Century Code chapters 23.1-02 and 23.1-03.
6. North Dakota state form number 8418, "application for radioactive material license", must be used instead of NRC form 313 as specified in 10 Code of Federal Regulations part 30.
7. North Dakota state form number 8414, "notice to employees", must be posted instead of United States nuclear regulatory commission form 3 that is specified in 10 Code of Federal Regulations part 30.
8. The department of environmental quality radioactive material license replaces NRC form 374, "byproduct material license", as specified in 10 Code of Federal Regulations part 30.
9. North Dakota state form number 18941, "certificate: disposition of radioactive material", must be used instead of NRC form 314 as specified in 10 Code of Federal Regulations part 30.

10. For references to 10 Code of Federal Regulations part 170, see chapter 33.1-10-11 for applicable fee schedules.

**History:** Effective January 1, 2019; [amended effective July 1, 2021](#).

**General Authority:** NDCC 23.1-03-04; S.L. 2017, ch. 199, § 1

**Law Implemented:** NDCC 23.1-03-03, 23.1-03-04; S.L. 2017, ch. 199, § 18

## CHAPTER 33.1-10-05.1

### 33.1-10-05.1-01. Adoption by reference of several sections in 10 Code of Federal Regulations part 34.

10 Code of Federal Regulations 34.1, 34.3, 34.11, 34.13, 34.20, 34.21, 34.23, 34.25, 34.27, 34.29, 34.31, 34.33, 34.35, 34.41, 34.42, 34.43, 34.45, 34.46, 34.47, 34.49, 34.51, 34.53, 34.61, 34.63, 34.65, 34.67, 34.69, 34.71, 34.73, 34.75, 34.79, 34.81, 34.83, 34.85, 34.87, 34.89, 34.101, and 34.111 and appendix A to part 34 are adopted by reference as they exist on ~~October 1, 2015~~ July 30, 2018, with the following exceptions:

1. All of the requirements in chapter 33.1-10-05.1 apply to both licensees and registrants. A reference in 10 Code of Federal Regulations part 34 to "license" includes "registration", a reference to "licensee" includes "registrant", a reference to "licensed" includes "registered", and a reference to "licensed material" includes "registered source of radiation". "Registrant" means any person who is registered with the department and is legally obligated to register with the department pursuant to article 33.1-10 and North Dakota Century Code chapter 23.1-03. "Registration" means the notification of the department of environmental quality of possession of a source of radiation and the furnishing of information with respect thereto, in accordance with North Dakota Century Code chapter 23.1-02.
2. Where the words "NRC", "commission", "nuclear regulatory commission", "United States nuclear regulatory commission", "NRC regional administrator", "NRC regional office", "administrator of the appropriate nuclear regulatory commission's regional office", or "NRC's office of nuclear material safety and safeguards, division of industrial and medical nuclear safety" appear in 10 Code of Federal Regulations part 34, substitute the words "department of environmental quality".
3. Requirements in 10 Code of Federal Regulations part 34 that apply to "byproduct material" also apply to naturally occurring or accelerator-produced radioactive material.
4. North Dakota state form number 8418, "application for radioactive material license", must be used instead of NRC form 313 as specified in 10 Code of Federal Regulations part 34.
5. For references to 10 Code of Federal Regulations parts 170 and 171, see chapter 33.1-10-11 for applicable fee schedules.

**History:** Effective January 1, 2019; amended effective July 1, 2021.

**General Authority:** NDCC 23.1-03-04; S.L. 2017, ch. 199, § 1

**Law Implemented:** NDCC 23.1-03-03, 23.1-03-04; S.L. 2017, ch. 199, § 18

## CHAPTER 33.1-10-07.2

### 33.1-10-07.2-01. Adoption by reference of several sections in 10 Code of Federal Regulations part 35.

10 Code of Federal Regulations 35.1, 35.2, 35.5, 35.6, 35.7, 35.10, 35.11, 35.12, 35.13, 35.14, 35.15, 35.18, 35.19, 35.24, 35.26, 35.27, 35.40, 35.41, 35.49, 35.50, 35.51, 35.55, 35.57, 35.59, 35.60, 35.61, 35.63, 35.65, 35.67, 35.69, 35.70, 35.75, 35.80, 35.92, 35.100, 35.190, 35.200, 35.204, 35.290, 35.300, 35.310, 35.315, 35.390, 35.392, 35.394, 35.396, 35.400, 35.404, 35.406, 35.410, 35.415, 35.432, 35.433, 35.457, 35.490, 35.491, 35.500, 35.590, 35.600, 35.604, 35.605, 35.610, 35.615, 35.630, 35.632, 35.633, 35.635, 35.642, 35.643, 35.645, 35.647, 35.652, 35.655, 35.657, 35.690, 35.1000, 35.2024, 35.2026, 35.2040, 35.2041, 35.2060, 35.2061, 35.2063, 35.2067, 35.2070, 35.2075, 35.2080, 35.2092, 35.2204, 35.2310, 35.2404, 35.2406, 35.2432, 35.2433, 35.2605, 35.2610, 35.2630, 35.2632, 35.2642, 35.2643, 35.2645, 35.2647, 35.2652, 35.2655, 35.3045, 35.3047, ~~and 35.3067~~, and 35.3204 are adopted by reference as they exist on January ~~1, 2010~~14, 2019, with the following exceptions:

1. Not adopted by reference are 10 CFR 35.11(c)(1) and 35.13(a)(1).
2. Requirements in 10 Code of Federal Regulations part 35 that apply to "byproduct material" also apply to naturally occurring or accelerator-produced radioactive material.
3. Where the words "NRC", "commission", "NRC regional office", "NRC operations center", or "director, office of nuclear material safety and safeguards" appear in 10 Code of Federal Regulations part 35, substitute the words "department of environmental quality".
4. "Act" includes North Dakota Century Code chapters 23.1-02 and 23.1-03.
5. North Dakota state form number 8418, "application for radioactive material license", must be used instead of NRC form 313 as specified in 10 Code of Federal Regulations part 34.
6. For references to 10 Code of Federal Regulations parts 170 and 171, see chapter 33.1-10-11 for applicable fee schedules.

**History:** Effective January 1, 2019; amended effective July 1, 2021.

**General Authority:** NDCC 23.1-03-04; S.L. 2017, ch. 199, § 1

**Law Implemented:** NDCC 23.1-03-03, 23.1-03-04; S.L. 2017, ch. 199, § 18

## CHAPTER 33.1-10-13.1

### 33.1-10-13.1-01. Adoption by reference of several sections in 10 Code of Federal Regulations part 71.

10 Code of Federal Regulations 71.0, 71.3, 71.4, 71.5, 71.7, 71.8, 71.9, 71.10, 71.12, 71.13, 71.14, 71.15, 71.17, 71.21, 71.22, 71.23, 71.47, 71.81, 71.83, 71.85, 71.87, 71.88, 71.89, 71.91, 71.93, 71.95, 71.97, 71.101, 71.103, 71.105, 71.106, 71.127, 71.129, 71.131, 71.133, 71.135, and 71.137 and appendix A to part 71 are adopted by reference as they exist on December ~~4, 2015~~30, 2019, with the following exceptions:

1. Not adopted by reference are 10 Code of Federal Regulations 71.0(d), 71.14(b), 71.85(a)-(c), 71.91(b), 71.101(c)(2), (d), and (e).
2. Requirements in 10 Code of Federal Regulations part 71 that apply to "licensed material" or "byproduct material" also apply to naturally occurring or accelerator-produced radioactive material.
3. Where the words "NRC", "commission", "nuclear regulatory commission", "United States nuclear regulatory commission", or "administrator of the appropriate regional office" appear in 10 Code of Federal Regulations part 71, substitute the words "department of environmental quality" except when used in 10 Code of Federal Regulations 71.5(b), 71.10, 71.17(c)(3) and (e), 71.85(c), 71.88(a)(4), 71.93(c), 71.95, 71.97(c), and (c)(3)(iii), and (f).
4. Where the words "ATTN: Document Control Desk, Director, Division of Fuel Management, Office of Nuclear Material Safety and Safeguards" appear in 10 Code of Federal Regulations 71.101(c)(1), substitute the words "department of environmental quality".
- ~~5.~~ 5. The terms "certificate of compliance, compliance holder or applicant" used in 10 Code of Federal Regulations 71.91(c) and (d), 71.101(a)-(c), 71.103(a), and 71.135 apply only to the United States nuclear regulatory commission (NRC) as the NRC is the sole authority for issuing a package's certificate of compliance.
- ~~5-6.~~ 5-6. 10 Code of Federal Regulations 71.9 employee protection also applies to violations of North Dakota Century Code chapters 23.1-02 and 23.1-03.
- ~~6-7.~~ 6-7. State form number 8414, "notice to employees", must be posted instead of United States nuclear regulatory commission form 3 that is specified in 10 Code of Federal Regulations part 71.

**History:** Effective January 1, 2019; amended effective July 1, 2021.

**General Authority:** NDCC 28-32-02; S.L. 2017, ch. 199, § 1

**Law Implemented:** NDCC 28-32-02

## CHAPTER 33.1-10-16

### 33.1-10-16-01. Adoption by reference of several sections in 10 Code of Federal Regulations part 40.

10 Code of Federal Regulations 40.1, 40.2, 40.3, 40.4, 40.7, 40.9, 40.10, 40.11, 40.12, 40.13, 40.14, 40.20, 40.21, 40.22, 40.25, 40.26, 40.31, 40.32, 40.34, 40.35, 40.36, 40.41, 40.42, 40.43, 40.44, 40.45, 40.46, 40.51, 40.54, 40.55, 40.60, 40.61, 40.62, 40.63, 40.65, and 40.71 and appendix A to part 40 are adopted by reference as they exist on December ~~1, 2015~~30, 2019, with the following exceptions:

1. Not adopted by reference are 10 Code of Federal Regulations 40.12(b); 40.31(j), (k), and (l); 40.32(d), (e), and (g); 40.41(d), (e)(1), (e)(3), and (g); 40.51(b)(6); appendix A, criterion 11A through F and criterion 12; paragraph (2) of the definition of "commencement of construction"; and paragraph (9)(ii) of the definition of "construction".
2. Requirements in 10 Code of Federal Regulations part 40 that apply to "byproduct material" also apply to naturally occurring or accelerator-produced radioactive material.
3. Where the words "NRC", "commission", "nuclear regulatory commission", "United States nuclear regulatory commission", "NRC regional administrator", or "administrator of the appropriate regional office" appear in 10 Code of Federal Regulations part 40, substitute the words "department of environmental quality" except when used in 10 Code of Federal Regulations 40.11.
4. 10 Code of Federal Regulations part 40 employee protection also applies to violations of North Dakota Century Code chapters 23.1-02 and 23.1-03.
5. "Act" includes North Dakota Century Code chapters 23.1-02 and 23.1-03.
6. North Dakota state form number 8414, "notice to employees", must be posted instead of NRC form 3 that is specified in 10 Code of Federal Regulations part 40.
7. North Dakota state form number 16092, "registration certificate: use of depleted uranium under general license", must be used instead of nuclear regulatory commission form 244 that is specified in 10 Code of Federal Regulations part 40.
8. North Dakota state form number 8418, "application for radioactive material license", must be used instead of NRC form 313 as specified in 10 Code of Federal Regulations part 40.
9. North Dakota state form number 18941, "certificate: disposition of radioactive material", must be used instead of NRC form 314 as specified in 10 Code of Federal Regulations part 40.
10. For references to 10 Code of Federal Regulations parts 170 and 171, see chapter 33.1-10-11 for applicable fee schedules.

**History:** Effective January 1, 2019; amended effective July 1, 2021.

**General Authority:** NDCC 23.1-03-04; S.L. 2017, ch. 199, § 1

**Law Implemented:** NDCC 23.1-03-03, 23.1-03-04; S.L. 2017, ch. 199, § 18

## CHAPTER 33.1-10-17

### 33.1-10-17-01. Adoption by reference of several sections in 10 Code of Federal Regulations part 70.

10 Code of Federal Regulations 70.1, 70.2, 70.3, 70.4, 70.7, 70.9, 70.10, 70.11, 70.12, 70.17, 70.18, 70.19, 70.20, 70.21, 70.22, 70.23, 70.25, 70.31, 70.32, 70.33, 70.34, 70.35, 70.36, 70.38, 70.39, 70.41, 70.42, 70.50, 70.51, 70.56, and 70.81 are adopted by reference as they exist on December 4, ~~2015~~2021, 2018, with the following exceptions:

1. The following are not adopted by reference: 10 Code of Federal Regulations 70.1(c), (d), and (e); 70.20a; 70.20b; 70.21(a)(1), (c), (f), (g), and (h); 70.22(b), (c), (f), (g), (h), (i), (j), (k), (l), (m), and (n); 70.23(a)(6), (a)(7), (a)(8), (a)(9), (a)(10), (a)(11), (a)(12), and (b); 70.23a; 70.25(a)(1); 70.31(c), (d), and (e); 70.32(a)(1), (a)(4), (a)(5), (a)(6), (a)(7), (b)(1), (b)(3), (b)(4), (c), (d), (e), (f), (g), (h), (i), (j), and (k); 70.42(b)(6); 70.51(c); paragraph (2) of the definition of "commencement of construction"; and paragraph (9)(ii) of the definition of "construction".
2. Requirements in 10 Code of Federal Regulations part 70 that apply to "byproduct material" also apply to naturally occurring or accelerator-produced radioactive material.
3. Where the words "NRC", "commission", "nuclear regulatory commission", "United States nuclear regulatory commission", "NRC regional administrator", "NRC regional office", "administrator of the appropriate nuclear regulatory commission's regional office", "administrator of the appropriate regional office", or "nuclear regulatory commission's office of nuclear material safety and safeguards, division of industrial and medical nuclear safety" appear in 10 Code of Federal Regulations part 70, substitute the words "department of environmental quality".
4. 10 Code of Federal Regulations 70.7 employee protection also applies to violations of North Dakota Century Code chapters 23.1-02 and 23.1-03.
5. "Act" includes North Dakota Century Code chapters 23.1-02 and 23.1-03.
6. North Dakota state form number 8418, "application for radioactive material license", must be used instead of nuclear regulatory commission form 313 as specified in 10 Code of Federal Regulations part 70.
7. North Dakota state form number 8414, "notice to employees", must be posted instead of United States nuclear regulatory commission form 3 that is specified in 10 Code of Federal Regulations part 70.
8. For references to 10 Code of Federal Regulations part 170, see chapter 33.1-10-11 for applicable fee schedules.

**History:** Effective January 1, 2019; amended effective July 1, 2021.

**General Authority:** NDCC 23.1-03-04; S.L. 2017, ch. 199, § 1

**Law Implemented:** NDCC 23.1-03-03, 23.1-03-04; S.L. 2017, ch. 199, § 18

## CHAPTER 33.1-10-19

### 33.1-10-19-01. Adoption by reference of several sections in 10 Code of Federal Regulations part 150.

10 Code of Federal Regulations 150.1, 150.2, 150.3, 150.11, 150.20, 150.31, and 150.32 are adopted by reference as they exist on December 1, 2015~~30, 2019~~, with the following exceptions:

1. Not adopted by reference is 10 Code of Federal Regulations 150.3 foreign obligations.
2. Requirements in 10 Code of Federal Regulations part 150 that apply to "byproduct material" also apply to naturally occurring or accelerator-produced radioactive material.
3. Where the words "NRC", "commission", "nuclear regulatory commission", "regional administrator", "United States nuclear regulatory commission", "region", or "regional administrator of the United States nuclear regulatory commission regional office" appear in 10 Code of Federal Regulations part 150, substitute the words "department of environmental quality" except when used in section 150.5.
4. "Act" includes North Dakota Century Code chapters 23.1-02 and 23.1-03.
5. North Dakota state form number 58230, "radioactive material reciprocity request", must be used instead of nuclear regulatory commission form 241 as specified in 10 Code of Federal Regulations part 150.
6. Where the words "non-agreement states", "areas of exclusive federal jurisdiction within agreement states", or "offshore waters" are used in 10 Code of Federal Regulations 150.20(a)(1)(i), (ii) and (iii) and 150.20(b), (b)(3), and (b)(4) substitute the words "state of North Dakota".
7. Where the words "agreement states license" are used in 10 Code of Federal Regulations 150.20, also add the words "nuclear regulatory commission license". Where the words "license issued by an agreement state" are used in 10 Code of Federal Regulations 150.20 also add the words "license issued by the nuclear regulatory commission". Where the words "license from an agreement state" are used in 10 Code of Federal Regulations 150.20 also add the words "license from the nuclear regulatory commission".
8. The words "for the first time in a calendar year" are stricken from 10 Code of Federal Regulations 150.20(b)(1).
9. Where the words "in any calendar year, except that the general license in paragraph (a) of this section concerning activities in offshore water authorizes that person to possess or use radioactive materials, or engage in the activities authorized, for an unlimited period of time" are used in 10 Code of Federal Regulations 150.20(b)(4), substitutes the words "in a 365-day period".
10. For references to 10 Code of Federal Regulations part 170, see chapter 33.1-10-11 for applicable fee schedules.

**History:** Effective January 1, 2019; amended effective July 1, 2021.

**General Authority:** NDCC 23.1-03-04; S.L. 2017, ch. 199, § 1

**Law Implemented:** NDCC 23.1-03-03, 23.1-03-04; S.L. 2017, ch. 199, § 18

## CHAPTER 33.1-10-20

### 33.1-10-20-01. Adoption by reference of several sections in 10 Code of Federal Regulations part 32.

10 Code of Federal Regulations 32.1, 32.2, 32.3, 32.13, 32.17, 32.24, 32.51, 32.51(a), 32.52, 32.53, 32.54, 32.55, 32.56, 32.57, 32.58, 32.59, 32.61, 32.62, 32.71, 32.72, 32.74, 32.101, 32.102, 32.103, 32.110, 32.201, 32.210, and 32.301 are adopted by reference as they exist on ~~October 1, 2015~~ January 14, 2019, with the following exceptions:

1. Not adopted by reference is 10 Code of Federal Regulations 32.1(c)(1).
2. Requirements in 10 Code of Federal Regulations part 32 that apply to "byproduct material" also apply to naturally occurring or accelerator-produced radioactive material.
3. Where the words "NRC", "commission", "NRC regional office", or "director of nuclear material safety and safeguards" appear in 10 Code of Federal Regulations part 32, substitute the words "department of environmental quality" except when used in 32.51(a)(3)(iii), 32.54(a), 32.58, 32.71(d), 32.72(b)(5), and 32.74(a)(3).
4. Reporting required in 10 Code of Federal Regulations 32.56(a) shall be submitted to the department of environmental quality as follows:
  - a. By mail addressed to:

Radiation Control Program  
Department of Environmental Quality  
918 East Divide Avenue, Second Floor  
Bismarck, ND 58501-1947
  - b. By hand delivery to:

Radiation Control Program  
Department of Environmental Quality  
918 East Divide Avenue, Second Floor  
Bismarck, ND
  - c. By electronic submission to ram@nd.gov. Electronic submissions must be made in a manner that enables the department of environmental quality to receive, read, authenticate, distribute, and archive the submission, and process and retrieve it a single page at a time.
5. North Dakota state form number 8418, "application for radioactive material license", must be used instead of nuclear regulatory commission form 313 as specified in 10 Code of Federal Regulations part 32.
6. For references to 10 Code of Federal Regulations part 170, see chapter 33.1-10-11 for applicable fee schedules.

**History:** Effective January 1, 2019; amended effective July 1, 2021.

**General Authority:** NDCC 23.1-03-04; S.L. 2017, ch. 199, § 1

**Law Implemented:** NDCC 23.1-03-03, 23.1-03-04; S.L. 2017, ch. 199, § 18

## CHAPTER 33.1-10-22

### 33.1-10-22-01. Adoption by reference of several sections in 10 Code of Federal Regulations part 37.

10 Code of Federal Regulations 37.1, 37.3, 37.5, 37.11, 37.21, 37.23, 37.25, 37.27, 37.29, 37.31, 37.33, 37.41, 37.43, 37.45, 37.47, 37.49, 37.51, 37.53, 37.55, 37.57, 37.71, 37.73, 37.75, 37.77, 37.79, 37.81, 37.101, 37.103, 37.105, and appendix A to part 37 are adopted by reference as they exist on December 4, 2015 ~~30, 2019~~, with the following exceptions:

1. Not adopted by reference is 10 Code of Federal Regulations (CFR) 37.11(b) and 37.43(d)(9).
2. All of the requirements in chapter 33.1-10-22 apply to both licensees and registrants. A reference in 10 CFR part 37 to "license" includes "registration", a reference to "licensee" includes "registrant", a reference to "licensed" includes "registered", a reference to "licensed material(s)" includes "registered source of radiation" and a reference to "licensed radioactive material" includes "registered source of radiation". "Registrant" means any person who is registered with the department and is legally obligated to register with the department pursuant to article 33.1-10 and North Dakota Century Code chapter 23.1-03. "Registration" means the notification of the department of environmental quality of possession of a source of radiation and the furnishing of information with respect thereto, in accordance with North Dakota Century Code chapter 23.1-02.
3. Where the word "NRC" appears in 10 CFR 37.31(d), 37.43(c)(3)(iii), 37.57(a), 37.57(c), 37.77 [with the exception of "the NRC's Web site" in 37.77(a)(1)], and 37.81(g), substitute the words "department of environmental quality".
4. Where the word "Commission" appears in 10 CFR 37.5 (definitions of "byproduct material" and "person"), 37.11(a), 37.43(a)(3), 37.43(c)(1)(ii), 37.101, 37.103, and 37.105, substitute the words "department of environmental quality".
5. Where the words "NRC regional office" appear in 10 CFR 37.41(a)(3) and 37.81, substitute the words "department of environmental quality".
6. Where the words "appropriate NRC regional office listed in § 30.6(a)(2) of this chapter" appear in 10 CFR 37.45(b), substitute the words "department of environmental quality".
7. Where the words "NRC's Operational Center (301-816-5100)" appear in 10 CFR 37.57(a), 37.57(b), and 37.81, substitute the words "department of environmental quality".
8. Where the words "NRC's Operational Center" appear in 10 CFR 37.81, substitute the words "department of environmental quality".
9. Where the words "NRC's Director, ~~Division of Security Policy~~, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001. The notification to the NRC may be made by email to RAMQC\_SHIPMENTS@nrc.gov or by fax to 301-816-5151" appear in 10 CFR 37.77(a)(1), substitute the words "department of environmental quality".
10. Where the words "NRC's Director of Nuclear Security, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001" appear in 10 CFR 37.77(c)(1), substitute the words "department of environmental quality".
11. Where the words "NRC's Director, ~~Division of Security Policy~~, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001" appear in 10 CFR 37.77(c)(2) and 37.77(d), substitute the words "department of environmental quality".

12. Where the words "Director, ~~Division of Security Policy~~, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001" appear in 10 CFR 37.81(g), substitute the words "department of environmental quality".
13. Requirements in 10 CFR part 37 that apply to "byproduct material" also apply to naturally occurring or accelerator-produced radioactive material.
14. "Act" includes North Dakota Century Code chapters 23.1-02 and 23.1-03.

**History:** Effective January 1, 2019; amended effective July 1, 2021.

**General Authority:** NDCC 23.1-03-04; S.L. 2017, ch. 199, § 1

**Law Implemented:** NDCC 23.1-03-03, 23.1-03-04; S.L. 2017, ch. 199, § 18

## CHAPTER 33.1-16-02.1

### 33.1-16-02.1-08. General water quality standards.

#### 1. Narrative standards.

- a. The following minimum conditions are applicable to all waters of the state except for class II ground waters. All waters of the state shall be:
  - (1) Free from substances attributable to municipal, industrial, or other discharges or agricultural practices that will cause the formation of putrescent or otherwise objectionable sludge deposits.
  - (2) Free from floating debris, oil, scum, and other floating materials attributable to municipal, industrial, or other discharges or agricultural practices in sufficient amounts to be unsightly or deleterious.
  - (3) Free from materials attributable to municipal, industrial, or other discharges or agricultural practices producing color, odor, or other conditions to such a degree as to create a nuisance or render any undesirable taste to fish flesh or, in any way, make fish inedible.
  - (4) Free from substances attributable to municipal, industrial, or other discharges or agricultural practices in concentrations or combinations which are toxic or harmful to humans, animals, plants, or resident aquatic biota. For surface water, this standard will be enforced in part through appropriate whole effluent toxicity requirements in North Dakota pollutant discharge elimination system permits.
  - (5) Free from oil or grease residue attributable to wastewater, which causes a visible film or sheen upon the waters or any discoloration of the surface of adjoining shoreline or causes a sludge or emulsion to be deposited beneath the surface of the water or upon the adjoining shorelines or prevents classified uses of such waters.
  - (6) Free from nutrients attributed to municipal, industrial, or other discharges or agricultural practices, in concentrations or loadings which will cause accelerated eutrophication resulting in the objectionable growth of aquatic vegetation or algae or other impairments to the extent that it threatens public health or welfare or impairs present or future beneficial uses.
- b. There shall be no materials such as garbage, rubbish, offal, trash, cans, bottles, drums, or any unwanted or discarded material disposed of into the waters of the state.
- c. There shall be no disposal of livestock or domestic animals in waters of the state.
- d. The department shall propose and submit to the state engineer the minimum streamflows of major rivers in the state necessary to protect the public health and welfare. The department's determination shall address the present and prospective future use of the rivers for public water supplies, propagation of fish and aquatic life and wildlife, recreational purposes, and agricultural, industrial, and other legitimate uses.
- e. No discharge of pollutants, which alone or in combination with other substances, shall:
  - (1) Cause a public health hazard or injury to environmental resources;
  - (2) Impair existing or reasonable beneficial uses of the receiving waters; or
  - (3) Directly or indirectly cause concentrations of pollutants to exceed applicable standards of the receiving waters.

- f. If the department determines that site-specific criteria are necessary and appropriate for the protection of designated uses, procedures described in the environmental protection agency's Water Quality Standards Handbook 1994 or other defensible methods may be utilized to determine maximum limits. Where natural chemical, physical, and biological characteristics result in ~~exceedences~~exceedances of the limits set forth in this section, the department may derive site-specific criteria based on the natural background level or condition. All available information shall be examined, and all possible sources of a contaminant will be identified in determining the naturally occurring concentration. All site-specific criteria shall be noticed for public comment and subjected to other applicable public participation requirements prior to being adopted.

**2. Narrative biological goal.**

- a. Goal. The biological condition of surface waters shall be similar to that of sites or water bodies determined by the department to be regional reference sites.
- b. Definitions.
  - (1) "Assemblage" means an association of aquatic organisms of similar taxonomic classification living in the same area. Examples of assemblages include fish, macroinvertebrates, algae, and vascular plants.
  - (2) "Aquatic organism" means any plant or animal which lives at least part of its life cycle in water.
  - (3) "Biological condition" means the taxonomic composition, richness, and functional organization of an assemblage of aquatic organisms at a site or within a water body.
  - (4) "Functional organization" means the number of species or abundance of organisms within an assemblage which perform the same or similar ecological functions.
  - (5) "Metric" means an expression of biological community composition, richness, or function which displays a predictable, measurable change in value along a gradient of pollution or other anthropogenic disturbance.
  - (6) "Regional reference sites" are sites or water bodies which are determined by the department to be representative of sites or water bodies of similar type (e.g., hydrology and ecoregion) and are least impaired with respect to habitat, water quality, watershed land use, and riparian and biological condition.
  - (7) "Richness" means the absolute number of taxa in an assemblage at a site or within a water body.
  - (8) "Taxonomic composition" means the identity and abundance of species or taxonomic groupings within an assemblage at a site or within a water body.
- c. Implementation. The intent of the state in adopting a narrative biological goal is solely to provide an additional assessment method that can be used to identify impaired surface waters. Regulatory or enforcement actions based solely on a narrative biological goal, such as the development and enforcement of North Dakota pollutant discharge elimination system permit limits, are not authorized. However, adequate and representative biological assessment information may be used in combination with other information to assist in determining whether designated uses are attained and to assist in determining whether new or revised chemical-specific permit limitations may be needed. Implementation will be based on the comparison of current biological conditions at a particular site to the biological conditions deemed attainable based on regional reference sites. In implementing a narrative biological goal, biological condition may be expressed

through an index composed of multiple metrics or through appropriate statistical procedures.

**History:** Effective January 1, 2019; [amended effective July 1, 2021](#).

**General Authority:** NDCC 61-28-04; S.L. 2017, ch. 199, § 1

**Law Implemented:** NDCC 23.1-11, 61-28; S.L. 2017, ch. 199, § 26

### **33.1-16-02.1-09. Surface water classifications, mixing zones, and numeric standards.**

1. **Surface water classifications.** Procedures for the classifications of streams and lakes of the state shall follow this subsection. Classifications of streams and lakes are listed in appendix I and appendix II, respectively.

- a. Class I streams. The quality of the waters in this class shall be suitable for the propagation or protection, or both, of resident fish species and other aquatic biota and for swimming, boating, and other water recreation. The quality of the waters shall be suitable for irrigation, stock watering, and wildlife without injurious effects. After treatment consisting of coagulation, settling, filtration, and chlorination, or equivalent treatment processes, the water quality shall meet the bacteriological, physical, and chemical requirements of the department for municipal or domestic use.
- b. Class IA streams. The quality of the waters in this class shall be the same as the quality of class I streams, except that where natural conditions exceed class I criteria for municipal and domestic use, the availability of softening or other treatment methods may be considered in determining whether ambient water quality meets the drinking water requirements of the department.

The Sheyenne River from its headwaters to one-tenth mile downstream from Baldhill Dam is not classified for municipal or domestic use.

- c. Class II streams. The quality of the waters in this class shall be the same as the quality of class I streams, except that additional treatment may be required to meet the drinking water requirements of the department. Streams in this classification may be intermittent in nature which would make these waters of limited value for beneficial uses such as municipal water, fish life, irrigation, bathing, or swimming.
- d. Class III streams. The quality of the waters in this class shall be suitable for agricultural and industrial uses. Streams in this class generally have low average flows with prolonged periods of no flow. During periods of no flow, they are of limited value for recreation and fish and aquatic biota. The quality of these waters must be maintained to protect secondary contact recreation uses (e.g., wading), fish and aquatic biota, and wildlife uses.
- e. Wetlands. These water bodies, including isolated ponds, sloughs, and marshes, are to be considered waters of the state and will be protected under section 33.1-16-02.1-08.
- f. Lakes and reservoirs. The type of fishery a lake or reservoir may be capable of supporting is based on the lake's or reservoir's geophysical characteristics. The capability of a lake or reservoir to support a fishery may be affected by seasonal or climatic variability or other natural occurrences, which may alter the physical and chemical characteristics of the lake or reservoir.

Class	Characteristics
1	Cold water fishery. Waters capable of supporting growth of cold water fish species (e.g., salmonids) and associated aquatic biota.

- 2 Cool water fishery. Waters capable of supporting natural reproduction and growth of cool water fishes (e.g., northern pike and walleye) and associated aquatic biota. These waters are also capable of supporting the growth and marginal survival of cold water species and associated biota.
- 3 Warm water fishery. Waters capable of supporting natural reproduction and growth of warm water fishes (e.g., largemouth bass and bluegill) and associated aquatic biota. Some cool water species may also be present.
- 4 Marginal fishery. Waters capable of supporting a fishery on a short-term or seasonal basis (generally a "put and take" fishery).
- 5 Not capable of supporting a fishery due to high salinity.

2. **Mixing zones.** North Dakota mixing zone and dilution policy is contained in appendix III.

3. **Numeric standards.**

- a. Class I streams. The physical and chemical criteria for class I streams are listed in table 1 and table 2.
- b. Class IA streams. The physical and chemical criteria shall be those for class I streams, with the exceptions for chloride, percent sodium, and sulfate as listed in table 1.
- c. Site-specific sulfate standard. The physical and chemical criteria for the Sheyenne River from its headwaters to one-tenth of a mile downstream from Baldhill Dam shall be those for class IA streams, with the exception of sulfate as listed in table 1.
- d. Class II streams. The physical and chemical criteria shall be those for class IA, with the chloride and pH as listed in table 1.
- e. Class III streams. The physical and chemical criteria shall be those for class II, with the exceptions for sulfate as listed in table 1.
- f. Wetlands, including isolated ponds, class 4 lakes not listed in appendix II, sloughs and marshes. The physical and chemical criteria shall be those for class III streams, with exceptions for temperature, dissolved oxygen as listed in paragraph 6 of subdivision g, and other conditions not attributable to municipal, industrial, domestic, or agricultural sources.
- g. Lakes and reservoirs.
  - (1) The physical and chemical criteria for class I streams shall apply to all classified lakes or reservoirs listed in appendix II.
  - (2) In addition, a guideline for use as a goal in any lake or reservoir improvement or maintenance program is a growing season (April through November) average chlorophyll-a concentration of twenty µg/l.
  - (3) The temperature standard for class I streams does not apply to Nelson Lake in Oliver County. The temperature of any discharge to Nelson Lake shall not have an adverse effect on fish, aquatic biota, recreation, and wildlife.
  - (4) A numeric temperature standard of not greater than fifty-nine degrees Fahrenheit [15 degrees Celsius] shall be maintained in the hypolimnion of class I lakes and reservoirs during periods of thermal stratification.

- (5) The numeric dissolved oxygen standard of five mg/l as a daily minimum does not apply to the hypolimnion of class III and IV lakes and reservoirs during periods of thermal stratification.
- (6) The numeric dissolved oxygen standard of five mg/l as a daily minimum and the maximum temperature of eighty-five degrees Fahrenheit [29.44 degrees Celsius] shall not apply to wetlands and class 4 lakes.
- (7) Lake Sakakawea must maintain a minimum volume of water of five hundred thousand-acre feet [61,674-hectare meters] that has a temperature of fifty-nine degrees Fahrenheit [15 degrees Celsius] or less and a dissolved oxygen concentration of not less than five mg/l.

**History:** Effective January 1, 2019.

**General Authority:** NDCC 61-28-04; S.L. 2017, ch. 199, § 1

**Law Implemented:** NDCC 23.1-11, 61-28; S.L. 2017, ch. 199, § 26

TABLE 1  
 MAXIMUM LIMITS FOR SUBSTANCES IN  
 OR CHARACTERISTICS OF CLASSES I, IA, II, AND III STREAMS

<u>CAS<sup>1</sup> No.</u>	<u>Substance or Characteristic (a = aquatic life) (b = municipal &amp; domestic drinking water) (c = agricultural, irrigation, industrial) (d = recreation)</u>	<u>Maximum Limit</u>
7429905	Aluminum (a)	<p><b>Acute Standard</b>            750 micrograms per liter (µg/l)</p> <p><b>Chronic Standard</b>            87 µg/l            Where the pH is equal to or greater than 7.0, and the hardness is equal to or greater than 50 mg/l as CaCO<sub>3</sub> in the receiving water after mixing, the 87 µg/l chronic total recoverable aluminum criterion will not apply, and aluminum will be regulated based on compliance with the 750 µg/l acute total recoverable aluminum criterion.</p>
7446-41-7	Ammonia (Total as N) (a)	<p><del><b>Acute Standard</b></del></p> <p><del>The one-hour average concentration of total ammonia (expressed as N in mg/l) does not exceed, more often than once every three years on the average, the numerical value given by the following formula:</del></p> $\frac{0.411}{1 + 10^{7.204 - pH}} + \frac{58.4}{1 + 10^{pH - 7.204}}$ <p><del>where salmonids are absent; or</del></p> $\frac{0.275}{1 + 10^{7.204 - pH}} + \frac{39.0}{1 + 10^{pH - 7.204}}$ <p><del>where salmonids are present.</del></p> <p><del><b>Chronic Standard</b></del></p> <p><del>The 30-day average concentration of total ammonia (expressed as N in mg/l) does not exceed, more often than once every three years on the average, the numerical value given by the following formula; and the highest 4-day average concentration of total ammonia within the 30-day averaging period does not exceed 2.5 times the numerical value given by the following formula:</del></p>

$$(CV) \left( \frac{0.0577}{1 + 10^{7.688 - pH}} \right) + \left( \frac{2.487}{1 + 10^{pH - 7.688}} \right)$$

where CV = 2.85, when temperature (T) is  $\leq 14^{\circ}\text{C}$ ;

or

where:

$$(CV) = 1.45^{10^{0.028(25-T)}}$$

when  $T > 14^{\circ}\text{C}$

### **Site-Specific Chronic Standard**

The following site-specific standard applies to the Red River of the North beginning at the 12th Avenue North bridge in Fargo, North Dakota, and extending approximately 32 miles downstream to its confluence with the Buffalo River, Minnesota. This site-specific standard applies only during the months of October, November, December, January, and February. During the months of March through September, the statewide chronic ammonia standard applies:

The 30-day average concentration of total ammonia (expressed as N in mg/l) does not exceed, more often than once every three years on the average, the numerical value given by the following formula; and the highest 4-day average concentration of total ammonia within the 30-day averaging period does not exceed 2.5 times the numerical value given by the following formula:

$$(CV) \left( \frac{0.0577}{1 + 10^{7.688 - pH}} \right) + \left( \frac{2.487}{1 + 10^{pH - 7.688}} \right)$$

where CV = 4.63, when  $T \leq 7^{\circ}\text{C}$ ; or

or

where:

$$(CV) = 1.45^{10^{0.028(25-T)}}$$

when  $T > 7^{\circ}\text{C}$

### **Acute Standard**

The one-hour average concentration of total ammonia as nitrogen in mg/l does not exceed, more often than once every three years on the average, the numerical value given by the following:

$$7249 \times \left( \frac{0.0114}{1 + 10^{7.204-pH}} + \frac{1.6181}{1 + 10^{pH-7.204}} \right) \\ \times \text{MIN}(51.93 \times 10^{0.036 \times (20-T)}, 23.12 \times 10^{0.036 \times (20-T)})$$

Where Oncorhynchus are absent; or

$$\text{MIN} \left( \left( \frac{0.275}{1 + 10^{7.204-pH}} + \frac{39.0}{1 + 10^{pH-7.204}} \right) \right. \\ \left. \left( 0.7249 \times \left( \frac{0.0114}{1 + 10^{7.204-pH}} + \frac{1.6181}{1 + 10^{pH-7.204}} \right) \right) \right) \\ \times (23.12 \times 10^{0.036 \times (20-T)})$$

Where Oncorhynchus are present

**Chronic Standard**

The 30-day rolling average concentration of total ammonia as nitrogen expressed in mg/l is not to exceed, more than once every three years on average, the chronic criteria magnitude calculated using the following formula:

$$0.8876 \times \left( \frac{0.0278}{1 + 10^{7.688-pH}} + \frac{1.1994}{1 + 10^{pH-7.688}} \right) \\ \times (2.126 \times 10^{0.028 \times (20-\text{MAX}(T,7))})$$

In addition, the highest four-day average within the 30-day averaging period should not be more than 2.5 times the criteria more than once in three years on average.

7440-39-3	Barium (Total) (b)	1.0 mg/l (1-day arithmetic average)
7440-42-8	Boron (Total) (c)	0.75 mg/l (30-day arithmetic average)
16887-00-6	Chloride (Total) (a, b, c)	<b>Class I:</b> 100 mg/l (30-day arithmetic average) <b>Class IA:</b> 175 mg/l (30-day arithmetic average) <b>Class II and Class III:</b> 250 mg/l (30-day arithmetic average)
7782-50-5	Chlorine Residual (Total) (a)	<b>Acute:</b> 0.019 mg/l <b>Chronic:</b> 0.011 mg/l
7782-44-7	Dissolved Oxygen (a)	5 mg/l as a daily minimum (up to 10% of representative samples collected during any 3-year period may be less than this value provided that lethal conditions are avoided)

14797-55-8	Nitrate as N <sup>2</sup> (a, b)	1.0 mg/l (up to 10% of samples may exceed)
14797-65-0	Nitrite as N (b)	1.0 mg/l
<u>None</u>	E. coli <sup>3</sup> (d)	Not to exceed 126 organisms per 100 ml as a geometric mean of representative samples collected during any 30-day consecutive period, nor shall more than 10 percent of samples collected during any 30-day consecutive period individually exceed 409 organisms per 100 ml. For assessment purposes, the 30-day consecutive period shall follow the calendar month. This standard shall apply only during the recreation season May 1 to September 30.
<u>None</u>	pH (a)	<b>Class I and IA:</b> <del>7.0</del> <u>6.5</u> - 9.0 (up to 10% of representative samples collected during any 3-year period may exceed this range, provided that lethal conditions are avoided). <b>Class II and Class III:</b> 6.0 - 9.0 (up to 10% of representative samples collected during any 3-year period may exceed this range, provided that lethal conditions are avoided).
108-95-2	Phenols (Total) (b)	0.3 mg/l (organoleptic criterion) (one-day arithmetic average)
<u>7782-49-2</u>	<u>Selenium in Fish<sup>4</sup> Flesh (a)</u>	<u>Egg-Ovary: 15.1 mg/kg Dry Weight</u> <u>Whole Body: 8.5 mg/kg Dry Weight</u> <u>Muscle: 11.3 mg/kg Dry Weight</u>
7440-23-5	Sodium (b, c)	<b>Class I:</b> 50 percent of total cations as milliequivalents per liter (mEq/l) <b>Class IA, II, and III:</b> 60 percent of total cations as mEq/l
18785-72-3	Sulfates (Total as SO <sub>4</sub> ) (b)	<b>Class I:</b> 250 mg/l (30-day arithmetic average) <b>Class IA and II:</b> 450 mg/l (30-day arithmetic average) <b>Class III:</b> 750 mg/l (30-day arithmetic average)
	Sulfates (Total as SO <sub>4</sub> ) (a, b)	<b>Site Specific:</b> 750 mg/l (maximum) applies to the Sheyenne River from its headwaters to 0.1 mile downstream from Baldhill Dam  <b>131.10(b) requirement:</b> The water quality standards for the Red River and the portions of the Sheyenne River located downstream from the segment of the Sheyenne River to which the site-specific sulfate standard applies must continue to be maintained. The Sheyenne River from 0.1 mile downstream from Baldhill Dam to the confluence with the Red River shall not exceed 450 mg/l sulfate (total) 30-day arithmetic average, and the Red River shall not exceed 250 mg/l sulfate (total) 30-day arithmetic average after mixing downstream from the confluence of the Sheyenne River. Regulated pollution control efforts must be developed to achieve compliance with these water quality standards.
<u>None</u>	Temperature (a)	Eighty-five degrees Fahrenheit [29.44 degrees Celsius]. The maximum increase shall not be greater than five degrees Fahrenheit [2.78 degrees Celsius] above natural background conditions.
<u>None</u>	Combined radium 226 and	5 pCi/l (30-day arithmetic average)

	radium 228 (Total) (b)	
<u>None</u>	Gross alpha particle activity, including radium 226, but excluding radon and uranium (b)	15 pCi/l (30-day arithmetic average)

<sup>1</sup> CAS No. is the chemical abstract service registry number. The registry database contains records for specific substances identified by the chemical abstract service.

<sup>2</sup> The standard for nitrates (N) is intended as benchmark concentration when stream or lake specific data is insufficient to determine the concentration that will cause excessive plant growth (eutrophication). However, in no case shall the concentration for nitrate plus nitrite N exceed 10 mg/l for any waters used as a municipal or domestic drinking water supply.

<sup>3</sup> Where the E. Coli criteria are exceeded and there are natural sources, the criteria may be considered attained, provided there is reasonable basis for concluding that the indicator bacteria density attributable to anthropogenic sources is consistent with the level of water quality required by the criteria. This may be the situation, for example, in headwater streams that are minimally affected by anthropogenic activities.

<sup>4</sup> Fish tissue elements are expressed as steady-state instantaneous measurement not to exceed the criteria in the table. When fish egg/ovary concentrations are measured, the egg/ovary criterion element supersedes any whole-body, or muscle criterion element. The fish flesh values in Table 1 and the water column criteria in Table 2 are independently applicable. Water column criterion elements that are derived site-specifically using an empirical bioaccumulation factor approach or a bioaccumulation mechanistic model approach, once duly established under the provisions of 40 CFR 131 will supersede the criteria in Table 2 and will be subordinate to fish tissue criterion elements when both fish and water concentrations are measured. Any site-specific water column criterion element established under the provisions of 40 CFR 131 is the applicable criterion in the absence of fish tissue measurement, or in waters with new discharges of selenium where steady state has not been achieved between water and fish tissue at the site.

TABLE 2  
WATER QUALITY CRITERIA<sup>1</sup>  
(MICROGRAMS PER LITER)

CAS No.	Pollutant (Compounds)	Aquatic Life Value Classes I, IA, II, III		Human Health Value	
		Acute	Chronic	Classes I, IA, II <sup>2</sup>	Class III <sup>3</sup>
71-55-6	1,1,1-Trichloroethane			10,000 <sup>7</sup>	200,000
79-00-5	1,1,2-Trichloroethane <sup>4</sup>			0.55	8.9
79-34-5	1,1,2,2-Tetrachloroethane <sup>4</sup>			0.2	3
75-35-4	1,1-Dichloroethylene <sup>4</sup>			300	20,000
156-60-5	1,2-trans-Dichloroethylene <sup>7</sup>			100	4,000
120-82-1	1,2,4-Trichlorobenzene			0.071	0.076
95-50-1	1,2-Dichlorobenzene <sup>7</sup>			1,000	3,000
541-73-1	1,3-Dichlorobenzene			7	10
106-46-7	1,4-Dichlorobenzene <sup>7</sup>			300	900
107-06-2	1,2-Dichloroethane <sup>4</sup>			9.9	650
78-87-5	1,2-Dichloropropane			0.90	31
542-75-6	1,3-Dichloropropylene (1,3-Dichloropropene) (cis and trans isomers)			0.27	12
122-66-7	1,2-Diphenylhydrazine <sup>4</sup>			0.03	0.20
121-14-2	2,4-Dinitrotoluene <sup>4</sup>			0.049	1.7
95-57-8	2-Chlorophenol			30	800
120-83-2	2,4-Dichlorophenol			10	60
88-06-2	2,4,6-Trichlorophenol <sup>4</sup>			1.5	2.8
91-58-7	2-Chloronaphthalene			800	1,000
91-94-1	3,3'-Dichlorobenzidine <sup>4</sup>			0.049	0.15
105-67-9	2,4-Dimethylphenol			100	3,000
51-28-5	2,4-Dinitrophenol			10	300
94-75-7	2,4-D			1,300	12,000
72-54-8	4,4'-DDD <sup>4</sup>			0.00012	0.00012
75-55-9	4,4'-DDE <sup>4</sup>			0.000018	0.000018
50-29-3	4,4'-DDT <sup>4</sup>	0.55 <sup>12</sup>	0.001 <sup>12</sup>	0.000030	0.000030
534-52-1	2-Methyl-4,6-Dinitrophenol			2	30
59-50-7	3-Methyl-4-Chlorophenol			500	2,000
83-32-9	Acenaphthene			70	90
107-02-8	Acrolein	3	3	3	400
107-13-1	Acrylonitrile <sup>4</sup>			0.061	7.0
15972-60-8	Alachlor			2 <sup>7</sup>	
309-00-2	Aldrin <sup>4</sup>	1.5		7.7E-07	7.7E-07
319-84-6	alpha-BHC <sup>4</sup> (Hexachlorocyclohexane-alpha)			0.00036	0.00039
319-85-7	beta-BHC <sup>4</sup> (Hexachlorocyclohexane-beta)			0.008	0.014
58-89-9	gamma-BHC (Lindane) <sup>4</sup> (Hexachlorocyclohexane-gamma)	0.95		4.2 <sup>7</sup>	4.4
959-98-8	alpha-Endosulfan	0.11 <sup>11</sup>	0.056 <sup>11</sup>	20	30

33213-65-9	beta-Endosulfan	0.11 <sup>11</sup>	0.056 <sup>11</sup>	20	40
120-12-7	Anthracene (PAH) <sup>5</sup>			300	400
1332-21-4	Asbestos <sup>4,7</sup>			7,000,000 f/l	7,000,000 f/l
1912-24-9	Atrazine			3 <sup>7</sup>	
71-43-2	Benzene <sup>4</sup>			2.1	58
92-87-5	Benzidine <sup>4</sup>			0.00014	0.011
56-55-3	Benzo(a)anthracene (PAH) <sup>4</sup> (1,2-Benzanthracene)			0.0012	0.0013
50-32-8	Benzo(a)pyrene (PAH) <sup>4</sup> (3,4-Benzopyrene)			0.00012	0.00013
205-99-2	Benzo(b)fluoranthene (PAH) <sup>4</sup> (3,4-Benzofluoranthene)			0.0012	0.0013
207-08-9	Benzo(k)fluoranthene (PAH) <sup>4</sup> (11,12-Benzofluoranthene)			0.012	0.013
12587-47-2	Beta/photon emitters			4 mrem/yr <sup>7</sup>	
111-44-4	Bis(2-chloroethyl) ether <sup>4</sup>			0.030	2.2
108-60-1	Bis(2-chloro-1-Methylethyl) ether			200	4,000
117-81-7	Bis(2-ethylhexyl) phthalate <sup>4</sup>			0.32	0.37
15541-45-4	Bromate			10 <sup>7</sup>	
75-25-2	Bromoform (HM) <sup>5</sup> (Tribromomethane)			7.0	120
85-68-7	Butyl benzyl phthalate			0.10	0.10
63-25-2	Carbaryl (1-naphthyl-N-methylcarbamate)	2.1	2.1		
1563-66-2	Carbofuran			40 <sup>7</sup>	
56-23-5	Carbon tetrachloride <sup>4</sup> (Tetrachloromethane)			0.40	5
57-74-9	Chlordane <sup>4</sup>	1.2	0.0043	0.00031	0.00032
14998-27-7	Chlorite			1,000 <sup>7</sup>	
108-90-7	Chlorobenzene (Monochlorobenzene)			100 <sup>7</sup>	800
124-48-1	Chlorodibromomethane (HM) <sup>5</sup>			0.80	21
67-66-3	Chloroform (HM) <sup>4</sup> (Trichloromethane)			60	2,000
2921-88-2	Chlorpyrifos	0.083	0.041		
218-01-9	Chrysene (PAH) <sup>4</sup>			0.12	0.13
57-12-5	Cyanide (total)	22	5.2	4	400
75-99-0	Dalapon			200 <sup>7</sup>	
103-23-1	Di(2-ethylhexyl)adipate			400 <sup>7</sup>	
333-41-5	Diazinon	0.17	0.17		
53-70-3	Dibenzo(a,h)anthracene (PAH) <sup>4</sup> (1,2,5,6-Dibenzanthracene)			0.00012	0.00013
67708-83-2	Dibromochloropropane			0.2 <sup>7</sup>	
75-27-4	Dichlorobromomethane (HM) <sup>5</sup>			0.95	27
156-59-2	Dichloroethylene (cis-1,2-)			70 <sup>7</sup>	
60-57-1	Dieldrin <sup>4</sup>	0.24	0.056	1.2E-06	1.2E-06
84-66-2	Diethyl phthalate			600	600
131-11-3	Dimethyl phthalate			2,000	2,000
84-74-2	Di-n-butyl phthalate			20	30
88-85-7	Dinoseb			7 <sup>7</sup>	
1746-01-6	Dioxin (2,3,7,8-TCDD) <sup>4</sup>			5.00E-09	5.10E-09

85-00-7	Diquat			20 <sup>7</sup>	
1031-07-8	Endosulfan sulfate			20	40
145-73-3	Endothall			100 <sup>7</sup>	
72-20-8	Endrin	0.086	0.036	0.03	0.03
7421-93-4	Endrin aldehyde			1	1
100-41-4	Ethylbenzene <sup>7</sup>			68	130
106-93-4	Ethylene dibromide (EDB)			0.05 <sup>7</sup>	
206-44-0	Fluoranthene			20	20
86-73-7	Fluorene (PAH) <sup>5</sup>			50	70
1071-83-6	Glyphosate			700 <sup>7</sup>	
	Halocetic acids <sup>14</sup>			60 <sup>7</sup>	
1024-57-3	Heptachlor epoxide <sup>4</sup>	0.26	0.0038	0.000032	0.000032
76-44-8	Heptachlor <sup>4</sup>	0.26	0.0038	0.0000059	0.0000059
118-74-1	Hexachlorobenzene <sup>4</sup>			0.000079	0.000079
87-68-3	Hexachlorobutadiene <sup>4</sup>			0.01	0.01
77-47-4	Hexachlorocyclopentadiene			4	4
67-72-1	Hexachloroethane <sup>4</sup>			0.10	0.10
193-39-5	Indeno(1,2,3-cd) pyrene (PAH) <sup>4</sup>			0.0012	0.0013
78-59-1	Isophorone <sup>4</sup>			34	1,800
72-43-5	Methoxychlor			0.02	0.02
74-83-9	Methyl bromide (HM) (Bromomethane)			100	10,000
75-09-2	Methylene chloride (HM) <sup>4</sup> (Dichloromethane)			20	1,000
98-95-3	Nitrobenzene			10	600
62-75-9	N-Nitrosodimethylamine <sup>4</sup>			0.00069	3
621-64-7	N-Nitrosodi-n-propylamine <sup>4</sup>			0.005	0.51
86-30-6	N-Nitrosodiphenylamine <sup>4</sup>			3.3	6
84852-15-3	Nonylphenol (Isomer mixture) <sup>13</sup>	28	6.6		
23135-22-0	Oxamyl (Vydate)			200 <sup>7</sup>	
56-38-2	Parathion	0.065	0.013		
53469-21-9	PCB-1242 (Arochlor 1242) <sup>4</sup>		0.014 <sup>10</sup>	0.000064 <sup>10</sup>	0.000064 <sup>10</sup>
126764-11-2	PCB-1016 (Arochlor 1016) <sup>4</sup>		0.014 <sup>10</sup>	0.000064 <sup>10</sup>	0.000064 <sup>10</sup>
11104-28-2	PCB-1221 (Arochlor 1221) <sup>4</sup>		0.014 <sup>10</sup>	0.000064 <sup>10</sup>	0.000064 <sup>10</sup>
11141-16-5	PCB-1232 (Arochlor 1232) <sup>4</sup>		0.014 <sup>10</sup>	0.000064 <sup>10</sup>	0.000064 <sup>10</sup>
12672-29-6	PCB-1248 (Arochlor 1248) <sup>4</sup>		0.014 <sup>10</sup>	0.000064 <sup>10</sup>	0.000064 <sup>10</sup>
11097-69-1	PCB-1254 (Arochlor 1254) <sup>4</sup>		0.014 <sup>10</sup>	0.000064 <sup>10</sup>	0.000064 <sup>10</sup>
11096-82-5	PCB-1260 (Arochlor 1260) <sup>4</sup>		0.014 <sup>10</sup>	0.000064 <sup>10</sup>	0.000064 <sup>10</sup>
87-86-5	Pentachlorophenol	19 <sup>8</sup>	15 <sup>8</sup>	0.03	0.04
108-95-2	Phenol			4,000	300,000
1918-02-1	Picloram			500 <sup>7</sup>	
129-00-0	Pyrene (PAH) <sup>5</sup>			20	30
122-34-9	Simazine			4 <sup>7</sup>	
100-42-5	Styrene			100 <sup>7</sup>	
127-18-4	Tetrachloroethylene <sup>4</sup>			10	29
108-88-3	Toluene			57	520

8001-35-2	Toxaphene <sup>4</sup>	0.73	0.0002	0.0007	0.00071
688-73-3	Tributyltin	0.46	0.072		
79-01-6	Trichloroethylene <sup>4</sup>			0.60	7
75-01-4	Vinyl chloride <sup>4</sup> (Chloroethylene)			0.022	1.6
1330-20-7	Xylenes			10,000 <sup>7</sup>	
		Aquatic Life Value Classes I, IA, II, III		Human Health Value	
CAS No.	Pollutant (Elements)	Acute	Chronic	Classes I, IA, II <sup>2</sup>	Class III <sup>3</sup>
7440-36-0	Antimony			5.6	640
7440-38-2	Arsenic <sup>7</sup>	340 <sup>9</sup>	150 <sup>9</sup>	10 <sup>7</sup>	
7440-41-7	Beryllium <sup>4</sup>			4 <sup>7</sup>	
7440-43-9	Cadmium	1.87.38 <sup>6,15</sup>	0.722.39 <sup>6,15</sup>	5 <sup>7</sup>	
16065-83-1	Chromium (III)	1.800 5.611.70 <sup>6,15</sup>	86268.22 <sup>6,15</sup>	100(total) <sup>7</sup>	
18540-29-9	Chromium (VI)	16	11	100(total) <sup>7</sup>	
7440-50-8	Copper	14.051.68 <sup>6,15,16</sup>	9.330.50 <sup>6,15,16</sup>	1000	
7782-41-4	Fluoride			4,000 <sup>7</sup>	
7439-92-1	Lead	82476.82 <sup>6</sup>	3.218.58 <sup>6</sup>	15 <sup>7</sup>	
7439-97-6	Mercury	1.7	0.0120.88	0.050	0.051
7440-02-0	Nickel	470 1.516.92 <sup>6,15</sup>	52168.54 <sup>6,15</sup>	100 <sup>7</sup>	4,200
7782-49-2	Selenium	20	5	50 <sup>7</sup>	
7440-22-4	Silver	3.841.07 <sup>6,15</sup>			
7440-28-0	Thallium			0.24	0.47
7440-61-1	Uranium			30 <sup>7</sup>	
7440-66-6	Zinc	120387.83 <sup>6,15</sup>	120387.82 <sup>6,15</sup>	7,400	26,000

<sup>1</sup> Except for the aquatic life values for metals, the values given in this appendix refer to the total (dissolved plus suspended) amount of each substance unless otherwise noted. For the aquatic life values for metals, the values refer to the total recoverable method for ambient metals analyses.

<sup>2</sup> Based on two routes of exposure - ingestion of contaminated aquatic organisms and drinking water.

<sup>3</sup> Based on one route of exposure - ingestion of contaminated aquatic organisms only.

<sup>4</sup> Substance classified as a carcinogen, with the value based on an incremental risk of one additional instance of cancer in one million persons.

<sup>5</sup> Chemicals which are not individually classified as carcinogens but which are contained within a class of chemicals, with carcinogenicity as the basis for the criteria derivation for that class of chemicals; an individual carcinogenicity assessment for these chemicals is pending.

<sup>6</sup> Hardness dependent criteria. Value given is an example only and is based on a CaCO<sub>3</sub> hardness of ~~100~~400 mg/l. Criteria for each case must be calculated using the following formula:

For the Criterion Maximum Concentration (CMC):

Cadmium  $CMC = e^{0.9789[\ln(\text{hardness})] - 3.866}$

Chromium (III)  $CMC = e^{0.8190[\ln(\text{hardness})] + 3.7256}$

Copper  $CMC = e^{0.9422[\ln(\text{hardness})] - 1.7000}$

Lead  $CMC = e^{1.2730[\ln(\text{hardness})] - 1.4600}$

Nickel  $CMC = e^{0.8460[\ln(\text{hardness})] + 2.2550}$

Silver  $CMC = e^{1.7200[\ln(\text{hardness})] - 6.5900}$

Zinc  $CMC = e^{0.8473[\ln(\text{hardness})] + 0.8840}$

CMC = Criterion Maximum Concentration (acute exposure value)

The threshold value at or below which there should be no unacceptable effects to freshwater aquatic organisms and their uses if the one-hour concentration does not exceed that CMC value more than once every three years on the average.

For the Criterion Continuous Concentration (CCC):

Cadmium	$CCC = e^{0.7977[\ln(\text{hardness})] - 3.909}$
Chromium (III)	$CCC = e^{0.8190[\ln(\text{hardness})] + 0.6848}$
Copper	$CCC = e^{0.8545[\ln(\text{hardness})] - 1.7020}$
Lead	$CCC = e^{1.2730[\ln(\text{hardness})] - 4.7050}$
Nickel	$CCC = e^{0.8460[\ln(\text{hardness})] + 0.0584}$
Silver	No CCC criterion for silver
Zinc	$CCC = e^{0.8473[\ln(\text{hardness})] + 0.8840}$

CCC = Criterion Continuous Concentration (chronic exposure value)

The threshold value at or below which there should be no unacceptable effects to freshwater aquatic organisms and their uses if the four-day concentration does not exceed that CCC value more than once every three years on the average.

<sup>7</sup> Safe Drinking Water Act (MCL).

<sup>8</sup> Freshwater aquatic life criteria for pentachlorophenol are expressed as a function of pH. Values displayed in the table correspond to a pH of 7.8 and are calculated as follows:

$$CMC = \exp [1.005 (\text{pH}) - 4.869]$$

$$CCC = \exp [1.005 (\text{pH}) - 5.134]$$

<sup>9</sup> This criterion applies to total arsenic.

<sup>10</sup> This criterion applies to total PCBs (i.e., the sum of all congener or all isomer or homolog or Arochlor analyses).

<sup>11</sup> This criterion applies to the sum of alpha-endosulfan and beta-endosulfan.

<sup>12</sup> This criterion applies to DDT and its metabolites (i.e., the total concentration of DDT and its metabolites should not exceed this value).

<sup>13</sup> The nonylphenol criteria address CAS numbers 84852-15-3 and 25154-52-3.

<sup>14</sup> The criterion is for a total measurement of 5 haloacetic acids, dichloroacetic acid, trichloroacetic acid, monochloroacetic acid, bromoacetic acid, and dibromoacetic acid.

<sup>15</sup> Hardness values shall be no greater than 400 mg/l. For waters with hardness concentrations greater than 400 mg/l, the actual ambient hardness may be used where a site-specific water effect ratio has been determined consistent with the environmental protection agency's water effect ratio procedure.

<sup>16</sup> The department will recognize the biotic ligand model as an appropriate tool for developing site-specific limits for copper as well as the water-effects ratio (WER) method.

### **33.1-16-02.1-11. Discharge of wastes.**

On-surface discharges. The following are general requirements for all waste discharges or chemical additions:

1. No untreated domestic sewage shall be discharged into the waters of the state.
2. No untreated industrial wastes or other wastes which contain substances or organisms which may endanger public health or degrade the water quality of water usage shall be discharged into the waters of the state.
3. The department must be notified at least twenty days prior to the application of any herbicide or pesticide to surface waters of the state for control of aquatic pests. Only certified applicators are allowed to apply chemicals. The notification must include the following information:
  - a. Chemical name and composition.

- b. Map which identifies the area of application and aerial extent (e.g., acres or square feet).
  - c. A list of target species of aquatic biota the applicant desires to control.
  - d. The calculated concentration of the active ingredient in surface waters immediately after application.
  - e. Name, address, and telephone number of the certified applicator.
4. Any spill or discharge of waste which causes or is likely to cause pollution of waters of the state must be reported immediately. The owner, operator, or person responsible for a spill or discharge must notify the department as soon as possible ~~(701-328-5210) or the North Dakota hazardous materials emergency assistance and spill reporting number (1-800-472-2121)~~ by telephoning 1-833-99SPILL (1-833-997-7455) or on the website [www.spill.nd.gov](http://www.spill.nd.gov) and provide all relevant information about the spill. ~~Depending on the severity of the spill or accidental discharge, the department may require the~~ The owner or operator is required to:
- a. Take immediate remedial measures appropriate for the severity of the spill;
  - b. Determine the extent of pollution to waters of the state;
  - c. Provide alternate water sources to water users impacted by the spill or accidental discharge; ~~or~~
  - d. Provide on request any documents, reports, or other information relevant to the spill or discharge; or
  - e. Any other actions necessary to comply with this chapter.

**History:** Effective January 1, 2019; amended effective July 1, 2021.

**General Authority:** NDCC 61-28-04; S.L. 2017, ch. 199, § 1

**Law Implemented:** NDCC 23.1-11, 61-28; S.L. 2017, ch. 199, § 26

APPENDIX I

STREAM CLASSIFICATIONS

The following intrastate and interstate streams are classified as the class of water quality which is to be maintained in the specified stream or segments noted. All tributaries, minor or intermittently flowing watercourse, unnamed creeks, or draws not specifically mentioned are classified as class III streams.

RIVER BASINS, SUBBASINS, AND TRIBUTARIES	CLASSIFICATION
Missouri River, including Lake Sakakawea and Oahe Reservoir	I
Yellowstone	I
Little Muddy Creek near Williston	II
White Earth River	II
Little Missouri River	II
Knife River	II
Spring Creek	IA
Square Butte Creek below Nelson Lake	IA
Heart River	IA
Green River	IA
Antelope Creek	II
Muddy Creek	II
Apple Creek	II
Cannonball River	II
Cedar Creek	II
Beaver Creek near Linton	II
Grand River	IA
Spring Creek	II
Souris River	IA
Des Lacs River	II
Willow Creek	II
Deep River	III
Mauvais Coulee	I
James River	IA
Pipestem	IA
Gottonwood Creek	II
Beaver Creek	II
Elm River	II
Maple River	II
Bois de Sioux	I
Red River	I

<u>RIVER BASINS, SUBBASINS, AND TRIBUTARIES</u>	<u>CLASSIFICATION</u>
Wild Rice River	II
Antelope Creek	III
Sheyenne River (except as noted below)	IA
Baldhill Creek	II
Maple River	II
Rush River	III
Elm River	II
Goose River	IA
Turtle River	II
Forest River	II
North Branch	III
Park River	II
North Branch	III
South Branch	II
Middle Branch	III
Cart Creek	III
Pembina River	IA
Tongue River	II
The Sheyenne River from its headwaters to 0.1 mile downstream from Baldhill Dam is not classified for municipal or domestic use.	

<u>RIVER BASINS</u>	
<u>SUBBASINS</u>	
<u>TRIBUTARIES</u>	<u>CLASSIFICATION</u>
Missouri River, including Lake Sakakawea and Oahe Reservoir	I
Yellowstone	I
Little Muddy Creek near Williston	II
White Earth River	II
Little Missouri River	II
Knife River	II
Spring Creek	IA
Square Butte Creek below Nelson Lake	IA
Heart River	IA
Green River	IA
Antelope Creek	II

<u>RIVER BASINS</u>	
<u>SUBBASINS</u>	
<u>TRIBUTARIES</u>	<u>CLASSIFICATION</u>
<u>Muddy Creek</u>	II
<u>Apple Creek</u>	II
<u>Cannonball River</u>	II
<u>Cedar Creek</u>	II
<u>Beaver Creek near Linton</u>	II
<u>Grand River</u>	IA
<u>Spring Creek</u>	II
<u>Souris River</u>	IA
<u>Des Lacs River</u>	II
<u>Willow Creek</u>	II
<u>Deep River</u>	III
<u>Mauvais Coulee</u>	I
<u>James River</u>	IA
<u>Pipestem</u>	IA
<u>Cottonwood Creek</u>	II
<u>Beaver Creek</u>	II
<u>Elm River</u>	II
<u>Maple River</u>	II
<u>Bois de Sioux</u>	I
<u>Red River</u>	I
<u>Wild Rice River</u>	II
<u>Antelope Creek</u>	III
<u>Sheyenne River (except as noted below)</u>	IA
<u>Baldhill Creek</u>	II
<u>Maple River</u>	II
<u>Rush River</u>	III
<u>Elm River</u>	II
<u>Goose River</u>	IA
<u>Turtle River</u>	II
<u>Forest River</u>	II
<u>North Branch of Forest River</u>	III
<u>Park River</u>	II
<u>North Branch</u>	III
<u>South Branch</u>	II

<u>RIVER BASINS</u>	
<u>SUBBASINS</u>	
<u>TRIBUTARIES</u>	<u>CLASSIFICATION</u>
<u>Middle Branch</u>	<u>III</u>
<u>Cart Creek</u>	<u>III</u>
<u>Pembina River</u>	<u>IA</u>
<u>Tongue River</u>	<u>II</u>
<u>The Shyenenne River from its headwaters to 0.1 mile downstream from Baldhill Dam is not classified for municipal or domestic use.</u>	

APPENDIX II

LAKE AND RESERVOIR CLASSIFICATION

Lakes and reservoirs are classified according to the water characteristics which are to be maintained in the specified lakes and reservoirs. The physical and chemical criteria for class I streams shall apply to all classified lakes and reservoirs listed. For lakes and other lentic water bodies not listed, the physical and chemical criteria designated for class III streams shall apply.

COUNTY	LAKE	CLASSIFICATION
Adams	Mirror Lake	3
Adams	N. Lemmon Lake	4
Barnes	Lake Ashtabula	3
Barnes	Moon Lake	2
Barnes	Glausen Springs	3
Benson	Wood Lake	2
Benson	Graves	3
Benson	Reeves	3
Bottineau	Lake Metigoshe	2
Bottineau	Long Lake	2
Bottineau	Pelican Lake	3
Bottineau	Garbury Dam	2
Bottineau	Gassidy Lake	4
Bottineau	Strawberry Lake	2
Bowman	Bowman-Haley Dam	3

COUNTY	LAKE	CLASSIFICATION
Bowman	Gascoyne Lake	3
Bowman	Kalina Dam	3
Bowman	Lutz Dam	2
Bowman	Spring Lake	3
Burke	Powers Lake	3
Burke	Short Creek Dam	2
Burke	Smishek Dam	2
Burke	Northgate Dam	2
Burleigh	McDowell Dam	3
Burleigh	Mitchell Lake	3
Burleigh	New Johns Lake	2
Cass	Casselton Reservoir	3
Cass	Brewer Lake	2
Cavalier	Mt. Carmel Dam	2
Dickey	Moores Lake	3
Dickey	Pheasant Lake	3
Dickey	Wilson Dam	3
Divide	Baukol-Noonan Dam	2

COUNTY	LAKE	CLASSIFICATION
Divide	Baukol-Noonan East Mine-Pond	2
Divide	Skjerme-Dam	2
Dunn	Lake Ho	3
Eddy	Battle-Lake	3
Eddy	Warsing-Dam	3
Emmons	Bradlock-Dam	3
Emmons	Nieuwsma-Dam	2
Emmons	Rice-Lake	3
Foster	Juanita-Lake	3
Golden-Valley	South-Buffalo-Gap-Dam	4
Golden-Valley	Gamel-Hump-Dam	4
Golden-Valley	Odland-Dam	3
Grand-Forks	Fordville-Dam	2
Grand-Forks	Kolding-Dam	3
Grand-Forks	Larimore-Dam	2
Grand-Forks	Niagara-Dam	3
Grant	Heart Butte-Dam (Lake Tschida)	2
Grant	Niagara-Dam	3

COUNTY	LAKE	CLASSIFICATION
Grant	Raleigh Reservoir	2
Grant	Sheep-Creek Dam	2
Griggs	Carlson-Tande Dam	3
Griggs	Red Willow Lake	2
Hettinger	Blickensderfer Dam	2
Hettinger	Castle Rock Dam	4
Hettinger	Indian Creek	2
Hettinger	Larson Lake	3
Hettinger	Mott Watershed Dam	3
Kidder	Alkaline Lake	2
Kidder	Cherry Lake	3
Kidder	Crystal Springs	3
Kidder	Frettim Lake	2
Kidder	George Lake	5
Kidder	Horsehead Lake	2
Kidder	Lake Isabel	3
Kidder	Lake Josephine	2
Kidder	Lake Williams	3

COUNTY	LAKE	CLASSIFICATION
Kidder	Round Lake	2
LaMoure	Heinrich-Martin Dam	3
LaMoure	Kalmbach Lake	3
LaMoure	Kulm-Edgeley Dam	3
LaMoure	Lake LaMoure	3
LaMoure	Lehr Dam	3
LaMoure	Limesand-Seefeldt Dam	3
LaMoure	Schlecht-Thom Dam	3
LaMoure	Schlecht-Weix Dam	3
Logan	Beaver Lake	3
Logan	Mundt Lake	3
Logan	Rudolph Lake	3
McHenry	Gottonwood Lake	3
McHenry	George Lake	3
McHenry	Round Lake	3
McHenry	Buffalo Lodge Lake	3
McIntosh	Blumhardt Dam	2
McIntosh	Clear Lake	3

COUNTY	LAKE	CLASSIFICATION
McIntosh	Goldwater Lake	3
McIntosh	Dry Lake	2
McIntosh	Green Lake	2
McIntosh	Lake Hoskins	3
McKenzie	Arnegard Dam	4
McKenzie	Leland Dam	2
McKenzie	Sather Dam	2
McLean	Brush Lake	3
McLean	Grooked Lake	3
McLean	Custer Mine Pond	2
McLean	East Park Lake	2
McLean	Lake Audubon	2
McLean	Lake Brekken	2
McLean	Lake Holmes	2
McLean	Lightning Lake	4
McLean	Long Lake	4
McLean	Riverdale Spillway Lake	4
McLean	Strawberry Lake	3

COUNTY	LAKE	CLASSIFICATION
McLean	West Park Lake	2
Mercer	Harmony Lake	3
Morton	Crown-Butte Dam	3
Morton	Danzig Dam	3
Morton	Fish Creek Dam	4
Morton	Harmon Lake	3
Morton	Nygren Dam	2
Morton	Sweetbriar Dam	2
Mountrail	Glearwater Lake	3
Mountrail	Stanley City Pond	3
Mountrail	Stanley Reservoir	3
Mountrail	White Earth Dam	2
Nelson	McVile Dam	2
Nelson	Tolna Dam	2
Nelson	Whitman Dam	2
Oliver	East Arroda Lake	2
Oliver	Nelson Lake	3
Oliver	West Arroda Lake	2

COUNTY	LAKE	CLASSIFICATION
Pembina	Renwick Dam	3
Pierce	Balta Dam	3
Pierce	Buffalo Lake	3
Ramsey	Gavanaugh Lake	3
Ramsey	Devils Lake	2
Ransom	Dead Golt Creek Dam	3
Renville	Lake Darling	2
Richland	Lake Elsie	3
Richland	Mooreton Pond	3
Rolette	Belcourt Lake	2
Rolette	Carpenter Lake	2
Rolette	Dion Lake	2
Rolette	Gordon Lake	2
Rolette	Gravel Lake	2
Rolette	Hooker Lake	2
Rolette	Island Lake	3
Rolette	Jensen Lake	3
Rolette	School Section Lake	2

COUNTY	LAKE	CLASSIFICATION
Rolette	Upsilon-Lake	2
Rolette	Shutte-Lake	2
Sargent	Alkali-Lake	3
Sargent	Buffalo-Lake	3
Sargent	Lake-Tewaukon	3
Sargent	Silver-Lake	3
Sargent	Sprague-Lake	3
Sheridan	Hecker-Lake	2
Sheridan	South-McGlusky-Lake- (Hoffer-Lake)	2
Sioux	Froelich-Dam	2
Slope	Gedar-Lake	3
Slope	Davis-Dam	2
Slope	Stewart-Lake	3
Stark	Belfield-Pond	4
Stark	Dickinson-Dike	4
Stark	Patterson-Lake	3
Steele	North-Golden-Lake	3
Steele	North-Tobiason-Lake	3

COUNTY	LAKE	CLASSIFICATION
Steele	South Golden Lake	3
Stutsman	Arrowwood Lake	4
Stutsman	Bader Lake	3
Stutsman	Barnes Lake	3
Stutsman	Clark Lake	3
Stutsman	Crystal Springs	3
Stutsman	Hehn-Schaffer Lake	3
Stutsman	Jamestown Reservoir	3
Stutsman	Jim Lake	4
Stutsman	Spiritwood Lake	3
Stutsman	Pipestem Reservoir	3
Towner	Armourdale Dam	2
Towner	Bisbee Dam	2
Walsh	Bylin Dam	3
Walsh	Homme Dam	3
Walsh	Matejeck Dam	3
Ward	Hiddenwood Lake	3
Ward	Makoti Lake	4

COUNTY	LAKE	CLASSIFICATION
Ward	North-Carlson Lake	3
Ward	Rice Lake	3
Ward	Velva Sportsmans Pond	4
Wells	Harvey Dam	3
Wells	Lake Hiawatha (Sykeston Dam)	4
Williams	Blacktail Dam	3
Williams	Cottonwood Lake	3
Williams	East Spring Lake Pond	3
Williams	Epping-Springbrook Dam	3
Williams	Iverson Dam	2
Williams	Kettle Lake	2
Williams	Kota-Ray Dam	4
Williams	McCleod (Ray) Reservoir	3
Williams	McGregor Dam	4
Williams	Tioga Dam	3
Williams	Trenton Lake	2
Williams	West Spring Lake Pond	3
	Lake Oahe	4

<u>COUNTY</u>	<u>LAKE</u>	<u>CLASSIFICATION</u>
	Lake Sakakawea	4

<u>COUNTY</u>	<u>LAKE</u>	<u>CLASSIFICATION</u>
<u>Adams</u>	<u>Mirror Lake</u>	<u>3</u>
<u>Adams</u>	<u>N. Lemmon Lake</u>	<u>1</u>
<u>Barnes</u>	<u>Lake Ashtabula</u>	<u>3</u>
<u>Barnes</u>	<u>Moon Lake</u>	<u>2</u>
<u>Barnes</u>	<u>Clausen Springs</u>	<u>3</u>
<u>Benson</u>	<u>Wood Lake</u>	<u>2</u>
<u>Benson</u>	<u>Graves</u>	<u>3</u>
<u>Benson</u>	<u>Reeves</u>	<u>3</u>
<u>Bottineau</u>	<u>Lake Metigoshe</u>	<u>2</u>
<u>Bottineau</u>	<u>Long Lake</u>	<u>2</u>
<u>Bottineau</u>	<u>Pelican Lake</u>	<u>3</u>
<u>Bottineau</u>	<u>Carbury Dam</u>	<u>2</u>
<u>Bottineau</u>	<u>Cassidy Lake</u>	<u>4</u>
<u>Bottineau</u>	<u>Strawberry Lake</u>	<u>2</u>
<u>Bowman</u>	<u>Bowman-Haley Dam</u>	<u>3</u>
<u>Bowman</u>	<u>Gascoyne Lake</u>	<u>3</u>
<u>Bowman</u>	<u>Kalina Dam</u>	<u>3</u>
<u>Bowman</u>	<u>Lutz Dam</u>	<u>2</u>
<u>Bowman</u>	<u>Spring Lake</u>	<u>3</u>
<u>Burke</u>	<u>Powers Lake</u>	<u>3</u>
<u>Burke</u>	<u>Short Creek Dam</u>	<u>2</u>
<u>Burke</u>	<u>Smishek Dam</u>	<u>2</u>
<u>Burke</u>	<u>Northgate Dam</u>	<u>2</u>
<u>Burleigh</u>	<u>McDowell Dam</u>	<u>3</u>
<u>Burleigh</u>	<u>Mitchell Lake</u>	<u>3</u>
<u>Burleigh</u>	<u>New Johns Lake</u>	<u>2</u>
<u>Cass</u>	<u>Casselton Reservoir</u>	<u>3</u>
<u>Cass</u>	<u>Brewer Lake</u>	<u>2</u>
<u>Cavalier</u>	<u>Mt. Carmel Dam</u>	<u>2</u>
<u>Dickey</u>	<u>Moores Lake</u>	<u>3</u>
<u>Dickey</u>	<u>Pheasant Lake</u>	<u>3</u>

<u>COUNTY</u>	<u>LAKE</u>	<u>CLASSIFICATION</u>
<u>Dickey</u>	<u>Wilson Dam</u>	<u>3</u>
<u>Divide</u>	<u>Baukol-Noonan Dam</u>	<u>2</u>
<u>Divide</u>	<u>Baukol-Noonan East Mine Pond</u>	<u>2</u>
<u>Divide</u>	<u>Skjermo Dam</u>	<u>2</u>
<u>Dunn</u>	<u>Lake Ilo</u>	<u>3</u>
<u>Eddy</u>	<u>Battle Lake</u>	<u>3</u>
<u>Eddy</u>	<u>Warsing Dam</u>	<u>3</u>
<u>Emmons</u>	<u>Braddock Dam</u>	<u>3</u>
<u>Emmons</u>	<u>Nieuwsma Dam</u>	<u>2</u>
<u>Emmons</u>	<u>Rice Lake</u>	<u>3</u>
<u>Foster</u>	<u>Juanita Lake</u>	<u>3</u>
<u>Golden Valley</u>	<u>South Buffalo Gap Dam</u>	<u>4</u>
<u>Golden Valley</u>	<u>Camel Hump Dam</u>	<u>1</u>
<u>Golden Valley</u>	<u>Odland Dam</u>	<u>3</u>
<u>Grand Forks</u>	<u>Fordville Dam</u>	<u>2</u>
<u>Grand Forks</u>	<u>Kolding Dam</u>	<u>3</u>
<u>Grand Forks</u>	<u>Larimore Dam</u>	<u>2</u>
<u>Grand Forks</u>	<u>Niagara Dam</u>	<u>3</u>
<u>Grant</u>	<u>Heart Butte Dam (Lake Tschida)</u>	<u>2</u>
<u>Grant</u>	<u>Niagara Dam</u>	<u>3</u>
<u>Grant</u>	<u>Raleigh Reservoir</u>	<u>2</u>
<u>Grant</u>	<u>Sheep Creek Dam</u>	<u>2</u>
<u>Griggs</u>	<u>Carlson-Tande Dam</u>	<u>3</u>
<u>Griggs</u>	<u>Red Willow Lake</u>	<u>2</u>
<u>Hettinger</u>	<u>Blickensderfer Dam</u>	<u>2</u>
<u>Hettinger</u>	<u>Castle Rock Dam</u>	<u>4</u>
<u>Hettinger</u>	<u>Indian Creek</u>	<u>2</u>
<u>Hettinger</u>	<u>Larson Lake</u>	<u>3</u>
<u>Hettinger</u>	<u>Mott Watershed Dam</u>	<u>3</u>
<u>Kidder</u>	<u>Alkaline Lake</u>	<u>2</u>
<u>Kidder</u>	<u>Cherry Lake</u>	<u>3</u>
<u>Kidder</u>	<u>Crystal Springs</u>	<u>3</u>
<u>Kidder</u>	<u>Frettim Lake</u>	<u>2</u>
<u>Kidder</u>	<u>George Lake</u>	<u>5</u>
<u>Kidder</u>	<u>Horsehead Lake</u>	<u>2</u>

<u>COUNTY</u>	<u>LAKE</u>	<u>CLASSIFICATION</u>
<u>Kidder</u>	<u>Lake Isabel</u>	<u>3</u>
<u>Kidder</u>	<u>Lake Josephine</u>	<u>2</u>
<u>Kidder</u>	<u>Lake Williams</u>	<u>3</u>
<u>Kidder</u>	<u>Round Lake</u>	<u>2</u>
<u>LaMoure</u>	<u>Heinrich-Martin Dam</u>	<u>3</u>
<u>LaMoure</u>	<u>Kalmbach Lake</u>	<u>3</u>
<u>LaMoure</u>	<u>Kulm-Edgeley Dam</u>	<u>3</u>
<u>LaMoure</u>	<u>Lake LaMoure</u>	<u>3</u>
<u>LaMoure</u>	<u>Lehr Dam</u>	<u>3</u>
<u>LaMoure</u>	<u>Limesand-Seefeldt Dam</u>	<u>3</u>
<u>LaMoure</u>	<u>Schlecht-Thom Dam</u>	<u>3</u>
<u>LaMoure</u>	<u>Schlecht-Weix Dam</u>	<u>3</u>
<u>Logan</u>	<u>Beaver Lake</u>	<u>3</u>
<u>Logan</u>	<u>Mundt Lake</u>	<u>3</u>
<u>Logan</u>	<u>Rudolph Lake</u>	<u>3</u>
<u>McHenry</u>	<u>Cottonwood Lake</u>	<u>3</u>
<u>McHenry</u>	<u>George Lake</u>	<u>3</u>
<u>McHenry</u>	<u>Round Lake</u>	<u>3</u>
<u>McHenry</u>	<u>Buffalo Lodge Lake</u>	<u>3</u>
<u>McIntosh</u>	<u>Blumhardt Dam</u>	<u>2</u>
<u>McIntosh</u>	<u>Clear Lake</u>	<u>3</u>
<u>McIntosh</u>	<u>Coldwater Lake</u>	<u>3</u>
<u>McIntosh</u>	<u>Dry Lake</u>	<u>2</u>
<u>McIntosh</u>	<u>Green Lake</u>	<u>2</u>
<u>McIntosh</u>	<u>Lake Hoskins</u>	<u>3</u>
<u>McKenzie</u>	<u>Arnegard Dam</u>	<u>4</u>
<u>McKenzie</u>	<u>Leland Dam</u>	<u>2</u>
<u>McKenzie</u>	<u>Sather Dam</u>	<u>2</u>
<u>McLean</u>	<u>Brush Lake</u>	<u>3</u>
<u>McLean</u>	<u>Crooked Lake</u>	<u>3</u>
<u>McLean</u>	<u>Custer Mine Pond</u>	<u>2</u>
<u>McLean</u>	<u>East Park Lake</u>	<u>2</u>
<u>McLean</u>	<u>Lake Audubon</u>	<u>2</u>
<u>McLean</u>	<u>Lake Brekken</u>	<u>2</u>
<u>McLean</u>	<u>Lake Holmes</u>	<u>2</u>
<u>McLean</u>	<u>Lightning Lake</u>	<u>1</u>

<u>COUNTY</u>	<u>LAKE</u>	<u>CLASSIFICATION</u>
<u>McLean</u>	<u>Long Lake</u>	<u>4</u>
<u>McLean</u>	<u>Riverdale Spillway Lake</u>	<u>1</u>
<u>McLean</u>	<u>Strawberry Lake</u>	<u>3</u>
<u>McLean</u>	<u>West Park Lake</u>	<u>2</u>
<u>Mercer</u>	<u>Harmony Lake</u>	<u>3</u>
<u>Morton</u>	<u>Crown Butte Dam</u>	<u>3</u>
<u>Morton</u>	<u>Danzig Dam</u>	<u>3</u>
<u>Morton</u>	<u>Fish Creek Dam</u>	<u>1</u>
<u>Morton</u>	<u>Harmon Lake</u>	<u>3</u>
<u>Morton</u>	<u>Nygren Dam</u>	<u>2</u>
<u>Morton</u>	<u>Sweetbriar Dam</u>	<u>2</u>
<u>Mountrail</u>	<u>Clearwater Lake</u>	<u>3</u>
<u>Mountrail</u>	<u>Stanley City Pond</u>	<u>3</u>
<u>Mountrail</u>	<u>Stanley Reservoir</u>	<u>3</u>
<u>Mountrail</u>	<u>White Earth Dam</u>	<u>2</u>
<u>Nelson</u>	<u>McVille Dam</u>	<u>2</u>
<u>Nelson</u>	<u>Tolna Dam</u>	<u>2</u>
<u>Nelson</u>	<u>Whitman Dam</u>	<u>2</u>
<u>Oliver</u>	<u>East Arroda Lake</u>	<u>2</u>
<u>Oliver</u>	<u>Nelson Lake</u>	<u>3</u>
<u>Oliver</u>	<u>West Arroda Lake</u>	<u>2</u>
<u>Pembina</u>	<u>Renwick Dam</u>	<u>3</u>
<u>Pierce</u>	<u>Balta Dam</u>	<u>3</u>
<u>Pierce</u>	<u>Buffalo Lake</u>	<u>3</u>
<u>Ramsey</u>	<u>Cavanaugh Lake</u>	<u>3</u>
<u>Ramsey</u>	<u>Devils Lake</u>	<u>2</u>
<u>Ransom</u>	<u>Dead Colt Creek Dam</u>	<u>3</u>
<u>Renville</u>	<u>Lake Darling</u>	<u>2</u>
<u>Richland</u>	<u>Lake Elsie</u>	<u>3</u>
<u>Richland</u>	<u>Mooreton Pond</u>	<u>3</u>
<u>Rolette</u>	<u>Belcourt Lake</u>	<u>2</u>
<u>Rolette</u>	<u>Carpenter Lake</u>	<u>2</u>
<u>Rolette</u>	<u>Dion Lake</u>	<u>2</u>
<u>Rolette</u>	<u>Gordon Lake</u>	<u>2</u>
<u>Rolette</u>	<u>Gravel Lake</u>	<u>2</u>
<u>Rolette</u>	<u>Hooker Lake</u>	<u>2</u>

<u>COUNTY</u>	<u>LAKE</u>	<u>CLASSIFICATION</u>
<u>Rolette</u>	<u>Island Lake</u>	<u>3</u>
<u>Rolette</u>	<u>Jensen Lake</u>	<u>3</u>
<u>Rolette</u>	<u>School Section Lake</u>	<u>2</u>
<u>Rolette</u>	<u>Upsilon Lake</u>	<u>2</u>
<u>Rolette</u>	<u>Shutte Lake</u>	<u>2</u>
<u>Sargent</u>	<u>Alkali Lake</u>	<u>3</u>
<u>Sargent</u>	<u>Buffalo Lake</u>	<u>3</u>
<u>Sargent</u>	<u>Lake Tewaukon</u>	<u>3</u>
<u>Sargent</u>	<u>Silver Lake</u>	<u>3</u>
<u>Sargent</u>	<u>Sprague Lake</u>	<u>3</u>
<u>Sheridan</u>	<u>Hecker Lake</u>	<u>2</u>
<u>Sheridan</u>	<u>South McClusky Lake (Hoffer Lake)</u>	<u>2</u>
<u>Sioux</u>	<u>Froelich Dam</u>	<u>2</u>
<u>Slope</u>	<u>Cedar Lake</u>	<u>3</u>
<u>Slope</u>	<u>Davis Dam</u>	<u>2</u>
<u>Slope</u>	<u>Stewart Lake</u>	<u>3</u>
<u>Stark</u>	<u>Belfield Pond</u>	<u>1</u>
<u>Stark</u>	<u>Dickinson Dike</u>	<u>1</u>
<u>Stark</u>	<u>Patterson Lake</u>	<u>3</u>
<u>Steele</u>	<u>North Golden Lake</u>	<u>3</u>
<u>Steele</u>	<u>North Tobiason Lake</u>	<u>3</u>
<u>Steele</u>	<u>South Golden Lake</u>	<u>3</u>
<u>Stutsman</u>	<u>Arrowwood Lake</u>	<u>4</u>
<u>Stutsman</u>	<u>Bader Lake</u>	<u>3</u>
<u>Stutsman</u>	<u>Barnes Lake</u>	<u>3</u>
<u>Stutsman</u>	<u>Clark Lake</u>	<u>3</u>
<u>Stutsman</u>	<u>Crystal Springs</u>	<u>3</u>
<u>Stutsman</u>	<u>Hehn-Schaffer Lake</u>	<u>3</u>
<u>Stutsman</u>	<u>Jamestown Reservoir</u>	<u>3</u>
<u>Stutsman</u>	<u>Jim Lake</u>	<u>4</u>
<u>Stutsman</u>	<u>Spiritwood Lake</u>	<u>3</u>
<u>Stutsman</u>	<u>Pipestem Reservoir</u>	<u>3</u>
<u>Towner</u>	<u>Armourdale Dam</u>	<u>2</u>
<u>Towner</u>	<u>Bisbee Dam</u>	<u>2</u>
<u>Walsh</u>	<u>Bylin Dam</u>	<u>3</u>
<u>Walsh</u>	<u>Homme Dam</u>	<u>3</u>

<u>COUNTY</u>	<u>LAKE</u>	<u>CLASSIFICATION</u>
<u>Walsh</u>	<u>Matejcek Dam</u>	<u>3</u>
<u>Ward</u>	<u>Hiddenwood Lake</u>	<u>3</u>
<u>Ward</u>	<u>Makoti Lake</u>	<u>4</u>
<u>Ward</u>	<u>North-Carlson Lake</u>	<u>3</u>
<u>Ward</u>	<u>Rice Lake</u>	<u>3</u>
<u>Ward</u>	<u>Velva Sportsmans Pond</u>	<u>1</u>
<u>Wells</u>	<u>Harvey Dam</u>	<u>3</u>
<u>Wells</u>	<u>Lake Hiawatha (Sykeston Dam)</u>	<u>4</u>
<u>Williams</u>	<u>Blacktail Dam</u>	<u>3</u>
<u>Williams</u>	<u>Cottonwood Lake</u>	<u>3</u>
<u>Williams</u>	<u>East Spring Lake Pond</u>	<u>3</u>
<u>Williams</u>	<u>Epping-Springbrook Dam</u>	<u>3</u>
<u>Williams</u>	<u>Iverson Dam</u>	<u>2</u>
<u>Williams</u>	<u>Kettle Lake</u>	<u>2</u>
<u>Williams</u>	<u>Kota-Ray Dam</u>	<u>1</u>
<u>Williams</u>	<u>McCleod (Ray) Reservoir</u>	<u>3</u>
<u>Williams</u>	<u>McGregor Dam</u>	<u>1</u>
<u>Williams</u>	<u>Tioga Dam</u>	<u>3</u>
<u>Williams</u>	<u>Trenton Lake</u>	<u>2</u>
<u>Williams</u>	<u>West Spring Lake Pond</u>	<u>3</u>
<u>Burliegh, Emmons, Morton, Sioux</u>	<u>Lake Oahe</u>	<u>1</u>
<u>Dunn, McKenzie, McLean, Mercer, Mountrail, Williams</u>	<u>Lake Sakakawea</u>	<u>1</u>

## APPENDIX III

### MIXING ZONE AND DILUTION POLICY AND IMPLEMENTATION PROCEDURE

#### PURPOSE

This policy addresses how mixing and dilution of point source discharges with receiving waters will be addressed in developing chemical-specific and whole effluent toxicity discharge limitations for point source discharges. Depending upon site-specific mixing patterns and environmental concerns, some pollutants/criteria may be allowed a mixing zone or dilution while others may not. In all cases, mixing zone and dilution allowances shall be limited, as necessary, to protect the integrity of the receiving water's ecosystem and designated uses.

#### MIXING ZONES

Where dilution is available and the discharge does not mix at a near instantaneous and complete rate with the receiving water (incomplete mixing), an appropriate mixing zone may be designated. In addition, a mixing zone may only be designated if it is not possible to achieve chemical-specific standards and whole effluent toxicity objectives at the end-of-pipe with no allowance for dilution. The size and shape of a mixing zone will be determined on a case-by-case basis. At a maximum, mixing zones for streams and rivers shall not exceed one-half the cross-sectional area or a length ten times the stream width at critical low flows, whichever is more limiting. Also, at a maximum, mixing zones in lakes shall not exceed five percent of lake surface area or two hundred feet in radius, whichever is more limiting. Individual mixing zones may be limited or denied in consideration of designated beneficial uses or presence of the following concerns in the area affected by the discharge:

1. There is the potential for bioaccumulation in fish tissues or wildlife.
2. The area is biologically important, such as fish spawning/nursery areas.
3. The pollutant of concern exhibits a low acute to chronic ratio.
4. There is a potential for human exposure to pollutants resulting from drinking water use or recreational activities.
5. The effluent and resultant mixing zone results in an attraction of aquatic life to the effluent plume.
6. The pollutant of concern is extremely toxic and persistent in the environment.
7. The mixing zone would prohibit a zone of passage for migrating fish or other species (including access to tributaries).
8. There are cumulative effects of multiple discharges and their mixing zones.

Within the mixing zone designated for a particular pollutant, certain numeric water quality criteria for that substance may not apply. However, all mixing zones shall meet the general conditions set forth in section 33-16-02-08 of the state water quality standards.

While ~~exceedences~~exceedances of acute chemical specific numeric standards are not allowed within the entire mixing zone, a portion of the mixing zone (the zone of initial dilution or ZID) may exceed acute chemical-specific numeric standards established for the protection of aquatic life. The ZID shall be determined on a case-by-case basis where the statement of basis for the discharge permit includes a rationale for concluding that a zone of initial dilution poses no unacceptable risks to aquatic life. Acute whole effluent toxicity (WET) limits shall be achieved at the end-of-pipe with no allowance for a ZID.

#### DILUTION ALLOWANCES

An appropriate dilution allowance may be provided in calculating chemical-specific acute and chronic and WET discharge limitations where: 1) the discharge is to a river or stream, 2) dilution is available at low-flow conditions, and 3) available information is sufficient to reasonably conclude that there is near instantaneous and complete mixing of the discharge with the receiving water (complete mixing). The basis for concluding that such near instantaneous and complete mixing is occurring shall be documented in the statement of basis for the North Dakota pollutant discharge elimination system permit. In the case of field studies, the dilution allowance for continuous dischargers shall be based on the critical low flow (or some portion of the critical low flow). The requirements and environmental concerns identified in the paragraphs above may be considered in deciding the portion of the critical low flow to provide as dilution. The following critical low flows shall be used for streams and effluents:

Stream Flows

Aquatic life, chronic	4-day, 3-year flow (biologically based)**
Aquatic life, acute	1-day, 3-year flow (biologically based)
Human health (carcinogens)	Harmonic mean flow
Human health (noncarcinogens)	4-day, 3-year flow (biologically based) or 1-day, 3-year flow (biologically based)

Effluent Flows

Aquatic life, chronic	Mean daily flow
Aquatic life, acute	Maximum daily flow
Human health (all)	Mean daily flow

\* Biologically based refers to the biologically based design flow method developed by the environmental protection agency. It differs from the hydrologically based design flow method in that it directly uses the averaging periods and frequencies specified in the aquatic life water quality criteria for individual pollutants and whole effluents for determining design flows.

\*\* A 30-day, 10-year flow (biologically based) can be used for ammonia or other chronic standard with a 30-day averaging period.

For chemical-specific and chronic WET limits, an appropriate dilution allowance may also be provided for certain minor publicly owned treatment works where allowing such dilution will pose insignificant environmental risks. For acute WET limits, an allowance for dilution is authorized only where dilution is available and mixing is complete.

For controlled discharges, such as lagoon facilities that discharge during high ambient flows, the stream flow to be used in the mixing zone analysis should be the lowest statistical flow expected to occur during the period of discharge.

Where a discharger has installed a diffuser in the receiving water, all or a portion of the critical low stream flow may be provided as a dilution allowance. The determination shall depend on the diffuser design and on the requirements and potential environmental concerns identified in the above paragraphs. Where a diffuser is installed across the entire river/stream width (at critical low flow), it will generally be presumed that near instantaneous and complete mixing is achieved and that providing the entire critical low flow as dilution is appropriate.

OTHER CONSIDERATIONS

Where dilution flow is not available at critical conditions (i.e., the water body is dry), the discharge limits will be based on achieving applicable water quality criteria (i.e., narrative and numeric, chronic and acute) at the end-of-pipe; neither a mixing zone or an allowance for dilution will be provided.

All mixing zone dilution assumptions are subject to review and revision as information on the nature and impacts of the discharge becomes available (e.g., chemical or biological monitoring at the mixing zone boundary). At a minimum, mixing zone and dilution decisions are subject to review and revision, along with all other aspects of the discharge permit upon expiration of the permit.

For certain pollutants (e.g., ammonia, dissolved oxygen, metals) that may exhibit increased toxicity or other effects on water quality after dilution and complete mixing is achieved, the waste load allocation shall address such effects on water quality, as necessary, to fully protect designated and existing uses. In other words, the point of compliance may be something other than the mixing zone boundary or the point where complete mixing is achieved.

The discharge will be consistent with the Antidegradation Procedure.

### IMPLEMENTATION PROCEDURE

This procedure describes how dilution and mixing of point source discharges with receiving waters will be addressed in developing discharge limitations for point source discharges. For the purposes of this procedure, a mixing zone is defined as a designated area or volume of water surrounding or downstream of a point source discharge where the discharge is progressively diluted by the receiving water and numerical water quality criteria may not apply. Based on site-specific considerations, such a mixing zone may be designated in the context of an individual permit decision. Discharges may also be provided an allowance for dilution where it is determined that the discharge mixes with the receiving water in near instantaneous and complete fashion. Such mixing zones and allowances for dilution will be granted on a parameter-by-parameter and criterion-by-criterion basis as necessary to fully protect existing and designated uses.

The procedure to be followed is composed of six individual elements or steps. The relationship of the six steps and an overview of the mixing zone/dilution procedure is shown in figure 1.

#### Step 1 - No dilution available during critical low-flow conditions

Where dilution flow is not available at critical low-flow conditions, discharge limitations will be based on achieving applicable narrative and numeric water quality criteria at the end-of-pipe during critical low-flow conditions.

#### Step 2 - Dilution categorically prohibited for wetland discharges

Permit limitations for discharges to a wetland shall be based on achieving all applicable water quality criteria (i.e., narrative and numeric, chronic and acute) at end-of-pipe.

#### Step 3 - Procedure for certain minor publicly owned treatment works

Minor publicly owned treatment works that discharge to a lake or to a river/stream at a dilution greater than a 50-to-1 ratio qualify for this procedure. Minor publicly owned treatment works with dilution ratios less than a 50-to-1 ratio may also qualify (at the discretion of the permit writer) where it can be adequately demonstrated that this procedure poses insignificant environmental risks. For the purposes of this procedure, the river/stream dilution ratio is defined as the chronic low flow of the segment upstream of the publicly owned treatment works discharge divided by the mean daily flow of the publicly owned treatment works. For controlled discharges from lagoon facilities (discharging during high flows), the river/stream dilution ratio is defined as the lowest upstream flow expected during the period of discharge divided by the mean daily flow of the discharge.

For minor publicly owned treatment works that qualify for this procedure and discharge to lakes, the allowance for dilution for chemical-specific and chronic WET limits will be determined on a case-by-case basis. Dilution up to a 19-to-1 ratio (five percent effluent) may be provided.

For minor publicly owned treatment works that qualify for this procedure and discharge to a river/stream segment, dilution up to the full chronic aquatic life, acute aquatic life, and human health critical flows may be provided.

#### Step 4 - Site-specific risk considerations

Where allowing a mixing zone or a dilution allowance would pose unacceptable environmental risks, the discharge limitations will be based on achieving applicable narrative and numeric water quality criteria at the end-of-pipe. The existence of environmental risks may also be the basis for a site-specific mixing zone or dilution allowance. Such risk determinations will be made on a case-by-case and parameter-by-parameter basis. These decisions will take into account the designated and existing uses and all relevant site-specific environmental concerns, including the following:

1. Bioaccumulation in fish tissues or wildlife.
2. Biologically important areas such as fish spawning areas.
3. Low acute to chronic ratio.
4. Potential human exposure to pollutants resulting from drinking water or recreational areas.
5. Attraction of aquatic life to the effluent plume.
6. Toxicity/persistence of the substance discharged.
7. Zone of passage for migrating fish or other species (including access to tributaries).
8. Cumulative effects of multiple discharges and mixing zones.

#### Step 5 - Complete mix procedures

For point source discharges to rivers/streams where available data are adequate to support a conclusion that there is near instantaneous and complete mixing of the discharge with the receiving water (complete mix) the full critical low flow or a portion thereof may be provided as dilution for chemical-specific and WET limitations. Such determinations of complete mixing will be made on a case-by-case basis using best professional judgement. Presence of an effluent diffuser that covers the entire river/stream width at critical low flow will generally be assumed to provide complete mixing. Also, where the mean daily flow of the discharge exceeds the chronic low stream flow of the receiving water, complete mixing will generally be assumed. In addition, where the mean daily flow of the discharge is less than or equal to the chronic low flow of the receiving water, it will generally be assumed that complete mixing does not occur unless otherwise demonstrated by the permittee. Demonstrations for complete mixing should be consistent with the study plan developed in cooperation with the states/tribes and environmental protection agency region VIII. Near instantaneous and complete mixing is defined as no more than a ten percent difference in bank-to-bank concentrations within a longitudinal distance not greater than two river/stream widths. For controlled discharges (lagoon facilities), the test of near instantaneous and complete mixing will be made using the expected rate of effluent discharge and the lowest upstream flow expected to occur during the period of discharge.

The following critical low flows shall be applied for streams and effluents:

#### Stream Flows

Aquatic life, chronic	4-day, 3-year flow (biologically based)**
Aquatic life, acute	1-day, 3-year flow (biologically based)

Human health (carcinogens)	Harmonic mean flow
Human health (noncarcinogens)	4-day, 3-year flow (biologically based) or 1-day, 3-year flow (biologically based)

### Effluent Flows

Aquatic life, chronic	Mean daily flow
Aquatic life, acute	Maximum daily flow
Human health (all)	Mean daily flow

\* Biologically based refers to the biologically based design flow method developed by the environmental protection agency. It differs from the hydrologically based design flow method in that it directly uses the averaging periods and frequencies specified in the aquatic life water quality criteria for individual pollutants and whole effluents for determining design flows.

\*\* A 30-day, 10-year flow (biologically based) can be used for ammonia or other chronic standard with a 30-day averaging period.

Where complete mixing can be concluded and the environmental concerns identified in step 4 do not justify denying dilution, but are nevertheless significant, some portion of the critical low flows identified above may be provided as dilution. Such decisions will take site-specific environmental concerns into account as necessary to ensure adequate protection of designated and existing uses.

### Step 6 - Incomplete mix procedures

This step addresses point source discharges that exhibit incomplete mixing. Because acute WET limits are achieved at the end-of-pipe in incomplete mix situations, this step provides mixing zone procedures for chronic aquatic life, human health, and WET limits, and ZID procedures for acute chemical-specific limits. Where a ZID is allowed for chemical limits, the size of the ZID shall be limited as follows:

- Lakes: The ZID volume shall not exceed ten percent of the volume of the chronic mixing zone.
- Rivers and Streams: The ZID shall not exceed ten percent of the chronic mixing zone volume or flow, nor shall the ZID exceed a maximum downstream length of one hundred feet, whichever is more restrictive.

The following provides guidelines for determining the amount of dilution available for dischargers that exhibit incomplete mixing.

### Default Method

This method addresses situations where information needed for modeling is not available or there are concerns about potential environmental impacts of allowing a mixing zone. The default method provides a conservative dilution allowance.

Stream/river dischargers: Dilution calculation which uses up to ten percent of the critical low flow for chronic aquatic life limits or human health limits. However, this allowance may be adjusted downward on a case-by-case basis depending upon relevant site-specific information, designed and existing uses of the segment, and especially the uses of the segment portion affected by the discharge.

Lake/reservoir dischargers: Dilution up to a 4-to-1 ratio (twenty percent effluent) may be provided for chronic aquatic life analyses or human health analyses. However, this allowance may be adjusted downward on a case-by-case basis depending upon discharge flow, lake size, lake

flushing potential, designated and existing uses of the lake, and uses of the lake portion affected by the discharge.

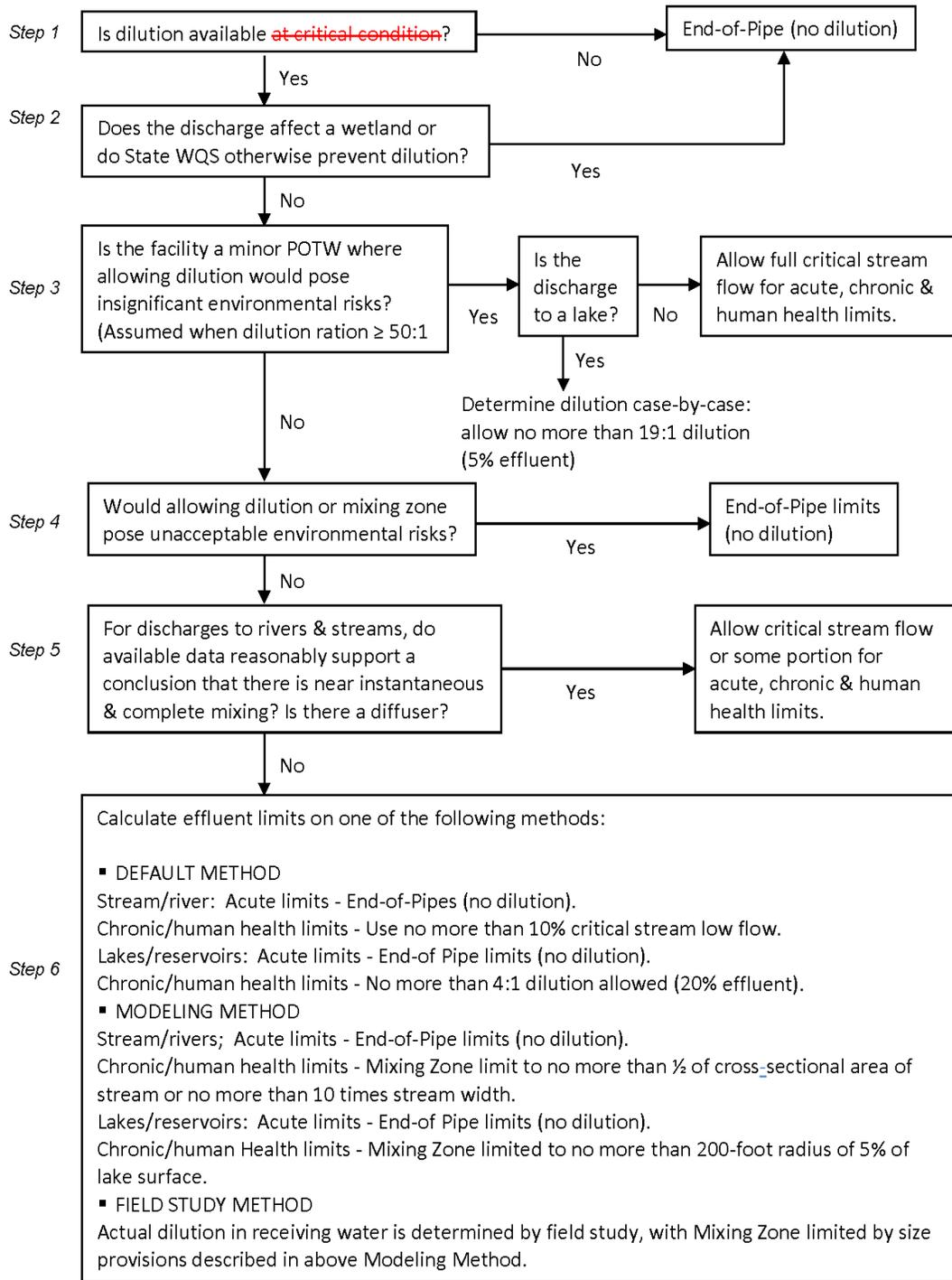
#### Modeling Method

An appropriate mixing zone model is used to calculate the dilution flow that will allow mixing zone limits to be achieved at the critical low flow. Prior to initiating modeling studies, it should be determined that compliance with criteria at the end-of-pipe is not practicable.

#### Field Study Method

Field studies which document the actual mixing characteristics in the receiving water are used to determine the dilution flow that will allow mixing zone size limits to be achieved at the critical low flow. For the purposes of field studies, "near instantaneous and complete mixing" is operationally defined as no more than a ten percent difference in bank-to-bank concentrations within a longitudinal distance not greater than two stream/river widths.

**FIGURE 1**  
**NORTH DAKOTA MODEL MIXING ZONE/DILUTION PROCEDURE\***



\*The procedure is applied to both chemical-specific and WET limits. In the case of complex discharges, the dilution of mixing zone may vary parameter-by parameter.

## APPENDIX IV

### NORTH DAKOTA ANTIDEGRADATION PROCEDURE

#### I. INTRODUCTION

This antidegradation implementation procedure delineates the process that will be followed by the department of environmental quality for implementing the antidegradation policy found in Standards of Quality for Waters of the State, chapter 33.1-16-02.1.

Under this implementation procedure, all waters of the state are afforded one of three different levels of antidegradation protection. All existing uses, and the water quality necessary for those uses, shall be maintained and protected. Antidegradation requirements are necessary whenever a regulated activity is proposed that may have some effect on water quality. Regulated actions include permits issued under sections 402 (North Dakota pollutant discharge elimination system) and 404 (dredge and fill) of the Clean Water Act, and any other activity requiring section 401 water quality certification. Nonpoint sources of pollution are not included. When reviewing section 404 nationwide permits, the department will issue section 401 certifications only where it determines that the conditions imposed by such permits are expected to result in attainment of the applicable water quality standards, including the antidegradation requirements. However, it is anticipated that the department will exclude certain nationwide permits from the antidegradation procedures for category 1 waters on the basis that the category of activities covered by the permit is not expected to have significant permanent effects on the quality and beneficial uses of those waters, or the effects will be appropriately minimized and temporary.

#### II. EXISTING USE PROTECTION FOR CATEGORY 1, 2, AND 3 WATERS

Existing use means a use that was ~~actually~~ attained in the water body on or after 1967, whether or not it is included in the water quality standards. This procedure presumes that attainment of the criteria assigned to protect the current water body classification will serve to maintain and protect all existing uses. However, where an existing use has water quality requirements that are clearly defined, but are not addressed by the current classification and criteria, the department will ensure that such existing uses are protected fully, based on implementation of appropriate numeric or narrative water quality criteria or criteria guidance. In some cases, water quality may have improved in the segment since the classification was assigned, resulting in attainment of a higher use. In other cases, the classification may have been assigned based on inadequate information, resulting in a classification that does not describe or adequately protect actual uses of the segment. In such cases, the department will develop requirements necessary to protect the existing uses and, where appropriate, recommend reclassification of the segment.

#### III. ANTIDEGRADATION REVIEW PROCEDURE

The department will complete an antidegradation review for all proposed regulated activities. The findings of these reviews will be summarized using an antidegradation worksheet. A statement of basis for all conclusions will be attached to the completed worksheet. The level of detail of the review will depend upon the antidegradation protection applicable to the various classes of water.

In conducting an antidegradation review, the division of water quality will sequentially apply the following steps:

- A. Determine which level of antidegradation applies.

- B. Determine whether authorizing the proposed regulated activity is consistent with antidegradation requirements.
- C. Review existing water quality data and other information submitted by the project applicant.
- D. Determine if additional information or assessment is necessary to make a decision.
- E. A preliminary decision is made by the department and subsequently distributed for public participation and intergovernmental coordination.
  - The content of public notices will be determined case by case. In preparing a public notice, the department may address: a) the department's preliminary antidegradation review conclusions; b) a request for public input on particular aspects of the antidegradation review that might be improved based on public input (e.g., existing uses of a segment that needs to be protected); c) notice of the availability of the antidegradation review worksheet; d) notice of the availability of general information regarding the state antidegradation program; and e) a reference to the state antidegradation policy.
  - The antidegradation review findings will be available for public comment; however, publication of a separate notice for purposes of antidegradation is not necessary. For example, the antidegradation preliminary findings may be included in the public notice issued for purposes of a North Dakota pollutant discharge elimination system permit or Clean Water Act section 401 certification.

The department will ensure appropriate intergovernmental coordination on all antidegradation reviews. At a minimum, the department will provide copies of the completed antidegradation review worksheet and/or the public notice to appropriate local, state, and federal government agencies, along with a written request to provide comments by the public comment deadline.

- F. Comments are considered.
- G. The department determines if the change in quality is necessary to accommodate important economic or social development.
- H. The department makes a final decision.

The level of antidegradation protection afforded each water body in the state is consistent with beneficial uses of those water bodies. Appendix I and appendix II of the Standards of Quality for Waters of the State identify rivers, streams, and lakes in the state with their classification. The classification shall be consistent with the following categories:

Category 1: Very high level of protection that automatically applies to class I and class IA streams and class I, II, and III lakes, and wetlands that are functioning at their optimal level. In addition, category 1 is presumed to apply to class II and class III streams. Particular class II and class III streams may be excluded from category 1 if, at the time of the antidegradation review, it is determined that one or both of the following criteria are applicable: 1) there is no remaining assimilative capacity for any of the parameters that may potentially be affected by the proposed regulated activity in the segment in question, or 2) an evaluation submitted by the project applicant demonstrates (based on adequate and representative chemical, physical, and biological data) that aquatic life and primary contact recreation uses are not currently being attained because of stressors that will require a long-term effort to remedy. Evaluations in response to criterion #2 must include more than an identification of current water quality levels. They must include evidence of the current status of the aquatic life and primary contact recreation uses of the segment.

Category 2: Class 4 and class 5 lakes and particular wetlands after antidegradation review. In addition, class II and class III streams or wetlands meeting one of the criteria identified above at the time of the antidegradation review shall be included in category 2.

Category 3: Highest level of protection; outstanding state resource waters.

### **Procedures for Category 1 Waters**

Regulated activities that result in a new or expanded source of pollutants to this category of water are subject to the review process, unless the source would have no significant permanent effect on the quality and beneficial uses of those waters, or if the effects will be appropriately minimized and temporary.

- Proposed activities that would lower the ambient quality in a water body of any parameter by more than fifteen percent, reduce the available assimilative capacity by more than fifteen percent, or increase permitted pollutant loadings to a water body by more than fifteen percent will be deemed to have significant effects.
- The department will identify and eliminate from further review those proposed activities that will have no significant effect on water quality or beneficial uses. Category 1 reviews will be conducted where significant effects are projected for one or more water quality parameters. Findings of significant effects may be based on the following factors: a) percent change in ambient concentrations predicted at the appropriate conditions; b) percent change in loadings for the individual discharge or to the segment from all discharges; c) reduction in available assimilative capacity; d) nature, persistence, and potential effects of the parameter; e) potential for cumulative effects; f) predicted impacts to aquatic biota; and g) degree of confidence in any modeling techniques utilized.
- The applicant may be required to provide available monitoring data or other information about the affected water body and/or proposed activity to help determine the significance of the proposed degradation for specific parameters. The information includes recent ambient chemical, physical, or biological monitoring data sufficient to characterize, during the appropriate conditions, the spatial and temporal variability of existing background quality of the segment for the parameters that would be affected by the proposed activity. The information would also describe the water quality that would result if the proposed activity were authorized.

The project applicant is required to provide an evaluation of the water quality effects of the project. This evaluation may consist of the following components:

1. Pollution prevention measures.
2. Reduction in scale of the project.
3. Water recycle or reuse.
4. Process changes.
5. Alternative treatment technology.
6. Advanced treatment technology.
7. Seasonal or controlled discharge options to avoid critical water quality periods.
8. Improved operation and maintenance of existing facilities.
9. Alternative discharge locations.

The primary emphasis of the category 1 reviews will be to determine whether reasonable nondegrading or less-degrading alternatives to the proposed degradation are available. The department will first evaluate any alternatives analysis submitted by the applicant for adherence to the minimum requirements described below. If an acceptable analysis of alternatives was completed and submitted to the department as part of the initial project proposal, no further evaluation of alternatives will be required of the applicant. If an acceptable alternatives analysis has not been completed, the department will work with the project applicant to ensure that an acceptable alternatives analysis is developed.

Once the department has determined that feasible alternatives to allowing the degradation have been adequately evaluated, the department shall make a preliminary determination regarding whether reasonable nondegrading or less-degrading alternatives are available. This determination will be based primarily on the alternatives analysis developed by the project applicant, but may be supplemented with other information or data. As a rule-of-thumb, nondegrading or less-degrading pollution control alternatives with costs that are similar to the costs of the applicant's favored alternative shall be considered reasonable. If the department determines that reasonable alternatives to allowing the degradation do not exist, the department shall continue with the antidegradation review and document the basis for the preliminary determination.

If the department makes a preliminary determination that one or more reasonable alternatives exist, the department will work with the applicant to revise the project design. If a mutually acceptable resolution cannot be reached, the department will document the alternative analysis findings and provide public notice of a preliminary decision to deny the activity.

Although it is recognized that any activity resulting in a discharge to surface waters may have positive and negative aspects, the applicant must show that any discharge or increased discharge will be of economic or social importance in the area. Where there are existing regulated sources located in the area, the department will assure that those sources are complying with applicable requirements prior to authorizing the proposed regulated activity. New sources of a particular parameter will not be allowed where there are existing unresolved compliance problems (involving the same parameter) in the zone of influence of the proposed activity. The "zone of influence" is determined as appropriate for the parameter of concern, the characteristics of the receiving water body (e.g., lake versus river, etc.), and other relevant factors. Where available, a total maximum daily load analysis or other watershed-scale plan will be the basis for identifying the appropriate zone of influence. The department may conclude that such compliance has not been achieved where existing sources are violating their North Dakota pollutant discharge elimination system permit limits. However, the existence of a compliance schedule in the North Dakota pollutant discharge elimination system permit may be taken into consideration in such cases. Required controls on existing regulated sources need not be finally achieved prior to authorizing a proposed activity provided there is reasonable assurance of future compliance.

### **Procedures for Category 2 Waters**

Regulated activities that result in a permanent or temporary, new or expanded source of pollution to this category of water are permitted if the following conditions are met:

1. The classified uses of the water would be maintained.
2. The assimilative capacity of the water is available for the parameters that would be affected by the regulated activity, and existing uses would be protected as discussed in section II.

A decision will be made on a case-by-case basis, using available data and best professional judgment. The applicant may be required to provide additional information necessary for the department to characterize or otherwise predict changes to the physical, chemical, and/or biological condition of the water.

## Procedures for Category 3 Waters

**Outstanding state resource waters - Eligibility.** Outstanding state resource waters may be designated category 3 waters only after they have been determined to have exceptional value for present or prospective future use for public water supplies, propagation of fish or aquatic life, wildlife, recreational purposes, or agricultural, industrial, or other legitimate beneficial uses. The factors that may be considered in determining whether a water body is eligible for inclusion in category 3 include the following: a) location, b) previous special designations, c) existing water quality, d) physical characteristics, e) ecological value, and f) recreational value.

**Nomination.** Any person may nominate any waters of the state for designation as outstanding state resource waters. The nomination must be made in writing to the department, must describe its specific location and present uses, and must state the reasons why the resource has exceptional value for present or prospective future beneficial use.

**Review process.** The department with cooperation of the state water commission shall review any nomination to determine whether the nominated waters of the state are eligible, clearly defined, and identify beneficial uses of exceptional value for present or prospective future use. The department of environmental quality with cooperation of the state water commission shall provide as a part of its assessment: 1) a verification of the uses, properties, and attributes that define the proposed "exceptional" value; 2) an evaluation of the current and historical condition of the water with respect to the proposed value using the best data available; and 3) an estimate of likely regulatory measures needed to achieve the desired level of protection. If the identified waters of the state are eligible, clearly defined, and appear to identify beneficial uses of exceptional value for present or prospective future use, ~~the water pollution control board,~~ the department, and the state water commission will solicit public comment and/or hold a public hearing regarding the nomination. ~~The water pollution control board will review the application record and the public comments, and make a recommendation to the department.~~ After reviewing the ~~board's recommendation~~ **public comments and views**, the department jointly with the state water commission will make a decision on whether to designate the defined water body as an outstanding state water resource. If both the department and the state water commission agree that the defined water body should be designated as an outstanding state water resource, the department shall submit the recommendation to the **department of environmental review** quality advisory council as part of the water quality standard revision process. The designation, if made, may be reviewed on a periodic basis.

**Implementation process.** Effects on category 3 waters resulting from regulated activity will be determined by appropriate evaluation and assessment techniques and best professional judgment. Any proposed regulated activity that would result in a new or expanded source of pollutants to a segment located in or upstream of a category 3 segment will be allowed only if there are appropriate restrictions to maintain and protect existing water quality. Reductions in water quality may be allowed only if they are temporary and negligible. Factors that may be considered in judging whether the quality of a category 3 water would be affected include: a) percent change in ambient concentrations predicted at the appropriate critical conditions; b) percent change in loadings; c) percent reduction in available assimilative capacity; d) nature, persistence, and potential effects of the parameter; e) potential for cumulative effects; and f) degree of confidence in any modeling techniques utilized.

## CHAPTER 33.1-24-01 GENERAL PROVISIONS

### Section

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### **33.1-24-01-04. Definitions.**

As used in this article the following words have the meaning ascribed to them unless otherwise made inappropriate by use and context:

1. "Aboveground tank" means a device meeting the definition of "tank" in this section and that is situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank (including the tank bottom) is able to be visually inspected.
2. "Act" means North Dakota Century Code chapter 23.1-04.
3. "Active life" of a facility means the period from the initial receipt of hazardous waste at the facility until the department receives certification of final closure.
4. "Active portion" means that portion of a facility where treatment, storage, or disposal operations are being or have been conducted after the effective date of the Act and which is not a closed portion. (See also "closed portion" and "inactive portion".)
5. "Acute hazardous waste" means hazardous wastes that meet the listing criteria in subdivision b of subsection 1 of section 33.1-24-02-09 and therefore are listed in section 33.1-24-02-16 with the assigned hazard code (H) or are listed in subsection 5 of section 33.1-24-02-18.
6. "Administrator" or "regional administrator" means the administrator or regional administrator of the environmental protection agency, or that officer's designee.

7. "AES filing compliance date" means the date that environmental protection agency announces in the federal register on or after which exporters of hazardous waste and exporters of cathode ray tubes for recycling are required to file environmental protection agency information in the automated export system or its successor system, under the international trade data system platform.
8. "Airbag waste" means any hazardous waste airbag modules or hazardous waste airbag inflators.
9. "Airbag waste collection facility" means any facility that receives airbag waste from airbag handlers subject to regulation under subsection 10 of section 33.1-24-02-04 of this chapter, and accumulates the waste for more than ten days.
10. "Airbag waste handler" means any person, by site, who generates airbag waste that is subject to hazardous waste regulations.
11. "Ancillary equipment" means any device including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps, that is used to distribute, meter, or control the flow of hazardous waste from its point of generation to storage or treatment tank or tanks, between hazardous waste storage and treatment tanks to a point of disposal onsite, or to a point of shipment for disposal offsite.
12. "Aquifer" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of ground water to wells or springs.
13. "Authorized representative" means the person responsible for the overall operation of a facility or an operational unit (for example, part of a facility), for example, the plant manager, superintendent, or person of equivalent responsibility.
14. "Battery" means a device consisting of one or more electrically connected electrochemical cells which is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.
15. "Boiler" means an enclosed device using controlled flame combustion and:
  - a. Boilers must have the following characteristics:
    - (1) The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases;
    - (2) The unit's combustion chamber and primary energy recovery section or sections must be of integral design. To be of integral design, the combustion chamber and the primary energy recovery section or sections (such as waterwalls and superheaters) must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery section or sections are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not of integral design--process heaters (units that transfer energy directly to processed steam) and fluidized bed combustion units;

- (3) While in operation, the unit must maintain a thermal energy recovery efficiency of at least sixty percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and
    - (4) The unit must export and utilize at least seventy-five percent of the recovered energy, calculated on an annual basis. In this calculation, no credit should be given for recovered heat used internally in the same unit. (Examples of internal use are the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feedwater pumps); or
  - b. The unit is one which the department has determined, on a case-by-case basis, to be a boiler, after considering the standards of section 33.1-24-01-11.
- 16. "Carbon dioxide stream" means carbon dioxide that has been captured from an emission source (for example, power plant), plus incidental associated substances derived from the source materials and the capture process, and any substances added to the stream to enable or improve the injection process.
  - 17. "Carbon regeneration unit" means any enclosed thermal treatment device used to regenerate spent activated carbon.
  - 18. "Cathode ray tube" means a vacuum tube, composed primarily of glass, which is the visual or video display component of an electronic device. A used, intact cathode ray tube means a cathode ray tube whose vacuum has not been released. A used, broken cathode ray tube means glass removed from its housing or casing whose vacuum has been released.
  - 19. "Cathode ray tube collector" means a person who receives used, intact cathode ray tubes for recycling, repair, resale, or donation.
  - 20. "Cathode ray tube exporter" means any person in the United States who initiates a transaction to send used cathode ray tubes outside the United States or its territories for recycling or reuse, or any intermediary in the United States arranging for such export.
  - 21. "Cathode ray tube glass manufacturer" means an operation or part of an operation that uses a furnace to manufacture cathode ray tube glass.
  - 22. "Cathode ray tube processing" means conducting all of the following activities:
    - a. Receiving broken or intact cathode ray tubes;
    - b. Intentionally breaking intact cathode ray tubes or further breaking or separating broken cathode ray tubes; and
    - c. Sorting or otherwise managing glass removed from cathode ray tube monitors.
  - 23. "Central accumulation area" means any onsite hazardous waste accumulation area with hazardous waste accumulating in units subject to sections 33.1-24-03-28 (for small quantity generators) or 33.1-24-03-29 (for large quantity generators). A central accumulation area at an eligible academic entity that chooses to operate under sections 33.1-24-03-60 through 33.1-24-03-77 is also subject to section 33.1-24-03-72 when accumulating unwanted material or hazardous waste or both.
  - 24. "Certification" means a statement of professional opinion based on knowledge and belief.
  - 25. "Closed portion" means that portion of a facility which an owner or operator has closed in accordance with the approved facility closure plan and all applicable closure requirements. (See also "active portion" and "inactive portion".)

26. "Component" means:
  - a. Either the tank or ancillary equipment of a tank system; or
  - b. Any constituent part of a unit or any group of constituent parts of a unit which are assembled to perform a specific function (for example, a pump seal, pump, kiln liner, or kiln thermocouple).
27. "Confined aquifer" means an aquifer bounded above and below by impermeable beds or by beds of distinctly lower permeability than that of the aquifer itself; an aquifer containing confined ground water.
28. "Constituent" or "hazardous waste constituent" means a constituent that caused the department to list the hazardous waste in chapter 33.1-24-02, or a constituent listed in Table 1 of section 33.1-24-02-14.
29. "Contained" means held in a unit (including a land-based unit as defined in this section) that meets the following criteria:
  - a. The unit is in good condition, with no leaks or other continuing or intermittent unpermitted releases of the hazardous secondary materials to the environment, and is designed, as appropriate for the hazardous secondary materials, to prevent releases of hazardous secondary materials to the environment. Unpermitted releases are releases that are not covered by a permit (such as a permit to discharge to water or air) and may include releases through surface transport by precipitation runoff, releases to soil and groundwater, wind-blown dust, fugitive air emissions, and catastrophic unit failures;
  - b. The unit is properly labeled or otherwise has a system (such as a log) to immediately identify the hazardous secondary materials in the unit; and
  - c. The unit holds hazardous secondary materials that are compatible with other hazardous secondary materials placed in the unit and is compatible with the materials used to construct the unit and addresses any potential risks of fires or explosions.
  - d. Hazardous secondary materials in units that meet the applicable requirements of sections 33.1-24-05-01 through 33.1-24-05-190, 33.1-24-05-300 through 33.1-24-05-524, 33.1-24-05-550 through 33.1-24-05-559, and 33.1-24-05-800 through 33.1-24-05-819, or subsection 5 of section 33.1-24-06-16.
30. "Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.
31. "Containment building" means a hazardous waste management unit that is used to store or treat hazardous waste under the provisions of sections 33.1-24-05-475 through 33.1-24-05-479 and subpart DD of 40 CFR 265.
32. "Contingency plan" means a document setting out an organized, planned, and coordinated course of action to be followed in case of a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.
33. "Corrosion expert" means a person who, by reason of the person's knowledge of the physical sciences and the principles of engineering and mathematics, acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person must be certified as being qualified by the national association of corrosion engineers or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control on buried or submerged metal piping systems and metal tanks.

34. "Department" means the department of environmental quality.
35. a. "Designated facility" means a hazardous waste treatment, storage, or disposal facility that:
- (1) Has received a permit (or interim status) in accordance with the requirements of chapters 33.1-24-06 and 33.1-24-07;
  - (2) Has received a permit (or interim status) from a state authorized in accordance with 40 CFR part 271; or
  - (3) Is regulated under subdivision b of subsection 3 of section 33.1-24-02-06 or sections 33.1-24-05-230 through 33.1-24-05-234; and
  - (4) Has been designated on the manifest by the generator pursuant to section 33.1-24-03-04.
- b. Designated facility also means a generator site designated on the manifest to receive the generator's waste as a return shipment from a facility that has rejected the waste in accordance with subsection 6 of section 33.1-24-05-39 or the applicable requirements of subsection 5 of section 33.1-24-06-16.
- c. If a waste is destined to a facility in an authorized state which has not yet obtained authorization to regulate that particular waste as hazardous, then the designated facility must be a facility allowed by the receiving state to accept such waste.
36. "Destination facility" means a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in subsections 1 and 3 of section 33.1-24-05-713. A facility at which a particular category of universal waste is only accumulated is not a destination facility for the purposes of managing that category of universal waste.
37. "Dike" means an embankment or ridge of either natural or manmade materials used to prevent the movement of liquids, sludges, solids, or other materials.
38. "Dioxins and furans" means tetra-chlorinated, penta-chlorinated, hexa-chlorinated, hepta-chlorinated, and octa-chlorinated dibenzo dioxins and furans.
39. "Discharge" or "hazardous waste discharge" means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of hazardous waste into or on any land or water.
40. "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid or hazardous waste into or on any land or water including ground water.
41. "Disposal facility" means a facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water, and at which wastes will remain after closure. The term disposal facility does not include a corrective action management unit into which remediation wastes are placed.
42. "Drip pad" is an engineered structure consisting of a curbed, free-draining base, constructed of nonearthen materials and designed to convey preservative kickback or drippage from treated wood, precipitation, and surface water run-on to an associated collection system at wood preserving plants.
43. "Electronic import-export reporting compliance date" means the date that the environmental protection agency announces in the federal register, on or after which exporters, importers,

and receiving facilities are required to submit certain export and import related documents to the environmental protection agency using the environmental protection agency's waste import export tracking system, or its successor system.

44. "Electronic manifest" (or e-manifest) means the electronic format of the hazardous waste manifest which is obtained from the environmental protection agency's national e-manifest system and transmitted electronically to the system, and which is the legal equivalent of environmental protection agency forms 8700-22 (manifest) and 8700-22A (continuation sheet).
45. "Electronic manifest system (or e-manifest system)" means the environmental protection agency's national information technology system through which the electronic manifest may be obtained, completed, transmitted, and distributed to users of the electronic manifest and to regulatory agencies.
46. "Elementary neutralization unit" means a device which:
  - a. Is used for neutralizing wastes that are hazardous only because they exhibit the corrosivity characteristic defined in section 33.1-24-02-12, or are listed in chapter 33.1-24-02 only for this reason; and
  - b. Meets the definition of tank, tank systems, container, transport vehicle, or vessel.
47. "Equivalent method" means any testing or analytical method approved by the department under sections 33.1-24-01-06 and 33.1-24-01-07.
48. "Existing hazardous waste management facility" or "existing facility" means a facility which was in operation, or for which construction commenced on or before November 19, 1980. A facility has commenced construction if:
  - a. The owner or operator has obtained all necessary federal, state, and local approvals or permits necessary to begin physical construction; and
  - b. Either of the following:
    - (1) A continuous onsite, physical construction program has begun; or
    - (2) The owner or operator has entered into contractual obligations, which cannot be canceled or modified without substantial loss, for physical construction of the facility to be completed within a reasonable time.
49. "Existing portion" means that land surface area of an existing waste management unit, included in part A of the permit application, as originally filed, on which wastes have been placed prior to the issuance of a permit.
50. "Existing tank system" or "existing component" means a tank system or component that is used for the storage or treatment of hazardous waste and that is in operation, or for which installation has commenced on or prior to July 14, 1986. Installation will be considered to have commenced if the owner or operator has obtained all federal, state, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system and if either (1) a continuous onsite physical construction or installation program has begun, or (2) the owner or operator has entered into contractual obligations, which cannot be canceled or modified without substantial loss, for physical construction of the site or installation of the tank system to be completed within a reasonable time.
51. "Explosives or munitions emergency" means a situation involving the suspected or detected presence of unexploded ordnance, damaged or deteriorated explosives or munitions, an

improvised explosive device, other potentially explosive material or device, or other potentially harmful military chemical munitions or device, that creates an actual or potential imminent threat to human health, including safety, or the environment, including property, as determined by an explosives or munitions emergency response specialist. Such situations may require immediate and expeditious action by an explosives or munitions emergency response specialist to control, mitigate, or eliminate the threat.

52. "Explosives or munitions emergency response" means all immediate response activities by an explosives and munitions emergency response specialist to control, mitigate, or eliminate the actual or potential threat encountered during an explosives or munitions emergency. An explosives or munitions emergency response may include in-place render-safe procedures, treatment or destruction of the explosives or munitions, or transporting, or any combination, those items to another location to be rendered safe, treated, or destroyed. Any reasonable delay in the completion of an explosives or munitions emergency response caused by a necessary, unforeseen, or uncontrollable circumstance will not terminate the explosives or munitions emergency. Explosives and munitions emergency responses can occur on either public or private lands and are not limited to responses at hazardous waste facilities.
53. "Explosives or munitions emergency response specialist" means an individual trained in chemical or conventional munitions or explosives handling, transportation, render-safe procedures, or destruction techniques. Explosives or munitions emergency response specialists include United States department of defense emergency explosive ordnance disposal, technical escort unit, and department of defense-certified civilian or contractor personnel and other federal, state, or local government, or civilian personnel similarly trained in explosives or munitions emergency responses.
54. "Facility" means:
  - a. All contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste, or for managing hazardous secondary materials prior to reclamation. A facility may consist of several treatment, storage, or disposal operational units (for example, one or more landfills, surface impoundments, or combinations of them).
  - b. For the purpose of implementing corrective action under section 33.1-24-05-58 or 33.1-24-05-1031 all contiguous property under the control of the owner or operator seeking a permit under North Dakota Century Code chapter 23.1-04. This definition also applies to facilities implementing corrective action under Resource Conservation and Recovery Act section 3008(h).
  - c. Notwithstanding subdivision b, a remediation waste management site is not a facility that is subject to section 33.1-24-05-58, but is subject to corrective action requirements if the site is located within such a facility.
55. "Facility mailing list" means the mailing list for a facility developed and maintained by the department in accordance to the following:
  - a. Including those persons who request in writing to be added to the facility mailing list;
  - b. Soliciting persons for "area lists" from participants in past permit proceedings in that area; and
  - c. Notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in such publications as regional and state-funded newsletters, environmental bulletins, or state law journals. (The department may update the mailing list from time to time by requesting written indication of continued interest

from those listed. The department may delete from the list the name of any person who fails to respond to such a request.)

56. "Federal agency" means any department, agency, or other instrumentality of the federal government, any independent agency or establishment of the federal government including any government corporation, and the government printing office.
57. "Federal, state, and local approvals or permits necessary to begin physical construction" means permits and approvals required under federal, state, or local hazardous waste control statutes, regulations, or ordinances.
58. "Final closure" means the closure of all hazardous waste management units at the facility in accordance with all applicable closure requirements so that hazardous waste management activities under chapter 33.1-24-05 are no longer conducted at the facility unless subject to the provisions in section 33.1-24-03-12.
59. "Food-chain crops" means tobacco, crops grown for human consumption, and crops grown for feed for animals whose products are consumed by humans.
60. "Free liquids" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure.
61. "Freeboard" means the vertical distance between the top of a tank or surface impoundment dike and the surface of the waste contained therein.
62. "Functionally equivalent component" means a component which performs the same function or measurement and which meets or exceeds the performance specification of another component.
63. "Generator" means any person, by site, whose act or process produces hazardous waste identified or listed in chapter 33.1-24-02 or whose act first causes a hazardous waste to become subject to regulation.
64. "Ground water" means water below the land surface in a zone of saturation.
65. "Hazardous secondary material" means a secondary material (for example, spent material, byproduct, or sludge) that, when discarded, would be identified as hazardous waste under chapter 33.1-24-02.
66. "Hazardous secondary material generator" means any person whose act or process produces hazardous secondary materials at the generating facility. For purposes of this subsection, "generating facility" means all contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator.
67. "Hazardous waste" means a hazardous waste as defined in chapter 33.1-24-02.
68. "Hazardous waste constituent". See "constituent".
69. "Hazardous waste management unit" is a contiguous area of land on or in which hazardous waste is placed, or the largest area in which there is significant likelihood of mixing hazardous waste constituents in the same area. Examples of hazardous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system, and a container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed.

70. "Hazardous waste number" means the number assigned to each hazardous waste identified in chapter 33.1-24-02.
71. "Identification number" means the number assigned by the environmental protection agency and the department to each generator; transporter; and treatment, storage, or disposal facility.
72. "In operation" refers to a facility which is treating, storing, or disposing of hazardous waste.
73. "Inactive portion" means that portion of a facility which is not operated after the effective date of this chapter. (See also "active portion" and "closed portion".)
74. "Incinerator" means any enclosed device that:
  - a. Uses controlled flame combustion and neither meets the criteria for classification as a boiler, sludge dryer, or carbon regeneration unit, nor is listed as an industrial furnace; or
  - b. Meets the definition of infrared incinerator or plasma arc incinerator.
75. "Incompatible waste" means a hazardous waste which is unsuitable for:
  - a. Placement in a particular device or facility because it may cause corrosion or decay of containment materials (for example, container inner liners or tank walls); or
  - b. Commingling with another waste or material under uncontrolled conditions because the commingling might produce heat or pressure, fire or explosion, violent reaction, toxic dust, mists, fumes, gases, or flammable fumes or gases.

(See appendix III of chapter 33.1-24-05 for examples.)

76. "Individual generation site" means the contiguous site at or on which one or more hazardous wastes are generated. An individual generation site, such as a large manufacturing plant, may have one or more sources of hazardous waste, but is considered a single or individual generation site if the site or property is contiguous.
77. "Industrial furnace" means any of the following enclosed devices that are integral components of manufacturing processes and that use thermal treatment to accomplish recovery of material for energy:
  - a. Cement kilns;
  - b. Lime kilns;
  - c. Aggregate kilns;
  - d. Phosphate kilns;
  - e. Coke ovens;
  - f. Blast furnaces;
  - g. Smelting, melting, and refining furnaces (including pyrometallurgical devices, such as cupolas, reverberator furnaces, sintering machine, roasters, and foundry furnaces);
  - h. Titanium dioxide chloride process oxidation reactors;
  - i. Methane reforming furnaces;
  - j. Pulping liquor recovery furnaces;

- k. Combustion devices used in the recovery of sulfur values from spent sulfuric acid;
  - l. Halogen acid furnaces for the production of acid from halogenated hazardous waste generated by chemical production facilities where the furnace is located on the site of a chemical production facility, the acid product has a halogen acid content of at least three percent, the acid product is used in a manufacturing process, and, except for hazardous waste burned as fuel, hazardous waste fed to the furnace has a minimum halogen content of twenty percent as generated; or
  - m. Such other devices as the department may, after notice and comment, add to this list on the basis of one or more of the following factors:
    - (1) The design and use of the device primarily to accomplish recovery of material products;
    - (2) The use of the device to burn or reduce raw materials to make a material product;
    - (3) The use of a device to burn or reduce secondary materials as effective substitutes for raw materials, in processes using raw materials as principal feed stock;
    - (4) The use of a device to burn or reduce secondary materials as ingredients in an industrial process to make a material product;
    - (5) The use of a device in common industrial practice to produce a material product; and
    - (6) Other factors, as appropriate.
78. "Infrared incinerator" means any enclosed device that uses electric powered resistance heaters as a source of radiant heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.
79. "Inground tank" means a device meeting the definition of a "tank" in this section, whereby a portion of the tank wall is situated to any degree within the ground, thereby preventing visual inspection of that external surface area of the tank that is in the ground.
80. "Injection well" means a well into which fluids are injected. (See also the definition of "underground injection" in this section.)
81. "Inner liner" means a continuous layer of material placed inside a tank or container which protects the construction materials of the tank or container from the contained waste or reagents used to treat the waste.
82. "Installation inspector" means a person who, by reason of knowledge of the physical sciences and the principles of engineering, acquired by a professional education and related practical experience, is qualified to supervise the installation of tank systems.
83. "Intermediate facility" means any facility that stores hazardous secondary materials for more than ten days, other than a hazardous secondary material generator or reclaimer of such material.
84. "International shipment" means the transportation of hazardous waste into or out of the jurisdiction of the United States.
85. "Lamp", also referred to as "universal waste lamp", is defined as the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, and infrared regions of the electromagnetic spectrum. Examples of

common universal waste lamps include fluorescent, high-intensity discharge, neon, mercury vapor, high-pressure sodium, and metal halide lamps.

86. "Land treatment facility" means a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface; such facilities are disposal facilities if the waste will remain after closure.
87. "Land-based unit" means an area where hazardous secondary materials are placed in or on the land before recycling. This definition does not include land-based production units.
88. "Landfill" means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a pile, a land treatment facility, a surface impoundment, an underground injection well, a salt dome formation, a salt bed formation, an underground mine, a cave, or a corrective action management unit.
89. "Landfill cell" means a discrete volume of a hazardous waste landfill which uses a liner to provide isolation of wastes from adjacent cells or wastes. Examples of landfill cells are trenches and pits.
90. "Large quantity generator" means a generator who generates any of the following amounts in a calendar month.
  - a. Greater than or equal to one thousand kilograms [2,200 pounds] of nonacute hazardous waste;
  - b. Greater than one kilogram [2.2 pounds] of acute hazardous waste listed in section 33.1-24-02-16 or subsection 5 of section 33.1-24-02-18, listed in section 33.1-24-02-16 or subsection 5 of section 33.1-24-02-18; or
  - c. Greater than one hundred kilograms [220 pounds] of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in section 33.1-24-02-16 or subsection 5 of section 33.1-24-02-18.
91. "Leachate" means any liquid, including any suspended components in the liquid, that have percolated through or drained from hazardous waste.
92. "Leak detection system" means a system capable of detecting the failure of either the primary or secondary containment structure or the presence of a release of hazardous waste or accumulated liquid in the secondary containment structure. Such a system must employ operational controls (for example, daily visual inspections for releases into the secondary containment system of aboveground tanks) or consist of an interstitial monitoring device designed to detect continuously and automatically the failure of the primary or secondary containment structure or the presence of a release of hazardous waste into the secondary containment structure.
93. "Liner" means a continuous layer of natural or manmade materials beneath or on the sides of a surface impoundment, landfill, or landfill cell, which restricts the downward or lateral escape of hazardous waste, hazardous waste constituents, or leachate.
94. "Major facility" means any facility classified as such by the environmental protection agency in conjunction with the department.
95. "Management" or "hazardous waste management" means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous waste.

96. "Manifest" means the shipping document environmental protection agency form 8700-22 (including, if necessary, environmental protection agency form 8700-22A), or the electronic manifest, originated and signed in accordance with the applicable requirements of chapters 33.1-24-03 and 33.1-24-04, sections 33.1-24-05-01 through 33.1-24-05-190, 33.1-24-05-300 through 33.1-24-05-524, 33.1-24-05-550 through 33.1-24-05-559, 33.1-24-05-800 through 33.1-24-05-819, and subsection 5 of section 33.1-24-06-16.
97. "Manifest tracking number" means the alphanumeric identification number (for example, a unique three-letter suffix preceded by nine numerical digits), which is preprinted in item 4 of the manifest by a registered source.
98. "Mercury-containing equipment" means a device or part of a device (including thermostats, but excluding batteries and lamps) that contains elemental mercury integral to its function.
99. "Military munitions" means all ammunition products and components produced or used by or for the United States department of defense or the United States armed services for national defense and security, including military munitions under the control of the department of defense, the United States coast guard, the United States department of energy, and national guard personnel. The term military munitions includes confined gaseous, liquid, and solid propellants; explosives; pyrotechnics; chemical and riot control agents; smokes; and incendiaries used by department of defense components, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and components thereof. Military munitions do not include wholly inert items; improvised explosive devices; and nuclear weapons, nuclear devices, and nuclear components thereof. However, the term does include non-nuclear components of nuclear devices, managed under the department of energy's nuclear weapons program after all required sanitization operations under the Atomic Energy Act of 1954, as amended, have been completed.
100. "Mining overburden returned to the minesite" means any material overlying an economic mineral deposit which is removed to gain access to that deposit and is then used for reclamation of a surface mine.
101. "Miscellaneous unit" means a hazardous waste management unit where hazardous waste is treated, stored, or disposed of and that is not a container; tank; surface impoundment; pile; land treatment unit; landfill; incinerator; boiler; industrial furnace; underground injection well with appropriate technical standards under 40 CFR part 146; containment building; corrective action management unit; unit eligible for research, development, and demonstration permit under section 33.1-24-06-20; or staging pile.
102. "Movement" means that hazardous waste transported to a facility in an individual vehicle.
103. "Municipality" means a city, county, district, association, or other public body created by or pursuant to state law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes.
104. "New hazardous waste management facility" or "new facility" means a facility which began operation, or for which construction commenced, after November 19, 1980. (See also "existing hazardous waste management facility".)
105. "New tank system" or "new tank components" means a tank system or component that will be used for the storage or treatment of hazardous waste and for which installation has commenced after July 14, 1986, except; however, for purposes of subdivision b of subsection 7 of section 33.1-24-05-106, a new tank system is one for which construction commences after July 14, 1986. (See also "existing tank system".)

106. "No free liquids" as used in subdivision w of subsection 1 and subdivision p of subsection 2 of section 33.1-24-02-04, means that solvent-contaminated wipes may not contain free liquids as determined by method 9095B (paint filter liquids test), included in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (environmental protection publication SW-846), as incorporated by reference in section 33.1-24-01-05, and that there is no free liquid in the container holding the wipes.
107. "Nonacute hazardous waste" means all hazardous wastes that are not acute hazardous waste.
108. "Onground tank" means a device meeting the definition of "tank" in this section and that is situated in such a way the bottom of the tank is on the same level as the adjacent surrounding surface so the external tank bottom cannot be visually inspected.
109. "Onsite" means the same or geographically contiguous property which may be divided by public or private right of way, provided the entrance and exit between the properties is at a crossroads intersection, and access is by crossing, as opposed to going along, the right of way. Noncontiguous property owned by the same person, but connected by a right of way which that person controls and to which the public does not have access is also considered onsite property.
110. "Open burning" means the combustion of any material without the following characteristics:
- a. Control of combustion air to maintain adequate temperature for efficient combustion;
  - b. Containment of the combustion reactions in an enclosed device to provide sufficient residence time and mixing for complete combustion; and
  - c. Control of emission of the gaseous combustion products. (See also "incineration" and "thermal treatment".)
111. "Operator" means the person responsible for the overall operation of a facility.
112. "Owner" means the person who owns a facility or part of a facility.
113. "Partial closure" means the closure of a hazardous waste management unit in accordance with the applicable closure requirements of chapter 33.1-24-05 at a facility that contains other active hazardous waste management units. For example, partial closure may include the closure of a tank (including its associated piping and underlying containment systems), landfill cell, surface impoundment, waste pile, or other hazardous waste management unit, while other units of the same facility continue to operate.
114. "Permit" means an authorization, license, or equivalent control document issued by the department to implement the requirements of chapters 33.1-24-06 and 33.1-24-07. Permit includes permit by rule (section 33.1-24-06-18), emergency permit (subsection 1 of section 33.1-24-06-19), and standardized permit (sections 33.1-24-06-45 through 33.1-24-06-85). Permit does not include hazardous waste interim status (section 33.1-24-06-16), or any permit that has not been the subject of final department action, such as a draft permit or a proposed permit.
115. "Person" means an individual, trust, firm, joint stock company, federal agency, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state, or any interstate body.
116. "Personnel" or "facility personnel" means all persons who work at, or oversee the operation of, a hazardous waste facility, and whose actions or failure to act may result in noncompliance with the requirements of chapter 33.1-24-05 or 40 CFR part 265.

117. "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest or intended for use as a plant regulator, defoliant, or desiccant, other than any article that:
- a. Is a new animal drug under federal Food, Drug, and Cosmetic Act section 201(w);
  - b. Is an animal drug that has been determined by regulation of the secretary of health and human services not to be a new animal drug; or
  - c. Is an animal feed under federal Food, Drug, and Cosmetic Act section 201(x) that bears or contains any substances described by subdivision a or b.
118. "Pile" means any noncontainerized accumulation of solid, nonflowing hazardous waste that is used for treatment or storage and that is not a containment building.
119. "Plasma arc incinerator" means any enclosed device using a high-intensity electrical discharge or arc as a source of heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.
120. "Point source" means any discernible, confined, and discrete conveyance, including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.
121. "Publicly owned treatment works" means any device or system used in the treatment (including recycling or reclamation) of municipal sewage or industrial wastes of a liquid nature which is owned by this state or a municipality. This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a publicly owned treatment works providing treatment.
122. "Qualified ground water scientist" means a scientist or engineer who has received a baccalaureate or postgraduate degree in the natural sciences or engineering, and has sufficient training and experience in ground water hydrology and related fields as may be demonstrated by state registration, professional certifications, or completion of accredited university courses that enable that individual to make sound professional judgments regarding ground water monitoring and contaminant fate and transport.
123. "Recognized trader" means a person domiciled in the United States, by site of business, who acts to arrange and facilitate transboundary movements of wastes destined for recovery or disposal operations, either by purchasing from and subsequently selling to United States and foreign facilities, or by acting under arrangements with a United States waste facility to arrange for the export or import of the wastes.
124. "Remanufacturing" means processing a higher value hazardous secondary material in order to manufacture a product that serves a similar functional purpose as the original commercial grade material. For the purpose of this subsection, a hazardous secondary material is considered higher value if it was generated from the use of a commercial grade material in a manufacturing process and can be remanufactured into a similar commercial grade material.
125. "Remediation waste" means all solid and hazardous wastes, and all media (including ground water, surface water, soils, and sediments) and debris that are managed for implementing cleanup.
126. "Remediation waste management site" means a facility where an owner or operator is or will be treating, storing, or disposing of hazardous remediation wastes. A remediation waste management site is not a facility that is subject to corrective action under section

33.1-24-05-58, but is subject to corrective action requirements if the site is located in such a facility.

127. "Replacement unit" means a landfill, surface impoundment, or waste pile unit from which all or substantially all of the waste is removed, and which is subsequently reused to treat, store, or dispose of hazardous waste. "Replacement unit" does not apply to a unit from which waste is removed during closure, if the subsequent reuse solely involves the disposal of waste from that unit and other closing units or corrective action areas at the facility, in accordance with an approved closure plan or department-approved corrective action.
128. "Representative sample" means a sample of a universe or whole (for example, waste pile, lagoon, or ground water), which can be expected to exhibit the average properties of the universe or whole.
129. "Runoff" means any rainwater, leachate, or other liquid that drains over land from any part of a facility.
130. "Run-on" means any rainwater, leachate, or other liquid that drains over land onto any part of a facility.
131. "Saturated zone" or "zone of saturation" means that part of the earth's crust in which all voids are filled with water.
132. "Sludge" means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant.
133. "Sludge dryer" means any enclosed thermal treatment device that is used to dehydrate sludge and that has a maximum total thermal input, excluding the heating value of the sludge itself, of two thousand five hundred British thermal unit per pound of sludge treated on a wet-weight basis.
134. "Small quantity generator" means a generator who generates the following amounts in a calendar month:
  - a. Greater than one hundred kilograms [220 pounds] but less than one thousand kilograms [2,200 pounds] of nonacute hazardous waste;
  - b. Less than or equal to one kilogram [2.2 pounds] of acute hazardous waste listed in section 33.1-24-02-16 or subsection 5 of section 33.1-24-02-18; and
  - c. Less than or equal to one hundred kilograms [220 pounds] of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in section 33.1-24-02-16 or subsection 5 of section 33.1-24-02-18.
135. "Solid waste" means a solid waste as defined in section 33.1-24-02-02.
136. a. "Solvent-contaminated wipe" means a wipe that, after use or after cleaning up a spill, either:
  - (1) Contains one or more of the F001 through F005 solvents listed in section 33.1-24-02-16 or the corresponding P- or U-listed solvents found in section 33.1-24-02-18;

- (2) Exhibits a hazardous characteristic found in sections 33.1-24-02-10 through 33.1-24-02-14 when that characteristic results from a solvent listed in chapter 33.1-24-02; or
  - (3) Exhibits only the hazardous waste characteristic of ignitability found in section 33.1-24-02-11 due to the presence of one or more solvents that are not listed in chapter 33.1-24-02; or
  - (4) Any combination of paragraphs 1, 2, or 3.
- b. Solvent-contaminated wipes that contain listed hazardous waste other than solvents, or exhibit the characteristic of toxicity, corrosivity, or reactivity due to contaminants other than solvents, are not eligible for the exclusions at subdivision w of subsection 1 of section 33.1-24-02-04 and subdivision p of subsection 2 of section 33.1-24-02-04.
137. "Sorbent" means a material that is used to soak up free liquids by either adsorption or absorption, or both. Sorb means to either adsorb or absorb, or both.
138. "Staging pile" means an accumulation of solid, nonflowing remediation waste that is not a containment building and that is used only during remedial operations for temporary storage at a facility. Staging piles must be designated by the department according to the requirements of section 33.1-24-05-554.
139. "Standardized permit" means a hazardous waste permit issued under sections 33.1-24-07-40 through 33.1-24-07-54 and sections 33.1-24-06-45 through 33.1-24-06-85 authorizing the facility owner or operator to manage hazardous waste. The standardized permit may have two parts--a uniform portion issued in all cases and a supplemental portion issued at the department's discretion.
140. "State" means this state.
141. "Storage" means the holding of hazardous waste at a site for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.
142. "Sump" means any pit or reservoir that meets the definition of tank and those troughs or trenches connected to it that serve to collect hazardous waste for transport to hazardous waste storage, treatment, or disposal facilities, except that as used in the landfill, surface impoundment, and waste pile rules, "sump" means any lined pit or reservoir that serves to collect liquids drained from a leachate collection and removal system or leak detection system for subsequent removal from the system.
143. "Surface impoundment" or "impoundment" means a facility or part of a facility which is a natural topographic depression, manmade excavation, or diked area formed primarily of earthen materials (although it may be lined with manmade materials), which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding; storage; settling; and aeration pits, ponds, and lagoons.
144. "Tank" means a stationary device, designed to contain an accumulation of hazardous waste, which is constructed primarily of nonearthen materials (for example, wood, concrete, steel, or plastic), which provide structural support.
145. "Tank system" means a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.
146. "Thermal treatment" means the treatment of hazardous waste in a device which uses elevated temperatures as the primary means to change the chemical, physical, or biological character

or composition of the hazardous waste. Examples of thermal treatment processes are incineration, molten salt, pyrolysis, calcination, wet air oxidation, and microwave discharge. (See also "incinerator" and "open burning".)

147. "Totally enclosed treatment facility" means a facility for the treatment of hazardous waste which is directly connected to an industrial production process and which is constructed and operated in a manner which prevents the release of any hazardous waste or any constituent thereof into the environment during treatment. An example is a pipe in which waste acid is neutralized.
148. "Toxicity equivalence" means the international method of relating the toxicity of various dioxin, or furan, or both congeners to the toxicity of 2,3,7,8-tetrachlorodibenzo-p-dioxin.
149. "Transfer facility" means any transportation-related facility, including loading docks, parking areas, storage areas, or other similar areas where shipments of hazardous waste or hazardous secondary materials are held during the normal course of transportation.
150. "Transport vehicle" means a motor vehicle or railcar used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, railroad freight car, etc.) is a separate transport vehicle.
151. "Transportation" means the movement of hazardous wastes by air, rail, highway, or water.
152. "Transporter" means a person engaged in the offsite transportation of hazardous waste by air, rail, highway, or water.
153. "Treatability study" means a study in which a hazardous waste is subjected to a treatment process to determine:
  - a. Whether the waste is amenable to the treatment process;
  - b. What pretreatment (if any) is required;
  - c. The optimal process conditions needed to achieve the desired treatment;
  - d. The efficiency of a treatment process for a specific waste or wastes; or
  - e. The characteristics and volumes of residuals from a particular treatment process.

Also included in this definition for the purpose of subsections 5 and 6 of section 33.1-24-02-04 exemptions are liner compatibility, corrosion, and other material compatibility studies and toxicological and health effect studies. A "treatability study" is not a means to commercially treat or dispose of hazardous waste.

154. "Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material resources from the waste, or so as to render such waste nonhazardous, or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for storage, or reduced in volume.
155. "Treatment zone" means a soil area of the unsaturated zone of a land treatment unit within which hazardous constituents are degraded, transformed, or immobilized.
156. "Underground injection" means the subsurface emplacement of fluids through a bored, drilled, or driven well, or through a dug well, where the depth of the dug well is greater than the largest surface dimension. (See also the definition of "injection well" in this section.)

157. "Underground tank" means a device meeting the definition of "tank" in this section whose entire surface area is totally below the surface of and covered by the ground.
158. "Unfit for use tank system" means a tank system that has been determined through an integrity assessment or other inspection to be no longer capable of storing or treating hazardous waste without posing a threat of release of hazardous waste to the environment.
159. "User of the electronic manifest system" means a hazardous waste generator; a hazardous waste transporter; an owner or operator of a hazardous waste treatment, storage, recycling, or disposal facility; or any other person that:
- a. Is required to use a manifest to comply with:
    - (1) Any federal or state requirement to track the shipment, transportation, and receipt of hazardous waste or other waste material that is shipped from the site of generation to an offsite-designated facility for treatment, storage, recycling, or disposal; or
    - (2) Any federal or state requirement to track the shipment, transportation, and receipt of rejected wastes or regulated container residues that are shipped from a designated facility to an alternative facility, or returned to the generator; and
  - b. Elects to use the system to obtain, complete, and transmit an electronic manifest format supplied by the environmental protection agency electronic manifest system; or
  - c. Elects to use the paper manifest form and submits to the system for data processing purposes a paper copy of the manifest (or data from such a paper copy), in accordance with paragraph 5 of subdivision b of subsection 1 of section 33.1-24-05-38, or the applicable requirements of subsection 5 of section 33.1-24-06-16. These paper copies are submitted for data exchange purposes only and are not the official copies of record for legal purposes.
160. "United States" means the fifty states, the District of Columbia, the commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the commonwealth of the northern Mariana Islands.
161. "Universal waste" means any of the following hazardous wastes that are managed under the universal waste requirements of sections 33.1-24-05-700 through 33.1-24-05-799:
- a. Batteries as described in section 33.1-24-05-702;
  - b. Pesticides as described in section 33.1-24-05-703;
  - c. Mercury-containing equipment as described in section 33.1-24-05-704; ~~and~~
  - d. Lamps as described in section 33.1-24-05-705; and
  - e. Aerosol cans as described in section 33.1-24-05-706.
162. "Universal waste handler":
- a. Means:
    - (1) A generator (as defined in this section) of universal waste; or
    - (2) The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

b. Does not mean:

(1) A person who treats, except under the provisions of subsection 1 or 3 of section 33.1-24-05-713, subsection 1 of section 33.1-24-05-733, or subsection 3 of section 33.1-24-05-733, disposes of, or recycles, except under the provisions of subsection 5 of section 33.1-24-05-713 or subsection 5 of section 33.1-24-05-733, universal waste; or

(2) A person engaged in the offsite transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

163. "Universal waste transporter" means a person engaged in the offsite transportation of universal waste by air, rail, highway, or water.
164. "Unsaturated zone" or "zone of aeration" means the zone between the land surface and the water table.
165. "Uppermost aquifer" means the natural geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.
166. "Used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.
167. "Very small quantity generator" means any generator who generates less than or equal to the following amounts in a calendar month:
- a. One hundred kilograms [220 pounds] of nonacute hazardous waste;
  - b. One kilogram [2.2 pounds] of acute hazardous waste listed in section 33.1-24-02-16 or subsection 5 of section 33.1-24-02-18; and
  - c. One hundred kilograms [220 pounds] or any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in section 33.1-24-02-16 or subsection 5 of section 33.1-24-02-18.
168. "Vessel" includes every description of watercraft, used or capable of being used as a means of transportation on the water.
169. "Wastewater treatment unit" means a device which:
- a. Is part of a wastewater treatment facility which is subject to regulation under either section 402 or 307(b) of the Clean Water Act;
  - b. Receives and treats or stores an influent wastewater, which is a hazardous waste as identified in section 33.1-24-02-03, or generates and accumulates a wastewater treatment sludge which is a hazardous waste as defined in section 33.1-24-02-03, or treats or stores a wastewater treatment sludge which is a hazardous waste as defined in section 33.1-24-02-03; and
  - c. Meets the definition of tank or tank system.
170. "Water (bulk shipment)" means the bulk transportation of hazardous waste which is loaded or carried on board a vessel without containers or labels.
171. "Well" means any shaft or pit dug or bored into the earth, generally of a cylindrical form and often walled with bricks or tubing to prevent the earth from caving in.

172. "Well injection". (See "underground injection".)
173. "Wipe" means a woven or nonwoven shop towel, rag, pad, or swab made of wood pulp, fabric, cotton, polyester blends, or other material.
174. "Zone of engineering control" means an area under the control of the owner or operator that, upon detection of a hazardous waste release, can be readily cleaned up prior to the release of hazardous waste or hazardous constituents to ground water or surface water.

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**General Authority:** NDCC 23.1-04-03; ~~S.L. 2017, ch. 199, § 4~~

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

### **33.1-24-01-05. ~~References~~[Incorporation by reference.](#)**

1. When used in this article, the ~~following~~-publications [listed in this section](#) are incorporated by reference. Copies may be inspected at the library, United States environmental protection agency, 1200 Pennsylvania Avenue NW (3403T), Washington, D.C. 20460, libraryhq@epa.gov; or at the national archives and records administration. 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/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

2. The following materials are available for purchase from the American society for testing and materials, 100 Barr Harbor Drive, P. O. Box C700, West Conshohocken, Pennsylvania 19428-2959:
  - a. ASTM D93-79 or D93-80, "Standard Test Methods for Flash Point by Pensky-Martens Closed Cup Tester".
  - b. ASTM D1946-82, "Standard Method for Analysis of Reformed Gas by Gas Chromatography".
  - c. ASTM D2267-88, "Standard Test Method for Aromatics in Light Naphthas and Aviation Gasolines by Gas Chromatography".
  - d. ASTM D2382-83, "Standard Test Method for Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter (High-Precision Method)".
  - e. ASTM D2879-92, "Standard Test Method for Vapor Pressure -Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope".
  - f. ASTM D3278-78, "Standard Test Methods for Flash Point for Liquids by Setaflash Closed Tester".
  - g. ASTM E168-88, "Standard Practices for General Techniques of Infrared Quantitative Analysis".
  - h. ASTM E169-87, "Standard Practices for General Techniques of Ultraviolet-Visible Quantitative Analysis".
  - i. ASTM E260-85, "Standard Practice for Packed Column Gas Chromatography".
  - j. ASTM E926-88, "Standard Test Methods for Preparing Refuse-Derived Fuel (RDF) Samples for Analyses of Metals", Test Method C - Bomb, Acid Digestion Method.

- k. ASTM D6450-99, "Standard Test Method for Flash Point by Continuously Closed Cup Tester".
3. The following materials are available for purchase from the national technical information service, 5285 Port Royal Road, Springfield, Virginia 22161, 703-605-6060 or 800-553-6847; or for purchase from the superintendent of documents, United States government printing office, Washington, D.C. 20402, 202-512-1800:
- a. "APTI Course 415: Control of Gaseous Emissions", environmental protection agency publication EPA-450/2-81-005, December 1981.
  - b. Method 1664, n-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated n-Hexane Extractable Material (SGT-HEM; Nonpolar Material) by Extraction and Gravimetry:
    - (1) Revision A, EPA-821-R-98-002, February 1999.
    - (2) Revision B, EPA-821-R-10-001, February 2010.
  - c. The following methods as published in the test methods compendium known as "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", environmental protection agency publication SW-846, third edition. A suffix of "A" in the method number indicates revision one (the method has been revised once). A suffix of "B" in the method number indicates revision two (the method has been revised twice). A suffix of "C" in the method number indicates revision three (the method has been revised three times). A suffix of "D" in the method number indicates revision four (the method has been revised four times):
    - (1) Method 0010, dated September 1986 and in the Basic Manual.
    - (2) Method 0020, dated September 1986 and in the Basic Manual.
    - (3) Method 0030, dated September 1986 and in the Basic Manual.
    - (4) Method 1320, dated September 1986 and in the Basic Manual.
    - (5) Method 1311, dated September 1992 and in Update I.
    - (6) Method 1330A, dated September 1992 and in Update I.
    - (7) Method 1312, dated September 1994 and in Update III.
    - (8) Method 0011, dated December 1996 and in Update III.
    - (9) Method 0023A, dated December 1996 and in Update III.
    - (10) Method 0031, dated December 1996 and in Update III.
    - (11) Method 0040, dated December 1996 and in Update III.
    - (12) Method 0050, dated December 1996 and in Update III.
    - (13) Method 0051, dated December 1996 and in Update III.
    - (14) Method 0060, dated December 1996 and in Update III.
    - (15) Method 0061, dated December 1996 and in Update III.
    - (16) Method 9071B, dated April 1998 and in Update IIIA.

- (17) Method 1010A, dated November 2004 and in Update IIIB.
  - (18) Method 1020B, dated November 2004 and in Update IIIB.
  - (19) Method 1110A, dated November 2004 and in Update IIIB.
  - (20) Method 1310B, dated November 2004 and in Update IIIB.
  - (21) Method 9010C, dated November 2004 and in Update IIIB.
  - (22) Method 9012B, dated November 2004 and in Update IIIB.
  - (23) Method 9040C, dated November 2004 and in Update IIIB.
  - (24) Method 9045D, dated November 2004 and in Update IIIB.
  - (25) Method 9060A, dated November 2004 and in Update IIIB.
  - (26) Method 9070A, dated November 2004 and in Update IIIB.
  - (27) Method 9095B, dated November 2004 and in Update IIIB.
4. The following materials are available for purchase from the national fire protection association, 1 Batterymarch Park, P. O. Box 9101, Quincy, Massachusetts 02269-9101:
    - a. "Flammable and Combustible Liquids Code" (NFPA 30) (1977 or 1981), IBR approved for subsection 2 of section 33.1-24-03-28, subsection 2 of section 33.1-24-05-111, subsection 2 of section 33.1-24-05-1112, and subsection 5 of section 33.1-24-06-16.
    - b. [Reserved]
  5. The following materials are available for purchase from the American petroleum institute, 1220 L Street NW, Washington, D.C. 20005:
    - a. API publication 2517, Third edition, February 1989, "Evaporative Loss from External Floating - Roof Tanks".
    - b. [Reserved]
  6. The following materials are available for purchase from the environmental protection agency, Research Triangle Park, North Carolina:
    - a. "Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised", October 1992, environmental protection agency publication number EPA-450/R-92-019.
    - b. [Reserved]
  7. The following materials are available for purchase from the organization for economic cooperation and development, Environment Direcorate, 2 rue Andre Pascal, 75775 Paris Cedex 16, France:
    - a. Guidance Manual for the Control of Transboundary Movements of Recoverable Wastes, copyright 2009, Annex B: OECD Consolidated List of Wastes Subject to the Green Control Procedure and Annex C: OECD Consolidated List of Wastes Subject to the Amber Control Procedure, IBR approved for subsection 1 of section 33.1-24-03-52, subsection 2 of section 33.1-24-03-53, subsection 4 of section 33.1-24-03-53, subsection 7 of section 33.1-24-03-53, subsection 2 of section 33.1-24-03-55, and subsection 4 of section 33.1-24-03-55.

b. [Reserved]

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**CHAPTER 33.1-24-02**  
**IDENTIFICATION AND LISTING OF HAZARDOUS WASTE**

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33.1-24-02-96	[Reserved]
33.1-24-02-97	[Reserved]

33.1-24-02-98	[Reserved]
33.1-24-02-99	[Reserved]
33.1-24-02-100	[Reserved]
33.1-24-02-101	[Reserved]
33.1-24-02-102	[Reserved]
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### 33.1-24-02-04. Exclusions.

1. **Materials that are not solid wastes.** The following materials are not solid wastes for the purpose of this chapter:
  - a. ~~Domestic sewage and any mixture of domestic sewage and other wastes that pass through a sewer system to a publicly owned treatment works for treatment. "Domestic sewage" means untreated sanitary wastes that pass through a sewer system.~~ Any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly owned treatment works for treatment, except as prohibited by section 33.1-24-05-315 and chapter 33.1-16-01.1. "Domestic sewage" means untreated sanitary wastes that pass through a sewer system.
  - b. Industrial wastewater discharges that are point source discharges subject to regulation under subsections 18 and 19 of North Dakota Century Code section 61-28-04. (Comment: This exclusion applies only to the actual point source discharge. It does not exclude industrial wastewaters while they are being collected, stored, or treated before discharge, nor does it exclude sludges that are generated by industrial wastewater treatment.)
  - c. Irrigation return flows.
  - d. Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.].
  - e. Materials subjected to in situ mining techniques which are not removed from the ground as part of the extraction process.
  - f. Pulping liquors (for example, black liquor) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless it is accumulated speculatively as defined in subsection 3 of section 33.1-24-02-01.
  - g. Spent sulfuric acid used to produce virgin sulfuric acid, unless it is accumulated speculatively as defined in subsection 3 of section 33.1-24-02-01.
  - h. Secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process provided:

- (1) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;
- (2) Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);
- (3) The secondary materials are never accumulated in such tanks for over twelve months without being reclaimed; and
- (4) The reclaimed material is not used to produce a fuel, or used to produce products that are used in a manner constituting disposal.

i. Wood preserving:

- (1) Spent wood preserving solutions that have been reclaimed and are reused for their original intended purpose; and
- (2) Wastewaters from the wood preserving process that have been reclaimed and are reused to treat wood.
- (3) Prior to reuse, the wood preserving wastewaters and spent wood preserving solutions described in paragraphs 1 and 2, so long as they meet all of the following conditions:
  - (a) The wood preserving wastewaters and spent wood preserving solutions are reused onsite at waterborne plants in the production process for their original intended purpose;
  - (b) Prior to reuse, the wastewaters and spent wood preserving solutions are managed to prevent release to either land or ground water or both;
  - (c) Any unit used to manage wastewaters and spent wood preserving solutions, or both, prior to reuse can be visually or otherwise determined to prevent such releases;
  - (d) Any drip pad used to manage the wastewaters and spent wood preserving solutions, or both, prior to reuse complies with the applicable standards in subsection 5 of section 33.1-24-06-16, regardless of whether the plant generates a total of less than one hundred kilograms per month of hazardous waste; and
  - (e) Prior to operating pursuant to this exclusion, the plant owner or operator prepares a one-time notification stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language:

"I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation."

The plant must maintain a copy of that document in its onsite records until closure of the facility. The exclusion applies only so long as the plant meets all of the conditions. If the plant goes out of compliance with any condition, it may apply to the department for reinstatement. The department may reinstate the

exclusion upon finding that the plant has returned to compliance with all conditions and that violations are not likely to recur.

- j. Hazardous waste numbers K060, K087, K141, K142, K143, K144, K145, K147, and K148, and any wastes from the coke byproducts processes that are hazardous only because they exhibit the toxicity characteristic specified in section 33.1-24-02-14 when, subsequent to generation, these materials are recycled to coke ovens, to the tar recovery process as a feedstock to produce coal tar, or mixed with coal tar prior to the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the wastes from the point they are generated to the point they are recycled to coke ovens or tar recovery or refining processes, or mixed with coal tar.
- k. Nonwastewater splash condenser dross residue from the treatment of K061 in high temperature metals recovery units, provided it is shipped in drums (if shipped) and not land disposed before recovery.
- l. Materials considered:
  - (1) Oil-bearing hazardous secondary materials (for example, sludges, byproducts, or spent materials) that are generated at a petroleum refinery (standard industrial code 2911) and are inserted into the petroleum refining process (standard industrial code 2911 - including distillation, catalytic cracking, fractionation, or thermal cracking units (for example, cokers)) unless the material is placed on the land, or speculatively accumulated before being so recycled. Materials inserted into thermal cracking units are excluded under this paragraph, provided that the coke product also does not exhibit a characteristic of hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the same petroleum refinery where they are generated, or sent directly to another petroleum refinery, and still be excluded under this provision. Except as provided in paragraph 2, oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry (for example, from sources other than petroleum refineries) are not excluded under this paragraph. Residuals generated from processing or recycling materials excluded under this paragraph, where such materials as generated would have otherwise met a listing under sections 33.1-24-02-15 through 33.1-24-02-19, are designated as F037 listed wastes when disposed or intended for disposal.
  - (2) Recovered oil that is recycled in the same manner and with the same conditions as described in paragraph 1. Recovered oil is oil that has been reclaimed from secondary materials, including wastewater, generated from normal petroleum industry practices, including refining, exploration and production, bulk storage, and transportation incident thereto (standard industrial codes 1311, 1321, 1381, 1382, 1389, 2911, 4612, 4613, 4922, 4923, 4789, 5171, and 5172). Recovered oil does not include oil-bearing hazardous wastes listed in sections 33.1-24-02-15 through 33.1-24-02-19; however, oil recovered from such wastes may be considered recovered oil. Recovered oil does not include used oil as defined in section 33.1-24-05-600.
- m. Excluded scrap metal (processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal) being recycled.
- n. Shredded circuit boards being recycled provided that they are:
  - (1) Stored in containers sufficient to prevent a release to the environment prior to recovery; and

- (2) Free of mercury switches, mercury relays, and nickel-cadmium batteries and lithium batteries.
- o. Condensates derived from the overhead gases from kraft mill stream strippers that are used to comply with 40 CFR 63.446(e). The exemption applies only to combustion at the mill generating the condensates.
- p. [Reserved].
- q. Spent materials (as defined in section 33.1-24-02-01) (other than hazardous wastes listed in sections 33.1-24-02-15 through 33.1-24-02-19) generated within the primary mineral processing industry from which minerals, acids, cyanide, water, or other values are recovered by mineral processing, or by beneficiation, provided that:
  - (1) The spent material is legitimately recycled to recover minerals, acids, cyanide, water, or other values;
  - (2) The spent material is not accumulated speculatively;
  - (3) Except as provided in paragraph 4, the spent material is stored in tanks, containers, or buildings meeting the following minimum integrity standards: a building must be an engineered structure with a floor, walls, and a roof all of which are made of nonearthen materials providing structural support (except smelter buildings may have partially earthen floors provided the spent material is stored on the nonearthen portion), and have a roof suitable for diverting rainwater away from the foundation; a tank must be freestanding, not be a surface impoundment (as defined in section 33.1-24-01-04), and be manufactured of a material suitable for containment of its contents; a container must be freestanding and be manufactured of a material suitable for containment of its contents. If tanks or containers contain any particulate which may be subject to wind dispersal, the owner or operator must operate these units in a manner which controls fugitive dust. Tanks, containers, and buildings must be designed, constructed, and operated to prevent significant releases to the environment of these materials.
  - (4) The department may make a site-specific determination, after public review and comment, that only solid mineral processing spent material may be placed on pads, rather than in tanks, containers, or buildings. Solid mineral processing spent materials do not contain any free liquid. The decisionmaker must affirm that pads are designed, constructed, and operated to prevent significant releases of the spent material into the environment. Pads must provide the same degree of containment afforded by the hazardous waste tanks, containers, and buildings eligible for exclusion.
    - (a) The decisionmaker must also consider if storage on pads poses the potential for significant releases via ground water, surface water, and air exposure pathways. Factors to be considered for assessing the ground water, surface water, and air exposure pathways are the volume and physical and chemical properties of the spent material, including its potential for migration off the pad; the potential for human or environmental exposure to hazardous constituents migrating from the pad via each exposure pathway; and the possibility and extent of harm to human and environmental receptors via each exposure pathway.
    - (b) Pads must meet the following minimum standards: be designed of nonearthen material that is compatible with the chemical nature of the mineral processing spent material, capable of withstanding physical stresses associated with

placement and removal; have run-on or runoff controls, or both; be operated in a manner which controls fugitive dust; and have integrity assurance through inspections and maintenance programs.

- (c) Before making a determination under this paragraph, the department must provide notice and the opportunity for comment to all persons potentially interested in the determination. This can be accomplished by placing notice of this action in major local newspapers or broadcasting notice over local radio stations.
- (5) The owner or operator provides notice to the department, providing the following information: the types of materials to be recycled, the type and location of the storage units and recycling processes, and the annual quantities expected to be placed in land-based units. This notification must be updated when there is a change in the type of materials recycled or the location of the recycling process.
- (6) For purposes of subdivision g of subsection 2, mineral processing spent materials must be the result of mineral processing and may not include any listed hazardous wastes. Listed hazardous wastes and characteristic hazardous wastes generated by nonmineral processing industries are not eligible for the conditional exclusion from the definition of solid waste.
- r. Petrochemical recovered oil from an associated organic chemical manufacturing facility, where the oil is to be inserted into the petroleum refining process (standard industrial code 2911) along with normal petroleum refinery process streams, provided:
  - (1) The oil is hazardous only because it exhibits the characteristic of ignitability (as defined in section 33.1-24-02-11) or toxicity for benzene (as defined in section 33.1-24-02-14, hazardous waste code D018), or both; and
  - (2) The oil generated by the organic chemical manufacturing facility is not placed on the land, or speculatively accumulated before being recycled into the petroleum refining process. An "associated organic chemical manufacturing facility" is a facility where the primary standard industrial code is 2869, but where operations may also include standard industrial codes 2821, 2822, and 2865; and is physically colocated with a petroleum refinery; and where the petroleum refinery to which the oil being recycled is returned also provides hydrocarbon feedstocks to the organic chemical manufacturing facility. "Petrochemical recovered oil" is oil that has been reclaimed from secondary materials (for example, sludges, byproducts, or spent materials, including wastewater) from normal organic chemical manufacturing operations, as well as oil recovered from organic chemical manufacturing processes.
- s. Spent caustic solutions from petroleum refining liquid treating processes used as a feedstock to produce cresylic or naphthenic acid unless the material is placed on the land, or accumulated speculatively as defined in subsection 3 of section 33.1-24-02-01.
- t. Hazardous secondary materials used to make zinc fertilizers, provided that the following conditions specified are satisfied:
  - (1) Hazardous secondary materials used to make zinc micronutrient fertilizers must not be accumulated speculatively, as defined in subdivision h of subsection 3 of section 33.1-24-02-01.
  - (2) Generators and intermediate handlers of zinc-bearing hazardous secondary materials that are to be incorporated into zinc fertilizers must:

- (a) Submit a one-time notice to the department, which contains the name, address, and identification number of the generator or intermediate handler facility, provides a brief description of the secondary material that will be subject to the exclusion, and identifies when the manufacturer intends to begin managing excluded, zinc-bearing hazardous secondary materials under the conditions specified in this subdivision.
  - (b) Store the excluded secondary material in tanks, containers, or buildings that are constructed and maintained in a way that prevents releases of the secondary materials into the environment. At a minimum, any building used for this purpose must be an engineered structure made of nonearthen materials that provide structural support, and must have a floor, walls, and a roof that prevent wind dispersal and contact with rainwater. Tanks used for this purpose must be structurally sound and, if outdoors, must have roofs or covers that prevent contact with wind and rain. Containers used for this purpose must be kept closed except when it is necessary to add or remove material, and must be in sound condition. Containers that are stored outdoors must be managed within storage areas that:
    - [1] Have containment structures or systems sufficiently impervious to contain leaks, spills, and accumulated precipitation;
    - [2] Provide for effective drainage and removal of leaks, spills, and accumulated precipitation; and
    - [3] Prevent run-on into the containment system.
  - (c) With each offsite shipment of excluded hazardous secondary materials, provide written notice to the receiving facility that the material is subject to the conditions of this subdivision.
  - (d) Maintain at the generator's or intermediate handler's facility for no less than three years records of all shipments of excluded hazardous secondary materials. For each shipment these records must at a minimum contain the following information:
    - [1] Name of the transporter and date of the shipment;
    - [2] Name and address of the facility that received the excluded material, and documentation confirming receipt of the shipment; and
    - [3] Type and quantity of excluded secondary material in each shipment.
- (3) Manufacturers of zinc fertilizers or zinc fertilizer ingredients made from excluded hazardous secondary materials must:
- (a) Store excluded hazardous secondary materials in accordance with the storage requirements for generators and intermediate handlers, as specified in subparagraph b of paragraph 2.
  - (b) Submit a one-time notification to the department that, at a minimum, specifies the name, address, and identification number of the manufacturing facility, and identifies when the manufacturer intends to begin managing excluded, zinc-bearing hazardous secondary materials under the conditions specified in this subdivision.

- (c) Maintain for a minimum of three years records of all shipments of excluded hazardous secondary materials received by the manufacturer, which must at a minimum identify for each shipment the name and address of the generating facility, name of transporter and date the materials were received, the quantity received, and a brief description of the industrial process that generated the material.
- (d) Submit to the department an annual report that identifies the total quantities of all excluded hazardous secondary materials that were used to manufacture zinc fertilizers or zinc fertilizer ingredients in the previous year, the name and address of each generating facility, and the industrial process or processes from which they were generated. The annual report shall be submitted by March first of every year.
- (4) Nothing in this subdivision preempts, overrides, or otherwise negates the provision in section 33.1-24-03-02, which requires any person who generates a solid waste to determine if that waste is a hazardous waste.
- (5) Interim status and permitted storage units that have been used to store only zinc-bearing hazardous wastes prior to the submission of the one-time notice described in subparagraph a of paragraph 2, and that afterward will be used only to store hazardous secondary materials excluded under this subdivision, are not subject to the closure requirements of sections 33.1-24-05-01 through 33.1-24-05-190, 33.1-24-05-300 through 33.1-24-05-524, 33.1-24-05-550 through 33.1-24-05-559, and 33.1-24-05-800 through 33.1-24-05-819 and the applicable requirements of subsection 5 of section 33.1-24-06-16.
- u. Zinc fertilizers made from hazardous wastes, or hazardous secondary materials that are excluded under subdivision t, provided that:

- (1) The fertilizers meet the following contaminant limits:

- (a) For metal contaminants:

Constituent	Maximum Allowable Total Concentration in Fertilizer, Per Unit (1 Percent) of Zinc (ppm)
Arsenic	0.3
Cadmium	1.4
Chromium	0.6
Lead	2.8
Mercury	0.3

- (b) For dioxin contaminants the fertilizer must contain no more than eight parts per trillion of dioxin, measured as toxic equivalent (TEQ).
- (2) The manufacturer performs sampling and analysis of the fertilizer product to determine compliance with the contaminant limits for metals no less than every six months, and for dioxins no less than every twelve months. Testing must also be performed whenever changes occur to manufacturing processes or ingredients that could significantly affect the amounts of contaminants in the fertilizer product. The manufacturer may use any reliable analytical method to demonstrate that no constituent of concern is present in the product at concentrations above the applicable limits. It is the responsibility of the manufacturer to ensure that the

sampling and analysis are unbiased, precise, and representative of the product or products introduced into commerce.

- (3) The manufacturer maintains for no less than three years records of all sampling and analyses performed for purposes of determining compliance with the requirements of paragraph 2. Such records must at a minimum include:
  - (a) The dates and times product samples were taken and the dates the samples were analyzed;
  - (b) The names and qualifications of the person taking the samples;
  - (c) A description of the methods and equipment used to take the samples;
  - (d) The name and address of the laboratory facility at which analyses of the samples were performed;
  - (e) A description of the analytical methods used, including any cleanup and sample preparation methods; and
  - (f) All laboratory analytical results used to determine compliance with the contaminant limits specified in subdivision u.
- v. Used cathode ray tubes:
  - (1) Used, intact cathode ray tubes as defined in section 33.1-24-01-04 are not solid wastes within the United States unless they are disposed, or unless they are speculatively accumulated as defined in subdivision h of subsection 3 of section 33.1-24-02-01 by cathode ray tube collectors or glass processors.
  - (2) Used, intact cathode ray tubes as defined in section 33.1-24-01-04 are not solid wastes when exported for recycling provided that they meet the requirements of section 33.1-24-02-26.
  - (3) Used, broken cathode ray tubes as defined in section 33.1-24-01-04 are not solid wastes provided that they meet the requirements of section 33.1-24-02-25.
  - (4) Glass removed from cathode ray tubes is not a solid waste provided that it meets the requirements of subsection 3 of section 33.1-24-02-25.
- w. Solvent-contaminated wipes that are sent for cleaning and reuse are not solid wastes from the point of generation, provided that:
  - (1) The solvent-contaminated wipes, when accumulated, stored, and transported, are contained in nonleaking, closed containers that are labeled "excluded solvent-contaminated wipes." The containers must be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, or when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container must be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;
  - (2) The solvent-contaminated wipes may be accumulated by the generator for up to one hundred eighty days from the start date of accumulation for each container prior to being sent for cleaning;

- (3) At the point of being sent for cleaning onsite or at the point of being transported offsite for cleaning, the solvent-contaminated wipes must contain no free liquids as defined in section 33.1-24-01-04;
  - (4) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes must be managed according to the applicable regulations found in chapters 33.1-24-01 through 33.1-24-04 and 33.1-24-06, and sections 33.1-24-05-01 through 33.1-24-05-559, 33.1-24-05-700 through 33.1-24-05-929, and 33.1-24-05-950 through 33.1-24-05-1149;
  - (5) Generators must maintain at the facility the following documentation:
    - (a) Name and address of the laundry or dry cleaner that is receiving the solvent-contaminated wipes;
    - (b) Documentation that the 180-day accumulation time limit in paragraph 2 of subdivision w of subsection 1 of section 33.1-24-02-04 is being met; and
    - (c) Description of the process the generator is using to ensure the solvent-contaminated wipes contain no free liquids at the point of being laundered or dry cleaned onsite or at the point of being transported offsite for laundering or dry cleaning;
  - (6) The solvent-contaminated wipes are sent to a laundry or dry cleaner whose discharge, if any, is regulated under sections 301 and 402 or section 307 of the Clean Water Act.
- x. Hazardous secondary material generated and legitimately reclaimed within the United States or its territories and under the control of the generator, provided that the material complies with:
- (1) The hazardous secondary material:
    - (a) Is generated and reclaimed at the generating facility (for purposes of this definition, generating facility means all contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator); or
    - (b) Is generated and reclaimed at different facilities, if the reclaiming facility is controlled by the generator or if both the generating facility and the reclaiming facility are controlled by a person as defined in section 33.1-24-01-04, and if the generator provides one of the following certifications: "on behalf of [insert generator facility name], I certify that this facility will send the indicated hazardous secondary material to [insert reclaimer facility name], which is controlled by [insert generator facility name] and that [insert name of either facility] has acknowledged full responsibility for the safe management of the hazardous secondary material," or "on behalf of [insert generator facility name], I certify that this facility will send the indicated hazardous secondary material to [insert reclaimer facility name], that both facilities are under common control, and that [insert name of either facility] has acknowledged full responsibility for the safe management of the hazardous secondary material." For purposes of this subparagraph, "control" means the power to direct the policies of the facility, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate facilities on behalf of a different person as defined in section 33.1-24-01-04 shall not be deemed to "control" such facilities. The generating and receiving facilities must both maintain at their facilities for no less than three years records of hazardous secondary materials sent or

received under this exclusion. In both cases, the records must contain the name of the transporter, the date of the shipment, and the type and quantity of the hazardous secondary material shipped or received under the exclusion. These requirements may be satisfied by routine business records (for example, financial records, bills of lading, copies of department of transportation shipping papers, or electronic confirmation); or

- (c) Is generated pursuant to a written contract between a tolling contractor and a toll manufacturer and is reclaimed by the tolling contractor, if the tolling contractor certifies the following: "On behalf of [insert tolling contractor name], I certify that [insert tolling contractor name] has a written contract with [insert toll manufacturer name] to manufacture [insert name of product or intermediate] which is made from specified unused materials, and that [insert tolling contractor name] will reclaim the hazardous secondary materials generated during this manufacture. On behalf of [insert tolling contractor name], I also certify that [insert tolling contractor name] retains ownership of, and responsibility for, the hazardous secondary materials that are generated during the course of the manufacture, including any releases of hazardous secondary materials that occur during the manufacturing process." The tolling contractor must maintain at its facility for no less than three years records of hazardous secondary materials received pursuant to its written contract with the tolling manufacturer, and the tolling manufacturer must maintain at its facility for no less than three years records of hazardous secondary materials shipped pursuant to its written contract with the tolling contractor. In both cases, the records must contain the name of the transporter, the date of the shipment, and the type and quantity of the hazardous secondary material shipped or received pursuant to the written contract. These requirements may be satisfied by routine business records (for example, financial records, bills of lading, copies of department of transportation shipping papers, or electronic confirmations). For purposes of this subparagraph, tolling contractor means a person who arranges for the production of a product or intermediate made from specified unused materials through a written contact with a toll manufacturer. Toll manufacturer means a person who produces a product or intermediate made from specified unused materials pursuant to a written contract with a tolling contractor.
- (2) The following requirements apply to hazardous secondary material managed under this exclusion:
- (a) The hazardous secondary material is contained as defined in section 33.1-24-01-04. A hazardous secondary material released to the environment is discarded and a solid waste unless it is immediately recovered for the purpose of reclamation. Hazardous secondary material managed in a unit with leaks or other continuing or intermittent unpermitted releases is discarded and a solid waste.
  - (b) The hazardous secondary material is not speculatively accumulated, as defined in subdivision h of subsection 3 of section 33.1-24-02-01.
  - (c) Notice is provided as required by section 33.1-24-01-18.
  - (d) The material is not otherwise subject to material-specific management conditions under subsection 1 when reclaimed, and it is not a spent lead-acid battery (see sections 33.1-24-05-235 and 33.1-24-05-702).

- (e) Persons performing the recycling of hazardous secondary materials under this exclusion must maintain documentation of their legitimacy determination onsite. Documentation must be a written description of how the recycling meets all four factors in subsection 1 of section 33.1-24-01-19. Documentation must be maintained for three years after the recycling operation has ceased.
  - (f) The emergency preparedness and response requirements found in sections 33.1-24-02-120 through 33.1-24-02-129 are met.
- y. Hazardous secondary material that is generated and then transferred to another person for the purpose of reclamation is not a solid waste, provided that:
  - (1) The material is not speculatively accumulated, as defined in subdivision h of subsection 3 of section 33.1-24-02-01;
  - (2) The material is not handled by any person or facility other than the hazardous secondary material generator, the transporter, an intermediate facility or a reclaimer, and, while in transport, is not stored for more than ten days at a transfer facility, as defined in section 33.1-24-01-04, and is packaged according to applicable department of transportation regulations at 49 CFR parts 173, 178, and 179 while in transport;
  - (3) The material is not otherwise subject to material-specific management conditions under subsection 1 when reclaimed, and it is not a spent lead-acid battery (see sections 33.1-24-05-235 and 33.1-24-05-702);
  - (4) The reclamation of the material is legitimate, as specified under section 33.1-24-01-19;
  - (5) The hazardous secondary material generator satisfied all of the following conditions;
    - (a) The material must be contained as defined in section 33.1-24-01-04. A hazardous secondary material released to the environment is discarded and a solid waste unless it is immediately recovered for the purpose of recycling. Hazardous secondary material managed in a unit with leaks or other continuing releases is discarded and a solid waste.
    - (b) Prior to arranging for transport of hazardous secondary materials to a reclamation facility where the management of hazardous secondary materials is not addressed under a hazardous waste permit or interim status standards, the hazardous secondary material generator shall make reasonable efforts to ensure each reclaimer intends to properly and legitimately reclaim the hazardous secondary material and not discard it; and that each reclaimer will manage the hazardous secondary material in a manner that is protective of human health and the environment. If the hazardous secondary material will be passing through an intermediate facility where the management of the hazardous secondary materials is not addressed under a hazardous waste permit or interim status standards, the hazardous secondary material generator shall make contractual arrangements with the intermediate facility to ensure that the hazardous secondary material is sent to the reclamation facility identified by the hazardous secondary material generator, and the hazardous secondary material generator shall perform reasonable efforts to ensure that the intermediate facility will manage the hazardous secondary material in a manner that is protective of human health and the environment. Reasonable efforts must be repeated at a minimum of every three years for the hazardous secondary material generator to claim the exclusion and to send the hazardous

secondary materials to each reclaimer and any intermediate facility. In making these reasonable efforts, the generator may use any credible evidence available, including information gathered by the hazardous secondary material generator, provided by the reclaimer or intermediate facility, or provided by a third party, or provided by both. The hazardous secondary material generator shall answer affirmatively all of the following questions for each reclamation facility and any intermediate facility:

- [1] Does the available information indicate the reclamation process is legitimate pursuant to section 33.1-24-01-19?
  - [2] Does the publicly available information indicate the reclamation facility, and any intermediate facility, used by the hazardous secondary material generator notified the appropriate authorities of hazardous secondary materials reclamation activities pursuant to section 33.1-24-01-18, and have they notified the appropriate authorities the financial assurance condition has been satisfied?
  - [3] Does the publicly available information indicate the reclamation facility, or any intermediate facility, used by the secondary material generator has not had any formal enforcement actions taken against the facility in the previous three years for violations of North Dakota hazardous waste rules?
  - [4] Does the available information indicate the reclamation facility, and any intermediate facility, used by the hazardous secondary material generator have the equipment and trained personnel to safely recycle the hazardous secondary material?
  - [5] If residuals are generated from the reclamation of the excluded hazardous secondary materials, does the reclamation facility have the permits required to manage the residuals? If not, does the reclamation facility have a contract with an appropriately permitted facility to dispose of the residuals? If not, does the hazardous secondary material generator have credible evidence the residuals will be managed in a manner that is protective of human health and the environment?
- (c) The hazardous secondary material generator must maintain at the generating facility for no less than three years records of all offsite shipments of hazardous secondary materials. For each shipment, these records must, at a minimum, contain the following information:
- [1] Name of the transporter and date of the shipment;
  - [2] Name and address of each reclaimer and, if applicable, the name and address of each intermediate facility to which the hazardous secondary material was sent; and
  - [3] The type and quantity of hazardous secondary material in the shipment.
- (d) The hazardous secondary material generator must maintain at the generating facility for no less than three years confirmations of receipt from each reclaimer and, if applicable, each intermediate facility for all offsite shipments of hazardous secondary materials. Confirmations of receipt must include the name and address of the reclaimer or intermediate facility, the type and quantity of the hazardous secondary materials received and the date which the

hazardous secondary materials were received. This requirement may be satisfied by routine business records (for example, financial records, bills of lading, copies of department of transportation shipping papers, or electronic confirmations of receipt).

- (e) The hazardous secondary material generator must comply with the emergency preparedness and response conditions in sections 33.1-24-02-120 through 33.1-24-02-129.
- (6) Reclaimers of hazardous secondary material excluded from regulation under this exclusion and intermediate facilities as defined in section 33.1-24-01-04 satisfy all of the following conditions:
- (a) The reclaimer and intermediate facility must maintain at its facility for no less than three years records of all shipments of hazardous secondary material that were received at the facility and, if applicable, for all shipments of hazardous secondary materials that were received and subsequently sent offsite from the facility for further reclamation. For each shipment, these records must at a minimum contain the following information:
    - [1] Name of the transporter and date of the shipment;
    - [2] Name and address of the hazardous secondary material generator and, if applicable, the name and address of the reclaimer or intermediate facility which the hazardous secondary materials were received from;
    - [3] The type and quantity of hazardous secondary material in the shipment; and
    - [4] For hazardous secondary materials that, after being received by the reclaimer or intermediate facility, were subsequently transferred offsite for further reclamation, the name and address of the subsequent reclaimer and, if applicable, the name and address of each intermediate facility to which the hazardous secondary material was sent.
  - (b) The intermediate facility must send the hazardous secondary material to the reclaimer or reclaimers designated by the hazardous secondary materials generator.
  - (c) The reclaimer and intermediate facility must send to the hazardous secondary material generator confirmations of receipt for all offsite shipments of hazardous secondary materials. Confirmations of receipt must include the name and address of the reclaimer or intermediate facility, the type and quantity of the hazardous secondary materials received and the date which the hazardous secondary materials were received. This requirement may be satisfied by routine business records (for example, financial records, bills of lading, copies of department of transportation shipping papers, or electronic confirmations of receipt).
  - (d) The reclaimer and intermediate facility must manage the hazardous secondary material in a manner that is at least as protective as that employed for analogous raw material and must be contained. An "analogous raw material" is a raw material for which a hazardous secondary material is a substitute and serves the same function and has similar physical and chemical properties as the hazardous secondary material.

- (e) Any residuals that are generated from reclamation processes will be managed in a manner that is protective of human health and the environment. If any residuals exhibit a hazardous characteristic according to sections 33.1-24-02-10 through 33.1-24-02-14, or if the residuals themselves are specifically listed in sections 33.1-24-02-15 through 33.1-24-02-19, such residuals are hazardous wastes and must be managed in accordance with the applicable requirements of chapters 33.1-24-01 through 33.1-24-04, sections 33.1-24-05-01 through 33.1-24-05-559, 33.1-24-05-800 through 33.1-24-05-929, 33.1-24-05-950 through 33.1-24-05-1149, subsection 5 of section 33.1-24-06-16 and chapter 33.1-24-06.
  - (f) The reclaimer and intermediate facility have financial assurance as required under sections 33.1-24-02-33 through 33.1-24-02-42.
  - (g) The reclaimer and intermediate facility have been granted a variance under subsection 4 of section 33.1-24-01-10 or have a hazardous waste permit or interim status standards that address the management of the hazardous secondary materials; and
- (7) All persons claiming the exclusion under this subdivision provide notification as required under section 33.1-24-01-18.
- z. Hazardous secondary material that is generated and then transferred to another person for the purpose of remanufacturing is not a solid waste, provided that:
- (1) The hazardous secondary material consists of one or more of the following spent solvents: toluene, xylenes, ethylbenzene, 1,2,4-trimethylbenzene, chlorobenzene, n-hexane, cyclohexane, methyl tert-butyl ether, acetonitrile, chloroform, chloromethane, dichloromethane, methyl isobutyl ketone, NN-dimethylformamide, tetrahydrofuran, n-butyl alcohol, ethanol, and methanol;
  - (2) The hazardous secondary material originated from using one or more of the solvents listed in paragraph 1, in a commercial grade for reacting, extracting, purifying, or blending chemicals (or for rinsing out the process lines associated with these functions) in the pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), and the paints and coatings manufacturing sectors (NAICS 325510).
  - (3) The hazardous secondary material generator sends the hazardous secondary material spent solvents listed in paragraph 1 to a remanufacturer in the pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), or the paints and coatings manufacturing sectors (NAICS 325510).
  - (4) After remanufacturing one or more of the solvents listed in paragraph 1, the use of the remanufactured solvent shall be limited to reacting, extracting, purifying, or blending chemicals (or for rinsing out the process lines associated with these functions) in the pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), and the paints and coatings manufacturing sectors (NAICS 325510) or to using them as ingredients in a product. These allowed uses correspond to chemical functional uses enumerated under the chemical data reporting rule of the Toxic Substances Control Act [40 CFR parts 704, 710-711], including industrial function codes U015 (solvents consumed in a reaction to produce other chemicals) and U030 (solvents become part of the mixture);

- (5) After remanufacturing one or more of the solvents listed in paragraph 1, the use of the remanufactured solvent does not involve cleaning or degreasing oil, grease, or similar material from textiles, glassware, metal surfaces, or other articles. These disallowed continuing uses correspond to chemical functional uses in industrial function code U029 under the chemical data reporting rule of the Toxic Substances Control Act; and
- (6) Both the hazardous secondary material generator and the remanufacturer must:
  - (a) Notify the department and update the notification every two years per section 33.1-24-01-18;
  - (b) Develop and maintain an up-to-date remanufacturing plan which identifies:
    - [1] The name, address, and identification number of the generator or generators and the remanufacturer or remanufacturers;
    - [2] The types and estimated annual volumes of spent solvents to be remanufactured;
    - [3] The processes and industry sectors that generate the spent solvents;
    - [4] The specific uses and industry sectors for the remanufactured solvents; and
    - [5] Certification from the remanufacturer stating "On behalf of [insert remanufacturer facility name], I certify that this facility is a remanufacturer under pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), or the paints and coatings manufacturing sectors (NAICS 325510), and will accept the spent solvent or solvents for the sole purpose of remanufacturing into commercial-grade solvent or solvents that will be used for reacting, extracting, purifying, or blending chemicals (or for rinsing out the process lines associated with these functions), or for the use as product ingredient or ingredients. I also certify that the remanufacturing equipment, vents, and tanks are equipped with and are operating air emission controls in compliance with the appropriate Clean Air Act regulations under 40 CFR Part 60, Part 61 or Part 63, or, absent such Clean Air Act standards for the particular operation or piece of equipment covered by the remanufacturing exclusion, are in compliance with the appropriate standards in sections 33.1-24-02-170 through 33.1-24-02-179 (vents), sections 33.1-24-02-180 through 33.1-24-02-199 (equipment), and sections 33.1-24-02-200 through 33.1-24-02-214 (tank storage)";
  - (c) Maintain records of shipments and confirmations of receipts for a period of three years from the dates of the shipments;
  - (d) Prior to remanufacturing, store the hazardous spent solvents in tanks or containers that meet technical standards found in sections 33.1-24-02-50 through 33.1-24-02-59 and sections 33.1-24-02-60 through 33.1-24-02-74, with the tanks and containers being labeled or otherwise having an immediately available record of material being stored;
  - (e) During remanufacturing, and during storage of the hazardous secondary materials prior to remanufacturing, the remanufacturer certifies that the remanufacturing equipment, vents, and tanks are equipped with and are

operating air emission controls in compliance with the appropriate Clean Air Act regulations under 40 CFR parts 60, 61, or 63; or, absent such Clean Air Act standards for the particular operation or piece of equipment covered by the remanufacturing exclusion, are in compliance with the appropriate standards in sections 33.1-24-02-170 through 33.1-24-02-179 (vents), sections 33.1-24-02-180 through 33.1-24-02-199 (equipment), and sections 33.1-24-02-200 through 33.1-24-02-214 (tank storage); and

- (f) Meet the requirements prohibiting speculative accumulation per subdivision h of subsection 3 of section 33-24-02-01.

2. **Solid wastes that are not hazardous wastes.** The following solid wastes are not hazardous wastes:

- a. Household waste, including household waste that has been collected, transported, stored, treated, disposed, recovered, for example, refuse-derived fuel, or reused. "Household waste" means any waste material (including garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels, and motels), bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas). A resource recovery facility managing municipal solid waste may not be deemed to be treating, storing, disposing of, or otherwise managing hazardous wastes for the purpose of regulation under this article, if such facility:
  - (1) Receives and burns only:
    - (a) Household waste (from single and multiple dwellings, hotels, motels, and other residential sources); and
    - (b) Solid waste from commercial or industrial sources that does not contain hazardous waste; and
  - (2) Such facility does not accept hazardous wastes and the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that hazardous wastes are not received at or burned in such facility.
- b. Solid wastes generated by any of the following and which are returned to the soils as fertilizers:
  - (1) The growing and harvesting of agricultural crops.
  - (2) The raising of animals, including animal manures.
- c. Mining overburden returned to the minesite.
- d. Wastes generated primarily from the combustion or processes that support the combustion of coal or other fossil fuels:
  - (1) Fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels, except as provided by section 33.1-24-05-537 for facilities that burn or process hazardous waste.
  - (2) The following wastes generated primarily from processes that support the combustion of coal or other fossil fuels that are codisposed with the wastes in

paragraph 1, except as provided by section 33.1-24-05-537 for facilities that burn or process hazardous waste:

- (a) Coal pile runoff. For purposes of this subdivision, coal pile runoff means any precipitation that drains off coal piles.
  - (b) Boiler cleaning solutions. For purposes of this subdivision, boiler cleaning solutions means water solutions and chemical solutions used to clean the fire-side and water-side of the boiler.
  - (c) Boiler blowdown. For purposes of this subdivision, boiler blowdown means water purged from boilers used to generate steam.
  - (d) Process water treatment and demineralizer regeneration wastes. For purposes of this subdivision, process water treatment and demineralizer regeneration wastes means sludges, rinses, and spent resins generated from processes to remove dissolved gases, suspended solids, and dissolved chemical salts from combustion system process water.
  - (e) Cooling tower blowdown. For purposes of this subdivision, cooling tower blowdown means water purged from a closed-cycle cooling system. Closed-cycle cooling systems include cooling towers, cooling ponds, or spray canals.
  - (f) Air heater and precipitator washes. For purposes of this subdivision, air heater and precipitator washes means wastes from cleaning air preheaters and electrostatic precipitators.
  - (g) Effluents from floor and yard drains and sumps. For purposes of this subdivision, effluents from floor and yard drains and sumps means wastewaters, such as wash water, collected by or from floor drains, equipment drains, and sumps located inside the power plant building; and wastewaters, such as rain runoff, collected by yard drains and sumps located outside the power plant building.
  - (h) Wastewater treatment sludges. For purposes of this subdivision, wastewater treatment sludges refers to sludges generated from the treatment of wastewaters specified in subparagraphs a through f.
- e. Drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal energy.
- f. The following chromium-containing wastes:
- (1) Wastes that fail the test for the toxicity characteristic because chromium is present or are listed in this chapter due to the presence of chromium, which do not fail the test for toxicity characteristic for any other constituent or are not listed due to the presence of any other constituent, and which do not fail the test for any other characteristic, if it is shown by a waste generator or by waste generators that:
    - (a) The chromium in the waste is exclusively (or nearly exclusively) trivalent chromium;
    - (b) The waste is generated from an industrial process which uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and
    - (c) The waste is typically and frequently managed in nonoxidizing environments.

- (2) Specific wastes which meet the standard of paragraph 1 (so long as they do not fail the test for the toxicity characteristic for any other constituent, and do not exhibit any other characteristic) are:
  - (a) Chrome (blue) trimmings, chrome (blue) shavings, sewer screenings, and wastewater treatment sludges, generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.
  - (b) Buffing dust generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; and through-the-blue.
  - (c) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; and through-the-blue.
  - (d) Waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries.
  - (e) Wastewater treatment sludges from the production of TiO<sub>2</sub> pigment using chromium-bearing ores by the chloride process.
- g. Solid waste from the extraction, beneficiation, and processing of ores and minerals (including coal, phosphate rock, and overburden from the mining of uranium ore), except as provided by section 33.1-24-05-537 for facilities that burn or process hazardous waste.
  - (1) For purposes of this subdivision, beneficiation of ores and minerals is restricted to the following activities: crushing; grinding; washing; dissolution; crystallization; filtration; sorting; sizing; drying; sintering; pelletizing; briquetting; calcining to remove water or carbon dioxide, or both; roasting, autoclaving, or chlorination, or a combination thereof, in preparation for leaching (except when the roasting, autoclaving, or chlorination or a combination thereof, and leaching sequence produces a final or intermediate product that does not undergo further beneficiation or processing); gravity concentration; magnetic separation; electrostatic separation; flotation; ion exchange; solvent extraction; electrowinning; precipitation; amalgamation; and heap, dump, vat, tank, and in situ leaching.
  - (2) For the purposes of this subdivision, solid waste from the processing of ores and minerals includes only the following wastes as generated:
    - (a) Slag from primary copper processing;
    - (b) Slag from primary lead processing;
    - (c) Red and brown muds from bauxite refining;
    - (d) Phosphogypsum from phosphoric acid production;
    - (e) Slag from elemental phosphorous production;
    - (f) Gasifier ash from coal gasification;
    - (g) Process wastewater from coal gasification;

- (h) Calcium sulfate wastewater treatment plant sludge from primary copper processing;
  - (i) Slag tailings from primary copper processing;
  - (j) Fluorogypsum from hydrofluoric acid production;
  - (k) Process wastewater from hydrofluoric acid production;
  - (l) Air pollution control dust or sludge from iron blast furnaces;
  - (m) Iron blast furnace slag;
  - (n) Treated residue from roasting or leaching of chrome ore;
  - (o) Process wastewater from primary magnesium processing by the anhydrous process;
  - (p) Process wastewater from phosphoric acid production;
  - (q) Basic oxygen furnace and open hearth furnace air pollution control dust or sludge from carbon steel production;
  - (r) Basic oxygen furnace and open hearth furnace slag from carbon steel production;
  - (s) Chloride process waste solids from titanium tetrachloride production; and
  - (t) Slag from primary zinc processing.
- (3) A residue derived from coprocessing mineral processing secondary materials with normal beneficiation raw materials or with normal mineral processing raw materials remains excluded under this subsection if the owner or operator:
- (a) Processes at least fifty percent by weight normal beneficiation raw materials or with normal mineral processing raw materials; and
  - (b) Legitimately reclaims the secondary mineral processing materials.
- h. Cement kiln dust waste, except as provided by section 33.1-24-05-537 for facilities that burn or process hazardous waste.
  - i. Solid waste that consists of discarded arsenical-treated wood or wood products which fails the test for the toxicity characteristic for hazardous waste codes D004 through D017 and which is not a hazardous waste for any other reason, if the waste is generated by persons who utilize the arsenical-treated wood and wood products for these materials intended end use.
  - j. Petroleum-contaminated media and debris that fail the test for the toxicity characteristic of section 33.1-24-02-14 (hazardous waste codes D018 through D043 only) and are subject to the corrective action regulations under chapter 33.1-24-08.
  - k. Injected ground water that is hazardous only because it exhibits the toxicity characteristic (hazardous waste codes D018 through D043 only) in section 33.1-24-02-14 that is reinjected through an underground injection well pursuant to free phase hydrocarbon recovery operations undertaken at petroleum refineries, petroleum marketing terminals, petroleum bulk plants, petroleum pipelines, and petroleum transportation spill sites until January 25, 1993. This extension applies to recovery operations in existence, or for

which contracts have been issued, on or before March 25, 1991. For ground water returned through infiltration galleries from such operations at petroleum refineries, marketing terminals, and bulk plants, until October 2, 1991. New operations involving injection wells (beginning after March 25, 1991) will qualify for this compliance date extension (until January 25, 1993) only if:

- (1) Operations are performed pursuant to a written state agreement that includes a provision to assess the ground water and the need for further remediation once the free phase recovery is completed; and
  - (2) A copy of the written agreement has been submitted to Waste Identification Branch (5304), United States Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, D.C. 20460.
- l. Used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment, including mobile air-conditioning systems, mobile refrigeration, and commercial and industrial air-conditioning and refrigeration systems that use chlorofluorocarbons as the heat transfer fluid in a refrigeration cycle, provided the refrigerant is reclaimed for further use.
  - m. Nonterne plated used oil filters that are not mixed with waste listed in sections 33.1-24-02-15 through 33.1-24-02-19 if these oil filters have been gravity hot-drained using one of the following methods:
    - (1) Puncturing the filter antidrain back valve or the filter dome end and hot-draining;
    - (2) Hot-draining and crushing;
    - (3) Dismantling and hot-draining; or
    - (4) Any other equivalent hot-draining method that will remove used oil.
  - n. Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.
  - o. Leachate or gas condensate collected from landfills where certain solid wastes have been disposed, provided that:
    - (1) The solid wastes disposed would meet one or more of the listing descriptions for hazardous wastes codes K169, K170, K171, K172, K174, K175, K176, K177, K178, and K181 if these wastes had been generated after the effective date of the listing;
    - (2) The solid wastes described in paragraph 1 were disposed prior to the effective date of the listing;
    - (3) The leachate or gas condensate do not exhibit any characteristic of hazardous waste nor are derived from any other listed hazardous waste;
    - (4) Discharge of the leachate or gas condensate, including leachate or gas condensate transferred from the landfill to a publicly owned treatment works by truck, rail, or dedicated pipe, is subject to regulation under sections 307(b) or 402 of the Clean Water Act.
    - (5) As of February 13, 2001, leachate or gas condensate derived from K169 through K172 is no longer exempt if it is stored or managed in a surface impoundment prior to discharge. As of November 21, 2003, leachate or gas condensate derived from K176, K177, and K178 is no longer exempt if it is stored or managed in a surface

impoundment prior to discharge. After February 26, 2007, leachate or gas condensate derived from K181 will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. There is one exception: if the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation (for example, shutdown of wastewater treatment system), provided the impoundment has a double liner, and provided the leachate or gas condensate is removed from the impoundment and continues to be managed in compliance with the conditions of this paragraph after the emergency ends.

- p. Solvent-contaminated wipes, except for wipes that are hazardous waste due to the presence of trichloroethylene, that are sent for disposal are not hazardous wastes from the point of generation, provided that:
- (1) The solvent-contaminated wipes, when accumulated, stored, and transported, are contained in nonleaking, closed containers that are labeled "excluded solvent-contaminated wipes". The containers must be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, or when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container must be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;
  - (2) The solvent-contaminated wipes may be accumulated by the generator for up to one hundred eighty days from the start date of accumulation for each container prior to being sent for disposal;
  - (3) At the point of being transported for disposal, the solvent-contaminated wipes must contain no free liquids as defined in section 33.1-24-01-04;
  - (4) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes must be managed according to the applicable regulations found in chapters 33.1-24-01 through 33.1-24-04 and 33.1-24-06, sections 33.1-24-05-01 through 33.1-24-05-559, 33.1-24-05-700 through 33.1-24-05-929, and 33.1-24-05-950 through 33.1-24-05-1149;
  - (5) Generators must maintain at the facility the following documentation:
    - (a) Name and address of the landfill or combustor that is receiving the solvent-contaminated wipes;
    - (b) Documentation that the one hundred eighty-day accumulation time limit in paragraph 2 of subdivision p of subsection 2 of section 33.1-24-02-04 is being met; and
    - (c) Description of the process the generator is using to ensure solvent-contaminated wipes contain no free liquids at the point of being transported for disposal;
  - (6) The solvent-contaminated wipes are sent for disposal:
    - (a) To a municipal solid waste landfill regulated under article 33.1-20, including chapter 33.1-20-06.1, or to a hazardous waste landfill regulated under sections 33.1-24-05-01 through 33.1-24-05-190, 33.1-24-05-300 through 33.1-24-05-524, 33.1-24-05-550 through 33.1-24-05-559, and 33.1-24-05-800 through 33.1-24-05-819, or subsection 5 of section 33.1-24-06-16; or

- (b) To a municipal waste combustor or other combustion facility regulated under section 129 of the Clean Air Act or to a hazardous waste combustor, boiler, or industrial furnace regulated under sections 33.1-24-05-01 through 33.1-24-05-190, 33.1-24-05-300 through 33.1-24-05-524, 33.1-24-05-550 through 33.1-24-05-559, 33.1-24-05-800 through 33.1-24-05-819, subsection 5 of section 33.1-24-06-16, or sections 33.1-24-05-525 through 33.1-24-05-549.
3. **Hazardous wastes that are exempted from certain regulations.** A hazardous waste which is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated non-waste-treatment-manufacturing unit is not subject to regulation under chapters 33.1-24-03 through 33.1-24-07 or to the notification requirements until it exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than ninety days after the unit ceases to be operated for manufacturing, or for storage or transportation of product or raw materials.
4. **Samples.**
- a. Except as provided in subdivision b and d, a sample of solid waste or a sample of water, soil, or air, which is collected for the sole purpose of testing to determine its characteristics or composition, is not subject to any requirements of this chapter or chapters 33.1-24-03 through 33.1-24-07 or to the notification requirements when:
    - (1) The sample is being transported to a laboratory for the purpose of testing;
    - (2) The sample is being transported back to the sample collector after testing;
    - (3) The sample is being stored by the sample collector before transport to a laboratory for testing;
    - (4) The sample is being stored in a laboratory before testing;
    - (5) The sample is being stored in a laboratory after testing but before it is returned to the sample collector; or
    - (6) The sample is being stored temporarily in the laboratory after testing for a specific purpose, e.g., until conclusion of a court case or enforcement action if further testing of the sample may be necessary.
  - b. In order to qualify for the exemption in paragraphs 1 and 2 of subdivision a, a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must:
    - (1) Comply with the United States department of transportation, the United States postal service, or any other applicable shipping requirement; or
    - (2) Comply with the following requirements if the sample collector determines that the United States department of transportation, the United States postal service, or other shipping requirements do not apply to the shipment of the sample:
      - (a) Assure that the following information accompanies the sample:
        - [1] The sample collector's name, mailing address, and telephone number;
        - [2] The laboratory's name, mailing address, and telephone number;
        - [3] The quantity of the sample;

[4] The date of shipment; and

[5] A description of the sample.

- (b) Package the sample so that it does not leak, spill, or vaporize from its packaging.
- c. This exemption does not apply if the laboratory determines that the waste is hazardous but the laboratory is no longer meeting any of the conditions stated in subdivision a.
- d. In order to qualify for the exemption in paragraphs 1 and 2 of subdivision a, the mass of a sample that will be exported to a foreign laboratory or that will be imported to a United States laboratory from a foreign source must additionally not exceed twenty-five kilograms.

**5. Treatability study samples.**

- a. Except as provided in subdivision b, persons who generate or collect samples for the purpose of conducting treatability studies as defined in section 33.1-24-01-04 are not subject to any requirement of chapters 33.1-24-02 through 33.1-24-04 or to the notification requirements, nor are such samples included in the quantity determination of ~~section 33.1-24-02-05~~ subsection 2 of section 33.1-24-03-03 and section 33.1-24-03-29 when:
  - (1) The sample is being collected and prepared for transportation by the generator or sample collectors;
  - (2) The sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing facility; or
  - (3) The sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study.
- b. The exemption in subdivision a is applicable to samples of hazardous waste being collected and shipped for the purpose of conducting treatability studies provided that:
  - (1) The generator or sample collector uses, in "treatability studies", no more than ten thousand kilograms of media contaminated with nonacute hazardous waste, one thousand kilograms of nonacute hazardous waste other than contaminated media, one kilogram of acute hazardous waste, twenty-five hundred kilograms of media contaminated with acute hazardous waste for each process being evaluated for each generated waste stream.
  - (2) The mass of each sample shipment does not exceed ten thousand kilograms; the ten thousand kilogram quantity may be all media contaminated with nonacute hazardous waste, or may include twenty-five hundred kilograms of media contaminated with acute hazardous waste, one thousand kilograms of hazardous waste, and one kilogram of acute hazardous waste.
  - (3) The sample must be packaged so that it will not leak, spill, or vaporize from its packaging during shipment and the requirements of subparagraph a or b are met.
    - (a) The transportation of each sample shipment complies with United States department of transportation, United States postal service, or any other applicable shipping requirements; or

- (b) If the United States department of transportation, United States postal service, or other shipping requirements do not apply to the shipment of the sample, the following information must accompany the sample:
  - [1] The name, mailing address, and telephone number of the originator of the samples;
  - [2] The name, address, and telephone number of the facility that will perform the treatability study;
  - [3] The quantity of the sample;
  - [4] The date of shipment; and
  - [5] A description of the sample, including its hazardous waste number.
- (4) The sample is shipped to a laboratory or testing facility which is exempt under subsection 6 of section 33.1-23-02-04 or has an appropriate hazardous waste permit or interim status.
- (5) The generator or sample collector maintains the following records for a period ending three years after completion of the treatability study:
  - (a) Copies of the shipping document;
  - (b) A copy of the contract with the facility conducting the treatability study;
  - (c) Documentation showing:
    - [1] The amount of waste shipped under this exemption;
    - [2] The name, address, and identification number of the laboratory or testing facility that received the waste;
    - [3] The date the shipment was made; and
    - [4] Whether unused samples and residues were returned to the generator.
- (6) The generator reports the information required under subparagraph c of paragraph 5 in its biennial report.
- c. The department may grant requests, on a case-by-case basis, for up to an additional two years for treatability studies involving bioremediation. The department may grant requests on a case-by-case basis for quantity limits in excess of those specified in paragraphs 1 and 2 of subdivision b and subdivision d of subsection 6, for up to an additional five thousand kilograms of media contaminated with nonacute hazardous waste, five hundred kilograms of nonacute hazardous waste, twenty-five hundred kilograms of media contaminated with acute hazardous waste, and one kilogram of acute hazardous waste:
  - (1) In response to requests for authorization to ship, store, and conduct treatability studies on additional quantities in advance of commencing treatability studies. Factors to be considered in reviewing such requests include the nature of the technology, the type of process, for example, batch versus continuous, size of the unit undergoing testing, particularly in relation to scale-up considerations, the time and quantity of material required to reach steady state operating conditions, or test design considerations such as mass balance calculations.

- (2) In response to requests for authorization to ship, store, and conduct treatability studies on additional quantities after initiation or completion of initial treatability studies, when there has been an equipment or mechanical failure during the conduct of the treatability study; there is a need to verify the results of a previous study; there is a need to study and analyze alternative techniques within a previously evaluated process; or there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment.
- (3) The additional quantities and timeframes allowed in paragraphs 1 and 2 are subject to all the provisions in subdivision a and paragraphs 3 through 6 of subdivision b. The generator or sample collector must apply to the department and provide in writing the following information:
  - (a) The reason why the generator or sample collector requires additional time or quantity of sample for treatability study evaluation and the additional time or quantity needed;
  - (b) Documentation accounting for all samples of hazardous waste from the waste stream which have been sent for or undergone treatability studies, including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results on each treatability study;
  - (c) A description of the technical modifications or change in specifications which will be evaluated and the expected results;
  - (d) If such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and
  - (e) Such other information that the department considers necessary.
- d. In order to qualify for the exemption in paragraph 1 of subdivision a, the mass of a sample that will be exported to a foreign laboratory or that will be imported to a United States laboratory from a foreign source must additionally not exceed twenty-five kilograms.

6. **Samples undergoing treatability studies at laboratories and testing facilities.** Samples undergoing treatability studies and the laboratory or testing facility conducting such treatability studies, to the extent such facilities are not otherwise subject to hazardous waste requirements, are not subject to any requirements of this article, or to the notification requirements provided that the conditions of subdivisions a through k are met. A mobile treatment unit may qualify as a testing facility subject to subdivisions a through k. Where a group of mobile treatment units are located at the same site, the limitations specified in subdivisions a through k apply to the entire group of mobile treatment units collectively as if the group were one mobile treatment unit.

- a. No less than forty-five days before conducting treatability studies, the facility notifies the department in writing that it intends to conduct treatability studies under this subsection.
- b. The laboratory or testing facility conducting the treatability study has an identification number.
- c. No more than a total of ten thousand kilograms of "as received" media contaminated with nonacute hazardous waste, twenty-five hundred kilograms of media contaminated with

acute hazardous waste, or two hundred fifty kilograms of other "as received" hazardous waste is subject to initiation of treatment in all treatability studies in any single day. "As received" wastes refers to the waste as received in the shipment from the generator or sample collector.

- d. The quantity of "as received" hazardous waste stored at the facility for the purpose of evaluation in treatability studies does not exceed ten thousand kilograms, the total of which can include ten thousand kilograms of media contaminated with nonacute hazardous waste, twenty-five hundred kilograms of media contaminated with acute hazardous waste, one thousand kilograms of nonacute hazardous waste other than contaminated media, and one kilogram of acute hazardous waste. This quantity limitation does not include treatment materials, including nonhazardous solid waste, added to "as received" hazardous waste.
- e. No more than ninety days have elapsed since the treatability study for the sample was completed, or no more than one year, two years for treatability studies involving bioremediation, have elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date occurs first. Up to five hundred kilograms of treated material from a particular waste stream from treatability studies may be archived for future evaluation up to five years from the date of initial receipt. Quantities of materials archived are counted against the total storage limit for the facility.
- f. The treatability study does not involve the placement of hazardous waste on the land or open burning of hazardous waste.
- g. The facility maintains records for three years following completion of each study that shows compliance with the treatment rate limits and the storage time and quantity limits. The following specific information must be included for each treatability study conducted:
  - (1) The name, address, and identification number of the generator or sample collector of each waste sampled;
  - (2) The date the shipment was received;
  - (3) The quantity of waste accepted;
  - (4) The quantity of "as received" waste in storage each day;
  - (5) The date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day;
  - (6) The date the treatability study was concluded; and
  - (7) The date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated facility, the name of the facility and the identification number.
- h. The facility keeps, onsite, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending three years from the completion date of each treatability study.
- i. The facility prepares and submits a report to the department by March fifteenth of each year that includes the following information for the previous calendar year:
  - (1) The name, address, and identification number of the facility conducting the treatability study;

- (2) The types, by process, of treatability studies conducted;
  - (3) The names and addresses of persons for whom studies have been conducted, including their identification numbers;
  - (4) The total quantity of waste in storage each day;
  - (5) The quantity and type of waste subjected to treatability studies;
  - (6) When each treatability study was conducted; and
  - (7) The final disposition of residues and unused samples from each treatability study.
- j. The facility determines whether any unused sample or residues generated by the treatability study are hazardous waste under section 33.1-24-02-03 and, if so, are subject to chapters 33.1-24-02 through 33.1-24-06, unless the residues and unused samples are returned to the sample originator under the subsection 5 of section 33.1-24-02-04 exemption.
- k. The facility notifies the department by letter when the facility is no longer planning to conduct any treatability studies at the site.
7. **Polychlorinated biphenyl wastes regulated under Toxic Substance Control Act.** The disposal of polychlorinated biphenyl-containing dielectric fluid and electric equipment containing such fluid authorized for use and regulated under 40 CFR 761 and that are hazardous only because they fail the test for the toxicity characteristic (hazardous waste codes D018 through D043 only) are exempt from regulation under this article, and the notification requirements.
8. **Dredged material that is not a hazardous waste.** Dredged material that is subject to the requirements of a permit that has been issued under section 404 of the Federal Water Pollution Control Act [33 U.S.C. 1344] or section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 [33 U.S.C. 1413] is not a hazardous waste. For this subsection, the following definitions apply:
- a. The term dredged material has the same meaning as defined in 40 CFR 232.2.
  - b. The term permit means:
    - (1) A permit issued by the United States army corps of engineers (corps) or an approved state under section 404 of the Federal Water Pollution Control Act [33 U.S.C. 1344];
    - (2) A permit issued by the corps under section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 [33 U.S.C. 1413]; or
    - (3) In the case of corps civil work projects, the administrative equivalent of the permits referred to in paragraphs 1 and 2, as provided for in corps regulations (for example, see 33 CFR 336.1, 336.2, and 337.6).
9. **Carbon dioxide stream injected for geologic sequestration.** Carbon dioxide streams that are captured and transported for purposes of injection into an underground injection well subject to the requirements for class VI underground injection control wells, including the requirements in 40 CFR parts 144 and 146 of the underground injection control program of the Safe Drinking Water Act, are not a hazardous waste, provided the following conditions are met:

- a. Transportation of the carbon dioxide stream must be in compliance with United States department of transportation requirements, including the pipeline safety laws [49 United States code 60101 et seq.] and regulations [49 CFR parts 190-199] of the United States department of transportation, and pipeline safety regulations adopted and administered by a state authority pursuant to a certification under 49 United States code 60105, as applicable;
  - b. Injection of the carbon dioxide stream must be in compliance with the applicable requirements for class VI underground injection control wells, including the applicable requirements in 40 CFR parts 144 and 146;
  - c. No hazardous wastes shall be mixed with, or otherwise coinjected with, the carbon dioxide stream; and
  - d. Certification statements:
    - (1) Any generator of a carbon dioxide stream, who claims that a carbon dioxide stream is excluded under this subsection, must have an authorized representative (as defined in section 33.1-24-01-04) sign a certification statement worded as follows: I certify under penalty of law that the carbon dioxide stream that I am claiming to be excluded under subsection 9 of section 33.1-24-02-04 has not been mixed with hazardous wastes, and I have transported the carbon dioxide stream in compliance with (or have contracted with a pipeline operator or transporter to transport the carbon dioxide stream in compliance with) department of transportation requirements, including the pipeline safety laws [49 United States code 60101 et seq.] and regulations [49 CFR parts 190-199] of the United States department of transportation, and the pipeline safety regulations adopted and administered by a state authority pursuant to a certification under 49 United States code 60105, as applicable, for injection into a well subject to the requirements for the class VI underground injection control program of the Safe Drinking Water Act.
    - (2) Any class VI underground injection control well owner or operator, who claims that a carbon dioxide stream is excluded under this subsection, must have an authorized representative (as defined in section 33.1-24-01-04) sign a certification statement worded as follows: I certify under penalty of law that the carbon dioxide stream that I am claiming to be excluded under subsection 9 of section 33.1-24-02-04 has not been mixed with, or otherwise coinjected with, hazardous waste at the underground injection control class VI permitted facility, and that injection of the carbon dioxide stream is in compliance with the applicable requirements for underground injection class VI wells, including the applicable requirements in 40 CFR parts 144 and 146.
    - (3) The signed certification statement must be kept onsite for no less than three years, and must be made available within seventy-two hours of a written request from the administrator, regional administrator, or the department, or their designee. The signed certification statement must be renewed every year that the exclusion is claimed, by having an authorized representative (as defined in section 33.1-24-01-04) annually prepare and sign a new copy of the certification statement within one year of the date of the previous statement. The signed certification statement must also be readily accessible on the facility's publicly available website (if such website exists) as a public notification with the title of "carbon dioxide stream certification" at the time the exclusion is claimed.
10. **Airbag wastes.** Airbag waste at the airbag waste handler or during transport to an airbag waste collection facility or designated facility is not subject to regulations under chapters 3 through 7 of article 33.1-24, and is not subject to the notification requirements of section 3010 of the Resource Conversation and Recovery Act provided that:

- a. The airbag waste is accumulated in a quantity of no more than two hundred fifty airbag modules or airbag inflators, for no longer than one hundred eighty days;
- b. The airbag waste is packaged in a container designed to address the risk posed by the airbag waste and labeled "Airbag Waste - Do Not Reuse";
- c. The airbag waste is sent directly to either:
  - (1) An airbag waste collection facility in the United States under the control of a vehicle manufacturer or their authorized representative, or under the control of an authorized party administering a remedy program in response to a recall under the national highway traffic safety administration; or
  - (2) A designated facility as defined in subsection 35 of section 33.1-24-01-04;
- d. The transport of the airbag waste complies with all applicable United States department of transportation regulations in 49 CFR part 171 through 180 during transit;
- e. The airbag waste handler maintains at the handler facility for no less than three years records of all offsite shipments of airbag waste and all confirmations of receipt from the receiving facility. For each shipment, these records must, at a minimum, contain the name of the transporter and date of the shipment; name and address of receiving facility; and the type and quantity of airbag waste (i.e., airbag modules or airbag inflators) in the shipment. Confirmations of receipt must include the name and address of the receiving facility; the type and quantity of the airbag waste (i.e., airbag modules and airbag inflators) received, and the date it was received. Shipping records and confirmations of receipt must be made available for inspection and may be satisfied by routine business records (e.g., electronic or paper financial records, bills of lading, copies of department of transportation shipping papers, or electronic confirmations of receipt).
- f. Once the airbag waste arrives at an airbag waste collection facility or designated facility, it becomes subject to all applicable hazardous waste regulations, and the facility receiving airbag waste is considered the hazardous waste generator for the purposes of the hazardous waste regulations and must comply with the requirements of chapter 33.1-24-03.
- g. Reuse in vehicles of defective airbag modules or defective airbag inflators subject to a recall under the national highway traffic safety administration is considered sham recycling and is prohibited under subsection 7 of section 33.1-24-02-02.

**History:** Effective January 1, 2019; amended effective July 1, 2020; [July 1, 2021](#).

**General Authority:** NDCC 23.1-04-03; ~~S.L. 2017, ch. 199, § 1~~

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05, 23.1-04-16; S.L. 2017, ch. 199, § 19

**33.1-24-02-05. Special requirements for hazardous waste generated by very small quantity generators.**

~~[Repealed effective July 1, 2021.](#)~~

- ~~1. A generator is a very small quantity generator if it meets the category determination requirements described in section 33.1-24-03-03.~~
- ~~2. Except for those wastes identified in subsections 5, 6, 7, and 10, a conditionally exempt small quantity generator's hazardous wastes are not subject to regulation under chapters 33.1-24-03 through 33.1-24-07, and the notification requirements, provided the generator complies with the requirements of subsections 6, 7, and 10.~~

- ~~3. When making the quantity determinations, the generator must include all hazardous waste that it generates, except hazardous waste that:
  - ~~a. Is exempt from regulation under subsections 3 through 7 of section 33.1-24-02-04, subdivision c of subsection 1 of section 33.1-24-02-06, or subsection 1 of section 33.1-24-02-07;~~
  - ~~b. Is managed immediately upon generation only in onsite elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities as defined in section 33.1-24-01-04;~~
  - ~~c. Is recycled, without prior storage or accumulation, only in an onsite process subject to regulation under subdivision b of subsection 3 of section 33.1-24-02-06;~~
  - ~~d. Is used oil managed under the requirements of subdivision d of subsection 1 of section 33.1-24-02-06 and sections 33.1-24-05-600 through 33.1-24-05-689;~~
  - ~~e. Is spent lead acid batteries managed under sections 33.1-24-05-235 through 33.1-24-05-249;~~
  - ~~f. Is universal waste managed under subsection 5 of section 33.1-24-02-06 and sections 33.1-24-05-700 through 33.1-24-05-799; or~~
  - ~~g. Is a hazardous waste that is an unused commercial chemical product (listed in sections 33.1-24-02-15 through 33.1-24-02-19, or exhibiting one or more characteristics in sections 33.1-24-02-10 through 33.1-24-02-14) that is generated solely as a result of a laboratory clean out conducted at an eligible academic entity pursuant to section 33.1-24-03-74. For purposes of this subdivision, the term eligible academic entity shall have the meaning as defined in section 33.1-24-03-61.~~~~
- ~~4. In determining the quantity of hazardous waste generated, a generator need not include:
  - ~~a. Hazardous waste when it is removed from onsite storage;~~
  - ~~b. Hazardous waste produced by onsite treatment, including reclamation, of their hazardous waste, so long as the hazardous waste that is treated was counted once; or~~
  - ~~c. Spent materials that are generated, reclaimed, and subsequently reused onsite, so long as such spent materials have been counted once.~~~~
- ~~5. If a generator generates acute hazardous waste in a calendar month in quantities greater than set forth below, all quantities of that acute hazardous waste are subject to full regulation under chapters 33.1-24-03 through 33.1-24-07, and the notification requirements.
  - ~~a. A total of one kilogram of acute hazardous waste listed in section 33.1-24-02-16, or subsection 5 of section 33.1-24-02-18.~~
  - ~~b. A total of one hundred kilograms of any residue or contaminated soil, waste, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in section 33.1-24-02-16, or subsection 5 of section 33.1-24-02-18. [Comment: "Full regulation" means those regulations applicable to generators of one thousand kilograms or greater of hazardous waste in a calendar month.]~~~~
- ~~6. In order for acute hazardous wastes generated by a generator of acute hazardous wastes in quantities equal to or less than set forth in subdivisions a or b of subsection 5 to be excluded~~

~~from full regulation under this section, the generator shall comply with the following requirements:~~

~~a. Section 33.1-24-03-02;~~

~~b. The generator may accumulate acute hazardous waste onsite. If the generator accumulates at any time acute hazardous waste in quantities greater than those set forth in subdivision a or b of subsection 5, all of those accumulated wastes are subject to regulation under chapters 33.1-24-03 through 33.1-24-07 and the applicable notification requirements. The time period of subsection 1 of section 33.1-24-03-12, for accumulation of wastes onsite, begins when the accumulated wastes exceed the applicable exclusion limit;~~

~~c. A very small quantity generator may either treat or dispose of the generator's acute hazardous waste in an onsite facility or ensure delivery to an offsite storage, treatment, or disposal facility, either of which, if located in the United States, is:~~

~~(1) Permitted under chapter 33.1-24-06;~~

~~(2) In interim status under North Dakota Century Code section 23.1-04-08;~~

~~(3) Authorized to manage hazardous waste by a state;~~

~~(4) Permitted, licensed, or registered by a state to manage municipal solid waste, and if managed in a municipal solid waste landfill subject to article 33.1-20 or other regulation equivalent to 40 CFR part 258;~~

~~(5) Permitted, licensed, or registered by a state to manage nonmunicipal nonhazardous waste and, if managed in a nonmunicipal nonhazardous waste landfill after January 1, 1998, is subject to article 33.1-20 or other regulation equivalent to sections 5 through 30 of 40 CFR part 257;~~

~~(6) A facility which:~~

~~(a) Beneficially uses or reuses, or legitimately recycles or reclaims its waste; or~~

~~(b) Treats its waste prior to beneficial use or reuse, or legitimate recycling or reclamation; or~~

~~(7) For universal waste managed under sections 33.1-24-05-700 through 33.1-24-05-799, a universal waste handler or destination facility subject to the requirements of sections 33.1-24-05-700 through 33.1-24-05-799.~~

~~[NOTE: Although provisions of this subsection exclude certain generators from full regulation under this section, all applicable provisions of article 33.1-20, North Dakota solid waste management rules apply.]~~

~~7. In order for hazardous waste generated by a very small quantity generator in quantities of one hundred kilograms or less of hazardous waste during a calendar month to be excluded from full regulation under this section, the generator shall comply with the following requirements:~~

~~a. Section 33.1-24-03-02;~~

~~b. The very small quantity generator may accumulate hazardous waste onsite. If the generator accumulates at any time one thousand kilograms or greater of the generator's hazardous waste, all of those accumulated wastes are subject to regulation under special provisions of chapter 33.1-24-03 applicable to generators of greater than one hundred kilograms and less than one thousand kilograms of hazardous waste in a calendar month~~

~~as well as the requirements of chapters 33.1-24-03 through 33.1-24-07 and the applicable notification requirements. The time period of subsection 4 of section 33.1-24-03-12 for accumulation of wastes onsite begins for a very small quantity generator when the accumulated wastes equal or exceed one thousand kilograms;~~

~~c. A very small quantity generator may either treat or dispose of the generator's hazardous waste in an onsite facility, or ensure delivery to an offsite storage, treatment, or disposal facility, either of which, if located in the United States, is:~~

~~(1) Permitted under chapter 33.1-24-06;~~

~~(2) In interim status under North Dakota Century Code section 23.1-04-08;~~

~~(3) Authorized to manage hazardous waste by a state;~~

~~(4) Permitted, licensed, or registered by a state to manage municipal solid waste and, if managed in a municipal solid waste landfill subject to article 33.1-20 or other regulation equivalent to 40 CFR part 258;~~

~~(5) Permitted, licensed, or registered by a state to manage nonmunicipal nonhazardous waste and, if managed in a nonmunicipal nonhazardous waste disposal unit after January 1, 1998, is subject to article 33.1-20 or other regulation equivalent to sections 5 through 30 of 40 CFR part 257;~~

~~(6) A facility which:~~

~~(a) Beneficially uses or reuses, or legitimately recycles or reclaims its waste; or~~

~~(b) Treats its waste prior to beneficial use or reuse, or legitimate recycling or reclamation; or~~

~~(7) For universal waste managed under sections 33.1-24-05-700 through 33.1-24-05-799, a universal waste handler or destination facility subject to the requirements of sections 33.1-24-05-700 through 33.1-24-05-799.~~

~~{NOTE: Although provisions of this subsection exclude certain generators from full regulation under this section, all applicable provisions of article 33.1-20, North Dakota solid waste management rules apply.}~~

~~8. Hazardous waste subject to the reduced requirements of this section may be mixed with nonhazardous waste and remain subject to these reduced requirements even though the resultant mixture exceeds the quantity limitations identified in this section, unless the mixture meets any of the characteristics of hazardous waste identified in sections 33.1-24-02-10 through 33.1-24-02-14.~~

~~9. If any person mixes a solid waste with a hazardous waste that exceeds the quantity exclusion level of this section, the mixture is subject to full regulation.~~

~~10. If a very small quantity generator's wastes are mixed with used oil, the mixture is subject to sections 33.1-24-05-600 through 33.1-24-05-689. Any material produced from such a mixture by processing, blending, or other treatment is also so regulated.~~

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

**General Authority:** NDCC 23.1-04-03; S.L. 2017, ch. 199, § 1

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

### 33.1-24-02-07. Residues of hazardous wastes in empty containers.

1. Any hazardous waste remaining in either an empty container or an inner liner removed from an empty container, as defined in subsections 3, 4, and 5, is not subject to regulation under chapters 33.1-24-02 through 33.1-24-07 or to the notification requirements of section 33.1-24-03-03.
2. Any hazardous waste in either a container that is not empty or an inner liner removed from a container that is not empty, as defined in subsections 3, 4, and 5, is subject to regulation under chapters 33.1-24-02 through 33.1-24-07 and to the notification requirements of section 33.1-24-03-03.
3. A container or an inner liner removed from a container that has held any hazardous waste, except a waste that is a compressed gas or that is identified as an acute hazardous waste listed in section 33.1-24-02-16, or subsection 5 of section 33.1-24-02-18, is empty if:
  - a. All wastes have been removed that can be removed using the practices commonly employed to remove materials from that type of container, for example, pouring, pumping, and aspirating; and
  - b. One of the following:
    - (1) No more than two and one-half centimeters [1 inch] of residue remain on the bottom of the container or inner liner;
    - (2) No more than three percent by weight of the total capacity of the container remains in the container or inner liner if the container is less than or equal to one hundred nineteen gallons in size; or
    - (3) No more than three-tenths of one percent by weight of the total capacity of the container remains in the container or inner liner if the container is greater than one hundred nineteen gallons in size.
4. A container that has held a hazardous waste that is a compressed gas is empty when the pressure in the container approaches atmospheric.
5. A container or an inner liner removed from a container that has held an acute hazardous waste listed in section 33.1-24-02-16 or subsection 5 of section 33.1-24-02-18 is empty if:
  - a. The container or inner liner has been triple-rinsed using a solvent capable of removing the commercial chemical product or manufacturing chemical intermediate;
  - b. The container or inner liner has been cleaned by another method that has been shown in the scientific literature or by tests conducted by the generator, to achieve equivalent removal; or
  - c. In the case of a container, the inner liner that prevented contact of the commercial chemical product or manufacturing chemical intermediate with the container has been removed.

6. Containers of hazardous waste pharmaceuticals are subject to section 33.1-24-05-317 for determining when the containers are considered empty, in lieu of this section, except as provided by subsections 3 and 4 of section 33.1-24-05-317.

**History:** Effective January 1, 2019; amended effective July 1, 2021.

**General Authority:** NDCC 23.1-04-03; ~~S.L. 2017, ch. 199, § 1~~

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

### 33.1-24-02-09. Criteria for listing hazardous waste.

1. The department shall list a solid waste as a hazardous waste only upon determining that the solid waste meets one of the following criteria:
    - a. It exhibits any of the characteristics of hazardous waste identified in this chapter.
    - b. It has been found to be fatal to humans in low doses or, in the absence of data on human toxicity, it has been shown in studies to have an oral LD 50 toxicity (rat) of less than fifty milligrams per kilogram, and inhalation LC 50 toxicity (rat) of less than two milligrams per liter, or a dermal LD 50 toxicity (rabbit) of less than two hundred milligrams per kilogram or is otherwise capable of causing or significantly contributing to an increase in serious irreversible, or incapacitating reversible, illness. (Waste listed in accordance with these criteria will be designated acute hazardous waste.)
    - c. It contains any of the toxic constituents listed in appendix V and, after considering the following factors, the department concludes that the waste is not capable of posing a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed:
      - (1) The nature of the toxicity presented by the constituent;
      - (2) The concentration of the constituent in the waste;
      - (3) The potential of the constituent or any toxic degradation product of the constituent to migrate from the waste into the environment under the types of improper management considered in paragraph 7;
      - (4) The persistence of the constituent or any toxic degradation product of the constituent;
      - (5) The potential for the constituent or any toxic degradation product of the constituent to degrade into nonharmful constituents and the rate of degradation;
      - (6) The degree to which the constituent or any degradation product of the constituent bioaccumulates in ecosystems;
      - (7) The plausible types of improper management to which the waste could be subjected;
      - (8) The quantities of the waste generated at individual generation sites or on a statewide basis;
      - (9) The nature and severity of the human health and environmental damage that has occurred as a result of the improper management of wastes containing the constituent;
      - (10) Action taken by other governmental agencies or regulatory programs based on the health or environmental hazard posed by the waste or waste constituent; and
      - (11) Such other factors as may be appropriate.
- Substances will be listed on appendix V only if they have been shown in scientific studies to have toxic, carcinogenic, mutagenic, or teratogenic effects on human or other life forms. (Wastes listed in accordance with these criteria will be designated toxic wastes.)
2. The department may list classes or types of solid waste as hazardous wastes if it has reason to believe that individual wastes, within the class or type of waste, typically or frequently are

hazardous under the definition of hazardous waste found in subsection 6 of North Dakota Century Code section 23.1-04-02.

~~3. The department will use the criteria for listing specified in this section to establish the exclusion limits referred to in subsection 3 of section 33.1-24-02-05.~~

**History:** Effective January 1, 2019; [amended effective July 1, 2021.](#)

**General Authority:** NDCC 23.1-04-03; ~~S.L. 2017, ch. 199, § 4~~

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

### **33.1-24-02-15. Lists of hazardous wastes.**

1. A solid waste is a hazardous waste if it is listed in sections 33.1-24-02-15 through 33.1-24-02-19, unless it has been excluded from these lists under section 33.1-24-01-06 or 33.1-24-01-08.
2. The department will indicate its basis for listing the classes or types of wastes listed in sections 33.1-24-02-15 through 33.1-24-02-19 by employing one or more of the following hazard codes:

Waste Type	Waste Hazard Code
Ignitable waste	(I)
Corrosive waste	(C)
Reactive waste	(R)
Toxicity characteristic waste	(E)
Acute hazardous waste	(H)
Toxic waste	(T)

Appendix IV identifies the constituent which caused the waste to be listed as a toxicity characteristic waste (E) or toxic wastes (T) in sections 33.1-24-02-16 and 33.1-24-02-17.

3. Each hazardous waste listed in sections 33.1-24-02-15 through 33.1-24-02-19 is assigned a hazardous waste number which precedes the name of the waste. The number must be used in complying with the notification requirements and certain recordkeeping and reporting requirements under chapters 33.1-24-03 through 33.1-24-06.
4. The following hazardous wastes listed in section 33.1-24-02-16 are subject to the exclusion limits for acutely hazardous wastes established in section ~~33.1-24-02-05~~[33.1-24-03-26](#): hazardous waste numbers F020, F021, F022, F023, F026, and F027.

**History:** Effective January 1, 2019; [amended effective July 1, 2021.](#)

**General Authority:** NDCC 23.1-04-03; ~~S.L. 2017, ch. 199, § 4~~

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

### **33.1-24-02-18. Discarded commercial chemical products, off-specification species, container residues, and spill residues thereof.**

The following materials or items are hazardous wastes if and when they are discarded or intended to be discarded as described in paragraph 1 of subdivision b of subsection 1 of section 33.1-24-02-02, when they are mixed with waste oil or used oil or other material and applied to the land for dust suppression or road treatment, when they are otherwise applied to the land in lieu of their original intended use or when they are contained in products that are applied to the land in lieu of their original intended use, or when, in lieu of their original intended use, they are produced for use as (or as a component of) a fuel, distributed for use as a fuel, or burned as a fuel.

1. Any commercial chemical product, manufacturing chemical intermediate, or any mixture of the chemicals having the generic name listed in subsection 5 or 6.
2. Any off-specification commercial chemical product, manufacturing chemical intermediate, or any mixture of the chemicals which, if it met specifications, would have the generic name listed in subsection 5 or 6.
3. ~~Any residue remaining in a container or in an inner liner removed from a container that has held any commercial chemical product, manufacturing chemical intermediate, or any mixture of the chemicals having the generic name listed in subsection 5 or 6, unless the container is empty as defined in subsections 3, 4, and 5 of section 33.1-24-02-07.~~ Any residue remaining in a container or in an inner liner removed from a container that has held any commercial chemical product or manufacturing chemical intermediate having the generic name listed in subsection 5 or 6, unless the container is empty as defined in subsections 3 through 5 of section 33.1-24-02-07, or section 33.1-24-05-317.

NOTE: Unless the residue is being beneficially used or reused, or legitimately recycled or reclaimed; or being accumulated, stored, transported, or treated prior to such use, reuse, recycling, or reclamation, the department considers the residue to be intended for discard, and thus a hazardous waste. An example of a legitimate reuse of the residue would be when the residue remains in the container and the container is used to hold the same commercial chemical product or manufacturing chemical intermediate it previously held. An example of the discard of the residue would be when the drum is sent to a drum reconditioner who reconditions the drum but discards the residue.

4. Any residue or contaminated soil, water, or other debris, resulting from the cleanup of a spill, into or on any land or water, of any commercial chemical product, manufacturing chemical intermediate, or mixture of the chemicals having the generic name listed in subsection 5 or 6, or any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill into or on any land or water of any off-specification chemical product, manufacturing chemical intermediate, or mixture of the chemicals, which, if it met specifications would have the generic name listed in subsection 5 or 6. [Comment: The phrase "commercial chemical product or manufacturing chemical intermediate having the generic name listed in . . ." refers to a chemical substance which is manufactured or formulated for commercial or manufacturing use, which consists of the commercially pure grade of the chemical, any technical grades of the chemical, that are produced or marketed, and all formulations containing one or more of the chemicals having the generic name listed in subsection 5 or 6 as active ingredients. It does not refer to a material, such as a manufacturing process waste, that contains any of the substances listed in subsection 5 or 6. Where a manufacturing process is deemed to be a hazardous waste because it contains a substance listed in subsection 5 or 6, such wastes will be listed in either section 33.1-24-02-16 or 33.1-24-02-17 or will be identified as a hazardous waste by the characteristics set forth in sections 33.1-24-02-10 through 33.1-24-02-14.]
5. The commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products or manufacturing chemical intermediates referred to in subsections 1 through 4, are identified as acute hazardous wastes (H). These wastes and their corresponding hazardous waste numbers are:

Hazardous Waste No.	Chemical Abstracts No.	Substance
P023	107-20-0	Acetaldehyde, chloro-
P002	591-08-2	Acetamide, N-(aminothioxomethyl)-
P057	640-19-7	Acetamide, 2-fluoro-
P058	62-74-8	Acetic acid, fluoro-, sodium salt

Hazardous Waste No.	Chemical Abstracts No.	Substance
P002	591-08-2	1-Acetyl-2-thiourea
P003	107-02-8	Acrolein
P203	1646-88-4	Aldicarb sulfone
P070	116-06-3	Aldicarb
P004	309-00-2	Aldrin
P005	107-18-6	Allyl alcohol
P006	20859-73-8	Aluminum phosphide (R, T)
P007	2763-96-4	5-(Aminomethyl)-3-isoxazolol
P008	504-24-5	4-Aminopyridine
P009	131-74-8	Ammonium picrate (R)
P119	7803-55-6	Ammonium vanadate
P099	506-61-6	Argentate(1-), bis(cyano-C)-, potassium
P010	7778-39-4	Arsenic acid H <sub>3</sub> AsO <sub>4</sub>
P012	1327-53-3	Arsenic oxide As <sub>2</sub> O <sub>3</sub>
P011	1303-28-2	Arsenic oxide As <sub>2</sub> O <sub>5</sub>
P011	1303-28-2	Arsenic pentoxide
P012	1327-53-3	Arsenic trioxide
P038	692-42-2	Arsine, diethyl
P036	696-28-6	Arsonous dichloride, phenyl-
P054	151-56-4	Aziridine
P067	75-55-8	Aziridine, 2-methyl-
P013	542-62-1	Barium cyanide
P024	106-47-8	Benzenamine, 4-chloro-
P077	100-01-6	Benzenamine, 4-nitro-
P028	100-44-7	Benzene, (chloromethyl)-
P042	51-43-4	1,2-Benzenediol, 4-[1-hydroxy-2-(methylamino)ethyl]-, (R)-
P046	122-09-8	Benzenethanamine, alpha, alpha-dimethyl-
P014	108-98-5	Benzenethiol
P127	1563-66-2	7-Benzofuranol, 2,3-dihydro-2,2-dimethyl-, methylcarbamate
P188	57-64-7	Benzoic acid, 2-hydroxy-, compd. with (3aS-cis)-1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethylpyrrolo[2,3-b]indol-5-yl methylcarbamate ester (1:1)
P001	181-81-2	2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenylbutyl)-, & salts, when present at concentrations greater than 0.3%
P028	100-44-7	Benzyl chloride
P015	7440-41-7	Beryllium powder
P017	598-31-2	Bromoacetone
P018	357-57-3	Brucine
P045	39196-18-4	2-Butanone, 3,3-dimethyl-1-(methylthio)-, O-[(methylamino)carbonyl] oxime
P021	592-01-8	Calcium cyanide
P021	592-01-8	Calcium cyanide Ca(CN) <sub>2</sub>
P189	55285-14-8	Carbamic acid, [(dibutylamino)- thio]methyl-,

Hazardous Waste No.	Chemical Abstracts No.	Substance
		2,3-dihydro-2,2-dimethyl-7-benzofuranyl ester
P191	644-64-4	Carbamic acid, dimethyl-, 1-[(dimethyl-amino)carbonyl]-5-methyl-1H-pyrazol-3-yl ester
P192	119-38-0	Carbamic acid, dimethyl-, 3-methyl-1-(1-methylethyl)-1H-pyrazol-5-yl ester
P190	1129-41-5	Carbamic acid, methyl-, 3-methylphenyl ester
P127	1563-66-2	Carbofuran
P022	75-15-0	Carbon disulfide
P095	75-44-5	Carbonic dichloride
P189	55285-14-8	Carbosulfan
P023	107-20-0	Chloroacetaldehyde
P024	106-47-8	p-Chloroaniline
P026	5344-82-1	1-(o-Chlorophenyl)thiourea
P027	542-76-7	3-Chloropropionitrile
P029	544-92-3	Copper cyanide
P029	544-92-3	Copper cyanide Cu(CN)
P202	64-00-6	m-Cumenyl methylcarbamate
P030	.....	Cyanides (soluble cyanide salts), not otherwise specified
P031	460-19-5	Cyanogen
P033	506-77-4	Cyanogen chloride
P033	506-77-4	Cyanogen chloride (CN)Cl
P034	131-89-5	2-Cyclohexyl-4,6-dinitrophenol
P016	542-88-1	Dichloromethyl ether
P036	696-28-6	Dichlorophenylarsine
P037	60-57-1	Dieldrin
P038	692-42-2	Diethylarsine
P041	311-45-5	Diethyl-p-nitrophenyl phosphate
P040	297-97-2	O,O-Diethyl O-pyrazinyl phosphorothioate
P043	55-91-4	Diisopropylfluorophosphate (DFP)
P004	309-00-2	1,4:5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a-hexahydro-, (1alpha,4alpha,4abeta,5alpha,8alpha,8abeta)-
P060	465-73-6	1,4:5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a-hexahydro-, (1alpha,4alpha,4abeta,5beta,8beta,8abeta)-
P037	60-57-1	2,7:3,6-Dimethanonaphth[2,3-b]oxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-, (1aalpha,2beta,2aalpha,3beta,6beta,6aalpha,7beta,7aalpha)-
P051	172-20-8	2,7:3,6-Dimethanonaphth [2,3-b]oxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-, (1aalpha,2beta,2abeta,3alpha,6alpha,6abeta,7beta,7aalpha)-, & metabolites
P044	60-51-5	Dimethoate
P046	122-09-8	alpha, alpha-Dimethylphenthylamine
P191	644-64-4	Dimetilan
P047	1534-52-1	4,6-Dinitro-o-cresol & salts
P048	51-28-5	2,4-Dinitrophenol

<b>Hazardous Waste No.</b>	<b>Chemical Abstracts No.</b>	<b>Substance</b>
P020	88-85-7	Dinoseb
P085	152-16-9	Diphosphoramidate, octamethyl-
P111	107-49-3	Diphosphoric acid, tetraethyl ester
P039	298-04-4	Disulfoton
P049	541-53-7	Dithiobiuret
P185	26419-73-8	1,3-Dithiolane-2-carboxaldehyde, 2,4-dimethyl-, O-[(methylamino)-carbonyl]oxime
P050	115-29-7	Endosulfan
P088	145-73-3	Endothall
P051	72-20-8	Endrin
P051	72-20-8	Endrin, & metabolites
P042	51-43-4	Epinephrine
P031	460-19-5	Ethanedinitrile
P066	16752-77-5	Ethanimidothioic acid, N-[[[(methylamino)carbonyl]oxy]-, methyl ester
P194	23135-22-0	Ethanimidothioic acid, 2-(dimethylamino)-N-[[[(methylamino)carbonyl]oxy]-2-oxo-, methyl ester
P101	107-12-0	Ethyl cyanide
P054	151-56-4	Ethyleneimine
P097	52-85-7	Famphur
P056	7782-41-4	Fluorine
P057	640-19-7	Fluoroacetamide
P058	62-74-8	Fluoroacetic acid, sodium salt
P198	23422-53-9	Formetanate hydrochloride
P197	17702-57-7	Formparanate
P065	628-86-4	Fulminic acid, mercury(2+) salt (R,T)
P059	76-44-8	Heptachlor
P062	757-58-4	Hexaethyl tetraphosphate
P116	79-19-6	Hydrazinecarbothioamide
P068	60-34-4	Hydrazine, methyl-
P063	74-90-8	Hydrocyanic acid
P063	74-90-8	Hydrogen cyanide
P096	7803-51-2	Hydrogen phosphide
P060	465-73-6	Isodrin
P192	119-38-0	Isolan
P202	64-00-6	3-Isopropylphenyl N-methylcarbamate
P007	2763-96-4	3(2H)-Isoxazolone, 5-(aminomethyl)-
P196	15339-36-3	Manganese, bis(dimethylcarbamodithioato-S,S')-,
P196	15339-36-3	Manganese dimethyldithiocarbamate
P092	62-38-4	Mercury, (acetato-O)phenyl-
P065	628-86-4	Mercury fulminate (R,T)
P082	62-75-9	Methanamine, N-methyl-N-nitroso-
P064	624-83-9	Methane, isocyanato-

Hazardous Waste No.	Chemical Abstracts No.	Substance
P016	542-88-1	Methane, oxybis[chloro-
P112	509-14-8	Methane, tetranitro- (R)
P118	75-70-7	Methanethiol, trichloro-
P198	23422-53-9	Methanimidamide, N,N-dimethyl-N'-[3-[[[(methylamino) carbonyl]oxy]phenyl]-, monohydrochloride
P197	17702-57-7	Methanimidamide, N,N-dimethyl-N'-[2-methyl-4-[[[(methylamino)carbonyl]oxy]phenyl]-
P050	115-29-7	6,9-Methano-2,4,3-benzodioxathiepin, 6,7,8,9,10,10-hexachloro-1,5,5a,6,9,9a-hexahydro-, 3-oxide
P059	76-44-8	4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-
P199	2032-65-7	Methiocarb
P066	16752-77-5	Methomyl
P068	60-34-4	Methyl hydrazine
P064	624-83-9	Methyl isocyanate
P069	75-86-5	2-Methylactonitrile
P071	298-00-0	Methyl parathion
P190	1129-41-5	Metolcarb
P128	315-18-4	Mexacarbate
P072	86-88-4	alpha-Naphthylthiourea
P073	13463-39-3	Nickel carbonyl
P073	13463-39-3	Nickel carbonyl Ni(CO) <sub>4</sub> , (T-4)-
P074	557-19-7	Nickel cyanide
P074	557-19-7	Nickel cyanide Ni(CN) <sub>2</sub>
P075	154-11-5	Nicotine and salts ( <a href="#">This listing does not include patches, gums, and lozenges that are FDA-approved over-the-counter nicotine replacement therapies.</a> )
P076	10102-43-9	Nitric oxide
P077	100-01-6	p-Nitroaniline
P078	10102-44-0	Nitrogen dioxide
P076	10102-43-9	Nitrogen oxide NO
P078	10102-44-0	Nitrogen oxide NO <sub>2</sub>
P081	55-63-0	Nitroglycerine (R)
P082	62-75-9	N-Nitrosodimethylamine
P084	4549-40-0	N-Nitrosomethylvinylamine
P085	152-16-9	Octamethylpyrophosphoramidate
P087	20816-12-0	Osmium oxide OsO <sub>4</sub> , (T-4)-
P087	20816-12-0	Osmium tetroxide
P088	145-73-3	7-Oxabicyclo[2.2.1]heptane-2,3-dicarboxylic acid
P194	23135-22-0	Oxamyl
P089	56-38-2	Parathion
P034	131-89-5	Phenol, 2-cyclohexyl-4,6-dinitro-
P128	315-18-4	Phenol, 4-(dimethylamino)-3,5-dimethyl-, methylcarbamate (ester)
P199	2032-65-7	Phenol, (3,5-dimethyl-4-(methylthio)-, methylcarbamate

<b>Hazardous Waste No.</b>	<b>Chemical Abstracts No.</b>	<b>Substance</b>
P048	51-28-5	Phenol, 2,4-dinitro-
P047	1534-52-1	Phenol, 2-methyl-4,6-dinitro-, & salts
P202	64-00-6	Phenol, 3-(1-methylethyl)-, methylcarbamate
P201	2631-37-0	Phenol, 3-methyl-5-(1-methylethyl)-, methylcarbamate
P020	88-85-7	Phenol, 2-(1-methylpropyl)-4,6-dinitro-
P009	131-74-8	Phenol, 2,4,6-trinitro-, ammonium salt (R)
P092	62-38-4	Phenylmercury acetate
P093	103-85-5	Phenylthiourea
P094	298-02-2	Phorate
P095	75-44-5	Phosgene
P096	7803-51-2	Phosphine
P041	311-45-5	Phosphoric acid, diethyl 4-nitrophenyl ester
P039	298-04-4	Phosphorodithioic acid, O,O-diethyl S-[2-(ethylthio)ethyl] ester
P094	298-02-2	Phosphorodithioic acid, O,O-diethyl S-[(ethylthio)methyl] ester
P044	60-51-5	Phosphorodithioic acid, O,O-dimethyl S-[2-(methylamino)-2-oxoethyl] ester
P043	55-91-4	Phosphorofluoridic acid, bis(1-methylethyl) ester
P089	56-38-2	Phosphorothioic acid, O,O-diethyl O-(4-nitrophenyl) ester
P040	297-97-2	Phosphorothioic acid, O,O-diethyl O-pyrazinyl ester
P097	52-85-7	Phosphorothioic acid, O-[4-[(dimethylamino)sulfonyl]phenyl] O,O-dimethyl ester
P071	298-00-0	Phosphorothioic acid, O,O-dimethyl O-(4-nitrophenyl) ester
P204	57-47-6	Physostigmine
P188	57-64-7	Physostigmine salicylate
P110	78-00-2	Plumbane, tetraethyl-
P098	151-50-8	Potassium cyanide
P098	151-50-8	Potassium cyanide K(CN)
P099	506-61-6	Potassium silver cyanide
P201	2631-37-0	Promecarb
P070	116-06-3	Propanal, 2-methyl-2-(methylthio)-, O-[(methylamino)carbonyl]oxime
P203	1646-88-4	Propanal, 2-methyl-2-(methyl sulfonyl)-, O-[(methylamino)carbonyl] oxime
P101	107-12-0	Propanenitrile
P027	542-76-7	Propanenitrile, 3-chloro-
P069	75-86-5	Propanenitrile, 2-hydroxy-2 methyl-
P081	55-63-0	1,2,3-Propanetriol, trinitrate (R)
P017	598-31-2	2-Propanone, 1-bromo-
P102	107-19-7	Propargyl alcohol
P003	107-02-8	2-Propenal
P005	107-18-6	2-Propen-1-ol
P067	75-55-8	1,2-Propylenimine
P102	107-19-7	2-Propyn-1-ol
P008	504-24-5	Pyridanamine
P075	154-11-5	Pyridine, 3-(1-methyl-2-pyrrolidinyl)-, (S)-, & salts <a href="#">(This listing does not include</a>

Hazardous Waste No.	Chemical Abstracts No.	Substance
		<a href="#">patches, gums, and lozenges that are FDA-approved over-the-counter nicotine replacement therapies.)</a>
P204	57-47-6	Pyrrolo[2,3-b]indol-5-ol, 1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethyl-, methylcarbamate (ester), (3aS-cis)-
P114	12039-52-0	Selenious acid, dithallium(1+) salt
P103	630-10-4	Selenourea
P104	506-64-9	Silver cyanide
P104	506-64-9	Silver cyanide Ag(CN)
P105	26628-22-8	Sodium azide
P106	143-33-9	Sodium cyanide
P106	143-33-9	Sodium cyanide Na(CN)
P108	157-24-9	Strychnidin-10-one, & salts
P018	357-57-3	Strychnidin-10-one, 2,3-dimethoxy-
P108	157-24-9	Strychnine & salts
P115	7446-18-6	Sulfuric acid, dithallium(1+) salt
P109	3689-24-5	Tetraethyldithiopyrophosphate
P110	78-00-2	Tetraethyl lead
P111	107-49-3	Tetraethyl pyrophosphate
P112	509-14-8	Tetranitromethane (R)
P062	757-58-4	Tetraphosphoric acid, hexaethyl ester
P113	1314-32-5	Thallic oxide
P113	1314-32-5	Thallium oxide $Tl_2O_3$
P114	12039-52-0	Thallium(I) selenite
P115	7446-18-6	Thallium(I) sulfate
P109	3689-24-5	Thiodiphosphoric acid, tetraethyl ester
P045	39196-18-4	Thiofanox
P049	541-53-7	Thioimidodicarbonic diamide $[(H_2N)C(S)]_2NH$
P014	108-98-5	Thiophenol
P116	79-19-6	Thiosemicarbazide
P026	5344-82-1	Thiourea, (2-chlorophenyl)-
P072	86-88-4	Thiourea, 1-naphthalenyl-
P093	103-85-5	Thiourea, phenyl-
P185	26419-73-8	Tirpate
P123	80201-35-2	Toxaphene
P118	75-70-7	Trichloromethanethiol
P119	7803-55-6	Vanadic acid, ammonium salt
P120	1314-62-1	Vanadium oxide $V_2O_5$
P120	1314-62-1	Vanadium pentoxide
P084	4549-40-0	Vinylamine, N-methyl-N-nitroso-
P001	181-81-2	Warfarin, & salts, when present at concentrations greater than 0.3%
P205	137-30-4	Zinc, bis(dimethylcarbamodithioato-S,S')-,
P121	557-21-1	Zinc cyanide

Hazardous Waste No.	Chemical Abstracts No.	Substance
P121	557-21-1	Zinc cyanide $Zn(CN)_2$
P122	1314-84-7	Zinc phosphide $Zn_3P_2$ , when present at concentrations greater than 10% (R,T)
P205	137-30-4	Ziram.
P001	181-81-2	2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenylbutyl)-, & salts, when present at concentrations greater than 0.3%
P001	181-81-2	Warfarin, & salts, when present at concentrations greater than 0.3%
P002	591-08-2	Acetamide, N-(aminothioxomethyl)-
P002	591-08-2	1-Acetyl-2-thiourea
P003	107-02-8	Acrolein
P003	107-02-8	2-Propenal
P004	309-00-2	Aldrin
P004	309-00-2	1,4:5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a-hexahydro-, (1alpha,4alpha,4abeta,5alpha,8alpha,8abeta)-
P005	107-18-6	Allyl alcohol
P005	107-18-6	2-Propen-1-ol
P006	20859-73-8	Aluminum phosphide (R,T)
P007	2763-96-4	5-(Aminomethyl)-3-isoxazolol
P007	2763-96-4	3(2H)-Isoxazolone, 5-(aminomethyl)-
P008	504-24-5	4-Aminopyridine
P008	504-24-5	4-Pyridinamine
P009	131-74-8	Ammonium picrate (R)
P009	131-74-8	Phenol, 2,4,6-trinitro-, ammonium salt (R)
P010	7778-39-4	Arsenic acid $H_3AsO_4$
P011	1303-28-2	Arsenic oxide $As_2O_5$
P011	1303-28-2	Arsenic pentoxide
P012	1327-53-3	Arsenic oxide $As_2O_3$
P012	1327-53-3	Arsenic trioxide
P013	542-62-1	Barium cyanide
P014	108-98-5	Benzenethiol
P014	108-98-5	Thiophenol
P015	7440-41-7	Beryllium powder
P016	542-88-1	Dichloromethyl ether
P016	542-88-1	Methane, oxybis[chloro-
P017	598-31-2	Bromoacetone
P017	598-31-2	2-Propanone, 1-bromo-
P018	357-57-3	Brucine
P018	357-57-3	Strychnidin-10-one, 2,3-dimethoxy-
P020	88-85-7	Dinoseb
P020	88-85-7	Phenol, 2-(1-methylpropyl)-4,6-dinitro-
P021	592-01-8	Calcium cyanide
P021	592-01-8	Calcium cyanide $Ca(CN)_2$
P022	75-15-0	Carbon disulfide

Hazardous Waste No.	Chemical Abstracts No.	Substance
P023	107-20-0	Acetaldehyde, chloro-
P023	107-20-0	Chloroacetaldehyde
P024	106-47-8	Benzenamine, 4-chloro-
P024	106-47-8	p-Chloroaniline
P026	5344-82-1	1-(o-Chlorophenyl)thiourea
P026	5344-82-1	Thiourea, (2-chlorophenyl)
P027	542-76-7	3-Chloropropionitrile
P027	542-76-7	Propanenitrile, 3-chloro-
P028	100-44-7	Benzene, (chloromethyl)-
P028	100-44-7	Benzyl chloride
P029	544-92-3	Copper cyanide
P029	544-92-3	Copper cyanide Cu(CN)
P030	.....	Cyanides (soluble cyanide salts), not otherwise specified
P031	460-19-5	Cyanogen
P031	460-19-5	Ethanedinitrile
P033	506-77-4	Cyanogen chloride
P033	506-77-4	Cyanogen chloride (CN)Cl
P034	131-89-5	2-Cyclohexyl-4,6-dinitrophenol
P034	131-89-5	Phenol, 2-cyclohexyl-4,6-dinitro-
P036	696-28-6	Arsonous dichloride, phenyl-
P036	696-28-6	Dichlorophenylarsine
P037	60-57-1	Dieldrin
P037	60-57-1	2,7:3,6-Dimethanonaphth[2,3-b]oxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-, (1aalpha,2beta,2aalpha,3beta,6beta,6aalpha,7beta,7aalpha)-
P038	692-42-2	Arsine, diethyl-
P038	692-42-2	Diethylarsine
P039	298-04-4	Disulfoton
P039	298-04-4	Phosphorodithioic acid, O,O-diethyl S-[2-(ethylthio)ethyl] ester
P040	297-97-2	O,O-Diethyl O-pyrazinyl phosphorothioate
P040	297-97-2	Phosphorothioic acid, O,O-diethyl O-pyrazinyl ester
P041	311-45-5	Diethyl-p-nitrophenyl phosphate
P041	311-45-5	Phosphoric acid, diethyl 4-nitrophenyl ester
P042	51-43-4	1,2-Benzenediol, 4-[1-hydroxy-2-(methylamino)ethyl]-, (R)-
P042	51-43-4	Epinephrine
P043	55-91-4	Diisopropylfluorophosphate (DFP)
P043	55-91-4	Phosphorofluoric acid, bis(1-methylethyl) ester
P044	60-51-5	Dimethoate
P044	60-51-5	Phosphorodithioic acid, O,O-dimethyl S-[2-(methylamino)-2-oxoethyl] ester
P045	39196-18-4	2-Butanone, 3,3-dimethyl-1- (methylthio)-, O-[(methylamino)carbonyl] oxime
P045	39196-18-4	Thiofanox
P046	122-09-8	Benzeneethanamine, alpha, alpha-dimethyl-

Hazardous Waste No.	Chemical Abstracts No.	Substance
P046	122-09-8	Alpha, alpha-Dimethylphenethylamine
P047	1534-52-1	4,6-Dinitro-o-cresol, & salts
P047	1534-52-1	Phenol, 2-methyl-4,6-dinitro-, & salts
P048	51-28-5	2,4-Dinitrophenol
P048	51-28-5	Phenol, 2,4-dinitro-
P049	541-53-7	Dithiobiuret
P049	541-53-7	Thioimidodicarbonic diamide [(H <sub>2</sub> N)C(S)] <sub>2</sub> NH
P050	115-29-7	Endosulfan
P050	115-29-7	6,9-Methano-2,4,3-benzodioxathiepin, 6,7,8,9,10,10-hexachloro-1,5,5a,6,9,9a-hexahydro-, 3-oxide
P051	172-20-8	2,7:3,6-Dimethanonaphth [2,3-b]oxirene , 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-, (1alpha,2beta,2abeta,3alpha,6alpha,6abeta,7beta,7alpha)-, & metabolites
P051	72-20-8	Endrin
P051	72-20-8	Endrin, & metabolites
P054	151-56-4	Aziridine
P054	151-56-4	Ethyleneimine
P056	7782-41-4	Fluorine
P057	640-19-7	Acetamide, 2-fluoro-
P057	640-19-7	Fluoroacetamide
P058	62-74-8	Acetic acid, fluoro-, sodium salt
P058	62-74-8	Fluoroacetic acid, sodium salt
P059	76-44-8	Heptachlor
P059	76-44-8	4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-
P060	465-73-6	1,4:5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexa-chloro-1,4,4a,5,8,8a-hexahydro-, (1alpha,4alpha,4abeta,5beta,8beta,8abeta)-
P060	465-73-6	Isodrin
P062	757-58-4	Hexaethyl tetraphosphate
P062	757-58-4	Tetraphosphoric acid, hexaethyl ester
P063	74-90-8	Hydrocyanic acid
P063	74-90-8	Hydrogen cyanide
P064	624-83-9	Methane, isocyanato-
P064	624-83-9	Methyl isocyanate
P065	628-86-4	Fulminic acid, mercury(2+) salt (R,T)
P065	628-86-4	Mercury fulminate (R,T)
P066	16752-77-5	Ethanimidothioic acid, [[N-(methylamino)carbonyl]oxy]-, methyl ester
P066	16752-77-5	Methomyl
P067	75-55-8	Aziridine, 2-methyl-
P067	75-55-8	1,2-Propylenimine
P068	60-34-4	Hydrazine, methyl-
P068	60-34-4	Methyl hydrazine
P069	75-86-5	2-Methylactonitrile

Hazardous Waste No.	Chemical Abstracts No.	Substance
P069	75-86-5	Propanenitrile, 2-hydroxy-2-methyl-
P070	116-06-3	Aldicarb
P070	116-06-3	Propanal, 2-methyl-2-(methylthio)-, O-[(methylamino)carbonyl]oxime
P071	298-00-0	Methyl parathion
P071	298-00-0	Phosphorothioic acid, O,O,-dimethyl O-(4-nitrophenyl) ester
P072	86-88-4	alpha-Naphthylthiourea
P072	86-88-4	Thiourea, 1-naphthalenyl-
P073	13463-39-3	Nickel carbonyl
P073	13463-39-3	Nickel carbonyl Ni(CO) <sub>4</sub> , (T-4)-
P074	557-19-7	Nickel cyanide
P074	557-19-7	Nickel cyanide Ni(CN) <sub>2</sub>
P075	154-11-5	Nicotine, & salts ( <a href="#">This listing does not include patches, gums, and lozenges that are FDA-approved over-the-counter nicotine replacement therapies.</a> )
P075	154-11-5	Pyridine, 3-(1-methyl-2-pyrrolidinyl)-, (S)-, & salts ( <a href="#">This listing does not include patches, gums, and lozenges that are FDA-approved over-the-counter nicotine replacement therapies.</a> )
P076	10102-43-9	Nitric oxide
P076	10102-43-9	Nitrogen oxide NO
P077	100-01-6	Benzenamine, 4-nitro-
P077	100-01-6	p-Nitroaniline
P078	10102-44-0	Nitrogen dioxide
P078	10102-44-0	Nitrogen oxide NO <sub>2</sub>
P081	55-63-0	Nitroglycerine (R)
P081	55-63-0	1,2,3-Propanetriol, trinitrate (R)
P082	62-75-9	Methanamine, N-methyl-N-nitroso-
P082	62-75-9	N-Nitrosodimethylamine
P084	4549-40-0	N-Nitrosomethylvinylamine
P084	4549-40-0	Vinylamine, N-methyl-N-nitroso-
P085	152-16-9	Diphosphoramidate, octamethyl-
P085	152-16-9	Octamethylpyrophosphoramidate
P087	20816-12-0	Osmium oxide OsO <sub>4</sub> , (T-4)-
P087	20816-12-0	Osmium tetroxide
P088	145-73-3	Endothall
P088	145-73-3	7-Oxabicyclo[2.2.1]heptane-2,3-dicarboxylic acid
P089	56-38-2	Parathion
P089	56-38-2	Phosphorothioic acid, O,O-diethyl O-(4-nitrophenyl) ester
P092	62-38-4	Mercury, (acetato-O)phenyl-
P092	62-38-4	Phenylmercury acetate
P093	103-85-5	Phenylthiourea
P093	103-85-5	Thiourea, phenyl-
P094	298-02-2	Phorate
P094	298-02-2	Phosphorodithioic acid, O,O-diethyl S-[(ethylthio)methyl] ester

Hazardous Waste No.	Chemical Abstracts No.	Substance
P095	75-44-5	Carbonic dichloride
P095	75-44-5	Phosgene
P096	7803-51-2	Hydrogen phosphide
P096	7803-51-2	Phosphine
P097	52-85-7	Famphur
P097	52-85-7	Phosphorothioic acid, O-[4-[(dimethylamino)sulfonyl]phenyl] O,O-dimethyl ester
P098	151-50-8	Potassium cyanide
P098	151-50-8	Potassium cyanide K(CN)
P099	506-61-6	Argentate(1-), bis(cyano-C)-, potassium
P099	506-61-6	Potassium silver cyanide
P101	107-12-0	Ethyl cyanide
P101	107-12-0	Propanenitrile
P102	107-19-7	Propargyl alcohol
P102	107-19-7	2-Propyn-1-ol
P103	630-10-4	Selenourea
P104	506-64-9	Silver cyanide
P104	506-64-9	Silver cyanide Ag(CN)
P105	26628-22-8	Sodium azide
P106	143-33-9	Sodium cyanide
P106	143-33-9	Sodium cyanide Na(CN)
P108	1157-24-9	Strychnidin-10-one, & salts
P108	1157-24-9	Strychnine, & salts
P109	3689-24-5	Tetraethyldithiopyrophosphate
P109	3689-24-5	Thiodiphosphoric acid, tetraethyl ester
P110	78-00-2	Plumbane, tetraethyl-
P110	78-00-2	Tetraethyl lead
P111	107-49-3	Diphosphoric acid, tetraethyl ester
P111	107-49-3	Tetraethyl pyrophosphate
P112	509-14-8	Methane, tetranitro- (R)
P112	509-14-8	Tetranitromethane (R)
P113	1314-32-5	Thallic oxide
P113	1314-32-5	Thallium oxide $Tl_2O_3$
P114	12039-52-0	Selenious acid, dithallium(1+) salt
P114	12039-52-0	Thallium(I) selenite
P115	7446-18-6	Sulfuric acid, dithallium(1+) salt
P115	7446-18-6	Thallium(I) sulfate
P116	79-19-6	Hydrazinecarbothioamide
P116	79-19-6	Thiosemicarbazide
P118	75-70-7	Methanethiol, trichloro-
P118	75-70-7	Trichloromethanethiol
P119	7803-55-6	Ammonium vanadate

Hazardous Waste No.	Chemical Abstracts No.	Substance
P119	7803-55-6	Vanadic acid, ammonium salt
P120	1314-62-1	Vanadium oxide V <sub>2</sub> O <sub>5</sub>
P120	1314-62-1	Vanadium pentoxide
P121	557-21-1	Zinc cyanide
P121	557-21-1	Zinc cyanide Zn(CN) <sub>2</sub>
P122	1314-84-7	Zinc phosphide Zn <sub>3</sub> P <sub>2</sub> , when present at concentrations greater than 10% (R,T)
P123	8001-35-2	Toxaphene
P127	1563-66-2	7-Benzofuranol, 2,3-dihydro-2,2-dimethyl-, methylcarbamate
P127	1563-66-2	Carbofuran
P128	315-18-4	Mexacarbate
P128	315-18-4	Phenol, 4-(dimethylamino)-3,5-dimethyl-, methylcarbamate (ester)
P185	26419-73-8	1,3-Dithiolane-2-carboxaldehyde, 2,4-dimethyl-, O-[(methylamino)-carbonyl] oxime
P185	26419-73-8	Tirpate
P188	57-64-7	Benzoic acid, 2-hydroxy-, compd. with (3a <i>S</i> - <i>cis</i> )-1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethylpyrrolo[2,3- <i>b</i> ]indol-5-yl methylcarbamate ester (1:1)
P188	57-64-7	Physostigmine salicylate
P189	55285-14-8	Carbamic acid, [(dibutylamino)-thio]methyl-, 2,3-dihydro-2,2-dimethyl-7-benzofuranyl ester
P189	55285-14-8	Carbosulfan
P190	1129-41-5	Carbamic acid, methyl-, 3-methylphenyl ester
P190	1129-41-5	Metolcarb
P191	644-64-4	Carbamic acid, dimethyl-, 1-[(dimethyl-amino)carbonyl]-5-methyl-1H-pyrazol-3-yl ester
P191	644-64-4	Dimetilan
P192	119-38-0	Carbamic acid, dimethyl-, 3-methyl-1-(1-methylethyl)-1H-pyrazol-5-yl ester
P192	119-38-0	Isolan
P194	23135-22-0	Ethanimidthioic acid, 2-(dimethylamino)-N-[[[(methylamino)carbonyl]oxy]-2-oxo-, methyl ester
P194	23135-22-0	Oxamyl
P196	15339-36-3	Manganese, bis(dimethylcarbamo-dithioato-S,S')-,
P196	15339-36-3	Manganese dimethyldithiocarbamate
P197	17702-57-7	Formparanate
P197	17702-57-7	Methanimidamide, N,N-dimethyl-N'-[2-methyl-4-[[[(methylamino)carbonyl]oxy]phenyl]-
P198	23422-53-9	Formetanate hydrochloride
P198	23422-53-9	Methanimidamide, N,N-dimethyl-N'-[3-[[[(methylamino)-carbonyl]oxy]phenyl]-monohydrochloride
P199	2032-65-7	Methiocarb
P199	2032-65-7	Phenol, (3,5-dimethyl-4-(methylthio)-, methylcarbamate
P201	2631-37-0	Phenol, 3-methyl-5-(1-methylethyl)-, methylcarbamate
P201	2631-37-0	Promecarb
P202	64-00-6	m-Cumenyl methylcarbamate

Hazardous Waste No.	Chemical Abstracts No.	Substance
P202	64-00-6	3-Isopropylphenyl N-methylcarbamate
P202	64-00-6	Phenol, 3-(1-methylethyl)-, methylcarbamate
P203	1646-88-4	Aldicarb sulfone
P203	1646-88-4	Propanal, 2-methyl-2-(methyl sulfonyl)-, O-[(methylamino)carbonyl] oxime
P204	57-47-6	Physostigmine
P204	57-47-6	Pyrrolo[2,3-b]indol-5-ol, 1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethyl-, methylcarbamate (ester), (3aS-cis)-
P205	137-30-4	Zinc, bis(dimethylcarbamo-dithioato-S,S')-
P205	137-30-4	Ziram

<sup>1</sup>CAS number given for parent compound only.

6. The commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products referred to in subsections 1 through 4, are identified as toxic wastes (T) unless otherwise designated.

Comment: For the convenience of the regulated community, the primary hazardous properties of these materials have been indicated by the letters T (toxicity), R (reactivity), I (ignitability), and C (corrosivity). Absence of a letter indicates that the compound is only listed for toxicity. Wastes are first listed in alphabetical order by substance and then listed again in numerical order by hazardous waste number.

These wastes and their corresponding hazardous waste numbers are:

Hazardous Waste No.	Chemical Abstracts No.	Substance
U394	30558-43-1	A2213
U001	75-07-0	Acetaldehyde (I)
U034	75-87-6	Acetaldehyde, trichloro-
U187	62-44-2	Acetamide, N-(4-ethoxyphenyl)-
U005	53-96-3	Acetamide, N-9H-fluoren-2-yl-
U240	<sup>1</sup> 94-75-7	Acetic acid, (2,4-dichlorophenoxy)-, salts & esters
U112	141-78-6	Acetic acid, ethyl ester (I)
U144	301-04-2	Acetic acid, lead(2+) salt
U214	563-68-8	Acetic acid, thallium(1+) salt
See F027	93-76-5	Acetic acid, (2,4,5-trichlorophenoxy)-
U002	67-64-1	Acetone (I)
U003	75-05-8	Acetonitrile (I,T)
U004	98-86-2	Acetophenone
U005	53-96-3	2-Acetylaminofluorene
U006	75-36-5	Acetyl chloride (C,R,T)
U007	79-06-1	Acrylamide
U008	79-10-7	Acrylic acid (I)
U009	107-13-1	Acrylonitrile
U011	61-82-5	Amitrole

Hazardous Waste No.	Chemical Abstracts No.	Substance
U012	62-53-3	Aniline (I,T)
U136	75-60-5	Arsinic acid, dimethyl-
U014	492-80-8	Auramine
U015	115-02-6	Azaserine
U010	50-07-7	Azirino[2',3':3,4]pyrrolo[1,2-a]indole-4,7-dione, 6-amino-8-[[[(aminocarbonyl)oxy]methyl]-1,1a,2,8,8a,8b-hexahydro-8a-methoxy-5-methyl- [1aS-(1aalpha,8beta,8aalpha,8balpha)]-
U280	101-27-9	Barban
U278	22781-23-3	Bendiocarb
U364	22961-82-6	Bendiocarb phenol
U271	17804-35-2	Benomyl
U157	56-49-5	Benz[j][aceanthrylene, 1,2-dihydro-3-methyl-
U016	225-51-4	Benz[c]acridine
U017	98-87-3	Benzal chloride
U192	23950-58-5	Benzamide, 3,5-dichloro-N-(1,1-dimethyl-2-propynyl)-
U018	56-55-3	Benz[a]anthracene
U094	57-97-6	Benz[a]anthracene, 7,12-dimethyl-
U012	62-53-3	Benzenamine (I,T)
U014	492-80-8	Benzenamine, 4,4'-carbonimidoylbis[N,N-dimethyl-
U049	3165-93-3	Benzenamine, 4-chloro-2-methyl-, hydrochloride
U093	60-11-7	Benzenamine, N,N-dimethyl-4-(phenylazo)-
U328	95-53-4	Benzenamine, 2-methyl-
U353	106-49-0	Benzenamine, 4-methyl-
U158	101-14-4	Benzenamine, 4,4'-methylenebis[2-chloro-
U222	636-21-5	Benzenamine, 2-methyl-, hydrochloride
U181	99-55-8	Benzenamine, 2-methyl-5-nitro-
U019	71-43-2	Benzene (I,T)
U038	510-15-6	Benzeneacetic acid, 4-chloro-alpha-(4-chlorophenyl)-alpha-hydroxy-, ethyl ester
U030	101-55-3	Benzene, 1-bromo-4-phenoxy-
U035	305-03-3	Benzenebutanoic acid, 4-[bis(2-chloroethyl)amino]-
U037	108-90-7	Benzene, chloro-
U221	25376-45-8	Benzenediamine, ar-methyl-
U028	117-81-7	1,2-Benzenedicarboxylic acid, bis(2-ethylhexyl) ester
U069	84-74-2	1,2-Benzenedicarboxylic acid, dibutyl ester
U088	84-66-2	1,2-Benzenedicarboxylic acid, diethyl ester
U102	131-11-3	1,2-Benzenedicarboxylic acid, dimethyl ester
U107	117-84-0	1,2-Benzenedicarboxylic acid, dioctyl ester
U070	95-50-1	Benzene, 1,2-dichloro-
U071	541-73-1	Benzene, 1,3-dichloro-
U072	106-46-7	Benzene, 1,4-dichloro-
U060	72-54-8	Benzene, 1,1'-(2,2-dichloroethylidene)bis[4-chloro-

Hazardous Waste No.	Chemical Abstracts No.	Substance
U017	98-87-3	Benzene, (dichloromethyl)-
U223	26471-62-5	Benzene, 1,3-diisocyanatomethyl- (R,T)
U239	1330-20-7	Benzene, dimethyl- (I)
U201	108-46-3	1,3-Benzenediol
U127	118-74-1	Benzene, hexachloro-
U056	110-82-7	Benzene, hexahydro- (I)
U220	108-88-3	Benzene, methyl-
U105	121-14-2	Benzene, 1-methyl-2,4-dinitro-
U106	606-20-2	Benzene, 2-methyl-1,3-dinitro-
U055	98-82-8	Benzene, (1-methylethyl)- (I)
U169	98-95-3	Benzene, nitro-
U183	608-93-5	Benzene, pentachloro-
U185	82-68-8	Benzene, pentachloronitro-
U020	98-09-9	Benzenesulfonic acid chloride (C,R)
U020	98-09-9	Benzenesulfonyl chloride (C,R)
U207	95-94-3	Benzene, 1,2,4,5-tetrachloro-
U061	50-29-3	Benzene, 1,1'-(2,2,2-trichloroethylidene)bis[4-chloro-
U247	72-43-5	Benzene, 1,1'-(2,2,2-trichloroethylidene)bis[4-methoxy-
U023	98-07-7	Benzene, (trichloromethyl)-
U234	99-35-4	Benzene, 1,3,5-trinitro-
U021	92-87-5	Benzidine
U278	22781-23-3	1,3-Benzodioxol-4-ol, 2,2-dimethyl-, methylcarbamate
U364	22961-82-6	1,3-Benzodioxol-4-ol, 2,2-dimethyl-
U203	94-59-7	1,3-Benzodioxole, 5-(2-propenyl)-
U141	120-58-1	1,3-Benzodioxole, 5-(1-propenyl)-
U090	94-58-6	1,3-Benzodioxole, 5-propyl-
U367	1563-38-8	7-Benzofuranol, 2,3-dihydro-2,2-dimethyl-
U064	189-55-9	Benzo[rs]pentaphene
U248	'81-81-2	2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenyl butyl)-, & salts, when present at concentrations of 0.3% or less
U022	50-32-8	Benzo[a]pyrene
U197	106-51-4	p-Benzoquinone
U023	98-07-7	Benzotrichloride (C,R,T)
U085	1464-53-5	2,2'-Bioxirane
U021	92-87-5	[1,1'-Biphenyl]-4,4'-diamine
U073	91-94-1	[1,1'-Biphenyl]-4,4'-diamine, 3,3'-dichloro-
U091	119-90-4	[1,1'-Biphenyl]-4,4'-diamine, 3,3'-dimethoxy-
U095	119-93-7	[1,1'-Biphenyl]-4,4'-diamine, 3,3'-dimethyl-
U225	75-25-2	Bromoform
U030	101-55-3	4-Bromophenyl phenyl ether
U128	87-68-3	1,3-Butadiene, 1,1,2,3,4,4-hexachloro-

Hazardous Waste No.	Chemical Abstracts No.	Substance
U172	924-16-3	1-Butanamine, N-butyl-N-nitroso-
U031	71-36-3	1-Butanol (I)
U159	78-93-3	2-Butanone (I,T)
U160	1338-23-4	2-Butanone peroxide (R,T)
U053	4170-30-3	2-Butenal
U074	764-41-0	2-Butene, 1,4-dichloro- (I,T)
U143	303-34-4	2-Butenoic acid, 2-methyl-, 7-[[2,3-dihydroxy-2-(1-methoxyethyl)-3-methyl-1-oxobutoxy]methyl]-2,3,5,7a-tetrahydro-1H-pyrrolizin-1-yl ester, [1S-[1alpha(Z),7(2S*,3R*),7aalpha]]-
U031	71-36-3	n-Butyl alcohol (I)
U136	75-60-5	Cacodylic acid
U032	13765-19-0	Calcium chromate
U372	10605-21-7	Carbamic acid, 1H-benzimidazol-2-yl, methyl ester
U271	17804-35-2	Carbamic acid, [1-[(butylamino)carbonyl]-1H-benzimidazol-2-yl]-, methyl ester
U280	101-27-9	Carbamic acid, (3-chlorophenyl)-, 4-chloro-2-butynyl ester
U238	51-79-6	Carbamic acid, ethyl ester
U178	615-53-2	Carbamic acid, methylnitroso-, ethyl ester
U373	122-42-9	Carbamic acid, phenyl-, 1-methylethyl ester
U409	23564-05-8	Carbamic acid, [1,2-phenylenebis(iminocarbonothioyl)]bis-, dimethyl ester
U097	79-44-7	Carbamic chloride, dimethyl-
U114	111-54-6	Carbamodithioic acid, 1,2-ethanediylbis-, salts & esters
U062	2303-16-4	Carbamothioic acid, bis(1-methylethyl)-, S-(2,3-dichloro-2-propenyl) ester
U389	2303-17-5	Carbamothioic acid, bis(1-methylethyl)-, S-(2,3,3-trichloro-2-propenyl) ester
U387	52888-80-9	Carbamothioic acid, dipropyl-, S-(phenylmethyl) ester
U279	63-25-2	Carbaryl
U372	10605-21-7	Carbendazim
U367	1563-38-8	Carbofuran phenol
U215	6533-73-9	Carbonic acid, dithallium(1+) salt
U033	353-50-4	Carbon difluoride
U156	79-22-1	Carbonochloridic acid, methyl ester (I,T)
U033	353-50-4	Carbon oxyfluoride (R,T)
U211	56-23-5	Carbon tetrachloride
U034	75-87-6	Chloral
U035	305-03-3	Chlorambucil
U036	57-74-9	Chlordane, alpha & gamma isomers
U026	494-03-1	Chlornaphazine
U037	108-90-7	Chlorobenzene
U038	510-15-6	Chlorobenzilate
U039	59-50-7	4-Chloro-m-cresol
U042	110-75-8	2-Chloroethyl vinyl ether
U044	67-66-3	Chloroform
U046	107-30-2	Chloromethyl methyl ether

Hazardous Waste No.	Chemical Abstracts No.	Substance
U047	91-58-7	beta-Chloronaphthalene
U048	95-57-8	o-Chlorophenol
U049	3165-93-3	4-Chloro-o-toluidine, hydrochloride
U032	13765-19-0	Chromic acid H <sub>2</sub> CrO <sub>4</sub> , calcium salt
U050	218-01-9	Chrysene
U051	.....	Creosote
U052	1319-77-3	Cresol (Cresylic acid)
U053	4170-30-3	Crotonaldehyde
U055	98-82-8	Cumene (I)
U246	506-68-3	Cyanogen bromide (CN)Br
U197	106-51-4	2,5-Cyclohexadiene-1,4-dione
U056	110-82-7	Cyclohexane (I)
U129	58-89-9	Cyclohexane, 1,2,3,4,5,6-hexachloro-, (1alpha,2alpha,3beta,4alpha,5alpha,6beta)
U057	108-94-1	Cyclohexanone (I)
U130	77-47-4	1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-
U058	50-18-0	Cyclophosphamide
U240	194-75-7	2,4-D, salts & esters
U059	20830-81-3	Daunomycin
U060	72-54-8	DDD
U061	50-29-3	DDT
U062	2303-16-4	Diallate
U063	53-70-3	Dibenz[a,h]anthracene
U064	189-55-9	Dibenzo[a,i]pyrene
U066	96-12-8	1,2-Dibromo-3-chloropropane
U069	84-74-2	Dibutyl phthalate
U070	95-50-1	o-Dichlorobenzene
U071	541-73-1	m-Dichlorobenzene
U072	106-46-7	p-Dichlorobenzene
U073	91-94-1	3,3'-Dichlorobenzidine
U074	764-41-0	1,4-Dichloro-2-butene (I,T)
U075	75-71-8	Dichlorodifluoromethane
U078	75-35-4	1,1-Dichloroethylene
U079	156-60-5	1,2-Dichloroethylene
U025	111-44-4	Dichloroethyl ether
U027	108-60-1	Dichloroisopropyl ether
U024	111-91-1	Dichloromethoxy ethane
U081	120-83-2	2,4-Dichlorophenol
U082	87-65-0	2,6-Dichlorophenol
U084	542-75-6	1,3-Dichloropropene
U085	1464-53-5	1,2:3,4-Diepoxybutane (I,T)

<b>Hazardous Waste No.</b>	<b>Chemical Abstracts No.</b>	<b>Substance</b>
U395	5952-26-1	Diethylene glycol, dicarbamate
U108	123-91-1	1,4-Diethyleneoxide
U028	117-81-7	Diethylhexyl phthalate
U086	1615-80-1	N,N'-Diethylhydrazine
U087	3288-58-2	O,O-Diethyl S-methyl dithiophosphate
U088	84-66-2	Diethyl phthalate
U089	56-53-1	Diethylstilbesterol
U090	94-58-6	Dihydrosafrole
U091	119-90-4	3,3'-Dimethoxybenzidine
U092	124-40-3	Dimethylamine (I)
U093	60-11-7	p-Dimethylaminoazobenzene
U094	57-97-6	7,12-Dimethylbenz[a]anthracene
U095	119-93-7	3,3'-Dimethylbenzidine
U096	80-15-9	alpha,alpha-Dimethylbenzylhydroperoxide (R)
U097	79-44-7	Dimethylcarbamoil chloride
U098	57-14-7	1,1-Dimethylhydrazine
U099	540-73-8	1,2-Dimethylhydrazine
U101	105-67-9	2,4-Dimethylphenol
U102	131-11-3	Dimethyl phthalate
U103	77-78-1	Dimethyl sulfate
U105	121-14-2	2,4-Dinitrotoluene
U106	606-20-2	2,6-Dinitrotoluene
U107	117-84-0	Di-n-octyl phthalate
U108	123-91-1	1,4-Dioxane
U109	122-66-7	1,2-Diphenylhydrazine
U110	142-84-7	Dipropylamine (I)
U111	621-64-7	Di-n-propylnitrosamine
U041	106-89-8	Epichlorohydrin
U001	75-07-0	Ethanal (I)
U174	55-18-5	Ethanamine, N-ethyl-N-nitroso-
U404	121-44-8	Ethanamine, N,N-diethyl-
U155	91-80-5	1,2-Ethanediamine, N,N-dimethyl-N'-2-pyridinyl-N'-(2-thienylmethyl)-
U067	106-93-4	Ethane, 1,2-dibromo-
U076	75-34-3	Ethane, 1,1-dichloro-
U077	107-06-2	Ethane, 1,2-dichloro-
U131	67-72-1	Ethane, hexachloro-
U024	111-91-1	Ethane, 1,1'-[methylenebis(oxy)]bis[2-chloro-
U117	60-29-7	Ethane, 1,1'-oxybis- (I)
U025	111-44-4	Ethane, 1,1'-oxybis[2-chloro-
U184	76-01-7	Ethane, pentachloro-
U208	630-20-6	Ethane, 1,1,1,2-tetrachloro-

<b>Hazardous Waste No.</b>	<b>Chemical Abstracts No.</b>	<b>Substance</b>
U209	79-34-5	Ethane, 1,1,2,2-tetrachloro-
U218	62-55-5	Ethanethioamide
U226	71-55-6	Ethane, 1,1,1-trichloro-
U227	79-00-5	Ethane, 1,1,2-trichloro-
U394	30558-43-1	Ethanimidothioic acid, 2-(dimethylamino)-N-hydroxy-2-oxo-, methyl ester.
U410	59669-26-0	Ethanimidothioic acid, N,N'-[thiobis[(methylimino)carbonyloxy]]bis-, dimethyl ester
U359	110-80-5	Ethanol, 2-ethoxy-
U173	1116-54-7	Ethanol, 2,2'-(nitrosoimino)bis-
U395	5952-26-1	Ethanol, 2,2'-oxybis-, dicarbamate
U004	98-86-2	Ethanone, 1-phenyl-
U043	75-01-4	Ethene, chloro-
U042	110-75-8	Ethene, (2-chloroethoxy)-
U078	75-35-4	Ethene, 1,1-dichloro-
U079	156-60-5	Ethene, 1,2-dichloro-, (E)-
U210	127-18-4	Ethene, tetrachloro-
U228	79-01-6	Ethene, trichloro-
U112	141-78-6	Ethyl acetate (I)
U113	140-88-5	Ethyl acrylate (I)
U238	51-79-6	Ethyl carbamate (urethane)
U117	60-29-7	Ethyl ether (I)
U114	<sup>1</sup> 111-54-6	Ethylenebisdithiocarbamic acid, salts & esters
U067	106-93-4	Ethylene dibromide
U077	107-06-2	Ethylene dichloride
U359	110-80-5	Ethylene glycol monoethyl ether
U115	75-21-8	Ethylene oxide (I,T)
U116	96-45-7	Ethylenethiourea
U076	75-34-3	Ethylidene dichloride
U118	97-63-2	Ethyl methacrylate
U119	62-50-0	Ethyl methanesulfonate
U120	206-44-0	Fluoranthene
U122	50-00-0	Formaldehyde
U123	64-18-6	Formic acid (C,T)
U124	110-00-9	Furan (I)
U125	98-01-1	2-Furancarboxaldehyde (I)
U147	108-31-6	2,5-Furandione
U213	109-99-9	Furan, tetrahydro- (I)
U125	98-01-1	Furfural (I)
U124	110-00-9	Furfuran (I)
U206	18883-66-4	Glucopyranose, 2-deoxy-2(3-methyl-3-nitrosoureido)-, D-
U206	18883-66-4	D-Glucose, 2-deoxy-2-[[methylnitrosoamino]carbonyl]amino]-

Hazardous Waste No.	Chemical Abstracts No.	Substance
U126	765-34-4	Glycidylaldehyde
U163	70-25-7	Guanidine, N-methyl-N'-nitro-N-nitroso-
U127	118-74-1	Hexachlorobenzene
U128	87-68-3	Hexachlorobutadiene
U130	77-47-4	Hexachlorocyclopentadiene
U131	67-72-1	Hexachloroethane
U132	70-30-4	Hexachlorophene
U243	1888-71-7	Hexachloropropene
U133	302-01-2	Hydrazine (R,T)
U086	1615-80-1	Hydrazine, 1,2-diethyl-
U098	57-14-7	Hydrazine, 1,1-dimethyl-
U099	540-73-8	Hydrazine, 1,2-dimethyl-
U109	122-66-7	Hydrazine, 1,2-diphenyl-
U134	7664-39-3	Hydrofluoric acid (C,T)
U134	7664-39-3	Hydrogen fluoride (C,T)
U135	7783-06-4	Hydrogen sulfide
U135	7783-06-4	Hydrogen sulfide H <sub>2</sub> S
U096	80-15-9	Hydroperoxide, 1-methyl-1-phenylethyl- (R)
U116	96-45-7	2-Imidazolidinethione
U137	193-39-5	Indeno[1,2,3-cd]pyrene
U190	85-44-9	1,3-Isobenzofurandione
U140	78-83-1	Isobutyl alcohol (I,T)
U141	120-58-1	Isosafrole
U142	143-50-0	Kepone
U143	303-34-4	Lasiocarpine
U144	301-04-2	Lead acetate
U146	1335-32-6	Lead, bis(acetato-O)tetrahydroxytri-
U145	7446-27-7	Lead phosphate
U146	1335-32-6	Lead subacetate
U129	58-89-9	Lindane
U163	70-25-7	MNNG
U147	108-31-6	Maleic anhydride
U148	123-33-1	Maleic hydrazide
U149	109-77-3	Malononitrile
U150	148-82-3	Melphalan
U151	7439-97-6	Mercury
U152	126-98-7	Methacrylonitrile (I,T)
U092	124-40-3	Methanamine, N-methyl- (I)
U029	74-83-9	Methane, bromo-
U045	74-87-3	Methane, chloro- (I,T)
U046	107-30-2	Methane, chloromethoxy-

Hazardous Waste No.	Chemical Abstracts No.	Substance
U068	74-95-3	Methane, dibromo-
U080	75-09-2	Methane, dichloro-
U075	75-71-8	Methane, dichlorodifluoro-
U138	74-88-4	Methane, iodo-
U119	62-50-0	Methanesulfonic acid, ethyl ester
U211	56-23-5	Methane, tetrachloro-
U153	74-93-1	Methanethiol (I,T)
U225	75-25-2	Methane, tribromo-
U044	67-66-3	Methane, trichloro-
U121	75-69-4	Methane, trichlorofluoro-
U036	57-74-9	4,7-Methano-1H-indene, 1,2,4,5,6,7,8,8-octachloro-2,3,3a,4,7,7a-hexahydro-
U154	67-56-1	Methanol (I)
U155	91-80-5	Methapyrilene
U142	143-50-0	1,3,4-Metheno-2H-cyclobuta[cd]pentalen-2-one, 1,1a,3,3a,4,5,5,5a,5b,6-decachlorooctahydro-
U247	72-43-5	Methoxychlor
U154	67-56-1	Methyl alcohol (I)
U029	74-83-9	Methyl bromide
U186	504-60-9	1-Methylbutadiene (I)
U045	74-87-3	Methyl chloride (I,T)
U156	79-22-1	Methyl chlorocarbonate (I,T)
U226	71-55-6	Methyl chloroform
U157	56-49-5	3-Methylcholanthrene
U158	101-14-4	4,4'-Methylenebis(2-chloroaniline)
U068	74-95-3	Methylene bromide
U080	75-09-2	Methylene chloride
U159	78-93-3	Methyl ethyl ketone (MEK) (I,T)
U160	1338-23-4	Methyl ethyl ketone peroxide (R,T)
U138	74-88-4	Methyl iodide
U161	108-10-1	Methyl isobutyl ketone (I)
U162	80-62-6	Methyl methacrylate (I,T)
U161	108-10-1	4-Methyl-2-pentanone (I)
U164	56-04-2	Methylthiouracil
U010	50-07-7	Mitomycin C
U059	20830-81-3	5,12-Naphthacenedione, 8-acetyl-10-[(3-amino-2,3,6-trideoxy-alpha-L-lyxo-hexopyranosyl)oxy]-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-, (8S-cis)-
U167	134-32-7	1-Naphthalenamine
U168	91-59-8	2-Naphthalenamine
U026	494-03-1	Naphthalenamine, N,N'-bis(2-chloroethyl)-
U165	91-20-3	Naphthalene

Hazardous Waste No.	Chemical Abstracts No.	Substance
U047	91-58-7	Naphthalene, 2-chloro-
U166	130-15-4	1,4-Naphthalenedione
U236	72-57-1	2,7-Naphthalenedisulfonic acid, 3,3'-[(3,3'-dimethyl[1,1'-biphenyl]-4,4'diyl)bis(azo)]bis[5-amino-4-hydroxy]-, tetrasodium salt
U279	63-25-2	1-Naphthalenol, methylcarbamate
U166	130-15-4	1,4-Naphthoquinone
U167	134-2-7	alpha-Naphthylamine
U168	91-59-8	beta-Naphthylamine
U217	10102-45-1	Nitric acid, thallium(1+) salt
U169	98-95-3	Nitrobenzene (I,T)
U170	100-02-7	p-Nitrophenol
U171	79-46-9	2-Nitropropane (I,T)
U172	924-16-3	N-Nitrosodi-n-butylamine
U173	1116-54-7	N-Nitrosodiethanolamine
U174	55-18-5	N-Nitrosodiethylamine
U176	759-73-9	N-Nitroso-N-ethylurea
U177	684-93-5	N-Nitroso-N-methylurea
U178	615-53-2	N-Nitroso-N-methylurethane
U179	100-75-4	N-Nitrosopiperidine
U180	930-55-2	N-Nitrosopyrrolidine
U181	99-55-8	5-Nitro-O-toluidine
U193	1120-71-4	1,2-Oxathiolane, 2,2-dioxide
U058	50-18-0	2H-1,3,2-Oxazaphosphorin-2-amine, N,N-bis(2-chloroethyl)tetrahydro-, 2-oxide
U115	75-21-8	Oxirane (I,T)
U126	765-34-4	Oxiranecarboxyaldehyde
U041	106-89-8	Oxirane, (chloromethyl)-
U182	123-63-7	Paraldehyde
U183	608-93-5	Pentachlorobenzene
U184	76-01-7	Pentachloroethane
U185	82-68-8	Pentachloronitrobenzene (PCNB)
See F027	87-86-5	Pentachlorophenol
U161	108-10-1	Pentanol, 4-methyl-
U186	504-60-9	1,3-Pentadiene (I)
U187	62-44-2	Phenacetin
U188	108-95-2	Phenol
U048	95-57-8	Phenol, 2-chloro-
U039	59-50-7	Phenol, 4-chloro-3-methyl-
U081	120-83-2	Phenol, 2,4-dichloro-
U082	87-65-0	Phenol, 2,6-dichloro-
U089	56-53-1	Phenol, 4,4'-(1,2-diethyl-1,2-ethenediyl)bis-, (E)-
U101	105-67-9	Phenol, 2,4-dimethyl-

<b>Hazardous Waste No.</b>	<b>Chemical Abstracts No.</b>	<b>Substance</b>
U052	1319-77-3	Phenol, methyl-
U132	70-30-4	Phenol, 2,2'-methylenebis[3,4,6-trichloro-
U411	114-26-1	Phenol, 2-(1-methylethoxy)-, methylcarbamate
U170	100-02-7	Phenol, 4-nitro-
See F027	87-86-5	Phenol, pentachloro-
See F027	58-90-2	Phenol, 2,3,4,6-tetrachloro-
See F027	95-95-4	Phenol, 2,4,5-trichloro-
See F027	88-06-2	Phenol, 2,4,6-trichloro-
U150	148-82-3	L-Phenylalanine, 4-[bis(2-chloroethyl)amino]-
U145	7446-27-7	Phosphoric acid, lead(2+) salt (2:3)
U087	3288-58-2	Phosphorodithioic acid, O,O-diethyl S-methyl ester
U189	1314-80-3	Phosphorus sulfide (R)
U190	85-44-9	Phthalic anhydride
U191	109-06-8	2-Picoline
U179	100-75-4	Piperidine, 1-nitroso-
U192	23950-58-5	Pronamide
U194	107-10-8	1-Propanamine (I,T)
U111	621-64-7	1-Propanamine, N-nitroso-N-propyl-
U110	142-84-7	1-Propanamine, N-propyl- (I)
U066	96-12-8	Propane, 1,2-dibromo-3-chloro-
U083	78-87-5	Propane, 1,2-dichloro-
U149	109-77-3	Propanedinitrile
U171	79-46-9	Propane, 2-nitro- (I,T)
U027	108-60-1	Propane, 2,2'-oxybis[2-chloro-
U193	1120-71-4	1,3-Propane sultone
See F027	93-72-1	Propanoic acid, 2-(2,4,5-trichlorophenoxy)-
U235	126-72-7	1-Propanol, 2,3-dibromo-, phosphate (3:1)
U140	78-83-1	1-Propanol, 2-methyl- (I,T)
U002	67-64-1	2-Propanone (I)
U007	79-06-1	2-Propenamide
U084	542-75-6	1-Propene, 1,3-dichloro-
U243	1888-71-7	1-Propene, 1,1,2,3,3,3-hexachloro-
U009	107-13-1	2-Propenenitrile
U152	126-98-7	2-Propenenitrile, 2-methyl- (I,T)
U008	79-10-7	2-Propenoic acid (I)
U113	140-88-5	2-Propenoic acid, ethyl ester (I)
U118	97-63-2	2-Propenoic acid, 2-methyl-, ethyl ester
U162	80-62-6	2-Propenoic acid, 2-methyl-, methyl ester (I,T)
U373	122-42-9	Propham
U411	114-26-1	Propoxur
U194	107-10-8	n-Propylamine (I,T)

<b>Hazardous Waste No.</b>	<b>Chemical Abstracts No.</b>	<b>Substance</b>
U083	78-87-5	Propylene dichloride
U387	52888-80-9	Prosulfocarb
U148	123-33-1	3,6-Pyridazinedione, 1,2-dihydro-
U196	110-86-1	Pyridine
U191	109-06-8	Pyridine, 2-methyl-
U237	66-75-1	2,4(1H,3H)-Pyrimidinedione, 5-[bis(2-chloroethyl)amino]-
U164	56-04-2	4-(1H)-Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo-
U180	930-55-2	Pyrrolidine, 1-nitroso-
U200	50-55-5	Reserpine
U201	108-46-3	Resorcinol
U203	94-59-7	Safrole
U204	7783-00-8	Selenious acid
U204	7783-00-8	Selenium dioxide
U205	7488-56-4	Selenium sulfide
U205	7488-56-4	Selenium sulfide SeS <sub>2</sub> (R,T)
U015	115-02-6	L-Serine, diazoacetate (ester)
See F027	93-72-1	Silvex (2,4,5-TP)
U206	18883-66-4	Streptozotocin
U103	77-78-1	Sulfuric acid, dimethyl ester
U189	1314-80-3	Sulfur phosphide (R)
See F027	93-76-5	2,4,5-T
U207	95-94-3	1,2,4,5-Tetrachlorobenzene
U208	630-20-6	1,1,1,2-Tetrachloroethane
U209	79-34-5	1,1,2,2-Tetrachloroethane
U210	127-18-4	Tetrachloroethylene
See F027	58-90-2	2,3,4,6-Tetrachlorophenol
U213	109-99-9	Tetrahydrofuran (I)
U214	563-68-8	Thallium(I) acetate
U215	6533-73-9	Thallium(I) carbonate
U216	7791-12-0	Thallium(I) chloride
U216	7791-12-0	Thallium chloride TlCl
U217	10102-45-1	Thallium(I) nitrate
U218	62-55-5	Thioacetamide
U410	59669-26-0	Thiodicarb
U153	74-93-1	Thiomethanol (I,T)
U244	137-26-8	Thioperoxydicarbonic diamide [(H <sub>2</sub> N)C(S)] <sub>2</sub> S <sub>2</sub> , tetramethyl-
U409	23564-05-8	Thiophanate-methyl
U219	62-56-6	Thiourea
U244	137-26-8	Thiram
U220	108-88-3	Toluene
U221	25376-45-8	Toluenediamine

<b>Hazardous Waste No.</b>	<b>Chemical Abstracts No.</b>	<b>Substance</b>
U223	26471-62-5	Toluene diisocyanate (R,T)
U328	95-53-4	o-Toluidine
U353	106-49-0	p-Toluidine
U222	636-21-5	o-Toluidine hydrochloride
U389	2303-17-5	Triallate
U011	61-82-5	1H-1,2,4-Triazol-3-amine
U408	118-79-6	2,4,6-Tribromophenol
U226	71-55-6	1,1,1-Trichloroethane
U227	79-00-5	1,1,2-Trichloroethane
U228	79-01-6	Trichloroethylene
U121	75-69-4	Trichloromonofluoromethane
See F027	95-95-4	2,4,5-Trichlorophenol
See F027	88-06-2	2,4,6-Trichlorophenol
U404	121-44-8	Triethylamine
U234	99-35-4	1,3,5-Trinitrobenzene (R,T)
U182	123-63-7	1,3,5-Trioxane, 2,4,6-trimethyl-
U235	126-72-7	Tris (2,3-dibromopropyl) phosphate
U236	72-57-1	Trypan blue
U237	66-75-1	Uracil mustard
U176	759-73-9	Urea, N-ethyl-N-nitroso-
U177	684-93-5	Urea, N-methyl-N-nitroso-
U043	75-01-4	Vinyl chloride
U248	'81-81-2	Warfarin, and salts, when present at concentrations of 0.3% or less
U239	1330-20-7	Xylene (l)
U200	50-55-5	Yohimban-16-carboxylic acid, 11,17-dimethoxy-18-[(3,4,5-trimethoxybenzoyl)oxy]-, methyl ester, (3beta,16beta,17alpha,18beta,20alpha)-
U249	1314-84-7	Zinc phosphide Zn <sub>3</sub> P <sub>2</sub> , when present at concentrations of 10% or less
U001	75-07-0	Acetaldehyde (l)
U001	75-07-0	Ethanal (l)
U002	67-64-1	Acetone (l)
U002	67-64-1	2-Propanone (l)
U003	75-05-8	Acetonitrile (l,T)
U004	98-86-2	Acetophenone
U004	98-86-2	Ethanone, 1-phenyl-
U005	53-96-3	Acetamide, N-9H-fluoren-2-yl-
U005	53-96-3	2-Acetylaminofluorene
U006	75-36-5	Acetyl chloride (C,R,T)
U007	79-06-1	Acrylamide
U007	79-06-1	2-Propenamide
U008	79-10-7	Acrylic acid (l)
U008	79-10-7	2-Propenoic acid (l)

Hazardous Waste No.	Chemical Abstracts No.	Substance
U009	107-13-1	Acrylonitrile
U009	107-13-1	2-Propenenitrile
U010	50-07-7	Azirino[2',3':3,4]pyrrolo[1,2-a]indole-4,7-dione, 6-amino-8-[[aminocarbonyloxy]methyl]-1,1a,2,8,8a,8b-hexahydro-8a-methoxy-5-methyl- [1aS-(1aalpha,8beta,8aalpha,8balph)]-
U010	50-07-7	Mitomycin C
U011	61-82-5	Amitrole
U011	61-82-5	1H-1,2,4-Triazol-3-amine
U012	62-53-3	Aniline (I,T)
U012	62-53-3	Benzenamine (I,T)
U014	492-80-8	Auramine
U014	492-80-8	Benzenamine, 4,4'-carbonimidoylbis[N,N-dimethyl-
U015	115-02-6	Azaserine
U015	115-02-6	L-Serine, diazoacetate (ester)
U016	225-51-4	Benz[c]acridine
U017	98-87-3	Benzalchloride
U017	98-87-3	Benzene, (dichloromethyl)-
U018	56-55-3	Benz[a]anthracene
U019	71-43-2	Benzene (I,T)
U020	98-09-9	Benzenesulfonic acid chloride (C,R)
U020	98-09-9	Benzenesulfonyl chloride (C,R)
U021	92-87-5	Benzidine
U021	92-87-5	[1,1'-Biphenyl]-4,4'-diamine
U022	50-32-8	Benzo[a]pyrene
U023	98-07-7	Benzene, (trichloromethyl)-
U023	98-07-7	Benzotrichloride (C,R,T)
U024	111-91-1	Dichloromethoxy ethane
U024	111-91-1	Ethane, 1,1'-[methylenebis(oxy)]bis[2-chloro-
U025	111-44-4	Dichloroethyl ether
U025	111-44-4	Ethane, 1,1'-oxybis[2-chloro-
U026	494-03-1	Chlornaphazin
U026	494-03-1	Naphthalenamine, N,N'-bis(2-chloroethyl)-
U027	108-60-1	Dichloroisopropyl ether
U027	108-60-1	Propane, 2,2'-oxybis[2-chloro-
U028	117-81-7	1,2-Benzenedicarboxylic acid, bis(2-ethylhexyl) ester
U028	117-81-7	Diethylhexyl phthalate
U029	74-83-9	Methane, bromo-
U029	74-83-9	Methyl bromide
U030	101-55-3	Benzene, 1-bromo-4-phenoxy-
U030	101-55-3	4-Bromophenyl phenyl ether
U031	71-36-3	1-Butanol (I)
U031	71-36-3	n-Butyl alcohol (I)

Hazardous Waste No.	Chemical Abstracts No.	Substance
U032	13765-19-0	Calcium chromate
U032	13765-19-0	Chromic acid H <sub>2</sub> CrO <sub>4</sub> , calcium salt
U033	353-50-4	Carbonic difluoride
U033	353-50-4	Carbon oxyfluoride (R,T)
U034	75-87-6	Acetaldehyde, trichloro-
U034	75-87-6	Chloral
U035	305-03-3	Benzenebutanoic acid, 4-[bis(2-chloroethyl)amino]-
U035	305-03-3	Chlorambucil
U036	57-74-9	Chlordane, alpha & gamma isomers
U036	57-74-9	4,7-Methano-1H-indene, 1,2,4,5,6,7,8,8-octachloro-2,3,3a,4,7,7a-hexahydro-
U037	108-90-7	Benzene, chloro-
U037	108-90-7	Chlorobenzene
U038	510-15-6	Benzeneacetic acid, 4-chloro-alpha-(4-chlorophenyl)-alpha-hydroxy-, ethyl ester
U038	510-15-6	Chlorobenzilate
U039	59-50-7	p-Chloro-m-cresol
U039	59-50-7	Phenol, 4-chloro-3-methyl-
U041	106-89-8	Epichlorohydrin
U041	106-89-8	Oxirane, (chloromethyl)-
U042	110-75-8	2-Chloroethyl vinyl ether
U042	110-75-8	Ethene, (2-chloroethoxy)-
U043	75-01-4	Ethene, chloro-
U043	75-01-4	Vinyl chloride
U044	67-66-3	Chloroform
U044	67-66-3	Methane, trichloro-
U045	74-87-3	Methane, chloro- (I,T)
U045	74-87-3	Methyl chloride (I,T)
U046	107-30-2	Chloromethyl methyl ether
U046	107-30-2	Methane, chloromethoxy-
U047	91-58-7	beta-Chloronaphthalene
U047	91-58-7	Naphthalene, 2-chloro-
U048	95-57-8	o-Chlorophenol
U048	95-57-8	Phenol, 2-chloro-
U049	3165-93-3	Benzenamine, 4-chloro-2-methyl-, hydrochloride
U049	3165-93-3	4-Chloro-o-toluidine, hydrochloride
U050	218-01-9	Chrysene
U051	.....	Creosote
U052	1319-77-3	Cresol (Cresylic acid)
U052	1319-77-3	Phenol, methyl-
U053	4170-30-3	2-Butenal
U053	4170-30-3	Crotonaldehyde

Hazardous Waste No.	Chemical Abstracts No.	Substance
U055	98-82-8	Benzene, (1-methylethyl)- (l)
U055	98-82-8	Cumene (l)
U056	110-82-7	Benzene, hexahydro- (l)
U056	110-82-7	Cyclohexane (l)
U057	108-94-1	Cyclohexanone (l)
U058	50-18-0	Cyclophosphamide
U058	50-18-0	2H-1,3,2-Oxazaphosphorin-2-amine, N,N-bis(2-chloroethyl)tetrahydro-, 2-oxide
U059	20830-81-3	Daunomycin
U059	20830-81-3	5,12-Naphthacenedione, 8-acetyl-10-[(3-amino-2,3,6-trideoxy-alpha-L-lyxo-hexopyranosyl)oxy]-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-, (8S-cis)-
U060	72-54-8	Benzene, 1,1'-(2,2-dichloroethylidene)bis[4-chloro-
U060	72-54-8	DDD
U061	50-29-3	Benzene, 1,1'-(2,2,2-trichloroethylidene)bis[4-chloro-
U061	50-29-3	DDT
U062	2303-16-4	Carbamothioic acid, bis(1-methylethyl)-, S-(2,3-dichloro-2-propenyl) ester
U062	2303-16-4	Diallate
U063	53-70-3	Dibenz[a,h]anthracene
U064	189-55-9	Benzo[rs]pentaphene
U064	189-55-9	Dibenzo[a,i]pyrene
U066	96-12-8	1,2-Dibromo-3-chloropropane
U066	96-12-8	Propane, 1,2-dibromo-3-chloro-
U067	106-93-4	Ethane, 1,2-dibromo-
U067	106-93-4	Ethylene dibromide
U068	74-95-3	Methane, dibromo-
U068	74-95-3	Methylene bromide
U069	84-74-2	1,2-Benzenedicarboxylic acid, dibutyl ester
U069	84-74-2	Dibutyl phthalate
U070	95-50-1	Benzene, 1,2-dichloro-
U070	95-50-1	o-Dichlorobenzene
U071	541-73-1	Benzene, 1,3-dichloro-
U071	541-73-1	m-Dichlorobenzene
U072	106-46-7	Benzene, 1,4-dichloro-
U072	106-46-7	p-Dichlorobenzene
U073	91-94-1	[1,1'-Biphenyl]-4,4'-diamine, 3,3'-dichloro-
U073	91-94-1	3,3'-Dichlorobenzidine
U074	764-41-0	2-Butene, 1,4-dichloro- (l,T)
U074	764-41-0	1,4-Dichloro-2-butene (l,T)
U075	75-71-8	Dichlorodifluoromethane
U075	75-71-8	Methane, dichlorodifluoro-
U076	75-34-3	Ethane, 1,1-dichloro-
U076	75-34-3	Ethylidene dichloride

Hazardous Waste No.	Chemical Abstracts No.	Substance
U077	107-06-2	Ethane, 1,2-dichloro-
U077	107-06-2	Ethylene dichloride
U078	75-35-4	1,1-Dichloroethylene
U078	75-35-4	Ethene, 1,1-dichloro-
U079	156-60-5	1,2-Dichloroethylene
U079	156-60-5	Ethene, 1,2-dichloro-, (E)-
U080	75-09-2	Methane, dichloro-
U080	75-09-2	Methylene chloride
U081	120-83-2	2,4-Dichlorophenol
U081	120-83-2	Phenol, 2,4-dichloro-
U082	87-65-0	2,6-Dichlorophenol
U082	87-65-0	Phenol, 2,6-dichloro-
U083	78-87-5	Propane, 1,2-dichloro-
U083	78-87-5	Propylene dichloride
U084	542-75-6	1,3-Dichloropropene
U084	542-75-6	1-Propene, 1,3-dichloro-
U085	1464-53-5	2,2'-Bioxirane
U085	1464-53-5	1,2:3,4-Diepoxybutane (I,T)
U086	1615-80-1	N,N'-Diethylhydrazine
U086	1615-80-1	Hydrazine, 1,2-diethyl-
U087	3288-58-2	O,O-Diethyl S-methyl dithiophosphate
U087	3288-58-2	Phosphorodithioic acid, O,O-diethyl S-methyl ester
U088	84-66-2	1,2-Benzenedicarboxylic acid, diethyl ester
U088	84-66-2	Diethyl phthalate
U089	56-53-1	Diethylstilbesterol
U089	56-53-1	Phenol, 4,4'-(1,2-diethyl-1,2-ethenediyl)bis-, (E)-
U090	94-58-6	1,3-Benzodioxole, 5-propyl-
U090	94-58-6	Dihydrosafrole
U091	119-90-4	[1,1'-Biphenyl]-4,4'-diamine, 3,3'-dimethoxy-
U091	119-90-4	3,3'-Dimethoxybenzidine
U092	124-40-3	Dimethylamine (I)
U092	124-40-3	Methanamine, -methyl- (I)
U093	60-11-7	Benzenamine, N,N-dimethyl-4-(phenylazo)-
U093	60-11-7	p-Dimethylaminoazobenzene
U094	57-97-6	Benz[a]anthracene, 7,12-dimethyl-
U094	57-97-6	7,12-Dimethylbenz[a]anthracene
U095	119-93-7	[1,1'-Biphenyl]-4,4'-diamine, 3,3'-dimethyl-
U095	119-93-7	3,3'-Dimethylbenzidine
U096	80-15-9	alpha,alpha-Dimethylbenzylhydroperoxide (R)
U096	80-15-9	Hydroperoxide, 1-methyl-1-phenylethyl- (R)
U097	79-44-7	Carbamic chloride, dimethyl-

Hazardous Waste No.	Chemical Abstracts No.	Substance
U097	79-44-7	Dimethylcarbamoyl chloride
U098	57-14-7	1,1-Dimethylhydrazine
U098	57-14-7	Hydrazine, 1,1-dimethyl-
U099	540-73-8	1,2-Dimethylhydrazine
U099	540-73-8	Hydrazine, 1,2-dimethyl-
U101	105-67-9	2,4-Dimethylphenol
U101	105-67-9	Phenol, 2,4-dimethyl-
U102	131-11-3	1,2-Benzenedicarboxylic acid, dimethyl ester
U102	131-11-3	Dimethyl phthalate
U103	77-78-1	Dimethyl sulfate
U103	77-78-1	Sulfuric acid, dimethyl ester
U105	121-14-2	Benzene, 1-methyl-2,4-dinitro-
U105	121-14-2	2,4-Dinitrotoluene
U106	606-20-2	Benzene, 2-methyl-1,3-dinitro-
U106	606-20-2	2,6-Dinitrotoluene
U107	117-84-0	1,2-Benzenedicarboxylic acid, dioctyl ester
U107	117-84-0	Di-n-octyl phthalate
U108	123-91-1	1,4-Diethyleneoxide
U108	123-91-1	1,4-Dioxane
U109	122-66-7	1,2-Diphenylhydrazine
U109	122-66-7	Hydrazine, 1,2-diphenyl-
U110	142-84-7	Dipropylamine (I)
U110	142-84-7	1-Propanamine, N-propyl- (I)
U111	621-64-7	Di-n-propylnitrosamine
U111	621-64-7	1-Propanamine, N-nitroso-N-propyl-
U112	141-78-6	Acetic acidethyl ester (I)
U112	141-78-6	Ethyl acetate (I)
U113	140-88-5	Ethyl acrylate (I)
U113	140-88-5	2-Propenoic acid, ethyl ester (I)
U114	<sup>1</sup> 111-54-6	Carbamodithioic acid, 1,2-ethanediybis-, salts & esters
U114	<sup>1</sup> 111-54-6	Ethylenebisdithiocarbamic acid, salts & esters
U115	75-21-8	Ethylene oxide (I,T)
U115	75-21-8	Oxirane (I,T)
U116	96-45-7	Ethylenethiourea
U116	96-45-7	2-Imidazolidinethione
U117	60-29-7	Ethane, 1,1'-oxybis- (I)
U117	60-29-7	Ethyl ether (I)
U118	97-63-2	Ethyl methacrylate
U118	97-63-2	2-Propenoic acid, 2-methyl-, ethyl ester
U119	62-50-0	Ethyl methanesulfonate
U119	62-50-0	Methanesulfonic acid, ethyl ester

Hazardous Waste No.	Chemical Abstracts No.	Substance
U120	206-44-0	Fluoranthene
U121	75-69-4	Methane, trichlorofluoro-
U121	75-69-4	Trichloromonofluoromethane
U122	50-00-0	Formaldehyde
U123	64-18-6	Formic acid (C,T)
U124	110-00-9	Furan (I)
U124	110-00-9	Furfuran (I)
U125	98-01-1	2-Furancarboxaldehyde (I)
U125	98-01-1	Furfural (I)
U126	765-34-4	Glycidylaldehyde
U126	765-34-4	Oxiranecarboxyaldehyde
U127	118-74-1	Benzene, hexachloro-
U127	118-74-1	Hexachlorobenzene
U128	87-68-3	1,3-Butadiene, 1,1,2,3,4,4-hexachloro-
U128	87-68-3	Hexachlorobutadiene
U129	58-89-9	Cyclohexane, 1,2,3,4,5,6-hexachloro-, (1alpha,2alpha,3beta,4alpha,5alpha,6beta)-
U129	58-89-9	Lindane
U130	77-47-4	1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-
U130	77-47-4	Hexachlorocyclopentadiene
U131	67-72-1	Ethane, hexachloro-
U131	67-72-1	Hexachloroethane
U132	70-30-4	Hexachlorophene
U132	70-30-4	Phenol, 2,2'-methylenebis[3,4,6-trichloro-
U133	302-01-2	Hydrazine (R,T)
U134	7664-39-3	Hydrofluoric acid (C,T)
U134	7664-39-3	Hydrogen fluoride (C,T)
U135	7783-06-4	Hydrogen sulfide
U135	7783-06-4	Hydrogen sulfide H <sub>2</sub> S
U136	75-60-5	Arsinic acid, dimethyl-
U136	75-60-5	Cacodylic acid
U137	193-39-5	Indeno[1,2,3-cd]pyrene
U138	74-88-4	Methane, iodo-
U138	74-88-4	Methyl iodide
U140	78-83-1	Isobutyl alcohol (I,T)
U140	78-83-1	1-Propanol, 2-methyl- (I,T)
U141	120-58-1	1,3-Benzodioxole, 5-(1-propenyl)-
U141	120-58-1	Isosafrole
U142	143-50-0	Kepone
U142	143-50-0	1,3,4-Metheno-2H-cyclobuta[cd]pentalen-2-one, 1,1a,3,3a,4,5,5,5a,5b,6-decachlorooctahydro-
U143	303-34-4	2-Butenoic acid, 2-methyl-,

Hazardous Waste No.	Chemical Abstracts No.	Substance
		7-[[2,3-dihydroxy-2-(1-methoxyethyl)-3-methyl-1-oxobutoxy]methyl]-2,3,5,7a-tetrahydro-1H-pyrrolizin-1-yl ester, [1S-[1alpha(Z),7(2S*,3R*),7aalpha]]-
U143	303-34-4	Lasiocarpine
U144	301-04-2	Acetic acid, lead(2+) salt
U144	301-04-2	Lead acetate
U145	7446-27-7	Lead phosphate
U145	7446-27-7	Phosphoric acid, lead(2+) salt (2:3)
U146	1335-32-6	Lead, bis(acetato-O)tetrahydroxytri-
U146	1335-32-6	Lead subacetate
U147	108-31-6	2,5-Furandione
U147	108-31-6	Maleic anhydride
U148	123-33-1	Maleic hydrazide
U148	123-33-1	3,6-Pyridazinedione, 1,2-dihydro-
U149	109-77-3	Malononitrile
U149	109-77-3	Propanedinitrile
U150	148-82-3	Melphalan
U150	148-82-3	L-Phenylalanine, 4-[bis(2-chloroethyl)amino]-
U151	7439-97-6	Mercury
U152	126-98-7	Methacrylonitrile (I,T)
U152	126-98-7	2-Propenenitrile, 2-methyl- (I,T)
U153	74-93-1	Methanethiol (I,T)
U153	74-93-1	Thiomethanol (I,T)
U154	67-56-1	Methanol (I)
U154	67-56-1	Methyl alcohol (I)
U155	91-80-5	1,2-Ethanediamine, N,N-dimethyl-N'-2-pyridinyl-N'-(2-thienylmethyl)-
U155	91-80-5	Methapyrilene
U156	79-22-1	Carbonochloridic acid, methyl ester (I,T)
U156	79-22-1	Methyl chlorocarbonate (I,T)
U157	56-49-5	Benz[j]aceanthrylene, 1,2-dihydro-3-methyl-
U157	56-49-5	3-Methylcholanthrene
U158	101-14-4	Benzenamine, 4,4'-methylenebis[2-chloro-
U158	101-14-4	4,4'-Methylenebis(2-chloroaniline)
U159	78-93-3	2-Butanone (I,T)
U159	78-93-3	Methyl ethyl ketone (MEK) (I,T)
U160	1338-23-4	2-Butanone, peroxide (R,T)
U160	1338-23-4	Methyl ethyl ketone peroxide (R,T)
U161	108-10-1	Methyl isobutyl ketone (I)
U161	108-10-1	4-Methyl-2-pentanone (I)
U161	108-10-1	Pentanol, 4-methyl-
U162	80-62-6	Methyl methacrylate (I,T)
U162	80-62-6	2-Propenoic acid, 2-methyl-, methyl ester (I,T)

Hazardous Waste No.	Chemical Abstracts No.	Substance
U163	70-25-7	Guanidine, N-methyl-N'-nitro-N-nitroso-
U163	70-25-7	MNNG
U164	56-04-2	Methylthiouracil
U164	56-04-2	4(1H)-Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo-
U165	91-20-3	Naphthalene
U166	130-15-4	1,4-Naphthalenedione
U166	130-15-4	1,4-Naphthoquinone
U167	134-32-7	1-Naphthalenamine
U167	134-32-7	alpha-Naphthylamine
U168	91-59-8	2-Naphthalenamine
U168	91-59-8	beta-Naphthylamine
U169	98-95-3	Benzene, nitro-
U169	98-95-3	Nitrobenzene (I,T)
U170	100-02-7	p-Nitrophenol
U170	100-02-7	Phenol, 4-nitro-
U171	79-46-9	2-Nitropropane (I,T)
U171	79-46-9	Propane, 2-nitro- (I,T)
U172	924-16-3	1-Butanamine, N-butyl-N-nitroso-
U172	924-16-3	N-Nitrosodi-n-butylamine
U173	1116-54-7	Ethanol, 2,2'-(nitrosoimino)bis-
U173	1116-54-7	N-Nitrosodiethanolamine
U174	55-18-5	Ethanamine, N-ethyl-N-nitroso-
U174	55-18-5	N-Nitrosodiethylamine
U176	759-73-9	N-Nitroso-N-ethylurea
U176	759-73-9	Urea, N-ethyl-N-nitroso-
U177	684-93-5	N-Nitroso-N-methylurea
U177	684-93-5	Urea, N-methyl-N-nitroso-
U178	615-53-2	Carbamic acid, methylnitroso-, ethyl ester
U178	615-53-2	N-Nitroso-N-methylurethane
U179	100-75-4	N-Nitrosopiperidine
U179	100-75-4	Piperidine, 1-nitroso-
U180	930-55-2	N-Nitrosopyrrolidine
U180	930-55-2	Pyrrolidine, 1-nitroso-
U181	99-55-8	Benzenamine, 2-methyl-5-nitro-
U181	99-55-8	5-Nitro-O-toluidine
U182	123-63-7	1,3,5-Trioxane, 2,4,6-trimethyl-
U182	123-63-7	Paraldehyde
U183	608-93-5	Benzene, pentachloro-
U183	608-93-5	Pentachlorobenzene
U184	76-01-7	Ethane, pentachloro-
U184	76-01-7	Pentachloroethane

Hazardous Waste No.	Chemical Abstracts No.	Substance
U185	82-68-8	Benzene, pentachloronitro-
U185	82-68-8	Pentachloronitrobenzene (PCNB)
U186	504-60-9	1-Methylbutadiene (I)
U186	504-60-9	1,3-Pentadiene (I)
U187	62-44-2	Acetamide, N-(4-ethoxyphenyl)-
U187	62-44-2	Phenacetin
U188	108-95-2	Phenol
U189	1314-80-3	Phosphorus sulfide (R)
U189	1314-80-3	Sulfur phosphide (R)
U190	85-44-9	1,3-Isobenzofurandione
U190	85-44-9	Phthalic anhydride
U191	109-06-8	2-Picoline
U191	109-06-8	Pyridine, 2-methyl-
U192	23950-58-5	Benzamide, 3,5-dichloro-N-(1,1-dimethyl-2-propynyl)-
U192	23950-58-5	Pronamide
U193	1120-71-4	1,2-Oxathiolane, 2,2-dioxide
U193	1120-71-4	1,3-Propane sultone
U194	107-10-8	1-Propanamine (I,T)
U194	107-10-8	n-Propylamine (I,T)
U196	110-86-1	Pyridine
U197	106-51-4	p-Benzoquinone
U197	106-51-4	2,5-Cyclohexadiene-1,4-dione
U200	50-55-5	Reserpine
U200	50-55-5	Yohimban-16-carboxylic acid, 11,17-dimethoxy-18-[(3,4,5-trimethoxybenzoyl)oxy]-, methyl ester, (3beta,16beta,17alpha,18beta,20alpha)-
U201	108-46-3	1,3-Benzenediol
U201	108-46-3	Resorcinol
U203	94-59-7	1,3-Benzodioxole, 5-(2-propenyl)-
U203	94-59-7	Safrole
U204	7783-00-8	Selenious acid
U204	7783-00-8	Selenium dioxide
U205	7488-56-4	Selenium sulfide
U205	7488-56-4	Selenium sulfide SeS <sub>2</sub> (R,T)
U206	18883-66-4	Glucopyranose, 2-deoxy-2-(3-methyl-3-nitrosoureido)-, D-
U206	18883-66-4	D-Glucose, 2-deoxy-2-[[[(methylnitrosoamino)carbonyl]amino]-
U206	18883-66-4	Streptozotocin
U207	95-94-3	Benzene, 1,2,4,5-tetrachloro-
U207	95-94-3	1,2,4,5-Tetrachlorobenzene
U208	630-20-6	Ethane, 1,1,1,2-tetrachloro-
U208	630-20-6	1,1,1,2-Tetrachloroethane
U209	79-34-5	Ethane, 1,1,2,2-tetrachloro-

Hazardous Waste No.	Chemical Abstracts No.	Substance
U209	79-34-5	1,1,2,2-Tetrachloroethane
U210	127-18-4	Ethene, tetrachloro-
U210	127-18-4	Tetrachloroethylene
U211	56-23-5	Carbon tetrachloride
U211	56-23-5	Methane, tetrachloro-
U213	109-99-9	Furan, tetrahydro- (I)
U213	109-99-9	Tetrahydrofuran (I)
U214	563-68-8	Acetic acid, thallium(1+) salt
U214	563-68-8	Thallium(I) acetate
U215	6533-73-9	Carbonic acid, dithallium(1+) salt
U215	6533-73-9	Thallium(I) carbonate
U216	7791-12-0	Thallium(I) chloride
U216	7791-12-0	Thallium chloride TlCl
U217	10102-45-1	Nitric acid, thallium(1+) salt
U217	10102-45-1	Thallium(I) nitrate
U218	62-55-5	Ethanethioamide
U218	62-55-5	Thioacetamide
U219	62-56-6	Thiourea
U220	108-88-3	Benzene, methyl-
U220	108-88-3	Toluene
U221	25376-45-8	Benzenediamine, ar-methyl-
U221	25376-45-8	Toluenediamine
U222	636-21-5	Benzenamine, 2-methyl-, hydrochloride
U222	636-21-5	o-Toluidine hydrochloride
U223	26471-62-5	Benzene, 1,3-diisocyanatomethyl- (R,T)
U223	26471-62-5	Toluene diisocyanate (R,T)
U225	75-25-2	Bromoform
U225	75-25-2	Methane, tribromo-
U226	71-55-6	Ethane, 1,1,1-trichloro-
U226	71-55-6	Methyl chloroform
U226	71-55-6	1,1,1-Trichloroethane
U227	79-00-5	Ethane, 1,1,2-trichloro-
U227	79-00-5	1,1,2-Trichloroethane
U228	79-01-6	Ethene, trichloro-
U228	79-01-6	Trichloroethylene
U234	99-35-4	Benzene, 1,3,5-trinitro-
U234	99-35-4	1,3,5-Trinitrobenzene (R,T)
U235	126-72-7	1-Propanol, 2,3-dibromo-, phosphate (3:1)
U235	126-72-7	Tris(2,3-dibromopropyl) phosphate
U236	72-57-1	2,7-Naphthalenedisulfonic acid, 3,3'-[(3,3'-dimethyl[1,1'-biphenyl]-4,4'-diyl)bis(azo)]bis[5-amino-4-hydroxy]-, tetrasodium salt

Hazardous Waste No.	Chemical Abstracts No.	Substance
U236	72-57-1	Trypan blue
U237	66-75-1	2,4-(1H,3H)-Pyrimidinedione, 5-[bis(2-chloroethyl)amino]-
U237	66-75-1	Uracil mustard
U238	51-79-6	Carbamic acid, ethyl ester
U238	51-79-6	Ethyl carbamate (urethane)
U239	1330-20-7	Benzene, dimethyl- (I,T)
U239	1330-20-7	Xylene (I)
U240	'94-75-7	Acetic acid, (2,4-dichlorophenoxy)-, salts & esters
U240	'94-75-7	2,4-D, salts & esters
U243	1888-71-7	Hexachloropropene
U243	1888-71-7	1-Propene, 1,1,2,3,3,3-hexachloro-
U244	137-26-8	Thioperoxydicarbonic diamide [(H <sub>2</sub> N)C(S)] <sub>2</sub> S <sub>2</sub> , tetramethyl-
U244	137-26-8	Thiram
U246	506-68-3	Cyanogen bromide (CN)Br
U247	72-43-5	Benzene, 1,1'-(2,2,2-trichloroethylidene)bis[4-methoxy-
U247	72-43-5	Methoxychlor
U248	'81-81-2	2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenyl butyl)-, & salts, when present at concentrations of 0.3% or less
U248	'81-81-2	Warfarin, & salts, when present at concentrations of 0.3% or less
U249	1314-84-7	Zinc phosphide Zn <sub>3</sub> P <sub>2</sub> , when present at concentrations of 10% or less
U271	17804-35-2	Benomyl
U271	17804-35-2	Carbamic acid, [1-[(butylamino)carbonyl]-1H-benzimidazol-2-yl]-, methyl ester
U278	22781-23-3	Bendiocarb
U278	22781-23-3	1,3-Benzodioxol-4-ol, 2,2-dimethyl-, methylcarbamate
U279	63-25-2	Carbaryl
U279	63-25-2	1-Naphthalenol, methylcarbamate
U280	101-27-9	Barban
U280	101-27-9	Carbamic acid, (3-chlorophenyl)-, 4-chloro-2-butynyl ester
U328	95-53-4	Benzenamine, 2-methyl-
U328	95-53-4	o-Toluidine
U353	106-49-0	Benzenamine, 4-methyl-
U353	106-49-0	p-Toluidine
U359	110-80-5	Ethanol, 2-ethoxy-
U359	110-80-5	Ethylene glycol monoethyl ether
U364	22961-82-6	Bendiocarb phenol
U364	22961-82-6	1,3-Benzodioxol-4-ol, 2,2-dimethyl-
U367	1563-38-8	7-Benzofuranol, 2,3-dihydro-2,2-dimethyl-
U367	1563-38-8	Carbofuran phenol
U372	10605-21-7	Carbamic acid, 1H-benzimidazol-2-yl, methyl ester
U372	10605-21-7	Carbendazim
U373	122-42-9	Carbamic acid, phenyl-, 1-methylethyl ester

Hazardous Waste No.	Chemical Abstracts No.	Substance
U373	122-42-9	Propham
U387	52888-80-9	Carbamothioic acid, dipropyl-, S-(phenylmethyl) ester
U387	52888-80-9	Prosulfocarb
U389	2303-17-5	Carbamothioic acid, bis(1-methylethyl)-, S-(2,3,3-trichloro-2-propenyl) ester
U389	2303-17-5	Triallate
U394	30558-43-1	A2213
U394	30558-43-1	Ethanimidothioic acid, 2-(dimethylamino)-N-hydroxy-2-oxo-, methyl ester
U395	5952-26-1	Diethylene glycol, dicarbamate
U395	5952-26-1	Ethanol, 2,2'-oxybis-, dicarbamate
U404	121-44-8	Ethanamine, N,N-diethyl-
U404	121-44-8	Triethylamine
U409	23564-05-8	Carbamic acid, [1,2-phenylenebis(Iminocarbonothioyl)]bis-, dimethyl ester
U409	23564-05-8	Thiophanate-methyl
U410	59669-26-0	Ethanimidothioic acid, N,N'-[thiobis[(methylimino)carbonyloxy]]bis-, dimethyl ester
U410	59669-26-0	Thiodicarb
U411	114-26-1	Phenol, 2-(1-methylethoxy)-, methylcarbamate
U411	114-26-1	Propoxur
See F027	93-76-5	Acetic acid, (2,4,5-trichlorophenoxy)-
See F027	87-86-5	Pentachlorophenol
See F027	87-86-5	Phenol, pentachloro-
See F027	58-90-2	Phenol, 2,3,4,6-tetrachloro-
See F027	95-95-4	Phenol, 2,4,5-trichloro-
See F027	88-06-2	Phenol, 2,4,6-trichloro-
See F027	93-72-1	Propanoic acid, 2-(2,4,5-trichlorophenoxy)-
See F027	93-72-1	Silvex (2,4,5-TP)
See F027	93-76-5	2,4,5-T
See F027	58-90-2	2,3,4,6-Tetrachlorophenol
See F027	95-95-4	2,4,5-Trichlorophenol
See F027	88-06-2	2,4,6-Trichlorophenol

<sup>1</sup>CAS number given for parent compound only.

**History:** Effective January 1, 2019; amended effective July, 1, 2020; [July 1, 2021](#).

**General Authority:** NDCC 23.1-04-03; ~~S.L. 2017, ch. 199, § 1~~

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

## APPENDIX V

### Hazardous Constituents

Common Name	Chemical Abstracts Name	Chemical Abstracts No.	Hazardous Waste No.
A2213	Ethanimidothioic acid, 2-(dimethylamino)-N-hydroxy-2-oxo-, methyl ester	30558-43-1	U394
Acetonitrile	Same	75-05-8	U003
Acetophenone	Ethanone, 1-phenyl-	98-86-2	U004
2-Acetylaminefluorone	Acetamide, N-9H-fluoren-2-yl-	53-96-3	U005
Acetyl chloride	Same	75-36-5	U006
1-Acetyl-2-thiourea	Acetamide, N-(aminothioxomethyl)-	591-08-2	P002
Acrolein	2-Propenal	107-02-08	P003
Acrylamide	2-Propenamamide	79-06-1	U007
Acrylonitrile	2-Propenenitrile	107-13-1	U009
Aflatoxins	Same	1402-68-2	
Aldicarb	Propanal, 2-methyl-2-(methylthio)-, O-[(methylamino)carbonyl]oxime	116-06-3	P070
Aldicarb sulfone	Propanal, 2-methyl-2-(methylsulfonyl)-, O-[(methylamino) carbonyl] oxime	1646-88-4	P203
Aldrin	1,4:5,8-Dimethanonaphthalene, 1,2,3,4,10,10-10-hexachloro-1,4,4a,5,8,8a-hexahydro-, (1alpha,4alpha,4abeta,5alpha,8alpha,8abeta)-	309-00-2	P004
Allyl alcohol	2-Propen-1-ol	107-18-6	P005
Allyl chloride	1-Propene, 3-chloro	107-05-1	
Aluminum phosphide	Same	20859-73-8	P006
4-Aminobiphenyl	[1,1'-Biphenyl]-4-amine	92-67-1	
5-(Aminomethyl)-3-isoxazolol	3(2H)-Isoxazolone, 5-(aminomethyl)-	2763-96-4	P007
4-Aminopyridine	4-Pyridinamine	504-24-5	P008
Amitrole	1H-1,2,4-Triazol-3-amine	61-82-5	U011
Ammonium vanadate	Vanadic acid, ammonium salt	7803-55-6	P119
Aniline	Benzenamine	62-53-3	U012
o-Anisidine (2-methoxyaniline)	Benzenamine, 2-methoxy-	90-04-0	
Antimony	Same	7440-36-0	
Antimony compounds, N.O.S. <sup>1</sup>			
Aramite	Sulfurous acid, 2-chloroethyl 2-[4-(1,1-dimethylethyl)phenoxy]-1-methylethyl ester	140-57-8	
Arsenic	Same	7440-38-2	
Arsenic compounds, N.O.S. <sup>1</sup>			
Arsenic acid	Arsenic acid H <sub>3</sub> AsO <sub>4</sub>	7778-39-4	P010
Arsenic pentoxide	Arsenic oxide As <sub>2</sub> O <sub>5</sub>	1303-28-2	P011
Arsenic trioxide	Arsenic oxide As <sub>2</sub> O <sub>3</sub>	1327-53-3	P012
Auramine	Benzenamine, 4,4'-carbonimidoylbis[N,N-dimethyl	492-80-8	U014
Azaserine	L-Serine, diazoacetate (ester)	115-02-6	U015
Barban	Carbamic acid, (3-chlorophenyl) -, 4-chloro-2-butynyl ester	101-27-9	U280
Barium	Same	7440-39-3	
Barium compounds, N.O.S. <sup>1</sup>			
Barium cyanide	Same	542-62-1	P013

Common Name	Chemical Abstracts Name	Chemical Abstracts No.	Hazardous Waste No.
Bendiocarb	1,3-Benzodioxol-4-ol, 2,2-dimethyl-, methylcarbamate	22781-23-3	U278
Bendiocarb pheonol	1,3-Benzodioxol-4-ol, 2,2-dimethyl-	22961-82-6	U364
Benomyl	Carbamic acid, [1-[(butylamino) carbonyl]-1H-benzimidazol-2-yl]-, methyl ester	17804-35-2	U271
Benz[c]acridine	Same	225-51-4	U016
Benz[a]anthracene	Same	56-55-3	U018
Benzalchloride	Benzene, (dichloromethyl)-	98-87-3	U017
Benzene	Same	71-43-2	U019
Benzeneearsonic acid	Arsonic acid, phenyl-	98-05-5	
Benzidine	[1,1'-Biphenyl]-4,4'-diamine	92-87-5	U021
Benzo[b]fluoranthene	Benz[e]acephenanthrylene	205-99-2	
Benzo[j]fluoranthene	Same	205-82-3	
Benzo[k]fluoranthene	Same	207-08-9	
Benzo[a]pyrene	Same	50-32-8	U022
p-Benzoquinone	2,5-Cyclohexadiene-1,4-dione	106-51-4	U197
Benzotrichloride	Benzene, (trichloromethyl)-	98-07-7	U023
Benzyl chloride	Benzene, (chloromethyl)-	100-44-7	P028
Beryllium powder	Same	7440-41-7	P015
Beryllium compounds, N.O.S. <sup>1</sup>			
Bis (pentamethylene)-thiuram tetrasulfide	Piperidine, 1,1'-(tetrathiodicarbonothioyl)-bis-	120-54-7	
Bromoacetone	2-Propanone, 1-bromo-	598-31-2	P017
Bromoform	Methane, tribromo-	75-25-2	U225
4-Bromophenyl phenyl ether	Benzene, 1-bromo-4-phenoxy-	101-55-3	U030
Brucine	Strychnidin-10-one, 2,3-dimethoxy-	357-57-3	P018
Butyl benzyl phthalate	1,2-Benzenedicarboxylic acid, butyl phenylmethyl ester	85-68-7	
Butylate	Carbamothioic acid, bis (2-methylpropyl)-,S-ethyl ester	2008-41-5	
Cacodylic acid	Arsinic acid, dimethyl-	75-60-5	U136
Cadmium	Same	7440-43-9	
Cadmium compounds, N.O.S. <sup>1</sup>			
Calcium chromate	Chromic acid H <sub>2</sub> CrO <sub>4</sub> , calcium salt	13765-19-0	U032
Calcium cyanide	Calcium cyanide Ca(CN) <sub>2</sub>	592-01-8	P021
Carbaryl	1-Naphthalenol, methylcarbamate	63-25-2	U279
Carbendazim	Carbamic acid, 1H-benzimidazol-2-yl, methyl ester	10605-21-7	U372
Carbofuran	7-Benzofuranol, 2,3-dihydro-2,2-dimethyl-, methylcarbamate	1563-66-2	P127
Carbofuran phenol	7-Benzofuranol, 2,3-dihydro-2,2-dimethyl-	1563-38-8	U367
Carbon disulfide	Same	75-15-0	P022
Carbon oxyfluoride	Carbonic difluoride	353-50-4	U033
Carbon tetrachloride	Methane, tetrachloro-	56-23-5	U211
Carbosulfan	Carbamic acid, [(dibutylamino)thio]methyl-, 2,3-dihydro-2,2-dimethyl-7-benzofuranyl ester	55285-14-8	P189
Chloral	Acetaldehyde, trichloro-	75-87-6	U034
Chlorambucil	Benzenebutanoic acid, 4-[bis(2-chloroethyl)amino]-	305-03-3	U035
Chlordane	4,7-Methano-1H-indene, 1,2,4,5,6,7,8,8-octachloro-2,3,3a,4,7,7a-hexahydro-	57-74-9	U036
Chlordane (alpha and gamma isomers)			U036

Common Name	Chemical Abstracts Name	Chemical Abstracts No.	Hazardous Waste No.
Chlorinated benzenes, N.O.S. <sup>1</sup>			
Chlorinated ethane, N.O.S. <sup>1</sup>			
Chlorinated fluorocarbons, N.O.S. <sup>1</sup>			
Chlorinated naphthalene, N.O.S. <sup>1</sup>			
Chlorinated phenol, N.O.S. <sup>1</sup>			
Chlornaphazin	Naphthalenamine, N,N'-bis(2-chloroethyl)-	494-03-1	U026
Chloroacetaldehyde	Acetaldehyde, chloro-	107-20-0	P023
Chloroalkyl ethers, N.O.S. <sup>1</sup>			
p-Chloroaniline	Benzenamine, 4-chloro-	106-47-8	P024
Chlorobenzene	Benzene, chloro-	108-90-7	U037
Chlorobenzilate	Benzeneacetic acid, 4-chloro-alpha-(4-chlorophenyl)-alpha-hydroxy-, ethyl ester	510-15-6	U038
p-Chloro-m-cresol	Phenol, 4-chloro-3-methyl-	59-50-7	U039
2-Chloroethyl vinyl ether	Ethene, (2-chloroethoxy)-	110-75-8	U042
Chloroform	Methane, trichloro-	67-66-3	U044
Chloromethyl methyl ether	Methane, chloromethoxy-	107-30-2	U046
beta-Chloronaphthalene	Naphthalene, 2-chloro-	91-58-7	U047
o-Chlorophenol	Phenol, 2-chloro-	95-57-8	U048
1-(0-Chlorophenyl)thiourea	Thiourea, (2-chlorophenyl)-	5344-82-1	P026
Chloroprene	1,3-Butadiene, 2-chloro-	126-99-8	
3-Chloropropionitrile	Propanenitrile, 3-chloro-	542-76-7	P027
Chromium	Same	7440-47-3	
Chromium compounds, N.O.S. <sup>1</sup>			
Chrysene	Same	218-01-9	U050
Citrus red No. 2	2-Naphthalenol, 1-[(2,5-dimethoxyphenyl)azo]-	6358-53-8	
Coal tar creosote	Same	8007-45-2	
Copper cyanide	Copper cyanide CuCN	544-92-3	P029
Copper dimethyldithiocarbamate	Copper, bis(dimethylcarbamidithioato-S,S')-	137-29-1	
Cresote	Same		U051
p-Cresidine	2-Methoxy-5-methylbenzenamine	120-71-8	
Cresol (Cresylic acid)	Phenol, methyl-	1319-77-3	U052
Crotonaldehyde	2-Butenal	4170-30-3	U053
m-Cumenyl methylcarbamate	Phenol, 3-(methylethyl)-, methylcarbamate	64-00-6	P202
Cyanides (soluble salts and complexes) N.O.S. <sup>1</sup>			P030
Cyanogen	Ethanedinitrile	460-19-5	P031
Cyanogen bromide	Cyanogen bromide (CN)Br	506-68-3	U246
Cyanogen chloride	Cyanogen chloride (CN)Cl	506-77-4	P033
Cycasin	beta-D-Glucopyranoside, (methyl-ONN-azoxy)methyl	14901-08-7	
Cycloate	Carbamothioic acid, cyclohexylethyl-, S-ethyl ester	1134-23-2	
2-Cyclohexyl-4,6-dinitrophenol	Phenol, 2-cyclohexyl-4,6-dinitro-	131-89-5	P034
Cyclophosphamide	2H-1,3,2-Oxazaphosphorin-2-amine, N,N-bis(2-chloroethyl)tetrahydro-, 2-oxide	50-18-0	U058
2,4-D	Acetic acid, (2,4-dichlorophenoxy)-	94-75-7	U240
2,4-D, salts, esters			U240

Common Name	Chemical Abstracts Name	Chemical Abstracts No.	Hazardous Waste No.
Daunomycin	5,12-Naphthacenedione, 8-acetyl-10-[(3-amino-2,3,6-trideoxy-alpha-L-lyxohexopyranosyl)oxy]-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-, (8S-cis)-	20830-81-3	U059
DDD	Benzene, 1,1'-(2,2-dichloroethylidene)bis[4-chloro-	72-54-8	U060
DDE	Benzene, 1,1'-dichloroethenylidene)bis[4-chloro-	72-55-9	
DDT	Benzene, 1,1'-(2,2,2-trichloroethylidene)bis[4-chloro-	50-29-3	U061
Dazomet	2H-1,3,5-thiadiazine-2-thione, tetrahydro-3,5-dimethyl	533-74-4	
Diallate	Carbamothioic acid, bis(1-methylethyl)-, S-(2,3-dichloro-2-propenyl) ester	2303-16-4	U062
Dibenz[a,h]acridine	Same	226-36-8	
Dibenz[a,j]acridine	Same	224-42-0	
Dibenz[a,h]anthracene	Same	53-70-3	U063
7H-Dibenzo[c,g]carbazole	Same	194-59-2	
Dibenzo[a,e]pyrene	Naphtho[1,2,3,4-def]chrysene	192-65-4	
Dibenzo[a,h]pyrene	Dibenzo[b,def]chrysene	189-64-0	
Dibenzo[a,i]pyrene	Benzo[rs]t]pentaphene	189-55-9	U064
1,2-Dibromo-3-chloropropane	Propane, 1,2-dibromo-3-chloro-	96-12-8	U066
Dibutyl phthalate	1,2-Benzenedicarboxylic acid, dibutyl ester	84-74-2	U069
o-Dichlorobenzene	Benzene, 1,2-dichloro-	95-50-1	U070
m-Dichlorobenzene	Benzene, 1,3-dichloro-	541-73-1	U071
p-Dichlorobenzene	Benzene, 1,4-dichloro-	106-46-7	U072
Dichlorobenzene, N.O.S. <sup>1</sup>	Benzene, dichloro-	25321-22-6	
3,3'-Dichlorobenzidine	[1,1'-Biphenyl]-4,4'-diamine, 3,3'-dichloro-	91-94-1	U073
1,4-Dichloro-2-butene	2-Butene, 1,4-dichloro-	764-41-0	U074
Dichlorodifluoromethane	Methane, dichlorodifluoro-	75-71-8	U075
Dichloroethylene, N.O.S. <sup>1</sup>	Dichloroethylene	25323-30-2	
1,1-Dichloroethylene	Ethene, 1,1-dichloro-	75-35-4	U078
1,2-Dichloroethylene	Ethene, 1,2-dichloro-, (E)-	156-60-5	U079
Dichloroethyl ether	Ethane, 1,1'-oxybis[2-chloro-	111-44-4	U025
Dichloroisopropyl ether	Propane, 2,2'-oxybis[2-chloro-	108-60-1	U027
Dichloromethoxy ethane	Ethane, 1,1'-[methylenebis(oxy)]bis[2-chloro-	111-91-1	U024
Dichloromethyl ether	Methane, oxybis[chloro-	542-88-1	P016
2,4-Dichlorophenol	Phenol, 2,4-dichloro-	120-83-2	U081
2,6-Dichlorophenol	Phenol, 2,6-dichloro-	87-65-0	U082
Dichlorophenylarsine	Arsinous dichloride, phenyl-	696-28-6	P036
Dichloropropane, N.O.S. <sup>1</sup>	Propane, dichloro-	26638-19-7	
Dichloropropanol, N.O.S. <sup>1</sup>	Propanol, dichloro-	26545-73-3	
Dichloropropene, N.O.S. <sup>1</sup>	1-Propene, dichloro-	26952-23-8	
1,3-Dichloropropene	1-Propene, 1,3-dichloro-	542-75-6	U084
Dieldrin	2,7:3,6-Dimethanonaphth[2,3-b]oxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a,octahydro-, (1aalpha,2beta,2aalpha,3beta,6beta,6aalpha,7beta,7aalpha)-	60-57-1	P037
1,2:3,4-Diepoxbutane	2,2'-Bioxirane	1464-53-5	U085
Diethylarsine	Arsine, diethyl-	692-42-2	P038
Diethylene glycol, dicarbamate	Ethanol, 2,2'-oxybis-, dicarbamate	5952-26-1	U395

Common Name	Chemical Abstracts Name	Chemical Abstracts No.	Hazardous Waste No.
1,4-Diethyleneoxide	1,4-Dioxane	123-91-1	U108
Diethylhexyl phthalate	1,2-Benzenedicarboxylic acid, bis(2-ethylhexyl) ester	117-81-7	U028
N,N'-Diethylhydrazine	Hydrazine, 1,2-diethyl-	1615-80-1	U086
O,O-Diethyl S-methyl dithiophosphate	Phosphorodithioic acid, O,O-diethyl S-methyl ester	3288-58-2	U087
Diethyl-p-nitrophenyl phosphate	Phosphoric acid, diethyl 4-nitrophenyl ester	311-45-5	P041
Diethyl phthalate	1,2-Benzenedicarboxylic acid, diethyl ester	84-66-2	U088
O,O-Diethyl O-pyrazinyl phosphorothioate	Phosphorothioic acid, O,O-diethyl O-pyrazinyl ester	297-97-2	P040
Diethylstilbesterol	Phenol, 4,4'-(1,2-diethyl-1,2-ethenediyl)bis-, (E)-	56-53-1	U089
Dihydrosafrole	1,3-Benzodioxole, 5-propyl-	94-58-6	U090
Diisopropylfluorophosphate (DFP)	Phosphorofluoric acid, bis(1-methylethyl) ester	55-91-4	P043
Dimethoate	Phosphorodithioic acid, O,O-dimethyl S-[2-(methylamino)-2-oxoethyl] ester	60-51-5	P044
3,3'-Dimethoxybenzidine	[1,1'-Biphenyl]-4,4'-diamine, 3,3'-dimethoxy-	119-90-4	U091
p-Dimethylaminoazobenzene	Benzenamine, N,N-dimethyl-4-(phenylazo)-	60-11-7	U093
2,4-Dimethylaniline (2,4-xylydine)	Benzenamine, 2,4-dimethyl-	95-68-1	
7,12-Dimethylbenz[a]anthracene	Benz[a]anthracene, 7,12-dimethyl-	57-97-6	U094
3,3'-Dimethylbenzidine	[1,1'-Biphenyl]-4,4'-diamine, 3,3'-dimethyl-	119-93-7	U095
Dimethylcarbamoyl chloride	Carbamic chloride, dimethyl-	79-44-7	U097
1,1-Dimethylhydrazine	Hydrazine, 1,1-dimethyl-	57-14-7	U098
1,2-Dimethylhydrazine	Hydrazine, 1,2-dimethyl-	540-73-8	U099
alpha, alpha-Dimethylphenethylamine	Benzeneethanamine, alpha, alpha-dimethyl-	122-09-8	P046
2,4-Dimethylphenol	Phenol, 2,4-dimethyl-	105-67-9	U101
Dimethyl phthalate	1,2-Benzenedicarboxylic acid, dimethyl ester	131-11-3	U102
Dimethyl sulfate	Sulfuric acid, dimethyl ester	77-78-1	U103
Dimetilan	Carbamic acid, dimethyl-, 1-[(dimethylamino)carbonyl]-5-methyl-1H-pyrazol-3-yl ester	644-64-4	P191
Dinitrobenzene, N.O.S. <sup>1</sup>	Benzene, dinitro-	25154-54-5	
4,6-Dinitro-o-cresol	Phenol, 2-methyl-4,6-dinitro-	534-52-1	P047
4,6-Dintro-o-cresol salts			P047
2,4-Dinitrophenol	Phenol, 2,4-dinitro-	51-28-5	P048
2,4-Dinitrotoluene	Benzene, 1-methyl-2,4-dinitro-	121-14-2	U105
2,6-Dinitrotoluene	Benzene, 2-methyl-1,3-dinitro-	606-20-2	U106
Dinoseb	Phenol, 2-(1-methylpropyl)-4,6-dinitro-	88-85-7	P020
Di-n-octyl phthalate	1,2-Benzenedicarboxylic acid, dioctyl ester	117-84-0	U107
Diphenylamine	Benzenamine, N-phenyl-	122-39-4	
1,2-Diphenylhydrazine	Hydrazine, 1,2-diphenyl-	122-66-7	U109
Di-n-propylnitrosamine	1-Propanamine, N-nitroso-N-propyl-	621-64-7	U111
Disulfiram	Thioperoxydicarbonic diamide, tetraethyl	97-77-8	
Disulfoton	Phosphorodithioic acid, O,O-diethyl S-[2-(ethylthio)ethyl] ester	298-04-4	P039
Dithiobiuret	Thioimidodicarbonic diamide [(H <sub>2</sub> N)C(S)] <sub>2</sub> NH	541-53-7	P049
EPTC	Carbamothioic acid, dipropyl-, S-ethyl ester	759-94-4	
Endosulfan	6,9-Methano-2,4,3-benzodioxathiepin, 6,7,8,9,10,10-hexachloro-1,5,5a,6,9, 9a-hexahydro-,	115-29-7	P050

Common Name	Chemical Abstracts Name	Chemical Abstracts No.	Hazardous Waste No.
	3-oxide		
Endothall	7-Oxabicyclo[2.2.1]heptane-2,3-dicarboxylic acid	145-73-3	P088
Endrin	2,7:3,6-Dimethanonaphth[2,3-b]oxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-, (1aalpha,2beta,2abeta,3alpha,6alpha,6abeta,7beta,7aalpha)-	72-20-8	P051
Endrin metabolites			P051
Epichlorohydrin	Oxirane, (chloromethyl)-	106-89-8	U041
Epinephrine	1,2-Benzenediol, 4-[1-hydroxy-2-(methylamino)ethyl]-, (R)-	51-43-4	P042
Ethyl carbamate (urethane)	Carbamic acid, ethyl ester	51-79-6	U238
Ethyl cyanide	Propanenitrile	107-12-0	P101
Ethyl Ziram	Zinc, bis(diethylcarbamodithioato-S,S')-	14324-55-1	
Ethylenebisdithiocarbamic acid	Carbamodithioic acid, 1,2-ethanediylbis-	111-54-6	U114
Ethylenebisdithiocarbamic acid, salts and esters			U114
Ethylene dibromide	Ethane, 1,2-dibromo-	106-93-4	U067
Ethylene dichloride	Ethane, 1,2-dichloro-	107-06-2	U077
Ethylene glycol monoethyl ether	Ethanol, 2-ethoxy-	110-80-5	U359
Ethyleneimine	Aziridine	151-56-4	P054
Ethylene oxide	Oxirane	75-21-8	U115
Ethylenethiourea	2-Imidazolidinethione	96-45-7	U116
Ethylidene dichloride	Ethane, 1,1-dichloro-	75-34-3	U076
Ethyl methacrylate	2-Propenoic acid, 2-methyl-, ethyl ester	97-63-2	U118
Ethyl methanesulfonate	Methanesulfonic acid, ethyl ester	62-50-0	U119
Famphur	Phosphorothioic acid, O-[4-[(dimethylamino)sulfonyl]phenyl] O,O-dimethyl ester	52-85-7	P097
Ferbam	Iron, tris(dimethylcarbamodithioato-S,S')-,	14484-64-1	
Fluoranthene	Same	206-44-0	U120
Fluorine	Same	7782-41-4	P056
Fluoroacetamide	Acetamide, 2-fluoro-	640-19-7	P057
Fluoroacetic acid, sodium salt	Acetic acid, fluoro-, sodium salt	62-74-8	P058
Formaldehyde	Same	50-00-0	U122
Formetanate hydrochloride	Methanimidamide, N,N-dimethyl-N'-[3-[[[(methylamino)carbonyl]oxy]phenyl]-, monohydrochloride	23422-53-9	P198
Formic acid	Same	64-18-6	U123
Formparante	Methanimidamide, N,N-dimethyl-N'-[2-methyl-4-[[[(methylamino)carbonyl]oxy]phenyl]-	17702-57-7	p197
Glycidylaldehyde	Oxiranecarboxyaldehyde	765-34-4	U126
Halomethanes, N.O.S. <sup>1</sup>			
Heptachlor	4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-	76-44-8	P059
Heptachlor epoxide	2,5-Methano-2H-indeno[1,2-b]oxirene, 2,3,4,5,6,7,7-heptachloro-1a,1b,5,5a,6,6a-hexa-hydro-, (1aalpha,1bbeta,2alpha,5alpha,5abeta,6beta,6aalpha)-	1024-57-3	
Heptachlor epoxide (alpha, beta, and gamma isomers)			

Common Name	Chemical Abstracts Name	Chemical Abstracts No.	Hazardous Waste No.
Heptachlorodibenzofurans.			
Heptachlorodibenzo-p-dioxins			
Hexachlorobenzene	Benzene, hexachloro-	118-74-1	U127
Hexachlorobutadiene	1,3-Butadiene, 1,1,2,3,4,4-hexachloro-	87-68-3	U128
Hexachlorocyclopentadiene	1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-	77-47-4	U130
Hexachlorodibenzo-p-dioxins			
Hexachlorodibenzofurans			
Hexachloroethane	Ethane, hexachloro-	67-72-1	U131
Hexachlorophene	Phenol, 2,2'-methylenebis[3,4,6-trichloro-	70-30-4	U132
Hexachloropropene	1-Propene, 1,1,2,3,3,3-hexachloro-	1888-71-7	U243
Hexaethyl tetraphosphate	Tetraphosphoric acid, hexaethyl ester	757-58-4	P062
Hydrazine	Same	302-01-2	U133
Hydrogen cyanide	Hydrocyanic acid	74-90-8	P063
Hydrogen fluoride	Hydrofluoric acid	7664-39-3	U134
Hydrogen sulfide	Hydrogen sulfide H <sub>2</sub> S	7783-06-4	U135
Indeno[1,2,3-cd]pyrene	Same	193-39-5	U137
3-Iodo-2-propynyl n-butylcarbamate	Carbamic acid, butyl-, 3-iodo-2-propynyl ester	55406-53-6	
Isobutyl alcohol	1-Propanol, 2-methyl-	78-83-1	U140
Isodrin	1,4:5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a-hexahydro-, (1alpha,4alpha,4abeta,5beta,8beta,8abeta) -	465-73-6	P060
Isolan	Carbamic acid, dimethyl-, 3-methyl-1-(1-methylethyl)-1H-pyrazol-5-yl ester	119-38-0	P192
Isosafrole	1,3-Benzodioxole, 5-(1-propenyl)-	120-58-1	U141
Kepone	1,3,4-Metheno-2H-cyclobuta[cd]pentalen-2-one, 1,1a,3,3a,4,5,5,5a,5b,6-decachlorooctahydro-	143-50-0	U142
Lasiocarpine	2-Butenoic acid, 2-methyl-, 7-[[2,3-dihydroxy-2-(1-methoxyethyl)- 3-methyl-1-oxobutoxy]methyl]- 2,3,5,7a-tetrahydro-1H-pyrrolizin-1-yl ester, [1S-[1alpha(Z),7(2S*,3R*),7aalpha]]-	303-34-4	U143
Lead	Same	7439-92-1	
Lead compounds, N.O.S. <sup>1</sup>			
Lead acetate	Acetic acid, lead(2+) salt	301-04-2	U144
Lead phosphate	Phosphoric acid, lead(2+) salt (2:3)	7446-27-7	U145
Lead subacetate	Lead, bis(acetato-O)tetrahydroxytri-	1335-32-6	U146
Lindane	Cyclohexane, 1,2,3,4,5,6-hexachloro-, (1alpha,2alpha,3beta,4alpha,5alpha,6beta)-	58-89-9	U129
Maleic anhydride	2,5-Furandione	108-31-6	U147
Maleic hydrazide	3,6-Pyridazinedione, 1,2-dihydro-	123-33-1	U148
Malononitrile	Propanedinitrile	109-77-3	U149
Manganese dimethyldithiocarbamate	Manganese, bis(dimethylcarbamodithioato-S,S')-,	15339-36-3	P196
Melphalan	L-Phenylalanine, 4-[bis(2-chloroethyl)amino]-	148-82-3	U150
Mercury	Same	7439-97-6	U151
Mercury compounds, N.O.S. <sup>1</sup>			
Mercury fulminate	Fulminic acid, mercury(2+) salt	628-86-4	P065
Metam Sodium	Carbamodithioic acid, methyl-, monosodium salt	137-42-8	
Methacrylonitrile	2-Propenenitrile, 2-methyl-	126-98-7	U152

Common Name	Chemical Abstracts Name	Chemical Abstracts No.	Hazardous Waste No.
Methapyrilene	1,2-Ethanediamine, N,N-dimethyl-N'-2-pyridinyl-N'-(2-thienylmethyl)-	91-80-5	U155
Methiocarb	Phenol, (3,5-dimethyl-4-(methylthio)-, methylcarbamate	2032-65-7	P199
Methomyl	Ethanimidothioic acid, N-[[[(methylamino)carbonyl]oxy]-, methyl ester	16752-77-5	P066
Methoxychlor	Benzene, 1,1'-(2,2,2-trichloroethylidene)bis[4-methoxy-	72-43-5	U247
Methyl bromide	Methane, bromo-	74-83-9	U029
Methyl chloride	Methane, chloro-	74-87-3	U045
Methyl chlorocarbonate	Carbonochloridic acid, methyl ester	79-22-1	U156
Methyl chloroform	Ethane, 1,1,1-trichloro-	71-55-6	U226
3-Methylcholanthrene	Benz[ <i>g</i> ]aceanthrylene, 1,2-dihydro-3-methyl-	56-49-5	U157
4,4'-Methylenebis(2-chloroaniline)	Benzenamine, 4,4'-methylenebis[2-chloro-	101-14-4	U158
Methylene bromide	Methane, dibromo-	74-95-3	U068
Methylene chloride	Methane, dichloro-	75-09-2	U080
Methyl ethyl ketone (MEK)	2-Butanone	78-93-3	U159
Methyl ethyl ketone peroxide	2-Butanone, peroxide	1338-23-4	U160
Methyl hydrazine	Hydrazine, methyl-	60-34-4	P068
Methyl iodide	Methane, iodo-	74-88-4	U138
Methyl isocyanate	Methane, isocyanato-	624-83-9	P064
2-Methylacetonitrile	Propanenitrile, 2-hydroxy-2-methyl-	75-86-5	P069
Methyl methacrylate	2-Propenoic acid, 2-methyl-, methyl ester	80-62-6	U162
Methyl methanesulfonate	Methanesulfonic acid, methyl ester	66-27-3	
Methyl parathion	Phosphorothioic acid, O,O-dimethyl O-(4-nitrophenyl) ester	298-00-0	P071
Methylthiouracil	4(1H)-Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo-	56-04-2	U164
Metolcarb	Carbamic acid, methyl-, 3-methylphenyl ester	1129-41-5	P190
Mexacarbate	Phenol, 4-(dimethylamino)-3,5-dimethyl-, methylcarbamate (ester)	315-18-4	P128
Mitomycin C	Azirino[2',3':3,4]pyrrolo[1,2-a]indole-4,7-dione, 6-amino-8-[[[(aminocarbonyl)oxy]methyl]-1,1a,2,8,8a,8b-hexahydro-8a-methoxy-5-methyl-, [1aS-(1aalpha,8beta,8aalpha,8balph)]-	50-07-7	U010
MNNG	Guanidine, N-methyl-N'-nitro-N-nitroso-	70-25-7	U163
Molinate	1H-Azepine-1-carbothioic acid, hexahydro-, S- ethyl ester	2212-67-1	
Mustard gas	Ethane, 1,1'-thiobis[2-chloro-	505-60-2	
Naphthalene	Same	91-20-3	U165
1,4-Naphthoquinone	1,4-Naphthalenedione	130-15-4	U166
alpha-Naphthylamine	1-Naphthalenamine	134-32-7	U167
beta-Naphthylamine	2-Naphthalenamine	91-59-8	U168
alpha-Naphthylthiourea	Thiourea, 1-naphthalenyl-	86-88-4	P072
Nickel	Same	7440-02-0	
Nickel compounds, N.O.S. <sup>1</sup>			
Nickel carbonyl	Nickel carbonyl Ni(CO) <sub>4</sub> , (T-4)-	13463-39-3	P073
Nickel cyanide	Nickel cyanide Ni(CN) <sub>2</sub>	557-19-7	P074
Nicotine	Pyridine, 3-(1-methyl-2-pyrrolidinyl)-, (S)-_( <a href="#">This listing does not include patches, gums, and lozenges that are FDA-approved over-the-counter nicotine replacement</a> )	54-11-5	P075

Common Name	Chemical Abstracts Name	Chemical Abstracts No.	Hazardous Waste No.
	<a href="#">therapies.)</a>		
Nicotine salts			P075
Nitric oxide	Nitrogen oxide NO	10102-43-9	P076
p-Nitroaniline	Benzenamine, 4-nitro-	100-01-6	P077
Nitrobenzene	Benzene, nitro-	98-95-3	U169
Nitrogen dioxide	Nitrogen oxide NO <sub>2</sub>	10102-44-0	P078
Nitrogen mustard	Ethanamine, 2-chloro-N-(2-chloroethyl)-N-methyl-	51-75-2	
Nitrogen mustard, hydrochloride salt			
Nitrogen mustard N-oxide	Ethanamine, 2-chloro-N-(2-chloroethyl)-N-methyl-, N-oxide	126-85-2	
Nitrogen mustard, N-oxide, hydrochloride salt			
Nitroglycerin	1,2,3-Propanetriol, trinitrate	55-63-0	P081
p-Nitrophenol	Phenol, 4-nitro-	100-02-7	U170
2-Nitropropane	Propane, 2-nitro-	79-46-9	U171
Nitrosamines, N.O.S. <sup>1</sup>		35576-91-1	
N-Nitrosodi-n-butylamine	1-Butanamine, N-butyl-N-nitroso-	924-16-3	U172
N-Nitrosodiethanolamine	Ethanol, 2,2'-(nitrosoimino)bis-	1116-54-7	U173
N-Nitrosodiethylamine	Ethanamine, N-ethyl-N-nitroso-	55-18-5	U174
N-Nitrosodimethylamine	Methanamine, N-methyl-N-nitroso-	62-75-9	P082
N-Nitroso-N-ethylurea	Urea, N-ethyl-N-nitroso-	759-73-9	U176
N-Nitrosomethylethylamine	Ethanamine, N-methyl-N-nitroso-	10595-95-6	
N-Nitroso-N-methylurea	Urea, N-methyl-N-nitroso-	684-93-5	U177
N-Nitroso-N-methylurethane	Carbamic acid, methylnitroso-, ethyl ester	615-53-2	U178
N-Nitrosomethylvinylamine	Vinylamine, N-methyl-N-nitroso-	4549-40-0	P084
N-Nitrosomorpholine	Morpholine, 4-nitroso-	59-89-2	
N-Nitrososnicotine	Pyridine, 3-(1-nitroso-2-pyrrolidinyl)-, (S)-	16543-55-8	
N-Nitrosopiperidine	Piperidine, 1-nitroso-	100-75-4	U179
N-Nitrosopyrrolidine	Pyrrolidine, 1-nitroso-	930-55-2	U180
N-Nitrososarcosine	Glycine, N-methyl-N-nitroso-	13256-22-9	
5-Nitro-O-toluidine	Benzenamine, 2-methyl-5-nitro-	99-55-8	U181
Octachlorodibenzo-p-dioxin (OCDD)	1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin	3268-87-9	
Octachlorodibenzofuran (OCDF)	1,2,3,4,6,7,8,9-Octachlorodibenzofuran	39001-02-0	
Octamethylpyrophosphoramidate	Diphosphoramidate, octamethyl-	152-16-9	P085
Osmium tetroxide	Osmium oxide OsO <sub>4</sub> , (T-4)-	20816-12-0	P087
Oxamyl	Ethanimidothioic acid, 2-(dimethylamino)-N-[[[(methylamino) carbonyl]oxy]-2-oxo-, methyl ester	23135-22-0	P194
Paraldehyde	1,3,5-Trioxane, 2,4,6-trimethyl-	123-63-7	U182
Parathion	Phosphorothioic acid, O,O-diethyl O-(4-nitrophenyl) ester	56-38-2	P089
Pebulate	Carbamothioic acid, butylethyl-, S-propyl ester	1114-71-2	
Pentachlorobenzene	Benzene, pentachloro-	608-93-5	U183
Pentachlorodibenzo-p-dioxins			
Pentachlorodibenzofurans			
Pentachloroethane	Ethane, pentachloro-	76-01-7	U184

Common Name	Chemical Abstracts Name	Chemical Abstracts No.	Hazardous Waste No.
Pentachloronitrobenzene (PCNB)	Benzene, pentachloronitro-	82-68-8	U185
Pentachlorophenol	Phenol, pentachloro-	87-86-5	See F027
Phenacetin	Acetamide, N-(4-ethoxyphenyl)-	62-44-2	U187
Phenol	Same	108-95-2	U188
Phenylenediamine	Benzenediamine	25265-76-3	
1,2-Phenylenediamine	1,2-Benzenediamine	95-54-5	
1,3-Phenylenediamine	1,3-Benzenediamine	108-45-2	
Phenylmercury acetate	Mercury, (acetato-O)phenyl-	62-38-4	P092
Phenylthiourea	Thiourea, phenyl-	103-85-5	P093
Phosgene	Carbonic dichloride	75-44-5	P095
Phosphine	Same	7803-51-2	P096
Phorate	Phosphorodithioic acid, O,O-diethyl S-[(ethylthio)methyl] ester	298-02-2	P094
Phthalic acid esters, N.O.S. <sup>1</sup>			
Phthalic anhydride	1,3-Isobenzofurandione	85-44-9	U190
Physostigmine	Pyrrolo[2,3-b]indol-5-ol, 1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethyl-, methylcarbamate (ester), (3aS-cis)-	57-47-6	P204
Physostigmine salicylate	Benzoic acid, 2-hydroxy-, compd. with (3aS-cis)-1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethylpyrrolo[2,3-b]indol-5-yl methylcarbamate ester (1:1)	57-64-7	P188
2-Picoline	Pyridine, 2-methyl-	109-06-8	U191
Polychlorinated biphenyls, N.O.S. <sup>1</sup>			
Potassium cyanide	Potassium cyanide K(CN)	151-50-8	P098
Potassium dimethyl-dithiocarbamate	Carbamodithioic acid, dimethyl, potassium salt	128-03-0	
Potassium n-hydroxymethyl-n-methyl-dithiocarbamate	Carbamodithioic acid, (hydroxymethyl)methyl-, monopotassium salt	51026-28-9	
Potassium n-methyldithiocarbamate	Carbamodithioic acid, methyl-monopotassium salt	137-41-7	U377
Potassium pentachlorophenate	Pentachlorophenol, potassium salt	7778-73-6	
Potassium silver cyanide	Argentate(1-), bis(cyano-C)-, potassium	506-61-6	P099
Promecarb	Phenol, 3-methyl-5-(1-methylethyl)-, methylcarbamate	2631-37-0	P201
Pronamide	Benzamide, 3,5-dichloro-N-(1,1-dimethyl-2-propynyl)-	23950-58-5	U192
1,3-Propane sultone	1,2-Oxathiolane, 2,2-dioxide	1120-71-4	U193
Propham	Carbamic acid, phenyl-, 1-methylethyl ester	122-42-9	U373
n-Propylamine	1-Propanamine	107-10-8	U194
Propargyl alcohol	2-Propyn-1-ol	107-19-7	P102
Propylene dichloride	Propane, 1,2-dichloro-	78-87-5	U083
1,2-Propylenimine	Aziridine, 2-methyl-	75-55-8	P067
Propylthiouracil	4(1H)-Pyrimidinone, 2,3-dihydro-6-propyl-2-thio-	51-52-5	
Propoxur	Phenol, 2-(1-methylethoxy)-, methylcarbamate	114-26-1	U411
Prosulfocarb	Carbamothioic acid, dipropyl-, S-(phenylmethyl) ester	52888-80-9	U387
Pyridine	Same	110-86-1	U196
Reserpine	Yohimban-16-carboxylic acid, 11,17-dimethoxy-18-[(3,4,5-trimethoxybenzoyl) oxy]-methyl ester, (3beta,16beta,17alpha, 18beta,20alpha)-	50-55-5	U200
Resorcinol	1,3-Benzenediol	108-46-3	U201
Safrole	1,3-Benzodioxole, 5-(2-propenyl)-	94-59-7	U203

Common Name	Chemical Abstracts Name	Chemical Abstracts No.	Hazardous Waste No.
Selenium	Same	7782-49-2	
Selenium compounds, N.O.S. <sup>1</sup>			
Selenium dioxide	Selenious acid	7783-00-8	U204
Selenium sulfide	Selenium sulfide SeS <sub>2</sub>	7488-56-4	U205
Selenium, tetrakis (dimethyl-dithiocarbamate)	Carbamodithioic acid, dimethyl-, tetraanhydro-sulfide with orthothioselenious acid	144-34-3	
Selenourea	Same	630-10-4	P103
Silver	Same	7440-22-4	
Silver compounds, N.O.S. <sup>1</sup>			
Silver cyanide	Silver cyanide Ag(CN)	506-64-9	P104
Silvex (2,4,5-TP)	Propanoic acid, 2-(2,4,5-trichlorophenoxy)-	93-72-1	See F027
Sodium cyanide	Sodium cyanide Na(CN)	143-33-9	P106
Sodium dibutylthiocarbamate	Carbamodithioic acid, dibutyl, sodium salt	136-30-1	
Sodium diethylthiocarbamate	Carbamodithioic acid, diethyl-, sodium salt	148-18-5	
Sodium dimethylthiocarbamate	Carbamodithioic acid, dimethyl-, sodium salt	128-04-1	
Sodium pentachlorophenate	Pentachlorophenol, sodium salt	131-52-2	
Streptozotocin	D-Glucose, 2-deoxy-2-[[[(methylnitrosoamino)carbonyl]amino]-	18883-66-4	U206
Strychnine	Strychnidin-10-one	57-24-9	P108
Strychnine salts			P108
Sulfallate	Carbamodithioic acid, diethyl-, 2-chloro-2-propenyl ester	95-06-7	
TCDD	Dibenzo[b,e][1,4]dioxin, 2,3,7,8-tetrachloro-	1746-01-6	
Tetrabutylthiuram disulfide	Thioperoxydicarbonic diamide, tetrabutyl	1634-02-2	
Tetramethylthiuram monosulfide	Bis (dimethylthiocarbamoyl) sulfide	97-74-5	
1,2,4,5-Tetrachlorobenzene	Benzene, 1,2,4,5-tetrachloro-	95-94-3	U207
Tetrachlorodibenzo-p-dioxins			
Tetrachlorodibenzofurans			
Tetrachloroethane, N.O.S. <sup>1</sup>	Ethane, tetrachloro-, N.O.S.	25322-20-7	
1,1,1,2-Tetrachloroethane	Ethane, 1,1,1,2-tetrachloro-	630-20-6	U208
1,1,2,2-Tetrachloroethane	Ethane, 1,1,2,2-tetrachloro-	79-34-5	U209
Tetrachloroethylene	Ethene, tetrachloro-	127-18-4	U210
2,3,4,6-Tetrachlorophenol	Phenol, 2,3,4,6-tetrachloro-	58-90-2	See F027
2,3,4,6-Tetrachlorophenol, potassium salt	Same	53535-27-6	
2,3,4,6-Tetrachlorophenol, sodium salt	Same	25567-55-9	
Tetraethylthiopyrophosphate	Thiodiphosphoric acid, tetraethyl ester	3689-24-5	P109
Tetraethyl lead	Plumbane, tetraethyl-	78-00-2	P110
Tetraethyl pyrophosphate	Diphosphoric acid, tetraethyl ester	107-49-3	P111
Tetranitromethane	Methane, tetranitro-	509-14-8	P112
Thallium	Same	7440-28-0	
Thallium compounds, N.O.S. <sup>1</sup>			
Thallic oxide	Thallium oxide Tl <sub>2</sub> O <sub>3</sub>	1314-32-5	P113
Thallium(I) acetate	Acetic acid, thallium(1+) salt	563-68-8	U214
Thallium(I) carbonate	Carbonic acid, dithallium(1+) salt	6533-73-9	U215
Thallium(I) chloride	Thallium chloride TlCl	7791-12-0	U216

Common Name	Chemical Abstracts Name	Chemical Abstracts No.	Hazardous Waste No.
Thallium(I) nitrate	Nitric acid, thallium(1+) salt	10102-45-1	U217
Thallium(I) selenite	Selenious acid, dithallium(1+) salt	12039-52-0	P114
Thallium(I) sulfate	Sulfuric acid, dithallium(1+) salt	7446-18-6	P115
Thioacetamide	Ethanethioamide	62-55-5	U218
Thiodicarb	Ethanimidothioic acid, N,N'-[[thiobis[(methylimino) carbonyloxy]]bis-, dimethyl ester	59669-26-0	U410
Thiofanox	2-Butanone, 3,3-dimethyl-1-(methylthio)-, O-[(methylamino)carbonyl] oxime	39196-18-4	P045
Thiomethanol	Methanethiol	74-93-1	U153
Thiophanate-methyl	Carbamic acid, [1,2-phenylenebis (iminocarbonothioyl)]bis-, dimethyl ester	23564-05-8	U409
Thiophenol	Benzenethiol	108-98-5	P014
Thiosemicarbazide	Hydrazinecarbothioamide	79-19-6	P116
Thiourea	Same	62-56-6	U219
Thiram	Thioperoxydicarbonic diamide [(H <sub>2</sub> N)C(S)] <sub>2</sub> S <sub>2</sub> , tetramethyl-	137-26-8	U244
Tirpate	1,3-Dithiolane-2-carboxaldehyde, 2,4-dimethyl-, O-[(methylamino)carbonyl] oxime.	26419-73-8	P185
Toluene	Benzene, methyl-	108-88-3	U220
Toluenediamine	Benzenediamine, ar-methyl-	25376-45-8	U221
Toluene-2,4-diamine	1,3-Benzenediamine, 4-methyl-	95-80-7	
Toluene-2,6-diamine	1,3-Benzenediamine, 2-methyl-	823-40-5	
Toluene-3,4-diamine	1,2-Benzenediamine, 4-methyl-	496-72-0	
Toluene diisocyanate	Benzene, 1,3-diisocyanatomethyl-	26471-62-5	U223
o-Toluidine	Benzenamine, 2-methyl-	95-53-4	U328
o-Toluidine hydrochloride	Benzenamine, 2-methyl-, hydrochloride	636-21-5	U222
p-Toluidine	Benzenamine, 4-methyl-	106-49-0	U353
Toxaphene	Same	8001-35-2	P123
Triallate	Carbamothioic acid, bis(1-methylethyl)-, S-(2,3,3-trichloro-2-propenyl) ester	2303-17-5	U389
1,2,4-Trichlorobenzene	Benzene, 1,2,4-trichloro-	120-82-1	
1,1,2-Trichloroethane	Ethane, 1,1,2-trichloro-	79-00-5	U227
Trichloroethylene	Ethene, trichloro-	79-01-6	U228
Trichloromethanethiol	Methanethiol, trichloro-	75-70-7	P118
Trichloromonofluoromethane	Methane, trichlorofluoro-	75-69-4	U121
2,4,5-Trichlorophenol	Phenol, 2,4,5-trichloro-	95-95-4	See F027
2,4,6-Trichlorophenol	Phenol, 2,4,6-trichloro-	88-06-2	See F027
2,4,5-T	Acetic acid, (2,4,5-trichlorophenoxy)-	93-76-5	See F027
Trichloropropane, N.O.S. <sup>1</sup>		25735-29-9	
1,2,3-Trichloropropane	Propane, 1,2,3-trichloro-	96-18-4	
Triethylamine	Ethanamine, N,N-diethyl-	121-44-8	U404
O,O,O-Triethyl phosphorothioate	Phosphorothioic acid, O,O,O-triethyl ester	126-68-1	
1,3,5-Trinitrobenzene	Benzene, 1,3,5-trinitro-	99-35-4	U234
Tris(1-aziridiny) phosphine sulfide	Aziridine, 1,1',1"-phosphinothioylidynetris-	52-24-4	
Tris(2,3-dibromopropyl) phosphate	1-Propanol, 2,3-dibromo-, phosphate (3:1)	126-72-7	U235
Trypan blue	2,7-Naphthalenedisulfonic acid, 3,3'-[[3,3'-dimethyl[1,1'-biphenyl]-4,4'diyl]bis(azo)]-	72-57-1	U236

Common Name	Chemical Abstracts Name	Chemical Abstracts No.	Hazardous Waste No.
Uracil mustard	bis[5-amino-4-hydroxy-, tetrasodium salt 2,4-(1H,3H)-Pyrimidinedione, 5-[bis(2-chloroethyl)amino]-	66-75-1	U237
Vanadium pentoxide	Vanadium oxide V <sub>2</sub> O <sub>5</sub>	1314-62-1	P120
Vernolate	Carbamothioic acid, dipropyl-, S-propyl ester	1929-77-7	
Vinyl chloride	Ethene, chloro-	75-01-4	U043
Warfarin	2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenylbutyl)-, when present at concentrations less than 0.3%	81-81-2	U248
Warfarin	2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenylbutyl)-, when present at concentrations greater than 0.3%	81-81-2	P001
Warfarin salts, when present at concentrations less than 0.3%			U248
Warfarin salts, when present at concentrations greater than 0.3%			P001
Zinc cyanide	Zinc cyanide Zn(CN) <sub>2</sub>	557-21-1	P121
Zinc phosphide	Zinc phosphide Zn <sub>3</sub> P <sub>2</sub> , when present at concentrations greater than 10%	1314-84-7	P122
Zinc phosphide	Zinc phosphide Zn <sub>3</sub> P <sub>2</sub> , when present at concentrations of 10% or less	1314-84-7	U249
Ziram	Zinc, bis(dimethylcarbamodithioato -S,S')-,	137-30-4	P205

**FOOTNOTE: <sup>1</sup>The abbreviation N.O.S. (not otherwise specified) signifies those members of the general class not specifically listed by name in this appendix.**

## CHAPTER 33.1-24-03

### 33.1-24-03-01. Scope and applicability.

This chapter establishes standards for generators of hazardous waste.

1. A person who generates a hazardous waste is subject to all applicable requirements listed below:
  - a. Requirements of a very small quantity generator:
    - (1) Section 33.1-24-03-02 hazardous waste determination;
    - (2) Section 33.1-24-03-13 recordkeeping; and
    - (3) Subsection 2 of section 33.1-24-03-03 generator category determination.
  - b. Requirements of a small quantity generator:
    - (1) Section 33.1-24-03-02 hazardous waste determination;
    - (2) Section 33.1-24-03-13 recordkeeping;
    - (3) Subsection 2 of section 33.1-24-03-03 generator category determination;
    - (4) Section 33.1-24-03-03 identification number and registration certificate;
    - (5) Sections 33.1-24-03-04 through 33.1-24-03-07 manifest requirements;
    - (6) Section 33.1-24-03-08 packaging;
    - (7) Section 33.1-24-03-09 labeling;
    - (8) Section 33.1-24-03-10 marking;
    - (9) Section 33.1-24-03-11 placarding;
    - (10) Section 33.1-24-03-27 satellite accumulation area regulations for small and large quantity generators;
    - (11) Section 33.1-24-03-28 conditions for exemption for a small quantity generator that accumulates hazardous waste; and
    - (12) The transboundary requirements found in sections 33.1-24-03-50 through 33.1-24-03-55.
  - c. Requirements of a large quantity generator:
    - (1) Section 33.1-24-03-02 hazardous waste determination;
    - (2) Sections 33.1-24-03-13 through 33.1-24-03-16 for recordkeeping and reporting;
    - (3) Subsection 2 of section 33.1-24-03-03 generator category determination;
    - (4) Section 33.1-24-03-03 identification number and registration certificate;
    - (5) Sections 33.1-24-03-04 through 33.1-24-03-07 manifest requirements;
    - (6) Section 33.1-24-03-08 packaging;

- (7) Section 33.1-24-03-09 labeling;
  - (8) Section 33.1-24-03-10 marking;
  - (9) Section 33.1-24-03-11 placarding;
  - (10) Section 33.1-24-03-27 satellite accumulation area regulations for small and large quantity generators;
  - (11) Section 33.1-24-03-28 conditions for exemption for a large quantity generator that accumulates hazardous waste; and
  - (12) The transboundary requirements found in sections 33.1-24-03-50 through 33.1-24-03-55.
2. A generator that accumulates hazardous wastes onsite is a person that stores hazardous waste; such generator is subject to the applicable requirements of chapters 33.1-24-05, 33.1-24-06, and 33.1-24-07 and section 33.1-24-03-03, unless it has met the following exemption conditions:
    - a. The generator is a very small quantity generator that meets the conditions for exemption in section 33.1-24-03-26;
    - b. The generator is a small quantity generator that meets the conditions for exemption in sections 33.1-24-03-27 and 33.1-24-03-28; or
    - c. The generator is a large quantity generator that meets the conditions for exemption in sections 33.1-24-03-27 and 33.1-24-03-29.
  3. A generator may not transport, offer for transport, or otherwise cause its hazardous waste to be sent to a facility that is not a designated facility as defined in section 33.1-24-01-04, or not otherwise authorized to receive the generator's hazardous waste.
  4. A generator shall use subsection 2 of section 33.1-24-03-03 to determine which provisions of this chapter are applicable to the generator based on the quantity of hazardous waste generated per calendar month.
  5. Any person who exports or imports hazardous waste into the United States through this state must comply with sections 33.1-24-03-50 through 33.1-24-03-55.
  6. 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 33.1-24-03-25 for recovery must comply with sections 33.1-24-03-50 through 33.1-24-03-59. 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 33.1-24-03-04 through 33.1-24-03-07, the universal waste management standards of sections 33.1-24-05-700 through 33.1-24-05-799 or the export requirements in the spent lead-acid battery management standards of sections 33.1-24-05-235 through 33.1-24-05-249.
  7. A farmer who generates waste pesticides which are hazardous waste and who complies with all the requirements of section 33.1-24-03-40 is not required to comply with other standards in chapters 33.1-24-03, 33.1-24-05, and 33.1-24-06 with respect to such pesticides.
  8. A person who generates a hazardous waste as defined in chapter 33.1-24-02 is subject to the compliance requirements and penalties prescribed in North Dakota Century Code chapter 23.1-04 if the person does not comply with the requirements of this chapter.

9. 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.
10. Persons responding to an explosives or munitions emergency in accordance with subparagraph d of paragraph 1 of subdivision g of subsection 6 of section 33.1-24-05-01 or paragraph 4 of subdivision g of subsection 6 of section 33.1-24-05-01 or 40 CFR 265.1(c)(11) (i)(D) or (iv) as incorporated by reference at subsection 5 of section 33.1-24-06-16, and item 4 of subparagraph a and subparagraph c of paragraph 9 of subdivision b of subsection 2 of section 33.1-24-06-01, are not required to comply with the standards of chapter 33.1-24-03.
11. The laboratories owned by an eligible academic entity that chooses to be subject to the requirements of sections 33.1-24-03-60 through 33.1-24-03-77 are not subject to (for purposes of this subsection, the terms "laboratory" and "eligible academic entity" shall have the meaning as defined in section 33.1-24-03-61):
  - a. The requirements of section 33.1-24-03-02 or section 33.1-24-03-27, for large quantity generators and small quantity generators, except as provided in sections 33.1-24-03-60 through 33.1-24-03-77; and
  - b. The conditions of ~~subsection 2 of section 33.1-24-02-05~~ section 33.1-24-03-26, for very small quantity generators, except as provided in sections 33.1-24-03-60 through 33.1-24-03-77.

Note 1: A generator who treats, stores, or disposes of hazardous waste onsite must comply with the applicable standards and permit requirements set forth in chapters 33.1-24-05 and 33.1-24-06.

12. All reverse distributors, as defined in section 33.1-24-05-310, are subject to sections 33.1-24-05-310 through 33.1-24-05-320 for the management of hazardous waste pharmaceuticals in lieu of this part.

13. Each health care facility, as defined in section 33.1-24-05-310, must determine whether it is subject to sections 33.1-24-05-310 through 33.1-24-05-320 for the management of hazardous waste pharmaceuticals, based on the total hazardous waste it generates per calendar month, including both hazardous waste pharmaceuticals and nonpharmaceutical hazardous waste.

a. A health care facility that generates more than one hundred kilograms [220.46 pounds] of nonacute hazardous waste per calendar month, or more than one kilogram [2.20 pounds] of acute hazardous waste per calendar month, or more than one hundred kilogram [220.46 pounds] per calendar month of any residue or contaminated soil, water, or other debris, resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous wastes listed in section 33.1-24-02-16 or subsection 5 of section 33.1-24-02-18, is subject to sections 33.1-24-05-310 through 33.1-24-05-320 for the management of hazardous waste pharmaceuticals in lieu of this part.

b. A health care facility that is a very small quantity generator when counting all of its hazardous waste per calendar month, including both its hazardous waste pharmaceuticals and nonpharmaceutical hazardous wastes, remains subject to section 33.1-24-03-26 and is not subject to sections 33.1-24-05-310 through 33.1-24-05-320, except for sections 33.1-24-05-315 and 33.1-24-05-317 and the optional provisions of 33.1-24-05-314.

**History:** Effective January 1, 2019; amended effective July 1, 2020; July 1, 2021.

**General Authority:** NDCC 23.1-04-03; ~~S.L. 2017, ch. 199, § 1~~

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

**33.1-24-03-03. Identification number, registration certificate, and generator category determination.**

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 shall determine its generator category. A generator's category is based on the amount of hazardous waste generated each month. This category may change from month to month. The procedures to determine a generator's category are listed in subdivisions a and b.
  - a. A generator who generates either acute hazardous waste or nonacute hazardous waste in a calendar month shall determine its generator category for that month by:
    - (1) Counting the total amount of acute hazardous or nonacute hazardous waste generated in the calendar month;
    - (2) Subtracting from the total any amounts of waste exempt from counting as described by section 33.1-24-02-04; and
    - (3) Determining the resulting generator category using table 1.
  - b. A generator who generates both acute hazardous waste and nonacute hazardous waste in the same calendar month shall determine its generator category for that month by:
    - (1) Separately counting the total amount of acute hazardous waste and the total amount of nonacute hazardous waste generated in the calendar month;
    - (2) Subtracting from the totals any amounts of waste exempt from counting as described by section 33.1-24-02-04;
    - (3) Separately determining resulting generator categories for the quantities of acute hazardous waste and nonacute hazardous waste using table 1; and
    - (4) Applying the more stringent generator category to the accumulation and management of both acute hazardous waste and nonacute hazardous waste generated for that month.

<b>Table 1. Generator Categories Based on Quantity of Waste Generated.</b>			
<b>Quantity of Acute Hazardous Waste Generated in a Calendar Month</b>	<b>Quantity of Nonacute Hazardous Waste Generated in a Calendar Month</b>	<b>Quantity of Residues From a Cleanup of Acute Hazardous Waste Generated in a Calendar Month</b>	<b>Generator Category</b>
Greater than 1 kg (2.2 lbs)	Any amount	Any amount	Large quantity generator
Any amount	Greater than or equal to 1,000 kg (2,200 lbs)	Any amount	Large quantity generator
Any amount	Any amount	Greater than 100 kg (220 lbs)	Large quantity generator
Less than or equal to 1 kg (2.2 lbs)	Between 100 kg (220 lbs) and 1,000	Less than or equal to 100 kg (220 lbs)	Small quantity generator

	kg (2,200 lbs)		
Less than or equal to 1 kg (2.2 lbs)	Less than or equal to 100 kg (220 lbs)	Less than or equal to 100 kg (220 lbs)	Very small quantity generator

- c. When making the monthly determinations required by this section, the generator shall include all hazardous waste that it generates, except hazardous waste that:
- (1) Is excluded from regulation under subsections 3 through 6 of section 33.1-24-02-04, subdivision c of subsection 1 of section 33.1-24-02-06, subdivision a of subsection 1 of section 33.1-24-02-07, and subsection 7 of section 33.1-24-02-04;
  - (2) Is managed immediately upon generation only in onsite elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities as defined in section 33.1-24-01-04;
  - (3) Is a material recycled, without prior storage or accumulation, only in an onsite process, under the requirements of subdivision b of subsection 3 of section 33.1-24-02-06;
  - (4) Is managed as part of an episodic event in compliance with section 33.1-24-03-34;
  - (5) Is used oil managed under the requirements listed in 33.1-24-05-600 through 33.1-24-05-699;
  - (6) Is spent lead-acid batteries managed under the requirements of 33.1-24-05-235;
  - (7) Is universal waste managed under the requirements of 33.1-24-05-700 through 33.1-24-05-799; or
  - (8) Is a hazardous waste pharmaceutical, as defined in section 33.1-24-05-310, that is subject to or managed in accordance with sections 33.1-24-05-310 through 33.1-24-05-320 or is a hazardous waste pharmaceutical that is also a drug enforcement administration controlled substance and is conditionally exempt under section 33.1-24-05-316.
- d. When determining the quantity of hazardous waste generated in a calendar month, a generator need not include:
- (1) Hazardous waste when it is removed from onsite accumulation, so long as the hazardous waste was previously counted once;
  - (2) Hazardous waste generated by onsite treatment (including reclamation) of the generator's hazardous waste, so long as the hazardous waste that is treated was previously counted once; and
  - (3) Hazardous waste spent materials that are generated, reclaimed, and subsequently reused onsite, so long as such spent materials have been previously counted once.
- e. Hazardous wastes generated by a very small quantity generator may be mixed with solid wastes. Very small quantity generators may mix a portion or all of its hazardous waste with solid waste and remain subject to section 33.1-24-03-26 even though the resultant mixture exceeds the quantity limits identified in the definition of a very small quantity generator at section 33.1-24-01-04; unless the mixture exhibits one or more of the characteristics of hazardous waste identified in sections 33.1-24-02-10 through

33.1-24-02-14. If the mixed wastes exhibit a characteristic of hazardous waste, the mixture must be included in all hazardous waste counts for that month.

- f. Hazardous wastes generated by a small quantity generator or large quantity generator may be mixed with solid wastes. These mixtures are subject to the following:
    - (1) The mixture rule in paragraph 4 of subdivision b of subsection 1 of section 33.1-24-02-03, subdivisions b and c of subsection 2 of 33.1-24-02-03, and paragraph 1 of subdivision a of subsection 7 of section 33.1-24-02-03;
    - (2) The prohibition of dilution rule in subsection 1 of section 33.1-24-05-252;
    - (3) The land disposal restriction requirements of section 33.1-24-05-280 if a characteristic hazardous waste is mixed with a solid waste so that it no longer exhibits the hazardous characteristic;
    - (4) The hazardous waste determination requirements of section 33.1-24-03-02; and
    - (5) If the resulting mixture is found to be a hazardous waste, this resultant mixture is a newly generated hazardous waste. The mixture must be included in all hazardous waste counts for that month.
  - g. Based on the generator category as determined under this section, the generator shall meet the applicable requirements listed in sections 33.1-24-03-26, 33.1-24-03-28, and 33.1-24-03-29.
- 3. A generator who has not received an identification number and a registration certificate may obtain one by applying to the department using environmental protection agency form 8700-12. Upon receiving the request the department will assign an identification number and issue a registration certificate to the generator.
  - 4. 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.
  - 5. A recognized trader must not arrange for import or export of hazardous waste without having received an environmental protection agency identification number from the department.
  - 6. The department may assess and collect reasonable fees for the issuance of registration certificates.

**History:** Effective January 1, 2019; amended effective July 1, 2020; [July 1, 2021](#).

**General Authority:** NDCC 23.1-04-03, 23.1-04-09; ~~S.L. 2017, ch. 199, § 1~~

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05, 23.1-04-09; S.L. 2017, ch. 199, § 19

### **33.1-24-03-26. Conditions for exemption for a very small quantity generator.**

Provided that the very small quantity generator meets all the conditions for exemption listed in this section, hazardous waste generated by the very small quantity generator is not subject to the requirements of chapters 33.1-24-03 through 33.1-24-07, except section 33.1-24-03-01, section 33.1-24-03-02, subsection 2 of section 33.1-24-03-03, and section 33.1-24-03-26, and the notification requirements of section 33.1-24-03-03 and the very small quantity generator may accumulate hazardous waste onsite without complying with such requirements. The conditions for exemption are as follows:

1. In a calendar month the very small quantity generator generates less than or equal to the amounts specified in the definition of "very small quantity generator" in section 33.1-24-01-04;
2. The very small quantity generator complies with the hazardous waste determination requirements of section 33.1-24-03-02;
3. If the very small quantity generator accumulates at any time greater than one kilogram [2.2 pounds] of acute hazardous waste or one hundred kilograms [220 pounds] of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in section 33.1-24-02-16 and subsection 5 of section 33.1-24-02-18, all quantities of that acute hazardous waste are subject to the following additional conditions for exemption:
  - a. Such waste is held onsite for no more than ninety days beginning on the date when the accumulated wastes exceed the amounts provided above; and
  - b. The conditions for exemption in section 33.1-24-03-29.
4. If the very small quantity generator accumulates at any time one thousand kilograms [2,200 pounds] or greater of nonacute hazardous waste, all quantities of that hazardous waste are subject to the following additional conditions for exemption:
  - a. Such waste is held onsite for no more than one hundred eighty days, or two hundred seventy days, if applicable, beginning on the date when the accumulated waste exceed the amounts provided above;
  - b. The quantity of waste accumulated onsite never exceeds six thousand kilograms [13,200 pounds]; and
  - c. The conditions for exemption in 33.1-24-03-28.
5. A very small quantity generator that accumulates hazardous waste in amounts less than or equal to the limits in subsections 3 and 4 must either treat or dispose of its hazardous waste in an onsite facility or ensure delivery to an offsite treatment, storage, or disposal facility, either of which, if located in the United States, is:
  - a. Permitted under chapter 33.1-24-06, or in interim status under section 33.1-24-06-16;
  - b. Authorized to manage hazardous waste by a state with a hazardous waste management program approved under 40 CFR 271;
  - c. Permitted, licensed, or registered by a state to manage municipal solid waste and, if managed in a municipal solid waste landfill is subject to section 33.1-20-06.1;
  - d. Permitted, licensed, or registered by a state to manage nonmunicipal nonhazardous waste and, if managed in a nonmunicipal nonhazardous waste disposal unit, is subject to the requirements in 40 CFR 257.5 through 257.30;
  - e. A facility which:
    - (1) Beneficially uses or reuses, or legitimately recycles or reclaims its waste; or
    - (2) Treats its waste prior to beneficial use or reuse, or legitimate recycling or reclamation.
  - f. For universal waste managed under sections 33.1-24-05-700 through 33.1-24-05-799, a universal waste handler or destination facility subject to the requirements of those sections;

- g. A large quantity generator under the control of the same person as the very small quantity generator, provided the following conditions are met:
  - (1) The very small quantity generator and the large quantity generator are under the control of the same person as defined in section 33.1-24-01-04. "Control," for the purposes of this section, means the power to direct the policies of the generator, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate generator facilities on behalf of a different person as defined in section 33.1-24-01-04 shall not be deemed to "control" such generators.
  - (2) The very small quantity generator marks its container of hazardous waste with:
    - (a) The words "hazardous waste"; and
    - (b) An indication of the hazards of the contents (examples include the applicable hazardous waste characteristic (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the department of transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the occupational safety and health administration hazard communication standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association Code 704);
- h. For airbag waste, an airbag waste collection facility or a designated facility subject to the requirements of subsection 10 of section 33.1-24-02-04.
- i. A reverse distributor, as defined in section 33.1-24-05-310, if the hazardous waste pharmaceutical is a potentially creditable hazardous waste pharmaceutical generated by a health care facility, as defined in section 33.1-24-05-310.
- j. A health care facility, as defined in section 33.1-24-05-310, which meets the conditions in subsection 12 of section 33.1-24-05-312 and subsection 2 of section 33.1-24-05-313 as applicable, to accept noncreditable hazardous waste pharmaceuticals from an offsite health care facility that is a very small quantity generator.
- 6. The placement of bulk or noncontainerized liquid hazardous waste or hazardous waste containing free liquids (whether or not sorbents have been added) in any landfill is prohibited.
- 7. A very small quantity generator experiencing an episodic event may generate and accumulate hazardous waste in accordance with subsection 2 of section 33.1-24-03-34.

**History:** Effective July 1, 2020; amended effective July 1, 2021.

**General Authority:** NDCC 23.1-04-03; ~~S.L. 2017, ch. 199, § 1~~

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

**33.1-24-03-29. Conditions for exemption for a large quantity generator that accumulates hazardous waste.**

A large quantity generator may accumulate hazardous waste onsite without a permit or interim status, and without complying with the requirements of sections 33.1-24-05-01 through 33.1-24-05-249, sections 33.1-24-05-300 through 33.1-24-05-599, chapter 33.1-24-06, and chapter 33.1-24-07, provided that all of the following conditions for exemption are met:

- 1. **Accumulation.** A large quantity generator accumulates hazardous waste onsite for no more than ninety days, unless in compliance with the accumulation time limit extension in subsection 2 or F006 accumulation conditions for exemption in subsection 3. The following accumulation conditions also apply:

- a. **Accumulation of hazardous waste in containers.** If the hazardous waste is placed in containers, the large quantity generator must comply with the following:
- (1) **Air emission standards.** The applicable requirements of sections 33.1-24-05-400 through 33.1-24-05-474;
  - (2) **Condition of containers.** If a container holding hazardous waste is not in good condition, or if it begins to leak, the large quantity generator must immediately transfer the hazardous waste from this container to a container that is in good condition, or immediately manage the waste in some other way that complies with the conditions for exemption of this section;
  - (3) **Compatibility of waste with container.** The large quantity generator must use a container made of or lined with materials that will not react with, and are otherwise compatible with, the hazardous waste to be stored, so that the ability of the container to contain the waste is not impaired;
  - (4) **Management of containers.**
    - (a) A container holding hazardous waste always must be closed during accumulation, except when it is necessary to add or remove waste.
    - (b) A container holding hazardous waste may not be opened, handled, or stored in a manner that may rupture the container or cause it to leak.
  - (5) **Inspections.** At least weekly, the large quantity generator shall inspect central accumulation areas. The large quantity generator shall look for leaking containers and for deterioration of containers caused by corrosion or other factors. See paragraph 2 of subdivision a of subsection 1 of section 33.1-24-03-29 of this section for remedial action required if deterioration or leaks are detected.
  - (6) **Special conditions for accumulation of ignitable and reactive wastes.**
    - (a) Containers holding ignitable or reactive waste must be located at least fifteen meters [50 feet] from the facility's property line unless a written approval is obtained from the authority having jurisdiction over the local fire code allowing hazardous waste accumulation to occur within this restricted area. A record of the written approval must be maintained as long as ignitable or reactive hazardous waste is accumulated in this area.
    - (b) The large quantity generator shall take precautions to prevent accidental ignition or reaction of ignitable or reactive waste. This waste must be separated and protected from sources of ignition or reaction, including the following: Open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), spontaneous ignition (e.g., from heat-producing chemical reactions), and radiant heat. While ignitable or reactive waste is being handled, the large quantity generator shall confine smoking and open flame to specially designated locations. "No Smoking" signs must be conspicuously placed wherever there is a hazard from ignitable or reactive waste.
  - (7) **Special conditions for accumulation of incompatible wastes.**
    - (a) Incompatible wastes, or incompatible wastes and materials, (see appendix III of chapter 33.1-24-05 for examples) may not be placed in the same container, unless subsection 2 of section 33.1-24-05-08 is complied with.

- (b) Hazardous waste may not be placed in an unwashed container that previously held an incompatible waste or material (see appendix III of chapter 33.1-24-05 for examples), unless subsection 2 of section 33.1-24-05-08 is complied with.
  - (c) A container holding a hazardous waste that is incompatible with any waste or other materials accumulated or stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device.
- b. **Accumulation of hazardous waste in tanks.** If the waste is placed in tanks, the large quantity generator shall comply with the applicable requirements of sections 33.1-24-05-103 through subsection 3 of section 33.1-24-05-110 of closure and postclosure care and section 33.1-24-05-113 - Waste analysis and trial tests, as well as the applicable requirements of sections 33.1-24-05-400 through 33.1-24-05-474.
- c. **Accumulation of hazardous waste on drip pads.** If the hazardous waste is placed on drip pads, the large quantity generator shall comply with the following:
  - (1) The applicable drip pad requirements of sections 33.1-24-05-501 through 33.1-24-05-524;
  - (2) The large quantity generator shall remove all wastes from the drip pad at least once every ninety days. Any hazardous wastes that are removed from the drip pad are then subject to the ninety-day accumulation limit in subsection 1 of this section and section 33.1-24-03-27, if the hazardous wastes are being managed in satellite accumulation areas prior to being moved to a central accumulation area; and
  - (3) The large quantity generator shall maintain onsite at the facility the following records readily available for inspection:
    - (a) A written description of procedures that are 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.
- d. **Accumulation of hazardous waste in containment buildings.** If the waste is placed in containment buildings, the large quantity generator shall comply with sections 33.1-24-05-475 through 33.1-24-05-500. The generator shall label its containment building with the words "hazardous waste" in a conspicuous place easily visible to employees, visitors, emergency responders, waste handlers, or other persons onsite, and also in a conspicuous place provide an indication of the hazards of the contents (examples include the applicable hazardous waste characteristic (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the department of transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the occupational safety and health administration hazard communication standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association Code 704). The generator must also maintain:
  - (1) The professional engineer certification that the building complies with the design standards specified in section 33.1-24-05-476. This certification must be in the generator's files prior to operation of the unit; and

- (2) The following records by use of inventory logs, monitoring equipment, or any other effective means:
  - (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 the generator is 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.
  - (c) Inventory logs or records with the above information must be maintained onsite and readily available for inspection.

e. **Labeling and marking of containers and tanks.**

- (1) **Containers.** A large quantity generator shall mark or label its containers with the following:
  - (a) The words "hazardous waste";
  - (b) An indication of the hazards of the contents (examples include the applicable hazardous waste characteristic (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the department of transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the occupational safety and health administration hazard communication standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association Code 704); and
  - (c) The date upon which each period of accumulation begins clearly visible for inspection on each container.
- (2) **Tanks.** A large quantity generator accumulating hazardous waste in tanks shall do the following:
  - (a) Mark or label its tanks with the words "hazardous waste";
  - (b) Mark or label its tanks with an indication of the hazards of the contents (examples include the applicable hazardous waste characteristic (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the department of transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the occupational safety and health administration hazard communication standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association Code 704);
  - (c) Use inventory logs, monitoring equipment or other records to demonstrate that hazardous waste has been emptied within ninety days of first entering the tank if using a batch process, or in the case of a tank with a continuous flow process, demonstrate that estimated volumes of hazardous waste entering the tank daily exit the tank within ninety days of first entering; and
  - (d) Keep inventory logs or records with the above information onsite and readily available for inspection.

- f. **Emergency procedures.** The large quantity generator complies with the standards in sections 33.1-24-05-15 through 33.1-24-05-36.
- g. **Personnel training.**
- (1) Facility personnel must successfully complete a program of classroom instruction, online training (e.g., computer-based or electronic), or on-the-job training that teaches them to perform their duties in a way that ensures compliance with this part. The large quantity generator shall ensure that this program includes all the elements described subparagraph b.
    - (a) This program must be directed by a person trained in hazardous waste management procedures, and must include instruction which teaches facility personnel hazardous waste management procedures, including contingency plan implementation, relevant to the positions in which they are employed.
    - (b) At a minimum, the training program must be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment, and emergency systems, including where applicable:
      - [1] Procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment;
      - [2] Key parameters for automatic waste feed cut-off systems;
      - [3] Communications or alarm systems;
      - [4] Response to fires or explosions;
      - [5] Response to ground-water contamination incidents; and
      - [6] Shutdown of operations.
  - (2) For facility employees that receive emergency response training pursuant to Occupational Safety and Health Administration regulations 29 CFR 1910.120(p)(8) and 1910.120(q), the large quantity generator is not required to provide separate emergency response training pursuant to this section, provided that the overall facility training meets all the conditions of exemption in this section.
  - (3) Facility personnel successfully shall complete the program required in subdivision g of subsection 1 of section 33.1-24-03-29 within six months after the date of their employment or assignment to the facility, or to a new position at the facility, whichever is later. Employees may not work in unsupervised positions until they have completed the training standards of subdivision g of subsection 1 of section 33.1-24-03-29.
  - (4) Facility personnel shall take part in an annual review of the initial training required in subdivision g of subsection 1 of section 33.1-24-03-28.
  - (5) The large quantity generator shall maintain the following documents and records at the facility:
    - (a) The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job;
    - (b) A written job description for each position listed under subparagraph a. This description may be consistent in its degree of specificity with descriptions for

other similar positions in the same company location or bargaining unit, but must include the requisite skill, education, or other qualifications, and duties of facility personnel assigned to each position;

- (c) A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under subparagraph a;
  - (d) Records that document that the required training or job experience has been given to, and completed by, facility personnel.
- (6) Training records on current personnel must be kept until closure of the facility. Training records on former employees must be kept for at least three years from the date the employee last worked at the facility. Personnel training records may accompany personnel transferred within the same company.
- h. **Closure.** A large quantity generator accumulating hazardous wastes in containers, tanks, drip pads, and containment buildings, prior to closing a unit at the facility, or prior to closing the facility, shall meet the following conditions:
- (1) **Notification for closure of a waste accumulation unit.** A large quantity generator shall perform one of the following when closing a waste accumulation unit:
    - (a) Place a notice in the operating record within thirty days after closure identifying the location of the unit within the facility; or
    - (b) Meet the closure performance standards of paragraph 3 for container, tank, and containment building waste accumulation units or paragraph 4 for drip pads and notify environmental protection agency following the procedures in paragraph 2 for the waste accumulation unit. If the waste accumulation unit is subsequently reopened, the generator may remove the notice from the operating record.
  - (2) **Notification for closure of the facility.**
    - (a) Notify the department using form 8700-12 no later than thirty days prior to closing the facility.
    - (b) Notify the department using form 8700-12 within ninety days after closing the facility that it has complied with the closure performance standards of paragraph 3 or 4. If the facility cannot meet the closure performance standards of paragraph 3 or 4, notify the department using form 8700-12 that it will close as a landfill under the standards of section 33.1-24-05-180 in the case of a container, tank, or containment building unit, or for a facility with drip pads, notify using form 8700-12 that it will close under the standards of subsection 3 of section 33.1-24-05-506.
    - (c) A large quantity generator may request additional time to close, but it must notify the department using form 8700-12 within seventy-five days after the date provided in subparagraph a to request an extension and provide an explanation as to why the additional time is required.
  - (3) **Closure performance standards for container, tank systems, and containment building waste accumulation units.** At closure, the generator shall close the waste accumulation unit or facility in a manner that:

- (a) Minimizes the need for further maintenance by controlling, minimizing, or eliminating, to the extent necessary to protect human health and the environment, the postclosure escape of hazardous waste, hazardous constituents, leachate, contaminated run-off, or hazardous waste decomposition products to the ground or surface waters or to the atmosphere.
  - (b) Removes or decontaminates all contaminated equipment, structures and soil and any remaining hazardous waste residues from waste accumulation units, including containment system components (pads, liners, etc.), contaminated soils and subsoils, bases, and structures and equipment contaminated with waste, unless subsection 4 of section 33.1-24-02-03 applies.
  - (c) Any hazardous waste generated in the process of closing either the generator's facility or unit accumulating hazardous waste must be managed in accordance with all applicable standards of chapters 33.1-24-03 and 33.1-24-04, and sections 33.1-24-05-250 through 33.1-24-05-399, including removing any hazardous waste contained in these units within ninety days of generating it and managing these wastes in a Resource Conservation and Recovery Act Subtitle C hazardous waste permitted treatment, storage and disposal facility or interim status facility.
  - (d) If the generator demonstrates that any contaminated soils and wastes cannot be practicably removed or decontaminated as required in subparagraph b of paragraph 3 of subdivision h of subsection 1 of section 33.1-24-03-29, then the waste accumulation unit is considered to be a landfill and the generator shall close the waste accumulation unit and perform postclosure care in accordance with the closure and post-closure care requirements that apply to landfills (section 33.1-24-05-180). In addition, for the purposes of closure, postclosure, and financial responsibility, such a waste accumulation unit is then considered to be a landfill, and the generator shall meet all of the requirements for landfills specified in sections 33.1-24-05-59 through 33.1-24-05-88.
- (4) **Closure performance standards for drip pad waste accumulation units.** At closure, the generator shall comply with the closure requirements of paragraph 2 of subdivision h of subsection 1 of section 33.1-24-03-29 and subparagraphs a and c of paragraph 3 of subdivision h of subsection 1 of section 33.1-24-03-29, and sections 33.1-24-05-505 and 33.1-24-05-506.
- (5) The closure requirements of paragraph subdivision h of this subsection do not apply to satellite accumulation areas.
- i. **Land disposal restrictions.** The large quantity generator complies with all applicable requirements in sections 33.1-24-05-250 through 33.1-24-05-399.
2. **Accumulation time limit extension.** A large quantity generator who accumulates hazardous waste for more than ninety days is subject to the permit requirements of chapters 33.1-24-06 and 33.1-24-07, and the notification requirements of section 33.1-24-03-03, unless it 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. **Accumulation of F006.** A large quantity generator that also generates wastewater treatment sludges from electroplating operations that meet the listing description for the environmental protection agency hazardous waste number F006, may accumulate F006 waste onsite for more than ninety days, but not more than one hundred eighty days without being subject to

chapters 33.1-24-06 and 33.1-24-07, and the notification requirements of section 33.1-24-03-03, provided that it complies with all of the following additional conditions for exemption:

- a. The large quantity 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) If the F006 waste is placed in containers, the large quantity generator must comply with the applicable conditions for exemption in subdivision a of subsection 1 of section 33.1-24-03-29;
  - (2) If the F006 is placed in tanks, the large quantity generator must comply with the applicable conditions for exemption of subdivision b of subsection 1 of section 33.1-24-03-29;
  - (3) If the F006 is placed in containment buildings, the large quantity generator must comply with sections 33.1-24-05-475 through 33.1-24-05-477 and has placed its professional engineer certification that the building complies with the design standards specified in section 33.1-24-05-476 in the facility's files prior to operation of the unit. The large quantity generator must maintain the following records:
    - (a) 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 large quantity generator is complying with the procedures; or
    - (b) Documentation that the unit is emptied at least once every one hundred eighty days.
  - (4) The large quantity generator is exempt from all the requirements in sections 33.1-24-05-57 through 33.1-24-05-88, except for those referenced in subdivision h of subsection 1 of section 33.1-24-05-29.
  - (5) The date upon which each period of accumulation begins is clearly marked and must be clearly visible for inspection on each container;
  - (6) While being accumulated onsite, each container and tank is labeled or marked clearly with:
    - (a) The words "hazardous waste"; and
    - (b) An indication of the hazards of the contents (examples include the applicable hazardous waste characteristic (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the department of transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the occupational safety and health administration hazard communication standard at 29 CFR

1910.1200; or a chemical hazard label consistent with the National Fire Protection Association Code 704).

- (7) The large quantity generator complies with the requirements in subdivisions **fe** and **gf**.
- e. **F006 transported over two hundred miles.** A large quantity generator that also generates wastewater treatment sludges from electroplating operations that meet the listing description for the environmental protection agency hazardous waste number F006, and who must transport this waste, or offer this waste for transportation, over a distance of two hundred miles 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 being subject to chapters 33.1-24-06 and 33.1-24-07, and the notification requirements of section 33.1-24-03-03, if the large quantity generator complies with all of the conditions for exemption in subdivisions a through d of subsection 3 of section 33.1-24-03-29.
- f. **F006 accumulation time extension.** A large quantity generator accumulating F006 in accordance with subdivisions a through d of subsection 3 of section 33.1-24-03-29 that 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 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 chapters 33.1-24-06 and 33.1-24-07, and the notification requirements of section 33.1-24-03-03, unless the generator has been granted an extension to the one hundred-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 environmental protection agency 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 regional administrator on a case-by-case basis.
4. **Consolidation of hazardous waste received from very small quantity generators.** Large quantity generators may accumulate onsite hazardous waste received from very small quantity generators under control of the same person (as defined in section 33.1-24-01-04), without a storage permit or interim status and without complying with the requirements of chapters 33.1-24-06 and 33.1-24-07, and the notification requirements of section 33.1-24-03-03, provided that they comply with the following conditions. "Control," for the purposes of this section, means the power to direct the policies of the generator, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate generator facilities on behalf of a different person shall not be deemed to "control" such generators.
- a. The large quantity generator notifies the department at least thirty days prior to receiving the first shipment from a very small quantity generator using environmental protection agency form 8700-12;
- b. Identifies on the form the name and site address for the very small quantity generator as well as the name and business telephone number for a contact person for the very small quantity generator; and
- c. Submits an updated Site identification form (environmental protection agency form 8700-12) within thirty days after a change in the name or site address for the very small quantity generator.

- d. The large quantity generator maintains records of shipments for three years from the date the hazardous waste was received from the very small quantity generator. These records must identify the name, site address, and contact information for the very small quantity generator and include a description of the hazardous waste received, including the quantity and the date the waste was received.
  - e. The large quantity generator complies with the independent requirements identified in subdivision c of subsection 1 of section 33.1-24-03-01 and the conditions for exemption in this section for all hazardous waste received from a very small quantity generator. For purposes of the labeling and marking regulations in subdivision e of subsection 1 of section 33.1-24-03-29, the large quantity generator shall label the container or unit with the date accumulation started (i.e., the date the hazardous waste was received from the very small quantity generator). If the large quantity generator is consolidating incoming hazardous waste from a very small quantity generator with either its own hazardous waste or with hazardous waste from other very small quantity generators, the large quantity generator shall label each container or unit with the earliest date any hazardous waste in the container was accumulated onsite.
5. **Rejected load.** A large quantity generator that 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 33.1-24-05-39 may accumulate the returned waste onsite in accordance with subsections 1 through 4. 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 July 1, 2020; [amended effective July 1, 2021](#).

**General Authority:** NDCC 23.1-04-03; S.L. 2017, ch. 199, § 1

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

### **33.1-24-03-53. Exports of hazardous waste.**

- 1. General export requirements. Except as provided in subdivisions e and f, exporters that have received an acknowledgment of consent from the environmental protection agency before December 31, 2016, are subject to that approval and the requirements listed in the acknowledgment of consent that existed at the time of that approval until such time the approval period expires. All other exports of hazardous waste are prohibited unless:
  - a. The exporter complies with the contract requirements in subsection 6;
  - b. The exporter complies with the notification requirements in subsection 2;
  - c. The exporter receives an acknowledgment of consent from the environmental protection agency documenting consent from the countries of import and transit (and original country of export if exporting previously imported hazardous waste);
  - d. The exporter ensures compliance with the movement documents requirements in subsection 4;
  - e. The exporter ensures compliance with the manifest instructions for export shipments in subsection 3; and

- f. The exporter or a United States authorized agent:
- (1) For shipments initiated prior to the automated export system filing compliance date, does one of the following:
    - (a) Submits electronic export information for each shipment to the automated export system or its successor system, under the international trade data system platform, in accordance with 15 CFR 30.4(b), and includes the following items in the electronic export information, along with the other information required under 15 CFR 30.6:
      - [1] Environmental protection agency license code;
      - [2] Commodity classification code for each hazardous waste per 15 CFR 30.6(a)(12);
      - [3] Environmental protection agency consent number for each hazardous waste;
      - [4] Country of ultimate destination code per 15 CFR 30.6(a)(5);
      - [5] Date of export per 15 CFR 30.6(a)(2);
      - [6] Resource Conservation and Recovery Act hazardous waste manifest tracking number, if required;
      - [7] Quantity of each hazardous waste in shipment and units for reported quantity, if required reporting units established by value for the reported commodity classification number are in units of weight or volume per 15 CFR 30.6(a)(15); or
      - [8] Environmental protection agency net quantity for each hazardous waste reported in units of kilograms if solid or in units of liters if liquid, if required reporting units established by value for the reported commodity classification number are not in units of weight or volume.
    - (b) Complies with a paper-based process by:
      - [1] Attaching paper documentation of consent (such as, a copy of the environmental protection agency acknowledgment of consent, international movement document) to the manifest, or shipping papers if a manifest is not required, which must accompany the hazardous waste shipment. For exports by rail or water (bulk shipment), the primary exporter shall provide the transporter with the paper documentation of consent which must accompany the hazardous waste but which need not be attached to the manifest except that for exports by water (bulk shipment) the primary exporter shall attach the paper documentation of consent to the shipping paper.
      - [2] Providing the transporter with an additional copy of the manifest, and instructing the transporter via mail, electronic mail or fax to deliver that copy to the United States customs official at the point the hazardous waste leaves the United States in accordance with paragraph 2 of subdivision d of subsection 7 of section 33.1-24-04-04.
  - (2) For shipments initiated on or after the automated export system filing compliance date, submits electronic export information for each shipment to

the automated export system or its successor system, under the international trade data system platform, in accordance with 15 CFR 30.4(b), and includes the following items in the electronic export information, along with the other information required under 15 CFR 30.6:

- (a) Environmental protection agency license code;
- (b) Commodity classification code for each hazardous waste per 15 CFR 30.6(a)(12);
- (c) Environmental protection agency consent number for each hazardous waste;
- (d) Country of ultimate destination code per 15 CFR 30.6(a)(5);
- (e) Date of export per 15 CFR 30.6(a)(2);
- (f) Resource Conservation and Recovery Act hazardous waste manifest tracking number, if required;
- (g) Quantity of each hazardous waste in shipment and units for reported quantity, if required reporting units established by value for the reported commodity classification number are in units of weight or volume per 15 CFR 30.6(a)(15); or
- (h) Environmental protection agency net quantity for each hazardous waste reported in units of kilograms if solid or in units of liters if liquid, if required reporting units established by value for the reported commodity classification number are not in units of weight or volume.

## 2. Notifications.

- a. General notifications. At least sixty days before the first shipment of hazardous waste is expected to leave the United States, the exporter shall provide notification in English to the environmental protection agency and the department of the proposed transboundary movement. Notifications must be submitted electronically using the environmental protection agency's waste import export tracking system, or its successor system and by mail to the department. The notification may cover up to one year of shipments of one or more hazardous wastes being sent to the same recovery or disposal facility, and must include all of the following information:
  - (1) Exporter name and identification number, address, telephone, fax numbers, and electronic mail address;
  - (2) Foreign receiving facility name, address, telephone, fax numbers, electronic mail address, technologies employed, and the applicable recovery or disposal operations as defined in section 33.1-24-03-51;
  - (3) Foreign importer name, if not the owner or operator of the foreign receiving facility, address, telephone, fax numbers, and electronic mail address;
  - (4) Intended transporters and their agents, or agents; address, telephone, fax, and electronic mail address;
  - (5) "United States" as the country of export name, "USA01" as the relevant competent authority code, and the intended United States port or ports of exit;

- (6) The ISO standard 3166 country name two-digit code, Organization for Economic Cooperation and Development/Basel competent authority code, and the ports of entry and exit for each country of transit;
- (7) The ISO standard 3166 country name two-digit code, Organization for Economic Cooperation and Development/Basel competent authority code, and port of entry for the country of import;
- (8) Statement of whether the notification covers a single shipment or multiple shipments;
- (9) Start and end dates requested for transboundary movements;
- (10) Means of transport planned to be used;
- (11) Descriptions of each hazardous waste, including whether each hazardous waste is regulated universal waste under sections 33.1-24-05-700 through 33.1-24-05-799, spent lead-acid batteries being exported for recovery of lead under sections 33.1-24-05-235 through ~~33.1-24-05-234~~33.1-24-05-249, or industrial ethyl alcohol being exported for reclamation under paragraph 1 of subdivision c of subsection 1 of section 33.1-24-02-06, estimated total quantity of each waste in either metric tons or cubic meters, the applicable Resource Conservation and Recovery Act waste codes for each hazardous waste, the applicable Organization for Economic Cooperation and Development waste code from the lists incorporated by reference in section 33.1-24-01-05, and the United Nations/United States department of transportation identification number for each waste;
- (12) Specification of the recovery or disposal operations as defined in section 33.1-24-03-51.
- (13) Certification/declaration 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 guarantee is or shall be in force covering the transboundary movement.

Name:

Signature:

Date:

- b. Exports to preconsented recovery facilities in Organization for Economic Cooperation and Development member countries. If the recovery facility is located in an Organization for Economic Cooperation and Development member country and has been pre-consented by the competent authority of the Organization for Economic Cooperation and Development member country to recover the waste sent by exporters located in other Organization for Economic Cooperation and Development member countries, the notification may cover up to three years of shipments. Notifications proposing export to a pre-consented facility in an Organization for Economic Cooperation and Development member country must include all information listed in paragraphs 1 through 13 of subdivision a and additionally state that the facility is pre-consented. Exporters shall submit the notification to environmental protection agency using the allowable methods listed in subdivision a at least ten days before the first shipment is expected to leave the United States.

- c. Notifications listing interim recycling operations or interim disposal operations. If the foreign receiving facility listed in paragraph 2 of subdivision a will engage in any of the interim recovery operations R12 or R13 or interim disposal operations D13 through D15, or in the case of transboundary movements with Canada, any of the interim recovery operations R12, R13, or RC16, or interim disposal operations D13 to D14, or DC17, the notification submitted according to subdivision a also must include the final foreign recovery or disposal facility name, address, telephone, fax numbers, electronic mail address, technologies employed, and which of the applicable recovery or disposal operations R1 through R11 and D1 through D12, or in the case of transboundary movements with Canada, which of the applicable recovery or disposal operations R1 through R11, RC14 to RC15, D1 through D12, and DC15 to DC16 will be employed at the final foreign recovery or disposal facility. The recovery and disposal operations in this subdivision are defined in section 33.1-24-03-51.
- d. Renotifications. When the exporter wishes to change any of the information specified on the original notification, including increasing the estimate of the total quantity of hazardous waste specified in the original notification or adding transporters, the exporter shall submit a renotification of the changes to the environmental protection agency and the department using the allowable methods in subdivision a. Any shipment using the requested changes cannot take place until the countries of import and transit consent to the changes and the exporter receives an environmental protection agency acknowledgment of consent letter documenting the countries' consents to the changes.
- e. For cases where the proposed country of import and recovery or disposal operations are not covered under an international agreement to which both the United States and the country of import are parties, the environmental protection agency will coordinate with the department of State to provide the complete notification to country of import and any countries of transit. In all other cases, the environmental protection agency will provide the notification directly to the country of import and any countries of transit. A notification is complete when the environmental protection agency receives a notification that the environmental protection agency determines satisfies the requirements of paragraphs 1 through 13 of subdivision a.
- f. When the countries of import and transit consent to the proposed transboundary movements of the hazardous wastes, the environmental protection agency will forward an environmental protection agency acknowledgment of consent letter to the exporter documenting the countries' consents. When any of the countries of import and transit objects to the proposed transboundary movements of the hazardous waste or withdraws a prior consent, the environmental protection agency will notify the exporter.
- g. Export of hazardous wastes for recycling or disposal operations that were originally imported into the United States for recycling or disposal operations in a third country is prohibited unless an exporter in the United States complies with the export requirements in this section, including providing notification to the environmental protection agency and the department in accordance with subdivision a. In addition to listing all required information in paragraphs 1 through 13 of subdivision a, the exporter shall provide the original consent number issued for the initial import of the wastes in the notification, and receive an acknowledgment of consent from the environmental protection agency documenting the consent of the competent authorities in new country of import, the original country of export, and any transit countries prior to re-export.
- h. Upon request by the environmental protection agency, the exporter shall furnish to the environmental protection agency any additional information that the country of import requests in order to respond to a notification.

3. Resource Conservation and Recovery Act manifest instructions for export shipments. The exporter shall comply with the manifest requirements of sections 33.1-24-03-04 through 33.1-24-03-07 except that:
  - a. In lieu of the name, site address, and identification number of the designated permitted facility, the exporter shall enter the name and site address of the foreign receiving facility;
  - b. In the international shipments block, the exporter shall check the export box and enter the United States port of exit (city and state) from the United States.
  - c. The exporter shall list the consent number from the acknowledgment of consent for each hazardous waste listed on the manifest, matched to the relevant list number for the hazardous waste from block 9b. If additional space is needed, the exporter should use a continuation sheet (environmental protection agency form 8700-22A).
  - d. The 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).
4. Movement document requirements for export shipments.
  - a. All exporters shall ensure that a movement document meeting the conditions of subdivision b accompanies each transboundary movement of hazardous wastes from the initiation of the shipment until it reaches the foreign receiving facility, including cases in which the hazardous waste is stored and sorted, or sorted, by the foreign importer prior to shipment to the foreign receiving facility, except as provided in paragraphs 1 and 2.
    - (1) For shipments of hazardous waste within the United States solely by water (bulk shipments only), the exporter shall forward the movement document to the last water (bulk shipment) transporter to handle the hazardous waste in the United States if exported by water.
    - (2) For rail shipments of hazardous waste within the United States which start from the company originating the export shipment, the exporter shall forward the movement document to the next nonrail transporter, if any, or the last rail transporter to handle the hazardous waste in the United States if exported by rail.
  - b. The movement document must include the following:
    - (1) The corresponding consent numbers and hazardous waste numbers for the listed hazardous waste from the relevant environmental protection agency acknowledgment of consents;
    - (2) The shipment number and the total number of shipments from the environmental protection agency acknowledgment of consent;
    - (3) Exporter name and identification number, address, telephone, fax numbers, and electronic mail address;
    - (4) Foreign receiving facility name, address, telephone, fax numbers, electronic mail address, technologies employed, and the applicable recovery or disposal operations as defined in section 33.1-24-03-51;
    - (5) Foreign importer name, if not the owner or operator of the foreign receiving facility, address, telephone, fax numbers, and electronic mail address;

- (6) Descriptions of each hazardous waste, quantity of each hazardous waste in the shipment, applicable Resource Conservation and Recovery Act hazardous waste codes for each hazardous waste, applicable Organization for Economic Cooperation and Development waste code for each hazardous waste from the lists incorporated by reference in section 33.1-24-01-05, and the United Nations/United States department of transportation identification number for each hazardous waste;
  - (7) Date movement commenced;
  - (8) Name (if not the exporter), address, telephone, fax numbers, and electronic mail of company originating the shipment;
  - (9) Company name, environmental protection agency identification number, address, telephone, fax, and electronic mail address of all transporters;
  - (10) Identification (license, registered name, or registration number) of means of transport, including types of packaging;
  - (11) Any special precautions to be taken by transporters;
  - (12) Certification or declaration, or both, signed and dated by the exporter that the information in the movement document is complete and correct;
  - (13) Appropriate signatures for each custody transfer (for example, transporter, importer, and owner or operator of the foreign receiving facility);
  - (14) Each United States person that has physical custody of the hazardous waste from the time the movement commences until it arrives at the foreign receiving facility must sign the movement document (for example, transporter, foreign importer, and owner or operator of the foreign receiving facility); and
  - (15) As part of the contract requirements of subsection 6, the exporter shall require that the foreign receiving facility send a copy of the signed movement document to confirm receipt within three working days of shipment delivery to the exporter, to the competent authorities of the countries of import and transit, the department, and for shipments occurring on or after the electronic import-export reporting compliance date, the exporter additionally shall require that the foreign receiving facility send a copy to the environmental protection agency at the same time using the allowable methods listed in subdivision a of subsection 2.
5. Duty to return or re-export hazardous wastes. When a transboundary movement of hazardous wastes cannot be completed in accordance with the terms of the contract or the consents and alternative arrangements cannot be made to recover or dispose of the waste in an environmentally sound manner in the country of import, the exporter shall ensure that the hazardous waste is returned to the United States or re-exported to a third country. If the waste must be returned, the exporter shall provide for the return of the hazardous waste shipment within ninety days from the time the country of import informs the environmental protection agency and the department of the need to return the waste or such other period of time as the concerned countries agree. In all cases, the exporter shall submit an exception report to the environmental protection agency and the department in accordance with subsection 8.
6. Export contract requirements.
- a. Exports of hazardous waste 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, foreign importer (if

different from the foreign receiving facility), and the owner or operator of the foreign receiving facility, and shall 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.

- b. Contracts or equivalent arrangements must specify the name and environmental protection agency identification number, where available, of:
  - (1) The company from where each export shipment of hazardous waste is initiated;
  - (2) Each person who will have physical custody of the hazardous wastes;
  - (3) Each person who will have legal control of the hazardous wastes; and
  - (4) The foreign receiving facility.
- c. Contracts or equivalent arrangements must specify which party to the contract will assume responsibility for alternate management of the hazardous wastes if their disposition cannot be carried out as described in the notification of intent to export. In such cases, contracts must specify that:
  - (1) The transporter or foreign receiving facility having actual possession or physical control over the hazardous wastes will immediately inform the exporter, the environmental protection agency, the department, and either the competent authority of the country of transit or the competent authority of the country of import of the need to make alternate management arrangements; and
  - (2) The person specified in the contract will assume responsibility for the adequate management of the hazardous wastes in compliance with applicable laws and regulations including, if necessary, arranging the return of hazardous wastes and, as the case may be, shall provide the notification for re-export to the competent authority in the country of import and include the equivalent of the information required in subdivision a of subsection 2, the original consent number issued for the initial export of the hazardous wastes in the notification, and obtain consent from the environmental protection agency and the competent authorities in the new country of import and any transit countries prior to re-export.
- d. Contracts must specify that the foreign receiving facility send a copy of the signed movement document to confirm receipt within three working days of shipment delivery to the exporter, to the competent authorities of the countries of import and transit, and the department. For contracts that will be in effect on or after the electronic import-export reporting compliance date, the contracts must additionally specify that the foreign receiving facility send a copy to the environmental protection agency at the same time using the allowable methods listed in subdivision a of subsection 2 on or after that date.
- e. Contracts must specify that the foreign receiving facility shall send a copy of the signed and dated confirmation of recovery or disposal, as soon as possible, but no later than thirty days after completing recovery or disposal on the waste in the shipment and no later than one calendar year following receipt of the waste, to the exporter, to the competent authority of the country of import, and the department. For contracts that will be in effect on or after the electronic import-export reporting compliance date, the contracts must additionally specify that the foreign receiving facility send a copy to the environmental protection agency at the same time using the allowable methods listed in subdivision a of subsection 2 on or after that date.

- f. Contracts must specify that the foreign importer or the foreign receiving facility that performed interim recycling operations R12, R13, or RC16, or interim disposal operations D13 through D15 or DC17, as appropriate, will:
    - (1) Provide the notification required in paragraph 2 of subdivision c prior to any re-export of the hazardous wastes to a final foreign recovery or disposal facility in a third country; and
    - (2) Promptly send copies of the confirmation of recovery or disposal which it receives from the final foreign recovery or disposal facility within one year of shipment delivery to the final foreign recovery or disposal facility that performed one of recovery operations R1 through R11, or RC16, or one of disposal operations D1 through D12, DC15 or DC16 to the competent authority of the country of import, and the department. For contracts that will be in effect on or after the electronic import-export reporting compliance date, the contracts must additionally specify that the foreign facility send copies to the environmental protection agency at the same time using the allowable method listed in subdivision a of subsection 2 on or after that date.
  - g. Contracts or equivalent arrangements must include provisions for financial guarantees, if required by the competent authorities of the country of import and any countries of transit, in accordance with applicable national or international law requirements.

Note: 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 and other foreign countries do. It is the responsibility of the exporter to ascertain and comply with such requirements; in some cases, persons or facilities located in those Organization for Economic Cooperation and Development Member countries or other foreign countries may refuse to enter into the necessary contracts absent specific references or certifications to financial guarantees.
  - h. Contracts or equivalent arrangements must contain provisions requiring each contracting party to comply with all applicable requirements of sections 33.1-24-03-50 through 33.1-24-03-55.
  - i. Upon request by the environmental protection agency, United States exporters, importers, or recovery facilities shall 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).
7. Annual reports. The exporter shall file an annual report with the environmental protection agency and the department no later than March first of each year summarizing the types, quantities, frequency, and ultimate destination of all such hazardous waste exported during the previous calendar year. Prior to one year after the automated export system filing compliance date, the exporter shall mail or hand-deliver annual reports to the environmental protection agency using one of the addresses specified in subsection 5 of section 33.1-24-03-52, or submit to the environmental protection agency using the allowable methods specified in subdivision a of subsection 2 if the exporter has electronically filed the environmental protection agency information in the automated export system, or its successor system, as required by subparagraph a of paragraph 1 of subdivision f of subsection 1 for all shipments made the previous calendar year. Subsequently, the exporter shall submit annual reports to the environmental protection agency using the allowable methods specified in subdivision a of subsection 2. The annual report must include 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 foreign receiving facility;
- d. By foreign receiving facility, for each hazardous waste exported:
  - (1) A description of the hazardous waste;
  - (2) The applicable hazardous waste codes (from sections 33.1-24-02-10 through 33.1-24-02-19) for each waste;
  - (3) The applicable waste code from the appropriate Organization for Economic Cooperation and Development waste list incorporated by reference in section 33.1-24-01-05;
  - (4) The applicable department of transportation identification number;
  - (5) The name and United States environmental protection agency identification number (where applicable) for each transporter used over the calendar year covered by the report; and
  - (6) The consent numbers under which the hazardous waste was shipped, and for each consent number, the total amount of the hazardous waste and the number of shipments exported during the calendar year covered by the report;
- 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 33.1-24-03-14:
  - (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 exporter 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.

8. Exception reports.

- a. The exporter shall file an exception report in lieu of the requirements of section 33.1-24-03-15, if applicable, with the environmental protection agency and the department if any of the following occurs:
  - (1) The exporter has not received a copy of the hazardous waste manifest, if applicable, signed by the transporter identifying the point of departure of the hazardous waste from the United States, within forty-five days from the date it was

accepted by the initial transporter, in which case the exporter shall file the exception report within the next thirty days;

- (2) The exporter has not received a written confirmation of receipt from the foreign receiving facility in accordance with subsection 4 within ninety days from the date the waste was accepted by the initial transporter in which case the exporter shall file the exception report within the next thirty days; or
- (3) The foreign receiving facility notifies the exporter, or the country of import notifies the environmental protection agency, of the need to return the shipment to the United States or arrange alternate management, in which case the exporter shall file the exception report within thirty days of notification, or one day prior to the date the return shipment commences, whichever is sooner.

- b. Prior to the electronic import-export reporting compliance date, exception reports must be mailed or hand delivered to the environmental protection agency using the addresses listed in subsection 5 of section 33.1-24-03-52. Subsequently, exception reports must be submitted to the environmental protection agency using the allowable methods listed in subdivision a of subsection 2.

9. Recordkeeping.

- a. The exporter shall keep the following records and provide them to the environmental protection agency or the department upon request:
  - (1) A copy of each notification of intent to export and 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;
  - (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 receipt (for example, movement document) sent by the foreign receiving facility to the exporter for at least three years from the date the hazardous waste was accepted by the initial transporter; and
  - (4) A copy of each confirmation of recovery or disposal sent by the foreign receiving facility to the exporter for at least three years from the date that the foreign receiving facility completed interim or final processing of the hazardous waste shipment.
  - (5) A copy of each contract or equivalent arrangement established per section 33.1-24-03-55 for at least three years from the expiration date of the contract or equivalent arrangement.
- b. Exporters may satisfy these recordkeeping requirements by retaining electronically submitted documents in the exporter's account on the environmental protection agency's waste import export tracking system, or its successor system, provided that copies are readily available for viewing and production if requested by any environmental protection agency or department inspector. No exporter may be held liable for the inability to produce such documents for inspection under this section if the exporter can demonstrate that the inability to produce the document is due exclusively to technical difficulty with the environmental protection agency's waste import export tracking system, or its successor system for which the exporter bears no responsibility.

- c. 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 January 1, 2019; amended effective July 1, 2020; [July 1, 2021](#).

**General Authority:** NDCC 23.1-04-03; ~~S.L. 2017, ch. 199, § 1~~

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

### **33.1-24-03-62. Applicability of sections 33.1-24-03-60 through 33.1-24-03-77.**

1. Large quantity generators and small quantity generators. Sections 33.1-24-03-60 through 33.1-24-03-77 provide alternative requirements to the requirements in section 33.1-24-03-02 and section 33.1-24-03-27 for the hazardous waste determination and accumulation of hazardous waste in laboratories owned by eligible academic entities that choose to be subject to sections 33.1-24-03-60 through 33.1-24-03-77, provided that the eligible academic entity completes the notification requirements of section 33.1-24-03-64.
2. Very small quantity generators. Sections 33.1-24-03-60 through 33.1-24-03-77 provide alternative requirements to the ~~conditional exemption in subsection 2 of section 33.1-24-02-05~~ [conditions for exemption for a very small quantity generator in section 33.1-24-03-26](#) for the accumulation of hazardous waste in laboratories owned by eligible academic entities that choose to be subject to sections 33.1-24-03-60 through 33.1-24-03-77, provided that the eligible academic entity completes the notification requirements of section 33.1-24-03-64.

**History:** Effective January 1, 2019; amended effective July 1, 2020; [July 1, 2021](#).

**General Authority:** NDCC 23.1-04-03; ~~S.L. 2017, ch. 199, § 1~~

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

### **33.1-24-03-63. Complying with sections 33.1-24-03-60 through 33.1-24-03-77 is optional for eligible academic entities.**

1. Large quantity generators and small quantity generators. Eligible academic entities have the option of complying with sections 33.1-24-03-60 through 33.1-24-03-77 with respect to the eligible academic entity's laboratories, as an alternative to complying with the requirements of section 33.1-24-03-02 and section 33.1-24-03-27.
2. Very small quantity generators. Eligible academic entities have the option of complying with sections 33.1-24-03-60 through 33.1-24-03-77 with respect to the eligible academic entity's laboratories, as an alternative to complying with the ~~conditional exemption of subsection 2 of section 33.1-24-02-05~~ [requirements of section 33.1-24-03-26](#).

**History:** Effective January 1, 2019; amended effective July 1, 2020; [July 1, 2021](#).

**General Authority:** NDCC 23.1-04-03; ~~S.L. 2017, ch. 199, § 1~~

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

### **33.1-24-03-65. Notification by an eligible academic entity electing to withdraw from complying with sections 33.1-24-03-60 through 33.1-24-03-77.**

1. An eligible academic entity must notify the department, in writing, using the Resource Conservation and Recovery Act subtitle C site identification form (environmental protection agency form 8700-12), that it is electing to no longer be subject to the requirements of sections 33.1-24-03-60 through 33.1-24-03-77 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 33.1-24-03-02 and subsection 3 of section 33.1-24-03-12 for small quantity generators and large quantity generators. An eligible academic entity that is a very small quantity generator and does not have an identification

number must notify that the eligible academic entity is withdrawing from the requirements of sections 33.1-24-03-60 through 33.1-24-03-77 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 33.1-24-02-05~~[conditions for exemption in section 33.1-24-03-26](#). An eligible academic entity must submit a separate notification (identification form) for each identification number (or site, for very small quantity generators) that is withdrawing from the requirements of sections 33.1-24-03-60 through 33.1-24-03-77 and must submit the identification form before the eligible academic entity begins operating under the requirements of section 33.1-24-03-02 and subsection 3 of section 33.1-24-03-12 for small quantity generators and large quantity generators, or ~~subsection 2 of section 33.1-24-02-05~~[section 33.1-24-03-26](#) for very 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 very small quantity generators).
  - c. Site name.
  - d. Site location information.
  - e. Site land type.
  - f. North American industry classification system 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, 2019; amended effective July 1, 2020; [July 1, 2021](#).

**General Authority:** NDCC 23.1-04-03; S.L. 2017, ch. 199, § 1

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

**33.1-24-03-71. 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 33.1-24-03-02, 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 33.1-24-03-02, 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 33.1-24-02-05~~subsection 2 of section 33.1-24-03-03, 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. Very 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 33.1-24-02-05 for acute hazardous waste, or subdivision c of subsection 7 of section 33.1-24-02-05 for hazardous waste~~section 33.1-24-03-26.
  5. An unwanted material that is a hazardous waste is subject to all applicable provisions of article 33.1-24, North Dakota hazardous waste management rules, when it is removed from the laboratory.

**History:** Effective January 1, 2019; amended effective July 1, 2020; July 1, 2021.

**General Authority:** NDCC 23.1-04-03; ~~S.L. 2017, ch. 199, § 1~~

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

### **33.1-24-03-72. Hazardous waste determination at an onsite central accumulation area.**

If an eligible academic entity makes the hazardous waste determination, pursuant to section 33.1-24-03-02, 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 sections 33.1-24-03-27 through 33.1-24-03-28 as soon as the unwanted material arrives in the central accumulation area, except for the "hazardous waste" labeling requirements of subsection 6 of section 33.1-24-03-28 and subdivision e of subsection 1 of section 33.1-24-03-29.
4. A trained professional must determine, pursuant to section 33.1-24-03-02, 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;

- 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;
- c. Count the hazardous waste toward the eligible academic entity's generator status, pursuant to ~~subsections 3 and 4 of section 33.1-24-02-05~~subsection 2 of section 33.1-24-03-03 in the calendar month that the hazardous waste determination was made; and
- d. Manage the hazardous waste according to all applicable provisions of article 33.1-24, North Dakota hazardous waste management rules.

**History:** Effective January 1, 2019; amended effective July 1, 2020; July 1, 2021.

**General Authority:** NDCC 23.1-04-03; ~~S.L. 2017, ch. 199, § 1~~

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

### **33.1-24-03-73. 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 33.1-24-03-02, 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 33.1-24-03-02, 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;
  - 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;
  - c. Count the hazardous waste toward the eligible academic entity's generator status, pursuant to ~~subsections 3 and 4 of section 33.1-24-02-05~~subsection 2 of section 33.1-24-03-03 in the calendar month that the hazardous waste determination was made; and

- d. Manage the hazardous waste according to all applicable provisions of article 33.1-24, North Dakota hazardous waste management rules.

**History:** Effective January 1, 2019; amended effective July 1, 2021.

**General Authority:** NDCC 23.1-04-03; ~~S.L. 2017, ch. 199, § 1~~

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

### **33.1-24-03-74. 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 33.1-24-03-60 through 33.1-24-03-77, except that:
  - a. If the volume of unwanted material in the laboratory exceeds fifty-five gallons (or one quart of liquid reactive acutely hazardous unwanted material or one kilogram of solid 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 liquid reactive acutely hazardous unwanted material or one kilogram of solid reactive acutely hazardous unwanted material), as required by section 33.1-24-03-69. 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;
  - 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 33.1-24-02-15 through 33.1-24-02-19, or exhibiting one or more characteristics in sections 33.1-24-02-10 through 33.1-24-02-14) generated solely during the laboratory clean-out toward its hazardous waste generator status, pursuant to ~~subsections 3 and 4 of section 33.1-24-02-05~~subsection 2 of section 33.1-24-03-03. 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 33.1-24-02-05~~subsection 2 of section 33.1-24-03-03, if it is determined to be hazardous waste;
  - 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 very small quantity generator limits of section ~~33.1-24-02-05~~33.1-24-03-26), 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 33.1-24-03-60 through 33.1-24-03-77, including:
  - 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 33.1-24-03-69; 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 33.1-24-02-05~~subsection 2 of section 33.1-24-03-03.

**History:** Effective January 1, 2019; amended effective July 1, 2020; July 1, 2021.

**General Authority:** NDCC 23.1-04-03; ~~S.L. 2017, ch. 199, § 1~~

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

### **33.1-24-03-77. 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 33.1-24-03-60 through 33.1-24-03-77; and

1. Remains subject to the generator requirements of section 33.1-24-03-02 and section 33.1-24-03-27 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 33.1-24-03, with respect to that hazardous waste; or
2. Remains subject to the ~~conditional exemption of subsection 2 of section 33.1-24-02-05~~conditions for exemption in section 33.1-24-03-26, with respect to that hazardous waste.

**History:** Effective January 1, 2019; amended effective July 1, 2020; July 1, 2021.

**General Authority:** NDCC 23.1-04-03; ~~S.L. 2017, ch. 199, § 1~~

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

**CHAPTER 33.1-24-05**  
**STANDARDS FOR TREATMENT, STORAGE, AND DISPOSAL FACILITIES AND FOR THE**  
**MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF**  
**HAZARDOUS WASTE MANAGEMENT FACILITIES**

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- 33.1-24-05-194 [Reserved]
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- 33.1-24-05-196 [Reserved]
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- 33.1-24-05-198 [Reserved]
- 33.1-24-05-199 [Reserved]
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- 33.1-24-05-213 [Reserved]
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- 33.1-24-05-220 [Reserved]
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- 33.1-24-05-237 [Reserved]
- 33.1-24-05-238 [Reserved]
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- 33.1-24-05-254 Procedures for Case-by-Case Extensions to an Effective Date
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33.1-24-05-1077 [Reserved]  
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33.1-24-05-1080 Applicability of Requirements for Use and Management of Containers  
33.1-24-05-1081 Container Standards  
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33.1-24-05-1088 [Reserved]  
33.1-24-05-1089 [Reserved]  
33.1-24-05-1090 [Reserved]  
33.1-24-05-1091 [Reserved]  
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33.1-24-05-1095 [Reserved]  
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33.1-24-05-1100 Applicability of Tank Requirements  
33.1-24-05-1101 Design and Construction Standards for New Tank Systems or Components  
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33.1-24-05-1114 Air Emission Standards  
33.1-24-05-1115 [Reserved]  
33.1-24-05-1116 [Reserved]  
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33.1-24-05-1120 [Reserved]  
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33.1-24-05-1130 Applicability of Containment Building Requirements  
33.1-24-05-1131 Design and Operating Standards for Containment Buildings  
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33.1-24-05-1138 Closure  
33.1-24-05-1139 [Reserved]  
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33.1-24-05-1142 [Reserved]  
33.1-24-05-1143 [Reserved]  
33.1-24-05-1144 [Reserved]  
33.1-24-05-1145 [Reserved]  
33.1-24-05-1146 [Reserved]  
33.1-24-05-1147 [Reserved]  
33.1-24-05-1148 [Reserved]

33.1-24-05-1149 [Reserved]

[RESERVED]

- 33.1-24-05-1150 [Reserved]
- 33.1-24-05-1151 [Reserved]
- 33.1-24-05-1152 [Reserved]
- 33.1-24-05-1153 [Reserved]
- 33.1-24-05-1154 [Reserved]
- 33.1-24-05-1155 [Reserved]
- 33.1-24-05-1156 [Reserved]
- 33.1-24-05-1157 [Reserved]
- 33.1-24-05-1158 [Reserved]
- 33.1-24-05-1159 [Reserved]
- 33.1-24-05-1160 [Reserved]
- 33.1-24-05-1161 [Reserved]
- 33.1-24-05-1162 [Reserved]
- 33.1-24-05-1163 [Reserved]
- 33.1-24-05-1164 [Reserved]
- 33.1-24-05-1165 [Reserved]
- 33.1-24-05-1166 [Reserved]
- 33.1-24-05-1167 [Reserved]
- 33.1-24-05-1168 [Reserved]
- 33.1-24-05-1169 [Reserved]

**33.1-24-05-01. Purpose, scope, and applicability.**

1. The purpose of this chapter is to establish minimum standards which define the acceptable management of hazardous waste.
2. The standards in this chapter apply to owners and operators of all facilities which treat, store, or dispose of hazardous waste, except as specifically provided otherwise in this chapter or chapter 33.1-24-02.
3. The requirements of this chapter apply to a person disposing of hazardous waste by means of underground injection subject to a permit issued under an underground injection control program approved or promulgated under the Safe Drinking Water Act only to the extent they are required by chapter 33.1-24-06.
4. The requirements of this chapter apply to the owner or operator of a publicly owned treatment works which treats, stores, or disposes of hazardous waste only to the extent they are included in a hazardous waste permit by rule granted to such a person under chapter 33.1-24-06.
5. The requirements of this chapter apply to recyclable materials used in a manner constituting disposal, hazardous waste burned for energy recovery, recyclable materials utilized for precious metal recovery, and spent lead acid batteries being reclaimed.
6. The requirements of this chapter do not apply to:
  - a. The owner or operator of a facility permitted, licensed, or registered by the department to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under section ~~33.1-24-02-05~~33.1-24-03-26.

- b. The owner or operator of a facility managing recyclable materials described in subdivisions b, c, and d of subsection 1 of section 33.1-24-02-06 (except to the extent they are referred to in sections 33.1-24-05-600 through 33.1-24-05-689 or sections 33.1-24-05-201 through 33.1-24-05-209, sections 33.1-24-05-230 through 33.1-24-05-249, or sections 33.1-24-05-525 through 33.1-24-05-549).
- c. A generator accumulating waste onsite in compliance with sections 33.1-24-03-26 through 33.1-24-03-29.
- d. A farmer disposing of pesticide containers from the farmer's own use in compliance with section 33.1-24-03-40.
- e. The owner or operator of a totally enclosed treatment facility, as defined in section 33.1-24-01-04.
- f. The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in section 33.1-24-01-04, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 high total organic carbon subcategory defined in section 33.1-24-05-280, table treatment standards for hazardous wastes, or reactive (D003) waste, to remove the characteristic before land disposal, the owner or operator must comply with the requirements set out in subsection 2 of section 33.1-24-05-08).
- g. Immediate response activities.
  - (1) Except as provided in paragraph 2, a person engaged in treatment or containment activities during immediate response to any of the following situations:
    - (a) A discharge of hazardous waste.
    - (b) An imminent and substantial threat of a discharge of hazardous waste.
    - (c) A discharge of material which, when discharged, becomes a hazardous waste.
    - (d) An immediate threat to human health, public safety, property, or the environment, from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialist as defined in section 33.1-24-01-04.
  - (2) An owner or operator of a facility otherwise regulated by this chapter shall comply with all applicable requirements of sections 33.1-24-05-15 through 33.1-24-05-36.
  - (3) Any person who is covered by paragraph 1 and continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this chapter and chapters 33.1-24-06 and 33.1-24-07.
  - (4) In the case of an explosives or munitions emergency response, if a federal, state, tribal, or local official acting within the scope of that person's official responsibilities, or an explosives or munitions emergency response specialist, determines that immediate removal of the material or waste is necessary to protect human health or the environment, that official or specialist may authorize the removal of the material or waste by transporters who do not have identification numbers and without the preparation of a manifest. In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the response, the responsible

persons responding, the type and description of material addressed, and its disposition.

- h. A transporter storing manifested shipments of hazardous waste in containers meeting the requirements of section 33.1-24-03-08 at a transfer facility for a period of ten days or less.
- i. The addition of absorbent material to waste in a container (as defined in section 33.1-24-01-04) or the addition of waste to absorbent material in a container provided that these actions occur at the time waste is first placed in a container and subsection 2 of section 33.1-24-05-08 and sections 33.1-24-05-90 and 33.1-24-05-91 are complied with.
- j. Universal waste handlers and universal waste transporters (as defined in section 33.1-24-01-04) handling the wastes listed below. These handlers are subject to regulation under sections 33.1-24-05-700 through 33.1-24-05-799, when handling the below-listed universal wastes:
  - (1) Batteries as described in section 33.1-24-05-702;
  - (2) Pesticides as described in section 33.1-24-05-703;
  - (3) Mercury-containing equipment as described in section 33.1-24-05-704; ~~and~~
  - (4) Lamps as described in section 33.1-24-05-705; and
  - (5) Aerosol cans as described in section 33.1-24-05-706.

k. Reverse distributors accumulating potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals, as defined in section 33.1-24-05-310. Reverse distributors are subject to regulation under sections 33.1-24-05-310 through 33.1-24-05-320 in lieu of sections 33.1-24-05-04 through 33.1-24-05-190, sections 33.1-24-05-321 through 33.1-24-05-524, sections 33.1-24-05-550 through 33.1-24-05-559, and sections 33.1-24-05-800 through 33.1-24-05-802 for the accumulation of potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals.

- 7. The requirements of this chapter apply to owners or operators of all facilities which treat, store, or dispose of hazardous wastes referred to in sections 33.1-24-05-250 through 33.1-24-05-299.
- 8. Subsection 1 of section 33.1-24-05-09 applies only to facilities subject to regulation under sections 33.1-24-05-89 through 33.1-24-05-190 and sections 33.1-24-05-300 through 33.1-24-05-309.
- 9. Section 33.1-24-05-825 identifies when the requirements of this chapter apply to the storage of military munitions classified as solid waste under section 33.1-24-05-822. The treatment and disposal of hazardous waste military munitions are subject to the applicable permitting, procedural, and technical standards in article 33.1-24.
- 10. The requirements of sections 33.1-24-05-02 through 33.1-24-05-36 and section 33.1-24-05-58 do not apply to remediation waste management sites. (However, some remediation waste management sites may be a part of a facility that is subject to a traditional hazardous waste permit because the facility is also treating, storing, or disposing of hazardous wastes that are not remediation wastes. In these cases, sections 33.1-24-05-02 through 33.1-24-05-36 and section 33.1-24-05-58 do apply to the facility subject to the traditional hazardous waste permit.) Instead of the requirements of sections 33.1-24-05-02 through 33.1-24-05-36, owners or operators of remediation waste management sites must:

- a. Obtain an identification number by applying to the department using environmental protection agency form 8700-12, or equivalent state form;
- b. Obtain a detailed chemical and physical analysis of a representative sample of the hazardous remediation wastes to be managed at the site. At a minimum, the analysis must contain all of the information which must be known to treat, store, or dispose of the waste according to chapter 33.1-24-05, and must be kept accurate and up to date;
- c. Prevent people who are unaware of the danger from entering, and minimize the possibility for unauthorized people or livestock to enter onto the active portion of the remediation waste management site, unless the owner or operator can demonstrate to the department that:
  - (1) Physical contact with the waste, structures, or equipment within the active portion of the remediation waste management site will not injure people or livestock who may enter the active portion of the remediation waste management site; and
  - (2) Disturbance of the waste or equipment by people or livestock who enter onto the active portion of the remediation waste management site will not cause a violation of the requirements of this article;
- d. Inspect the remediation waste management site for malfunctions, deterioration, operator errors, and discharges that may be causing, or may lead to, a release of hazardous waste constituents to the environment, or a threat to human health. The owner or operator must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment, and must remedy the problem before it leads to a human health or environmental hazard. If a hazard is imminent or has already occurred, the owner or operator must take remedial action immediately;
- e. Provide personnel with classroom or on-the-job training on how to perform their duties in a way that ensures the remediation waste management site complies with the requirements of sections 33.1-24-05-01 through 33.1-24-05-190, 3-24-05-300 through 33.1-24-05-524, 33.1-24-05-550 through 33.1-24-05-559, and 33.1-24-05-800 through 33.1-24-05-819, and on how to respond effectively to emergencies;
- f. Take precautions to prevent accidental ignition or reaction of ignitable or reactive waste, and prevent threats to human health and the environment from ignitable, reactive, and incompatible waste;
- g. For remediation waste management sites subject to regulation under sections 33.1-24-05-89 through 33.1-24-05-190 and sections 33.1-24-05-300 through 33.1-24-05-309, the owner or operator must design, construct, operate, and maintain a unit within a one hundred-year floodplain to prevent washout of any hazardous waste by a one hundred-year flood, unless the owner or operator can meet the demonstration of subsection 1 of section 33.1-24-05-09;
- h. Not place any noncontainerized or bulk liquid hazardous waste in any salt dome formation, salt bed formation, or underground mine or cave;
- i. Develop and maintain a construction quality assurance program for all surface impoundments, waste piles, and landfill units that are required to comply with subsections 3 and 4 of section 33.1-24-05-119, subsections 2 and 3 of section 33.1-24-05-131, and subsections 3 and 4 of section 33.1-24-05-177 at the remediation waste management site, according to the requirements of section 33.1-24-05-10;

- j. Develop and maintain procedures to prevent accidents and a contingency and emergency plan to control accidents that occur. These procedures must address proper design, construction, maintenance, and operation of remediation waste management units at the site. The goal of the plan must be to minimize the possibility of, and the hazards from a fire, explosion, or any unplanned sudden or nonsudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water that could threaten human health or the environment. The plan must explain specifically how to treat, store, and dispose of the hazardous remediation waste in question, and must be implemented immediately whenever a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment;
- k. Designate at least one employee, either on the facility premises or on call (that is, available to respond to an emergency by reaching the facility quickly), to coordinate all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristics of waste handled, the location of all records within the facility, and the facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan;
- l. Develop, maintain, and implement a plan to meet the requirements in subdivisions b through f, i, and j; and
- m. Maintain records documenting compliance with subdivisions a through l.

**History:** Effective January 1, 2019; amended effective July 1, 2020; [July 1, 2021](#).

**General Authority:** NDCC 23.1-04-03; ~~S.L. 2017, ch. 199, § 4~~

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

### **33.1-24-05-03. Required notices.**

1. The owner or operator of a facility that is arranging or has arranged to receive hazardous waste subject to sections 33.1-24-03-50 through 33.1-24-03-55 from a foreign source shall submit the following required notices:
  - a. As per subsection 2 of section 33.1-24-03-55, for imports where the competent authority of the country of export does not require the foreign exporter to submit to it a notification proposing export and obtain consent from the environmental protection agency and the competent authorities for the countries of transit, such owner or operator of the facility, if acting as the importer, shall provide notification of the proposed transboundary movement in English to the environmental protection agency using the allowable methods listed in subdivision a of subsection 2 of section 33.1-24-03-55 at least sixty days before the first shipment is expected to depart the country of export. The notification may cover up to one year of shipments of wastes having similar physical and chemical characteristics, the same United Nations classification, the same Resource Conservation and Recovery Act waste codes and organization for economic cooperation and development waste codes, and being sent from the same foreign exporter.
  - b. As per paragraph 15 of subdivision b of subsection 4 of section 33.1-24-03-55, a copy of the movement document bearing all required signatures within three working days of receipt of the shipment to the foreign exporter; to the competent authorities of the countries of export and transit shipment as an export and transit that control the shipment [as an export and transit shipment](#) of hazardous waste respectively; and on or after the electronic import export reporting compliance date, to the environmental protection agency electronically using the environmental protection agency's waste import export tracking system, or its successor system. The original of the signed movement document must be maintained at the facility for at least three years. The owner or operator of a

facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility's account on the environmental protection agency's waste import export tracking system or its successor system, provided that copies are readily available for viewing and production if requested by any environmental protection agency or authorized state inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with the environmental protection agency's waste import export tracking system, or its successor system for which the owner or operator of a facility bears no responsibility.

- c. As per subdivision d of subsection 6 of section 33.1-24-03-55, if the facility has physical control of the waste and it must be sent to an alternate facility or returned to the country of export, such owner or operator of the facility shall inform the environmental protection agency, using the allowable methods listed in subdivision a of subsection 2 of section 33.1-24-03-55 of the need to return or arrange alternate management of the shipment.
- d. As per subsection 7 of section 33.1-24-03-55, such owner or operator shall;
  - (1) Send copies of the signed and dated confirmation of recovery or disposal, as soon as possible, but no later than thirty days after completing recovery or disposal on the waste in the shipment and no later than one calendar year following receipt of the waste, to the foreign exporter, to the competent authority of the country of export that controls the shipment as an export of hazardous waste, and for shipments recycled or disposed of on or after the electronic import export reporting compliance date, to the environmental protection agency electronically using the environmental protection agency's waste import export tracking system, or its successor system.
  - (2) If the facility performed any of recovery operations R12, R13, or RC16, or disposal operations D13 through D15, or DC17, promptly send copies of the confirmation of recovery or disposal that it receives from the final recovery or disposal facility within one year of shipment delivery to the final recovery or disposal facility that performed one of recovery operations R1 through R11, or RC16, or one of disposal operations D1 through D12, or DC15 to DC16, to the competent authority for the country of export that controls the shipment as an export of hazardous waste, and on or after the electronic import export reporting compliance date, to the environmental protection agency electronically using the environmental protection agency's waste import export tracking system, or its successor system. The recovery and disposal operations in this paragraph are defined in section 33.1-24-03-51.
2. Before transferring ownership or operation of a facility during its operating life, or of a disposal facility during the postclosure care period, the owner or operator shall notify the new owner or operator in writing of the requirements in this chapter and chapter 33.1-24-06.
3. The owner or operator of a facility that receives hazardous waste from an offsite source (except where the owner or operator is also the generator) shall inform the generator in writing that the owner or operator has the appropriate permit for, and will accept, the waste the generator is shipping. The owner or operator shall keep a copy of this written notice as part of the operating record.

**History:** Effective January 1, 2019; amended effective July 1, 2020; [July 1, 2021](#).

**General Authority:** NDCC 23.1-04-03; ~~S.L. 2017, ch. 199, § 1~~

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

### **33.1-24-05-42. Biennial report.**

The owner or operator shall prepare and submit a single copy of a biennial report to the department by March first of each even-numbered year. The report form and instructions can be obtained from the ~~department's division of waste management~~ department. The biennial report must cover facility activities during the previous calendar year and must include the following information:

1. The identification number, name, and address of the facility.
2. The calendar year covered by the report.
3. For offsite facilities, identification number of each hazardous waste generator from which the facility received a hazardous waste during the year; for imported shipments, the report must give the name and address of the foreign generator.
4. A description and quantity of each hazardous waste the facility received during the year. For offsite facilities, this information must be listed by identification number of each generator.
5. The method of treatment, storage, or disposal for each hazardous waste.
6. Any ground water monitoring data which the owner or operator is required to collect under section 33.1-24-05-55, 33.1-24-05-56, or 33.1-24-05-57, and which the owner or operator has not otherwise submitted to the department under those sections.
7. The most recent closure and postclosure cost estimate under section 33.1-24-05-76.
8. For generators who treat, store, or dispose of hazardous waste onsite, a description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated.
9. For generators who treat, store, or dispose of hazardous waste onsite, 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 the years prior to 1984.
10. The certification signed by the owner or operator of the facility or the owner's or operator's authorized representative.

**History:** Effective January 1, 2019; [amended effective July 1, 2021](#).

**General Authority:** NDCC 23.1-04-03; ~~S.L. 2017, ch. 199, § 4~~

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

### **33.1-24-05-250. Purpose, scope, and applicability to land disposal restrictions.**

1. Sections 33.1-24-05-250 through 33.1-24-05-299 identify hazardous wastes that are restricted from land disposal and defines those limited circumstances under which an otherwise prohibited waste may continue to be land disposed.
2. Except as specifically provided otherwise in sections 33.1-24-05-250 through 33.1-24-05-299 or chapter 33.1-24-02, the requirements of sections 33.1-24-05-250 through 33.1-24-05-299 apply to persons who generate or transport hazardous waste and owners and operators of hazardous waste treatment, storage, and disposal facilities.
3. Restricted wastes may continue to be land disposed as follows:
  - a. Where persons have been granted an extension from the effective date of a prohibition under sections 33.1-24-05-266 through 33.1-24-05-279 or pursuant to section 33.1-24-05-254, with respect to those wastes covered by the extension;

- b. Where persons have been granted an exemption from a prohibition pursuant to a petition under section 33.1-24-05-255, with respect to those wastes and units covered by the petition;
  - c. Wastes that are hazardous only because they exhibit a hazardous characteristic, and which are otherwise prohibited under sections 33.1-24-05-250 through 33.1-24-05-299, or 40 CFR part 148, are not prohibited if the wastes:
    - (1) Are disposed into a nonhazardous or hazardous injection well as defined in 40 CFR 144.6(a); and
    - (2) Do not exhibit any prohibited characteristic of hazardous waste identified in sections 33.1-24-02-10 through 33.1-24-02-14 at the point of injection; or
  - d. Wastes that are hazardous only because they exhibit a hazardous characteristic, and which are otherwise prohibited under sections 33.1-24-05-250 through 33.1-24-05-299, are not prohibited if the wastes meet any of the following criteria, unless the wastes are subject to a specified method of treatment other than deactivation to remove the hazardous characteristic in section 33.1-24-05-280, or are D003 reactive cyanide:
    - (1) The wastes are managed in a treatment system which subsequently discharges to waters of the United States pursuant to a permit issued under section 402 of the Clean Water Act;
    - (2) The wastes are treated for purposes of the pretreatment requirements of section 307 of the Clean Water Act; or
    - (3) The wastes are managed in a zero discharge system engaged in Clean Water Act-equivalent treatment as defined in subsection 1 of section 33.1-24-05-277; and
    - (4) The wastes no longer exhibit a prohibited characteristic at the point of land disposal (for example, placement in a surface impoundment).
4. The requirements of sections 33.1-24-05-250 through 33.1-24-05-299 do not affect the availability of a waiver under section 121(d)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.
5. The following hazardous wastes are not subject to any provision of sections 33.1-24-05-250 through 33.1-24-05-299:
- a. Waste generated by very small quantity generators as defined in section 33.1-24-01-04.
  - b. Waste pesticides that a farmer disposes of pursuant to section 33.1-24-03-40.
  - c. Wastes identified or listed as hazardous after November 8, 1984, for which the department has not promulgated land disposal prohibitions or treatment standards.
  - d. De minimis losses of characteristic wastes to wastewaters are not considered to be prohibited wastes and are defined as losses from normal material handling operations (for example, spills from the unloading or transfer of materials from bins or other containers, leaks from pipes, valves, or other devices used to transfer materials); minor leaks of process equipment, storage tanks, or containers; leaks from well-maintained pump packings and seals; sample purgings; relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; rinsate from empty containers or from containers that are rendered empty by that rinsing; and laboratory wastes not exceeding one percent of the total flow of wastewater into the facility's headworks on an annual basis, or with a combined annualized average

concentration not exceeding one part per million in the headworks of the facility's wastewater treatment or pretreatment facility.

6. Universal waste handlers and universal waste transporters, as defined in section 33.1-24-01-04, are exempt from sections 33.1-24-05-256 and 33.1-24-05-290 for the wastes listed below. These handlers are subject to regulation under sections 33.1-24-05-700 through 33.1-24-05-799.
  - a. Batteries as described in section 33.1-24-05-702;
  - b. Pesticides as described in section 33.1-24-05-703;
  - c. Mercury-containing equipment as described in section 33.1-24-05-704; ~~and~~
  - d. Lamps as described in section 33.1-24-05-705; and
  - e. Aerosol cans as described in section 33.1-24-05-706.

**History:** Effective January 1, 2019; amended effective July 1, 2020; July 1, 2021.

**General Authority:** NDCC 23.1-04-03; ~~S.L. 2017, ch. 199, § 1~~

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

**33.1-24-05-256. Testing, tracking, and recordkeeping requirements for generators, reverse distributors, treaters, and disposal facilities.**

1. Requirements for generators and reverse distributors:
  - a. A generator of hazardous waste must determine if the waste has to be treated before it can be land disposed. This is done by determining if the hazardous waste meets the treatment standards in section 33.1-24-05-280, 33.1-24-05-285, or 33.1-24-05-289. This determination can be made concurrently with the hazardous waste determination required in section 33.1-24-03-02, in either of two ways, testing the waste or using knowledge of the waste. If the generator tests the waste, testing would normally determine the total concentration of hazardous constituents, or the concentration of hazardous constituents in an extract of the waste obtained using test method 1311 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", environmental protection agency publication SW-846, as referenced in section 33.1-24-01-05, depending on whether the treatment standard for the waste is expressed as a total concentration or concentration of hazardous constituent in the waste's extract. (Alternatively, the generator must send the waste to a hazardous waste permitted treatment facility, where the waste treatment facility must comply with the requirements of section 33.1-24-05-04 and subsection 2.) In addition, some hazardous wastes must be treated by particular treatment methods before they can be land disposed and some soils are contaminated by such hazardous wastes. These treatment standards are also found in section 33.1-24-05-280 and are described in detail in section 33.1-24-05-282, table 1. These wastes, and soils contaminated with such wastes, do not need to be tested (however, if they are in a waste mixture, other wastes with concentration level treatment standards would have to be tested). If a generator determines they are managing a waste or soil contaminated with a waste, that displays a hazardous characteristic of ignitability, corrosivity, reactivity, or toxicity, they must comply with the special requirements of section 33.1-24-05-258 in addition to any applicable requirements in this section.
  - b. If the waste or contaminated soil does not meet the treatment standards, or if the generator chooses not to make the determination of whether the generator's waste must be treated, with the initial shipment of waste to each treatment or storage facility, the generator must send a one-time written notice to each treatment or storage facility

receiving the waste and place a copy in the file. The notice must include the information in column "subdivision b" of the generator paperwork requirements table in subdivision d. (Alternatively, if the generator chooses not to make the determination of whether the waste must be treated, the notification must include the hazardous waste numbers and manifest number of the first shipment and must state "This hazardous waste may or may not be subject to the land disposal restrictions treatment standards. The treatment facility must make the determination".) No further notification is necessary until such time that the waste or facility change, in which case a new notification must be sent and a copy placed in the generator's file.

- (1) For contaminated soil, the following certification statement should be included, signed by an authorized representative:

I certify under penalty of law that I personally have examined this contaminated soil and it [does/does not] contain listed hazardous waste and [does/does not] exhibit a characteristic of hazardous waste and requires treatment to meet the soil treatment standards as provided by subsection 3 of section 33.1-24-05-289.

- (2) [Reserved]

- c. If the waste or contaminated soil meets the treatment standard at the original point of generation:

- (1) With the initial shipment of waste to each treatment, storage, or disposal facility, the generator must send a one-time written notice to each treatment, storage, or disposal facility receiving the waste and place a copy in the file. The notice must include the information indicated in column "subdivision c" of the generator paperwork requirements table in subdivision d of subsection 1 and the following certification statement, signed by an authorized representative:

I certify under penalty of law that I personally have examined and am familiar with the waste through analysis and testing or through knowledge of the waste to support this certification that the waste complies with the treatment standards specified in sections 33.1-24-05-280 through 33.1-24-05-289. I believe that the information I submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting a false certification, including the possibility of a fine and imprisonment.

- (2) For contaminated soil, with the initial shipment of wastes to each treatment, storage, or disposal facility, the generator must send a one-time written notice to each facility receiving the waste and place a copy in the file. The notice must include the information in column "subdivision c" of the generator paperwork requirements table in subdivision d of subsection 1.
- (3) If the waste changes, the generator must send a new notice and certification to the receiving facility and place a copy in its files. Generators of hazardous debris excluded from the definition of hazardous waste under subsection 5 of section 33.1-24-02-03 are not subject to these requirements.

- d. For reporting, tracking, and recordkeeping when exceptions allow certain wastes or contaminated soil that do not meet the treatment standards to be land disposed there are certain exemptions from the requirement that hazardous wastes or contaminated soil meet treatment standards before they can be land disposed. These include case-by-case extensions under section 33.1-24-05-254, disposal in a no-migration unit under section 33.1-24-05-255, or a national capacity variance or case-by-case capacity variance under sections 33.1-24-05-266 through 33.1-24-05-279. If a generator's waste is so exempt,

then with the initial shipment of waste, the generator must send a one-time written notice to each land disposal facility receiving the waste. The notice must include the information indicated in column "subdivision d" of the generator paperwork requirements table. If the waste changes, the generator must send a new notice to the receiving facility and place a copy in its files.

Generator Paperwork Requirements Table

Required Information*	Subdivision b	Subdivision c	Subdivision d	Subdivision i
1. Environmental protection agency hazardous waste numbers and manifest number of first shipment.	√	√	√	√
2. Statement: This waste is not prohibited from land disposal.			√	
3. The waste is subject to the land disposal restrictions. The constituents of concern for F001-F005, and F039, and underlying hazardous constituents in characteristic wastes, unless the waste will be treated and monitored for all constituents. If all constituents will be treated and monitored, there is no need to put them all on the land disposal restriction notice.	√	√		
4. The notice must include the applicable wastewater/nonwastewater category (see subsections 7 and 11 of section 33-24-05-251) and subdivisions made within a waste code based on waste-specific criteria (such as D003 reactive cyanide).	√	√		
5. Waste analysis data (when available).	√	√	√	
6. Date the waste is subject to the prohibition.			√	
7. For hazardous debris, when treating with the alternative treatment technologies provided by section 33-24-05-285, the contaminants subject to treatment, as described in subsection 2 of section 33-24-05-285; and an indication that these contaminants are being treated to comply with section 33-24-05-285.	√		√	
8. For contaminated soil subject to land disposal restrictions as provided in subsection 1 of section 33-24-05-289, the constituents subject to treatment as described in subsection 4 of section 33-24-05-289, and the following statements: This contaminated soil [does/does not] contain listed hazardous waste and [does/does not] exhibit a characteristic of hazardous waste and [is subject to/complies with] the soil treatment standards as provided by subsection 3 of section 33-24-05-289 or the universal treatment standards.	√	√		
9. A certification is needed (see applicable		√		√

Generator Paperwork Requirements Table

Required Information\*      Subdivision b    Subdivision c    Subdivision d    Subdivision i  
section for exact wording).

\*Note: Information requirements referenced in the above table can be found in the indicated subdivision of subsection 1.

- e. If a generator is managing and treating prohibited waste, or contaminated soil in tanks, containers, or containment buildings regulated under sections 33.1-24-03-27 through 33.1-24-03-29 to meet applicable land disposal restriction treatment standards found at section 33.1-24-05-280, the generator must develop and follow a written waste analysis plan which describes the procedures the generator will carry out to comply with the treatment standards. (Generators treating hazardous debris under the alternative treatment standards of table 1, section 33.1-24-05-285; however, are not subject to these waste analysis requirements.) The plan must be kept onsite in the generator's records, and the following requirements must be met:
  - (1) The waste analysis plan must be based on a detailed chemical and physical analysis of a representative sample of the prohibited waste or wastes being treated and contain all information necessary to treat the waste or wastes in accordance with the requirements of sections 33.1-24-05-250 through 33.1-24-05-299, including the selected testing frequency.
  - (2) Such plan must be kept in the facility's onsite files and made available to inspectors.
  - (3) Wastes shipped offsite pursuant to this subdivision must comply with the notification requirements of subdivision c.
- f. If a generator determines that the waste, or contaminated soil, is restricted based solely on the generator's knowledge of the waste, all supporting data used to make this determination must be retained onsite in the generator's files. If a generator determines that the waste or contaminated soil is restricted based on testing this waste or an extract developed using the test method 1311 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", environmental protection agency publication SW-846, incorporated by reference in section 33.1-24-01-05, and all waste analysis data must be retained onsite in the generator's files.
- g. If a generator determines that the generator is managing a prohibited waste that is excluded from the definition of hazardous or solid waste or is exempted from hazardous waste regulation under sections 33.1-24-02-02 through 33.1-24-02-06 subsequent to the point of generation (including deactivated characteristic hazardous wastes managed in wastewater treatment systems subject to the Clean Water Act, as specified at subdivision b of subsection 1 of section 33.1-24-02-04 or that are Clean Water Act-equivalent, or are managed in an underground injection well regulated by the Safe Drinking Water Act), the generator must place a one-time notice describing such generation, subsequent exclusion from the definition of hazardous or solid waste or exemption from hazardous waste regulation, and the disposition of the waste, in the facility's onsite files.
- h. Generators must retain onsite a copy of all notices, certifications, waste analysis data, and other documentation produced pursuant to this section for at least three years from the date that the waste that is the subject of such documentation was last sent to onsite or offsite treatment, storage, or disposal. The three-year record retention period is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the department. The requirements of

this subsection apply to solid wastes even when the hazardous characteristic is removed prior to disposal, or when the waste is excluded from the definition of hazardous or solid waste under sections 33.1-24-02-02 through 33.1-24-02-06, or exempted from hazardous waste regulation, subsequent to the point of generation.

- i. If a generator is managing a lab pack containing hazardous wastes and wishes to use the alternative treatment standard for lab packs found at subsection 3 of section 33.1-24-05-282:
    - (1) With the initial shipment of waste to a treatment facility, the generator must submit a notice that provides the information in column "subdivision i" in the generator paperwork requirements table of subdivision d, and the following certification. The certification, which must be signed by an authorized representative and must be placed in the generator's files, must say the following:

I certify under penalty of law that I personally have examined and am familiar with the waste and that the lab pack contains only wastes that have not been excluded under appendix VIII to chapter 33.1-24-05 and that this lab pack will be sent to a combustion facility in compliance with the alternative treatment standards for lab packs at subsection 3 of section 33.1-24-05-282. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine or imprisonment.
    - (2) No further notification is necessary until such time that the wastes in the lab pack change, or the receiving facility changes, in which case a new notice and certification must be sent and a copy placed in the generator's file.
    - (3) If the lab pack contains characteristic hazardous wastes (D001-D043), underlying hazardous constituents (as defined in subsection 10 of section 33.1-24-05-251) need not be determined.
    - (4) The generator must also comply with the requirements in subdivisions f and g.
  - j. Small quantity generators with tolling agreements pursuant to subsection 5 of section 33.1-24-03-04 must comply with the applicable notification and certification requirements of subsection 1 for the initial shipment of the waste subject to the agreement. Such generators must retain onsite a copy of the notification and certification, together with the tolling agreement, for at least three years after termination or expiration of the agreement. The three-year record retention period is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the department.
2. Treatment facilities must test their wastes according to the frequency specified in their waste analysis plans as required by section 33.1-24-05-04 for permitted facilities or the applicable requirements of subsection 5 of section 33.1-24-06-16 for interim status facilities. Such testing must be performed as provided in subdivisions a, b, and c.
    - a. For wastes or contaminated soil with treatment standards expressed in the waste extract (toxicity characteristic leaching procedure), the owner or operator of the treatment facility must test an extract of the treatment residues, using test method 1311 (the toxicity characteristic leaching procedure, described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", environmental protection agency publication SW-846, as incorporated by reference in section 33.1-24-01-05) to assure that the treatment residues extract meet the applicable treatment standards.

- b. For wastes or contaminated soil with treatment standards expressed as concentrations in the waste, the owner or operator of the treatment facility must test the treatment residues (not an extract of such residues) to assure that they meet the applicable treatment standards.
- c. A one-time notice must be sent with the initial shipment of waste or contaminated soil to the land disposal facility. A copy of the notice must be placed in the treatment facility's file.
  - (1) No further notification is necessary until such time that the waste or receiving facility change, in which case a new notice must be sent and a copy placed in the treatment facility's file.
  - (2) The one-time notice must include these requirements:

Treatment Facility Paperwork Requirements Table	
Required Information	Subsection 2
1. Hazardous waste number or numbers and manifest number of first shipment.	√
2. The waste is subject to the land disposal restrictions. The constituents of concern for F001-F005, and F039, and underlying hazardous constituents in characteristic wastes, unless the waste will be treated and monitored for all constituents. If all constituents will be treated and monitored, there is no need to put them all on the land disposal restriction notice.	√
3. The notice must include the applicable wastewater/nonwastewater category (see subsections 7 and 11 of section 33-24-05-251), and subdivisions made within a waste code based on waste-specific criteria (such as D003 reactive cyanides).	√
4. Waste analysis data (when available).	√
5. For contaminated soil subject to land disposal restrictions as provided in subsection 1 of section 33-24-05-289, the constituents subject to treatment as described in subsection 4 of section 33-24-05-289, and the following statement: "This contaminated soil [does/does not] contain listed hazardous waste and [does/does not] exhibit a characteristic of hazardous waste and [is subject to/complies with] the soil treatment standards as provided by subsection 3 of section 33-24-05-289."	√
6. A certification is needed (see applicable section for exact wording).	√

- d. The treatment facility must submit a one-time certification signed by an authorized representative with the initial shipment of waste or treatment residue of a restricted waste to the land disposal facility. The certification must state:

I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification. Based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the treatment process has been operated and maintained properly so as to comply with the treatment standards specified in section 33.1-24-05-280 without impermissible dilution of the prohibited waste. I am aware there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment.

A certification is also necessary for contaminated soil and it must state:

I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification and believe that it has been maintained and operated properly so as to comply with treatment standards specified in section 33.1-24-05-289 without impermissible dilution of the prohibited wastes. I am aware there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment.

- (1) A copy of the certification must be placed in the treatment facility's onsite files. If the waste or treatment residue changes, or the receiving facility changes, a new certification must be sent to the receiving facility, and a copy placed in the file.
- (2) Debris excluded from the definition of hazardous waste under subsection 5 of section 33.1-24-02-03 (for example, debris treated by an extraction or destruction technology provided by table 1, section 33.1-24-05-285, and debris that the department has determined does not contain hazardous waste); however, is subject to the notification and certification requirements of subsection 4 rather than the certification requirements of this subsection.
- (3) For wastes with organic constituents having treatment standards expressed as concentration levels, if compliance with the treatment standards is based in whole or in part on the analytical detection limit alternative specified in subsection 4 of section 33.1-24-05-280, the certification, signed by an authorized representative, must state the following:

I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification. Based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the nonwastewater organic constituents have been treated by combustion units as specified in section 33.1-24-05-282, table 1. I have been unable to detect the nonwastewater organic constituents, despite having used best good-faith efforts to analyze for such constituents. I am aware there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment.

- (4) For characteristic wastes that are subject to the treatment standards in section 33.1-24-05-280 (other than those expressed as a method of treatment), or section 33.1-24-05-289, and that contain underlying hazardous constituents as defined in subsection 10 of section 33.1-24-05-251; if these wastes are treated onsite to remove the hazardous characteristic; and are then sent offsite for treatment of underlying hazardous constituents, the certification must state the following:

I certify under penalty of law that the waste has been treated in accordance with the requirements of section 33.1-24-05-280 or 33.1-24-05-289 to remove the hazardous characteristic. This decharacterized waste contains underlying hazardous constituents that require further treatment to meet treatment standards. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment.

- (5) For characteristic wastes that contain underlying hazardous constituents as defined subsection 10 of section 33.1-24-05-251 that are treated onsite to remove the hazardous characteristic to treat underlying hazardous constituents to levels in section 33.1-24-05-288 universal treatment standards, the certification must state the following:

I certify under penalty of law that the waste has been treated in accordance with the requirements of section 33.1-24-05-280 to remove the hazardous characteristic and

that underlying hazardous constituents, as defined in subsection 10 of section 33.1-24-05-251 have been treated onsite to meet the section 33.1-24-05-288 universal treatment standards. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment.

- e. If the waste or treatment residue will be further managed at a different treatment, storage, or disposal facility, the treatment, storage, or disposal facility sending the waste or treatment residue offsite must comply with the notice and certification requirements applicable to generators under this section.
  - f. Where the wastes are recyclable materials used in a manner constituting disposal subject to the provisions of subsection 2 of section 33.1-24-05-201 regarding treatment standards and prohibition levels, the owner or operator of a treatment facility (the recycler) must, for the initial shipment of waste, prepare a one-time certification described in subdivision d, and a one-time notice which includes the information listed in subdivision c (except the manifest number). The certification and notification must be placed in the facility's onsite files. If the waste or the receiving facility changes, a new certification and notification must be prepared and placed in the onsite files. In addition, the recycling facility must also keep records of the name and location of each entity receiving the hazardous waste-derived product.
3. Except where the owner or operator is disposing of any waste that is a recyclable material used in a manner constituting disposal pursuant to subsection 2 of section 33.1-24-05-201, the owner or operator of any land disposal facility disposing any waste subject to restrictions under sections 33.1-24-05-250 through 33.1-24-05-299 must:
- a. Have copies of the notice and certifications specified in subsection 1 or 2.
  - b. Test the waste, or an extract of the waste or treatment residue developed using test method 1311 (the toxicity characteristic leaching procedure, described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", environmental protection agency publication SW-846, as incorporated by reference in section 33.1-24-01-05), to assure that the wastes or treatment residues are in compliance with the applicable treatment standards set forth in sections 33.1-24-05-280 through 33.1-24-05-289. Such testing must be performed according to the frequency specified in the facility's waste analysis plan as required by section 33.1-24-05-04, or the applicable requirements of subsection 5 of section 33.1-24-06-16 for interim status facilities.
4. Generators or treaters who first claim that hazardous debris is excluded from the definition of hazardous waste under subsection 5 of section 33.1-24-02-03 (for example, debris treated by an extraction or destruction technology provided by table 1 in section 33.1-24-05-285, and debris that the department has determined does not contain hazardous waste) are subject to the following notification and certification requirements:
- a. A one-time notification, including the following information, must be submitted to the department:
    - (1) The name and address of the nonhazardous waste facility receiving the treated debris;
    - (2) A description of the hazardous debris as initially generated, including the applicable hazardous waste numbers; and
    - (3) For debris excluded under subdivision a of subsection 5 of section 33.1-24-02-03, the technology from table 1, section 33.1-24-05-285, used to treat the debris.

- b. The notification must be updated if the debris is shipped to a different facility, and, for debris excluded under subdivision a of subsection 5 of section 33.1-24-02-03, if a different type of debris is treated or if a different technology is used to treat the debris.
- c. For debris excluded under subdivision a of subsection 5 of section 33.1-24-02-03, the owner or operator of the treatment facility must document and certify compliance with the treatment standards of table 1 in section 33.1-24-05-285, as follows:
  - (1) Records must be kept of all inspections, evaluations, and analyses of treated debris that are made to determine compliance with the treatment standards;
  - (2) Records must be kept of any data or information the treater obtains during treatment of the debris that identifies key operating parameters of the treatment unit; and
  - (3) For each shipment of treated debris, a certification of compliance with the treatment standards must be signed by an authorized representative and placed in the facility's files. The certification must state the following:

I certify under penalty of law that the debris has been treated in accordance with the requirements of section 33.1-24-05-285. I am aware that there are significant penalties for making a false certification, including the possibility of fine and imprisonment.

- 5. Generators and treaters who first receive from the department a determination that a given contaminated soil subject to the land disposal restrictions as provided in subsection 1 of section 33.1-24-05-289 no longer contains a listed hazardous waste and generators and treaters who first determine that a contaminated soil subject to the land disposal restrictions as provided in subsection 1 of section 33.1-24-05-289 no longer exhibits a characteristic of hazardous waste must:
  - a. Prepare a one-time only documentation of these determinations, including all supporting information; and
  - b. Maintain that information in the facility files and other records for a minimum of three years.

**History:** Effective January 1, 2019; amended effective July 1, 2020; [July 1, 2021](#).

**General Authority:** NDCC 23.1-04-03; S.L. 2017, ch. 199, § 1

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

**33.1-24-05-290. Prohibitions on storage of restricted wastes.**

- 1. Except as provided in this section, the storage of hazardous wastes restricted from land disposal under sections 33.1-24-05-266 through 33.1-24-05-279 is prohibited, unless the following conditions are met:
  - a. A generator stores such wastes in tanks, containers, or containment buildings onsite solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment, or disposal and the generator complies with the requirements in sections 33.1-24-03-28 or 33.1-24-03-29, chapter 33.1-24-05, and the applicable requirements of subsection 5 of section 33.1-24-06-16;
  - b. An owner or operator of a hazardous waste treatment, storage, or disposal facility stores such wastes in tanks, containers, or containment buildings solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment, or disposal and:

- (1) Each container is clearly marked to identify its contents and with:
  - (a) The words "hazardous waste";
  - (b) The applicable environmental protection agency hazardous waste number (environmental protection agency hazardous waste codes) identified in chapter 33.1-24-02; or use a nationally recognized electronic system, such as bar coding, to identify the environmental protection agency hazardous waste numbers;
  - (c) An indication of the hazards of the contents (examples include the applicable hazardous waste characteristic (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the department of transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the occupational safety and health administration hazard communication standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association Code 704); and
  - (d) The date each period of accumulation begins.
- c. A transporter stores manifested shipments of such wastes at a transfer facility for ten days or less.
- d. A health care facility accumulates such wastes in containers onsite solely for the purpose of the accumulation of such quantities of hazardous waste pharmaceuticals as necessary to facilitate proper recovery, treatment, or disposal and the health care facility complies with the applicable requirements of sections 33.1-24-05-312 and 33.1-24-05-313.
- e. A reverse distributor accumulates such wastes in containers onsite solely for the purpose of the accumulation of such quantities of hazardous waste pharmaceuticals as necessary to facilitate proper recovery, treatment, or disposal and the reverse distributor complies with section 33.1-24-05-320.
2. An owner or operator of a treatment, storage, or disposal facility may store such wastes for up to one year unless the department can demonstrate that such storage was not solely for the purpose of accumulation of such quantities of hazardous wastes as are necessary to facilitate proper recovery, treatment, or disposal.
3. An owner or operator of a treatment, storage, or disposal facility may store such wastes beyond one year; however, the owner or operator bears the burden of proving that such storage was solely for the purpose of accumulation of such quantities of hazardous wastes as are necessary to facilitate proper recovery, treatment, or disposal.
4. If a generator's waste is exempt from a prohibition on the type of land disposal utilized for the waste, for example, because of an approved case-by-case extension under section 33.1-24-05-254, or a national capacity variance under sections 33.1-24-05-266 through 33.1-24-05-279, the prohibition in subsection 1 does not apply during the period of such exemption.
5. The prohibition in subsection 1 does not apply to hazardous wastes that meet the treatment standard specified under sections 33.1-24-05-281, 33.1-24-05-282, and 33.1-24-05-283 or the treatment standard specified under the variance in section 33.1-24-05-284, or, where treatment standards have not been specified, is in compliance with the applicable prohibitions specified in section 33.1-24-04-272 or Resource Conservation and Recovery Act section 3004.

6. Liquid hazardous wastes containing polychlorinated biphenyls at concentrations greater than or equal to fifty parts per million must be stored at a facility that meets the requirements of 40 CFR 761.65(b) and must be removed from storage and treated or disposed as required under sections 33.1-24-05-250 through 33.1-24-05-299 within one year of the date when such wastes are first placed into storage. The provisions of subsection 3 do not apply to such polychlorinated biphenyls wastes prohibited under section 33.1-24-05-272.
7. The prohibition and requirements in this section do not apply to hazardous remediation wastes stored in a staging pile approved pursuant to section 33.1-24-05-554.

**History:** Effective January 1, 2019; amended effective July 1, 2020; [July 1, 2021](#).

**General Authority:** NDCC 23.1-04-03; ~~S.L. 2017, ch. 199, § 4~~

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

**33.1-24-05-310. ~~[Reserved]~~ Definitions of terms used in sections 33.1-24-05-310 through 33.1-24-05-320.**

1. "Evaluated hazardous waste pharmaceuticals" means a prescription hazardous waste pharmaceutical that has been evaluated by a reverse distributor in accordance with paragraph c of subsection 1 of section 33.1-24-05-320 and will not be sent to another reverse distributor for further evaluation or verification of manufacturer credit.
2. "Hazardous waste pharmaceutical" means a pharmaceutical that is a solid waste, as defined in section 33.1-24-02-02, and exhibits one or more characteristics identified in sections 33.1-24-02-10 through 33.1-24-02-14, or is listed in sections 33.1-24-02-15 through 33.1-24-02-19. A pharmaceutical is not a solid waste, as defined in section 33.1-24-02-02, and therefore is not a hazardous waste pharmaceutical, if it is legitimately used or reused, e.g., lawfully donated for its intended purpose, or reclaimed. An over-the-counter pharmaceutical, dietary supplement, or homeopathic drug is not a solid waste, as defined in section 33.1-24-02-02, and therefore not a hazardous waste pharmaceutical, if it has a reasonable expectation of being legitimately used or reused, e.g., lawfully redistributed for its intended purpose, or reclaimed.
3. "Health care facility" means any person, by site, that is lawfully authorized to:
  - a. Provide preventative, diagnostic, therapeutic, rehabilitative, maintenance or palliative care, and counseling, service, assessment or procedure with respect to the physical or mental condition, or functional status of a human or animal or that affects the structure or function of the human or animal body; or
  - b. Distribute, sell, or dispense pharmaceuticals, including over-the-counter pharmaceuticals, dietary supplements, homeopathic drugs, or prescription pharmaceuticals. This includes wholesale distributors, third-party logistics providers that serve as forward distributors, military medical logistics facilities, hospitals, psychiatric hospitals, ambulatory surgical centers, health clinics, physicians' offices, optical and dental providers, chiropractors, long-term care facilities, ambulance services, pharmacies, long-term care pharmacies, mail-order pharmacies, retailers of pharmaceuticals, veterinary clinics, and veterinary hospitals. This definition does not include pharmaceutical manufacturers, reverse distributors, or reverse logistics centers.
4. "Household waste pharmaceutical" means a pharmaceutical that is a solid waste, as defined in section 33.1-24-02-02, but is excluded from being a hazardous waste under paragraph a of subsection 2 of section 33.1-24-02-04.
5. "Long-term care facility" means a licensed entity that provides assistance with activities of daily living, including managing and administering pharmaceuticals to one or more individuals

at the facility. This definition includes hospice facilities, nursing facilities, skilled nursing facilities, and the nursing and skilled nursing care portions of continuing care retirement communities. Not included within the scope of this definition are group homes, independent living communities, assisted living facilities, and the independent and assisted living portions of continuing care retirement communities.

6. "Noncreditable hazardous waste pharmaceutical" means a prescription hazardous waste pharmaceutical that does not have a reasonable expectation to be eligible for manufacturer credit or a nonprescription hazardous waste pharmaceutical that does not have a reasonable expectation to be legitimately used, reused, or reclaimed. This includes investigational drugs, free samples of pharmaceuticals received by health care facilities, residues of pharmaceuticals remaining in empty containers, contaminated personal protective equipment, floor sweepings, and cleanup material from the spills of pharmaceuticals.

7. "Nonhazardous waste pharmaceutical" means a pharmaceutical that is a solid waste, as defined in section 33.1-24-02-02, and is not listed in sections 33.1-24-02-15 through 33.1-24-02-19, and does not exhibit a characteristic identified in sections 33.1-24-02-10 through 33.1-24-02-14.

8. "Nonpharmaceutical hazardous waste" means a solid waste, as defined in section 33.1-24-02-02, that is listed in sections 33.1-24-02-15 through 33.1-24-02-19, or exhibits one or more characteristics identified in sections 33.1-24-02-10 through 33.1-24-02-14, but is not a pharmaceutical, as defined in this section.

9. "Pharmaceutical" means any drug or dietary supplement for use by humans or other animals; any electronic nicotine delivery system, e.g., electronic cigarette or vaping pen; or any liquid nicotine (e-liquid) packaged for retail sale for use in electronic nicotine delivery systems, e.g., prefilled cartridges or vials. This definition includes dietary supplements, as defined by the Federal Food, Drug, and Cosmetic Act; prescription drugs, as defined by title 21, Code of Federal Regulations, section 203.3(y); over-the-counter drugs; homeopathic drugs; compounded drugs; investigational new drugs; pharmaceuticals remaining in nonempty containers; personal protective equipment contaminated with pharmaceuticals; and cleanup material from spills of pharmaceuticals. This definition does not include dental amalgam or sharps.

10. "Potentially creditable hazardous waste pharmaceutical" means a prescription hazardous waste pharmaceutical that has a reasonable expectation to receive manufacturer credit and is:

- a. In original manufacturer packaging, except pharmaceuticals that were subject to a recall;
- b. Undispensed; and
- c. Unexpired or less than one year past expiration date. The term does not include evaluated hazardous waste pharmaceuticals or nonprescription pharmaceuticals, including over-the-counter drugs, homeopathic drugs, and dietary supplements.

11. "Reverse distributor" means any person that receives and accumulates prescription pharmaceuticals that are potentially creditable hazardous waste pharmaceuticals for the purpose of facilitating or verifying manufacturer credit. Any person, including forward distributors, third-party logistics providers, and pharmaceutical manufacturers, that process prescription pharmaceuticals for the facilitation or verification of manufacturer credit is considered a reverse distributor.

**History:** Effective July 1, 2021.

**General Authority:** NDCC 23.1-04-03

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

**33.1-24-05-311. [Reserved]Applicability.**

1. A health care facility that is a very small quantity generator when counting all of its hazardous waste, including both its hazardous waste pharmaceuticals and its nonpharmaceutical hazardous waste, remains subject to section 33.1-24-03-26 and is not subject to sections 33.1-24-05-310 through 33.1-24-05-320, except for sections 33.1-24-05-315 and 33.1-24-05-317, and the optional provisions of section 33.1-24-05-314.
2. A health care facility that is a very small quantity generator when counting all of its hazardous waste, including both its hazardous waste pharmaceuticals and its nonpharmaceutical hazardous waste, has the option of complying with subsection 4 for the management of its hazardous waste pharmaceuticals as an alternative to complying with section 33.1-24-03-26 and the optional provisions of section 33.1-24-05-314.
3. A health care facility or reverse distributor remains subject to all applicable hazardous waste regulations with respect to the management of its nonpharmaceuticals hazardous waste.
4. With the exception of health care facilities identified in subsection 1, a health care facility is subject to the following in lieu of chapters 33.1-24-03 and 33.1-24-04, and sections 33.1-24-05-01 through 33.1-24-05-190, 33.1-24-05-300 through 33.1-24-05-309, 33.1-24-05-400 through 33.1-24-05-524, 33.1-24-05-550 through 33.1-24-05-559, and 33.1-24-05-800 through 33.1-24-05-819:
  - a. Sections 33.1-24-05-312 and 33.1-24-05-315 through 33.1-24-05-318 with respect to the management of:
    - (1) Noncreditable hazardous waste pharmaceuticals; and
    - (2) Potentially creditable hazardous waste pharmaceuticals if they are not destined for a reverse distributor.
  - b. Subsection 1 of section 33.1-24-05-312, section 33.1-24-05-313, sections 33.1-24-05-315 through 33.1-24-05-317, and section 33.1-24-05-319 with respect to the management of potentially creditable hazardous waste pharmaceuticals that are prescription pharmaceuticals and are destined for a reverse distributor.
5. A reverse distributor is subject to sections 33.1-24-05-310 through 33.1-24-05-320 in lieu of chapters 33.1-24-03 and 33.1-24-04, and sections 33.1-24-05-01 through 33.1-24-05-190, 33.1-24-05-300 through 33.1-24-05-309, 33.1-24-05-400 through 33.1-24-05-524, 33.1-24-05-550 through 33.1-24-05-559, and 33.1-24-05-800 through 33.1-24-05-819 with respect to the management of hazardous waste pharmaceuticals.
6. Hazardous waste pharmaceuticals generated or managed by entities other than health care facilities and reverse distributors, e.g., pharmaceutical manufacturers and reverse logistics centers, are not subject to sections 33.1-24-05-310 through 33.1-24-05-320. Other generators are subject to chapter 33.1-24-03 for the generation and accumulation of hazardous wastes, including hazardous waste pharmaceuticals.
7. The following are not subject to chapters 33.1-24-01 through 33.1-24-07 except as specified:
  - a. Pharmaceuticals that are not solid waste, as defined by section 33.1-24-02-02, because they are legitimately used or reused, e.g., lawfully donated for their intended purpose, or reclaimed.
  - b. Over-the-counter pharmaceuticals, dietary supplements, or homeopathic drugs that are not solid wastes as defined by section 33.1-24-02-02 because they have a reasonable

expectation of being legitimately used or reused, e.g., lawfully redistributed for their intended purpose, or reclaimed.

- c. Pharmaceuticals being managed in accordance with a recall strategy that has been approved by the food and drug administration in accordance with title 21, Code of Federal Regulations, part 7, subpart C. This subpart does apply to the management of the recalled hazardous waste pharmaceuticals after the food and drug administration approves the destruction of the recalled items.
- d. Pharmaceuticals being managed in accordance with a recall corrective action plan that has been accepted by the consumer product safety commission in accordance with title 16, Code of Federal Regulations, part 1115. Sections 33.1-24-05-310 through 33.1-24-05-320 do not apply to the management of the recalled hazardous waste pharmaceuticals after the consumer product safety commission approves the destruction of the recalled items.
- e. Pharmaceuticals stored according to a preservation order, or during an investigation or judicial proceeding until after the preservation order, investigation, or judicial proceeding, has concluded or a decision is made to discard the pharmaceuticals.
- f. Investigational new drugs for which an investigational new drug application is in effect in accordance with the food and drug administration's regulations in title 21, Code of Federal Regulations, part 312. Sections 33.1-24-05-310 through 33.1-24-05-320 apply to the management of the investigational new drug after the decision is made to discard the investigational new drug or the food and drug administration approves the destruction of the investigational new drug, if the investigational new drug is a hazardous waste.
- g. Household waste pharmaceuticals, including those that have been collected by an authorized collector, as defined by the drug enforcement administration, provided the authorized collector complies with the conditional exemption in subdivision a of subsection 1 of section 33.1-24-05-316 and subsection 2 of section 33.1-24-05-316.

**History:** Effective July 1, 2021.

**General Authority:** NDCC 23.1-04-03

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

**33.1-24-05-312. ~~[Reserved]~~ Standards for health care facilities managing noncreditable hazardous waste pharmaceuticals.**

- 1. Notification and withdrawal from sections 33.1-24-05-310 through 33.1-24-05-320 for health care facilities managing hazardous waste pharmaceuticals.
  - a. **Notification.** A health care facility must notify the department using the site identification form (environmental protection agency form 8700-12), that it is a health care facility operating under sections 33.1-24-05-310 through 33.1-24-05-320. A health care facility is not required to fill out box 10.B. (waste codes for federally regulated hazardous waste) of the site identification form with respect to its hazardous waste pharmaceuticals. A health care facility must submit a separate notification (site identification form) for each site or environmental protection agency identification number.
    - (1) A health care facility that already has an environmental protection agency identification number shall notify the department using the site identification form (environmental protection agency form 8700-12) that it is a health care facility as part of its next biennial report, if it is required to submit one; or if not required to submit a biennial report, within sixty days of July 1, 2021, or within sixty days of becoming subject to this subpart.

(2) A health care facility that does not have an environmental protection agency identification number shall obtain one by notifying the department, using the site identification form (environmental protection agency form 8700-12), that it is a health care facility as part of its next biennial report, if it is required to submit one; or if not required to submit a biennial report, within sixty days of July 1, 2021, or within sixty days of becoming subject to this subpart.

(3) A health care facility must keep a copy of its notification on file for as long as the health care facility is subject to sections 33.1-24-05-310 through 33.1-24-05-320.

b. **Withdrawal.** A health care facility that operated under sections 33.1-24-05-310 through 33.1-24-05-320, but is no longer subject to these requirements, because it is a very small quantity generator operating under section 33.1-24-03-26 and elects to withdraw from this subpart, shall notify the department using the site identification form (environmental protection agency form 8700-12) that it is no longer operating under these sections. A health care facility is not required to fill out box 10.B. (waste codes for federally regulated hazardous waste) of the site identification form with respect to its hazardous waste pharmaceuticals. A health care facility shall submit a separate notification (site identification form) for each environmental protection agency identification number.

(1) A health care facility must submit the site identification form notifying that it is withdrawing from these requirements before it begins operating under the conditions for exemption in section 33.1-24-03-26.

(2) A health care facility shall keep a copy of its withdrawal on file for three years from the date of signature on the notification of its withdrawal.

2. **Training of personnel managing noncreditable hazardous waste pharmaceuticals at health care facilities.** A health care facility shall ensure all personnel that manage noncreditable hazardous waste pharmaceuticals are thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal facility operations and emergencies.

3. **Hazardous waste determination for noncreditable pharmaceuticals.** A health care facility that generates a solid waste that is a noncreditable pharmaceutical shall determine whether that pharmaceutical is a hazardous waste pharmaceutical (i.e., it exhibits a characteristic identified in sections 33.1-24-02-10 through 33.1-24-02-14 or is listed in sections 33.1-24-02-15 through 33.1-24-02-19) to determine whether the waste is subject to the requirements in sections 33.1-24-05-310 through 33.1-24-05-320. A health care facility may choose to manage its nonhazardous waste pharmaceuticals as noncreditable hazardous waste pharmaceuticals under these requirements.

4. **Standards for containers used to accumulate noncreditable hazardous waste pharmaceuticals at health care facilities.**

a. A health care facility shall place noncreditable hazardous waste pharmaceuticals in a container that is structurally sound, compatible with its contents, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

b. A health care facility that manages ignitable or reactive noncreditable hazardous waste pharmaceuticals, or that mixes or commingles incompatible noncreditable hazardous waste pharmaceuticals shall manage the container so that it does not have the potential to:

(1) Generate extreme heat or pressure, fire or explosion, or violent reaction;

- (2) Produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health;
- (3) Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosions;
- (4) Damage the structural integrity of the container of noncreditable hazardous waste pharmaceuticals; or
- (5) Through other like means threaten human health or the environment.

c. A health care facility shall keep containers of noncreditable hazardous waste pharmaceuticals closed and secured in a manner that prevents unauthorized access to its contents.

d. A health care facility may accumulate noncreditable hazardous waste pharmaceuticals and nonhazardous noncreditable waste pharmaceuticals in the same container, except that noncreditable hazardous waste pharmaceuticals prohibited from being combusted because of the dilution prohibition of section 33.1-24-05-252 must be accumulated in separate containers and labeled with all applicable hazardous waste numbers, i.e., hazardous waste codes.

**5. Labeling containers used to accumulate noncreditable hazardous waste pharmaceuticals at health care facilities.** A health care facility shall label or clearly mark each container of noncreditable hazardous waste pharmaceuticals with the phrase "Hazardous Waste Pharmaceuticals".

**6. Maximum accumulation time for noncreditable hazardous waste pharmaceuticals at health care facilities.**

a. A health care facility may accumulate noncreditable hazardous waste pharmaceuticals on site for one year or less without a permit.

b. A health care facility that accumulates noncreditable hazardous waste pharmaceuticals onsite shall demonstrate the length of time that the noncreditable hazardous waste pharmaceuticals have been accumulating, starting from the date it first becomes a waste. A health care facility may make this demonstration by any of the following methods:

- (1) Making or labeling the container of noncreditable hazardous waste pharmaceuticals with the date that the noncreditable hazardous waste pharmaceuticals became a waste;
- (2) Maintaining an inventory system that identifies the date the noncreditable hazardous waste pharmaceuticals being accumulated first became a waste; or
- (3) Placing the noncreditable hazardous waste pharmaceuticals in a specific area and identifying the earliest date any of the noncreditable hazardous waste pharmaceuticals in the area became a waste.

**7. Land disposal restrictions for noncreditable hazardous waste pharmaceuticals.** The noncreditable hazardous waste pharmaceuticals generated by a health care facility are subject to the land disposal restrictions of sections 33.1-24-05-250 through 33.1-24-05-309. A health care facility that generates noncreditable hazardous waste pharmaceuticals shall comply with the land disposal restrictions in accordance with subsection 1 of section 33.1-24-05-256 requirements, except that it is not required to identify the hazardous waste numbers (i.e., hazardous waste codes) on the land disposal restrictions notification.

8. **Procedures for health care facilities for managing rejected shipments of noncreditable hazardous waste pharmaceuticals.** A health care facility that sends a shipment of noncreditable hazardous waste pharmaceuticals 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 in accordance with the manifest discrepancy provisions of section 33.1-24-05-39 may accumulate the returned noncreditable hazardous waste pharmaceuticals onsite for up to an additional ninety days provided the rejected or returned shipment is managed in accordance with subsections 4 and 5. Upon receipt of the returned shipment, the health care facility shall:

a. Sign either:

(1) Item 18c of the original manifest, if the original manifest was used for the return shipment; or

(2) Item 20 of the new manifest, if a new manifest was used for the returned shipment.

b. Provide the transporter a copy of the manifest;

c. Within thirty days of receipt of the rejected shipment, send a copy of the manifest to the designated facility that returned the shipment to the health care facility; and

d. Within ninety days of receipt of the rejected shipment, transport or offer for transport the returned shipment in accordance with the shipping standards of subsection 1 of section 33.1-24-05-318.

9. **Reporting by health care facilities for noncreditable hazardous waste pharmaceuticals.**

a. Biennial reporting by health care facilities. Health care facilities are not subject to biennial reporting requirements under section 33.1-24-03-14, with respect to noncreditable hazardous waste pharmaceuticals managed under sections 33.1-24-05-310 through 33.1-24-05-320.

b. Exception reporting by health care facilities for a missing copy of the manifest.

(1) For shipments from a health care facility to a designated facility, if a health care facility does not receive a copy of the manifest with the signature of the owner or operator of the designated facility within sixty days of the date of the noncreditable hazardous waste pharmaceuticals were accepted by the initial transporter, the health care facility shall submit:

(a) A legible copy of the original manifest, indicating the health care facility has not received confirmation of delivery, to the department; and

(b) A handwritten or typed note on the manifest itself, or on an attached sheet of paper, stating the return copy was not received and explaining the efforts taken to locate the noncreditable hazardous waste pharmaceuticals and the results of those efforts.

(2) For shipments rejected by the designated facility and shipped to an alternate facility, if a health care facility does not receive a copy of the manifest for a rejected shipment of the noncreditable hazardous waste pharmaceuticals that is forwarded by the designated facility to an alternate facility using appropriate manifest procedures, with the signature of the owner or operator of the alternate facility, within sixty days of the date the noncreditable hazardous waste was accepted by the initial transporter forwarding the shipment of noncreditable hazardous waste

pharmaceuticals from the designated facility to the alternate facility, the health care facility shall submit:

- (a) A legible copy of the original manifest, indicating the health care facility has not received confirmation of delivery, to the department; and
- (b) A handwritten or typed note on the manifest itself, or on an attached sheet of paper, stating the return copy was not received and explaining the efforts taken to locate the noncreditable hazardous waste pharmaceuticals and the results of those efforts.
- c. Additional reports. The department may require health care facilities to furnish additional reports concerning the quantities and disposition of noncreditable hazardous waste pharmaceuticals.

**10. Recordkeeping by health care facilities for noncreditable hazardous waste pharmaceuticals.**

- a. A health care facility shall keep a copy of each manifest signed in accordance with subsection 1 of section 33.1-24-03-07 for three years or until it receives a signed copy from the designated facility which received the noncreditable hazardous waste pharmaceuticals. 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.
- b. A health care facility shall keep a copy of each exception report for a period of at least three years from the date of the report.
- c. A health care facility shall keep records of any test results, waste analyses, or other determinations made to support its hazardous waste determination consistent with subsection 6 of section 33.1-24-03-02 for at least three years from the date the waste was last sent to an onsite or offsite treatment, storage, or disposal. A health care facility that manages all of its noncreditable nonhazardous waste pharmaceuticals as noncreditable hazardous waste pharmaceuticals is not required to keep documentation of hazardous waste determinations.
- d. 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.
- e. All records must be readily available upon request by an inspector.

**11. Response to spills of noncreditable hazardous waste pharmaceuticals at health care facilities.** A health care facility immediately shall contain all spills of noncreditable hazardous waste pharmaceuticals and manage the spill cleanup materials as noncreditable hazardous waste pharmaceuticals in accordance with the requirements in sections 33.1-24-05-310 through 33.1-24-05-320.

**12. Accepting noncreditable hazardous waste pharmaceuticals from an offsite health care facility that is a very small quantity generator.** A health care facility may accept noncreditable hazardous waste pharmaceuticals from an offsite health care facility that is a very small quantity generator under section 33.1-24-03-26 without a permit or without having interim status, provided the receiving health care facility:

- a. Is under the control of the same person, as defined in section 33.1-24-03-26, as the very small quantity generator health care facility that is sending the noncreditable hazardous waste pharmaceuticals offsite ("control", for the purposes of this section means the power to direct the policies of the health care facility, whether by the ownership of stock,

voting rights, or otherwise, except that contractors who operate health care facilities on behalf of a different person as defined in section 33.1-24-03-26 may not be deemed to "control" such health care facilities) or has a contractual or other documented business relationship whereby the receiving health care facility supplies pharmaceuticals to the very small quantity generator health care facility;

- b. Is operating under this section for the management of its noncreditable hazardous waste pharmaceuticals;
- c. Manages the noncreditable hazardous waste pharmaceuticals that it receives from offsite in compliance with sections 33.1-24-05-310 through 33.1-24-05-320; and
- d. Keeps records of the noncreditable hazardous waste pharmaceuticals shipments it receives from offsite for three years from the date that the shipment is received.

**History:** Effective July 1, 2021.

**General Authority:** NDCC 23.1-04-03

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

**33.1-24-05-313. ~~[Reserved]~~ Standards for health care facilities managing potentially creditable hazardous waste pharmaceuticals.**

1. **Hazardous waste determination for potentially creditable pharmaceuticals.** A health care facility that generates a solid waste that is a potentially creditable pharmaceutical shall determine whether the potentially creditable pharmaceutical is a potentially creditable hazardous waste pharmaceutical, i.e., it is listed in sections 33.1-24-02-15 through 33.1-24-02-189 or exhibits a characteristic identified in sections 33.1-24-02-10 through 33.1-24-02-14. A health care facility may choose to manage its potentially creditable nonhazardous waste pharmaceuticals as potentially creditable hazardous waste pharmaceuticals under sections 33.1-24-05-310 through 33.1-24-05-320.
2. **Accepting potentially creditable hazardous waste pharmaceuticals from an offsite health care facility that is a very small quantity generator.** A health care facility may accept potentially creditable hazardous waste pharmaceuticals from an offsite health care facility that is a very small quantity generator under section 33.1-24-03-26 without a permit, provided the receiving health care facility:
  - a. Is under the control of the same person, as defined in section 33.1-24-03-26, as the very small quantity generator health care facility that is sending the potentially creditable hazardous waste pharmaceuticals offsite, or has a contractual or other documented business relationship whereby the receiving health care facility supplies pharmaceuticals to the very small quantity generator health care facility;
  - b. Is operating under sections 33.1-24-05-310 through 33.1-24-05-320 for the management of its potentially creditable hazardous waste pharmaceuticals;
  - c. Manages the potentially creditable hazardous waste pharmaceuticals that it receives from offsite in compliance with sections 33.1-24-05-310 through 33.1-24-05-320; and
  - d. Keeps records of the potentially creditable hazardous waste shipments it receives from offsite for three years from the date that the shipment is received.
3. **Prohibition.** Health care facilities are prohibited from sending hazardous wastes other than potentially creditable hazardous waste pharmaceuticals to a reverse distributor.

4. **Biennial reporting by health care facilities.** Health care facilities are not subject to biennial reporting requirements under section 33.1-24-03-14 with respect to potentially creditable hazardous waste pharmaceuticals managed under this subpart.

5. **Recordkeeping by health care facilities.**

a. A health care facility that initiates a shipment of potentially creditable hazardous waste pharmaceuticals to a reverse distributor shall keep the following records, paper or electronic, for each shipment of potentially creditable hazardous waste pharmaceuticals for three years from the date of shipment:

(1) The confirmation of delivery; and

(2) The shipping papers prepared in accordance with title 49, Code of Federal Regulations, part 172, subpart C, if applicable.

b. The periods of retention referred to in this section are extended automatically during any unresolved enforcement action regarding the regulated activity, or as requested by the department.

c. All records must be readily available upon request by an inspector.

6. **Response to spills of potentially creditable hazardous waste pharmaceuticals at health care facilities.** A health care facility immediately shall contain all spills of potentially creditable hazardous waste pharmaceuticals and manage the spill cleanup materials as noncreditable hazardous waste pharmaceuticals in accordance with sections 33.1-24-05-310 through 33.1-24-05-320.

**History:** Effective July 1, 2021.

**General Authority:** NDCC 23.1-04-03

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

**33.1-24-05-314. [Reserved] Health care facilities that are very small quantity generators for both hazardous waste pharmaceuticals and nonpharmaceutical hazardous waste.**

1. **Potentially creditable hazardous waste pharmaceuticals.** A health care facility that is a very small quantity generator for both hazardous waste pharmaceuticals and nonpharmaceutical hazardous waste may send its potentially creditable hazardous waste pharmaceuticals to a reverse distributor.

2. **Offsite collection of hazardous waste pharmaceuticals generated by a health care facility that is a very small quantity generator.** A health care facility that is a very small quantity generator for both hazardous waste pharmaceuticals and nonpharmaceutical hazardous waste may send its hazardous waste pharmaceuticals offsite to another health care facility, provided:

a. The receiving health care facility meets the conditions in subsection 12 of section 33.1-24-05-312 and subsection 2 of section 33.1-24-05-313 as applicable; or

b. The very small quantity generator health care facility meets the conditions in paragraph g of subsection 5 of section 33.1-24-03-26 and the receiving large quantity generator meets the conditions in subsection 4 of section 33.1-24-03-29.

3. **Long-term care facilities that are very small quantity generators.** A long-term care facility that is a very small quantity generator for both hazardous waste pharmaceuticals and nonpharmaceutical hazardous waste may dispose of its hazardous waste pharmaceuticals, excluding contaminated personal protective equipment or cleanup materials, in an onsite

collection receptacle of an authorized collector, as defined by the drug enforcement administration, that is registered with the drug enforcement administration provided the contents are collected, stored, transported, destroyed, and disposed of in compliance with all applicable drug enforcement administration regulations for controlled substances.

4. **Long-term care facilities with twenty beds or fewer.** A long-term care facility with twenty beds or fewer is presumed to be a very small quantity generator subject to section 33.1-24-03-26 for both hazardous waste pharmaceuticals and nonpharmaceutical hazardous waste and not subject to sections 33.1-24-05-310 through 33.1-24-05-320, except for sections 33.1-24-05-315 and 33.1-24-05-317, and the other optional provisions of these sections. The department has the responsibility to demonstrate that long-term care facility with twenty beds or fewer generates quantities of hazardous waste in excess of the very small quantity generator limits defined in subsection 167 of section 33.1-24-01-04. A long-term care facility with more than twenty beds that operates as a very small quantity generator under section 33.1-24-03-26 shall demonstrate it generates quantities of hazardous waste that are within the very small quantity generator limits as defined in subsection 167 of section 33.1-24-01-04.

**History:** Effective July 1, 2021.

**General Authority:** NDCC 23.1-04-03

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

**33.1-24-05-315. ~~[Reserved]~~ Prohibition of sewerage hazardous waste pharmaceuticals.**

All health care facilities, including very small quantity generators operating under section 33.1-24-03-26 in lieu of these requirements, and reverse distributors are prohibited from discharging hazardous waste pharmaceuticals to a sewer system that passes through to a publicly owned treatment works. Health care facilities and reverse distributors remain subject to the prohibitions in section 33.1-16-01.1.

**History:** Effective July 1, 2021.

**General Authority:** NDCC 23.1-04-03

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

**33.1-24-05-316. ~~[Reserved]~~ Conditional exemptions for hazardous waste pharmaceuticals that are also controlled substances and household waste pharmaceuticals collected in a take back event or program.**

1. **Conditional exemptions.** Provided the conditions of subsection 2 are met, the following are exempt from the requirements in chapters 33.1-24-02 through 33.1-24-07:

- a. Hazardous waste pharmaceuticals that are also listed on a schedule of controlled substances by the drug enforcement administration in title 21, Code of Federal Regulations, part 1308; and
- b. Household hazardous waste pharmaceuticals that are collected in a take back event or program, including those that are collected by an authorized collector, as defined by the drug enforcement administration, registered with the drug enforcement administration that commingles the household waste pharmaceuticals with controlled substances from an ultimate user, as defined by the drug enforcement administration.

2. **Conditions for exemption.** The hazardous waste pharmaceuticals must be:

- a. Managed in compliance with the sewer prohibition of section 33.1-24-05-315;
- b. Collected, stored, transported, and disposed of in compliance with all applicable drug enforcement administration regulations for controlled substances; and

c. Destroyed by a method that the drug enforcement administration has publicly deemed in writing to meet their nonretrievable standard of destruction or combusted at one of the following:

- (1) A permitted large municipal waste combustor, subject to title 40, Code of Federal Regulations, part 62, subpart FFF or applicable state plan for existing large municipal waste combustors, or title 40, Code of Federal Regulations, part 60, subpart Eb for new large municipal waste combustors;
- (2) A permitted small municipal waste combustor, subject to title 40, Code of Federal Regulations, part 62, subpart JJJ or applicable state plan for existing small municipal waste combustors, or title 40, Code of Federal Regulations, part 60, subpart AAAA for new small municipal waste combustors;
- (3) A permitted hospital, medical, and infectious waste incinerator, subject to title 40, Code of Federal Regulations, part 62 subpart HHH or applicable state plan for existing hospital, medical, and infectious waste incinerators, or title 40, Code of Federal Regulations, part 60, subpart Ec for new hospital, medical, and infectious waste incinerators;
- (4) A permitted commercial and industrial solid waste incinerator, subject to title 40, Code of Federal Regulations, part 62, subpart III or applicable state plan for existing commercial and industrial solid waste incinerators, or title 40, Code of Federal Regulations, part 60, subpart CCCC for new commercial and industrial solid waste incinerators; or
- (5) A permitted hazardous waste combustor subject to title 40 Code of Federal Regulations, part 63, subpart EEE.

**History:** Effective July 1, 2021.

**General Authority:** NDCC 23.1-04-03

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

**33.1-24-05-317. ~~Reserved~~Residues of hazardous waste pharmaceuticals in empty containers.**

1. **Stock, dispensing, and unit-dose containers.** A stock bottle, dispensing bottle, vial, or ampule, not to exceed one liter or ten thousand pills; or a unit-dose container, e.g., a unit-dose packet, cup, wrapper, blister pack, or delivery device, is considered empty and the residues are not regulated as hazardous waste provided the pharmaceuticals have been removed from the stock bottle, dispensing bottle, vial, ampule, or the unit-dose container using the practices commonly employed to remove materials from that type of container.
2. **Syringes.** A syringe is considered empty and the residues are not regulated as hazardous waste under sections 33.1-24-05-310 through 33.1-24-05-320 provided the contents have been removed by fully depressing the plunger of the syringe. If a syringe is not empty, the syringe must be placed with its remaining hazardous waste pharmaceuticals into a container that is managed and disposed of as a noncreditable hazardous waste pharmaceutical under these requirements and any applicable federal, state, and local requirements for sharps containers and medical waste.
3. **Intravenous (IV) bags.** An IV bag is considered empty and the residues are not regulated as hazardous waste provided the pharmaceuticals in the IV bag have been fully administered to a patient. If an IV bag is not empty, the IV bag must be placed with its remaining hazardous waste pharmaceuticals into a container that is managed and disposed of as a noncreditable hazardous waste pharmaceutical under sections 33.1-24-05-310 through 33.1-24-05-320.

unless the IV bag held nonacute hazardous waste pharmaceuticals and is empty as defined in subsection 3 of section 33.1-24-02-07.

4. **Other containers, including delivery devices.** Hazardous waste pharmaceuticals remaining in all other types of unused, partially administered, or fully administered containers must be managed as noncreditable hazardous waste pharmaceuticals under sections 33.1-24-05-310 through 33.1-24-05-320, unless the container held nonacute hazardous waste pharmaceuticals and is empty as defined in subsection 3 or 4 of section 33.1-24-02-07. This includes residues in inhalers, aerosol cans, nebulizers, tubes of ointments, gels, or creams.

**History:** Effective July 1, 2021.

**General Authority:** NDCC 23.1-04-03

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

**33.1-24-05-318. [Reserved] Shipping noncreditable hazardous waste pharmaceuticals from a health care facility or evaluated hazardous waste pharmaceuticals from a reverse distributor.**

1. **Shipping noncreditable hazardous waste pharmaceuticals or evaluated hazardous waste pharmaceuticals.** A health care facility shall ship noncreditable hazardous waste pharmaceuticals and a reverse distributor shall ship evaluated hazardous waste pharmaceuticals offsite to a designated facility, such as a permitted or interim status treatment, storage, or disposal facility, in compliance with:

a. The following pretransport requirements, before transporting or offering for transport offsite:

(1) Packaging. Package the waste in accordance with the applicable department of transportation regulations on hazardous materials under title 49, Code of Federal Regulations, parts 173, 178, and 180.

(2) Labeling. Label each package in accordance with the applicable department of transportation regulations on hazardous materials under title 49, Code of Federal Regulations, part 172, subpart E.

(3) Marking.

(a) Mark each package of hazardous waste pharmaceuticals in accordance with the applicable department of transportation regulations on hazardous materials under title 49, Code of Federal Regulations, part 172 subpart D:

(b) Mark each container of one hundred nineteen gallons [450.46 liters] or less used in such transportation with the following words and information in accordance with the requirements of title 49, Code of Federal Regulations, section 172.304:

[1] "HAZARDOUS WASTE - Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the United States Environmental Protection Agency.";

[2] The health care facility's or reverse distributor's name and address;

[3] The health care facility's or reverse distributor's environmental protection agency identification number; and

[4] "Manifest tracking number \_\_\_\_\_."

(c) Laboratory packs that will be incinerated in compliance with subsection 3 of section 33.1-24-05-285 not required to be marked with environmental protection agency hazardous waste numbers, except D004, D005, D006, D007, D008, D010, and D011, where applicable. A nationally recognized electronic system, such as bar coding or radio frequency identification, may be used to identify the environmental protection agency hazardous waste numbers.

(4) Placarding. Placard or offer the initial transporter the appropriate placards according to department of transportation regulations for hazardous materials under title 49, Code of Federal Regulations, part 172, subpart F.

b. The manifest requirements of sections 33.1-24-03-04 through 33.1-24-03-07, except that:

(1) A health care facility shipping noncreditable hazardous waste pharmaceuticals is not required to list all applicable hazardous waste numbers, i.e., hazardous waste codes, in item 13 of environmental protection agency form 8700-22.

(2) A health care facility shipping noncreditable hazardous waste pharmaceuticals shall write the word "PHARMS" in item 13 of environmental protection agency form 8700-22.

2. **Exporting noncreditable hazardous waste pharmaceuticals or evaluated hazardous waste pharmaceuticals.** A health care facility or reverse distributor that exports noncreditable hazardous waste pharmaceuticals or evaluated hazardous waste pharmaceuticals is subject to sections 33.1-24-03-50 through 33.1-24-03-59.

3. **Importing noncreditable hazardous waste pharmaceuticals or evaluated hazardous waste pharmaceuticals.** Any person that imports noncreditable hazardous waste pharmaceuticals or evaluated hazardous waste pharmaceuticals is subject to sections 33.1-24-03-50 through 33.1-24-03-59. A health care facility or reverse distributor may not accept imported noncreditable hazardous waste pharmaceuticals or evaluated hazardous waste pharmaceuticals unless they have a permit that allows them to accept hazardous waste from offsite.

**History:** Effective July 1, 2021.

**General Authority:** NDCC 23.1-04-03

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

**33.1-24-05-319. [Reserved]Shipping potentially creditable hazardous waste pharmaceuticals from a health care facility or a reverse distributor to a reverse distributor.**

1. **Shipping potentially creditable hazardous waste pharmaceuticals.** A health care facility or a reverse distributor who transports or offers for transport potentially creditable hazardous waste pharmaceuticals offsite to a reverse distributor must comply with all applicable United States department of transportation regulations title 49, Code of Federal Regulations, part 171 through 180 for any potentially creditable hazardous waste pharmaceutical that meets the definition of a hazardous material in title 49, Code of Federal Regulations, section 171.8. For purposes of the department of transportation regulations, a material is considered a hazardous waste if it is subject to the hazardous waste manifest requirements of sections 33.1-24-03-04 through 33.1-24-03-07. Because a potentially creditable hazardous waste pharmaceutical does not require a manifest, it is not considered a hazardous waste under department of transportation regulations.

2. **Delivery confirmation.** Upon receipt of each shipment of potentially creditable hazardous waste pharmaceuticals, the receiving reverse distributor must provide confirmation, paper or

electronic, to the health care facility or reverse distributor that initiated the shipment that the shipment of potentially creditable hazardous waste pharmaceuticals has arrived at its destination and is under the custody and control of the reverse distributor.

3. **Procedures for when delivery confirmation is not received within thirty-five days.** If a health care facility or reverse distributor initiates a shipment of potentially creditable hazardous waste pharmaceuticals to a reverse distributor and does not receive delivery confirmation within thirty-five calendar days from the date that the shipment of potentially creditable hazardous waste pharmaceuticals was sent, the health care facility or reverse distributor that initiated the shipment shall contact the carrier and the intended recipient, i.e., the reverse distributor, promptly to report that the delivery confirmation was not received to determine the status of the potentially creditable hazardous waste pharmaceuticals.
4. **Exporting potentially creditable hazardous waste pharmaceuticals.** A health care facility or reverse distributor that sends potentially creditable hazardous waste pharmaceuticals to a foreign destination shall comply with the applicable sections 33.1-24-03-50 through 33.1-24-03-59, except the manifesting requirements of subsection 3 of section 33.1-24-03-53, in addition to subsections 1 through 3.
5. **Importing potentially creditable hazardous waste pharmaceuticals.** Any person that imports potentially creditable hazardous waste pharmaceuticals into the United States is subject to subsections 1 through 3 in lieu of sections 33.1-24-03-50 through 33.1-24-03-59. Immediately after the potentially creditable hazardous waste pharmaceuticals enter the United States, they are subject to all applicable requirements of sections 33.1-24-05-310 through 33.1-24-05-320.

**History:** Effective July 1, 2021.

**General Authority:** NDCC 23.1-04-03

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

**33.1-24-05-320. [Reserved] Standards for the management of potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals at reverse distributors.**

A reverse distributor may accept potentially creditable hazardous waste pharmaceuticals from offsite and accumulate potentially creditable hazardous waste pharmaceuticals or evaluated hazardous waste pharmaceuticals onsite without a hazardous waste permit, provided it complies with the following conditions:

1. **Standards for reverse distributors managing potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals.**
  - a. Notification. A reverse distributor shall notify the department using the site identification form (environmental protection agency form 8700-12) that it is a reverse distributor operating under sections 33.1-24-05-310 through 33.1-24-05-320.
    - (1) A reverse distributor that already has an environmental protection agency identification number shall notify the department using the site identification form (environmental protection agency form 8700-12) that it is a reverse distributor, as defined in section 33.1-24-05-310, within sixty days of July 1, 2021, or within sixty days of becoming subject to the requirements in sections 33.1-24-05-310 through 33.1-24-05-320.
    - (2) A reverse distributor that does not have an environmental protection agency identification number shall obtain one by notifying the department using the site identification form (environmental protection agency form 8700-12) that it is a

reverse distributor, as defined in section 33.1-24-05-310, within 60 days of July 1, 2021, or within sixty days of becoming subject to the requirements in sections 33.1-24-05-310 through 33.1-24-05-320.

b. Inventory by the reverse distributor. A reverse distributor shall maintain a current inventory of all potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals that are accumulated onsite.

(1) A reverse distributor shall inventory each potentially creditable hazardous waste pharmaceutical within thirty calendar days of each waste arriving at the reverse distributor.

(2) The inventory must include the identity, e.g., the name or national drug code, and quantity of each potentially creditable hazardous waste pharmaceutical and evaluated hazardous waste pharmaceutical.

(3) If the reverse distributor already meets the inventory requirements of this paragraph because of other regulatory requirements, such as state board of pharmacy regulations, the facility is not required to provide a separate inventory pursuant to this subsection.

c. Evaluation by a reverse distributor that is not a manufacturer. A reverse distributor that is not a pharmaceutical manufacturer shall evaluate a potentially creditable hazardous waste pharmaceutical within thirty calendar days of the waste arriving at the reverse distributor to establish whether it is destined for another reverse distributor for further evaluation or verification of manufacturer credit or for a permitted or interim status treatment, storage, or disposal facility.

(1) A potentially creditable hazardous waste pharmaceutical that is destined for another reverse distributor is still considered a "potentially creditable hazardous waste pharmaceutical" and must be managed in accordance with subsection 2.

(2) A potentially creditable hazardous waste pharmaceutical that is destined for a permitted or interim status treatment, storage, or disposal facility is considered an "evaluated hazardous waste pharmaceutical" and must be managed in accordance with subsection 3.

d. Evaluation by a reverse distributor that is a manufacturer. A reverse distributor that is a pharmaceutical manufacturer shall evaluate a potentially creditable hazardous waste pharmaceutical to verify manufacturer credit within thirty calendar days of the waste arriving at the facility and following the evaluation must manage the evaluated hazardous waste pharmaceutical in accordance with subsection 3.

e. Maximum accumulation time for hazardous waste pharmaceuticals at a reverse distributor.

(1) A reverse distributor may accumulate potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals onsite for one hundred eighty calendar days or less. The one hundred eighty days start after the potentially creditable hazardous waste pharmaceutical has been evaluated and applies to all hazardous waste pharmaceuticals accumulated onsite, regardless of whether they are destined for another reverse distributor, i.e., potentially creditable hazardous waste pharmaceuticals, or a permitted treatment, storage, or disposal facility, i.e., evaluated hazardous waste pharmaceuticals.

(2) Unexpired pharmaceuticals that are otherwise creditable but are awaiting their expiration date, i.e., aging in a holding morgue, can be accumulated for up to one

hundred eighty days after the expiration date, provided the unexpired pharmaceuticals are managed in accordance with subsection 1 and the applicable container labeling and management standards in subsection 3.

f. Security at the reverse distributor facility. A reverse distributor shall prevent unknowing entry and minimize the possibility for the unauthorized entry into the portion of the facility where potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals are kept.

(1) Examples of methods that may be used to prevent unknowing entry and minimize the possibility for unauthorized entry include:

(a) A twenty-four-hour continuous monitoring surveillance system;

(b) An artificial barrier, such as a fence; or

(c) A means to control entry, such as keycard access.

(2) If the reverse distributor already meets the security requirements of this subdivision because of other regulatory requirements, the facility is not required to provide separate security measures pursuant to this section.

g. Contingency plan and emergency procedures at a reverse distributor. A reverse distributor that accepts potentially creditable hazardous waste pharmaceuticals from offsite shall prepare a contingency plan and comply with the other requirements of sections 33.1-24-05-15 through 33.1-24-05-36.

h. Closure of a reverse distributor. When closing an area where a reverse distributor accumulates potentially creditable hazardous waste pharmaceuticals or evaluated hazardous waste pharmaceuticals, the reverse distributor shall comply with the requirements in paragraphs 2 and 3 of subdivision h of subsection 1 of section 33.1-24-03-29.

i. Reporting by a reverse distributor.

(1) Unauthorized waste report. A reverse distributor shall submit an unauthorized waste report if the reverse distributor receives waste from offsite that it is not authorized to receive, e.g., nonpharmaceutical hazardous waste, regulated medical waste. The reverse distributor shall prepare and submit an unauthorized waste report to the department within forty-five calendar days after the unauthorized waste arrives at the reverse distributor and shall send a copy of the unauthorized waste report to the health care facility, or other entity, that sent the unauthorized waste. The reverse distributor shall manage the unauthorized waste in accordance with all applicable regulations. The unauthorized waste report must be signed by the owner or operator of the reverse distributor, or its authorized representative, and contain the following information:

(a) The environmental protection agency identification number, name, and address of the reverse distributor;

(b) The date the reverse distributor received the unauthorized waste;

(c) The environmental protection agency identification number, name, and address of the health care facility that shipped the unauthorized waste, if available;

(d) A description of the type and quantity of each unauthorized waste received;

(e) The method of treatment, storage, or disposal for each unauthorized waste received; and

(f) A brief explanation of why the waste was unauthorized, if known.

(2) Additional reports. The department may require reverse distributors to furnish additional reports concerning the quantities and disposition of potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals.

j. Recordkeeping by reverse distributors. A reverse distributor shall keep the following records, paper or electronic, readily available upon request by an inspector. The periods of retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding regulated activity, or as requested by the department.

(1) A copy of its notification on file for as long as the facility is subject to sections 33.1-24-05-310 through 33.1-24-05-320;

(2) A copy of the delivery confirmation and the shipping papers for each shipment of potentially creditable hazardous waste pharmaceuticals that it receives, and a copy of each unauthorized waste report, for at least three years from the date the shipment arrives at the reverse distributor;

(3) A copy of its current inventory for as long as the facility is subject to sections 33.1-24-05-310 through 33.1-24-05-320.

**2. Additional standards for reverse distributors managing potentially creditable hazardous waste pharmaceuticals destined for another reverse distributor.** A reverse distributor that does not have a permit must comply with the following conditions, in addition to the requirements in subsection 1, for the management of potentially creditable hazardous waste pharmaceuticals that are destined for another reverse distributor for further evaluation or verification of manufacturer credit:

a. A reverse distributor that receive potentially creditable hazardous waste pharmaceuticals from a health care facility shall send those potentially creditable hazardous waste pharmaceuticals to another reverse distributor within one hundred eighty days after the potentially creditable hazardous waste pharmaceuticals have been evaluated or follow subsection 3 for evaluated hazardous waste pharmaceuticals.

b. A reverse distributor that receives potentially creditable hazardous waste pharmaceuticals from another reverse distributor shall send those potentially creditable hazardous waste pharmaceuticals to a reverse distributor that is a pharmaceutical manufacturer within one hundred eighty days after the potentially creditable hazardous waste pharmaceuticals have been evaluated or follow subsection 3 for evaluated hazardous waste pharmaceuticals.

c. A reverse distributor shall ship potentially creditable hazardous waste pharmaceuticals destined for another reverse distributor in accordance with section 33.1-24-05-319.

d. Recordkeeping by reverse distributors. A reverse distributor shall keep the following records, paper or electronic, readily available upon request by an inspector for each shipment of potentially creditable hazardous waste pharmaceuticals that it initiates to another reverse distributor, for at least three years from the date of shipment. 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.

(1) The confirmation of delivery; and

(2) The department of transportation shipping papers prepared in accordance with title 49, Code of Federal Regulations, part 172, subpart C, if applicable.

**3. Additional standards for reverse distributors managing evaluated hazardous waste pharmaceuticals.** A reverse distributor that does not have a permit shall comply with the following conditions, in addition to the requirements of subsection 1 of this section, for the management of evaluated hazardous waste pharmaceuticals:

a. Accumulation area at the reverse distributor. A reverse distributor shall designate an onsite accumulation area where it will accumulate evaluated hazardous waste pharmaceuticals.

b. Inspection of onsite accumulation area. A reverse distributor shall inspect its onsite accumulation area at least once every seven days, looking at containers for leaks and for deterioration caused by corrosion or other factors, as well as for signs of diversion.

c. Personnel training at a reverse distributor. Personnel at a reverse distributor that handle evaluated hazardous waste pharmaceuticals are subject to the training requirements of subdivision g of subsection 1 of section 33.1-24-03-29.

d. Labeling and management of containers at onsite accumulation areas. A reverse distributor accumulating evaluated hazardous waste pharmaceuticals in containers in an onsite accumulation area shall:

(1) Label the containers with the words "hazardous waste pharmaceuticals";

(2) Ensure the containers are in good condition and managed to prevent leaks;

(3) Use containers that are made of or lined with materials that will not react with, and are otherwise compatible with, the evaluated hazardous waste pharmaceuticals, so that the ability of the container to contain the waste is not impaired;

(4) Keep containers closed, if holding liquid or gel evaluated hazardous waste pharmaceuticals. If the liquid or gel evaluated hazardous waste pharmaceuticals are in their original, intact, sealed packaging; or repackaged in intact, sealed packaging, they are considered to meet the container closed standard;

(5) Manage any container of ignitable or reactive evaluated hazardous waste pharmaceuticals, or any container of commingled incompatible evaluated hazardous waste pharmaceuticals so that the container does not have the potential to:

(a) Generate extreme heat or pressure, fire or explosion, or violent reaction;

(b) Produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health;

(c) Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosions;

(d) Damage the structural integrity of the container of hazardous waste pharmaceuticals; or

(e) Through other like means threaten human health or the environment.

(6) Accumulate evaluated hazardous waste pharmaceuticals that are prohibited from being combusted because of the dilution prohibition of subsection 3 of section

33.1-24-05-252 (e.g., arsenic trioxide (P012)) in separate containers from other evaluated hazardous waste pharmaceuticals at the reverse distributor.

e. Hazardous waste numbers. Prior to shipping evaluated hazardous waste pharmaceuticals offsite, all containers must be marked with the applicable hazardous waste number, i.e., hazardous waste codes. A nationally recognized electronic system, such as bar coding or radio frequency identification, may be used to identify the environmental protection agency hazardous waste number.

f. Shipments. A reverse distributor must ship evaluated hazardous waste pharmaceuticals that are destined for a permitted or interim status treatment, storage, or disposal facility in accordance with the applicable shipping standards in subsection 1 or 2 of section 33.1-24-05-318.

g. Procedures for a reverse distributor for managing rejected shipments. A reverse distributor that sends a shipment of evaluated hazardous waste pharmaceuticals 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 in accordance with the manifest discrepancy provisions of section 33.1-24-05-39, may accumulate the returned evaluated hazardous waste pharmaceuticals onsite for up to an additional ninety days in the onsite accumulation area provided the rejected or returned shipment is managed in accordance with subsections 1 and 3. Upon receipt of the returned shipment, the reverse distributor must:

(1) Sign either:

(a) Item 18c of the original manifest, if the original manifest was used for the returned shipment; or

(b) Item 20 of the new manifest, if a new manifest was used for the returned shipment;

(2) Provide the transporter a copy of the manifest;

(3) Within thirty days of receipt of the rejected shipment of evaluated hazardous waste pharmaceuticals, send a copy of the manifest to the designated facility that returned the shipment to the reverse distributor; and

(4) Within ninety days of receipt of the rejected shipment, transport or offer for transport the returned shipment of evaluated hazardous waste pharmaceuticals in accordance with the applicable shipping standards of subsection 1 or 2 of section 33.1-24-05-318.

h. Land disposal restrictions. Evaluated hazardous waste pharmaceuticals are subject to the land disposal restrictions of sections 33.1-24-05-250 through 33.1-24-05-299. A reverse distributor that accepts potentially creditable hazardous waste pharmaceuticals from offsite must comply with the land disposal restrictions in accordance with subsection 1 of section 33.1-24-05-256.

i. Reporting by a reverse distributor for evaluated hazardous waste pharmaceuticals.

(1) Biennial reporting by a reverse distributor. A reverse distributor that ships evaluated hazardous waste pharmaceuticals offsite shall prepare and submit a single copy of a biennial report to the department by March first of each even-numbered year in accordance with section 33.1-24-03-14.

(2) Exception reporting by a reverse distributor for a missing copy of the manifest.

(a) For shipments from a reverse distributor to a designated facility.

[1] If a reverse distributor does not receive a copy of the manifest with the signature of the owner or operator of the designated facility within thirty-five days of the date the evaluated hazardous waste pharmaceuticals were accepted by the initial transporter, the reverse distributor shall contact the transporter or the owner or operator of the designated facility to determine the status of the evaluated hazardous waste pharmaceuticals.

[2] A reverse distributor shall submit an exception report to the department if it has not received a copy of the manifest with the signature of the owner or operator of the designated facility within forty-five days of the date the evaluated hazardous waste pharmaceutical was accepted by the initial transporter. The exception report must include:

[a] A legible copy of the manifest for which the reverse distributor does not have confirmation of delivery; and

[b] A cover letter signed by the reverse distributor, or its authorized representative, explaining the efforts taken to locate the evaluated hazardous waste pharmaceuticals and the results of those efforts.

(b) For shipments rejected by the designated facility and shipped to an alternate facility.

[1] A reverse distributor that does not receive a copy of the manifest with the signature of the owner or operator of the alternate facility within thirty-five days of the date the evaluated hazardous waste pharmaceuticals were accepted by the initial transporter shall contact the transporter or the owner or operator of the alternate facility to determine the status of the hazardous waste. The thirty-five-day time frame begins the date the evaluated hazardous waste pharmaceuticals are accepted by the transporter forwarding the hazardous waste shipment from the designated facility to the alternate facility.

[2] A reverse distributor shall submit an exception report to the department if it has not received a copy of the manifest with the signature of the owner or operator of the alternate facility within forty-five days of the date the evaluated hazardous waste pharmaceuticals were accepted by the initial transporter. The forty-five-day time frame begins the date the evaluated hazardous waste pharmaceuticals are accepted by the transporter forwarding the hazardous waste pharmaceutical shipment from the designated facility to the alternate facility. The exception report 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 reverse distributor, or its authorized representative, explaining the efforts taken to locate the evaluated hazardous waste pharmaceuticals and the results of those efforts.

j. Recordkeeping by a reverse distributor for evaluated hazardous waste pharmaceuticals.

- (1) A reverse distributor must keep a log, written or electronic, of the inspections of the onsite accumulation area, required by subdivision b of subsection 2. This log must be retained as a record for at least three years from the date of inspection.
- (2) A reverse distributor shall keep a copy of each manifest signed in accordance with subsection 1 of section 33.1-24-03-07 for three years or until it receives a signed copy from the designated facility that received the evaluated hazardous waste pharmaceutical. This signed copy must be retained as a record for at least three years from the date the evaluated hazardous waste pharmaceutical was accepted by the initial transporter.
- (3) A reverse distributor shall keep a copy of each biennial report for at least three years from the due date of the report.
- (4) A reverse distributor shall keep a copy of each exception report for at least three years from the submission of the report.
- (5) A reverse distributor shall keep records to document personnel training, in accordance with paragraph 5 of subdivision g of subsection 1 of section 33.1-24-03-29.
- (6) All records must be readily available upon request by an inspector. 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.

4. **When a reverse distributor must have a permit.** A reverse distributor is an operator of a hazardous waste treatment, storage, or disposal facility and is subject to the requirements of chapters 33.1-24-03 through 33.1-24-07, if the reverse distributor:

- a. Does not meet the conditions of this section;
- b. Accepts manifested hazardous waste from offsite; or
- c. Treats or disposes of hazardous waste pharmaceuticals onsite.

**History:** Effective July 1, 2021.

**General Authority:** NDCC 23.1-04-03

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

#### **33.1-24-05-525. Applicability to hazardous waste burned in boilers and industrial furnaces.**

1. The regulations of sections 33.1-24-05-525 through 33.1-24-05-549 apply to hazardous waste burned or processed in a boiler or industrial furnace (as defined in section 33.1-24-01-04) irrespective of the purpose of burning or processing, except as provided by subsections 2, 3, 4, 7, and 8. In sections 33.1-24-05-525 through 33.1-24-05-549, the term "burn" means burning for energy recovery or destruction, or processing for materials recovery or as an ingredient. The emissions standards of sections 33.1-24-05-529 through 33.1-24-05-532 apply to facilities operating under interim status or under a hazardous waste operating permit as specified in sections 33.1-24-05-527 and 33.1-24-05-528.
2. Integration of the maximum achievable control technology standards.
  - a. Except as provided by subdivisions b through d, the standards of sections 33.1-24-05-525 through 33.1-24-05-549 do not apply to a new hazardous waste boiler or industrial furnace unit that becomes subject to hazardous waste permit requirements after October 12, 2005; or no longer apply when an owner or operator of an existing

hazardous waste boiler or industrial furnace unit demonstrates compliance with the maximum achievable control technology requirements of 40 CFR part 63, subpart EEE, by conducting a comprehensive performance test and submitting to the department a notification of compliance under 40 CFR sections 63.1207(j) and 63.1210(d) documenting compliance with the requirements of 40 CFR part 63, subpart EEE. Nevertheless, even after this demonstration of compliance with the maximum achievable control technology standards, hazardous waste permit conditions that were based on the standards of sections 33.1-24-05-525 through 33.1-24-05-549 will continue to be in effect until they are removed from the permit or the permit is terminated or revoked, unless the permit expressly provides otherwise.

- b. The following standards continue to apply:
    - (1) If a permittee elects to comply with paragraph 1 of subdivision a of subsection 1 of section 33.1-24-06-100 to minimize emissions of toxic compounds from startup, shutdown, and malfunction events, subdivision a of subsection 5 of section 33.1-24-05-527 requiring operations in accordance with the operating requirements specified in the permit at all times that hazardous waste is in the unit, and paragraph 3 of subdivision b of subsection 5 of section 33.1-24-05-527 requiring compliance with the emission standards and operating requirements during startup and shutdown if hazardous waste is in the combustion chamber, except for particular hazardous wastes. These provisions apply only during startup, shutdown, and malfunction events;
    - (2) The closure requirements of subdivision k of subsection 5 of section 33.1-24-05-527 and subsection 12 of section 33.1-24-05-528;
    - (3) The standards for direct transfer of section 33.1-24-05-536;
    - (4) The standards for regulation of residues of section 33.1-24-05-537; and
    - (5) The applicable requirements of sections 33.1-24-05-01 through 33.1-24-05-88, 33.1-24-05-420 through 33.1-24-05-474, and subsection 5 of section 33.1-24-06-16.
  - c. The owner or operator of a boiler or hydrochloric acid production furnace that is an area source under 40 CFR section 63.2 and the owner or operator elects not to comply with the emission standards under 40 CFR sections 63.1216, 63.1217, and 63.1218 for particulate matter, semivolatile and low volatile metals, and total chlorine, the owner or operator also remains subject to:
    - (1) Section 33.1-24-05-530 - Standards to control particulate matter;
    - (2) Section 33.1-24-05-531 - Standards to control metals emissions, except for mercury; and
    - (3) Section 33.1-24-05-532 - Standards to control hydrogen chloride and chlorine gas.
  - d. The particulate matter standard of section 33.1-24-05-530 remains in effect for boilers that elect to comply with the alternative to the particulate matter standard under 40 CFR sections 63.1216(e) and 63.1217(e).
3. The following hazardous wastes and facilities are not subject to regulation under sections 33.1-24-05-525 through 33.1-24-05-549:
    - a. Used oil burned for energy recovery that is also hazardous waste solely because it exhibits a characteristic of hazardous waste identified in sections 33.1-24-02-10 through

- 33.1-24-02-14. Such used oil is subject to regulation under sections 33.1-24-05-600 through 33.1-24-05-689;
- b. Gas recovered from hazardous or solid waste landfills when such gas is burned for energy recovery;
  - c. Hazardous wastes that are exempt from regulation under section 33.1-24-02-04 and paragraphs 4 through 6 of subdivision c of subsection 1 of section 33.1-24-02-06, and hazardous wastes that are subject to the special requirements for conditionally exempt small quantity generators under section ~~33.1-24-02-05~~[33.1-24-03-26](#); and
  - d. Coke ovens, if the only hazardous waste burned is hazardous waste number K087, decanter tank tar sludge from coking operations.
4. Owners and operators of smelting, melting, and refining furnaces (including pyrometallurgical devices such as cupolas, sintering machines, roasters, and foundry furnaces, but not including cement kilns, aggregate kilns, or halogen acid furnaces burning hazardous waste) that process hazardous waste solely for metal recovery are conditionally exempt from regulation under sections 33.1-24-05-525 through 33.1-24-05-549, except for sections 33.1-24-05-526 and 33.1-24-05-537.
- a. To be exempt from sections 33.1-24-05-527 through 33.1-24-05-536, an owner or operator of a metal recovery furnace or mercury recovery furnace must comply with the following requirements, except that an owner or operator of a lead or a nickel-chromium recovery furnace, or a metal recovery furnace that burns baghouse bags used to capture metallic dusts emitted by steel manufacturing, must comply with the requirements of subdivision c, and owners or operators of lead recovery furnaces that are subject to regulation under the secondary lead smelting national emission standard for hazardous air pollutants must comply with the requirements of subsection 8:
    - (1) Provide a one-time written notice to the department indicating the following:
      - (a) The owner or operator claims exemption under this subsection;
      - (b) The hazardous waste is burned solely for metal recovery consistent with the provisions of subdivision b;
      - (c) The hazardous waste contains recoverable levels of metals; and
      - (d) The owner or operator will comply with the sampling and analysis and recordkeeping requirements of this subsection;
    - (2) Sample and analyze the hazardous waste and other feedstocks as necessary to comply with the requirements of this subsection by using appropriate methods; and
    - (3) Maintain at the facility for at least three years records to document compliance with the provisions of this subsection, including limits on levels of toxic organic constituents and British thermal unit value of the waste, and levels of recoverable metals in the hazardous waste compared to normal nonhazardous waste feedstocks.
  - b. A hazardous waste meeting either of the following criteria is not processed solely for metal recovery:
    - (1) The hazardous waste has a total concentration of organic compounds listed in appendix V of chapter 33.1-24-02 exceeding five hundred parts per million by weight, as-fired, and so is considered to be burned for destruction. The

concentration of organic compounds in a waste as-generated may be reduced to the five hundred parts per million limit by bona fide treatment that removes or destroys organic constituents. Blending for dilution to meet the five hundred parts per million limit is prohibited and documentation that the waste has not been impermissibly diluted must be retained in the records required by paragraph 3 of subdivision a; or

- (2) The hazardous waste has a heating value of five thousand British thermal units per pound or more, as-fired, and so is considered to be burned as fuel. The heating value of a waste as-generated may be reduced to below the five thousand British thermal units per pound limit by bona fide treatment that removes or destroys organic constituents. Blending for dilution to meet the five thousand British thermal units per pound limit is prohibited and documentation that the waste has not been impermissibly diluted must be retained in the records required by paragraph 3 of subdivision a.
- c. To be exempt from sections 33.1-24-05-527 through 33.1-24-05-536, an owner or operator of a lead or nickel-chromium or mercury recovery furnace (except for owners or operators of lead recovery furnaces subject to regulation under the secondary lead smelting national emission standards for hazardous air pollutants), or a metal recovery furnace that burns baghouse bags used to capture metallic dusts emitted by steel manufacturing, must provide a one-time written notice to the department identifying each hazardous waste burned and specifying whether the owner or operator claims an exemption for each waste under this subdivision or subdivision a. The owner or operator must comply with the requirements of subdivision a for those wastes claimed to be exempt under that subdivision and must comply with the requirements below for those wastes claimed to be exempt under subdivision a and must comply with the requirements below for those wastes claimed to be exempt under this subdivision.
- (1) The hazardous wastes listed in appendices XXVI, XXVII, and XXVIII of chapter 33.1-24-05, and baghouse bags used to capture metallic dusts emitted by steel manufacturing are exempt from the requirements of subdivision a, provided that:
    - (a) A waste listed in appendix XXVI must contain recoverable levels of lead, a waste listed in appendix XXVII must contain recoverable levels of nickel or chromium, a waste listed in appendix XXVIII must contain recoverable levels of mercury and contain less than five hundred parts per million organic constituents listed in appendix V of chapter 33.1-24-02 and baghouse bags used to capture metallic dusts emitted by steel manufacturing must contain recoverable levels of metal;
    - (b) The waste does not exhibit the toxicity characteristic of section 33.1-24-02-14 for an organic constituent;
    - (c) The waste is not a hazardous waste listed in sections 33.1-24-02-15 through 33.1-24-02-19 because it is listed for an organic constituent as identified in appendix IV of chapter 33.1-24-02; and
    - (d) The owner or operator certifies in the one-time notice that hazardous waste is burned under the provisions of subdivision c and that sampling and analysis will be conducted or other information will be obtained as necessary to ensure continued compliance with these requirements. Sampling and analysis shall be conducted according to paragraph 2 of subdivision a and records to document compliance with subdivision c shall be kept for at least three years.

- (2) The department may decide on a case-by-case basis that the toxic organic constituents in a material listed in appendix XXVI, XXVII, or XXVIII of chapter 33.1-24-05 that contains a total concentration of more than five hundred parts per million toxic organic compounds listed in appendix V of chapter 33.1-24-02, may pose a hazard to human health and the environment when burned in a metal recovery furnace exempt from the requirements of sections 33.1-24-05-525 through 33.1-24-05-549. In that situation, after adequate notice and opportunity for comment, the metal recovery furnace will become subject to the requirements of sections 33.1-24-05-525 through 33.1-24-05-549 when burning that material. In making the hazard determination, the department will consider the following factors:
    - (a) The concentration and toxicity of organic constituents in the material;
    - (b) The level of destruction of toxic organic constituents provided by the furnace; and
    - (c) Whether the acceptable ambient levels established in appendix XIX or XX of chapter 33.1-24-05 may be exceeded for any toxic organic compound that may be emitted based on dispersion modeling to predict the maximum annual average offsite ground level concentration.
5. The standards for direct transfer operations under section 33.1-24-05-536 apply only to facilities subject to the permit standards of section 33.1-24-05-527 or the interim status standards of section 33.1-24-05-528.
6. The management standards for residues under section 33.1-24-05-537 apply to any boiler or industrial furnace burning hazardous waste.
7. Owners and operators of smelting, melting, and refining furnaces (including pyrometallurgical devices such as cupolas, sintering machines, roasters, and foundry furnaces) that process hazardous waste for recovery of economically significant amounts of the precious metals gold, silver, platinum, palladium, irridium, osmium, rhodium, or ruthenium, or any combination of these are conditionally exempt from regulation under sections 33.1-24-05-525 through 33.1-24-05-549, except for section 33.1-24-05-537. To be exempt from sections 33.1-24-05-526 through 33.1-24-05-536, an owner or operator must:
  - a. Provide a one-time written notice to the department indicating the following:
    - (1) The owner or operator claims exemption under this subsection;
    - (2) The hazardous waste is burned for legitimate recovery of precious metal; and
    - (3) The owner or operator will comply with the sampling and analysis and recordkeeping requirements of this subsection;
  - b. Sample and analyze the hazardous waste as necessary to document that the waste contains economically significant amounts of the metals and that the treatment recovers economically significant amounts of precious metals; and
  - c. Maintain at the facility, for at least three years, records to document that all hazardous wastes burned are burned for recovery of economically significant amounts of precious metal.
8. Starting June 23, 1997, owners or operators of lead recovery furnaces that process hazardous waste for recovery of lead and that are subject to regulation under the secondary lead smelting national emission standards for hazardous air pollutants are conditionally exempt from regulation under sections 33.1-24-05-525 through 33.1-24-05-549, except for section

33.1-24-05-526. To be exempt, an owner or operator must provide a one-time notice to the department identifying each hazardous waste burned and specifying that the owner or operator claims an exemption under this subsection. The notice also must state that the waste burned has a total concentration of nonmetal compounds listed in appendix V of chapter 33.1-24-02 of less than five hundred parts per million by weight as fired and as provided in paragraph 1 of subdivision b of subsection 4, or is listed in appendix XXVI of chapter 33.1-24-05.

**History:** Effective January 1, 2019; [amended effective July 1, 2021.](#)

**General Authority:** NDCC 23.1-04-03; S.L. 2017, ch. 199, § 1

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05, 23.1-04-16; S.L. 2017, ch. 199, § 19

**33.1-24-05-533. Small quantity onsite burner exemption.**

1. Exempt quantities. Owners and operators of facilities that burn hazardous waste in an onsite boiler or industrial furnace are exempt from the requirements of sections 33.1-24-05-525 through 33.1-24-05-549 provided that:
  - a. The quantity of hazardous waste burned in a device for a calendar month does not exceed the limits provided in the following table based on the terrain-adjusted effective stack height as defined in subdivision c of subsection 2 of section 33.1-24-05-531:

Exempt Quantities for Small Quantity Burner Exemption			
Terrain-Adjusted Effective Stack Height of Device (Meters)	Allowable Hazardous Waste Burning Rate (Gallons/Month)	Terrain-Adjusted Effective Stack Height of Device (Meters)	Allowable Hazardous Waste Burning Rate (Gallons/Month)
0 to 3.9	0	40.0 to 44.9	210
4.0 to 5.9	13	45.0 to 49.9	260
6.0 to 7.9	18	50.0 to 54.9	330
8.0 to 9.9	27	55.0 to 59.9	400
10.0 to 11.9	40	60.0 to 64.9	490
12.0 to 13.9	48	65.0 to 69.9	610
14.0 to 15.9	59	70.0 to 74.9	680
16.0 to 17.9	69	75.0 to 79.9	760
18.0 to 19.9	76	80.0 to 84.9	850
20.0 to 21.9	84	85.0 to 89.9	960
22.0 to 23.9	93	90.0 to 94.9	1,100
24.0 to 25.9	100	95.0 to 99.9	1,200
26.0 to 27.9	110	100.0 to 104.9	1,300
28.0 to 29.9	130	105.0 to 109.9	1,500
30.0 to 34.9	140	110.0 to 114.9	1,700
35.0 to 39.9	170	115.0 or greater	1,900

- b. The maximum hazardous waste firing rate does not exceed at any time one percent of the total fuel requirements for the device (hazardous waste plus other fuel) on a total heat input or mass input basis, whichever results in the lower mass feed rate of hazardous waste;

- c. The hazardous waste has a minimum heating value of five thousand British thermal units per pound as generated; and
  - d. The hazardous waste fuel does not contain (and is not derived from) hazardous waste number F020, F021, F022, F023, F026, or F027.
2. Mixing with nonhazardous fuels. If hazardous waste fuel is mixed with a nonhazardous fuel, the quantity of hazardous waste before such mixing is used to comply with subsection 1.
  3. Multiple stacks. If an owner or operator burns hazardous waste in more than one onsite boiler or industrial furnace exempt under this section, the quantity limits provided by subdivision a of subsection 1 are implemented according to the following equation:

$$\sum_{i=1}^n \frac{\text{Actual Quantity Burned}_{(i)}}{\text{Allowable Quantity Burned}_{(i)}} \leq 1.0$$

where:

n = number of stacks;

Actual quantity burned means the waste quantity burned per month in device "i";

Allowable quantity burned means the maximum allowable exempt quantity for stack "i" from the table in subdivision a of subsection 1.

Note: Hazardous wastes that are subject to the special requirements for very small quantity generators under section ~~33.1-24-02-05~~33.1-24-03-26 may be burned in an offsite device under the exemption provided by section 33.1-24-05-533, but must be included in the quantity determination for the exemption.

4. Notification requirements. The owner or operator of facilities qualifying for the small quantity burner exemption under this section must provide a one-time signed, written notice to the department indicating the following:
  - a. The combustion unit is operating as a small quantity burner of hazardous waste;
  - b. The owner and operator are in compliance with the requirements of this section; and
  - c. The maximum quantity of hazardous waste that the facility may burn per month as provided by subdivision a of subsection 1.
5. Recordkeeping requirements. The owner or operator must maintain at the facility for at least three years sufficient records documenting compliance with the hazardous waste quantity, firing rate, and heating value limits. At a minimum, these records must indicate the quantity of hazardous waste and other fuel burned in each unit per calendar month, and the heating value of the hazardous waste.

**History:** Effective January 1, 2019; amended effective July 1, 2021.

**General Authority:** NDCC 23.1-04-03; S.L. 2017, ch. 199, § 1

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

### **33.1-24-05-610. Applicability of used oil standards.**

This section identifies those materials that are subject to regulation as used oil under sections 33.1-24-05-600 through 33.1-24-05-689. This section also identifies some materials that are not subject

to regulation as used oil under sections 33.1-24-05-600 through 33.1-24-05-689, and indicates whether these materials may be subject to regulation as hazardous waste under article 33.1-24.

1. **Used oil.** The department presumes that used oil is to be recycled unless a used oil handler disposes of used oil or sends used oil for disposal. Except as provided in section 33.1-24-05-611, the regulations of sections 33.1-24-05-600 through 33.1-24-05-689 apply to used oil, and to materials identified in this section as being subject to regulation as used oil, whether or not the used oil or material exhibits any characteristics of hazardous waste identified in sections 33.1-24-02-10 through 33.1-24-02-14.
2. **Mixtures of used oil and hazardous waste.**
  - a. **Listed hazardous waste.**
    - (1) Mixtures of used oil and hazardous waste that is listed in sections 33.1-24-02-15 through 33.1-24-02-19 are subject to regulation as hazardous waste under chapters 33.1-24-01 through 33.1-24-04, chapters 33.1-24-06 and 33.1-24-07, and sections 33.1-24-05-01 through 33.1-24-05-559, and 33.1-24-05-800 through 33.1-24-05-929, rather than as used oil under sections 33.1-24-05-600 through 33.1-24-05-689.
    - (2) Rebuttable presumption for used oil. Used oil containing greater than or equal to one thousand parts per million total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in sections 33.1-24-02-15 through 33.1-24-02-19. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (for example, by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in appendix V of chapter 33.1-24-02).
      - (a) The rebuttable presumption does not apply to metalworking oils or fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in subsection 3 of section 33.1-24-05-624, to reclaim metalworking oils or fluids. The presumption does apply to metalworking oils or fluids if such oils or fluids are recycled in any other manner, or disposed.
      - (b) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons removed from refrigeration units where the chlorofluorocarbons are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with chlorofluorocarbons that have been mixed with used oil from sources other than refrigeration units.
  - b. **Characteristic hazardous waste.** Mixtures of used oil and hazardous waste that solely exhibit one or more of the hazardous waste characteristics identified in sections 33.1-24-02-10 through 33.1-24-02-14 and mixtures of used oil and hazardous waste that is listed in sections 33.1-24-02-15 through 33.1-24-02-19 solely because it exhibits one or more of the characteristics of hazardous waste identified in sections 33.1-24-02-10 through 33.1-24-02-14 are subject to:
    - (1) Except as provided in paragraph 3, regulation as hazardous waste under chapters 33.1-24-01 through 33.1-24-04, chapters 33.1-24-06 and 33.1-24-07, and sections 33.1-24-05-01 through 33.1-24-05-559 and 33.1-24-05-800 through 33.1-24-05-929, rather than as used oil under sections 33.1-24-05-600 through 33.1-24-05-689, if the resultant mixture exhibits any characteristics of hazardous waste identified in sections 33.1-24-02-10 through 33.1-24-02-14; or

- (2) Except as specified in paragraph 3, regulation as used oil under sections 33.1-24-05-600 through 33.1-24-05-689, if the resultant mixture does not exhibit any characteristics of hazardous waste identified under sections 33.1-24-02-10 through 33.1-24-02-14.
  - (3) Regulation as used oil under sections 33.1-24-05-600 through 33.1-24-05-689, if the mixture is of used oil and a waste which is hazardous solely because it exhibits the characteristic of ignitability, for example, ignitable-only mineral spirits, provided that the resultant mixture does not exhibit the characteristic of ignitability under section 33.1-24-02-11.
- c. Very small quantity generator hazardous waste. Mixtures of used oil and very small quantity generator hazardous waste regulated under section ~~33.1-24-02-05~~[33.1-24-03-26](#) are subject to regulation as used oil under sections 33.1-24-05-600 through 33.1-24-05-689.

**3. Materials containing or otherwise contaminated with used oil.**

- a. Except as provided in subdivision b, materials containing or otherwise contaminated with used oil from which the used oil has been properly drained or removed to the extent possible such that no visible signs of free-flowing oil remain in or on the material:
  - (1) Are not used oil and thus not subject to sections 33.1-24-05-600 through 33.1-24-05-689, and
  - (2) If applicable are subject to the hazardous waste regulations of chapters 33.1-24-01 through 33.1-24-04, chapters 33.1-24-06 and 33.1-24-07, and sections 33.1-24-05-01 through 33.1-24-05-559 and 33.1-24-05-800 through 33.1-24-05-929.
- b. Materials containing or otherwise contaminated with used oil that are burned for energy recovery are subject to regulation as used oil under sections 33.1-24-05-600 through 33.1-24-05-689.
- c. Used oil drained or removed from materials containing or otherwise contaminated with used oil is subject to regulation as used oil under sections 33.1-24-05-600 through 33.1-24-05-689.

**4. Mixtures of used oil with products.**

- a. Except as provided in subdivision b, mixtures of used oil and fuels or other fuel products are subject to regulation as used oil under sections 33.1-24-05-600 through 33.1-24-05-689.
- b. Mixtures of used oil and diesel fuel mixed onsite by the generator of the used oil for use in the generator's own vehicles are not subject to sections 33.1-24-05-600 through 33.1-24-05-689 once the used oil and diesel fuel have been mixed. Prior to mixing, the used oil is subject to the requirements of sections 33.1-24-05-620 through 33.1-24-05-629.

**5. Materials derived from used oil.**

- a. Materials that are reclaimed from used oil that are used beneficially and are not burned for energy recovery or used in a manner constituting disposal (for example, re-refined lubricants) are:
  - (1) Not used oil and thus are not subject to sections 33.1-24-05-600 through 33.1-24-05-689; and

- (2) Not solid wastes and are thus not subject to the hazardous waste regulations of chapters 33.1-24-01 through 33.1-24-04, chapters 33.1-24-06 and 33.1-24-07, and sections 33.1-24-05-01 through 33.1-24-05-559 and 33.1-24-05-800 through 33.1-24-05-929 as provided in paragraph a of subdivision b of subsection 3 of section 33.1-24-02-03.
  - b. Materials produced from used oil that are burned for energy recovery (for example, used oil fuels) are subject to regulation as used oil under sections 33.1-24-05-600 through 33.1-24-05-689.
  - c. Except as provided in subdivision d, materials derived from used oil that are disposed of or used in a manner constituting disposal are:
    - (1) Not used oil and thus are not subject to sections 33.1-24-05-600 through 33.1-24-05-689; and
    - (2) Are solid wastes and thus are subject to the hazardous waste regulations of chapters 33.1-24-01 through 33.1-24-04, chapters 33.1-24-06 and 33.1-24-07, and sections 33.1-24-05-01 through 33.1-24-05-559 and 33.1-24-05-800 through 33.1-24-05-929 if the materials are listed or identified as hazardous wastes.
  - d. Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products are not subject to sections 33.1-24-05-600 through 33.1-24-05-689.
6. **Wastewater.** Wastewater, the discharge of which is subject to regulation under either section 402 or section 307(b) of the Clean Water Act (including wastewaters at facilities which have eliminated the discharge of wastewater), contaminated with de minimis quantities of used oil are not subject to the requirements of sections 33.1-24-05-600 through 33.1-24-05-689. For purposes of this subsection, de minimis quantities of used oils are defined as small spills, leaks, or drippings from pumps, machinery, pipes, and other similar equipment during normal operations or small amounts of oil lost to the wastewater treatment system during washing or draining operations. This exception will not apply if the used oil is discarded as a result of abnormal manufacturing operations resulting in substantial leaks, spills, or other releases, or to used oil recovered from wastewaters.
7. **Used oil introduced into crude oil pipelines or a petroleum refining facility.**
  - a. Used oil mixed with crude oil or natural gas liquids (for example, in a production separator or crude oil stock tank) for insertion into a crude oil pipeline is exempt from the requirements of sections 33.1-24-05-600 through 33.1-24-05-689. The used oil is subject to the requirements of sections 33.1-24-05-600 through 33.1-24-05-689 prior to the mixing of used oil with crude oil or natural gas liquids.
  - b. Mixtures of used oil and crude oil or natural gas liquids containing less than one percent used oil that are being stored or transported to a crude oil pipeline or petroleum refining facility for insertion in the refining process at a point prior to crude distillation or catalytic cracking are exempt from the requirements of sections 33.1-24-05-600 through 33.1-24-05-689.
  - c. Used oil that is inserted into the petroleum refining facility process before crude distillation or catalytic cracking without prior mixing with crude oil is exempt from the requirements of sections 33.1-24-05-600 through 33.1-24-05-689 provided that the used oil constitutes less than one percent of the crude oil feed to any petroleum refining facility process unit at any given time. Prior to insertion in the petroleum refining facility process, the used oil is subject to the requirements of sections 33.1-24-05-600 through 33.1-24-05-689.

- d. Except as provided in subdivision e, used oil that is introduced into a petroleum refining facility process after crude distillation or catalytic cracking is exempt from the requirements of sections 33.1-24-05-600 through 33.1-24-05-689 only if the used oil meets the specification of section 33.1-24-05-611. Prior to insertion in the petroleum refining facility process, the used oil is subject to the requirements of sections 33.1-24-05-600 through 33.1-24-05-689.
  - e. Used oil that is incidentally captured by a hydrocarbon recovery system or wastewater treatment system as part of routine process operations at a petroleum refining facility and inserted into the petroleum refining facility process is exempt from the requirements of sections 33.1-24-05-600 through 33.1-24-05-689. This exemption does not extend to used oil which is intentionally introduced into a hydrocarbon recovery system (for example, by pouring collected used oil into the wastewater treatment system).
  - f. Tank bottoms from stock tanks containing exempt mixtures of used oil and crude oil or natural gas liquids are exempt from the requirements of sections 33.1-24-05-600 through 33.1-24-05-689.
8. **Used oil on vessels.** Used oil produced on vessels from normal shipboard operations is not subject to sections 33.1-24-05-600 through 33.1-24-05-689 until it is transported ashore.
9. **Used oil containing polychlorinated biphenyls.** Used oil containing polychlorinated biphenyls (as defined at 40 CFR 761.3) at any concentration less than fifty parts per million is subject to the requirements of sections 33.1-24-05-600 through 33.1-24-05-689 unless, because of dilution, it is regulated under 40 CFR part 761 as a used oil containing polychlorinated biphenyls at fifty parts per million or greater. Polychlorinated biphenyl-containing used oil subject to the requirements of sections 33.1-24-05-600 through 33.1-24-05-689 may also be subject to the prohibitions and requirements found at 40 CFR part 761, including section 761.20(d) and (e). Used oil containing polychlorinated biphenyls at concentrations of fifty parts per million or greater is not subject to the requirements of sections 33.1-24-05-600 through 33.1-24-05-689, but is subject to regulations under 40 CFR part 761. No person may avoid these provisions by diluting used oil containing polychlorinated biphenyls, unless otherwise specifically provided for in sections 33.1-24-05-600 through 33.1-24-05-689 or 40 CFR part 761.

**History:** Effective January 1, 2019; amended effective July 1, 2020; [July 1, 2021](#).

**General Authority:** NDCC 23.1-04-03; S.L. 2017, ch. 199, § 1

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

### **33.1-24-05-701. Scope of universal waste rule.**

- 1. Sections 33.1-24-05-700 through 33.1-24-05-799 establish requirements for managing the following:
  - a. Batteries as described in section 33.1-24-05-702;
  - b. Pesticides as described in section 33.1-24-05-703;
  - c. Mercury-containing equipment as described in section 33.1-24-05-704; ~~and~~
  - d. Lamps as described in section 33.1-24-05-705; [and](#)
  - [e. Aerosol cans as described in section 33.1-24-05-706.](#)
- 2. Sections 33.1-24-05-700 through 33.1-24-05-799 provide an alternative set of management standards in lieu of regulation under chapters 33.1-24-01 through 33.1-24-04, chapter

33.1-24-06, sections 33.1-24-05-01 through 33.1-24-05-559, and 33.1-24-05-800 through 33.1-24-05-1149.

**History:** Effective January 1, 2019; amended effective July 1, 2021.

**General Authority:** NDCC 23.1-04-03; S.L. 2017, ch. 199, § 1

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

### **33.1-24-05-703. Applicability - Pesticides.**

1. **Pesticides covered under sections 33.1-24-05-700 through 33.1-24-05-799.** The requirements of sections 33.1-24-05-700 through 33.1-24-05-799 apply to persons managing pesticides, as described in section 33.1-24-01-04, meeting the following conditions, except those listed in subsection 2:
  - a. Recalled pesticides that are:
    - (1) Stocks of a suspended and canceled pesticide that are part of a voluntary or mandatory recall under federal Insecticide, Fungicide, and Rodenticide Act section 19(b), including those owned by the registrant responsible for conducting the recall; or
    - (2) Stocks of a suspended or canceled pesticide, or a pesticide that is not in compliance with Federal Insecticide, Fungicide, and Rodenticide Act, that are part of a voluntary recall by the registrant.
  - b. Stocks of other unused pesticide products that are collected and managed as part of a waste pesticide collection program.
2. **Pesticides not covered under sections 33.1-24-05-700 through 33.1-24-05-799.** The requirements of sections 33.1-24-05-700 through 33.1-24-05-799 do not apply to persons managing the following pesticides:
  - a. Recalled pesticides described in subdivision a of subsection 1, and unused pesticide products described in subdivision b of subsection 1, that are managed by farmers in compliance with section 33.1-24-03-40.
  - b. Pesticides not meeting the conditions set forth in subsection 1. These pesticides must be managed in compliance with the hazardous waste regulations in chapters 33.1-24-01 through 33.1-24-04, chapter 33.1-24-06, sections 33.1-24-05-01 through 33.1-24-05-559, and 33.1-24-05-800 through 33.1-24-05-1149, except that aerosol cans as defined in section 33.1-24-05-709 that contain pesticides may be managed as aerosol can universal waste under subsection 5 of section 33.1-24-05-713 or subsection 5 of section 33.1-24-05-733;
  - c. Pesticides that are not wastes under chapter 33.1-24-02, including those that do not meet the criteria for waste generation in subsection 3 or those that are not wastes as described in subsection 4; and
  - d. Pesticides that are not hazardous waste. A pesticide is a hazardous waste if it is listed in sections 33.1-24-02-15 through 33.1-24-02-19 or if it exhibits one or more of the characteristics identified in sections 33.1-24-02-10 through 33.1-24-02-14.
3. **When a pesticide becomes a waste.**
  - a. A recalled pesticide described in subdivision a of subsection 1 becomes a waste on the first date on which both of the following conditions apply:

- (1) The generator of the recalled pesticide agrees to participate in the recall; and
  - (2) The person conducting the recall decides to discard the pesticide (for example, burn the pesticide for energy recovery).
- b. An unused pesticide product described in subdivision b of subsection 1 becomes a waste on the date the generator decides to discard it.
4. **Pesticides that are not wastes.** The following pesticides are not wastes:
- a. Recalled pesticides described in subdivision a of subsection 1 provided that the person conducting the recall:
    - (1) Has not made a decision to discard the pesticide (for example, burn for energy recovery). Until such a decision is made, the pesticide does not meet the definition of "solid waste" under section 33.1-24-02-02; thus the pesticide is not a hazardous waste and is not subject to hazardous waste requirements, including sections 33.1-24-05-700 through 33.1-24-05-799. This pesticide remains subject to the requirements of Federal Insecticide, Fungicide, and Rodenticide Act; or
    - (2) Has made a decision to use a management option that, under section 33.1-24-02-02, does not cause the pesticide to be a solid waste (for example, the selected option is use (other than use constituting disposal) or reuse (other than burning for energy recovery) or reclamation). Such a pesticide is not a solid waste and therefore is not a hazardous waste, and is not subject to hazardous waste requirements including sections 33.1-24-05-700 through 33.1-24-05-799. This pesticide, including a recalled pesticide that is exported to a foreign destination for use or reuse, remains subject to the requirements of Federal Insecticide, Fungicide, and Rodenticide Act.
  - b. Unused pesticide products described in subdivision b of subsection 1, if the generator of the unused pesticide product has not decided to discard them (for example, burn for energy recovery). These pesticides remain subject to the requirements of Federal Insecticide, Fungicide, and Rodenticide Act.

**History:** Effective January 1, 2019; amended effective July 1, 2021.

**General Authority:** NDCC 23.1-04-03; S.L. 2017, ch. 199, § 1

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

**33.1-24-05-706. ~~Reserved~~ Applicability - Aerosol cans.**

1. Aerosol cans covered under sections 33.1-24-05-700 through 33.1-24-05-799. Aerosol cans covered under sections 33.1-24-05-700 through 33.1-24-05-799 apply to persons managing aerosol cans as described in 33.1-24-05-709, except those listed in subsection 2.

2. Aerosol cans not covered under sections 33.1-24-05-700 through 33.1-24-05-799. The requirements of sections 33.1-24-05-700 through 33.1-24-05-799 do not apply to persons managing the following types of aerosol cans:

a. Aerosol cans that are not yet waste under section 33.1-24-02-02. Subsection 3 describes when aerosol cans become waste;

b. Aerosol cans that are not hazardous waste. An aerosol can is a hazardous waste if the aerosol can exhibits one or more of the characteristics identified in sections 33.1-24-02-10 through 33.1-24-02-14, or the aerosol can contains a substance listed in sections 33.1-24-02-15 through 33.1-24-02-18; and

c. Aerosol cans that meet the standard for empty containers under section 33.1-24-02-07.

**3. Generation of waste aerosol cans.**

a. A used aerosol can becomes a waste on the date it is discarded.

b. An unused aerosol can becomes a waste on the date the handler decides to discard it.

**History:** Effective July 1, 2021.

**General Authority:** NDCC 23.1-04-03

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

**33.1-24-05-708. Applicability - Household and very small quantity generator waste.**

1. Persons managing the wastes listed below may, at their option, manage them under the requirements of sections 33.1-24-05-700 through 33.1-24-05-799:
  - a. Household wastes that are exempt under subdivision a of subsection 2 of section 33.1-24-02-04 and are also of the same type as the universal wastes defined in section 33.1-24-01-04; or
  - b. Very small quantity generator wastes that are exempt under section ~~33.1-24-02-05~~33.1-24-03-26 and are also of the same type as the universal wastes defined in section 33.1-24-01-04.
2. Persons who commingle the wastes described in subdivisions a and b of subsection 1 together with universal waste regulated under sections 33.1-24-05-700 through 33.1-24-05-799 must manage the commingled waste under the requirements of sections 33.1-24-05-700 through 33.1-24-05-799.

**History:** Effective January 1, 2019; amended effective July 1, 2020; July 1, 2021.

**General Authority:** NDCC 23.1-04-03; S.L. 2017, ch. 199, § 1

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

**33.1-24-05-709. Definitions.**

Terms that are defined in sections 33.1-24-01-04 and 33.1-24-02-01 and chapter 33.1-24-05 have the same meanings when used in sections 33.1-24-05-700 through 33.1-24-05-799.

1. "Aerosol can" means a nonrefillable receptacle containing a gas compressed, liquefied, or dissolved under pressure, the sole purpose of which is to expel a liquid, paste, or powder and fitted with a self-closing release device allowing the contents to be ejected by the gas.
2. "Ampule" means an airtight vial made of glass, plastic, metal, or any combination of these materials.
- ~~2.3.~~ "FIFRA" means the Federal Insecticide, Fungicide and Rodenticide Act [7 United States Code 136-136y].
- ~~3.4.~~ "Large quantity handler of universal waste" means a universal waste handler (as defined in section 33.1-24-01-04) who accumulates five thousand kilograms or more total of universal waste (batteries, pesticides, lamps, ~~or~~ mercury-containing equipment, or aerosol cans calculated collectively) at any time. This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which the five thousand kilogram limit is met or exceeded.
- ~~4.5.~~ "Small quantity handler of universal waste" means a universal waste handler (as defined in section 33.1-24-01-04) who does not accumulate five thousand kilograms or more total of

universal waste (batteries, pesticides, lamps, ~~or~~ mercury-containing equipment, or aerosol cans calculated collectively) at any time.

**History:** Effective January 1, 2019; amended effective July 1, 2021.

**General Authority:** NDCC 23.1-04-03; S.L. 2017, ch. 199, § 1

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

### **33.1-24-05-713. Waste management.**

1. **Universal waste batteries.** A small quantity handler of universal waste must manage universal waste batteries in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
  - a. A small quantity handler of universal waste must contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
  - b. A small quantity handler of universal waste may conduct the following activities as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):
    - (1) Sorting batteries by type;
    - (2) Mixing battery types in one container;
    - (3) Discharging batteries so as to remove the electric charge;
    - (4) Regenerating used batteries;
    - (5) Disassembling batteries or battery packs into individual batteries or cells;
    - (6) Removing batteries from consumer products; or
    - (7) Removing electrolyte from batteries.
  - c. A small quantity handler of universal waste who removes electrolyte from batteries, or who generates other solid waste (for example, battery pack materials, discarded consumer products) as a result of the activities listed in subdivision b, must determine whether the electrolyte or other solid waste, or both, exhibit one or more of the characteristics of hazardous waste identified in sections 33.1-24-02-10 through 33.1-24-02-14.
    - (1) If the electrolyte or other solid waste, or both, exhibit a characteristic of hazardous waste, it is subject to all applicable requirements of chapters 33.1-24-01 through 33.1-24-04, chapter 33.1-24-06, sections 33.1-24-05-01 through 33.1-24-05-559, and 33.1-24-05-800 through 33.1-24-05-1149. The handler is considered the generator of the hazardous electrolyte or other hazardous waste, or both, and is subject to the requirements of chapter 33.1-24-03.
    - (2) If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in compliance with applicable federal, state, or local solid waste regulations.
2. **Universal waste pesticides.** A small quantity handler of universal waste must manage universal waste pesticides in a way that prevents releases of any universal waste or

component of a universal waste to the environment. The universal waste pesticides must be contained in one or more of the following:

- a. A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;
  - b. A container that does not meet the requirements of subdivision a, provided that the unacceptable container is overpacked in a container that does meet the requirements of subdivision a;
  - c. A tank that meets the requirements of sections 33.1-24-05-103 through 33.1-24-05-117, except subsection 3 of section 33.1-24-06-110 and sections 33.1-24-05-113 and 33.1-24-05-114; or
  - d. A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
3. **Mercury-containing equipment.** A small quantity handler of universal waste must manage universal waste mercury-containing equipment in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
- a. A small quantity handler of universal waste must place in a container any universal waste mercury-containing equipment with noncontained elemental mercury or that shows evidence of leakage, spillage, or damage that could cause leakage under reasonable foreseeable conditions. The container must be closed, structurally sound, compatible with the contents of the device, must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions, and must be reasonably designed to prevent the escape of mercury into the environment by volatilization or any other means.
  - b. A small quantity handler of universal waste may remove mercury-containing ampules or other reservoirs from universal waste mercury-containing equipment provided the handler:
    - (1) Removes and manages the ampules or other reservoirs in a manner designed to prevent breakage of the ampules or other reservoirs;
    - (2) Removes the ampules or other reservoirs only over or in a containment device (for example, a tray or pan sufficient to collect and contain any mercury released from an ampule or other reservoir in case of breakage);
    - (3) Ensures that a mercury cleanup system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules or other reservoirs from that containment device to a container that meets ~~the requirements of section 33.1-24-03-12~~all applicable requirements of sections 33.1-24-03-26 through 33.1-24-03-29;
    - (4) Immediately transfers any mercury resulting from spills or leaks from broken ampules or other reservoirs from the containment device to a container that meets the requirements of section ~~33.1-24-03-12~~all applicable requirements of sections 33.1-24-03-26 through 33.1-24-03-29;
    - (5) Ensures that the area in which ampules or other reservoirs are removed is well-ventilated and monitored to ensure compliance with applicable occupational safety and health administration exposure levels for mercury;

- (6) Ensures that employees removing ampules or other reservoirs are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;
  - (7) Stores removed ampules or other reservoirs in closed, nonleaking containers that are in good condition; and
  - (8) Packs removed ampules or other reservoirs in the container with packing materials adequate to prevent breakage during storage, handling, and transportation.
- c. A small quantity handler of universal waste mercury-containing equipment that does not contain an ampule or other reservoirs may remove the open original housing holding the mercury from universal waste mercury-containing equipment provided the handler:
- (1) Immediately seals the original housing holding the mercury with an airtight seal to prevent the release of any mercury to the environment; and
  - (2) Follows all requirements for removing ampules or other reservoirs and managing removed ampules or other reservoirs under subdivision b.
- d. A small quantity handler of universal waste who removes mercury containing ampules or other reservoirs from mercury-containing equipment or seals mercury from mercury-containing equipment in its original housing must:
- (1) Determine whether the following exhibit a characteristic of hazardous waste identified in sections 33.1-24-02-10 through 33.1-24-02-14:
    - (a) Mercury or cleanup residues resulting from spills or leaks;
    - (b) Other solid waste generated as a result of the removal of mercury-containing ampules or other reservoirs or housings (for example, the remaining mercury-containing device); or
    - (c) Both.
  - (2) If the mercury, residues, or other solid waste, or any combination thereof, exhibits a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of chapters 33.1-24-01 through 33.1-24-04, chapter 33.1-24-06, sections 33.1-24-05-01 through 33.1-24-05-559, and 33.1-24-05-800 through 33.1-24-05-1149. The handler is considered the generator of the mercury, residues, or other solid waste, or any combination thereof, and must manage it in compliance with chapter 33.1-24-03.
  - (3) If the mercury, residues, or other solid waste, or any combination thereof, is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state, or local solid waste regulations.
4. **Lamps.** A small quantity handler of universal waste must manage lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
- a. A small quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

- b. A small quantity handler of universal waste must immediately clean up and place in a container any lamp that is broken and must place in a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment. Containers must be closed, structurally sound, compatible with the contents of the lamps and must lack evidence of leakage, spillage, or damage that could cause leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions.

**5. Aerosol cans.** A small quantity handler of universal waste must manage universal waste aerosol cans in a way that prevents releases of any universal waste or component of a universal waste to the environment as follows:

- a. Universal waste aerosol cans must be accumulated in a container that is structurally sound, compatible with the contents of the aerosol cans, lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions, and is protected from sources of heat.
- b. Universal waste aerosol cans that show evidence of leakage must be packaged in a separate closed container or overpacked with absorbents, or immediately punctured and drained in accordance with the requirements of subdivision d.
- c. A small quantity handler of universal waste may conduct the following activities as long as each individual aerosol can is not breached and remains intact:
  - (1) Sorting aerosol cans by type;
  - (2) Mixing intact cans in one container; and
  - (3) Removing actuators to reduce the risk of accidental release.
- d. A small quantity handler of universal waste who punctures and drains their aerosol cans shall recycle the empty punctured aerosol cans and meet the following requirements while puncturing and draining universal waste aerosol cans:
  - (1) Conduct puncturing and draining activities using a device specifically designed to safely puncture aerosol cans and effectively contain the residual contents and any emissions thereof;
  - (2) Establish and follow a written procedure detailing how to safely puncture and drain the universal waste aerosol can, including proper assembly, operation, and maintenance of the unit; segregation of incompatible wastes; and proper waste management practices to prevent fires or releases;
  - (3) Maintain an onsite copy of the manufacturer's specification and instructions for any can puncturing devices used onsite;
  - (4) Ensure employees are operating can puncturing devices appropriately, and have been trained in the proper procedures;
  - (5) Ensure the puncturing of the can is done in a manner designed to prevent fires and to prevent the release of any component of universal waste to the environment. This manner includes locating the equipment on a solid, flat surface in a well-ventilated area;
  - (6) Immediately transfer the contents from the waste aerosol can or puncturing device, if applicable, to a container or tank that meets the applicable requirements of sections 33.1-24-03-26 through 33.1-24-03-29;

(7) Conduct a hazardous waste determination on the contents of the emptied aerosol can per section 33.1-24-03-02. Any hazardous waste generated as a result of puncturing and draining the aerosol can is subject to all applicable requirements of chapters 33.1-24-01 through 33.1-24-07. The handler is considered a generator of the hazardous waste and is subject to the generator requirements of chapter 33.1-24-03.

(8) If the contents are determined to be nonhazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state, or local solid waste requirements; and

(9) A written procedure must be in place in the event of a spill or leak, and a spill cleanup kit must be provided. All spills or leaks of the contents of aerosol cans must be cleaned up promptly.

6. Universal waste aerosol cans, i.e., each aerosol can, or a container in which aerosol cans are contained must be labeled or marked clearly with any of the following phrases: "Universal Waste - Aerosol Can(s)"; "Waste Aerosol Can(s)"; or "Used Aerosol Can(s)".

**History:** Effective January 1, 2019; amended effective July 1, 2021.

**General Authority:** NDCC 23.1-04-03; S.L. 2017, ch. 199, § 1

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

### **33.1-24-05-732. Notification.**

1. A large quantity handler of universal waste shall:
  - a. Except as provided in subdivisions b and c, send written notification of universal waste management activities to the department, and receive an identification number before meeting or exceeding the five thousand kilogram storage limit.
  - b. A large quantity handler of universal waste who has already notified the department of the person's hazardous waste management activities and received an identification number is not required to renotify.
  - c. A large quantity handler of universal waste who manages recalled universal waste pesticides as described in subdivision a of subsection 1 of section 33.1-24-05-703 and who has sent notification to the environmental protection agency as required by 40 CFR part 165 is not required to notify for those recalled universal waste pesticides.
2. This notification must include:
  - a. The universal waste handler's name and mailing address;
  - b. The name and business telephone number of the person at the universal waste handler's site who should be contacted regarding universal waste management activities;
  - c. The address or physical location of the universal waste management activities;
  - d. A list of all types of universal waste managed by the handler (for example, batteries, pesticides, mercury-containing equipment, lamps, and aerosol cans); and
  - e. A statement indicating that the handler is accumulating more than five thousand kilograms of universal waste at one time.

**History:** Effective January 1, 2019; amended effective July 1, 2021.

**General Authority:** NDCC 23.1-04-03; S.L. 2017, ch. 199, § 1

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

### 33.1-24-05-733. Waste management.

1. **Universal waste batteries.** A large quantity handler of universal waste must manage universal waste batteries in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
  - a. A large quantity handler of universal waste must contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
  - b. A large quantity handler of universal waste may conduct the following activities as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):
    - (1) Sorting batteries by type;
    - (2) Mixing battery types in one container;
    - (3) Discharging batteries so as to remove the electric charge;
    - (4) Regenerating used batteries;
    - (5) Disassembling batteries or battery packs into individual batteries or cells;
    - (6) Removing batteries from consumer products; or
    - (7) Removing electrolyte from batteries.
  - c. A large quantity handler of universal waste who removes electrolyte from batteries, or who generates other solid waste (for example, battery pack materials, discarded consumer products) as a result of the activities listed in subdivision b, must determine whether the electrolyte or other solid waste, or both, exhibit one or more of the characteristics of hazardous waste identified in sections 33.1-24-02-10 through 33.1-24-02-14.
    - (1) If the electrolyte or other solid waste, or both, exhibit a characteristic of hazardous waste, it is subject to all applicable requirements of chapters 33.1-24-01 through 33.1-24-04, chapter 33.1-24-06, sections 33.1-24-05-01 through 33.1-24-05-559, and 33.1-24-05-800 through 33.1-24-05-1149. The handler is considered the generator of the hazardous electrolyte or other hazardous waste and is subject to the requirements of chapter 33.1-24-03.
    - (2) If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in compliance with applicable federal, state, or local solid waste regulations.
2. **Universal waste pesticides.** A large quantity handler of universal waste must manage universal waste pesticides in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides must be contained in one or more of the following:
  - a. A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

- b. A container that does not meet the requirements of subdivision a, provided that the unacceptable container is overpacked in a container that does meet the requirements of subdivision a;
  - c. A tank that meets the requirements of sections 33.1-24-05-103 through 33.1-24-05-117, except subsection 3 of section 33.1-24-06-110 and sections 33.1-24-05-113 and 33.1-24-05-114; or
  - d. A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
3. **Mercury-containing equipment.** A large quantity handler of universal waste must manage universal waste mercury-containing equipment in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
- a. A large quantity handler of universal waste must place in a container any universal waste mercury-containing equipment with noncontained elemental mercury or that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The container must be closed, structurally sound, compatible with the contents of the device, must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions and must be reasonably designed to prevent the escape of mercury into the environment by volatilization or any other means.
  - b. A large quantity handler of universal waste may remove mercury-containing ampules or other reservoirs from universal waste mercury-containing equipment provided the handler:
    - (1) Removes and manages the ampules or other reservoirs in a manner designed to prevent breakage of the ampules or other reservoirs;
    - (2) Removes the ampules or other reservoirs only over or in a containment device (for example, tray or pan sufficient to collect and contain any mercury released from an ampule or other reservoir in case of breakage);
    - (3) Ensures that a mercury cleanup system is readily available to immediately transfer any mercury resulting from spills or leaks of broken ampules or other reservoirs from that containment device to a container that meets the requirements of ~~section 33.1-24-03-12~~all applicable requirements of sections 33.1-24-03-26 through 33.1-24-03-29;
    - (4) Immediately transfers any mercury resulting from spills or leaks from broken ampules or other reservoirs from the containment device to a container that meets the requirements of ~~section 33.1-24-03-12~~all applicable requirements of sections 33.1-24-03-26 through 33.1-24-03-29;
    - (5) Ensures that the area in which ampules or other reservoirs are removed is well-ventilated and monitored to ensure compliance with applicable occupational safety and health administration exposure levels for mercury;
    - (6) Ensures that employees removing ampules or other reservoirs are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;
    - (7) Stores removed ampules or other reservoirs in closed, nonleaking containers that are in good condition; and

- (8) Packs removed ampules or other reservoirs in the container with packing materials adequate to prevent breakage during storage, handling, and transportation.
- c. A large quantity handler of universal waste mercury-containing equipment that does not contain an ampule or other reservoirs may remove the open original housing holding the mercury from universal waste mercury-containing equipment provided the handler:
  - (1) Immediately seals the original housing holding the mercury with an airtight seal to prevent the release of any mercury to the environment; and
  - (2) Follows all requirements for removing ampules and managing removed ampules under subdivision b.
- d. A large quantity handler of universal waste who removes mercury-containing ampules or other reservoirs from mercury-containing equipment or seals mercury from mercury-containing equipment in its original housing must:
  - (1) Determine whether the following exhibit a characteristic of hazardous waste identified in sections 33.1-24-02-10 through 33.1-24-02-14:
    - (a) Mercury or cleanup residues resulting from spills or leaks;
    - (b) Other solid waste generated as a result of the removal of mercury-containing ampules or other reservoirs or housings (for example, the remaining mercury-containing device); or
    - (c) Both.
  - (2) If the mercury, residues, or other solid waste, or any combination thereof, exhibits a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of chapters 33.1-24-01 through 33.1-24-04, chapter 33.1-24-06, sections 33.1-24-05-01 through 33.1-24-05-559, and 33.1-24-05-800 through 33.1-24-05-1149. The handler is considered the generator of the mercury, residues, or other solid waste, or any combination thereof, and must manage it in compliance with chapter 33.1-24-03.
  - (3) If the mercury, residues, or other solid waste, or any combination thereof, is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state, or local solid waste regulations.
- 4. **Lamps.** A large quantity handler of universal waste must manage lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
  - a. A large quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
  - b. A large quantity handler of universal waste must immediately clean up and place in a container any lamp that is broken and must place in a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment. Containers must be closed, structurally sound, compatible with the contents of the lamps and must lack evidence of leakage, spillage, or damage that could cause leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions.

5. **Aerosol cans.** A large quantity handler of universal waste must manage universal waste aerosol cans in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
- a. Universal waste aerosol cans must be accumulated in a container that is structurally sound, compatible with the contents of the aerosol cans, lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions, and is protected from sources of heat.
  - b. Universal waste aerosol cans that show evidence of leakage must be packaged in a separate closed container or overpacked with absorbents, or immediately punctured and drained in accordance with the requirements of this subsection.
  - c. A large quantity handler of universal waste may conduct the following activities as long as each individual aerosol can is not breached and remains intact:
    - (1) Sorting aerosol cans by type;
    - (2) Mixing intact cans in one container; and
    - (3) Removing actuators to reduce the risk of accidental release.
  - d. A large quantity handler of universal waste who punctures and drains their aerosol cans shall recycle the empty punctured aerosol cans and meet the following requirements while puncturing and draining universal waste aerosol cans:
    - (1) Conduct puncturing and draining activities using a device specifically designed to safely puncture aerosol cans and effectively contain the residual contents and any emissions thereof;
    - (2) Establish and follow a written procedure detailing how to safely puncture and drain the universal waste aerosol can, including proper assembly, operation, and maintenance of the unit; segregation of incompatible wastes, and proper waste management practices to prevent fires or releases;
    - (3) Maintain an onsite copy of the manufacturer's specification and instructions for any can puncturing devices used onsite;
    - (4) Ensure employees are operating can puncturing devices appropriately, and have been trained in the proper procedures;
    - (5) Ensure the puncturing of the can is done in a manner designed to prevent fires and to prevent the release of any component of universal waste to the environment. This manner includes locating the equipment on a solid, flat surface in a well-ventilated area;
    - (6) Immediately transfer the contents from the waste aerosol can or puncturing device, if applicable, to a container or tank that meets the applicable requirements of sections 33.1-24-03-26 through 33.1-24-03-29;
    - (7) Conduct a hazardous waste determination on the contents of the emptied aerosol can per section 33.1-24-03-02. Any hazardous waste generated as a result of puncturing and draining the aerosol can is subject all applicable requirements of chapters 33.1-24-01 through 33.1-24-07. The handler is considered a generator of the hazardous waste and is subject to the generator requirements of chapter 33.1-24-03.

(8) If the contents are determined to be nonhazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state, or local solid waste requirements; and

(9) A written procedure must be in place in the event of a spill or leak, and a spill cleanup kit must be provided. All spills or leaks of the contents of aerosol cans must be cleaned up promptly.

6. Universal waste aerosol cans, i.e., each aerosol can, or a container in which aerosol cans are contained must be labeled or marked clearly with any of the following phrases: "Universal Waste - Aerosol Can(s)"; "Waste Aerosol Can(s)"; or "Used Aerosol Can(s)".

**History:** Effective January 1, 2019; amended effective July 1, 2021.

**General Authority:** NDCC 23.1-04-03; S.L. 2017, ch. 199, § 1

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

**33.1-24-05-780. Petitions to include other wastes under sections 33.1-24-05-700 through 33.1-24-05-799.**

~~1. Any person seeking to add a hazardous waste or a category of hazardous waste to sections 33.1-24-05-700 through 33.1-24-05-799 may petition for a regulatory amendment under sections 33.1-24-05-780 through 33.1-24-05-781, 33.1-24-01-06, and 33.1-24-01-08.~~ Except as provided in subsection 4, any person seeking to add a hazardous waste or category of hazardous waste to sections 33.1-24-05-700 through 33.1-24-05-799 may petition for a regulatory amendment under sections 33.1-24-01-06, 33.1-24-01-08, and 33.1-24-05-780 through 33.1-24-05-781.

2. To be successful, the petitioner must demonstrate to the satisfaction of the department that regulation under the universal waste regulations of sections 33.1-24-05-700 through 33.1-24-05-799 is appropriate for the waste or category of waste; will improve management practices for the waste or category of waste; and will improve implementation of the hazardous waste program. The petition must include the information required by subsection 2 of section 33.1-24-01-06. The petition should also address as many of the factors listed in section 33.1-24-05-781 as are appropriate for the waste or waste category addressed in the petition.

3. The department will evaluate petitions using the factors listed in section 33.1-24-05-781. The department will grant or deny a petition using the factors listed in section 33.1-24-05-781. The decision will be based on the weight of evidence showing that regulation under sections 33.1-24-05-700 through 33.1-24-05-799 is appropriate for the waste or category of waste, will improve management practices for the waste of category of waste, and will improve implementation of the hazardous waste program.

4. Hazardous waste pharmaceuticals are regulated under sections 33.1-24-05-310 through 33.1-24-05-320 and may not be added as a category of hazardous waste for management under sections 33.1-24-05-700 through 33.1-24-05-799

**History:** Effective January 1, 2019; amended effective July 1, 2021.

**General Authority:** NDCC 23.1-04-03; S.L. 2017, ch. 199, § 1

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05; S.L. 2017, ch. 199, § 19

**33.1-24-05-1015. Reports.**

The owner or operator must prepare and submit a biennial report and other reports listed in subsection 2.

1. Biennial report. The owner or operator must prepare and submit a single copy of a biennial report to the department by March first of each even-numbered year. The biennial report form and instructions can be obtained from the ~~department's division of waste management~~ department. The report must cover facility activities during the previous calendar year and must include:
  - a. The identification number, name, and address of the facility;
  - b. The calendar year covered by the report;
  - c. The method of treatment or storage for each hazardous waste;
  - d. The most recent closure cost estimate under section 33.1-24-05-1062;
  - e. A description of the efforts undertaken during the year to reduce the volume and toxicity of generated waste;
  - f. 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 the years prior to 1984; and
  - g. The certification signed by the owner or operator.
2. Additional reports. In addition to submitting the biennial reports, the owner or operator must also report to the department:
  - a. Releases, fires, and explosions as specified in subsection 2 of section 33.1-24-05-998;
  - b. Facility closures specified in section 33.1-24-05-1047; and
  - c. As otherwise required by sections 33.1-24-05-1080 through 33.1-24-05-1099, 33.1-24-05-1100 through 33.1-24-05-1129, 33.1-24-05-1130 through 33.1-24-05-1149, and 33.1-24-05-400 through 33.1-24-05-474.
3. For offsite facilities, the identification number of each hazardous waste generator from which the facility received a hazardous waste during the year; for imported shipments, the report must give the name and address of the foreign generator.
4. A description and the quantity of each hazardous waste the facility received during the year. For offsite facilities, this information must be listed by identification number of each generator.

**History:** Effective January 1, 2019; amended effective July 1, 2021.

**General Authority:** NDCC 23.1-04-03; S.L. 2017, ch. 199, § 1

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05, 23.1-04-08; S.L. 2017, ch. 199, § 19

## CHAPTER 33.1-24-06

### 33.1-24-06-01. Application for a permit.

1. **Permit application.** Any person who is required to have a permit (including new applicants and permittees with expiring permits) shall complete, sign, and submit an application to the department as described in this section and section 33.1-24-06-17. Persons currently authorized with interim status shall apply for permits when required by the department. Persons covered by permits by rule (section 33.1-24-06-18) need not apply. Procedures for applications, issuance, and administration of emergency permits are found exclusively in section 33.1-24-06-19. Procedures for application, issuance, and administration of research, development, and demonstration permits are found exclusively in section 33.1-24-06-20. Treatment, storage, and disposal facilities that are otherwise subject to permitting and that meet the criteria in subdivision a or subdivision b may be eligible for a standardized permit under sections 33.1-24-06-45 through 33.1-24-06-85. Procedures for application and issuance of standardized permits are found in sections 33.1-24-07-40 through 33.1-24-07-54, and sections 33.1-24-06-45 through 33.1-24-06-85.
  - a. The facility generates hazardous waste and then nonthermally treats, or stores hazardous waste onsite in tanks, containers, or containment buildings; or
  - b. The facility receives hazardous waste generated offsite by a generator under the same ownership as the receiving facility, and then stores, or nonthermally treats the hazardous waste in containers, tanks, or containment buildings.
2. **Who must have a permit?** North Dakota Century Code chapter 23.1-04 requires that a permit be obtained for the treatment, storage, or disposal of any hazardous waste as identified or listed in chapter 33.1-24-02. Treatment, storage, and disposal facilities that are otherwise subject to permitting and that meet the criteria in subdivisions a and b of subsection 1 of section 33.1-24-06-48, may be eligible for a standardized permit under sections 33.1-24-06-45 through 33.1-24-06-85. Owners and operators of hazardous waste management units must have permits during the active life (including the closure period) of the unit, during any compliance period specified under section 33.1-24-05-53, including any extension of that period under subsection 3 of section 33.1-24-05-53. Owners or operators of surface impoundments, landfills, land treatment units, and waste pile units that received wastes after July 26, 1982, or that certified closure according to section 33.1-24-05-64 after January 26, 1983, must have postclosure permits, unless they demonstrate closure by removal as provided under subdivisions d and e. If a postclosure permit is required, the permit must address applicable chapter 33.1-24-05 ground water monitoring, unsaturated zone monitoring, corrective action, and postclosure care. The denial of a permit for the active life of a hazardous waste management facility or unit does not affect the requirement to obtain a postclosure permit under this section.
  - a. Specific inclusions. Hazardous waste permits are required for:
    - (1) Injection wells that dispose of hazardous waste, and associated surface facilities that treat, store, or dispose of hazardous waste (see section 33.1-24-06-20). However, the owner or operator with an underground injection control permit will be deemed to have a hazardous waste permit for the injection well itself if the owner or operator complies with requirements of subsection 1 of section 33.1-24-06-18.
    - (2) Treatment, storage, or disposal of hazardous waste at facilities requiring a North Dakota pollutant discharge elimination system permit. However, the owner or operator of a publicly owned treatment works receiving hazardous waste will be deemed to have a hazardous waste permit for that waste if the owner or operator complies with the requirements of subsection 2 of section 33.1-24-06-18.

- b. Specific exclusions. Hazardous waste permits are not required for:
- (1) Generators who accumulate hazardous waste onsite for less than time periods as provided in section 33.1-24-03-12.
  - (2) Farmers who dispose of pesticide containers from their own use as provided in section 33.1-24-03-40.
  - (3) Persons who own or operate facilities solely for the treatment, storage, or disposal of hazardous waste excluded from regulation by section 33.1-24-02-04 or ~~33.1-24-02-05~~33.1-24-03-26.
  - (4) Owners or operators of totally enclosed treatment facilities as defined in section 33.1-24-01-04.
  - (5) Owners or operators of elementary neutralization units or wastewater treatment units as defined in section 33.1-24-01-04.
  - (6) Transporters storing manifested shipments of hazardous waste in containers meeting the requirements of section 33.1-24-03-08 at a transfer facility for a period of ten days or less.
  - (7) Persons mixing absorbent material and waste in a container, provided this mixing occurs at the time waste is first placed in the container, and the person complies with sections 33.1-24-05-90 and 33.1-24-05-91, and subsection 2 of section 33.1-24-05-08.
  - (8) Universal waste handlers and universal waste transporters as defined in section 33.1-24-01-04 managing the wastes listed below. These handlers are subject to regulation under sections 33.1-24-05-700 through 33.1-24-05-799.
    - (a) Batteries as described in section 33.1-24-05-702;
    - (b) Pesticides as described in section 33.1-24-05-703;
    - (c) Mercury containing equipment as described in section 33.1-24-05-704; and
    - (d) Lamps as described in section 33.1-24-05-705.
  - (9) Immediate response activities.
    - (a) A person is not required to obtain a hazardous waste permit for treatment or containment activities taken during immediate response to any of the following situations:
      - [1] A discharge of a hazardous waste.
      - [2] An imminent and substantial threat of a discharge of hazardous waste.
      - [3] A discharge of a material which, when discharged, becomes a hazardous waste.
      - [4] An immediate threat to human health, public safety, property, or the environment from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialist as defined in section 33.1-24-01-04.

- (b) Any person who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this chapter for those activities.
  - (c) In the case of emergency responses involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed and its disposition.
- c. Permits for less than an entire facility. The department may issue or deny a permit for one or more units at a facility without simultaneously issuing or denying a permit to all of the units at the facility. The interim status of any unit for which a permit has not been issued or denied is not affected by the issuance or denial of a permit to any other unit at the facility.
- d. Closure by removal. Owners or operators of surface impoundments, land treatment units, and waste piles closing by removal or decontamination under chapter 33.1-24-05 standards must obtain a postclosure permit unless they can demonstrate to the department that the closure met the standards for closure by removal or decontamination in section 33.1-24-05-122, subsection 5 of section 33.1-24-05-167, or section 33.1-24-05-135 respectively. The demonstration may be made in the following ways:
  - (1) If the owner or operator has submitted a part B application for a postclosure permit, the owner or operator may request a determination, based on information contained in the application, that chapter 33.1-24-05 closure by removal standards were met. If the department believes that chapter 33.1-24-05 standards were met, the department will notify the public of this proposed decision, allow for public comment, and reach a final determination according to the procedures in subdivision e.
  - (2) If the owner or operator has not submitted a part B application for a postclosure permit, the owner or operator may petition the department for a determination that a postclosure permit is not required because the closure met the applicable chapter 33.1-24-05 closure standards.
    - (a) The petition must include data demonstrating that closure by removal or decontamination standards were met, or it must demonstrate that the unit closed under requirements that met or exceeded the chapter 33.1-24-05 closure by removal standard.
    - (b) The department shall approve or deny the petition according to the procedures outlined in subdivision e.
- e. Procedures for closure equivalency determination.
  - (1) If a facility owner or operator seeks an equivalency demonstration under subdivision d, the department will provide the public, through a newspaper notice, the opportunity to submit written comments on the information submitted by the owner or operator within thirty days from the notice. The department will also, in response to a request, or at the department's own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning the equivalence of the closure period. The department will give public notice of the hearing at least thirty days before it occurs (public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments, and the two notices may be combined.)

- (2) The department will determine whether the chapter 33.1-24-05 closure met the standards for closure by removal or decontamination in section 33.1-24-05-122, subsection 5 of section 33.1-24-05-167, or section 33.1-24-05-135 respectively within ninety days of its receipt. If the department finds that the closure did not meet the applicable chapter 33.1-24-05 standards, the department will provide the owner or operator with a written statement of the reasons why the closure failed to meet chapter 33.1-24-05 standards. The owner or operator may submit additional information in support of an equivalency demonstration within thirty days after receiving such written statement. The department will review any additional information submitted and make a final determination within sixty days.
  - (3) If the department determines that the facility did not close in accordance with chapter 33.1-24-05 closure by removal standards, the facility is subject to postclosure permitting requirements.
3. **Who applies?** When a facility or activity is owned by one person but is operated by another person, it is the operator's duty to obtain a permit, however, the owner must also sign the permit application.
4. **Completeness.** The department will not issue a permit before receiving a complete application for a permit, except for permits by rule, or emergency permits. An application for a permit is complete when the department receives an application form and any supplemental information which is completed to the department's satisfaction. The completeness of any application for a permit shall be judged independently of the status of any other permit application or permit for the same facility or activity. An application for a permit is complete notwithstanding the failure of the owner or operator to submit the exposure information described in subsection 10. The department may deny a permit for the active life of a hazardous waste management facility or unit before receiving a complete application for a permit.
5. **Information requirements.** All applicants for hazardous waste permits shall provide the information required by section 33.1-24-06-17 to the department.
6. **Recordkeeping.** Applicants shall keep records of all data used to complete permit applications and any supplemental information submitted under this chapter for a period of at least three years from the date the application is signed.
7. **When to apply for a permit.**
  - a. Existing hazardous waste management facilities.
    - (1) Owners and operators of existing hazardous waste management facilities shall submit part A of their permit application (see subsection 1 of section 33.1-24-06-17) to the department no later than:
      - (a) Six months after the date of publication of rules which first require them to comply with the standards set forth in chapter 33.1-24-05; or
      - (b) Thirty days after the date they first become subject to the standards set forth in chapter 33.1-24-05;whichever occurs first.
    - (2) The department may extend the date by which owners and operators of specified classes of existing hazardous waste management facilities must submit part A of their permit application if it finds that:

- (a) There has been substantial confusion as to whether the owners and operators of such facilities were required to file a permit application; and
    - (b) Such confusion is attributable to ambiguities in the department's rules in chapters 33.1-24-01 through 33.1-24-05.
  - (3) The department may, by compliance order, extend the date by which the owner or operator of an existing hazardous waste management facility must submit part A of the permit application.
  - (4) The owner and operator of an existing hazardous waste management facility may be required to submit part B of the permit application at any time. Any owner or operator must be allowed at least six months from the date of request to submit the application. Any owner or operator of an existing hazardous waste management facility may voluntarily submit an application at any time.
  - (5) Failure to furnish a requested permit application on time or to furnish in full the information required by the application is grounds for termination of the facility's operating status under the procedures of chapter 33.1-24-07.
  - b. New hazardous waste management facilities.
    - (1) No person may begin physical construction of a new hazardous waste management facility without having submitted a complete permit application (including both part A and part B) and having received a finally effective hazardous waste permit.
    - (2) An application for a permit for a new hazardous waste management facility (including both part A and part B) may be filed anytime after promulgation of those standards in sections 33.1-24-05-89, et seq., applicable to such facility. The application must be submitted to the department at least one hundred eighty days before physical construction is expected to commence.
8. **Updating permit applications.**
- a. If any owner or operator of a hazardous waste management facility has filed part A of a permit application and has not yet filed part B, the owner or operator shall amend part A of the application with the department:
    - (1) No later than the effective date of regulatory provisions listing or designating wastes as hazardous, if the facility is treating, storing, or disposing of any of those newly listed or designated wastes; or
    - (2) As necessary to comply with the provisions of section 33.1-24-06-16 for changes prior to the department making final administrative disposition of the application.
  - b. The owner or operator of a facility who fails to comply with the updating requirements of subdivision a is not authorized to treat, store, or dispose of those wastes not covered by a duly filed part A of the application.
9. **Reapplications.** Any hazardous waste management facility with an effective permit shall submit a new application at least one hundred eighty days before the expiration date of the effective permit unless permission for a later date has been granted by the department (the department shall not grant permission for applications to be submitted later than the expiration date of the existing permit). Any hazardous waste management facility with an effective permit and intending to be covered by a standardized permit, shall submit a notice of intent as described in subdivision a of subsection 4 of section 33.1-24-06-02, at least one hundred eighty days before the expiration date of the effective permit unless permission for a later date

has been granted by the department. The department shall not grant permission for applications or notices of intent to be submitted later than the expiration date of the existing permit, except as allowed by subdivision b of subsection 4 of section 33.1-24-06-02.

10. **Exposure information.**

- a. Any permit part B applications submitted by an owner or an operator of a facility that stores, treats, or disposes of hazardous waste in a surface impoundment or landfill must be accompanied by information, reasonably ascertainable by the owner or operator, on the potential for the public to be exposed to hazardous wastes or hazardous constituents through releases related to the unit. At a minimum, such information must address:
  - (1) Reasonably foreseeable potential releases from both normal operations and accidents at the unit, including releases associated with transportation to or from the unit;
  - (2) The potential pathways of human exposure to hazardous wastes or constituents resulting from the releases described under paragraph 1; and
  - (3) The potential magnitude and nature of the human exposure resulting from such releases.
- b. Owners and operators of a landfill or surface impoundment who have already submitted a part B application must submit the exposure information required in subdivision a.

11. **General requirements.** The department may require a permittee or an applicant to submit information in order to establish permit conditions under subdivision b of subsection 2 of section 33.1-24-06-05 and subsection 1 of section 33.1-24-06-06.

12. If the department concludes, based on one or more of the factors listed in subdivision a that compliance with the standards of 40 CFR part 63, subpart EEE alone may not be protective of human health or the environment, the department shall require the additional information or assessments necessary to determine whether additional controls are necessary to ensure protection of human health and the environment. This includes information necessary to evaluate the potential risk to human health or the environment, or both, resulting from both direct and indirect exposure pathways. The department may also require a permittee or applicant to provide information necessary to determine whether such assessments should be required.

- a. The department shall base the evaluation of whether compliance with the standards of 40 CFR part 63, subpart EEE alone is protective of human health or the environment on factors relevant to the potential risk from a hazardous waste combustion unit, including, as appropriate, any of the following factors:
  - (1) Particular site-specific considerations such as proximity to receptors (such as schools, hospitals, nursing homes, day care centers, parks, community activity centers, or other potentially sensitive receptors), unique dispersion patterns, etc.;
  - (2) Identities and quantities of emissions of persistent, bioaccumulative or toxic pollutants considering enforceable controls in place to limit those pollutants;
  - (3) Identities and quantities of nondioxin products of incomplete combustion most likely to be emitted and to pose significant risk based on known toxicities (confirmation of which should be made through emissions testing);
  - (4) Identities and quantities of other offsite sources of pollutants in proximity of the facility that significantly influence interpretation of a facility-specific risk assessment;

- (5) Presence of significant ecological considerations, such as the proximity of a particularly sensitive ecological area;
- (6) Volume and types of wastes, for example wastes containing highly toxic constituents;
- (7) Other onsite sources of hazardous air pollutants that significantly influence interpretation of the risk posed by the operation of the source in question;
- (8) Adequacy of any previously conducted risk assessment, given any subsequent changes in conditions likely to affect risk; and
- (9) Such other factors as may be appropriate.

b. [Reserved].

**History:** Effective January 1, 2019; [amended effective July 1, 2021.](#)

**General Authority:** NDCC 23.1-04-03; ~~S.L. 2017, ch. 199, § 1~~

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05, 23.1-04-08; S.L. 2017, ch. 199, § 19

**33.1-24-06-16. Operating status prior to the final administrative disposition of the permit application.**

1. [Reserved].
2. [Reserved].
3. [Reserved].
4. [Reserved].
5. During operating status prior to final administrative disposition of the permit application, owners or operators shall comply with the federal interim status standards, 40 CFR part 265 and subpart G of part 270, effective ~~July 1, 2018~~ [February 7, 2020.](#)
6. Operating status prior to final administrative disposition of the permit application terminates when:
  - a. Final administrative disposition of a permit application, except an application for a remedial action plan under sections 33.1-24-06-30 through 33.1-24-06-35, is made; or
  - b. Operating status prior to final administrative disposition of the permit application is terminated as provided in paragraph 5 of subdivision a of subsection 7 of section 33.1-24-06-01.
7. Operating status prior to final administrative disposition of a permit application does not apply to any facility which has been previously denied a hazardous waste permit or if authority to operate the facility under article 33.1-24 has been previously terminated.

**History:** Effective January 1, 2019; amended effective July 1, 2020; [July 1, 2021.](#)

**General Authority:** NDCC 23.1-04-03; ~~S.L. 2017, ch. 199, § 1~~

**Law Implemented:** NDCC 23.1-04-03, 23.1-04-05, 23.1-04-08; S.L. 2017, ch. 199, § 19



**TITLE 75.5**  
**SOCIAL WORK EXAMINERS, BOARD OF**



**JULY 2021**

**CHAPTER 75.5-02-06.1**

**75.5-02-06.1-01. Ethical responsibilities to clients.**

The board adopts the national association of social workers 2017 code of ethics.

It is also a violation of the code of ethics for a social worker licensed by the board to engage in any practices or treatments that attempt to change or repair the sexual orientation or gender identity of lesbian, gay, bisexual, transgender, and questioning individuals, commonly referred to as conversion or reparative therapy.

As used in this section, "conversion therapy" means any practices or treatments that seek to change an individual's sexual orientation or gender identity, including efforts to change behaviors or gender expressions or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same gender. Conversion or reparative therapy does not include counseling that provides assistance to a person undergoing gender transition, or counseling that provides acceptance, support, and understanding of a person or facilitates a person's coping, social support, and identity exploration and development, including sexual-orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices, as long as such counseling does not seek to change an individual's sexual orientation or gender identity.

**History:** Effective April 1, 1998; amended effective April 1, 2021.

**General Authority:** NDCC 43-41-09

**Law Implemented:** NDCC 43-41-09



**TITLE 82**  
**BOARD OF TRUSTEES OF THE TEACHERS' FUND FOR RETIREMENT**



**JULY 2021**

**CHAPTER 82-05-01**

**82-05-01-02. Proof of age.**

A teacher applying for a retirement benefit and each beneficiary entitled to a continuing annuity under the joint and survivor option must provide proof of age. The following documents will be accepted as proof of age: [REAL ID](#), birth certificate, baptismal certificate, passport, or official military record.

**History:** Effective September 1, 1990; [amended effective July 1, 2021](#).

**General Authority:** NDCC 15-39.1-07

**Law Implemented:** NDCC 15-39.1-10; [The REAL ID act of 2005 \[Pub. L. 109-13; 119 Stat. 311; 49 U.S.C. § 30301 note\]](#)

## CHAPTER 82-05-04

### 82-05-04-02. Actuarial factors - Optional payment forms.

Under ~~North Dakota Century Code section 15-39.1-16, the actuarial factors used to determine benefit amounts under~~ the optional joint and survivor, term certain and life, partial lump sum and level income forms of annuity payment shall be based on the following actuarial assumptions:

1. Interest rate - ~~7.75~~7.25 percent per year, compounded annually.
2. Member's mortality (used for nondisabled members) - A mortality table constructed by blending ~~thirty-three~~thirty percent of the mortality rates under ~~the RP-2014 male "combined" table, employeea combination of PubT-2010 employee and healthy annuitant tables~~PubT-2010 healthy retiree tables for males, adjusted by one hundred four percent for ages fifty-five and older, and projected to ~~2017~~2022 using projection scale ~~MP-2014, set back one year~~MP-2019, with ~~sixty-seven~~seventy percent of the mortality rates under ~~the RP-2014 female "combined" table, employeea combination of PubT-2010 employee and healthy annuitant tables~~PubT-2010 healthy retiree tables for females, adjusted by one hundred four percent for ages fifty-five and older, and projected to ~~2017~~2022 using projection scale ~~MP-2014, set back one year~~MP-2019.
3. Beneficiary's mortality - A mortality table constructed by blending ~~sixty-seven~~seventy percent of the mortality rates under ~~the RP-2014 male "combined" table, employeea combination of PubT-2010 employee and healthy annuitant tables~~Pub-2010 contingent survivor tables for males, adjusted by ninety-five percent for ages forty-five and older, and projected to ~~2017~~2022 using projection scale ~~MP-2014, set back one year~~MP-2019, with ~~thirty-three~~thirty percent of the mortality rates under ~~the RP-2014 female "combined" table, employeea combination of PubT-2010 employee and healthy annuitant tables~~Pub-2010 contingent survivor tables for females, adjusted by ninety-five percent for ages forty-five and older and projected to ~~2017~~2022 using projection scale ~~MP-2014, set back one year~~MP-2019. Mortality tables for survivors under age eighteen use the RP-2014 juvenile tables with fifty percent blending of the male/female rates and projected to 2022 using projection scale MP-2019.
4. Disabled member's mortality - A mortality table constructed by blending ~~thirty-three~~thirty percent of the mortality rates under the ~~RP-2014~~PubNS-2010 non-safety disabled mortality table for males, ~~set forward four years~~projected to 2022 using projection scale MP-2019, with ~~sixty-seven~~seventy percent of the mortality rates under the ~~RP-2014~~PubNS-2010 non-safety disabled mortality table for females, ~~set forward four years~~projected to 2022 using projection scale MP-2019.

In addition, the above actuarial assumptions shall be used to determine actuarial equivalence for other purposes not covered by sections 82-05-04-01, 82-05-04-03, and 82-05-04-04, such as the determination of the reduction to a member's benefit because of the existence of a qualified domestic relations order.

**History:** Effective May 1, 2000; amended effective May 1, 2004; July 1, 2008; April 1, 2016; July 1, 2021.

**General Authority:** NDCC 15-39.1-07

**Law Implemented:** NDCC 15-39.1-16, 15-39.1-24

### 82-05-04-04. Actuarial factors - Purchase of service.

Whenever the North Dakota Century Code permits a member to purchase service on an actuarially equivalent basis, the following actuarial assumptions shall be used:

1. Interest rate - ~~7.75~~7.25 percent per year, compounded annually.

2. Mortality rates - the same table specified in section 82-05-04-02 for nondisabled members.
3. Retirement - the member will be assumed to retire at the age at which the member is first eligible for an unreduced retirement benefit. Such unreduced retirement date will be determined taking into account any purchased service and assuming the member continues in full-time covered service.
4. Salary increase rate - Increases are assumed to occur once each year. The following table shows the increase rates indexed by the member's service (excluding any service being purchased):

<del>Nearest Service at the Beginning of the Year</del> Years From Hire	Percentage Increase at End of Year
<del>0</del>	<del>14.50%</del>
1	<del>7.75%</del> 14.80%
2	<del>7.50%</del> 6.80%
3	<del>7.25%</del> 6.55%
<del>4-5</del>	<del>7.00%</del> 6.30%
<del>5-7</del>	<del>6.75%</del> 5.80%
<del>6-9</del>	<del>6.50%</del> 5.55%
<del>7-10</del>	<del>6.25%</del> 5.30%
<del>8-9</del> 13-14	<del>6.00%</del> 5.05%
<del>10-11</del> 15-16	<del>5.75%</del> 4.80%
<del>12-13</del> 17-19	<del>5.50%</del> 4.55%
<del>14-15</del> 20-23	<del>5.25%</del> 4.30%
<del>16-18</del> 24-30	<del>5.00%</del> 4.05%
<del>19-22</del> 31 and over	<del>4.75%</del> 3.80%
<del>23-24</del>	<del>4.50%</del>
<del>25 or more</del>	<del>4.25%</del>

**History:** Effective May 1, 2000; amended effective July 1, 2008; April 1, 2016; [July 1, 2021](#).

**General Authority:** NDCC 15-39.1-07

**Law Implemented:** NDCC 15-39.1-16, 15-39.1-24