

NORTH DAKOTA ADMINISTRATIVE CODE

VOLUME 2
(Pages 691 - 1246)

Supplements 180 through 184

June 1994
July 1994
August 1994
September 1994
October 1994

**Prepared by the Legislative Council staff
for the
Administrative Rules Committee**

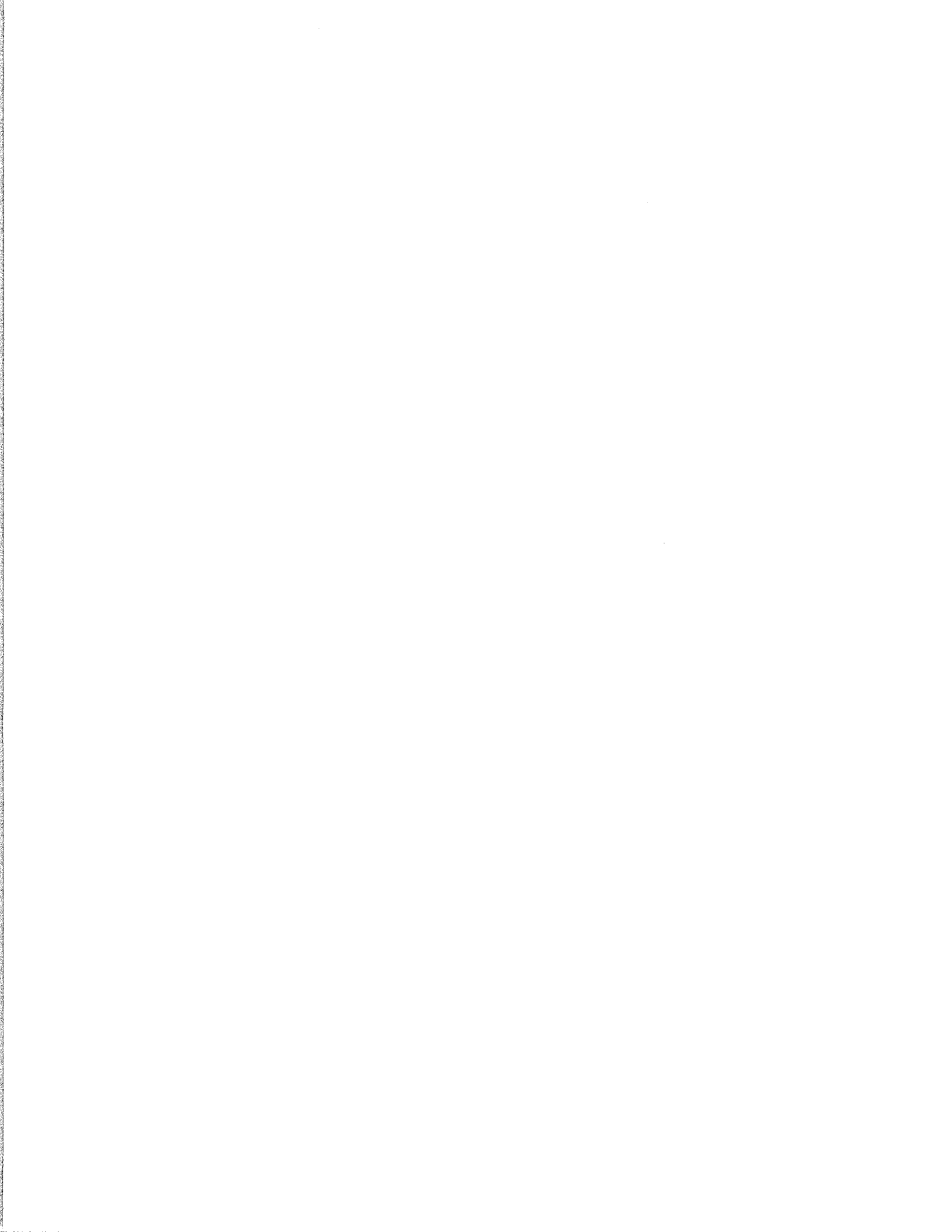
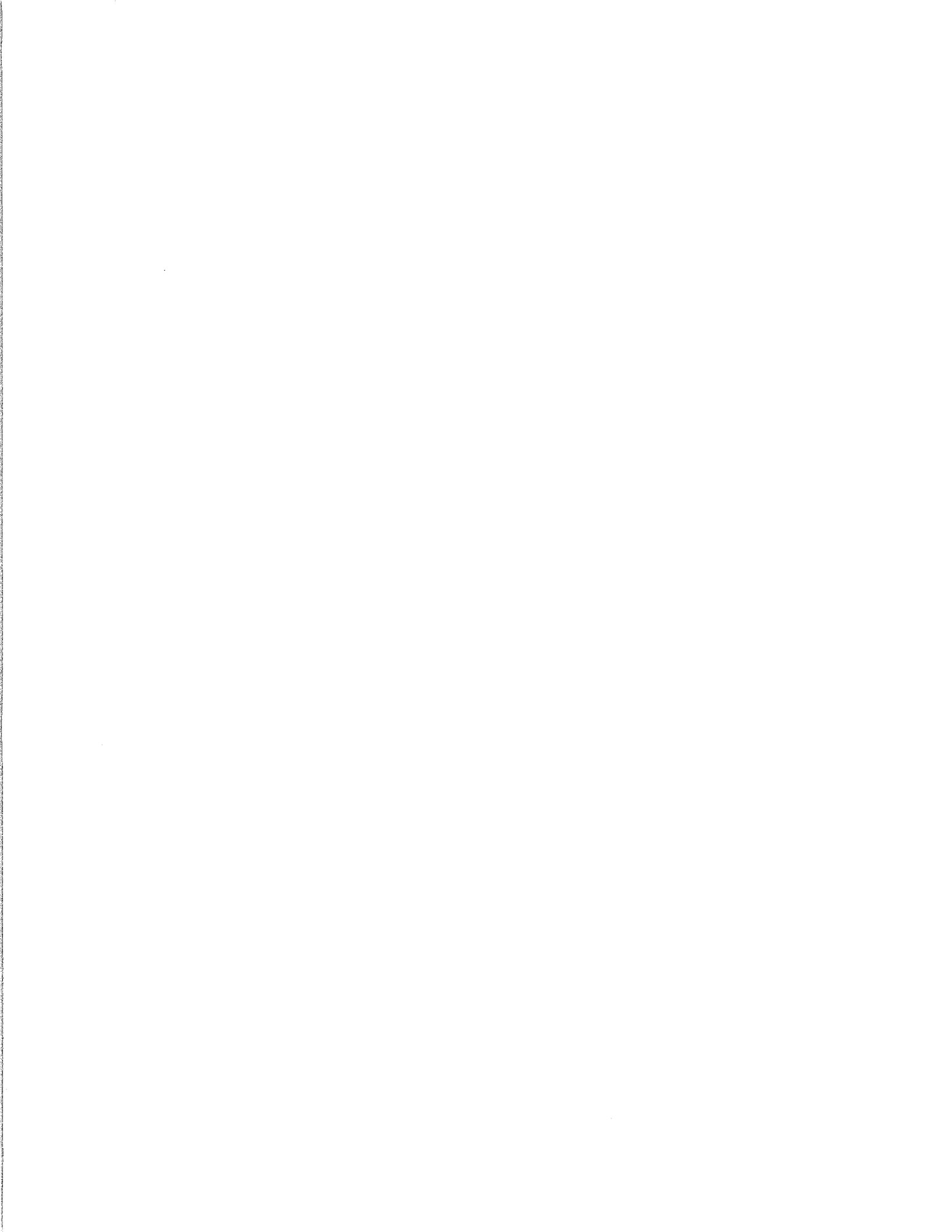


TABLE OF CONTENTS

Insurance, Commissioner of	691
(June 94, July 94, August 94, September 94)	
Public Service Commission	939
(June 94, August 94, September 94, October 94)	
State Gaming Commission (July 94)	993



TITLE 45
Insurance Commissioner

JUNE 1994

CHAPTER 45-10-02

45-10-02-01. Definitions. For the purposes of this chapter, the following definitions apply in addition to the definitions set forth in section 2 of chapter 299 of the 1991 Session Laws:

1. "Antifreeze" is not a petroleum product.
2. "Farm tank" means a tank located on a tract of land devoted to the production of crops or for raising animals and associated residences and improvements. A farm tank must be located on the farm property.
3. "Portable tank" means any storage tank, along with its piping and wiring, that is not stationary or affixed including, but not limited to, tanks which are on skids.
4. "Residential tank" means a tank located on property used primarily for dwelling purposes.
5. "Surface impoundment" means a natural topographic depression, manmade excavation, or diked area formed primarily of earthen materials.
6. Storage tanks used for collecting crude oil are considered flowthrough process tanks and are excluded from coverage.

History: Effective November 25, 1991; amended effective June 1, 1994.

General Authority: NDCC 28-32-02; S.L. 1991, ch. 299, § 5

Law Implemented: S.L. 1991, ch. 299

45-10-02-02. Tank registration. On an annual basis (fiscal year July first through June thirtieth), the administrator will mail to all prior fund registrants and any other known petroleum tank owners and operators in North Dakota a registration letter and billing notice. The letter will explain the function of the fund and the requirement that the tank owner or operator ~~receive prior registration of~~ must have all tanks owned or operated registered and all fees paid prior to a petroleum release in order to be eligible for ~~payment in the event of a petroleum release~~ reimbursement. In the event of a petroleum release, no payment will be made to an owner or operator of a registered tank unless the owner or operator has ~~complied~~ complied with all other state and federal regulations regarding petroleum tanks.

History: Effective November 25, 1991; amended effective June 1, 1994.

General Authority: NDCC 28-32-02; S.L. 1991, ch. 299, § 5

Law Implemented: S.L. 1991, ch. 299, § 17

45-10-02-03. Registration fee.

1. An annual registration fee of seventy-five dollars for each aboveground tank and one hundred twenty-five dollars for each underground tank is due and payable on July 1, 1991, and on July first of each successive year thereafter. Registration fees must be paid from April 1991, or from the date a new tank was installed if it was after April 1991, to be in compliance with this section. The period of registration must run from July first to June thirtieth to coincide with the fiscal year of North Dakota.
2. No reregistration or fee modification will be made during any registration year when an owner or operator removes a tank or replaces an underground tank with an aboveground tank within a registration year. ~~The fee correction will be made at the renewal date.~~ The renewal billing will reflect the tank status change. However, a prorated registration fee is required for the installation of an additional tank within any registration year.
3. In the event the legislative assembly may make any alterations or modifications of the registration fee, the administrator shall prorate the annual registration fee accordingly.

History: Effective November 25, 1991; amended effective June 1, 1994.

General Authority: NDCC 28-32-02; S.L. 1991, ch. 299, § 5

Law Implemented: S.L. 1991, ch. 299, § 17

45-10-02-04. Notification of release procedures. Once the administrator has received from the department written notification of a release, the administrator shall undertake or cause to be undertaken the following procedures as applicable:

1. Enter the release information into the claim register.
2. Verify that the tank owner or operator has registered the tank involved in the release, and all other tanks owned or operated. Verification must be made by comparing the registration list and the original registration form on file with the administrator.
3. If not registered, send a letter of denial to inform the owner or operator of the requirements with a carbon copy to the department and close the claim.
4. If the tank is registered, call the owner to explain how the fund works and send the tank owner or operator an application for reimbursement. Upon receipt of the completed application, the administrator shall investigate the release through the use of one of the following:
 - a. A fund employee;
 - b. Employ an independent adjuster; or
 - c. Coordinate with an insurance company.
5. Review and summarize all final claims reports with the advisory board.
6. Reimburse the owner or operator or make payment to the owner's or operator's assigned representative.

History: Effective November 25, 1991; amended effective June 1, 1994.

General Authority: NDCC 28-32-02; S.L. 1991, ch. 299, § 5

Law Implemented: S.L. 1991, ch. 299, §§ 10, 19

45-10-02-06. Payment.

1. No payment may be made from the fund unless the subject tank has been properly registered and the registration fee paid prior to the discovery of the release.
2. No payment will be made from the fund unless a completed application form has been received by the administrator. The application must contain at least the following information:
 - a. Name and address of the owner or operator.
 - b. Street or highway description of the petroleum release location.
 - c. The legal description of the release location.
 - d. The substance released.

- e. The date the release was discovered.
 - f. Name, address, and telephone number of the contact person.
 - g. A narrative description of the release.
3. Payment must be made for eligible costs as determined by the administrator. The fund must make payment to an eligible owner or operator whose tanks were properly registered prior to discovery of the release for ninety percent of the eligible costs between five thousand dollars and one hundred fifty-five thousand dollars for corrective action including the investigation, and one hundred percent of the costs of corrective action between one hundred fifty-five thousand dollars and one million dollars per occurrence and two million dollars in the annual aggregate.
4. Eligible costs for a corrective action include, but are not limited to, the following:
- a. Labor.
 - b. Testing.
 - c. Use of machinery.
 - d. Materials and supplies.
 - e. Professional services.
 - f. Costs incurred by order of federal, state, or local government.
 - g. Any other costs the administrator and the advisory board deem to be reasonable and necessary to remedy cleanup of the release and satisfy liability to any third party.
 - h. Consultant fees if authorized by the North Dakota department of health and consolidated laboratories or other federal or state agency approving the cleanup procedures.
5. The following will not be considered eligible costs under this regulation:
- a. The cost of replacement, repair, and maintenance of affected tanks and associated piping.
 - b. Pumping out of any product, including water, from any tanks which need to be removed.
 - c. The cost of upgrading existing affected tanks and associated piping.

- d. The loss of income, profits, or petroleum product.
 - e. Decreased property value.
 - f. Bodily injuries or property damages except for injuries or damages suffered by third parties.
 - g. Attorney's fees.
 - h. Costs associated with preparing, filing, and prosecuting an application for reimbursement or assistance under this regulation.
 - i. The costs of making improvements to the facility beyond those that are required for corrective action.
 - j. Any cleanup costs resulting from negligence or misconduct on the part of the owner or operator.
 - k. Costs in excess of those considered reasonable by the fund.
 - l. Fines or penalties imposed by order of federal, state, or local government.
 - m. Finance charges, interest charges, or late payment charges.
6. In order to determine what expenses are "reasonable", the owner or operator has to bid the work out. When the lowest or best bid is accepted, that will be deemed by the fund to be the reasonable cost for that project. The bid needs to be broken out into unit costs for each piece of equipment or laborer. This can be done by the owner or operator requesting bids according to the fund's worksheets. Any additional work over and above the original bid will be reimbursed according to unit costs on the original bid.
7. In making the determination of the amount and type of costs eligible for payment from the fund, the administrator shall review the written report of the claims representative, if one is contracted, and all other correspondence and expense documentation (including itemized bills), and shall also review the final report from the department.
- ~~7-~~ 8. At the discretion of the administrator and after review by the advisory board, the fund may provide partial payments prior to the final determination of the amount of the loss, if it is determined the cleanup is proceeding according to the proposed work plan for the site assessment as required by the department. The payment may be made to the owner or operator or the owner's or operator's assigned representative if the appropriate assignment form, as approved by the fund, is

completed and submitted to the fund administrator with appropriate invoices ~~establishing time and materials expended, receipts, and canceled checks verifying the work has been completed~~ by the assignee.

- 8- 9. All claims for payment are subject to the availability of funds in the petroleum tank release compensation fund.
- 9- 10. Subrogation. Prior to payment for any loss, the owner or operator shall subrogate to the fund all rights, claims, and interest which the owner or operator has or may have against any party, person, persons, property, corporation, or other entity liable for the subject loss, and shall authorize the fund to sue, compromise, or settle in the name of the owner or operator or otherwise, all such claims. The subrogation agreement required by this section must be prescribed and produced by the administrator.
- 10- 11. No payment will be made until the owner or operator has submitted complete excavation or consultant worksheets along with legible copies of invoices, providing a description of:
- a. Any work performed.
 - b. Who performed the work.
 - c. Where the work was performed.
 - d. The dates the work was performed.
 - e. The unit cost.
 - f. The total amount.
- 11- 12. The owner or operator must submit, prior to any payment, evidence that the amounts shown on the invoices for which the payment is requested were either paid in full by the owner or operator or, if the owner or operator has assigned the right to receive payment from the fund, that a contractor hired by the owner or operator has expended time and materials for which payment must be made. The evidence must be accompanied by either:
- a. Business receipts indicating payments received;
 - b. Canceled checks;
 - c. The certification of a certified public accountant that the expenses for which reimbursement is requested have been paid in full; or
 - d. Unpaid invoices from a contractor for time and materials expended broken out by unit costs.

12. 13. Prior to payment, the fund must be satisfied that the corrective action taken has met all state, federal, and local laws or regulations concerning such a cleanup and that the corrective action has adequately addressed the release in terms of public health, welfare, and the environment.

History: Effective November 25, 1991; amended effective June 1, 1994.

General Authority: NDCC 28-32-02; S.L. 1991, ch. 299, § 5

Law Implemented: S.L. 1991, ch. 299, §§ 18, 20, 23, 24

STAFF COMMENT: Article 45-12 contains all new material but is not underscored so as to improve readability.

ARTICLE 45-12

NORTH DAKOTA BOILER RULES

Chapter	
45-12-01	Definitions
45-12-02	Administration
45-12-03	General Requirements
45-12-04	Power Boilers - New Installations
45-12-05	Power Boilers - Existing Installations
45-12-06	Miniature Boilers - New Installations
45-12-07	Miniature Boilers - Existing Installations
45-12-08	Heating, Low Pressure, and Hot Water Supply Boilers - New Installations
45-12-09	Heating, Low Pressure, and Hot Water Supply Boilers - Existing Installations
45-12-10	Unfired Pressure Vessels

CHAPTER 45-12-01 DEFINITIONS

Section	
45-12-01-01	Definitions

45-12-01-01. Definitions. As used in this article:

1. "Alteration" means a structural modification of or a departure from an original or existing construction.
2. "Apartments" means all multiple dwellings, including condominiums.
3. "Approved" means approved by the commissioner.
4. "A.S.M.E. Code" means the Boiler and Pressure Vessel Construction Code of the American society of mechanical engineers of which sections I, II, IV, V, VIII (divisions 1 and 2), and IX, 1992 edition, are hereby adopted by the commissioner and incorporated by reference as a part of this article. A copy of the American Society of Mechanical Engineers Code is on file at the office of the boiler inspection program. The American Society of Mechanical Engineers Code may be obtained from the American society of

mechanical engineers headquarters at 345 east forty-seventh street, New York, New York 10017.

5. "Boiler" means a closed vessel in which water is heated, steam is generated, steam is superheated, or any combination thereof, under pressure or vacuum for use externally to itself by the direct application of heat from the combustion of fuels or from electricity or nuclear energy. The term boiler includes fired units for heating or vaporizing liquids other than water where these units are separate from processing systems and are complete within themselves, as provided under North Dakota Century Code section 26.1-22.1-01.
6. "Certificate inspection" means an inspection, the report of which is used by the chief boiler inspector to decide whether a certificate may be issued under North Dakota Century Code section 26.1-22.1-10.
7. "Certificate of competency" means a certificate issued by a jurisdiction indicating that a person has passed an examination prescribed by the national board of boiler and pressure vessel inspectors.
8. "Chief inspector" means the chief boiler inspector appointed by the commissioner to serve in the capacity as stated by law.
9. "Commissioner" means the commissioner of insurance of North Dakota.
10. "Condemned boiler" means a boiler that has been inspected and declared unsafe or disqualified by legal requirements by an inspector qualified to take such action who has applied a stamping or marking designating its rejection.
11. "Deputy inspector" means a boiler inspector or inspectors employed by the commissioner to assist the chief inspector in making inspections of boilers.
12. "Existing installations" includes any boiler constructed, installed, or placed in operation before July 1, 1973.
13. "External inspection" means an inspection made when a boiler is in operation.
14. "Fusion welding" means a process of welding metals in a molten or molten and vaporous state, without the application of mechanical pressure or blows. Such welding may be accomplished by the oxyacetylene or oxyhydrogen flame or by the electric arc. Thermic welding is also classed as fusion.
15. "High pressure, high temperature water boiler" means a water boiler operating at pressures exceeding one hundred sixty pounds per square inch gauge [1103.17 kilopascals] or

temperatures exceeding two hundred fifty degrees Fahrenheit [121.16 degrees Celsius]. For practical purposes it must be deemed the same as a power boiler.

16. "Hot water supply boiler" means a fired boiler used exclusively to supply hot water for purposes other than space heating and includes all service and domestic-type water heaters not otherwise exempt by North Dakota Century Code section 26.1-22.1-06.
17. "Inspector" means the chief boiler inspector or any deputy inspector or special inspector.
18. "Internal inspection" means an inspection made when a boiler is shut down and handholes and manholes are opened for inspection of the interior.
19. "Low pressure and heating boiler" means a boiler operated at pressures not exceeding fifteen pounds per square inch gauge [103 kilopascals] for steam or at pressures not exceeding one hundred sixty pounds per square inch gauge [1103.17 kilopascals] and temperatures not exceeding two hundred fifty degrees Fahrenheit [121.1 degrees Celsius] for water.
20. "Major repair" means a repair upon which the strength of a boiler would depend. Major repairs are those that are not of a routine nature as described in chapter III of the National Board Inspection Code. The National Board Inspection Code, 1992 edition, is hereby adopted by the commissioner and incorporated by reference as a part of this article.
21. "Miniature boiler" means any boiler that does not exceed any of the following limits:
 - a. Sixteen-inch [40.64-centimeter] inside diameter of shell.
 - b. Twenty square feet [1.86 square meter] heating surface.
 - c. Five cubic feet [.142 cubic meter] gross volume, exclusive of casing and insulation.
 - d. One hundred pounds per square inch gauge [689.48 kilopascals] maximum allowable working pressure.
22. "National board" means the national board of boiler and pressure vessel inspectors, 1055 crupper avenue, Columbus, Ohio 43229, whose membership is composed of the chief inspectors of government jurisdictions who are charged with the enforcement of the provisions of the American Society of Mechanical Engineers Code.
23. "National Board Inspection Code" means the manual for boiler and pressure vessel inspectors supplied by the national board.

Copies of this code may be obtained from the national board at 1055 crupper avenue, Columbus, Ohio 43229.

24. "New boiler installations" includes all boilers constructed, installed, or placed in operation after July 1, 1973.
25. "Nonstandard boiler" means a boiler that does not bear the state stamp, the national board stamping, the American society of mechanical engineers stamp or the stamp of any state or political subdivision which has adopted a standard of construction equivalent to that required by this article.
26. "Owner or user" means any person, firm, corporation, state, or political subdivision owning or operating any boiler which is not specifically exempt under North Dakota Century Code section 26.1-22.1-06 within North Dakota.
27. "Power boiler" means a closed vessel in which steam or other vapor (to be used externally to itself) is generated at a pressure of more than fifteen pounds per square inch gauge [103 kilopascals] by the direct application of heat.
28. "Reciprocal commission" means a commission issued by the commissioner to persons who have passed a written examination prescribed by the national board and who hold a national board commission issued by the national board, or to persons who have passed the written examination prescribed by the national board and are employed by a self-insured corporation making their own inspections.
29. "Reinstalled boiler" means a boiler removed from its original setting and reerected at the same location or erected at a new location without change of ownership.
30. "Repair" is a restoration of any damaged or impaired part to an effective and safe condition.
31. "Secondhand boiler" means a boiler of which both the location and ownership have been changed after primary use.
32. "Service-type or domestic-type water heater" means a fired water heater of either instantaneous or storage type, used for heating or combined heating and storage of hot water to be used exclusively for domestic or sanitary purposes, with temperatures not exceeding two hundred ten degrees Fahrenheit [98.68 degrees Celsius], and a heat input not in excess of two hundred thousand British thermal units [2.11 x 10 to the 8th power joules] per hour, and pressure not to exceed one hundred sixty pounds per square inch [1103.17 kilopascals].
33. "Special inspector" means an inspector regularly employed by an insurance company authorized to insure against loss from explosion of boilers in this state or an inspector who has

passed the national board examination and is employed by a self-insured corporation.

34. "Standard boiler" means a boiler that bears the stamp of North Dakota or of another state that has adopted a standard of construction equivalent to that required by this article or a boiler that bears the national board stamping or American society of mechanical engineers stamp.
35. "State of North Dakota Boiler Construction Code" is used to designate the accepted reference for construction, installation, operation, and inspection of boilers and will be referred to as this article. Anything not amended or specifically covered in this article must be considered the same as the American Society of Mechanical Engineers Code.
36. "Steam traction engines" means boilers on wheels which are used solely for show at state fairs and other exhibitions in which the public is invited to attend.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

**CHAPTER 45-12-02
ADMINISTRATION**

Section	
45-12-02-01	Inspection Reports to be Submitted
45-12-02-02	Insurance Companies to Notify the Chief Inspector of New, Canceled, or Suspended Risks
45-12-02-03	Insurance Companies to Notify the Chief Inspector of Defective Boilers and Boiler Accidents
45-12-02-04	Self-Insured Corporations Making Own Inspections
45-12-02-05	Defective Conditions Disclosed at Time of External Inspections
45-12-02-06	Owner or User to Notify the Chief Inspector in Case of Accident
45-12-02-07	Operating Without an Inspection Certificate
45-12-02-08	Validity of Inspection Certificate for Boilers
45-12-02-09	Restamping Boilers
45-12-02-10	Condemned Boilers and Condemned Pressure Vessels
45-12-02-11	Owner and Installer to Notify Chief Boiler Inspector of Boilers to be Installed in North Dakota or Brought Into North Dakota for Temporary Use
45-12-02-12	Owner to Notify the Chief Boiler Inspector of Businesses Closed or Reopened
45-12-02-13	Removal of Used Boilers From the State
45-12-02-14	Nonstandard Boilers
45-12-02-15	Installing Used or Secondhand Boilers
45-12-02-16	Reinstalled Boilers
45-12-02-17	Reporting Repairs to be Made
45-12-02-18	Reports of Welded Repair or Alterations
45-12-02-19	Stamping of Boilers
45-12-02-20	Welders' Requirements
45-12-02-21	Alterations to Boilers
45-12-02-22	Major Repairs to Boilers

45-12-02-01. Inspection reports to be submitted.

- 1. Power boilers.** Each insurance company or self-insured corporation, to which a special inspector commission has been issued, shall submit to the chief boiler inspector complete data of each high pressure boiler insured by it in North Dakota on form NB-5 or other approved form for boilers. Each internal inspection must be reported to the chief boiler inspector within fifteen days after inspection on form NB-6 or other approved form for boilers. External inspections on high pressure boilers must be reported on form NB-6 or other approved form only when hazardous conditions affecting the safety of the boiler are found to exist.
- 2. Low pressure, hot water heating, and hot water supply boilers.** Within one year from effective date of this article, each insurance company or self-insured corporation shall submit to

the chief boiler inspector complete data of each boiler insured by it in North Dakota on form NB-5 or other approved form for boilers. All required certificate inspections must be reported on form NB-6 or other approved form.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-02-02. Insurance companies to notify the chief inspector of new, canceled, or suspended risks. Each insurance company shall notify the chief inspector within thirty days of each boiler insured, canceled, not renewed, or suspended because of unsafe conditions.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-02-03. Insurance companies to notify the chief inspector of defective boilers and boiler accidents. If a special inspector, upon the first inspection of a new risk, finds that the boiler or any of the appurtenances are in such condition that the inspector's company refuses insurance, the company shall submit a report of the defects to the chief inspector. When an accident occurs to an insured boiler which requires major repairs as defined in subsection 20 of section 45-12-01-01, or which results in the boiler being removed from service, that accident must be reported to the chief boiler inspector within thirty days of the insuring company first becoming aware of the accident.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-02-04. Self-insured corporations making own inspections. The chief inspector will not be required to inspect boilers in any establishment owned and operated by a self-insured corporation provided an annual boiler inspection program is established and maintained by such corporation and all boilers and appurtenances are constructed, installed, operated, and repaired in accordance with the provisions of this article. When boilers are inspected by an employee of a self-insured corporation, such inspector must hold a certificate of competency or a commission issued by North Dakota or a state that has adopted the American Society of Mechanical Engineers Code. A complete

report of each boiler inspection must be filed with the chief inspector on national board or other approved forms within fifteen days of inspection.

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-02-05. Defective conditions disclosed at time of external inspections. If upon an external inspection there is evidence of a leak or crack, enough of the covering of the boiler must be removed to satisfy the inspector, in order that the inspector may determine the safety of the boiler. If the covering cannot be removed at that time, the inspector may order the operation of the boiler stopped until the covering can be removed and proper examination can be made.

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-02-06. Owner or user to notify the chief inspector in case of accident. When an accident occurs which requires major repairs as defined in subsection 20 of section 45-12-01-01, the owner or user shall immediately notify the chief inspector and submit a detailed report of the accident. In case of an explosion, notice must be given immediately by telephone, telegraph, or messenger and the parts of the boiler may not be removed or disturbed before an inspection has been made by an inspector, unless for the purpose of saving human life or property.

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-02-07. Operating without an inspection certificate. The owner or user who causes a boiler to be operated after inspections without possessing a valid certificate of inspection is subject to the penalty under North Dakota Century Code section 26.1-22.1-11.

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-02-08. Validity of inspection certificate for boilers. An inspection certificate, issued in accordance with this article, is valid until expiration (not more than twelve months for power boilers and twenty-four months for low pressure, hot water supply and heating boilers) unless some defect or condition affecting the safety of the boiler is disclosed. (Exception: Steam traction engines and certain boilers over one hundred thousand pounds of steam per hour as allowed by

North Dakota Century Code sections 26.1-22.1-07 and 26.1-22.1-10.) A certificate issued for a boiler inspected by a special inspector is valid only if the boiler for which it was issued continues to be insured by a duly authorized insurance company or self-insured corporation. A two-month grace period must be extended for any certificate.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-02-09. Restamping boilers. When the stamping on a boiler becomes indistinct, the inspector shall instruct the owner or user to have it restamped. Request for permission to restamp the boiler must be made to the chief inspector and proof of the original stamping must accompany the request before authorization by the chief inspector. Restamping authorized by the chief inspector may be done only by an inspector, and must be identical with the original stamping, except that it is not required to restamp the American Society of Mechanical Engineers Code symbol. Notice of completion of such restamping must be filed with the chief inspector by the inspector who stamped the boiler or pressure vessel, together with a facsimile of the stamping.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-02-10. Condemned boilers and condemned pressure vessels. Any boiler having been inspected and declared unsafe by the chief inspector or the inspector's deputy must be stamped by the inspector with the letter X and the letters ND as shown on the following facsimile which will be designated a condemned boiler: XX ND XX.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-02-11. Owner and installer to notify chief boiler inspector of boilers to be installed in North Dakota or brought into North Dakota for temporary use.

1. The owner shall notify the chief boiler inspector before any new or secondhand boiler may be operated in North Dakota, giving its location and operating pressure.
2. The installer shall notify the chief boiler inspector before any new or secondhand boiler may be installed in North Dakota, giving its location and operating pressure.
3. The owner shall notify the chief boiler inspector of boilers removed from location, junked, or sold.

4. The owner shall notify the chief boiler inspector within fifteen days of removing a boiler from its location as to whether it has been junked or sold. If it has been sold, the name and address of the purchaser must be given.
5. When a boiler is brought into the state on a temporary basis and is to be removed from the state, a notice must be given as to the date it will be removed from North Dakota.

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-02-12. Owner to notify the chief boiler inspector of businesses closed or reopened.

1. It is the responsibility of the owner of a building complex or owner of a boiler to notify the chief boiler inspector of plans to discontinue use of a boiler due to business being permanently closed.
2. If a business is destroyed by fire, flood, or windstorm, the owner shall notify the chief boiler inspector as to plans developed for the disposition of the boiler.

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-02-13. Removal of used boilers from the state. When a nonportable standard boiler located in this state is moved to another state for use or repair, the owner shall apply to the chief boiler inspector before the boiler may be reinstalled in North Dakota.

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-02-14. Nonstandard boilers. A nonstandard boiler used in this state, if moved outside of the state, cannot be reinstalled in this state without permission of the chief boiler inspector.

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-02-15. Installing used or secondhand boilers. Before a used or secondhand boiler may be installed in this state, an inspection must be made by an inspector. (Note: It is recommended that before a

used or secondhand boiler is shipped for installation or operation in this state, that it be inspected by a North Dakota inspector, or by a national board commissioned inspector, and data submitted by the inspector filed by the buyer or owner or user with the chief boiler inspector for the chief inspector's approval. Otherwise hardships may be encountered should the boiler be condemned after installation.)

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-02-16. Reinstalled boilers. When a stationary boiler is moved and reinstalled, the fittings and appliances must comply with all requirements for new installations.

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-02-17. Reporting repairs to be made.

1. The owner or person in charge of a boiler repair shop making major repairs to a boiler shall notify the chief boiler inspector of each major repair or alteration to be made to a boiler, and the anticipated repair must be approved before work is started; or
2. If the boiler is insured or owned by a self-insured corporation, the special inspector may authorize the repair. After such repairs are made, they are subject to the approval of an inspector.

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-02-18. Reports of welded repair or alterations. All alterations and major repairs made to boilers in North Dakota must be reported on the national board report of welded repair or alteration form R-1 and this form must be completely filled out. The completed form must be sent by the repair concern effecting the repair to the chief boiler inspector within thirty days of the completion of the repair or alteration.

Subject to the administrative procedures of the boiler inspection program and the approval of the inspector, repairs of a routine nature may be given prior approval or the requirement for the repair report may

be waived. The National Board Inspection Code must be used as a guideline in determining repairs of a routine nature.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-02-19. Stamping of boilers.

1. Every boiler built for use in North Dakota must conform in every detail to the boiler laws and rules of North Dakota. When correctly constructed in accordance with these laws and rules it must be stamped with a state stamp of North Dakota and assigned a state number.
2. A boiler may not be operated in North Dakota unless it is stamped with the American society of mechanical engineers stamp and registered with the national board or can qualify for a North Dakota stamp. A request for a North Dakota stamp must be accompanied by a manufacturer's data report with supporting evidence that the boiler meets all requirements of the laws of North Dakota.
3. Upon completion of the installation, all boilers must be inspected by an inspector. Initial certificate inspections may only be made by the chief inspector or deputy inspectors. At the time of this inspection, each boiler must be stamped with a serial number of North Dakota preceded by the letters N.D. The letters and figures must not be less than five-sixteenths inch [7.94 millimeters] in height. If construction will not permit stamping, a numbered metal tag must be attached in a conspicuous place. The stamping may not be concealed by lagging or paint and must be exposed at all times.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-02-20. Welders' requirements. Any person welding on new or existing boilers shall register with the chief boiler inspector sufficient data to show a satisfactory performance qualification test for American society of mechanical engineers position "6G" or equivalent. This data must be documented on a current American society of mechanical engineers section IX "QW-484" form. Tests of welded specimens must be made by a certified testing laboratory.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-02-21. Alterations of boilers. Alterations, as defined in this article, must be made by a firm in possession of a valid national board "R" certificate of authorization, with alterations included within its scope of activity.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-02-22. Major repairs to boilers. Major repairs, as defined in this article, must be made by:

1. A firm in possession of a valid national board "R" certificate of authorization for the type of vessel to be repaired;
2. Any self-insured company that has employees for the purpose of inspecting its own boilers in this state and these employees have been issued special inspector commissions under North Dakota Century Code section 26.1-22.1-08; or
3. A firm authorized by the commissioner to do repairs to boilers. Such authorization may only be issued upon a successful review of that firm's repair capabilities by the chief inspector. Such a review must be based on the National Board Inspection Code and must be made on a frequency determined by the chief inspector. Such authorization may be revoked or not renewed by the chief inspector for cause.

The requirements of this section are effective December 1, 1994.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

**CHAPTER 45-12-03
GENERAL REQUIREMENTS**

Section	
45-12-03-01	Inspection of Boilers
45-12-03-01.1	Boiler Inspection Fees
45-12-03-02	Preparation for Internal Inspection
45-12-03-03	Boiler Improperly Prepared for Inspection
45-12-03-04	Removal of Covering to Permit Inspection
45-12-03-05	Lap Seam Crack
45-12-03-06	Hydrostatic Pressure Tests
45-12-03-07	Automatic Low-Water Fuel Cutoff or Water-Feeding Device
45-12-03-08	Safety Appliances
45-12-03-09	Blowoff Tanks
45-12-03-10	Blowoff Piping
45-12-03-11	Location of Blowoffs and Vents
45-12-03-12	Underground Installations
45-12-03-13	Supports
45-12-03-14	Pressure Reducing Valves
45-12-03-15	Ladders and Runways
45-12-03-16	Boiler Logs
45-12-03-17	Major Repairs
45-12-03-18	Same Material to be Used
45-12-03-19	Repairs to Boilers
45-12-03-20	Removal of Safety Appliances
45-12-03-21	Repairs and Renewals of Boiler Fittings and Appliances
45-12-03-22	Return Pump
45-12-03-23	Shop Inspection - Manufacturing
45-12-03-24	Commissioner to Arrange for Examinations
45-12-03-25	Conditions not Covered by this Article
45-12-03-26	Inspection of Boilers
45-12-03-27	Steam Traction Engines
45-12-03-28	Safety Valves

45-12-03-01. Inspection of boilers. The owner or user shall prepare a boiler subject to regular inspections for such inspections or hydrostatic tests when notified by the inspector. The owner or user shall prepare each boiler for internal inspection and shall prepare for and apply the hydrostatic test whenever necessary, on the date specified by the inspector, which may not be less than seven days after the date of notification.

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-03-01.1. Boiler inspection fees. The following will be charged for boiler inspections:

1. High pressure boilers.	
a. Internal inspections.	Fee
- 50 square feet [4.65 square meters] or less of heating surface	\$40.00
- Over 50 square feet [4.65 square meters] and not over 500 square feet [46.45 square meters]	50.00
- Over 500 square feet [46.45 square meters] and not over 4,000 square feet [371.61 square meters]	60.00
- Over 4,000 square feet [371.61 square meters] of heating surface	70.00
b. External inspections.	
- 50 square feet [4.65 square meters] of heating surface or less; 100KW or less	\$30.00
- Over 50 square feet [4.65 square meters] of heating surface; over 100 KW	40.00
2. Low pressure boilers.	
a. Internal inspections.	
- Without manway	\$40.00
- With manway	50.00
b. External inspections.	
- Hot water heat and low pressure steam	\$30.00
- Hot water supply	15.00
- Additional boilers at same account for same day inspection (account = same owner, management firm, user, etc.)	20.00
3. Steam traction engines.	
- Internal	\$40.00
- External	35.00
- Hydrostatic test	45.00
- Ultrasonic survey, per hour	30.00
4. Multiple boiler fee cap. Inspection fees for the same account, per day, must be as stated in this fee schedule, or at the flat rate of two hundred fifty dollars, whichever is less. This is in addition to the state certificate fee noted in subsection 5.	
5. State certificate fee, per certificate.	\$15.00

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-03-02. Preparation for internal inspection. The owner or user shall prepare a boiler for internal inspection in the following manner:

1. Water must be drawn off and the boiler thoroughly washed.
2. All manholes and handhole plates, washout plugs, and plugs in water column connections must be removed, the furnace and combustion chambers thoroughly cooled and cleaned, at the discretion of the inspector.
3. All grates of internally fired boilers must be removed, at the discretion of the inspector.
4. At each annual inspection, brickwork must be removed as required by the inspector in order to determine the condition of the boiler, headers, furnace, supports, or other parts.
5. The steam gauge must be removed for testing, at the discretion of the inspector.
6. Any leakage of steam or hot water into the boiler must be cut off by disconnecting the pipe or valve at the most convenient point.
7. Any low-water fuel cutoff float chamber must be opened and cleaned.
8. Safety concerns such as asbestos and confined space entry must be addressed by the owner to provide for the safety of the inspector. Applicable state or federal regulations must be used to decide if safety measures must be taken.

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-03-03. Boiler improperly prepared for inspection. If a boiler has not been properly prepared for an internal inspection or the owner or user fails to comply with the requirements for hydrostatic test as set forth in this article, the inspector may decline to make the

inspection or test and withhold the certificate of inspection until the owner or user complies with the requirements.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-03-04. Removal of covering to permit inspection. If the boiler is jacketed so that the longitudinal seams of shells, drums, or domes cannot be seen, enough of the jacketing, setting wall, or other form of casing or housing must be removed, at the discretion of the inspector, so that the size of the rivets, pitch of the rivets, and other data necessary to determine the safety of the boiler may be obtained, provided such information cannot be determined by other means.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-03-05. Lap seam crack. The shell or drum of a boiler in which a lap seam crack is discovered along a longitudinal riveted joint must be immediately discontinued from use. If the boiler is not more than fifteen years of age, a complete new course of the original thickness may be installed at the discretion of the chief inspector. Patching is prohibited. "Lap seam crack" means the typical crack frequently found in lap seams, extending parallel to the longitudinal joint and located either between or adjacent to rivet holes.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-03-06. Hydrostatic pressure tests. A hydrostatic pressure test, when applied to boilers of riveted or welded construction, except locomotive boilers, may not exceed one and one-half times the maximum allowable working pressure. Hydrostatic pressure applied to locomotive boilers may not exceed one and one-quarter times the maximum allowable working pressure. During the hydrostatic pressure test, the safety valve or valves must be removed or each valve disk must be held down by means of a testing clamp and not by applying the additional load to the spring with the compression screw. The minimum temperature of the water used to apply a hydrostatic test must not be less than seventy degrees Fahrenheit [25 degrees Celsius], nor shall it exceed one hundred twenty degrees Fahrenheit [49.3 degrees Celsius]. (Note: For all cases

involving the question of tightness, the pressure may be equal to the release pressure of the safety valve or valves having the lowest release setting.)

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-03-07. Automatic low-water fuel cutoff or water-feeding device.

1. Each automatically fired steam or vapor system boiler must be equipped with an automatic low-water cutoff located to automatically cut off the fuel supply when the surface of the water falls to the lowest safe waterline. Each automatically fired high pressure boiler must be equipped with at least two low-water fuel cutoffs, one of which must be of the float type. A high pressure boiler regularly attended by a full-time operator is not considered as automatically fired, and is not required to be equipped with low-water fuel cutoffs. For other than electric boilers, the primary low-water fuel cutoff for low pressure steam boilers must be a float type that can be readily tested.
2. If a water-feeding device is installed, it must be constructed so that the water inlet valve cannot feed water into the boiler through the float chamber and located to supply requisite feedwater. The lowest safe waterline should not be lower than the lowest visible part of the water glass.
3. Such fuel or feedwater control device may be attached directly to a boiler or to the tapped openings provided for attaching a water glass directly to a boiler, provided that for low pressure boilers such connections from the boiler are nonferrous tees or Y's not less than one-half-inch [12.7-millimeter] pipe size between the boiler and the water glass, so that the water glass is attached directly and as close as possible to the boiler; the straightway tapping of the Y or tee to take the water glass fittings, and the side outlet of the Y or tee to take the fuel cutoff or water-feeding device. The ends of all nipples must be reamed to full-size diameter.
4. Designs embodying a float and float bowl must have a vertical straightaway drainpipe at the lowest point in the water equalizing pipe connections by which the bowl and the equalizing pipe can be flushed and the device tested.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-03-08. Safety appliances.

1. A person may not remove, tamper with, or render inoperative any safety appliances prescribed by these rules except for the purpose of making repairs. The resetting of safety appliances may not exceed the accepted working pressure of the unit.
2. Repairs or adjustments made to safety or safety relief valves must be done by the manufacturer of the valve or an approved testing facility equipped to do such repairs or adjustments. The resetting of safety valves or safety relief valves may not exceed the accepted working pressure for the unit.
3. An approved testing facility must be one of the following:
 - a. A facility holding a valid certificate of authorization and "VR" symbol stamp issued by the national board of boiler and pressure vessel inspectors.
 - b. An owner or user "VR" program, the full equivalent of the national board "VR" program, reviewed and accepted by the chief boiler inspector, and a representative of the owner or user's authorized inspection agency responsible for the inservice inspection of the owner or user's boilers.
 - c. An owner or user program for doing adjustments to set pressure or blowdown, or both, to boiler pressure relief valves owned by them, provided the adjusted settings or capacities, or both, and the date of the adjustments are recorded on a metal tag secured to the seal wire. All external adjustments must be sealed showing the identification of the organization making the adjustments. The chief boiler inspector shall review the training, qualifications, and procedures used to implement this program.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-03-09. Blowoff tanks.

1. Blowoff piping from a boiler may not discharge directly into a sewer. A blowoff tank, constructed to the provisions of section VIII of the American Society of Mechanical Engineers Code, must be used where conditions do not provide an adequate and safe open discharge.
2. Blowoff tanks hereinafter installed, if of metal, must be designed for a minimum working pressure of fifty pounds per square inch [344.74 kilopascals].

3. The outlet from the blowoff tank must be twice the area of the inlet pipe, and made to extend internally within eight inches [203.2 millimeters] from the bottom of the tank.
4. Vent pipe at least four times the area of the inlet pipe must lead to the outer atmosphere.
5. Vents must be as direct as possible to the outer air and discharge at a safe location. There may be no valve or other possible obstructions such as water pockets between the tank and the discharge end of the vent pipe.
6. All pipe connections between the tank and the boiler must be as direct as possible and must conform to the American Society of Mechanical Engineers Code.
7. For convenience in cleaning the tank, a manhole or an access opening must be provided.
8. If a blowoff tank is not vented as specified above, it must be constructed for a pressure equal to that allowed on the boiler to which it is attached or must be equipped with a safety valve or valves of sufficient capacity to prevent the pressure from exceeding the safe working pressure of the tank.
9. Boiler blowoff systems constructed in accordance with the national board rules and recommendations for the design and construction of boiler blowoff systems must be considered as complying with this section.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-03-10. Blowoff piping.

1. The construction of the setting must be done in such a manner that it does not restrict the movement of the blowoff piping.
2. All blowoff piping, when exposed to furnace heat, must be protected by firebrick or other heat-resisting material so constructed that the piping may be readily inspected.
3. Each boiler must have a blowoff pipe, fitted with a valve cock, in direct connection with the lowest water space. Cocks must be of the gland or guard type and suitable for the pressure allowed. The use of globe-type valves is not permitted unless complying with the American Society of Mechanical Engineers Code. When the maximum allowable working pressure exceeds one hundred pounds per square inch gauge [689.48 kilopascals] each blowoff pipe must be provided with

two valves or a valve and a cock, such valves and cocks to be of the extra heavy type.

4. When the maximum allowable working pressure exceeds one hundred pounds per square inch gauge [689.48 kilopascals], blowoff piping must be extra heavy from the boiler to the valve or valves and must be run full size without use of reducers or bushings. The piping must be at least extra heavy duty wrought iron or steel and may not be galvanized.
5. All fittings between the boiler and blowoff valve must be steel or extra heavy fittings of malleable iron. In case of renewal of blowoff pipe or fittings, they must be installed in accordance with the rules and regulations for new installations.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-03-11. Location of blowoffs and vents. The discharge of safety valves, blowoff pipes, and other outlets must be located so as to prevent injury to personnel. For high pressure boilers, vents from blowoff tanks, condensate tanks, and the discharge piping from safety valves must be as short and straight as possible and so arranged as to avoid undue stresses on the safety valve or valves. Safety valve discharge piping must be so designed and constructed as to prevent excessive back pressure, while not affecting safety valve capacity and performance.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-03-12. Underground installations. Where necessary to install a blowoff tank underground, it must be enclosed in a concrete or brick pit with a removable cover so that inspection of the entire shell and heads of the tank can be made.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-03-13. Supports. Each boiler must be supported by masonry or structural supports of sufficient strength and rigidity to safely

support the boiler and its contents. There must be a minimum of vibration in the boiler and its connecting piping.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-03-14. Pressure reducing valves.

1. Where pressure reducing valves are used, one or more relief or safety valves must be provided on the low pressure side of the reducing valve in case the piping or equipment on the low pressure side does not meet the requirements for the full initial pressure. The relief or safety valves must be located adjoining or as close as possible to the reducing valve. Proper protection must be provided to prevent injury or damage caused by the escaping steam from the discharge. Capacity of the relief valves must be such that the pressure rating of the lower pressure piping or equipment shall not be exceeded in case the reducing valve sticks open.
2. The use of hand-controlled bypasses around reducing valves is permissible. The bypass if used around a reducing valve may not be greater in capacity than the reducing valve unless the piping or equipment is adequately protected by relief valves or meets the requirements of the high pressure system.
3. A pressure gauge must be installed on the low pressure side of a reducing valve.
4. All low pressure headers and their outlets must be protected by a safety valve or valves whose combined capacity is equivalent to the total amount of steam that can pass from the high pressure system to the lower pressure system.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-03-15. Ladders and runways. To ensure safe access to batteries of boilers, a steel platform or runway at least eighteen inches [457.2 millimeters] in width must be provided, complete with standard railing and toeboards on either side, across the tops of adjacent boilers. Wherever arrangement and location permit, all runways must provide for two means of egress remotely located with respect to the other and connected to a permanent stairway or fixed ladder leading to the floor level. The inspector shall notify the chief inspector of the owners or users who must provide for these requirements and the

chief inspector shall give written notice to the owner or user that the installation be made.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-03-16. Boiler logs. A log must be kept as to all repairs made, unusual incidents, accidents, water tests, amounts, types, and dates of water treatment.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-03-17. Major repairs. If a major repair is necessary, an inspector must be called for consultation and advice as to the best method of making such repair. After such repair is made it is subject to the approval of the inspector.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-03-18. Same material to be used.

1. No repair to any boiler or steampipe nor any of the connections thereto may be approved which is made in whole or in part of unsuitable material or is unsafe from any cause. Nothing herein may be construed to prevent the use of any boiler constructed of riveted iron or steel plates when the inspector has satisfactory evidence that such boiler or steam generator is equal in strength to and as safe from explosion as boilers constructed of the best quality of materials.
2. Quality of the material used in boiler construction and repair demands critical attention because in performing its function a steam boiler is continually subjected to disruptive stresses. These are due to high internal pressures and to changes in temperature. Disastrous consequences will inevitably follow if the material fails under these stresses.
3. The quality of the material used in the different parts of a boiler should be selected with special reference to the stresses and disruptive influences which each part encounters in service.
4. Galvanized pipe may not be used on any boiler or boiler system subject to this article, as this may cause deterioration of the boiler.

5. Sweated or soldered copper joints may not be used in steam piping and connections.
6. Repair material having a lesser tensile strength than that used in the original construction may not be used.

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-03-19. Repairs to boilers.

1. **Rejection of repair.** Any riveted or welded repair made to a boiler in North Dakota which does not meet this article's requirements will be cause for rejection of the repair by an inspector.
2. **Rejection of welds.** Any weld found to contain heavy slag inclusions or to be porous or found to be cracked will be reason for rejection of the weld and either part or all of the weld must be removed by grinding or shipping and the weld must be replaced.

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-03-20. Removal of safety appliances.

1. A person may not attempt to remove or do any work upon a safety appliance, prescribed by these rules, while a boiler is in operation. Should any of these safety appliances be repaired during an outage of a boiler, they must be reinstalled and in proper working order before the object is again placed in service. This provision does not apply to the removal and replacement of a gauge glass.
2. A person may not in any manner load the safety valve or valves to maintain a working pressure in excess of that stated on the certificate of inspection.

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-03-21. Repairs and renewals of boiler fittings and appliances. Whenever repairs are made to fittings or appliances or it

becomes necessary to replace them, the work must comply with all requirements for new installations.

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-03-22. Return pump. Each condensate return pump where practicable must be provided with an automatic water level control set to maintain the water level within the limits of two gauge cocks.

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-03-23. Shop inspection - Manufacturing. Any new boiler being constructed in North Dakota must be shop-inspected by an inspector holding a North Dakota reciprocal commission and a national board commission. The boiler inspection program may function as an authorized inspection agency. The boiler inspection program may cooperate with the national board and American society of mechanical engineers in making shop reviews and audits.

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-03-24. Commissioner to arrange for examinations. The commissioner shall cause examinations to be conducted at such times as is necessary for the qualification of inspectors.

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-03-25. Conditions not covered by this article.

1. In any conditions not covered by this article, the American Society of Mechanical Engineers Code for new installations applies.
2. If any section, subsection, sentence, clause, phrase, provision, or exemption of this article is declared unconstitutional or invalid for any reason, such invalidity does not affect the remaining portion of this article.

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-03-26. Inspection of boilers.

1. Each boiler used or proposed to be used within this state, except boilers exempt in North Dakota Century Code section 26.1-22.1-06, must be thoroughly inspected as to their construction, installation, condition, and operation as follows:
 - a. Power boilers must be inspected annually both internally and externally while not under pressure and must also be inspected annually externally while under pressure. However, any power boiler or steam generator, the operation of which is an integral part of or a necessary adjunct to other continuous processing operations, must be inspected internally at such intervals as are permitted by the shutting down of the processing operation. The chief boiler inspector may provide for extension of time between internal inspections, but an external inspection must be made, and report submitted, for purposes of issuing a certificate. In all other instances the certificate inspection must be an internal inspection when construction permits.
 - b. Low pressure steam boilers must be inspected annually. Low pressure steam boilers of steel construction must be inspected alternately internally and externally. The issuance of a certificate must normally be based on the internal inspection.
 - c. Hot water heating and hot water supply boilers must be inspected biennially unless they are located in a nursing home, school, nursery school, or kindergarten, in which case they must be inspected annually. Internal inspections will be required when deemed necessary by the inspector.
 - d. A grace period of two months beyond the period specified in the above subdivisions may elapse between inspections.
2. The only reports normally required by the chief boiler inspector will be reports of inspections made as a certificate inspection. Certificate inspections must be made during the period of thirty days prior to and thirty days after the expiration date of the certificate. Noncertificate inspections, when required by the provisions of this section, must be documented in such a manner that reports of these inspections may be furnished to the state insurance department upon the request of the chief boiler inspector. The chief boiler inspector encourages reports to be made at any time adverse conditions are found, or when difficulty is encountered getting cooperation from the owner or user.

3. The inspections required under this section must be made by the chief boiler inspector, or by a deputy inspector, or by a special inspector provided for in this article.
4. If at any time a hydrostatic test is deemed necessary by the inspector, it must be made by the owner or user in the presence of, and under the supervision of the inspector, and must be approved by the inspector.
5. Cast iron boilers must be considered as boilers that do not lend themselves to internal inspections. Internal inspections of electric boilers must be made when deemed necessary by the inspector.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-03-27. Steam traction engines. All steam traction engines must conform to at least one of the following: chapter 45-12-04, 45-12-05, 45-12-06, or 45-12-07.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-03-28. Safety valves.

1. Boiler safety valves and safety relief valves must be placed on, or as close as physically possible, to the boiler proper.
2. Safety valves or safety relief valves may not be placed on the feedline except when installed to provide control for feedwater pressure or to protect a feed pump against overpressure.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

**CHAPTER 45-12-04
POWER BOILERS - NEW INSTALLATIONS**

Section	
45-12-04-01	Requirements
45-12-04-02	Appurtenances - Piping and Tests
45-12-04-03	Exits From Boilerrooms
45-12-04-04	Boiler Clearances

45-12-04-01. Requirements.

1. All new boilers, except those exempt by law, to be installed in North Dakota must be reported to the chief boiler inspector by the owner or user and by the installer.
2. After July 1, 1973, power boilers that are not exempt by law may not be installed in this state unless they have been constructed, inspected, and stamped in conformity with the applicable edition of the American Society of Mechanical Engineers Code for power boilers and are approved, registered, and inspected in accordance with the requirements of this article.
3. A boiler having the standard stamping of another state that has adopted a standard of construction equivalent to the standard of North Dakota may be accepted by the chief boiler inspector if the person desiring to install the boiler makes application for the installation and files with the application the manufacturer's data report covering the construction of the boiler.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-04-02. Appurtenances - Piping and tests.

1. The inspector shall inspect all boilers and connected appurtenances for their safe operation and all pressure piping connecting them to the appurtenances and all piping up to and including the first stop valve, or the second stop valve when two are required.
2. Any pressure piping to the boiler, such as water column, blowoff valve, feedwater regulator, super heater, economizer, stop valves, etc., which are shipped connected to the boiler as a unit, must be hydrostatically tested with the boiler and witnessed by an inspector.

3. All economizers and superheaters, whether separately fired or not, and whether located within the scope of boiler external piping or not, must be constructed to section I of the American Society of Mechanical Engineers Code.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-04-03. Exits from boilerrooms.

1. To lessen the hazard of being trapped within the boilerroom, ash pit aisles, or other locations, there must be at least two means of exit as may be considered necessary by the inspector. Each elevation must be provided with at least two means of egress, each to be remotely located from the other.
2. All inspectors shall notify the chief inspector of the owners or users who must provide for these requirements. The chief inspector shall then give written notice to the owner or user that the necessary work must be completed within six months from the date of notification.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-04-04. Boiler clearances.

1. All new boiler installations must be designed to allow for normal operation, cleaning, and inspections, and must have at least three feet [.91 meters] of clearance on each side of the boiler with no obstructions and boilers operated in battery may not be installed closer than four feet [1.22 meters] from each other.
2. All boilers must be installed to allow for removal of tubes without removing walls or other structures. The front or rear of any boiler may not be located any nearer than three feet [.91 meters] from any wall or structure.
3. On all boilers equipped with a manhole, at least seven feet [2.1336 meters] of clearance must be maintained from the top of the boiler manhole to the ceiling of the boilerroom.

4. Boilers without manholes must have a minimum of at least three feet [.91 meters] from the top of the boiler to the lowest point of the boilerroom ceiling.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

CHAPTER 45-12-05
POWER BOILERS - EXISTING INSTALLATIONS

Section	
45-12-05-01	Maximum Allowable Working Pressure for Standard Boilers
45-12-05-02	Maximum Allowable Working Pressure for Nonstandard Boilers
45-12-05-03	Age Limit of Existing Boilers
45-12-05-04	Welded Boilers
45-12-05-05	Pressure on Old Boilers
45-12-05-06	Cast Iron Headers and Mud Drums
45-12-05-07	Pressure on Cast Iron Boilers
45-12-05-08	Safety Valves and Safety Relief Valves
45-12-05-09	Superheater Safety Valve Requirements
45-12-05-10	Capacity
45-12-05-11	Mounting
45-12-05-12	Operation
45-12-05-13	Steam Stop Valves
45-12-05-14	Feedwater Valves and Piping
45-12-05-15	Blowoff Valves and Piping
45-12-05-16	Factors of Safety
45-12-05-17	Inspection of Inaccessible Parts
45-12-05-18	Repairs and Renewals of Fittings and Appliances
45-12-05-19	Fusible Plugs
45-12-05-20	Water Columns, Gauge Glasses, and Gauge Cocks
45-12-05-21	Steam Pressure Gauge
45-12-05-22	Pressure on Nonstandard Traction Engines
45-12-05-23	Duties of Owners

45-12-05-01. Maximum allowable working pressure for standard boilers. The maximum allowable working pressure for standard boilers must be determined in accordance with the applicable provisions of the edition of the American Society of Mechanical Engineers Code under which they were constructed and stamped.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-05-02. Maximum allowable working pressure for nonstandard boilers.

1. The maximum allowable working pressure on the shell of a nonstandard boiler must be determined by the strength of the weakest section of the structure, computed from the thickness of the plate, the tensile strength of the plate, the efficiency of the longitudinal joint or tube ligaments, the inside diameter of the weakest course and the factor of safety allowed by this article.

$\frac{TStE}{RFS}$ = Maximum allowable working pressure, per square inch gauge where:

TS = Ultimate tensile strength of shell plates per square inch

t = Minimum thickness of shell plate, in weakest course, inches

E = Efficiency of longitudinal joint:

For tube ligaments and riveted construction, E shall be determined by the rules given in section I, part PR, of the American Society of Mechanical Engineers Code for power boilers. For seamless construction, E shall be considered one hundred percent.

R = Inside radius of the weakest course of the shell, in inches

FS = Factor of safety permitted

2. When the tensile strength of steel or wrought iron shell plate is not known, it must be taken as fifty-five thousand pounds per square inch [386.11 megapascals] for steel and forty-five thousand pounds per square inch [310.26 megapascals] for wrought iron.
3. The resistance to crushing of mild steel must be taken at ninety-five thousand pounds per square inch [655 megapascals] of the cross-sectional area.
4. When computing the ultimate strength of rivets in shear, the following values, in pounds per square inch [megapascals] of the cross-sectional area of the rivet shank must be used:

	<u>Pounds per Square Inch</u>	<u>Megapascals</u>
Iron rivets in single shear	38,000	262.
Iron rivets in double shear	76,000	524.
Steel rivets in single shear	44,000	303.
Steel rivets in double shear	88,000	606.

When the diameter of the rivet holes in the longitudinal joints of a boiler is not known, the diameter and cross-sectional area of rivets, after driving, may be selected

from the following table, or as ascertained by cutting out one rivet in the body of the joint.

SIZES OF RIVETS BASED ON PLATE THICKNESS

Thickness of plate, inches	1/4	9/32	5/16	11/32	3/8	13/32
Diameter of rivet after driving, inches	11/16	11/16	3/4	3/4	13/16	13/16
Thickness of plate, inches	7/16	15/32	1/2	9/16	5/8	
Diameter of rivet after driving, inches	15/16	15/16	15/16	1-1/16	1-1/16	

5. The following factors of safety must be increased by the inspector if the condition and safety of the boiler demand it:

The lowest factor of safety permissible on existing installations is four and five-tenths, except for horizontal-return-tubular boilers having continuous longitudinal lap seams more than twelve feet [3.66 meters] in length, when the factor of safety is eight; when this latter type boiler is removed from its existing setting, it may not be reinstalled for pressures in excess of fifteen pounds per square inch gauge [103 kilopascals].

Reinstalled or secondhand boilers must have a minimum factor of safety of six when the longitudinal seams are of lap-riveted construction, and a minimum factor of safety of five when the longitudinal seams are of butt-and-double-strap construction. Seam traction engines must be considered as secondhand boilers for purposes of determining their factors of safety.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-05-03. Age limit of existing boilers.

1. The age limit of any boiler of nonstandard construction is thirty years except that after a thorough internal and external inspection and a hydrostatic pressure test of one and one-half times the allowable working pressure held for a period of at least thirty minutes during which no distress or leakage develops, any boiler having other than a lap-riveted longitudinal joint may be continued in operation without

reduction in working pressure. The age limit of any boiler having lap-riveted longitudinal joints and operating at a pressure in excess of fifty pounds per square inch [344.74 kilopascals] is twenty years; this type of boiler, when removed from an existing setting, may not be reinstalled for a pressure in excess of fifteen pounds per square inch [103 kilopascals]. A reasonable time for replacement, not to exceed one year, may be given at the discretion of the chief boiler inspector.

2. The shell or drum of a boiler in which a typical lap seam crack is discovered along a longitudinal riveted joint for either butt seam or lap joints must be permanently discontinued for use under steam pressure. "Lap seam crack" means the typical crack frequently found in lap seams extending parallel to the longitudinal joint and located either between or adjacent to rivet holes.
3. The age limit of boilers of standard construction installed prior to the date this law becomes effective is dependent on thorough internal and external inspection and hydrostatic pressure test of one and one-half times the allowable working pressure for a period of thirty minutes. If the boiler under these test conditions exhibits no distress or leakage, it may be continued in operation at the same working pressure.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-05-04. Welded boilers. Boilers that have either longitudinal or circumferential seams of fusion welded construction must have been constructed and stamped in accordance with the rules and regulations of the American Society of Mechanical Engineers Code or must have the standard stamping of another state that has adopted a standard of construction equivalent to the standards of the American Society of Mechanical Engineers Code.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-05-05. Pressure on old boilers. The maximum working pressure of an old boiler may not be increased to a greater pressure than would be allowed for a new boiler of the same construction.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-05-06. Cast iron headers and mud drums. The maximum allowable working pressure on a watertube boiler, the tubes of which are secured to a cast iron or malleable iron header, or which have cast iron mud drums, may not exceed one hundred sixty pounds per square inch gauge [1103.17 kilopascals].

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-05-07. Pressure on cast iron boilers. The maximum allowable working pressure for any cast iron boiler, except hot water boilers, is fifteen pounds per square inch gauge [103 kilopascals].

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-05-08. Safety valves and safety relief valves.

1. Each boiler must have at least one American society of mechanical engineers approved safety valve and if it has more than five hundred square feet [46.45 square meters] of water heating surface, or if an electric boiler it has a power input of more than eleven hundred kilowatts, it must have two or more American society of mechanical engineers approved safety valves.
2. The safety valve capacity for each boiler must be such that the safety valve, or valves will discharge all the steam that can be generated by the boiler without allowing the pressure to rise more than six percent above the highest pressure at which any valve is set and in no case to more than six percent above the maximum allowable working pressure. The safety valve capacity of new units may not be less than the maximum designed steaming capacity as determined by the manufacturer.
3. The required steam relieving capacity in pounds per hour, of the safety relief valves on a high temperature water boiler must be determined by dividing the maximum output in British thermal units at the boiler nozzle obtained by the firing of any fuel for which the unit is designed by one thousand (one British thermal unit equals 1.055×10^3 joules).
4. One or more safety valves on the boiler proper must be set at or below the maximum allowable working pressure. If additional valves are used, the highest pressure setting may not exceed the maximum allowable working pressure by more than three percent. The complete range of pressure settings of all the saturated steam safety valves on a boiler may not exceed

ten percent of the highest pressure to which any valve is set. Pressure setting of safety relief valves on high temperature water boilers may exceed this ten percent range.

5. For a forced-flow steam generator with no fixed steamline and waterline, equipped with automatic controls and protective interlocks responsive to steam pressure, safety valves may be installed in accordance with the following, as an alternative:

- a. One or more power-actuated pressure-relieving valves must be provided in direct communication with the boiler when the boiler is under pressure and must receive a control impulse to open when the maximum allowable working pressure at the superheater outlet is exceeded. The total combined relieving capacity of the power-actuated pressure-relieving valves may be not less than ten percent of the maximum design steaming capacity of the boiler under any operating condition as determined by the manufacturer. The valves must be located in the pressure part system where they will relieve the overpressure.

An isolating stop valve of the outside-screw-and-yoke type may be installed between the power-actuated pressure-relieving valve and the boiler to permit repairs provided an alternate power-actuated pressure-relieving valve of the same capacity is so installed as to be in direct communication with the boiler.

- b. Spring-loaded safety valves must be provided having a total combined relieving capacity, including that of the power-actuated pressure-relieving valve installed under subdivision a of subsection 5, of not less than one hundred percent of the maximum designed steaming capacity of the boiler, as determined by the manufacturer. In this total credit in excess of thirty percent of the total relieving capacity may not be allowed for the power-actuated pressure-relieving valves actually installed. Any or all of the spring-loaded safety valves may be set above the maximum allowable working pressure of the parts to which they are connected but the set pressures must be such that when all these valves (together with the power-actuated pressure-relieving valves) are in operation the pressure will not rise more than twenty percent above the maximum allowable working pressure of any part of the boiler, except for the steampiping between the boiler and the prime mover.
- c. When stop valves are installed in the water-steam flow path between any two sections of a forced-flow steam generator with no fixed steamline and waterline:
 - (1) The power-actuated pressure-relieving valve required by subdivision a of subsection 5 must also receive a

control impulse to open when the maximum allowable working pressure of the component, having the lowest pressure level upstream to the stop valve, is exceeded.

- (2) The spring-loaded safety valve must be located to provide the pressure protection requirements of subdivision b or c of subsection 5.
 - (3) A reliable pressure-recording device must always be in service and records kept to provide evidence of conformity to the above requirements.
6. All safety valves or safety relief valves must be so constructed that the failure of any part cannot obstruct the free and full discharge of steam and water from the valve. Safety valves must be of the direct spring-loaded pop type, with seat inclined at any angle between forty-five and ninety degrees, inclusive, to the centerline of the spindle. The coefficient of discharge of safety valves must be determined by actual steam-flow measurements at a pressure not more than three percent above the pressure at which the valve is set to blow.
 7. Safety valves or safety relief valves may be used which give any opening up to the full discharge capacity of the area of the opening of the inlet of the valve, provided the movement of the valve is such as not to induce lifting of water in the boiler.
 8. Deadweight or weighted-lever safety valves or safety relief valves may not be used.
 9. For high temperature water boilers safety relief valves must be used. Such valves must have a closed bonnet. For purposes of selection, the capacity rating of such safety relief valves must be expressed in terms of actual steam flow determined on the same basis as for safety valves. In addition, the safety relief valves must be capable of satisfactory operation when relieving water at the saturation temperature corresponding to the pressure at which the valve is set to blow.
 10. A safety valve or safety relief valve over three inches [76.20 millimeters] in size, used for pressure greater than fifteen pounds per square inch gauge [103 kilopascals], must have a flange inlet connection or a welding-end inlet connection. The dimensions of flanges subjected to boiler pressure must conform to the applicable American national standards.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-05-09. Superheater safety valve requirements.

1. Every attached superheater must have one or more safety valves near the outlet. If the superheater outlet header has a full, free, steam passage from end to end and is so constructed that steam is supplied to it at practically equal intervals throughout its length so that there is a uniform flow of steam through the superheater tubes and the header, the safety valve or valves may be located anywhere in the length of the header.
2. The discharge capacity of the safety valve or valves on an attached superheater may be included in determining the number and size of the safety valves for the boiler provided there are no intervening valves between the superheater safety valve and the boiler, and provided the discharge capacity of the safety valve or valves, on the boiler, as distinct from the superheater, is at least seventy-five percent of the aggregate valve capacity required.
3. Every independently fired superheater that may be shut off from the boiler and permit the superheater to become a fired pressure vessel must have one or more safety valves having a discharge capacity equal to six pounds of steam per square foot [2.72 kilograms per square meter] of superheater surface measured on the side exposed to the hot gases. The number of safety valves installed must be such that the total capacity is at least equal to that required.
4. Every reheater must have one or more safety valves, such that the total relieving capacity is at least equal to the maximum steam flow for which the reheater is designed. At least one valve must be located on the reheater outlet. The relieving capacity of the valve on the reheater outlet may not be less than fifteen percent of the required total. The capacity of reheater safety valves may not be included in the required relieving capacity for the boiler and superheater.
5. A soot-blower connection may be attached to the same outlet from the superheater or reheater that is used for the safety valve connection.
6. Every safety valve used on a superheater or reheater discharging superheated steam at a temperature over four hundred fifty degrees Fahrenheit [232.2 degrees Celsius], must have a casing, including the base, body, bonnet, and spindle. Construction must be of steel, steel alloy, or equivalent heat-resistant material.

The valve must have a flanged inlet connection or a welding-end inlet connection. It must have the seat and disk of suitable heat-erosive and corrosive-resistant material, and

the spring fully exposed outside of the valve casing so that it is protected from contact with the escaping steam.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-05-10. Capacity.

1. The minimum safety valve or safety relief valve relieving capacity for other than electric boilers, and forced-flow steam generators with no fixed steamline and waterline, must be determined on the basis of the pounds of steam generated per hour per square foot of boiler heating surface and waterwall heating surface, as given in the following table:

	<u>Firetube</u> <u>Boilers</u>	<u>Watertube</u> <u>Boilers</u>
Boiler heating surface		
Hand-fired	5	6
Stoker-fired	7	8
Oil-, gas-, or pulverized- fuel-fired	8	10
Waterwall heating surface		
Hand-fired	8	8
Stoker-fired	8	8
Oil-, gas-, or pulverized- fuel-fired	14	16

When a boiler is fired only by a gas having a heat value not in excess of two hundred British thermal units [745.58 x 10 to the 4th power joules] per cubic foot [cubic meter], the minimum safety valve or safety relief valve relieving capacity may be based on the values given for hand-fired boilers above.

The minimum safety valve or safety relief valve relieving capacity for electric boilers is three and one-half pounds [3692.5 joules] per hour per kilowatt input.

In any cases a greater relieving capacity of safety valves or safety relief valves will have to be provided than the minimum specified by this rule, and in every case the requirements of section 45-12-05-08 must be met.

2. The heating surface must be computed for that side of the boiler surface exposed to the products of combustion, exclusive of the superheating surface. In computing the heating surface for this purpose, only the tubes, fireboxes, shells, tube sheets, and the projected area of headers need be considered, except that for vertical firetube steam boilers, only that portion of the tube surface up to the middle gauge cock is to be computed. The minimum number and size of safety valves or safety relief valves required must be determined on the basis of the aggregate relieving capacity and the relieving capacity marked on the valves by the manufacturer. If the operating conditions are changed, or additional heating surface such as water screens or waterwalls is connected to the boiler circulation, the safety valve or safety relief valve capacity must be increased, if necessary, to meet the new conditions and be in accordance with subsection 2 of section 45-12-05-08. The additional valves required on account of changed conditions may be installed on the steamline or waterline between the boiler and the main stop valve except when the boiler is equipped with a superheater or other apparatus, in which case they may be installed on the steampipes between the boiler drum and the inlet to the superheater or other apparatus, provided that the steam main between the boiler and points where a safety valve or valves may be attached has a cross-sectional area at least three times the combined areas of the inlet connections to the safety valves applied to it.
3. If the safety valve or safety relief valve capacity cannot be computed or if it is desirable to prove the computations, it may be checked in any one of the three following ways, and if found insufficient, additional capacity must be provided:
 - a. By making an accumulation test, that is, by shutting off all other steam-discharge outlets from the boiler and forcing the fires to the maximum. The safety valve equipment must be sufficient to prevent an excess pressure beyond that specified in subsection 2 of section 45-12-05-08. This method should not be used on a boiler with a superheater or reheater or on a high temperature water boiler.
 - b. By measuring the maximum amount of fuel that can be burned and computing the corresponding evaporative capacity upon the basis of the heating value of the fuel.
 - c. By determining the maximum evaporative capacity by measuring the feedwater. The sum of the safety valve capacities marked on the valves must be equal to or

greater than the maximum evaporative capacity of the boiler. This method may not be used on high temperature water boilers.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-05-11. Mounting.

1. When two or more safety valves are used on a boiler, they may be mounted either separately or as twin valves made by placing individual valves on Y-bases, or duplex valves having two valves in the same body casing. Twin valves made by placing individual valves on Y-bases or duplex valves having two valves in the same body must be of equal size.

When not more than two valves of different sizes are mounted singly the relieving capacity of the smaller valve may not be less than fifty percent of that of the larger valve.

2. The safety valve or safety relief valve or valves must be connected to the boiler independent of any other connection, and attached as close as possible to the boiler without any unnecessary intervening pipe or fitting. Such intervening pipe or fitting may not be longer than the face-to-face dimension of the corresponding tee fitting of the same diameter and pressure under the applicable American national standard rating. Every safety valve or safety relief valve must be connected so as to stand in an upright position with spindle vertical.
3. The opening or connection between the boiler and the safety valve or safety relief valve must have at least the area of the valve inlet. No valve of any description may be placed between the required safety valve or valves and the boiler nor on the discharge pipe between the safety valve or safety relief valve and the atmosphere. When a discharge pipe is used, the cross-sectional area may not be less than the full area of the valve outlet or of the total of the areas of the valve outlets, discharging thereinto and must be as short and straight as possible and arranged to avoid undue stresses on the valve or valves.

All safety valve or safety relief valve discharges must be so located or piped as to be carried clear from running boards or platforms. Ample provision for gravity drain must be made in the discharge pipe at or near each safety valve or safety relief valve, and where water or condensation may collect. Each valve must have an open gravity drain through the casing below the level of the valve seat. For iron-and-steel-bodied valves exceeding two inches [50.8 millimeters] in size, the

drain hole must be tapped not less than three-eighths-inch [9.53-millimeter] pipe size.

Discharge piping from safety relief valves on high temperature water boilers must have adequate provisions for water drainage as well as for steam venting.

The installation of cast iron-bodied safety relief valves for high temperature water boilers is prohibited.

4. If a muffler is used on a safety valve or safety relief valve, it must have sufficient outlet area to prevent back pressure from interfering with the proper operation and discharge capacity of the valve. The muffler plates or other devices must be so constructed as to avoid a possibility of restriction of the steam passages due to deposits. Mufflers may not be used on high temperature water boiler safety relief valves.

When a safety valve or safety relief valve is exposed to outdoor elements which may affect operation of the valve, it is permissible to shield the valve with a satisfactory cover. The shield or cover must be properly vented and arranged to permit servicing and normal operation of the valve.

5. When a boiler is fitted with two or more safety valves or safety relief valves on one connection, this connection to the boiler must have a cross-sectional area not less than the combined areas of inlet connections of all the safety valves or safety relief valves with which it connects.
6. Safety valves may be attached to drums or headers by welding, provided the welding is done in accordance with the requirements of this article.
7. Every boiler must have proper outlet connections for the required safety valve, or safety relief valve, or valves, independent of any other outside steam connection, the area of opening to be at least equal to the aggregate areas of inlet connections of all of the attached safety valves or safety relief valves. An internal collecting pipe, splash plate, or pan may be used, provided the total area for inlet of steam thereto is not less than twice the aggregate areas of the inlet connections of the attached safety valves. The holes in such collecting pipe must be at least one-fourth inch [6.35 millimeters] in diameter and the least dimension in any other form of opening for inlet of steam must be one-fourth inch [6.35 millimeters].

Such dimensional limitations to operation for steam need not apply to steam scrubbers or driers provided the net free steam inlet area of the scrubber or drier is at least ten times the total area of the boiler outlets for the safety valves.

8. If safety valves are attached to a separate steam drum or dome, the opening between the boiler proper and the steam drum or dome must be not less than required by above.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-05-12. Operation.

1. Safety valves must be designed and constructed to operate without chattering and to attain full lift at a pressure no greater than three percent above their set pressure. After blowing down, all valves must close at a pressure not lower than ninety-six percent of the set pressure of the lowest set valve. The minimum blowdown in any case is two pounds per square inch [13.79 kilopascals]. For spring-loaded pop safety valves for pressures between one hundred pounds per square inch [689.48 kilopascals] and three hundred pounds per square inch [2068.44 kilopascals], both inclusive, the blowdown is not less than two percent of the set pressure. To ensure the guaranteed capacity and satisfactory operation, the blowdown as marked upon the valve may not be reduced.

Safety valves used on forced-flow steam generators with no fixed steamline and waterline, and safety relief valves, used on high temperature water boilers, may be set and adjusted to close after blowing down not more than ten percent of the set pressure. The valves for these special uses must be so adjusted and marked by the manufacturer.

2. The blowdown adjustment must be made and sealed by the manufacturer or approved testing facility.
3. The popping-point tolerance plus or minus may not exceed the following: two pounds per square inch [13.79 kilopascals] for pressures up to and including seventy pounds per square inch [482.63 kilopascals], three percent for pressures from seventy-one pounds per square inch [483.0 kilopascals] to three hundred pounds per square inch [2068.44 kilopascals], ten pounds per square inch [68.95 kilopascals] for pressures from three hundred one pounds per square inch [2069.0 kilopascals] to one thousand pounds per square inch [6894.80 kilopascals], and one percent for pressures over one thousand pounds per square inch [6894.80 kilopascals].
4. To ensure the valve being free, each safety valve or safety relief valve must have a substantial lifting device by which the valve disk may be positively lifted from its seat when there is at least seventy-five percent of full working pressure on the boiler. The lifting device must be such that

it cannot lock or hold the valve disk in lifted position when the exterior lifting force is released.

Safety relief valve disks used on high temperature water boilers may not be lifted while the temperature of the water exceeds two hundred degrees Fahrenheit [93.3 Celsius]. If it is desired to lift the valve disk to assure that it is free, this shall be done when there is at least seventy-five percent of full working pressure on the boiler. For high temperature water boilers, the lifting mechanism must be sealed against leakage.

5. The seats and disks of safety valves or safety relief valves must be of suitable material to resist corrosion. The seat of a safety valve must be fastened to the body of the valve so that there is no possibility of the seat lifting.
6. Springs used in safety valves may not show a permanent set exceeding one percent of their free length ten minutes after being released from a cold compression test closing the spring solid.
7. The spring in a safety valve or safety relief valve in service for pressures up to and including two hundred fifty pounds per square inch [1683.7 kilopascals] may not be used for any pressure more than ten percent above or ten percent below that for which the safety valve or safety relief valve is marked. For higher pressures the spring may not be reset for any pressure more than five percent above or five percent below that for which the safety valve or safety relief valve is marked.
8. If the operating conditions of a valve are changed so as to require a new spring under subsection 1 for a different pressure, the valve must be adjusted by the manufacturer or the manufacturer's authorized representative who shall furnish and install a new nameplate.

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-05-13. Steam stop valves.

1. Each discharge outlet, except safety valve, safety relief valves, reheater inlet and outlet, or superheater inlet connections, must be fitted with a stop valve located at an accessible point in the steam-delivery line and as near the boiler nozzle as is convenient and practicable. When such outlets are over two-inch [50.8-millimeter] pipe size, the valve or valves used on the connection must be of the outside-screw-and-yoke-rising-spindle type so as to indicate from a distance by the position of its spindle whether it is closed or open, and the wheel may be carried either on the yoke or attached to the spindle. A plug-cock-type valve may be used provided the plug is held in place by a guard or a gland, the valve is equipped to indicate from a distance whether it is closed or open, and the valve is equipped with a slow-opening mechanism. In the case of a single boiler and prime mover installation, the stop valve required herein may be omitted provided the prime mover throttle valve is equipped with an indicator to show whether the valve is open or closed and is designed to withstand the required hydrostatic pressure test of the boiler.
2. When the boilers are connected to a common header, the connection from each boiler having a manhole opening must be fitted with two stop valves having an ample free-blow drain between them. The discharge of this drain must be visible to the operator while manipulating the valve. The stop valves must consist preferably of one automatic nonreturn valve (set next to the boiler) and a second valve of the outside-screw-and-yoke type must be used. Where intercommunicating systems of different pressures are installed, every boiler on each system must be equipped with an automatic nonreturn valve set next to the boiler.
3. When more than one stop valve is required, it shall have a pressure rating at least equal to that required for the expected steam temperature and pressure at the valve, or the pressure rating at least equal to eighty-five percent of the lowest set pressure of any safety valve on the boiler drum and for the expected temperature of the steam at the valve, whichever is greater.
4. All valves and fittings on steamlines shall have a pressure rating of at least one hundred pounds per square inch [689.48 kilopascals] in accordance with the applicable American national standards institute standard.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-05-14. Feedwater valves and piping.

1. Except for high temperature water boilers, the feedpipe must be provided with a check valve near the boiler and a valve or cock between the check valve and the boiler. When two or more boilers are fed from a common source, there must also be a globe or regulating valve on the branch to each boiler located between the check valve and the source of supply. Whenever globe valves are used on feedpiping, the inlet must be under the disk of the valve. On single boiler-turbine unit installations, the boiler feed shutoff valve may be located upstream from the boiler feed check valve.
2. When the supply line to a boiler is divided into branch feed connections and all such connections are equipped with stop and check valves, the stop and check valves in the common source may be omitted.
3. If a boiler is equipped with duplicate feed arrangements, each such arrangement must be equipped as required by these rules.
4. A combination stop-and-check valve in which there is only one seat and disk and a valve stem is provided to close the valve when the stem is screwed down must be considered only as a stop valve, and a check valve must be installed as otherwise provided.
5. Where an economizer or other feedwater-heating device is connected directly to the boiler without intervening valves, the feed valves and check valves required must be placed on the inlet of the economizer or feedwater-heating device.
6. The recirculating return line for a high temperature water boiler must be provided with the same stop valve, or valves, required by subsection 1 of section 45-12-05-13 for the main boiler and the required stop valve or valves is optional. A check valve may not be a substitute for a stop valve.
7. Except as provided for in subsections 8 and 10, boilers having more than five hundred square feet [46.45 square meters] of water-heating surface must have at least two means of feeding water. Each source of feeding must be capable of supplying water to the boiler at a pressure of six percent higher than the highest setting of any safety valve on the boiler. For boilers that are fired with solid fuel not in suspension, and for boilers whose setting or heat source can continue to supply sufficient heat to cause damage to the boiler if the feed supply is interrupted, one such means of feeding must not be subject to the same interruption as the first method.
8. Except as provided for in subsection 7, boilers fired by gaseous, liquid, or solid fuel in suspension may be equipped with a single means of feeding water provided means are

furnished for the immediate shut off of heat input if the water feed is interrupted.

9. For boilers having a water-heating surface of not more than one hundred square feet [9.29 square meters], the feedpiping and connection to the boiler may not be smaller than one-half-inch [12.7-millimeter] pipe size. For boilers having a water-heating surface more than one hundred square feet [9.29 square meters], the feedpiping and connection to the boiler may not be less than three-quarter-inch [19.05-millimeter] pipe size.
10. High temperature water boilers must be provided with means of adding water to the boiler or system while under pressure.
11. The feedwater must be introduced into a boiler in such a manner that the water will not be discharged directly against surfaces exposed to gases of high temperature or to direct radiation from the fire or close to any riveted joints of the furnace sheets or of the shell. For pressures of four hundred pounds [2757.92 kilopascals] or over, the feedwater inlet through the drum must be fitted with shields, sleeves, or other suitable means to reduce the effects of temperature differentials in the shell or head. If necessary, the discharge end of a feedpipe must be fitted with a baffle to divert the flow from riveted joints. Feedwater may not be introduced through the blowoff.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-05-15. Blowoff valves and piping.

1. A "blowoff" means a pipe connection provided with valves through which the water in the boiler may be blown out under pressure, excepting drains such as are used on water columns, gauge glasses, or piping of feedwater regulators, etc., used for the purpose of determining the operating condition of such equipment. Piping connections used primarily for continuous operation, such as deconcentrators on continuous blowdown systems, are not classed as blowoffs but the pipe connections and all fittings up to and including the first shutoff valve must be equal at least to the pressure requirements for the lowest set pressure of any safety valve on the boiler drum and with the corresponding saturated-steam temperature.
2. A surface blowoff may not exceed two and one-half-inch [63.5-millimeter] pipe size, and the internal and external pipes, when used, must form a continuous passage, but with clearance between their ends and arranged so that the removal of either will not disturb the other.

3. Each boiler, except high temperature water boilers, must have a bottom blowoff pipe fitted with a valve or cock in direct connection with the lowest water space practicable.
4. All waterwalls and water screens which do not drain back into the boiler, and all integral economizers must be equipped with blowoff valves.
5. Except as permitted for miniature boilers, the minimum size of pipe and fittings is one inch [25.4 millimeters], and the maximum size is two and one-half inches [63.5 millimeters], except that for boilers with one hundred square feet [9.29 square meters] of heating surface or less, the minimum size of pipe and fittings is three-fourths inch [19.05 millimeters].
6. Condensate return connections of the same size or larger than the size herein specified may be used, and the blowoff may be connected to them. In such case the blowoff must be so located that the connection may be completely drained.
7. A bottom blowoff pipe when exposed to direct furnace heat must be protected by firebrick or other heat-resisting material which is so arranged that the pipe may be inspected.
8. An opening in the boiler setting for a blowoff pipe must be arranged to provide free expansion and contraction.
9. On a boiler having multiple blowoff pipes, a single master valve may be placed on the common blowoff pipe from the boiler, in which case only one valve on each individual blowoff is required. In such a case either the master valve or the individual valves or cocks must be of the slow-opening type.
10. Two independent slow-opening valves, or a slow-opening valve and a quick-opening valve or cock, may be combined in one body and may be used provided the combined fitting is the equivalent of two independent slow-opening valves, or a slow-opening valve and a quick-opening valve or cock and provided further that the failure of one to operate cannot affect the operation of the other.
11. The bottom blowoff pipes of every traction or portable boiler must have at least one slow-opening or quick-opening blowoff valve or cock conforming to the requirements of section 45-12-05-15.
12. Only one blowoff valve, which must be of a slow-opening type,

is required on forced circulation and electric boilers having a normal water content not exceeding one hundred gallons [378.54 liters].

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-05-16. Factors of safety. The minimum factor of safety may not be less than four and five-tenths for existing installations. The commissioner authorizes an inspector to increase the factor of safety if the condition of the boiler or pressure vessel warrants it. If the owner or user does not concur with the inspector's decision, the owner or user may appeal to the commissioner who may request a joint inspection by the chief boiler inspector and the deputy inspector or special inspector. Each inspector shall render the inspector's report to the commissioner, and the commissioner shall render the final decision, based upon the data contained in all the inspector's reports.

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-05-17. Inspection of inaccessible parts. If in the opinion of the inspector, as the result of conditions disclosed at the time of inspection, it is advisable to remove the interior or exterior lining, covering, or brickwork to expose certain parts of the vessel not normally visible, the owner or user shall remove such material to permit proper inspection and the drilling of any part of the vessel to ascertain thickness.

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-05-18. Repairs and renewals of fittings and appliances. Whenever repairs are made to fittings and appliances or it becomes necessary to replace them, the work must comply with the requirements for new installations.

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-05-19. Fusible plugs.

1. Fire-actuated fusible plugs, if used, must conform to the requirements of the American Society of Mechanical Engineers Code for power boilers, July 1, 1973.

2. They may be replaced by steel plugs if the boiler is gas fired or oil fired and is equipped with a low water fuel cutoff.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-05-20. Water columns, gauge glasses, and gauge cocks.

1. Outlet connections (except for damper regulator, feedwater regulator, low water fuel cutoff, drains, steam gauges, or such apparatus that does not permit the escape of an appreciable amount of steam or water therefrom) may not be placed on the piping that connects the water column to the boiler. The water column must be placed on the piping that connects the water column to the boiler. The water column must be provided with a valved drain of at least three-fourths-inch [19.05-millimeter] pipe size, the drain to be piped to a safe location.
2. Each boiler must have three or more gauge cocks located within the visible length of the water glass, except when the boiler has two water glasses located on the same horizontal lines. Boilers not over thirty-six inches [.914 meters] in diameter, in which the heating surface does not exceed one hundred square feet [9.29 square meters] need have but two gauge cocks.
3. For all installations where the water gauge glass or glasses are more than thirty feet [9.14 meters] from the boiler operating floor, it is recommended that water level indicating or recording gauges be installed at eye height from the operating floor.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-05-21. Steam pressure gauge.

1. Each steam boiler must have a steam gauge, with dial range not less than one and one-half times the pressure at which the safety valve is set, connected to the steam space or to the steam connection to the water column. The steam gauge must be connected to a siphon or equivalent device of sufficient capacity to keep the gauge tube filled with water and so arranged that the gauge cannot be shut off from the boiler except by a cock placed near the gauge and provided with a tee or lever handle arranged to be parallel to the pipe in which it is located when the cock is open.

2. When a steam pressure gauge connection longer than eight feet [2.44 meters] becomes necessary, a shutoff valve may be used near the boiler provided the valve is of the outside-screw-and-yoke type and is locked open. The line must be ample size with provision for free blowing. Each boiler must be provided with a one-fourth-inch [6.35-millimeter] nipple and globe valve connected to the steam space for the exclusive purpose of attaching a test gauge when the boiler is in service so that the accuracy of the boiler steam gauge may be ascertained.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-05-22. Pressure on nonstandard traction engines. All steam traction engines that are of nonstandard boiler construction are limited to a maximum allowable working pressure of one hundred pounds per square inch [690 kilopascals], unless a thorough ultrasonic thickness survey, engineering analysis, and other inspections, approved by the chief boiler inspector, determine that a different pressure is appropriate. The maximum allowable working pressure may not be greater than that permitted by the original manufacturer. Boilers herein described are not subject to the age limits of section 45-12-05-03.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-05-23. Duties of owners.

1. It is the duty of the owner or user of any steam traction engine on wheels to notify the chief boiler inspector of sale or other disposition of steam traction engines.
2. Within ten days of purchase, any person purchasing any steam traction engine shall notify the chief boiler inspector where it will be located and operated.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

CHAPTER 45-12-06
MINIATURE BOILERS - NEW INSTALLATIONS

Section
45-12-06-01 Requirements

45-12-06-01. Requirements.

1. All new boilers, except those exempt by law, to be installed in North Dakota must be reported to the chief boiler inspector by the owner or user and by the installer.
2. A miniature boiler, except one exempt by law, may not be installed in North Dakota unless it has been constructed, inspected, and stamped in conformity with section I of the American Society of Mechanical Engineers Code and is approved, registered, and inspected in accordance with this article.
3. A miniature boiler having the standard stamping of another state that has adopted a standard of construction equivalent to the standard of North Dakota may be accepted by the inspector. However, the person desiring to install the same shall make application for the installation and shall file with this application the manufacturer's data report covering the construction of the boiler in question.
4. All new installation boilers, including reinstalled boilers, must be installed in accordance with the requirements of the American Society of Mechanical Engineers Code and these regulations.

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

CHAPTER 45-12-07
MINIATURE BOILERS - EXISTING INSTALLATIONS

Section	
45-12-07-01	General Rules
45-12-07-02	Maximum Allowable Working Pressure
45-12-07-03	Maximum Allowable Working Pressure for Nonstandard Boilers
45-12-07-04	Safety Valves
45-12-07-05	Gauge Glass and Water Level Indicator
45-12-07-06	Feeding and Feedwater Piping
45-12-07-07	Blowoff Piping
45-12-07-08	Steam Gauges
45-12-07-09	Stop Valves
45-12-07-10	Flue Connection
45-12-07-11	Duties of Owners
45-12-07-12	Steam Gauge

45-12-07-01. General rules. The rules adopted for power boilers applying to strength of materials and calculations to determine maximum allowable working pressure must be used for miniature boilers unless a special rule is stated in those rules.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-07-02. Maximum allowable working pressure. The maximum allowable working pressure for standard boilers on the shell of a boiler or drum must be determined by section 45-12-05-01.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-07-03. Maximum allowable working pressure for nonstandard boilers. Nonstandard miniature boilers:

1. Must conform to all requirements of this chapter.
2. Must have a factor of safety as given in subsection 5 of section 45-12-05-02.
3. Must be given an initial inspection that must include a hydrostatic pressure test.
4. May not have solder or silver solder as a method of attachment of any pressure part of the entire assembled unit.

5. May have a plate for the North Dakota stamp and registration number to be welded to boiler proper. The plate must be placed in a conspicuous and accessible location with a minimum size thickness one-sixteenth inch [1.59 millimeters], length two inches [50.8 millimeters], and width one inch [25.4 millimeters].
6. May not exceed the design criteria limits as defined in subsection 20 of section 45-12-01-01.
7. Of the watertube, fired-coil and fired-radiator design must be considered as not meeting the requirements of this section.
8. Exceeding twelve inches [304.80 millimeters] internal diameter must have at least one 1-inch [25.4-millimeter] opening in the bottom of the shell and one 1-inch [25.4-millimeter] opening in each water leg. Boilers not exceeding twelve inches [304.80 millimeters] internal diameter must have one 1/2-inch [12.7-millimeter] opening in the shell and one 1/2-inch [12.7-millimeter] opening in each water leg.
9. Construction material used for fabrication of the shell must be steel of at least fifty-five thousand pounds per square inch [386.11 megapascals] tensile strength. Material of tubes may be steel, brass, or copper with a rating equal to materials from section II of the American Society of Mechanical Engineers Code.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-07-04. Safety valves.

1. Each miniature boiler must be equipped with an American society of mechanical engineers approved safety valve set at or below the maximum allowable working pressure.
2. The safety valve must be plainly marked by the manufacturer showing name or identifying trademark, nominal diameter, and pressure at which it is set to release.
3. The safety valve relieving capacity of each boiler must be such that it will discharge all the steam that can be generated by the boiler without allowing the pressure to rise more than six percent above the maximum allowable working pressure.
4. In those cases where the boiler is supplied with feedwater directly from a pressure main or system without the use of a mechanical feeding device, the safety valve must be set to release at a pressure not in excess of ninety-four percent of

the lowest pressure obtained in the supply main or system feeding the boiler. Return traps may not be considered mechanical feeding devices.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-07-05. Gauge glass and water level indicator.

1. Each miniature boiler must be equipped with a water gauge glass for determination of water level.
2. The lowest permissible water level must be at a point one-third of the height of the shell, except where the boiler is equipped with internal furnace in which case it may not be less than one-third of the tube length above the top of the furnace. For small boilers where there is insufficient space for the usual type of gauge glass, water level indicators of the glass bull's-eye type may be used.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-07-06. Feeding and feedwater piping.

1. Every miniature boiler must be provided with at least one feed pump or other mechanical feeding device except if the following conditions exist:
 - a. If the boiler is connected to a water main or system having sufficient pressure to feed the boiler at any time while under pressure.
 - b. If the fuel burned is such that all heat input can be discontinued instantaneously by the operation of a valve, cock, or switch, thereby permitting the boiler pressure to be quickly lowered to a point where water can be introduced from the connection of the water main.
 - c. If the boiler is operated without extraction of steam (closed system) in which case the boiler is filled, when cold, through the connection or opening provided in accordance with the following rule.
2. Each miniature boiler must be fitted with a feedwater connection that may not be less than one-half-inch [12.7-millimeter] iron pipe size. The feedpiping must be provided with a check valve near the boiler and a valve or check between the check valve and the boiler.

3. Feedwater may be introduced through the blowoff connection if the boiler is operated without extraction of steam (closed system).
4. Feedwater may not be introduced through the water column or gauge glass connections while the boiler is under pressure.

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-07-07. Blowoff piping.

1. Each miniature boiler must be provided with a blowoff connection not less than one-half-inch [12.7-millimeter] iron pipe size, directly connected with the lowest water space.
2. Blowoff piping may not be galvanized and must be provided with a valve or cock.

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-07-08. Steam gauges. Each miniature boiler must be equipped with a steam gauge having a dial range not less than one and one-half times the safety valve setting. The gauge must be connected to the steam space or to the steam connection to the gauge glass by a brass or bronze composition siphon tube, or equivalent device that will keep the gauge tube filled with water.

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-07-09. Stop valves. The steam piping from a miniature boiler must be provided with a stop valve located as close to the boiler shell or drum as is practicable, except in those cases where the boiler and steam receiver are operated as a closed system.

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-07-10. Flue connection. Each gas-fired boiler must be equipped with a four-inch [10.16-centimeter] vent pipe or flue extended to an approved location outside the building or connected to a chimney flue. If the horizontal run is more than ten feet [3.05 meters], the

vent must be increased to six inches [152.4 millimeters]. A draft hood of approved design must be provided on each boiler.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-07-11. Duties of owners.

1. The owner and user of any steam traction engine or boiler on wheels shall notify the chief boiler inspector of sale or other disposition of steam traction engines.
2. Within ten days of purchase, any person purchasing any steam traction engine shall notify the chief boiler inspector where it will be located and operated.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-07-12. Steam gauge. The steam pressure gauge must show the pressure at which the boiler is actually being operated. Adjustments to the gauge to show a lesser pressure are prohibited, and if any gauge has been so adjusted, such act will be considered a willful violation of this section.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

**CHAPTER 45-12-08
HEATING, LOW PRESSURE, AND HOT WATER SUPPLY BOILERS -
NEW INSTALLATIONS**

Section
45-12-08-01 Requirements

45-12-08-01. Requirements.

1. Unless exempt by this article, a heating or low pressure boiler may not be installed in this state unless it has been constructed, inspected, and stamped to conform with section IV of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code and is approved, registered, and inspected in accordance with the requirements of this article.
2. All new installation boilers, including reinstalled boilers, must be installed in accordance with the requirements of the American Society of Mechanical Engineers Code and this article.
3. Hot water supply boilers may not be installed unless constructed and approved in accordance with the American gas association, the American national standards institute, or the American society of mechanical engineers.
4. All new boilers, except those exempt by law, to be installed in North Dakota must be reported to the chief boiler inspector by the owner or user, and by the installer.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

**CHAPTER 45-12-09
HEATING, LOW PRESSURE, AND HOT WATER SUPPLY BOILERS -
EXISTING INSTALLATIONS**

Section	
45-12-09-01	American Society of Mechanical Engineers Code Boilers
45-12-09-02	Nonstandard Riveted Boilers
45-12-09-03	Nonstandard Welded Boilers
45-12-09-04	Nonstandard Cast Iron Boilers
45-12-09-05	Fired Radiators
45-12-09-06	General
45-12-09-07	Pressure-Relieving Devices
45-12-09-08	Steam Pressure Gauge
45-12-09-09	Water Gauge Glasses
45-12-09-10	Stop Valves and Check Valves
45-12-09-11	Feedwater Connections
45-12-09-12	Pressure or Altitude Gauges
45-12-09-13	Thermometers
45-12-09-14	Temperature Control
45-12-09-14.1	Pressure Control
45-12-09-15	Provisions for Thermal Expansion in Hot Water Systems
45-12-09-16	Return Pump
45-12-09-17	Repairs and Renewals of Fittings and Appliances
45-12-09-18	Low-Water Fuel Cutoff
45-12-09-19	Modular Hot Water Heating Boilers
45-12-09-20	Bottom Blowoff and Drain Valves

45-12-09-01. American Society of Mechanical Engineers Code boilers. The maximum allowable working pressure of a boiler built in accordance with the American Society of Mechanical Engineers Code may not exceed the pressure indicated by the manufacturer's identification stamped or cast upon the boiler or upon a plate secured to it.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-09-02. Nonstandard riveted boilers. The maximum allowable working pressure on the shell of a noncode riveted heating boiler must be determined in accordance with section 45-12-05-01 except that the maximum allowable working pressure of a steam heating boiler may not exceed fifteen pounds [103 kilopascals] and a hot water boiler may not

exceed thirty pounds [206.85 kilopascals] at a temperature not exceeding two hundred fifty degrees Fahrenheit [120 degrees Celsius].

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-09-03. Nonstandard welded boilers. The maximum allowable working pressure of a noncode steel or wrought iron heating boiler of welding construction may not exceed fifteen pounds [103 kilopascals]. For other than steam service, the maximum allowable working pressure must be calculated in accordance with section IV of the American Society of Mechanical Engineers Code.

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-09-04. Nonstandard cast iron boilers.

1. The maximum allowable working pressure of a noncode boiler composed principally of cast iron may not exceed fifteen pounds [103 kilopascals] for steam service or thirty pounds [206.85 kilopascals] for hot water service.
2. The maximum allowable working pressure of a nonstandard boiler having cast iron shell or heads and steel or wrought iron tubes may not exceed fifteen pounds [103 kilopascals] for steam service or thirty pounds [206.85 kilopascals] for water service.

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-09-05. Fired radiators. A radiator in which steam pressure is generated at a pressure of fifteen pounds [103 kilopascals] or less is considered a low pressure boiler.

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-09-06. General. If in the judgment of the inspector, a steam heating boiler is unsafe for operation at the pressure previously

approved, the pressure must be reduced, proper repair made, or the boiler retired from service.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-09-07. Pressure-relieving devices.

1. Safety valve requirements for steam boilers are:

- a. Each steam boiler must have one or more American society of mechanical engineers approved safety valves of the spring-pop type adjusted and sealed to discharge at a pressure not to exceed fifteen pounds per square inch [103 kilopascals]. Seals must be attached in a manner to prevent the valve from being taken apart without breaking the seal. The safety valves must be arranged so that they cannot be reset to relieve at a higher pressure than the maximum allowable working pressure of the boiler. For iron-and-steel-bodied valves exceeding two-inch [50.8-millimeter] pipe size, the drain hole or holes must be tapped not less than three-eighths-inch [9.53-millimeter] pipe size.
- b. Each safety valve three-fourths inch [10.05 millimeters] diameter or over used on a steam boiler must have a substantial device that will positively lift the disk from its seat at least one-sixteenth inch [1.59 millimeters] when there is no pressure in the boiler. The seats and disks must be of suitable material to resist corrosion.
- c. A safety valve for a steam boiler may not be smaller than three-fourths inch [19.05 millimeters] unless the boiler and radiating surfaces consist of a self-contained unit. A safety valve may not be larger than four and one-half inches [114.3 millimeters]. The inlet opening must have an inside diameter equal to, or greater than, the seat diameter.
- d. The minimum relieving capacity of valve or valves is governed by the capacity marking on the boiler.
- e. The minimum valve capacity in pounds per hour is the greater of that determined by dividing the maximum British thermal units output at the boiler nozzle obtained by the firing of any fuel for which the unit is installed by one thousand, or is determined on the basis of the pounds of steam generated per hour per square foot of boiler heating surface. (One British thermal unit equals 1.055×10^6 to the 3rd power joules.)

MINIMUM POUNDS OF STEAM PER HOUR
PER SQUARE FOOT OF HEATING SURFACE

Boiler Heating Surface	Firetube Boilers	Watertube Boilers
Hand-fired	5	6
Stoker-fired	7	8
Oil, gas, or pulverized fuel-fired	8	10

- f. Safety valves must be installed with the valve spindle in the vertical position. Discharge piping, to a safe location, may be required by the inspector.
2. When a boiler is fired only by a gas having a heat value not in excess of two hundred British thermal units per cubic foot [745.58 x 10 to the 4th power joules per cubic meter], the minimum safety valve or safety relief valve relieving capacity may be based on the values given for hand-fired boilers above.
3. The safety valve or safety relief valve relieving capacity for electric boilers is three and one-half pounds [3692.5 joules] per hour per kilowatt input.
- a. The safety valve capacity for each steam boiler must be such that with the fuel-burning equipment installed and operated at maximum capacity the pressure cannot rise more than five pounds per square inch [34.47 kilopascals] above the maximum allowable working pressure.
- b. When operating conditions are changed, or additional boiler heating surface is installed, the valve capacity must be increased, if necessary, to meet the new conditions, the additional valves required, on account of changed conditions, may be installed on the outlet piping provided there is no intervening valve.
4. Safety relief valve requirements for hot water boilers are:
- a. Each hot water heating boiler must have at least one American society of mechanical engineers approved pressure relief valve set to relieve at or below the maximum allowable working pressure of the boiler. Each hot water supply boiler must have at least one officially rated safety relief valve or at least one American society of mechanical engineers approved pressure-temperature relief valve of the automatic-reseating type set to relieve at or below the maximum allowable working pressure of the boiler. Pressure relief valves officially rated as to

capacity must have pop action when tested by steam. When more than one safety relief valve is used on either hot water heating or hot water supply boilers, the additional valve or valves must be officially rated and may be set within a range not to exceed six pounds per square inch [41.47 kilopascals] above the maximum allowable working pressure of the boiler up to and including sixty pounds per square inch [413.69 kilopascals] and ten percent for those having a maximum allowable working pressure exceeding sixty pounds per square inch [413.69 kilopascals]. Safety relief valves must be spring loaded without disk guides on the pressure side of the valve. Safety relief valves must be arranged so that they cannot be reset to relieve at a higher pressure than the maximum permitted by this subdivision.

- b. Each safety relief valve must have a substantial device that will positively lift the disk from its seat at least one-sixteenth inch [1.59 millimeters] when there is no pressure on the boiler.
- c. Materials subject to deterioration or vulcanization when subject to saturated steam temperature corresponding to capacity test pressure may not be used for any part.
- d. A safety relief valve may not be smaller than three-fourths inch [19.05 millimeters] nor larger than four and one-half-inch [114.3-millimeter] standard pipe size, except that boilers having a heat input not greater than fifteen thousand British thermal units per hour [15.38×10 to the 7th power joules] may be equipped with a rated safety relief valve of one-half-inch [12.7-millimeter] standard pipe size. The inlet opening must have an inside diameter approximately equal to, or greater than, the seat diameter. The minimum opening through any part of the valve may not be less than one-fourth inch [6.35 millimeters] diameter or its equivalent area.
- e. The required steam-relieving capacity, in pounds per hour, of the pressure-relieving device or devices on a boiler must be determined by dividing the maximum output in British thermal units at the boiler nozzle obtained by the firing of any fuel for which the unit is designed by one thousand or by multiplying the square feet of heating surface by five. In every case, the requirements of subdivision g must be met. (One British thermal unit equals 1.055×10 to the 3rd power joules.)
- f. When operating conditions are changed, or additional boiler heating surface is installed, the valve capacity must be increased, if necessary, to meet the new conditions and be in accordance with subdivision g. The

additional valves required, on account of changed conditions, may be installed on the outlet piping provided there is no intervening valve.

- g. Safety relief valve capacity for each boiler must be such that with maximum heat input the pressure cannot rise more than six pounds per square inch [41.37 kilopascals] above the maximum allowable working pressure for pressures up to and including sixty pounds per square inch [413.69 kilopascals] and ten percent for maximum allowable working pressures over sixty pounds per square inch [413.69 kilopascals].
- h. Safety relief valves must be installed with the spindle in the vertical position. Discharge piping, to a safe location, must be installed.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-09-08. Steam pressure gauge.

1. Each steam boiler must have a steam gauge or a compound steam gauge connected to its steam space or to its water column or to its steam connections. The gauge or connection must contain a siphon or equivalent device that will develop and maintain a water seal that will prevent steam from entering the gauge tube. The connection must be arranged so that the gauge cannot be shut off from the boiler except by a cock placed in the pipe at the gauge and provided with a tee or a lever handle arranged to be parallel to the pipe in which it is located when the cock is open. The connections to the boiler must be not less than one-fourth-inch [6.35-millimeter] standard pipe size, but where steel or wrought iron pipe or tubing is used, they must be not less than one-half-inch [12.7-millimeter] standard pipe size. The minimum size of a siphon, if used, must be one-fourth inch [6.35 millimeters] inside diameter. Ferrous and nonferrous tubing having inside diameters at least equal to that of standard pipe sizes listed above may be substituted for pipe.
2. The scale on the dial of a steam boiler gauge must be graduated to not less than thirty pounds per square inch [206.84 kilopascals] nor more than sixty pounds per square inch [413.69 kilopascals]. The gauge must be provided with effective stops for the indicating pointer at the zero point and at the maximum pressure point. The travel of the pointer from zero to thirty pounds per square inch [206.84 kilopascals] pressure must be at least three inches [76.2 millimeters]. On a compound gauge, effective stops must be

set at the limits of the gauge readings on both the pressure and vacuum sides of the gauge.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-09-09. Water gauge glasses.

1. Each steam boiler must have one or more water gauge glasses attached to the water column or boiler by means of valved fittings not less than one-half-inch [12.70-millimeter] pipe size, with the lower fitting provided with a drain valve of the straightway type with opening not less than one-fourth inch [6.35 millimeters] diameter to facilitate cleaning. Gauge glass replacement must be possible under pressure. Water glass fittings may be attached directly to a boiler.
2. The lowest visible part of the water gauge glass must be at least one inch [25.4 millimeters] above the lowest permissible water level recommended by the boiler manufacturer. With the boiler operating at this lowest permissible water level, there must be no danger of overheating any part of the boiler. Transparent material other than glass may be used for the water gauge provided that the material will remain transparent and has proved suitable for the pressure, temperature, and corrosive conditions expected in service.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-09-10. Stop valves and check valves.

1. If a steam boiler may be closed off from the heating system by closing a steam stop valve, there must be a check valve in the condensate return line between the boiler and the system.
2. If any part of a steam heating system may be closed off from the remainder of the system by closing a steam stop valve, there must be a check valve in the condensate return pipe from that part of the system.
3. If more than one boiler is connected to a system, they must each be equipped with main stops on the discharge and return side, in such a manner not affecting operation of any other boiler.

4. When single boilers are located above the system and can be drained without draining the system, stop valves are optional.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-09-11. Feedwater connections.

1. Feedwater connections must be independent of any water gauge connections and be made to the condensate return pipe or reservoir of the condensate return tank.
2. Alternatively, makeup water or water treatment may be introduced through an independent connection. The water flow from the independent connection may not discharge directly against parts of the boiler exposed to direct radiant heat from the fire. Makeup water or water treatment may not be introduced through openings or connections provided for inspection or cleaning, safety valve, safety relief valve, blowoff, water column, water gauge glass, pressure gauge, or temperature gauge.
3. When there is more than one boiler connected to a system, each boiler must have an independent feedwater line.
4. There must be a stop valve and a check valve in the feedwater line at the boiler. For hot water heating boilers, the check valve must be a backflow preventer approved by the State Plumbing Code, 1990 edition, 1994 addenda.
5. Hot water heating boilers, not equipped with an approved low-water fuel cutoff, must be equipped with an automatic feeding device or pressure reducing valve method of feeding, in addition to a manual bypass capable of feeding boiler at a pressure of six percent above safety relief valve setting.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-09-12. Pressure or altitude gauges.

1. Each hot water boiler must have a pressure or altitude gauge connected to it or to its flow connection in such a manner that it cannot be shut off from the boiler except by a cock with tee or lever handle placed on the pipe near the gauge. The handle of the cock must be parallel to the pipe in which it is located when the cock is open.

2. The scale on the dial of the pressure or altitude gauge must be graduated to not less than one and one-half nor more than three times the pressure at which the safety relief valve is set. The gauge must be provided with effective stops for the indicating pointer at the zero point and at the maximum pressure point.
3. Piping or tubing for pressure or altitude gauge connections must be of nonferrous metal when smaller than one-inch [25.4-millimeter] pipe size.

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-09-13. Thermometers. Each hot water boiler must have a thermometer located and connected so that it is easily readable when observing the water pressure or altitude. The thermometer must be located so that it will at times indicate the temperature in degrees Fahrenheit [Celsius] of the water in the boiler at or near the outlet.

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-09-14. Temperature control. Each automatically fired hot water boiler must be protected from over temperature by two temperature-operated controls.

1. Each individual automatically fired water boiler must have a safety limit control that will cut off the fuel supply to prevent water temperature from exceeding the maximum allowable temperature of two hundred fifty degrees Fahrenheit [121.1 Celsius] at the boiler outlet. The water temperature safety control must be constructed to prevent a temperature setting above two hundred fifty degrees Fahrenheit [121.1 Celsius].
2. Each individual hot water boiler or each system of commonly connected boilers without intervening valves must have a control that will cut off the fuel supply when the water temperature reaches an operating limit, which must be less than the maximum allowable temperature.

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-09-14.1. Pressure control. Each automatically fired steam boiler must be protected from overpressure by two pressure-operated controls.

1. Each automatically fired steam boiler must have a safety limit control that will cut off the fuel supply to prevent steam pressure from exceeding the fifteen pounds per square inch [103 kilopascals] maximum allowable working pressure of the boiler. Each control must be constructed to prevent a pressure setting above fifteen pounds per square inch [103 kilopascals].
2. Each individual steam boiler or each system of commonly connected steam boilers must have a control that will cut off the fuel supply when the pressure reaches an operating limit, which must be less than the maximum allowable pressure.
3. Shutoff valves of any type may not be placed in the steam pressure connection between the boiler and the controls described in subsections 1 and 2. These controls must be protected with a syphon or equivalent means of maintaining a water seal that will prevent steam from entering the control.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-09-15. Provisions for thermal expansion in hot water systems.

1. All hot water heating systems incorporating hot water tanks or fluid relief columns must be so installed as to prevent freezing under normal operating conditions.
2. Systems with open expansion tank. If the system is equipped with an open expansion tank, an indoor overflow from the upper portion of the expansion tank must be provided in addition to an open vent, the indoor overflow to be carried within the building to a suitable plumbing fixture or to the basement.
3. Closed-type systems. If the system is of the closed type, an airtight tank or other suitable air cushion must be installed that will be consistent with the volume and capacity of the system, and must be suitably designed for a hydrostatic test pressure of two and one-half times the allowable working pressure of the system. Expansion tanks for systems designed to operate above thirty pounds per square inch [206.85 kilopascals] must be constructed in accordance with the American Society of Mechanical Engineers Code, section VIII, division 1. Except for prepressurized tanks, provisions must be made for draining the tank without emptying the system.
4. Expansion tank capacities for gravity hot water systems. Based on two-pipe system with average operating water temperature one hundred seventy degrees Fahrenheit [76.7 degrees Celsius], using cast iron column radiation with heat

emission rate one hundred fifty British thermal units per hour per square foot [158.25 x 10 to the 3rd power joules per .0929 square meter] equivalent direct radiation.

Square Feet of Installed Equivalent Direct Radiation	Tank Capacity, Gallons
Up to 350	18
Up to 450	21
Up to 650	24
Up to 900	30
Up to 1100	35
Up to 1400	40
Up to 1600	2-30
Up to 1800	2-30
Up to 2000	2-35
Up to 2400	2-40

5. Expansion tank capacities for forced hot water systems. Based on average operating water temperature one hundred ninety-five degrees Fahrenheit [90 degrees Celsius], a fill pressure twelve pounds per square inch gauge [82.74 kilopascals] and a maximum operating pressure thirty pounds per square inch gauge [206.84 kilopascals].

System Volume, Gallons	Nonpressurized Tank Capacity Gallons	Prepressurized Tank Capacity Gallons
100	15	9
200	30	17
300	45	25
400	60	33
500	75	42
1000	150	83
2000	300	165

Note: System volume includes volume of water in boiler, radiation, and piping, not including the expansion tank.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-09-16. Return pump. Each condensate return pump where practicable must be provided with an automatic water level control set to maintain the water level within the limits of two gauge cocks.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-09-17. Repairs and renewals of fittings and appliances. Whenever repairs are made to fittings or appliances or it becomes necessary to replace them, all work must comply with all requirements for new installations.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-09-18. Low water fuel cutoff.

1. Each automatically fired hot water heating boiler must have an automatic low-water fuel cutoff that has been designed for hot water service and which can be tested without draining the system or the boiler. It must be so located as to automatically cut off the fuel supply prior to the surface of the water falling below the lowest safe water level as established by the boiler manufacturer.
2. A coil-type or watertube boiler requiring forced circulation to prevent overheating of the coils or tubes must have a flow-sensing device installed in the boiler or piping in lieu of the required low-water fuel cutoff that will cut off the fuel supply when the circulation flow is interrupted.
3. Low-water fuel cutoff requirements for steam boilers are addressed by section 45-12-03-07.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-09-19. Modular hot water heating boilers.

1. Individual modules must be limited to a maximum input of four hundred thousand British thermal units [4.22×10^5 to the 8th power joules] per hour (gas), three gallons [11.36 liters] per hour (oil), or one hundred fifteen kilowatts hours (electricity).
2. Each module of a modular hot water heating boiler must be equipped with the following:

- a. Pressure/altitude gauge (see section 45-12-09-12).
 - b. Thermometer (see section 45-12-09-13).
 - c. High limit temperature control (see subsection 1 of section 45-12-09-14).
 - d. Safety relief valve (see section 45-12-09-07).
 - e. Drain valve (see section 45-12-09-20).
3. The assembled modular hot water heating boiler must be equipped with the following:
- a. Operating temperature control (see subsection 2 of section 45-12-09-14).
 - b. Low-water fuel cutoff (see section 45-12-09-18).
 - c. Makeup feedwater connection (see section 45-12-09-11).
 - d. Expansion tank provisions (see section 45-12-09-15).
 - e. Stop valves (see section 45-12-09-10).

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

45-12-09-20. Bottom blowoff and drain valves.

1. Each steam boiler having a capacity over twenty-five gallons [94.6 liters] must have a bottom blowoff connection fitted with a valve or cock connected to the lowest water space practicable with a minimum size as show below:

Minimum Required Safety Valve Capacity In Pounds of Steam/Hour	Steam Boiler Blowoff Piping Valve Size, Inches (Min.)
Up to 500	3/4
501 to 1250	1
1251 to 2500	1 1/4
2501 to 6000	1 1/2
6001 and larger	2

2. Each hot water boiler and each steam boiler having a capacity not exceeding twenty-five gallons [94.6 liters] must have a

drain valve connected to the lowest water space practicable.
The minimum size of this drain valve is three-quarter inch
[1.9 centimeters].

History: Effective June 1, 1994.
General Authority: NDCC 26.1-22.1-14
Law Implemented: NDCC 26.1-22.1-14

CHAPTER 45-12-10
UNFIRED PRESSURE VESSELS

Section	
45-12-10-01	Construction and Installation Standards - Exceptions
45-12-10-02	Application of Standards - Repairs
45-12-10-03	Allowance for State Specials

45-12-10-01. Construction and installation standards - Exceptions. Unfired pressure vessels may not be installed in North Dakota unless such vessels have been constructed in accordance with the American Society of Mechanical Engineers Boiler and Pressure Vessel Code, section VIII, division 1 or 2, and bear the "U" stamp as proof of such construction.

Manufacturers shall register unfired pressure vessels with the national board of boiler and pressure vessel inspectors. Unfired pressure vessels must bear the required stamping of the national board.

The requirements of this section apply to all pressure vessels within the scope of the American Society of Mechanical Engineers Code, section VIII, divisions 1 and 2, 1992 edition with these exceptions:

1. Pressure vessels under federal control.
2. Pressure vessels that do not exceed four cubic feet [thirty United States gallons] in volume and two hundred fifty pounds per square inch gauge [1723.70 kilopascals] in pressure.
3. Pressure vessels that do not exceed one and one-half cubic feet [11.22 United States gallons] in volume and six hundred pounds per square inch gauge [4136.88 kilopascals] in pressure.
4. Unfired pressure vessels installed or ordered prior to November 1, 1987. However, these unfired pressure vessels must be maintained in a safe operating condition using ANSI/NB-23 and ANSI/API-510 as guidelines.

Unfired pressure vessels referenced by this section must be protected with the American society of mechanical engineers stamped pressure relief devices as defined in section VIII of the American Society of Mechanical Engineers Code.

Existing pressure relief devices installed on unfired pressure vessels referenced by this section will be considered acceptable if the

pressure relief device is set for the correct pressure, if the usage is correct, and if the device is in a satisfactory operation condition.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-10-02. Application of standards - Repairs.

1. These rules apply only to new construction, except as noted below:
 - a. Reinstalled pressure vessels must meet the rules for new construction. Exception: National board registration is required only for those vessels ordered and constructed after November 1, 1987.
 - b. Repairs to unfired pressure vessels and to safety and safety relief valves for those vessels:
 - (1) Repairs to safety valves and safety relief valves must be such that valve function is not impaired and the repaired valve will perform to the standards for which it was originally constructed. It is recommended that these repairs be made by a firm in possession of a valid "VR" certificate of authorization from the national board of boiler and pressure vessel inspectors.
 - (2) Repairs to unfired pressure vessels must be such that vessels repaired will be returned to a safe and satisfactory operating condition, provided there is not deviation from the original design. It is recommended that these repairs be made by a firm in possession of a valid "R" certificate of authorization from the national board of boiler and pressure vessel inspectors.
 - (3) The National Board Inspection Code (ANSI/NB-23, 1992 edition) and the American Petroleum Institute Code (ANSI/API-510, 1992 edition) cover repair and alteration procedures. ANSI/API-510 may be used to cover the maintenance inspection, repair, alteration, and rerating procedure for pressure vessels used by the petroleum and chemical process industries. It is intended that ANSI/NB-23 cover installations other than those covered by ANSI/API-510.
 - c. Alterations to unfired pressure vessels:
 - (1) Alterations, as defined in ANSI/NB-23, must be made by a national board "R" certificate holder.

- (2) Alterations may also be made by an organization operating under the provisions of ANSI/API-510, provided the alteration is within the scope of ANSI/API-510.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-10-03. Allowance for state specials. If, due to a valid impediment to compliance with the American Society of Mechanical Engineers Code in its entirety, an unfired pressure vessel cannot bear the American society of mechanical engineers and national board stamping, details in the English language, and specifications and calculations, approved by a registered professional engineer experienced in pressure vessel design, must be submitted to the chief inspector by the owner or user. Approval as "state special" must be obtained from the chief inspector before construction is started.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

JULY 1994

CHAPTER 45-06-01.1

45-06-01.1-05. Minimum benefit standards for policies or certificates issued for delivery prior to January 1, 1992. No policy or certificate may be advertised, solicited, or issued for delivery in this state as a medicare supplement policy or certificate unless it meets or exceeds the following minimum standards. These are minimum standards and do not preclude the inclusion of other provisions or benefits which are not inconsistent with these standards:

1. **General standards.** The following standards apply to medicare supplement policies and certificates and are in addition to all other requirements of this rule:
 - a. A medicare supplement policy or certificate may not exclude or limit benefits for losses incurred more than six months from the effective date of coverage because it involved a preexisting condition. The policy or certificate may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.
 - b. A medicate supplement policy or certificate may not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.
 - c. A medicare supplement policy or certificate must provide that benefits designed to cover cost-sharing amounts under medicare will be changed automatically to coincide with any changes in the applicable medicare deductible amount

and copayment percentage factors. Premiums may be modified to correspond with such changes.

d. A "noncancelable", "guaranteed renewable", or "noncancelable and guaranteed renewable" medicare supplement policy may not:

- (1) Provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium; or
- (2) Be canceled or nonrenewed by the issuer solely on the grounds of deterioration of health.

e. (1) Except as authorized by the commissioner of this state, an issuer may neither cancel nor nonrenew a medicare supplement policy or certificate for any reason other than nonpayment of premium or material misrepresentation.

(2) If a group medicare supplement insurance policy is terminated by the group policyholder and not replaced as provided in paragraph 4, the issuer must offer certificate holders an individual medicare supplement policy. The issuer must offer the certificate holder at least the following choices:

(a) An individual medicare supplement policy currently offered by the issuer having comparable benefits to those contained in the terminated group medicare supplement policy; and

(b) An individual medicare supplement policy which provides only such benefits as are required to meet the minimum standards as defined in subsection 2 of section 45-06-01.1-06.

(3) If membership in a group is terminated, the issuer must:

(a) Offer the certificate holder such conversion opportunities as are described in paragraph 2; or

(b) At the option of the group policyholder, offer the certificate holder continuation of coverage under the group policy.

(4) If a group medicare supplement policy is replaced by another group medicare supplement policy purchased by the same policyholder, the succeeding issuer must offer coverage to all persons covered under the old

group policy on its date of termination. Coverage under the new group policy may not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

- f. Termination of a medicare supplement policy or certificate must be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be predicated upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or to payment of the maximum benefits.

2. Minimum benefit standards.

- a. Coverage of part A medicare eligible expenses for hospitalization to the extent not covered by medicare from the sixty-first day through the ninetieth day in any medicare benefit period.
- b. Coverage for either all or none of the medicare part A inpatient hospital deductible amount.
- c. Coverage of part A medicare eligible expenses incurred as daily hospital charges during use of medicare's lifetime hospital inpatient reserve days.
- d. Upon exhaustion of all medicare hospital inpatient coverage including the lifetime reserve days, coverage of ninety percent of all medicare part A eligible expenses for hospitalization not covered by medicare subject to a lifetime maximum benefit of an additional three hundred sixty-five days.
- e. Coverage under medicare part A for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations or already paid for under part B.
- f. Coverage for the coinsurance amount of medicare eligible expenses under part B regardless of hospital confinement, subject to a maximum calendar year out-of-pocket amount equal to the medicare part B deductible (one hundred dollars).
- g. Effective January 1, 1990, coverage under medicare part B for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations), ~~unless--defined--under federal--regulations~~; unless replaced in accordance with

federal regulations or already paid for under part A, subject to the medicare deductible amount.

History: Effective January 1, 1992; amended effective July 1, 1994.

General Authority: NDCC 26.1-36.1-02(1)(2), 26.1-36.1-03.

Law Implemented: NDCC 26.1-36.1-02

45-06-01.1-07. Standard medicare supplement benefit plans.

1. An issuer shall make available to each prospective policyholder and certificate holder a policy form or certificate form containing only the basic core benefits, as defined in subsection 2 of section 45-06-01.1-06.
2. No groups, packages, or combinations of medicare supplement benefits other than those listed in this section may be offered for sale in this state, except as may be permitted in subdivision k of subsection 3 of section 45-06-01.1-06 and in section 45-06-01.1-08.
3. Benefit plans must be uniform in structure, language, designation, and format to the standard benefit plans "A" through "J" listed in this section and conform to the definitions in section 45-06-01.1-02 and contained in North Dakota Century Code section 26.1-36.1-01. Each benefit must be structured in accordance with the format provided in subsections 2 and 3 of section 45-06-01.1-06 and list the benefits in the order shown in this section. For purposes of this section, "structure, language, and format" means style, arrangement, and overall content of a benefit.
4. An issuer may use, in addition to the benefit plan designations required in subsection 3, other designations to the extent permitted by law.
5. Makeup of benefit plans:
 - a. Standardized medicare supplement benefit plan "A" is limited to the basic (core) benefits common to all benefit plans, as defined in subsection 2 of section 45-06-01.1-06.
 - b. Standardized medicare supplement benefit plan "B" may include only the following: The core benefit as defined in subsection 2 of section 45-06-01.1-06, plus the medicare part A deductible as defined in subdivision a of subsection 3 of section 45-06-01.1-06.
 - c. Standardized medicare supplement benefit plan "C" may include only the following: The core benefit as defined in subsection 2 of section 45-06-01.1-06, plus the medicare part A deductible, skilled nursing facility care,

medicare part B deductible and medically necessary emergency care in a foreign country as defined in subdivisions a, b, c, and h of subsection 3 of section 45-06-01.1-06, respectively.

- d. Standardized medicare supplement benefit plan "D" may include only the following: The core benefit as defined in subsection 2 of section 45-06-01.1-06, plus the medicare part A deductible, skilled nursing facility care, medically necessary emergency care in a foreign country and the at-home recovery benefit as defined in subdivisions a, b, h, and j of subsection 3 of section 45-06-01.1-06, respectively.
- e. Standardized medicare supplement benefit plan "E" may include only the following: The core benefit as defined in subsection 2 of section 45-06-01.1-06, plus the medicare part A deductible, skilled nursing facility care, medically necessary emergency care in a foreign country, and preventive medical care as defined in subdivisions a, b, h, and i of subsection 3 of section 45-06-01.1-06, respectively.
- f. Standardized medicare supplement benefit plan "F" may include only the following: The core benefit as defined in subsection 2 of section 45-06-01.1-06, plus the medicare part A deductible, the skilled nursing facility care, the medicare part B deductible, one hundred percent of the medicare part B excess charges, and medically necessary emergency care in a foreign country as defined in subdivisions a, b, c, e, and h of subsection 3 of section 45-06-01.1-06, respectively.
- g. Standardized medicare supplement benefit plan "G" may include only the following: The core benefit as defined in subsection 2 of section 45-06-01.1-06, plus the medicare part A deductible, skilled nursing facility care, eighty percent of the medicare part B excess charges, medically necessary emergency care in a foreign country, and the at-home recovery benefit as defined in subdivisions a, b, d, h, and j of subsection 3 of section 45-06-01.1-06, respectively.
- h. Standardized medicare supplement benefit plan "H" may consist of only the following: The core benefit as defined in subsection 2 of section 45-06-01.1-06, plus the medicare part A deductible, skilled nursing facility care, basic prescription drug benefit, and medically necessary emergency care in a foreign country as defined in subdivisions a, b, f, and h of subsection 3 of section 45-06-01.1-06, respectively.

- i. Standardized medicare supplement benefit plan "I" may consist of only the following: The core benefit as defined in subsection 2 of section 45-06-01.1-06, plus the medicare part A deductible, skilled nursing facility care, one hundred percent of the medicare part B excess charges, basic prescription drug benefit, medically necessary emergency care in a foreign country, and at-home recovery benefit as defined in subdivisions a, b, e, f, h, and j of subsection 3 of section 45-06-01.1-06, respectively.
- j. Standardized medicare supplement benefit plan "J" may consist of only the following: The core benefit as defined in subsection 2 of section 45-06-01.1-06, plus the medicare part A deductible, skilled nursing facility care, medicare part B deductible, one hundred percent of the medicare part B excess charges, extended prescription drug benefit, medically necessary emergency care in a foreign country, preventive medical care, and at-home recovery benefit as defined in subdivisions a, b, c, e, g, h, i, and j of subsection 3 of section 45-06-01.1-06, respectively.

History: Effective January 1, 1992; amended effective July 1, 1994.

General Authority: NDCC 26.1-36.1-02(1)(2), 26.1-36.1-03

Law Implemented: NDCC 26.1-36.1-02

45-06-01.1-12. Filing and approval of policies and certificates and premium rates.

1. An issuer may not deliver or issue for delivery a policy or certificate to a resident of this state unless the policy form or certificate form has been filed with and approved by the commissioner in accordance with filing requirements and procedures prescribed by the commissioner.
2. An issuer may not use or change premium rates for a medicare supplement policy or certificate unless the rates, rating schedule, and supporting documentation have been filed with and approved by the commissioner in accordance with the filing requirements and procedures prescribed by the commissioner.
3. a. Except as provided in subdivision b of this subsection, an issuer may not file for approval more than one form of a policy or certificate of each type for each standard medicare supplement benefit plan.
b. An issuer may offer, with the approval of the commissioner, up to four additional policy forms or certificate forms of the same type for the same standard medicare supplement benefit plan, one for each of the following cases:

- (1) The inclusion of new or innovative benefits.
 - (2) The addition of either direct response or agent marketing methods.
 - (3) The addition of either guaranteed issue or underwritten coverage.
 - (4) The offering of coverage to individuals eligible for medicare by reason of disability.
- c. For the purposes of this section, a "type" means an individual policy, a group policy, an individual medicare select policy, or a group medicare select policy.
4. a. Except as provided in paragraph 1, an issuer must continue to make available for purchase any policy form or certificate form issued after the effective date of this regulation that has been approved by the commissioner. A policy form or certificate form may not be considered to be available for purchase unless the issuer has actively offered it for sale in the previous twelve months.
- (1) An issuer may discontinue the availability of a policy form or certificate form if the issuer provides to the commissioner in writing its decision at least thirty days prior to discontinuing the availability of the form of the policy or certificate. After receipt of the notice by the commissioner, the issuer may no longer offer for sale the policy form or certificate form in this state.
 - (2) An issuer that discontinues the availability of a policy form or certificate form pursuant to paragraph 1 may not file for approval a new policy form or certificate form of the same type for the same standard medicare supplement benefit plan as the discontinued form for a period of five years after the issuer provides notice to the commissioner of the discontinuance. The period of discontinuance may be reduced if the commissioner determines that a shorter period is appropriate.
- b. The sale or other transfer of medicare supplement business to another issuer is considered a discontinuance for the purposes of this subsection.
- c. A change in the rating structure or methodology is considered a discontinuance under subdivision a unless the issuer complies with the following requirements:
- (1) The issuer provides an actuarial memorandum, in a form and manner prescribed by the commissioner,

describing the manner in which the revised rating methodology and resultant rates differ from the existing rating methodology and resultant existing rates.

- (2) The issuer does not subsequently put into effect a change of rates or rating factors that would cause the percentage differential between the discontinued and subsequent rates as described in the actuarial memorandum to change. The commissioner may approve a change to the differential which is in the public interest.
5. a. Except as provided in subdivision b, the experience of all policy forms or certificate forms of the same type in a standard medicare supplement benefit plan must be combined for purposes of the refund or credit calculation prescribed in section 45-06-01.1-11.
 - b. Forms assumed under an assumption reinsurance agreement may not be combined with the experience of other forms for purposes of the refund or credit calculation.

History: Effective January 1, 1992; amended effective July 1, 1994.

General Authority: NDCC 26.1-36.1-02(1)(2), 26.1-36.1-03

Law Implemented: NDCC 26.1-36.1-02

45-06-01.1-14. Required disclosure provisions.

1. General rules.

- a. Medicare supplement policies and certificates must include a renewal or continuation provision. The language or specifications of such provision must be consistent with the type of contract issued. Such provision must be appropriately captioned and must appear on the first page of the policy, and must include any reservation by the issuer of the right to change premiums and any automatic renewal premium increases based on the policyholder's age.
- b. Except for riders or endorsements by which the issuer effectuates a request made in writing by the insured, exercises a specifically reserved right under a medicare supplement policy, or is required to reduce or eliminate benefits to avoid duplication of medicare benefits, all riders or endorsements added to a medicare supplement policy after date of issue or at reinstatement or renewal which reduce or eliminate benefits or coverage in the policy must require a signed acceptance by the insured. After the date of policy or certificate issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term

must be agreed to in writing signed by the insured, unless the benefits are required by the minimum standards for medicare supplement policies, or if the increased benefits or coverage is required by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, such premium charge must be set forth in the policy.

- c. Medicare supplement policies or certificates may not provide for the payment of benefits based on standards described as "usual and customary", "reasonable and customary", or words of similar import.
- d. If a medicare supplement policy or certificate contains any limitations with respect to preexisting conditions, such limitations must appear as a separate paragraph of the policy and be labeled as "preexisting condition limitations".
- e. Medicare supplement policies and certificates must have a notice prominently printed on the first page of the policy or certificate or attached thereto stating in substance that the policyholder or certificate holder has the right to return the policy or certificate within thirty days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the insured person is not satisfied for any reason.
- f. Issuers of accident and sickness policies or certificates which provide hospital or medical expense coverage on an expense incurred or indemnity basis, other than incidentally, to persons eligible for medicare by reason of age must provide to such applicants a medicare supplement buyer's guide in the form developed jointly by the national association of insurance commissioners and the health care financing administration and in a type size no smaller than twelve-point type. Delivery of the buyer's guide must be made whether or not such policies or certificates are advertised, solicited, or issued as medicare supplement policies or certificates as defined in this regulation. Except in the case of direct response issuers, delivery of the buyer's guide must be made to the applicant at the time of application and acknowledgment of receipt of the buyer's guide must be obtained by the insurer. Direct response issuers must deliver the buyer's guide to the applicant upon request but not later than at the time the policy is delivered.

2. Notice requirements.

- a. As soon as practicable, but no later than thirty days prior to the annual effective date of any medicare benefit changes, an issuer must notify its policyholders and

certificate holders of modifications it has made to medicare supplement insurance policies or certificates in a format acceptable to the commissioner. Such notice must:

- (1) Include a description of revisions to the medicare program and a description of each modification made to the coverage provided under the medicare supplement policy or certificate; and
 - (2) Inform each policyholder or certificate holder as to when any premium adjustment is to be made due to changes in medicare.
- b. The notice of benefit modifications and any premium adjustments must be in outline form and in clear and simple terms so as to facilitate comprehension.
 - c. Such notices may not contain or be accompanied by any solicitation.

3. Outline of coverage requirements for medicare supplement policies.

- a. Issuers must provide an outline of coverage to all applicants at the time application is presented to the prospective applicant and, except for direct response policies, must obtain an acknowledgment of receipt of such outline from the applicant; and
- b. If an outline of coverage is provided at the time of application and the medicare supplement policy or certificate is issued on a basis which would require revision of the outline, a substitute outline of coverage properly describing the policy or certificate must accompany such policy or certificate when it is delivered and contain the following statement, in no less than twelve-point type, immediately above the company name:

"NOTICE: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application and the coverage originally applied for has not been issued."

- c. The outline of coverage provided to applicants pursuant to this section must consist of four parts: a cover page, premium information, disclosure pages, and charts displaying the features of each benefit plan offered by the issuer. The outline of coverage must be in the language and format prescribed below in no less than twelve-point type. All plans "A" through "J" must be shown on the cover page, and the plans that are offered by the issuer must be prominently identified. Premium

information for plans that are offered must be shown on the cover page or immediately following the cover page and must be prominently displayed. The premium and mode must be stated for all plans that are offered to the prospective applicant. All possible premiums for the prospective applicant must be illustrated.

- d. The following items must be included in the outline of coverage in the order prescribed below:

[COMPANY NAME]

Outline of Medicare Supplement Coverage-Cover Page:
Benefit Plan(s) _____ [insert letter(s) of plan(s) being offered]

Medicare supplement insurance can be sold in only ten standard plans. This chart shows the benefits included in each plan. Every company must make available Plan "A". Some plans may not be available in your state.

BASIC BENEFITS: Included in All Plans.

Hospitalization: Part A coinsurance plus coverage for 365 additional days after Medicare benefits end.

Medical Expenses: Part B coinsurance (generally 20% of Medicare-approved expenses).

Blood: First three pints of blood each year.

A	B	C	D	E	F	G	H	I	J
Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits
		Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance
	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible
		Part B Deductible			Part B Deductible				Part B Deductible
					Part B Excess (100%)	Part B Excess (80%)		Part B Excess (100%)	Part B Excess (100%)
		Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency
			At-Home Recovery			At-Home Recovery		At-Home Recovery	At-Home Recovery
							Basic Drugs (\$1,250 Limit)	Basic Drugs (\$1,250 Limit)	Extended Drugs (\$3,000 Limit)
				Preventive Care					Preventive Care

PREMIUM INFORMATION

We [insert issuer's name] can only raise your premium if we raise the premium for all policies like yours in this state. [If the premium is based on the increasing age of the insured, include information specifying when premiums will change.]

DISCLOSURES

Use this outline to compare benefits and premiums among policies.

READ YOUR POLICY VERY CAREFULLY

This is only an outline describing your policy's most important features. The policy is your insurance contract. You must read the policy itself to understand all of the rights and duties of both you and your insurance company.

RIGHT TO RETURN POLICY

If you find that you are not satisfied with your policy, you may return it to [insert issuer's address]. If you send the policy back to us within 30 days after you receive it, we will treat the policy as if it had never been issued and return all of your payments.

POLICY REPLACEMENT

If you are replacing another health insurance policy, do NOT cancel it until you have actually received your new policy and are sure you want to keep it.

NOTICE

This policy may not fully cover all of your medical costs.

[for agents:]

Neither [insert company's name] nor its agents are connected with medicar

[for direct response:]

[insert company's name] is not connected with medicare.

This outline of coverage does not give all the details of medicare coverage. Contact your local Social Security Office or consult "The medicare Handbook" for more details.

COMPLETE ANSWERS ARE VERY IMPORTANT

When you fill out the application for the new policy, be sure to answer truthfully and completely all questions about your medical and health history. The company may cancel your policy and refuse to pay any claims if you leave out or falsify important medical information. [If the policy or certificate is guaranteed issue, this paragraph need not appear.]

Review the application carefully before you sign it. Be certain that all information has been properly recorded.

[Include for each plan prominently identified in the cover page, a chart showing the services, medicare payments, plan payments and insured payments for each plan, using the same language, in the same order, using uniform layout and format as shown in the charts below. No more than four plans may be shown on one chart. For purposes of illustration, charts for each plan are included in this regulation. An issuer may use additional benefit plan designations on these charts pursuant to subsection 4 of section 45-06-01.1-07 of this chapter.]

[Include an explanation of any innovative benefits on the cover page and in the chart, in a manner approved by the commissioner.]

PLAN A

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

* A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but <u>\$(676)</u> †	\$ 0	<u>\$(676)</u> (Part A Deductible)
61st thru 90th day	All but <u>\$(169)</u> a day	<u>\$(169)</u> a day	\$ 0
91st day and after:			
-While using 60 lifetime reserve days	All but <u>\$(338)</u> a day	<u>\$(338)</u> a day	\$ 0
-Once lifetime reserve days are used:			
-Additional 365 days	\$ 0	100% of Medicare Eligible Expenses	\$ 0
-Beyond the Additional 365 days	\$ 0	\$ 0	All Costs
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$ 0	\$ 0
21st thru 100th day	All but <u>\$(84.50)</u> a day	\$ 0	Up to <u>\$(84.50)</u> a day
101st day and after	\$ 0	\$ 0	All costs
BLOOD			
First 3 pints	\$ 0	3 pints	\$ 0
Additional amounts	100%	\$ 0	\$ 0
HOSPICE CARE			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services			
	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$ 0	Balance

†Bracketed amounts in Plans A through J are subject to change based on federal law and regulation.

PLAN A
MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

* Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES- IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First \$100 of Medicare Approved Amounts*	\$ 0	\$ 0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	Generally 80%	Generally 20%	\$ 0
Part B Excess Charges(Above Medicare Approved Amounts)	\$ 0	\$ 0	All Costs
BLOOD			
First 3 pints	\$ 0	All Costs	\$ 0
Next \$100 of Medicare Approved Amounts*	\$ 0	\$ 0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$ 0
CLINICAL LABORATORY SERVICES-BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$ 0	\$ 0
PARTS A & B			
HOME HEALTH CARE			
MEDICARE APPROVED SERVICES			
-Medically necessary skilled care services and medical supplies	100%	\$ 0	\$ 0
-Durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$ 0	\$ 0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$ 0

PLAN B

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

* A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but <u>\$(676)</u>	<u>\$(676)</u> (Part A Deductible)	\$ 0
61st thru 90th day	All but <u>\$(169)</u> a day	<u>\$(169)</u> a day	\$ 0
91st day and after:			
-While using 60 lifetime reserve days	All but <u>\$(338)</u> a day	<u>\$(338)</u> a day	\$ 0
-Once lifetime reserve days are used:			
-Additional 365 days	\$ 0	100% of Medicare	\$ 0
Eligible Expenses			
-Beyond the Additional 365 days	\$ 0	\$ 0	All Costs
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$ 0	\$ 0
21st thru 100th day	All but <u>\$(84.50)</u> a day	\$ 0	Up to <u>\$(84.50)</u> a day
101st day and after	\$ 0	\$ 0	All costs
BLOOD			
First 3 pints	\$ 0	3 pints	\$ 0
Additional amounts	100%	\$ 0	\$ 0
HOSPICE CARE			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$ 0	Balance

PLAN B

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

* Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES- IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First \$100 of Medicare Approved Amounts*	\$ 0	\$ 0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	<u>Generally</u> 80%	<u>Generally</u> 20%	\$ 0
Part B Excess Charges (Above Medicare Approved Amounts)	\$ 0	\$ 0	All Costs
BLOOD			
First 3 pints	\$ 0	All Costs	\$ 0
Next \$100 of Medicare Approved Amounts*	\$ 0	\$ 0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$ 0
CLINICAL LABORATORY SERVICES-BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$ 0	\$ 0
PARTS A & B			
HOME HEALTH CARE			
MEDICARE APPROVED SERVICES			
-Medically necessary skilled care services and medical supplies	100%	\$ 0	\$ 0
-Durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$ 0	\$ 0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$ 0

PLAN C

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

* A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but <u>\$(676)</u>	<u>\$(676)</u> (Part A Deductible)	\$ 0
61st thru 90th day	All but <u>\$(169)</u> a day	<u>\$(169)</u> a day	\$ 0
91st day and after			
-While using 60 lifetime reserve days	All but <u>\$(338)</u> a day	<u>\$(338)</u> a day	\$ 0
-Once lifetime reserve days are used:			
-Additional 365 days	\$ 0	100% of Medicare	\$ 0
Eligible Expenses			
-Beyond the Additional 365 days	\$ 0	\$ 0	All Costs
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$ 0	\$ 0
21st thru 100th day	All but <u>\$(84.50)</u> a day	Up to <u>\$(84.50)</u> a day	\$ 0
101st day and after	\$ 0	\$ 0	All costs
BLOOD			
First 3 pints	\$ 0	3 pints	\$ 0
Additional amounts	100%	\$ 0	\$ 0
HOSPICE CARE			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out patient drugs and inpatient respite care	\$ 0	Balance

PLAN C

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

* Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES- IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First \$100 of Medicare Approved Amounts*	\$ 0	\$100 (Part B Deductible)	\$ 0
Remainder of Medicare Approved Amounts	Generally 80%	Generally 20%	\$ 0
Part B Excess Charges(Above Medicare Approved Amounts)	\$ 0	\$ 0	All Costs
BLOOD			
First 3 pints	\$ 0	All Costs	\$ 0
Next \$100 of Medicare Approved Amounts*	\$ 0	\$100 (Part B Deductible)	\$ 0
Remainder of Medicare Approved Amounts	80%	20%	\$ 0
CLINICAL LABORATORY SERVICES-BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$ 0	\$ 0
PARTS A & B			
HOME HEALTH CARE			
MEDICARE APPROVED SERVICES			
-Medically necessary skilled care services and medical supplies	100%	\$ 0	\$ 0
-Durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$ 0	\$100 (Part B Deductible)	\$ 0
Remainder of Medicare Approved Amounts	80%	20%	\$ 0

PLAN C

OTHER BENEFITS - NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
FOREIGN TRAVEL-NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$ 0	\$ 0	\$250
Reminder of Charges	\$ 0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum

PLAN D

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

* A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS YOU PAY	
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but <u>\$(676)</u>	<u>\$(676)</u> (Part A Deductible)	\$ 0
61st thru 90th day	All but <u>\$(169)</u> a day	<u>\$(169)</u> a day	\$ 0
91st day and after:			
-While using 60 lifetime reserve days	All but <u>\$(338)</u> a day	<u>\$(338)</u> a day	\$ 0
-Once lifetime reserve days are used:			
-Additional 365 days	\$ 0	100% of Medicare Eligible Expenses	\$ 0
-Beyond the Additional 365 days	\$ 0	\$ 0	All Costs
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$ 0	\$ 0
21st thru 100th day	All but <u>\$(84.50)</u> a day	Up to <u>\$(84.50)</u> a day	\$ 0
101st day and after	\$ 0	\$ 0	All costs
BLOOD			
First 3 pints	\$ 0	3 pints	\$ 0
Additional amounts	100%	\$ 0	\$ 0
HOSPICE CARE			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services			
	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$ 0	Balance

PLAN D

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

* Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES- IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First \$100 of Medicare Approved Amounts*	\$ 0	\$ 0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	Generally 80%	Generally 20%	\$ 0
Part B Excess Charges(Above Medicare Approved Amounts)	\$ 0	\$ 0	All Costs
BLOOD			
First 3 pints	\$ 0	All Costs	\$ 0
Next \$100 of Medicare Approved Amounts*	\$ 0	\$ 0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$ 0
CLINICAL LABORATORY SERVICES-BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$ 0	\$ 0

PARTS A & B

HOME HEALTH CARE			
MEDICARE APPROVED SERVICES			
-Medically necessary skilled care services and medical supplies	100%	\$ 0	\$ 0
-Durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$ 0	\$ 0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$ 0

PLAN D

MEDICARE (PARTS A & B) - (CONTINUED)

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
PARTS A & B (cont'd.)			
HOME HEALTH CARE - (cont'd)			
AT-HOME RECOVERY SERVICES-NOT COVERED BY MEDICARE			
Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan			
- Benefit for each visit	\$ 0	Actual Charges to \$40 a visit	Balance
- Number of visits covered (must be received within 8 weeks of last Medicare Approved visit)	\$ 0	Up to the number of Medicare Approved visits, not to exceed 7 each week	
- Calendar year maximum	\$ 0	\$ 1,600	
OTHER BENEFITS - NOT COVERED BY MEDICARE			
FOREIGN TRAVEL-NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$ 0	\$ 0	\$250
Remainder of Charges	\$ 0	80% to a lifetime maximum benefit of \$ 50,000	20% and amounts over the \$50,000 lifetime maximum

PLAN E

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

* A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but <u>\$(676)</u>	<u>\$(676)</u> (Part A Deductible)	\$ 0
61st thru 90th day	All but <u>\$(169)</u> a day	<u>\$(169)</u> a day	\$ 0
91st day and after:			
-While using 60 lifetime reserve days	All but <u>\$(338)</u> a day	<u>\$(338)</u> a day	\$ 0
-Once lifetime reserve days are used:			
-Additional 365 days	\$ 0	100% of Medicare Eligible Expenses	\$ 0
-Beyond the Additional 365 days	\$ 0	\$ 0	All Costs
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$ 0	\$ 0
21st thru 100th day	All but <u>\$(84.50)</u> a day	Up to <u>\$(84.50)</u> a day	\$ 0
101st day and after	\$ 0	\$ 0	All costs
BLOOD			
First 3 pints	\$ 0	3 pints	\$ 0
Additional amounts	100%	\$ 0	\$ 0
HOSPICE CARE			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services			
	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$ 0	Balance

PLAN E

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

* Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES- IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First \$100 of Medicare Approved Amounts*	\$ 0	\$ 0	\$ 100 (Part B Deductible)
Remainder of Medicare Approved Amounts	Generally 80%	Generally 20%	\$ 0
Part B Excess Charges(Above Medicare Approved Amounts)	\$ 0	\$ 0	All Costs
BLOOD			
First 3 pints	\$ 0	All Costs	\$ 0
Next \$100 of Medicare Approved Amounts*	\$ 0	\$ 0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$ 0
CLINICAL LABORATORY SERVICES-BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$ 0	\$ 0
PARTS A & B			
HOME HEALTH CARE			
MEDICARE APPROVED SERVICES			
-Medically necessary skilled care services and medical supplies	100%	\$ 0	\$ 0
-Durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$ 0	\$ 0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$ 0

PLAN E

OTHER BENEFITS - NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
FOREIGN TRAVEL-NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$ 0	\$ 0	\$250
Remainder of Charges	\$ 0	80% to a lifetime maximum benefit of \$ 50,000	20% and amounts over the \$50,000 lifetime maximum
PREVENTIVE MEDICAL CARE BENEFIT-NOT COVERED BY MEDICARE			
Annual physical and preventive tests and services such as: fecal occult blood test, digital rectal exam, mammogram, hearing screening, dipstick urinalysis, diabetes screening, thyroid function test, influenza shot, tetanus and diphtheria booster and education, administered or ordered by your doctor when not covered by Medicare			
First \$120 each calendar year	\$ 0	\$ 120	\$ 0
Additional charges	\$ 0	\$ 0	All Costs

PLAN F

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

* A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but <u>\$(676)</u>	<u>\$(676)</u> (Part A Deductible)	\$ 0
61st thru 90th day	All but <u>\$(169)</u> a day	<u>\$(169)</u> a day	\$ 0
91st day and after:			
-While using 60 lifetime reserve days	All but <u>\$(338)</u> a day	<u>\$(338)</u> a day	\$ 0
-Once lifetime reserve days are used:			
-Additional 365 days	\$ 0	100% of Medicare Eligible Expenses	\$ 0
-Beyond the Additional 365 days	\$ 0	\$ 0	All Costs
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$ 0	\$ 0
21st thru 100th day	All but <u>\$(84.50)</u> a day	Up to <u>\$(84.50)</u> a day	\$ 0
101st day and after	\$ 0	\$ 0	All costs
BLOOD			
First 3 pints	\$ 0	3 pints	\$ 0
Additional amounts	100%	\$ 0	\$ 0
HOSPICE CARE			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services			
	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$ 0	Balance

PLAN F
MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

* Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES- IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First \$100 of Medicare Approved Amounts*	\$ 0	\$100 (Part B Deductible)	\$ 0
Remainder of Medicare Approved Amounts	<u>Generally 80%</u>	<u>Generally 20%</u>	\$ 0
Part B Excess Charges(Above Medicare Approved Amounts)	\$ 0	100%	\$ 0
BLOOD			
First 3 pints	\$ 0	All Costs	\$ 0
Next \$100 of Medicare Approved Amounts*	\$ 0	\$100 (Part B Deductible)	\$ 0
Remainder of Medicare Approved Amounts	80%	20%	\$ 0
CLINICAL LABORATORY SERVICES-BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$ 0	\$ 0

PARTS A & B

HOME HEALTH CARE			
MEDICARE APPROVED SERVICES			
-Medically necessary skilled care services and medical supplies	100%	\$ 0	\$ 0
-Durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$ 0	\$100 (Part B Deductible)	\$ 0
Remainder of Medicare Approved Amounts	80%	20%	\$ 0

PLAN F

OTHER BENEFITS - NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
FOREIGN TRAVEL-NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$ 0	\$ 0	\$250
Remainder of Charges	\$ 0	80% to a lifetime maximum benefit of \$ 50,000	20% and amounts over the \$50,000 lifetime maximum

PLAN G

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

* A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but <u>\$(676)</u>	<u>\$(676)</u> (Part A Deductible)	\$ 0
61st thru 90th day	All but <u>\$(169)</u> a day	<u>\$(169)</u> a day	\$ 0
91st day and after:			
-While using 60 lifetime reserve days	All but <u>\$(338)</u> a day	<u>\$(338)</u> a day	\$ 0
-Once lifetime reserve days are used:			
-Additional 365 days	\$ 0	100% of Medicare	\$ 0
Eligible Expenses			
-Beyond the Additional 365 days	\$ 0	\$ 0	All Costs
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$ 0	\$ 0
21st thru 100th day	All but <u>\$(84.50)</u> a day	Up to <u>\$(84.50)</u> a day	\$ 0
101st day and after	\$ 0	\$ 0	All costs
BLOOD			
First 3 pints	\$ 0	3 pints	\$ 0
Additional amounts	100%	\$ 0	\$ 0
HOSPICE CARE			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services			
	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$ 0	Balance

PLAN G
MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

* Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES- IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First \$100 of Medicare Approved Amounts*	\$ 0	\$ 0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	<u>Generally 80%</u>	<u>Generally 20%</u>	\$ 0
Part B Excess Charges(Above Medicare Approved Amounts)	\$ 0	80%	20%
BLOOD			
First 3 pints	\$ 0	All Costs	\$ 0
Next \$100 of Medicare Approved Amounts*	\$ 0	\$ 0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$ 0
CLINICAL LABORATORY SERVICES-BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$ 0	\$ 0
PARTS A & B			
HOME HEALTH CARE			
MEDICARE APPROVED SERVICES			
-Medically necessary skilled care services and medical supplies	100%	\$ 0	\$ 0
-Durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$ 0	\$ 0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$ 0

PLAN G

MEDICARE (PARTS A & B) - (CONTINUED)

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
	PARTS A & B (cont'd.)		
HOME HEALTH CARE (cont'd)			
AT-HOME RECOVERY SERVICES-NOT COVERED BY MEDICARE			
Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan			
- Benefit for each visit	\$ 0	Actual Charges to \$40 a visit	Balance
- Number of visits covered (must be received within 8 weeks of last Medicare Approved visit)	\$ 0	Up to the number of Medicare Approved visits, not to exceed 7 each week	
- Calendar year maximum	\$ 0	\$ 1,600	
		OTHER BENEFITS	
FOREIGN TRAVEL-NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$ 0	\$ 0	\$250
Remainder of Charges	\$ 0	80% to a lifetime maximum benefit of \$ 50,000	20% and amounts over the \$50,000 lifetime maximum

PLAN H

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

* A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but <u>\$[676]</u>	<u>\$[676]</u> (Part A Deductible)	\$ 0
61st thru 90th day	All but <u>\$[169]</u> a day	<u>\$[169]</u> a day	\$ 0
91st day and after:			
-While using 60 lifetime reserve days	All but <u>\$[338]</u> a day	<u>\$[338]</u> a day	\$ 0
-Once lifetime reserve days are used:			
-Additional 365 days	\$ 0	100% of Medicare Eligible Expenses	\$ 0
-Beyond the Additional 365 days	\$ 0	\$ 0	All Costs
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$ 0	\$ 0
21st thru 100th day	All but <u>\$[84.50]</u> a day	Up to <u>\$[84.50]</u> a day	\$ 0
101st day and after	\$ 0	\$ 0	All costs
BLOOD			
First 3 pints	\$ 0	3 pints	\$ 0
Additional amounts	100%	\$ 0	\$ 0
HOSPICE CARE			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services			
	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$ 0	Balance

PLAN H

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

* Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES- IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First \$100 of Medicare Approved Amounts*	\$ 0	\$ 0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	<u>Generally 80%</u>	<u>Generally 20%</u>	\$ 0
Part B Excess Charges(Above Medicare Approved Amounts)	\$ 0	\$ 0	All Costs
BLOOD			
First 3 pints	\$ 0	All Costs	\$ 0
Next \$100 of Medicare Approved Amounts*	\$ 0	\$ 0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$ 0
CLINICAL LABORATORY SERVICES-BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$ 0	\$ 0
PARTS A & B			
HOME HEALTH CARE			
MEDICARE APPROVED SERVICES			
-Medically necessary skilled care services and medical supplies	100%	\$ 0	\$ 0
-Durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$ 0	\$ 0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$ 0

PLAN H

OTHER BENEFITS - NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
FOREIGN TRAVEL-NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$ 0	\$ 0	\$ 250
Remainder of Charges	\$ 0	80% to a lifetime maximum benefit of \$ 50,000	20% and amounts over the \$50,000 lifetime maximum
BASIC OUTPATIENT PRESCRIPTION DRUGS-NOT COVERED BY MEDICARE			
First \$250 each calendar year	\$ 0	\$ 0	\$ 250
Next \$2,500 each calendar year	\$ 0	50% - \$1,250 calendar year maximum benefit	50%
Over \$2,500 each calendar year	\$ 0	\$ 0	All Costs

PLAN I

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

* A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but <u>\$(676)</u>	<u>\$(676)</u> (Part A Deductible)	\$ 0
61st thru 90th day	All but <u>\$(169)</u> a day	<u>\$(169)</u> a day	\$ 0
91st day and after:			
-While using 60 lifetime reserve days	All but <u>\$(338)</u> a day	<u>\$(338)</u> a day	\$ 0
-Once lifetime reserve days are used:			
-Additional 365 days	\$ 0	100% of Medicare Eligible Expenses	\$ 0
-Beyond the Additional 365 days	\$ 0	\$ 0	All Costs
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$ 0	\$ 0
21st thru 100th day	All but <u>\$(84.50)</u> a day	Up to <u>\$(84.50)</u> a day	\$ 0
101st day and after	\$ 0	\$ 0	All costs
BLOOD			
First 3 pints	\$ 0	3 pints	\$ 0
Additional amounts	100%	\$ 0	\$ 0
HOSPICE CARE			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services			
	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$ 0	Balance

PLAN I

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

* Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES- IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First \$100 of Medicare Approved Amounts*	\$ 0	\$ 0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	<u>Generally 80%</u>	<u>Generally 20%</u>	\$ 0
Part B Excess Charges (Above Medicare Approved Amounts)	\$ 0	100%	\$ 0
BLOOD			
First 3 pints	\$ 0	All Costs	\$ 0
Next \$100 of Medicare Approved Amounts*	\$ 0	\$ 0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$ 0
CLINICAL LABORATORY SERVICES-BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$ 0	\$ 0
PARTS A & B			
HOME HEALTH CARE			
MEDICARE APPROVED SERVICES			
-Medically necessary skilled care services and medical supplies	100%	\$ 0	\$ 0
-Durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$ 0	\$ 0	\$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	\$ 0

PLAN I
 MEDICARE (PARTS A & B) - (CONTINUED)

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
	PARTS A & B (cont'd.)		
HOME HEALTH CARE (cont'd)			
AT-HOME RECOVERY SERVICES-NOT COVERED BY MEDICARE			
Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan			
- Benefit for each visit	\$ 0	Actual Charges to \$40 a visit	Balance
- Number of visits covered (must be received within 8 weeks of last Medicare Approved visit)	\$ 0	Up to the number of Medicare Approved visits, not to exceed 7 each week	
- Calendar year maximum	\$ 0	\$ 1,600	
	OTHER BENEFITS		
FOREIGN TRAVEL-NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$ 0	\$ 0	\$250
Remainder of Charges*	\$ 0	80% to a lifetime maximum benefit of \$ 50,000	20% and amounts over the \$50,000 lifetime maximum
BASIC OUTPATIENT PRESCRIPTION DRUGS-NOT COVERED BY MEDICARE			
First \$250 each calendar year	\$ 0	\$ 0	\$ 250
Next \$2,500 each calendar year	\$ 0	50% - \$1,250 calendar year maximum benefit	50%
Over \$2,500 each calendar year	\$ 0	\$ 0	All Costs

PLAN J

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

* A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but <u>\$(676)</u>	<u>\$(676)</u> (Part A Deductible)	\$ 0
61st thru 90th day	All but <u>\$(169)</u> a day	<u>\$(169)</u> a day	\$ 0
91st day and after:			
-While using 60 lifetime reserve days	All but <u>\$(338)</u> a day	<u>\$(338)</u> a day	\$ 0
-Once lifetime reserve days are used:			
-Additional 365 days	\$ 0	100% of Medicare Eligible Expenses	\$ 0
-Beyond the Additional 365 days	\$ 0	\$ 0	All Costs
SKILLED NURSING FACILITY CARE*			
You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$ 0	\$ 0
21st thru 100th day	All but <u>\$(84.50)</u> a day	Up to <u>\$(84.50)</u> a day	\$ 0
101st day and after	\$ 0	\$ 0	All costs
BLOOD			
First 3 pints	\$ 0	3 pints	\$ 0
Additional amounts	100%	\$ 0	\$ 0
HOSPICE CARE			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services			
	All but very limited coinsurance for out-patient drugs and inpatient respite care	\$ 0	Balance

PLAN J

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

* Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES- IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First \$100 of Medicare Approved Amounts*	\$ 0	\$100 (Part B Deductible)	\$ 0
Remainder of Medicare Approved Amounts	<u>Generally 80%</u>	<u>Generally 20%</u>	\$ 0
Part B Excess Charges(Above Medicare Approved Amounts)	\$ 0	100%	\$ 0
BLOOD			
First 3 pints	\$ 0	All Costs	\$ 0
Next \$100 of Medicare Approved Amounts*	\$ 0	\$100 (Part B Deductible)	\$ 0
Remainder of Medicare Approved Amounts	80%	20%	\$ 0
CLINICAL LABORATORY SERVICES-BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	\$ 0	\$ 0

PARTS A & B

HOME HEALTH CARE			
MEDICARE APPROVED SERVICES			
-Medically necessary skilled care services and medical supplies	100%	\$ 0	\$ 0
-Durable medical equipment			
First \$100 of Medicare Approved Amounts*	\$ 0	\$100 (Part B Deductible)	\$ 0
Remainder of Medicare Approved Amounts	80%	20%	\$ 0

PLAN J

MEDICARE (PARTS A & B) - (CONTINUED)

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
	PARTS A & B (cont'd.)		
HOME HEALTH CARE (cont'd)			
AT-HOME RECOVERY SERVICES-NOT COVERED BY MEDICARE			
Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan			
- Benefit for each visit	\$ 0	Actual Charges to \$40 a visit	Balance
- Number of visits covered (must be received within 8 weeks of last Medicare Approved visit)	\$ 0	Up to the number of Medicare Approved visits, not to exceed 7 each week	
- Calendar year maximum	\$ 0	\$ 1,600	
		OTHER BENEFITS	
FOREIGN TRAVEL-NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$ 0	\$ 0	\$250
Remainder of Charges	\$ 0	80% to a lifetime maximum benefit of \$ 50,000	20% and amounts over the \$50,000 lifetime maximum
EXTENDED OUTPATIENT PRESCRIPTION DRUGS-NOT COVERED BY MEDICARE			
First \$250 each calendar year	\$ 0	\$ 0	\$ 250
Next \$6,000 each calendar year	\$ 0	50% - \$3,000 calendar year maximum benefit	50%
Over \$6,000 each calendar year	\$ 0	\$ 0	All Costs

PLAN J

OTHER BENEFITS (cont'd.)

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
PREVENTIVE MEDICAL CARE BENEFIT-NOT COVERED BY MEDICARE			
Annual physical and preventive tests and services such as: fecal occult blood test, digital rectal exam, mammogram, hearing screening, dipstick urinalysis, diabetes screening, thyroid function test, influenza shot, tetanus and diphtheria booster and education, administered or ordered by your doctor when not covered by Medicare			
First \$120 each calendar year	\$ 0	\$ 120	\$ 0
Additional charges	\$ 0	\$ 0	All Costs

4. **Notice regarding policies or certificates which are not medicare supplement policies.** Any accident and sickness insurance policy or certificate, other than a medicare supplement policy; or a policy issued pursuant to a contract under section 1876 or section 1833 of the Social Security Act [42 U.S.C. 1395 et seq.], disability income policy; basic, catastrophic, or major medical expense policy; single premium nonrenewable policy or other policy identified in subsection 2 of section 45-06-01.1-01, issued for delivery in this state to persons eligible for medicare by reason of age must notify insureds under the policy that the policy is not a medicare supplement policy or certificate. Such notice must either be printed or attached to the first page of the outline of coverage delivered to insureds under the policy, or if no outline of coverage is delivered, to the first page of the policy, or certificate delivered to insureds. Such notice must be in no less than twelve-point type and must contain the following language:

"THIS [POLICY OR CERTIFICATE] IS NOT A MEDICARE SUPPLEMENT [POLICY OR CONTRACT]. If you are eligible for Medicare, review the Medicare Supplement Buyer's Guide available from the company."

History: Effective January 1, 1992; amended effective August 1, 1992; July 1, 1994.

General Authority: NDCC 26.1-36.1-03, 26.1-36.1-05

Law Implemented: NDCC 26.1-36.1-05

45-06-01.1-15. Requirements for application forms and replacement coverage.

1. Application forms must include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another medicare supplement or other health insurance policy or certificate in force or whether a medicare supplement policy or certificate is intended to replace any other accident and sickness policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and agent containing such questions and statements may be used.

[Statements]

1. You do not need more than one Medicare supplement policy.
2. If you are 65 or older, you may be eligible for benefits under Medicaid and may not need a Medicare supplement policy.

3. The benefits and premiums under your Medicare supplement policy will be suspended during your entitlement to benefits under Medicaid for 24 months. You must request this suspension within 90 days of becoming eligible for Medicaid. If you are no longer entitled to Medicaid, your policy will be reinstated if requested within 90 days of losing Medicaid eligibility.
4. Counseling services may be available in your state to provide advice concerning your purchase of Medicare supplement insurance and concerning Medicaid.

[Questions]

To the best of your knowledge,

1. Do you have another Medicare supplement policy or certificate in force (including health care service contract, health maintenance organization contract)?
 - a. If so, with which company?
 2. Do you have any other health insurance policies that provide benefits which this Medicare supplement policy would duplicate?
 - a. If so, with which company?
 - b. What kind of policy?
 3. If the answer to question 1 or 2 is yes, do you intend to replace these medical or health policies with this policy [certificate]?
 4. Are you covered by Medicaid?
2. Agents shall list any other health insurance policies they have to the applicant.
 - a. List policies sold which are still in force.
 - b. List policies sold in the past five years which are no longer in force.
 3. In the case of a direct response issuer, a copy of the application or supplemental form, signed by the applicant, and acknowledged by the insurer, must be returned to the applicant by the insurer upon delivery of the policy.
 4. Upon determining that a sale will involve replacement of medicare supplement coverage, any issuer, other than a direct response issuer, or its agent, must furnish the applicant,

prior to issuance or delivery of the medicare supplement policy or certificate, a notice regarding replacement of medicare supplement coverage. One copy of the notice signed by the applicant and the agent, except where the coverage is sold without an agent, must be provided to the applicant and an additional signed copy must be retained by the issuer. A direct response issuer must deliver to the applicant at the time of the issuance of the policy the notice regarding replacement of medicare supplement coverage.

5. The notice required by subsection 4 for an issuer must be provided in no less than ten-point type in--substantially--the following form:

**NOTICE TO APPLICANT REGARDING REPLACEMENT OF
MEDICARE SUPPLEMENT INSURANCE**

[Insurance company's name and address]

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to [your application] [information you have furnished], you intend to terminate existing Medicare supplement insurance and replace it with a policy to be issued by [Company Name] Insurance Company. Your new policy will provide thirty (30) days within which you may decide without cost whether you desire to keep the policy.

You should review this new coverage carefully. Compare it with all accident and sickness coverage you now have. Terminate your present policy only if, after due consideration, you find that purchase of this medicare supplement coverage is a wise decision.

STATEMENT TO APPLICANT BY ISSUER, AGENT [BROKER OR OTHER REPRESENTATIVE]:

I have reviewed your current medical or health insurance coverage. The replacement of insurance involved in this transaction does not duplicate coverage, to the best of my knowledge. The replacement policy is being purchased for the following reason(s) (check one):

- Additional benefits.
 No change in benefits, but lower premiums.
 Fewer benefits and lower premiums.
 Other. (please specify)

1. Health conditions which you may presently have (preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.

2. State law provides that your replacement policy or certificate may not contain new preexisting conditions, waiting periods, elimination periods, or probationary periods. The insurer will waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.
3. If you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical and health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, review it carefully to be certain that all information has been properly recorded. [If the policy or certificate is guaranteed issue, this paragraph need not appear.]

Do not cancel your present policy until you have received your new policy and are sure that you want to keep it.

(Signature of Agent, Broker or Other Representative)*

[Typed Name and Address of Issuer, Agent or Broker]

(Applicant's Signature)

(Date)

*Signature not required for direct response sales.

6. Paragraphs 1 and 2 of the replacement notice (applicable to preexisting conditions) may be deleted by an issuer if the replacement does not involve application of a new preexisting condition limitation.

History: Effective January 1, 1992; amended effective July 1, 1994.

General Authority: NDCC 26.1-36.1-03

Law Implemented: NDCC 26.1-36.1-02, 26.1-36.1-05

Appendix A

MEDICARE SUPPLEMENT REFUND CALCULATION FORM
FOR CALENDAR YEAR _____

TYPE _____ SMSBP¹ _____
 For the State of _____ Company Name _____
 NAIC Group Code _____ NAIC Company Code _____
 Address _____ Person Completing Exhibit _____
 Title _____ Telephone Number _____

line	(a) Earned Premium ²	(b) Incurred Claims ³
1. Current Year's Experience		
a. Total (all policy years)		
b. Current year's issues ⁴		
c. Net (for reporting purposes = 1a - 1b)	_____	_____
2. Past Years' Experience (All Policy Years)	_____	_____
3. Total Experience (Net Current Year + Past Year's (Experience))	_____	_____
4. Refunds Last Year (Excluding Interest) _____		
5. Previous Since Inception (Excluding Interest) _____		
6. Refunds Since Inception (Excluding Interest) _____		
7. Benchmark Ratio Since Inception (SEE WORKSHEET FOR RATIO 1) _____		
8. Experienced Ratio Since Inception _____		
$\frac{\text{Total Actual Incurred Claims (line 3, col. b)}}{\text{Total Earned Prem. (line 3, col. a) - Refunds Since Inception (line 6)}} = \text{Ratio 2}$		
9. Life Years Exposed Since Inception _____		

If the Experienced Ratio is less than the Benchmark Ratio, and there are more than 500 life years exposure, then proceed to calculation of refund.

10. Tolerance Permitted (obtained from credibility table) _____

Medicare Supplement Credibility Table

Life Years Exposed Since Inception	Tolerance
10,000 +	0.0%
5,000 - 9,999	5.0%
2,500 - 4,999	7.5%
1,000 - 2,499	10.0%
500 - 999	15.0%

If less than 500, no credibility.

**MEDICARE SUPPLEMENT REFUND CALCULATION FORM
FOR CALENDAR YEAR _____**

TYPE _____ SMSBP¹ _____
 For the State of _____ Company Name _____
 NAIC Group Code _____ NAIC Company Code _____
 Address _____ Person Completing Exhibit _____
 Title _____ Telephone Number _____

11. Adjustment to Incurred Claims for Credibility _____

Ratio 3 = Ratio 2 + Tolerance

If Ratio 3 is more than Benchmark Ratio (Ratio 1), a refund or credit to premium is not required.

If Ratio 3 is less than the Benchmark Ratio, then proceed.

12. Adjusted Incurred Claims _____

(Total Earned Premiums (line 3, col. a) - Refunds Since Inception (line 6)) X Ratio 3 (line 11)

13. Refund = Total Earned Premiums (line 3, col. a) - Refunds Since Inception (line 6) -

Adjusted Incurred Claims (line 12)

Benchmark Ratio (Ratio 1) _____

If the amount on line 13 is less than .006 times the annualized premium in force as of December 31 of the reporting year, then no refund is made. Otherwise, the amount on line 13 is to be refunded or credited, and a description of the refund and/or credit against premiums to be used must be attached to this form.

¹ "SMSBP" = Standardized Medicare Supplement Benefit Plan

² Includes Modal Loadings and Fees Charged

³ Excludes Active Life Reserves

⁴ This is to be used as "Issue Year Earned Premium" for Year 1 of next year's "Worksheet for Calculation of Benchmark Ratios".

I certify that the above information and calculations are true and accurate to the best of my knowledge and belief.

Signature

Name - Please Type

Title

Date

**REPORTING FORM FOR THE CALCULATION OF
BENCHMARK RATIO SINCE INCEPTION
FOR GROUP POLICIES
FOR CALENDAR YEAR**

TYPE _____ SMSBP (p) _____
 FOR THE STATE OF _____
 Company Name _____
 NAIC Group Code _____ NAIC Company Code _____
 Address _____
 Person Completing This Exhibit _____
 Title _____ Telephone Number _____

(a) Year	(b) Earned Premium	(c) Factor	(d) (b) x (c)	(e) Cumulative Loss Ratio	(f) (d) x (e)	(g) Factor	(h) (b) x (g)	(i) Cumulative Loss Ratio	(j) (h) x (i)	(k) Policy Year Loss Ratio
1		2.770		0.507		0.000		0.000		0.46
2		4.175		0.567		0.000		0.000		0.63
3		4.175		0.567		1.194		0.759		0.75
4		4.175		0.567		2.245		0.771		0.77
5		4.175		0.567		3.170		0.782		0.8
6		4.175		0.567		3.998		0.792		0.82
7		4.175		0.567		4.754		0.802		0.84
8		4.175		0.567		5.445		0.811		0.87
9		4.175		0.567		6.075		0.818		0.88
10		4.175		0.567		6.650		0.824		0.88
11		4.175		0.567		7.176		0.828		0.88
12		4.175		0.567		7.655		0.831		0.88
13		4.175		0.567		8.093		0.834		0.89
14		4.175		0.567		8.493		0.837		0.89
15		4.175		0.567		8.684		0.838		0.89
Total:		(k):		(l):		(m):		(n):		

Benchmark Ratio Since Inception: $(l + n) / (k + m)$

(a): Year 1 is the current calendar year - 1
 Year 2 is the current calendar year - 2
 (etc.)
 (Example: If the current year is 1991, then
 Year 1 is 1990; Year 2 is 1989; etc.)

(b): For the calendar year on the appropriate line in column (a),
 the premium earned during that year for policies issued in
 that year.

(c): These loss ratios are not explicitly used in computing the benchmark
 loss ratios. They are the loss ratios, on a policy year basis,
 which result in the cumulative loss ratios displayed on this worksheet.
 They are shown here for informational purposes only.

(p): "SMSBP" - Standardized Medicare
 Supplement Benefit Plan

**REPORTING FORM FOR THE CALCULATION OF
BENCHMARK RATIO SINCE INCEPTION
FOR INDIVIDUAL POLICIES
FOR CALENDAR YEAR**

TYPE _____ SMSBP (p) _____
 FOR THE STATE OF _____
 Company Name _____
 NAIC Group Code _____ NAIC Company Code _____
 Address _____
 Person Completing This Exhibit _____
 Title _____ Telephone Number _____

(a) Year	(b) Earned Premium	(c) Factor	(d) (b) x (c)	(e) Cumulative Loss Ratio	(f) (d) x (e)	(g) Factor	(h) (b) x (g)	(i) Cumulative Loss Ratio	(j) (h) x (i)	(o) Policy Year Loss Ratio
1		2.770		0.442		0.000		0.000		0.4
2		4.175		0.493		0.000		0.000		0.55
3		4.175		0.493		1.194		0.659		0.65
4		4.175		0.493		2.245		0.669		0.67
5		4.175		0.493		3.170		0.678		0.69
6		4.175		0.493		3.998		0.686		0.71
7		4.175		0.493		4.754		0.695		0.73
8		4.175		0.493		5.445		0.702		0.75
9		4.175		0.493		6.075		0.708		0.76
10		4.175		0.493		6.650		0.713		0.76
11		4.175		0.493		7.176		0.717		0.76
12		4.175		0.493		7.655		0.720		0.77
13		4.175		0.493		8.093		0.723		0.77
14		4.175		0.493		8.493		0.725		0.77
15		4.175		0.493		8.684		0.725		0.77
Total:		(k):		(l):		(m):		(n):		

Benchmark Ratio Since Inception: $(l + n) / (k + m)$:

(a): Year 1 is the current calendar year - 1
 Year 2 is the current calendar year - 2
 (etc.)
 (Example: If the current year is 1991, then:
 Year 1 is 1990; Year 2 is 1989; etc.)

(b): For the calendar year on the appropriate line in column (a),
 the premium earned during that year for policies issued in
 that year.

(o): These loss ratios are not explicitly used in computing the benchmark
 loss ratios. They are the loss ratios, on a policy year basis,
 which result in the cumulative loss ratios displayed on this worksheet.
 They are shown here for informational purposes only.

(p): "SMSBP" = Standardized Medicare
 Supplement Benefit Plan

CHAPTER 45-06-05

45-06-05-03. Policy definitions. No long-term care insurance policy delivered or issued for delivery or renewed in this state may use the terms set forth in this section, unless the terms are defined in the policy and the definitions satisfy the following requirements:

1. "Acute condition" means that the individual is medically unstable. Such an individual requires frequent monitoring by medical professionals, such as physicians and registered nurses, in order to maintain the individual's health status.
2. "Adult day care" means a program for six or more individuals of social and health-related services provided during the day in a community group setting for the purpose of supporting frail, impaired elderly, or other disabled adults who can benefit from care in a group setting outside the home.
3. "Home health care services" means medical and nonmedical services provided to ill, disabled, or infirm persons in their residences. Such services may include homemaker services, assistance with activities of daily living, and respite care services.
- 1- 4. "Medicare" must be defined as "The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965, as then constituted or later amended", or "Title I, Part I of Public Law 89-97, as enacted by the Eighty-ninth Congress of the United States of America and popularly known as the Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof", or words of similar import.
- 2- 5. "Mental or nervous disorder" may not be defined to include more than neurosis, psychoneurosis, psychopathy, psychosis, or mental or emotional disease or disorder.
6. "Personal care" means the provisions of hands-on services to assist an individual with activities of daily living (such as bathing, eating, dressing, transferring, continence, and toileting).
- 3- 7. "Skilled nursing care", "intermediate care", "personal care", "home care", and other services must be defined in relation to the level of skill required, the nature of the care, and the setting in which care must be delivered.
- 4- 8. All providers of services, including, ~~--but not limited to,~~ "skilled nursing facility", "extended care facility", "intermediate care facility", "convalescent nursing home", "personal care facility", and "home care agency" must be

defined in relation to the services and facilities required to be available and the licensure or degree status of those providing or supervising the services. The definition may require that the provider be appropriately licensed or certified.

History: Effective July 1, 1988; amended effective July 1, 1994.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-45

45-06-05-04. Policy practices and provisions.

1. **Renewability.** The terms "guaranteed renewable" and "noncancelable" may not be used in any individual long-term care insurance policy without further explanatory language in accordance with the disclosure requirements of section 45-06-04-05.

a. No such policy issued to an individual may contain renewal provisions less favorable to the insured than "guaranteed renewable" or "noncancelable". However, ~~the commissioner may authorize nonrenewal on a statewide basis, on terms and conditions deemed necessary by the commissioner, to best protect the interests of the insureds, if the insurer demonstrates:~~

~~{1}--That--renewal--will--jeopardize--the--insurer's--solvency;
or~~

~~{2}--That:~~

~~{a}--The---actual---paid---claims---and---expenses---have
substantially---exceeded---the---premium---and
investment--income--associated--with--the--policies;~~

~~{b}--The---policies---will---continue--to--experience
substantial--and--unexpected--losses--over--their
lifetime;~~

~~{c}--The--projected--loss--experience--of--the--policies
cannot--be--significantly--improved--or--mitigated
through--reasonable--rate--adjustments--or--other
reasonable--methods;--and~~

~~{d}--The--insurer--has--made--repeated--and--good--faith
attempts--to--stabilize--loss--experience--of--the
policies;--including--the--timely--filing--for--rate
adjustments.~~

b. The term "guaranteed renewable" may be used only when the insured has the right to continue the long-term care insurance in force by the timely payment of premiums and

when the insurer has no unilateral right to make any change in any provision of the policy or rider while the insurance is in force, and cannot decline to renew, except that rates may be revised by the insurer on a class basis.

- c. The term "noncancelable" may be used only when the insured has the right to continue the long-term care insurance in force by the timely payment of premiums during which period the insurer has no right to unilaterally make any change in any provision of the insurance or in the premium rate.

2. **Limitations and exclusions.** No policy may be delivered or issued for delivery in this state as long-term care insurance if such policy limits or excludes coverage by type of illness, treatment, medical condition, or accident, except as follows:

- a. Preexisting conditions or diseases;
- b. Mental or nervous disorders; however, this does not permit exclusion or limitation of benefits on the basis of alzheimer's disease;
- c. Alcoholism and drug addiction;
- d. Illness, treatment, or medical condition arising out of:
 - (1) War or act of war (whether declared or undeclared);
 - (2) Participation in a felony, riot, or insurrection;
 - (3) Service in the armed forces or units auxiliary thereto;
 - (4) Suicide (sane or insane), attempted suicide, or intentionally self-inflicted injury; or
 - (5) Aviation (this exclusion applies only to nonfare paying passenger).
- e. Treatment provided in a government facility (unless otherwise required by law), services for which benefits are available under medicare or other governmental program (except medicaid), any state or federal workers' compensation, employer's liability or occupational disease law, or any motor vehicle no-fault law, services provided by a member of the covered person's immediate family and services for which no charge is normally made in the absence of insurance.
- f. This subsection is not intended to prohibit exclusions and limitations by type of provider or territorial limitations.

3. **Extension of benefits.** Termination of long-term care insurance shall be without prejudice to any benefits payable for institutionalization if such institutionalization began while the long-term care insurance was in force and continues without interruption after termination. Such extension of benefits beyond the period the long-term care insurance was in force may be limited to the duration of the benefit period, if any, or to payment of the maximum benefits and may be subject to any policy waiting period, and all other applicable provisions of the policy.
4. **Continuation or conversion.**
- a. Group long-term care insurance issued in this state on or after October 1, 1989, shall provide covered individuals with a basis for continuation or conversion of coverage.
- b. For the purposes of this section, "a basis for continuation of coverage" means a policy provision which maintains coverage under the existing group policy when such coverage would otherwise terminate and which is subject only to the continued timely payment of premium when due. ~~Continuation-provisions-of-group~~ Group policies which that restrict provision of benefits and services to, or contain incentives to use, certain providers or facilities ~~(because--coverage--is--provided--to--or--by--a--managed-care-plan-such-as--a--continuing--care--retirement--community--or--a--health--maintenance--organization)~~; may provide continuation benefits which that are substantially equivalent to the benefits of the existing group policy. The commissioner shall make a determination as to the substantial equivalency of benefits, and in doing so, shall take into consideration the differences between managed and nonmanaged plans, including, ~~but not limited to~~; provider system arrangements, service availability, benefit levels, and administrative complexity.
- c. For the purposes of this section, "a basis for conversion of coverage" means a policy provision that an individual whose coverage under the group policy would otherwise terminate or has been terminated for any reason, including discontinuance of the group policy in its entirety or with respect to an insurance class, and who has been continuously insured under the group policy (and any group policy which it replaced), for at least six months immediately prior to termination, shall be entitled to the issuance of a converted policy by the insurer under whose group policy he or she is covered, without evidence of insurability.
- d. For the purposes of this section, "converted policy" means an individual policy of long-term care insurance providing benefits identical to or benefits determined by the

commissioner to be substantially equivalent to or in excess of those provided under the group policy from which conversion is made. Where the group policy from which conversion is made restricts the provision of benefits and services to, or contains incentives to use, certain providers or facilities (~~because coverage is provided to or by a managed care plan such as a continuing care retirement community or a health maintenance organization~~), the commissioner, in making a determination as to the substantial equivalency of benefits, shall take into consideration the differences between managed and nonmanaged plans, including, but not limited to, provider system arrangements, service availability, benefit levels, and administrative complexity.

- e. Written application for the converted policy must be made and the first premium due, if any, must be paid as directed by the insurer not later than thirty-one days after termination of coverage under the group policy. The converted policy must be issued effective on the day following the termination of coverage under the group policy, and must be renewable annually.
- f. Unless the group policy from which conversion is made replaced previous group coverage, the premium for the converted policy must be calculated on the basis of the insured's age at inception of coverage under the group policy from which the conversion is made. Where the group policy from which conversion is made replaced previous group coverage, the premium for the converted policy must be calculated on the basis of the insured's age at inception of coverage under the group policy replaced.
- g. Continuation of coverage or issuance of a converted policy shall be mandatory, except where:
 - (1) Termination of group coverage resulted from an individual's failure to make any required payment of premium or contribution when due; or
 - (2) The terminating coverage is replaced not later than thirty-one days after termination by group coverage effective on the day following the termination of coverage:
 - (a) Providing benefits identical to or benefits determined by the commissioner to be substantially equivalent to or in excess of those provided by the terminating coverage; and
 - (b) The premium for which is calculated in a manner consistent with the requirements of subdivision f.

- h. Notwithstanding any other provision of this section, a converted policy issued to an individual who at the time of conversion is covered by another long-term care insurance policy which provides benefits on the basis of incurred expenses, may contain a provision which results in a reduction of benefits payable if the benefits provided under the additional coverage, together with the full benefits provided by the converted policy, would result in payment of more than one hundred percent of incurred expenses. Such provision shall only be included in the converted policy if the converted policy also provides for a premium decrease or refund which reflects the reduction in benefits payable.
- i. The converted policy may provide that the benefits payable under the converted policy, together with the benefits payable under the group policy from which conversion is made, shall not exceed those that would have been payable had the individual's coverage under the group policy remained in force and effect.
- j. Notwithstanding any other provision of this section, any insured individual whose eligibility for group long-term care coverage is based upon his or her relationship to another person shall be entitled to continuation of coverage under the group policy upon termination of the qualifying relationship by death or dissolution of marriage.

5. Discontinuance and replacement. If a group long-term care policy is replaced by another group long-term care policy issued to the same policyholder, the succeeding insurer shall offer coverage to all persons covered under the previous group policy on its date of termination. Coverage provided or offered to individuals by the insurer and premiums charged to persons under the new group policy:

- a. May not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced; and
- b. May not vary or otherwise depend on the individual's health or disability status, claim experience, or use of long-term care services.

6. The premiums charged to an insured for long-term care insurance may not increase due to either:

- a. The increasing age of the insured at ages beyond sixty-five; or

b. The duration the insured has been covered under the policy.

History: Effective July 1, 1988; amended effective October 1, 1989; July 1, 1994.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-45

45-06-05-04.1. Unintentional lapse. Each insurer offering long-term care insurance shall, as a protection against unintentional lapse, comply with the following:

1. a. Notice before lapse or termination. An individual long-term care policy or certificate may not be issued until the insurer has received from the applicant either a written designation of at least one person, in addition to the applicant, who is to receive notice of lapse or termination of the policy or certificate for nonpayment of premium, or a written waiver dated and signed by the applicant electing not to designate additional persons to receive notice. The applicant has the right to designate at least one person who is to receive the notice of termination, in addition to the insured. Designation does not constitute acceptance of any liability on the third party for services provided to the insured. The form used for the written designation must provide space clearly designated for listing at least one person. The designation must include each person's full name and home address. In the case of an applicant who elects not to designate an additional person, the waiver must state: "Protection against unintended lapse. I understand that I have the right to designate at least one person other than myself to receive notice of lapse or termination of this long-term care insurance policy for nonpayment of premium. I understand that notice will not be given until thirty (30) days after a premium is due and unpaid. I elect NOT to designate any person to receive such notice."

The insurer shall notify the insured of the right to change this written designation, no less often than once every two years.

b. When the policyholder or certificate holder pays premium for a long-term care insurance policy or certificate through a payroll or pension deduction plan, the requirements contained in subdivision a need not be met until sixty days after the policyholder or certificate holder is no longer on such a payment plan. The application or enrollment form for such policies or certificates must clearly indicate the payment plan selected by the applicant.

c. Lapse or termination for nonpayment of premium. An individual long-term care policy or certificate may not lapse or be terminated for nonpayment of premium unless the insurer, at least thirty days before the effective date of the lapse or termination, has given notice to the insured and to those persons designated pursuant to subdivision a of subsection 1, at the address provided by the insured for purposes of receiving notice of lapse or termination. Notice must be given by first-class mail, postage prepaid, and notice may not be given until thirty days after a premium is due and unpaid. Notice is deemed to have been given as of five days after the date of mailing.

2. Reinstatement. In addition to the requirement in subsection 1, a long-term care insurance policy or certificate must include a provision that provides for reinstatement of coverage, in the event of lapse if the insurer is provided proof of cognitive impairment or the loss of functional capacity. This option must be available to the insured if requested within five months after termination and must allow for the collection of past due premium, when appropriate. The standard of proof of cognitive impairment or loss of functional capacity may not be more stringent than the benefit eligibility criteria on cognitive impairment or the loss of functional capacity, if any, contained in the policy and certificate.

History: Effective July 1, 1994.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-45

45-06-05-05. Required disclosure provisions.

1. **Renewability.** Individual long-term care insurance policies must contain a renewability provision. Such provision must be appropriately captioned, must appear on the first page of the policy, and must clearly state the duration, where limited, of renewability and the duration of the term of coverage for which the policy is issued and for which it may be renewed.
2. **Riders and endorsements.** Except for riders or endorsements by which the insurer effectuates a request made in writing by the insured under an individual long-term care insurance policy, all riders or endorsements added to an individual long-term care insurance policy after date of issue or at reinstatement or renewal which reduce or eliminate benefits or coverage in the policy must require signed acceptance by the individual insured. After the date of policy issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term must be agreed to in writing signed by the insured, except if the

increased benefits or coverage are required by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, such premium charge must be set forth in the policy, rider, or endorsement.

3. **Payment of benefits.** A long-term care insurance policy which provides for the payment of benefits based on standards described as "usual and customary", "reasonable and customary", or words of similar import must include a definition of such terms and an explanation of such terms in its accompanying outline of coverage.
4. **Limitations.** If a long-term care insurance policy or certificate contains any limitations with respect to preexisting conditions, such limitations must appear as a separate paragraph of the policy or certificate and be labeled as "preexisting condition limitations".
5. **Other limitations or conditions on eligibility for benefits.** Effective July 1, 1990, a long-term care insurance policy or certificate containing any limitations or conditions for eligibility other than those prohibited in subsection 2 of North Dakota Century Code section 26.1-45-07 must set forth a description of such limitations or conditions, including any required number of days of confinement, in a separate paragraph of the policy or certificate and must label such paragraph "limitations or conditions on eligibility for benefits".
6. Disclosure of tax consequences. With regard to life insurance policies that provide an accelerated benefit for long-term care, a disclosure statement is required at the time of application for the policy or rider and at the time the accelerated benefit payment request is submitted that receipt of these accelerated benefits may be taxable, and that assistance should be sought from a personal tax adviser. The disclosure statement must be prominently displayed on the first page of the policy or rider and any other related documents.

History: Effective July 1, 1988; amended effective October 1, 1989; July 1, 1994.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-45

45-06-05-05.2. Minimum standards for home health and community care benefits in long-term care insurance policies.

1. **Definitions:**

a. --"Acute condition"--means that the individual is medically unstable.--Such an individual requires frequent monitoring

by---medical---professionals,---such---as---physicians---and
registered-nurses,---in-order-to-maintain---the---individual's
health-status.

b.---"Home--health--care-services"--means-medical-and-nonmedical
services,---provided-to-ill,---disabled,---or-infirm-persons---in
their---residences,---Such---services---may-include-homemaker
services,---assistance-with-activities-of-daily-living,---and
respite-care-services.

2. A long-term care insurance policy or certificate may not, if it provides benefits for home health care or community care services, limit or exclude benefits:

a. By requiring that the insured or claimant would need skilled care in a skilled nursing facility if home health care services were not provided;

b. By requiring that the insured or claimant first or simultaneously receive nursing or therapeutic services, or both in a home or, community, or institutional setting before home health care services are covered;

c. By limiting eligible services to services provided by registered nurses or licensed practical nurses;

d. By requiring that a nurse or therapist provide service services covered by the policy that can be provided by a home health aide, or other licensed or certified home care worker acting within the scope of his or her licensure or certification;

e. By requiring that the insured or claimant have an acute condition before home health care services are covered;

f. By limiting benefits to services provided by medicare-certified agencies or providers;

g. By excluding coverage for personal care services provided by a home health aide;

h. By requiring that the provision of home health care services be at a level of certification or licensure greater than that required by the eligible service; or

i. By excluding coverage for adult day care services.

3. 2. Home health care coverage may be applied to the nonhome health care benefits provided in the policy or certificate when determining maximum coverage under the terms of the policy or certificate.

3. A long-term care insurance policy or certificate, if it provides for home health or community care services, must provide total home health or community care coverage that is a dollar amount equivalent to at least one-half of one year's coverage available for nursing home benefits under the policy or certificate, at the time covered home health or community care services are being received. This requirement does not apply to policies or certificates issued to residents of continuing care retirement communities.

History: Effective November 1, 1990; amended effective July 1, 1994.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-45

45-06-05-05.3. Requirement to offer inflation protection.

1. No insurer may offer a long-term care insurance policy unless the insurer also offers to the policyholder in addition to any other inflation protection the option to purchase a policy that provides for benefit levels to increase with benefit maximums or reasonable durations which are meaningful to account for reasonably anticipated increases in the costs of long-term care services covered by the policy. Insurers must offer to each policyholder, at the time of purchase, the option to purchase a policy with an inflation protection feature no less favorable than one of the following:
 - a. Increases benefit levels annually, in a manner so that the increases are compounded annually at a rate not less than five percent;
 - b. Guarantees the insured individual the right to periodically increase benefit levels without providing evidence of insurability or health status so long as the option for the previous period has not been declined. The amount of the additional benefit must be no less than the difference between the existing policy benefit and that benefit compounded annually at a rate of at least five percent for the period beginning with the purchase of the existing benefit and extending until the year in which the offer is made; or
 - c. Covers a specified percentage of actual or reasonable charges and does not include a maximum specified indemnity amount or limit.
2. Where the policy is issued to a group, the required offer in subsection 1 must be made to the group policyholder; except, if the policy is issued to a group defined in subdivision d of subsection 3 of section 26.1-45-01 other than to a continuing care retirement community, the offering must be made to each proposed certificate holder.

3. The offer in subsection 1 is not required of:
- a. ~~Life~~ life insurance policies or riders containing accelerated long-term care benefits; ~~nor~~
 - b. ~~Policies which cover a specified percentage of actual or reasonable charges without application of daily benefit limitation.~~
4. Insurers shall include the following information in or with the outline of coverage:
- a. A graphic comparison of the benefit levels of a policy that increases benefits over the policy period with a policy that does not increase benefits. The graphic comparison must show benefit levels over at least a twenty-year period.
 - b. Any expected premium increases or additional premiums to pay for automatic or optional benefit increases. ~~If premium increases or additional premiums will be based on the attained age of the applicant at the time of the increase, the insurer shall also disclose the magnitude of the potential premiums the applicant would need to pay at ages seventy-five and eighty-five for benefit increases.~~
- An insurer may use a reasonable hypothetical, or a graphic demonstration, for the purposes of this disclosure.
5. Inflation protection benefit increases under a policy which contains such benefits shall continue without regard to an insured's age, claim status or claim history, or the length of time the person has been insured under the policy.
6. An offer of inflation protection which provides for automatic benefit increases shall include an offer of a premium which the insurer expects to remain constant. Such offer shall disclose in a conspicuous manner that the premium may change in the future unless the premium is guaranteed to remain constant.
7. a. Inflation protection as provided in subdivision a of subsection 1 shall be included in a long-term care insurance policy unless an insurer obtains a rejection of inflation protection signed by the policyholder as required in this subsection.
- b. The rejection shall be considered a part of the application and shall state: "I have reviewed the outline of coverage and the graphs that compare the benefits and

premiums of this policy with and without inflation protection. Specifically, I have reviewed Plans , and I reject inflation protection."

History: Effective November 1, 1990; amended effective July 1, 1994.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-45

45-06-05-06. Requirements for application forms and replacement coverage.

- 1.--Question--concerning--replacement:--Individual--and--direct response--solicited--long-term-care-insurance-application--forms must--include--a-question--designed--to--elicit--information--as--to whether--the--insurance--to--be--issued--is--intended--to--replace--any other--accident--and--sickness--or--long-term-care-insurance-policy presently--in--force.--A--supplementary--application--or--other--form to--be--signed--by--the--applicant--containing--such--a--question--may be--used.
- 2.--Solicitations--other--than--direct--response.--Upon--determining that--a--sale--will--involve--replacement,--an--insurer,--other--than an--insurer--using--direct--response--solicitation--methods,--or--its agents,--shall--furnish--the--applicant,--prior--to--issuance--or delivery--of--the--individual--long-term-care-insurance-policy,--a notice--regarding--replacement--of--accident--and--sickness--or long-term-care-coverage.--One--copy--of--such--notice--must--be retained--by--the--applicant--and--an--additional--copy--signed--by--the applicant--must--be--retained--by--the--insurer.--The--required notice--must--be--provided--in--the--following--manner:

"NOTICE--TO--APPLICANT--REGARDING--REPLACEMENT--OF--INDIVIDUAL ACCIDENT--AND--SICKNESS--OR--LONG-TERM-CARE-INSURANCE

According--to--(your--application)--(information--you--have furnished),--you--intend--to--lapse--or--otherwise--terminate existing--accident--and--sickness--or--long-term--care insurance--and--replace--it--with--an--individual--long-term care--insurance--policy--to--be--issued--by--(Company-name) Insurance--Company.--Your--new--policy--provides--thirty--(30) days--within--which--you--may--decide,--without--cost,--whether you--desire--to--keep--the--policy.--For--your--own--information and--protection,--you--should--be--aware--of--and--seriously consider--certain--factors--which--may--affect--the--insurance protection--available--to--you--under--the--new--policy:

- 1.--Health--conditions--which--you--may--presently--have (preexisting--conditions),--may--not--be immediately--or--fully--covered--under--the--new policy.--This--could--result--in--denial--or--delay in--payment--of--benefits--under--the--new--policy;

whereas-a-similar-claim-might-have-been-payable
under-your-present-policy.

2.--You--may--wish--to--secure--the--advice--of--your
present-insurer--or--its--agent--regarding--the
proposed--replacement--of--your--present--policy.
This-is-not-only-your-right,-but-it-is-also--in
your--best-interest-to-make-sure-you-understand
all-the-relevant-factors-involved-in--replacing
your-present-coverage.

3.--If,--after-due-consideration,-you-still-wish-to
terminate-your-present-policy--and--replace--it
with-new-coverage,-be-certain-to-truthfully-and
completely--answer---all---questions---on---the
application---concerning--your--medical--health
history.---Failure--to--include--all---material
medical---information--on--an--application--may
provide-a-basis-for-the--company--to--deny--any
future--claims--and--to--refund-your-premium-as
though-your-policy-had--never--been--in--force.
After--the--application--has-been-completed-and
before-you-sign-it,-reread-it-carefully--to--be
certain--that-all-information-has-been-properly
recorded.

The-above-"Notice-to-Applicant"-was-delivered-to-me-on:

(Date)

(Applicant's-Signature)"

3.--Direct-response-solicitations.--Insurers-using-direct-response
solicitation--methods--shall--deliver---a---notice---regarding
replacement---of--accident--and--sickness--or--long-term--care
coverage-to-the-applicant-upon-issuance-of--the--policy.---The
required-notice-must-be-provided-in-the-following-manner:

**"NOTICE-TO-APPLICANT-REGARDING-REPLACEMENT
OF-ACCIDENT-AND-SICKNESS-OR-LONG-TERM-CARE-INSURANCE**

According--to--(your--application)--(information-you-have
furnished),-you-intend-to-lapse--or--otherwise--terminate
existing---accident---and---sickness--or--long-term--care
insurance--and--replace--it--with--the---long-term---care
insurance--policy--delivered--herewith-issued-by--(Company
name)-Insurance-Company.--Your-new-policy-provides-thirty
(30)--days--within--which--you--may--decide,-without-cost,
whether-you-desire-to-keep--the--policy.---For--your--own
information--and--protection,-you--should--be--aware-and

seriously consider other factors which may affect the insurance protection available to you under the new policy:

1. Health conditions which you may presently have (preexisting conditions), may not be immediately or fully covered under the new policy. This could result in denial or delay in payment of benefits under the new policy, whereas a similar claim might have been payable under your present policy.

2. You may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

3. (To be included only if the application is attached to the policy.) If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, read the copy of the application attached to your new policy and be sure that all questions are answered fully and correctly. Omissions or misstatements in the application could cause an otherwise valid claim to be denied. Carefully check the application and write to (Company name and address) within thirty (30) days if any information is not correct and complete, or if any past medical history has been left out of the application.

{Company Name}''

1. Application forms must include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another long-term care insurance policy or certificate in force or whether a long-term care policy or certificate is intended to replace any other accident and sickness or long-term care policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and agent, except when the coverage is sold without an agent, containing such questions may be used. With regard to a replacement policy issued to groups defined by subsection 3 of North Dakota Century Code section 26.1-45-01, the following questions may be modified only to the extent necessary to elicit information about health or long-term care insurance policies other than

the group policy being replaced; provided, however, that the certificate holder has been notified of the replacement.

a. Do you have another long-term care insurance policy or certificate in force (including health care service contract or health maintenance organization contract)?

b. Did you have another long-term care insurance policy or certificate in force during the last twelve months?

(1) If so, with which company?

(2) If that policy lapsed, when did it lapse?

c. Are you covered by medicaid?

d. Do you intend to replace any of your medical or health insurance coverage with this policy [certificate]?

2. Agents shall list any other health insurance policies they have sold to the applicant.

a. List policies sold which are still in force.

b. List policies sold in the past five years which are no longer in force.

3. Solicitations other than direct response. Upon determining that a sale will involve replacement, an insurer, other than an insurer using direct response solicitation methods, or its agent, shall furnish the applicant, prior to issuance or delivery of the individual long-term care insurance policy, a notice regarding replacement of accident and sickness or long-term care coverage. One copy of such notice must be retained by the applicant and an additional copy signed by the applicant must be retained by the insurer. The required notice must be provided in the following manner:

"NOTICE TO APPLICANT REGARDING REPLACEMENT OF INDIVIDUAL ACCIDENT AND SICKNESS OR LONG-TERM CARE INSURANCE

[Insurance company's name and address]

SAVE THIS NOTICE!

IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate existing accident and sickness or long-term care insurance and replace it with an individual long-term care insurance policy to be issued by [company name] Insurance Company. Your new policy provides thirty (30) days within which you may decide, without cost, whether

you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all accident and sickness or long-term care insurance coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.

STATEMENT TO APPLICANT BY AGENT [BROKER OR OTHER REPRESENTATIVE]:

(Use additional sheets, as necessary.)

I have reviewed your current medical or health insurance coverage. I believe the replacement of insurance involved in this transaction materially improves your position. My conclusion has taken into account the following considerations, which I call to your attention:

1. Health conditions which you may presently have (preexisting conditions), may not be immediately or fully covered under the new policy. This could result in denial or delay in payment of benefits under the new policy, whereas a similar claim might have been payable under your present policy.
2. State law provides that your replacement policy or certificate may not contain new preexisting conditions or probationary periods. The insurer will waive any time periods applicable to preexisting conditions or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.
3. If you are replacing existing long-term care insurance coverage, you may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.
4. If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the

application concerning your medical health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all information has been properly recorded.

Signature of Agent, Broker, or Other Representative)

[Typed Name and Address of Agent or Broker]

The above "Notice to Applicant" was delivered to me on:

(Date)

(Applicant's Signature)"

4. Direct response solicitations. Insurers using direct response solicitation methods shall deliver a notice regarding replacement of accident and sickness or long-term care coverage to the applicant upon issuance of the policy. The required notice must be provided in the following manner:

"NOTICE TO APPLICANT REGARDING REPLACEMENT OF ACCIDENT AND SICKNESS OR LONG-TERM CARE INSURANCE

[Insurance company's name and address]

SAVE THIS NOTICE!
IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate existing accident and sickness or long-term care insurance and replace it with the long-term care insurance policy delivered herewith issued by [company name] Insurance Company. Your new policy provides thirty (30) days within which you may decide, without cost, whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all accident and sickness or long-term care insurance coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.

1. Health conditions which you may presently have (preexisting conditions), may not be immediately or fully covered under the new policy. This could result in denial or delay in payment of benefits under the new policy, whereas a similar claim might have been payable under your present policy.
2. State law provides that your replacement policy or certificate may not contain new preexisting conditions or probationary periods. Your insurer will waive any time periods applicable to preexisting conditions or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.
3. If you are replacing existing long-term care insurance coverage, you may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.
4. [To be included only if the application is attached to the policy.] If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, read the copy of the application attached to your new policy and be sure that all questions are answered fully and correctly. Omissions or misstatements in the application could cause an otherwise valid claim to be denied. Carefully check the application and write to [company name and address] within thirty (30) days if any information is not correct and complete, or if any past medical history has been left out of the application.

(Company Name)"

5. Where replacement is intended, the replacing insurer shall notify, in writing, the existing insurer of the proposed

replacement. The existing policy shall be identified by the insurer, name of the insured, and policy number or address including zip code. Such notice shall be made within five working days from the date the application is received by the insurer or the date the policy is issued, whichever is sooner.

History: Effective July 1, 1988; amended effective November 1, 1990; July 1, 1994.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-45

45-06-05-06.1. Reporting requirements.

1. Every insurer shall maintain records for each agent of that agent's amount of replacement sales as a percent of the agent's total annual sales and the amount of lapses of long-term care insurance policies sold by the agent as a percent of the agent's total annual sales.
2. Each insurer shall report annually by June thirtieth the ten percent of its agents with the greatest percentages of lapses and replacements as measured by subsection 1.
3. Reported replacement and lapse rates do not alone constitute a violation of insurance laws or necessarily imply wrongdoing. The reports are for the purpose of reviewing more closely agent activities regarding the sale of long-term care insurance.
4. Every insurer shall report annually by June thirtieth the number of lapsed policies as a percent of its total annual sales and as a percent of its total number of policies in force as of the end of the preceding calendar year.
5. Every insurer shall report annually by June thirtieth the number of replacement policies sold as a percent of its total annual sales and as a percent of its total number of policies in force as of the preceding calendar year.
6. For purposes of this section, "policy" means only long-term care insurance and "report" means on a statewide basis.

History: Effective July 1, 1994.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-45

45-06-05-08. Mandated-loss Loss ratio. Benefits under individual long-term care insurance policies must be deemed reasonable in relation to premiums provided the expected loss ratio is at least sixty percent, calculated in a manner which provides for adequate reserving of the

long-term care insurance risk. In evaluating the expected loss ratio, due consideration must be given to all relevant factors, including:

1. Statistical credibility of incurred claims experience and earned premiums;
2. The period for which rates are computed to provide coverage;
3. Experienced and projected trends;
4. Concentration of experience within early policy duration;
5. Expected claim fluctuation;
6. Experience refunds, adjustments, or dividends;
7. Renewability features;
8. All appropriate expense factors;
9. Interest;
10. Experimental nature of the coverage;
11. Policy reserves;
12. Mix of business by risk classification; and
13. Product features such as long elimination periods, high deductibles, and high maximum limits.

History: Effective July 1, 1988; amended effective July 1, 1994.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-45

45-06-05-08.1. Reserve standards.

1. When long-term care benefits are provided through the acceleration of benefits under group or individual life policies or riders to such policies, policy reserves for such benefits must be determined in accordance with North Dakota Century Code chapter 26.1-35. Claim reserves must also be established in the case when such policy or rider is in claim status.

Reserves for policies and riders subject to this subsection should be based on the multiple decrement model utilizing all relevant decrements except for voluntary termination rates. Single decrement approximations are acceptable if the calculation produces essentially similar reserves, if the reserve is clearly more conservative, or if the reserve is immaterial. The calculations may take into account the

reduction in life insurance benefits due to the payment of long-term care benefits. However, the reserves for the long-term care benefit and the life insurance benefit may not be less than the reserves for the life insurance benefit assuming no long-term care benefit.

In the development and calculation of reserves for policies and riders subject to this subsection, due regard must be given to the applicable policy provisions, marketing methods, administrative procedures, and all other considerations that have an impact on projected claim costs, including the following:

- a. Definition of insured events;
- b. Covered long-term care facilities;
- c. Existence of home convalescence care coverage;
- d. Definition of facilities;
- e. Existence or absence of barriers to eligibility;
- f. Premium waiver provision;
- g. Renewability;
- h. Ability to raise premiums;
- i. Marketing method;
- j. Underwriting procedures;
- k. Claims adjustment procedures;
- l. Waiting period;
- m. Maximum benefit;
- n. Availability of eligible facilities;
- o. Margins in claim costs;
- p. Optional nature of benefit;
- q. Delay in eligibility for benefit;
- r. Inflation protection provisions; and
- s. Guaranteed insurability option.

Any applicable valuation morbidity table must be certified as appropriate as a statutory valuation table by a member of the American academy of actuaries.

2. When long-term care benefits are provided other than as in subsection 1, reserves must be determined in accordance with generally accepted industry standards.

History: Effective July 1, 1994.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-45

45-06-05-09.1. Filing requirements for advertising.

1. An insurer, health care service plan, or other entity providing long-term care insurance or benefits in this state shall provide a copy of any long-term care insurance advertisement intended for use in this state whether through written, radio, or television medium to the commissioner of insurance of this state for review or approval by the commissioner to the extent it may be required under state law. In addition, all advertisements must be retained by the insurer, health care service plan, or other entity for at least three years from the date the advertisement was first used.
2. The commissioner may exempt from these requirements any advertising form or material when, in the commissioner's opinion, this requirement may not be reasonably applied.

History: Effective July 1, 1994.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-45

45-06-05-09.2. Standards for marketing.

1. Every insurer, health care service plan, or other entity marketing long-term care insurance coverage in this state, directly or through its producers, shall:
 - a. Establish marketing procedures to assure that any comparison of policies by its agents or other producers will be fair and accurate.
 - b. Establish marketing procedures to assure excessive insurance is not sold or issued.
 - c. Display prominently by type, stamp, or other appropriate means, on the first page of the outline of coverage and policy the following: "Notice to buyer: This policy may not cover all of the costs associated with long-term care

incurred by the buyer during the period of coverage. The buyer is advised to review carefully all policy limitations."

- d. Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for long-term care insurance already has accident and sickness or long-term care insurance and the types and amounts of any such insurance.
 - e. Every insurer or entity marketing long-term care insurance shall establish auditable procedures for verifying compliance with this subsection.
 - f. If the state in which the policy or certificate is to be delivered or issued for delivery has a senior insurance counseling program approved by the commissioner, the insurer shall, at solicitation, provide written notice to the prospective policyholder and certificate holder that such a program is available and the name, address, and telephone number of the program.
 - g. For long-term care health insurance policies and certificates, use the terms "noncancelable" or "level premium" only when the policy or certificate conforms to subdivision c of subsection 1 of section 45-06-05-04.
2. In addition to the practices prohibited in North Dakota Century Code section 26.1-04-03, the following acts and practices are prohibited:
- a. Twisting. Knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert any insurance policy or to take out a policy of insurance with another insurer.
 - b. High pressure tactics. Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance.
 - c. Cold lead advertising. Making use directly or indirectly of any method of marketing that fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.
3. a. With respect to the obligations set forth in this subsection, the primary responsibility of an association,

as defined in subdivision b of subsection 3 of North Dakota Century Code section 26.1-45-01, when endorsing long-term care insurance is to educate its members concerning long-term care issues in general so that its members can make informed decisions. Associations shall provide objective information regarding long-term care insurance policies or certificates endorsed by such associations to ensure that members of such associations receive a balanced and complete explanation of the features in the policies or certificates that are being endorsed.

b. The insurer shall file with the insurance department the following material:

(1) The policy and certificate;

(2) A corresponding outline of coverage; and

(3) All advertisements requested by the insurance department.

c. The association shall disclose in any long-term care insurance solicitation:

(1) The specific nature and amount of the compensation arrangements, including all fees, commissions, administrative fees, and other forms of financial support, that the association receives from endorsement or sale of the policy or certificate to its members; and

(2) A brief description of the process under which such policies and the insurer issuing such policies were selected.

d. If the association and the insurer have interlocking directorates or trustee arrangements, the association shall disclose such fact to its members.

e. The board of directors of associations selling or endorsing long-term care insurance policies or certificates shall review and approve such insurance policies as well as the compensation arrangements made with the insurer.

f. The association shall also:

(1) At the time of the association's decision to endorse, engage the services of a person with expertise in long-term care insurance not affiliated with the insurer to conduct an examination of the policies, including its benefits, features, and rates and

update such examination thereafter in the event of material change;

(2) Actively monitor the marketing efforts of the insurer and its agents; and

(3) Review and approve all marketing materials or other insurance communications used to promote sales or sent to members regarding such policies or certificates.

g. A group long-term care insurance policy or certificate may not be issued to an association unless the insurer files with the insurance department the information required in this subsection.

h. The insurer may not issue a long-term care policy or certificate to an association or continue to market such a policy or certificate unless the insurer certifies annually that the association has complied with the requirements set forth in this subsection.

i. Failure to comply with the filing and certification requirements of this section constitutes an unfair trade practice under North Dakota Century Code section 26.1-04-03.

History: Effective July 1, 1994.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-45

45-06-05-09.3. Appropriateness of recommended purchase. In recommending the purchase or replacement of any long-term care insurance policy or certificate, an agent shall make reasonable efforts to determine the appropriateness of a recommended purchase or replacement.

History: Effective July 1, 1994.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-45

45-06-05-10. Standard format outline of coverage. This section implements, interprets, and makes specific the provisions of subsection 2 of North Dakota Century Code section 26.1-45-09 in prescribing a standard format and the content of an outline of coverage.

1. The outline of coverage must be a freestanding document, using no smaller than ten point type.
2. The outline of coverage must contain no material of an advertising nature.

3. Text which is capitalized or underscored in the standard format outline of coverage may be emphasized by other means which provide prominence equivalent to such capitalization or underscoring.
4. Use of the text and sequence of text of the standard format outline of coverage is mandatory, unless otherwise specifically indicated.
5. Format for outline of coverage:

[COMPANY NAME]
[ADDRESS - CITY AND STATE]
[TELEPHONE NUMBER]
LONG-TERM CARE INSURANCE
OUTLINE OF COVERAGE

[Policy number or group master policy and certificate number]

[Except for policies or certificates which are guaranteed issue, the following caution statement, or language substantially similar, must appear as follows in the outline of coverage.]

Caution: The issuance of this long-term care insurance [policy] [certificate] is based upon your responses to the questions on your application. A copy of your [application] [enrollment form] [is enclosed] [was retained by you when you applied]. If your answers are incorrect or untrue, the company has the right to deny benefits or rescind your policy. The best time to clear up any questions is now, before a claim arises! If, for any reason, any of your answers are incorrect, contact the company at this address: [insert address]

1. This policy is [an individual policy of insurance] ([a group policy] which was issued in the [indicate jurisdiction in which group policy was issued]).
2. PURPOSE OF OUTLINE OF COVERAGE. This outline of coverage provides a very brief description of the important features of the policy. You should compare this outline of coverage to outlines of coverage for other policies available to you. This is not an insurance contract, but only a summary of coverage. Only the individual or group policy contains governing contractual provisions. This means that the policy or group policy sets forth in detail the rights and obligations of both you and the insurance company. Therefore, if you purchase this coverage, or any other coverage, it is important that you READ YOUR POLICY (OR CERTIFICATE) CAREFULLY!
3. TERMS UNDER WHICH THE POLICY OR CERTIFICATE MAY BE RETURNED AND PREMIUM REFUNDED.

- a. [Provide a brief description of the right to return - "free look" provision of the policy.]
 - b. [Include a statement that the policy either does or does not contain provisions providing for a refund or partial refund of premium upon the death of an insured or surrender of the policy or certificate. If the policy contains such provisions, include a description of them.]
4. THIS IS NOT MEDICARE SUPPLEMENT COVERAGE. If you are eligible for medicare, review the Medicare Supplement Buyer's Guide from the insurance company.
- a. [For agents] Neither [insert company name] nor its agents represent medicare, the federal government or any state government.
 - b. [For direct response] [insert company name] is not representing medicare, the federal government, or any state government.
5. LONG-TERM CARE COVERAGE. Policies of this category are designed to provide coverage for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital, such as in a nursing home, in the community, or in the home.

This policy provides coverage in the form of a fixed dollar indemnity benefit for covered long-term care expenses, subject to policy [limitations] [waiting periods] and [coinsurance] requirements. [Modify this paragraph if the policy is not an indemnity policy.]

6. BENEFITS PROVIDED BY THIS POLICY.
- a. [Covered services, related deductibles, waiting periods, elimination periods and benefit maximums.]
 - b. [Institutional benefits, by skill level.]
 - c. [Noninstitutional benefits, by skill level.]

[Any benefit screens must be explained in this section. If these screens differ for different benefits, explanation of the screen should accompany each benefit description. If an attending physician or other specified person must certify a certain level of functional dependency in order to be eligible for benefits, this too must be specified. If activities of daily living (ADLs) are used to measure an insured's need for long-term care,

then these qualifying criteria or screens must be explained.]

7. LIMITATIONS AND EXCLUSIONS.

[Describe:

- a. Preexisting conditions.
- b. Noneligible facilities and provider.
- c. Noneligible levels of care (e.g., unlicensed providers, care or treatment provided by a family member, etc.).
- d. Exclusions and exceptions.
- e. Limitations.]

[This section should provide a brief specific description of any policy provisions which limit, exclude, restrict, reduce, delay, or in any other manner operate to qualify payment of the benefits described in (6) above.]

THIS POLICY MAY NOT COVER ALL THE EXPENSES ASSOCIATED WITH YOUR LONG-TERM CARE NEEDS.

8. RELATIONSHIP OF COST OF CARE AND BENEFITS. Because the costs of long-term care services will likely increase over time, you should consider whether and how the benefits of this plan may be adjusted. [As applicable, indicate the following:

- a. That the benefit level will not increase over time.
- b. Any automatic benefit adjustment provisions.
- c. Whether the insured will be guaranteed the option to buy additional benefits and the basis upon which benefits will be increased over time if not by a specified amount or percentage.
- d. If there is such a guarantee, include whether additional underwriting or health screening will be required, the frequency and amounts of the upgrade options, and any significant restrictions or limitations.
- e. And finally, describe whether there will be any additional premium charge imposed, and how that is to be calculated.]

9. TERMS UNDER WHICH THE POLICY (OR CERTIFICATE) MAY BE CONTINUED IN FORCE OR DISCONTINUED.

~~a. --- Describe the policy renewability provisions;~~

~~b. --- For group coverage, specifically describe continuation/conversion provisions applicable to the certificate and group policy.~~

~~c. --- Describe waiver of premium provisions or state that there are not such provisions.~~

~~d. --- State whether or not the company has a right to change premium, and if such a right exists, describe clearly and concisely each circumstance under which premium may change.~~

a. [For long-term care health insurance policies or certificates describe one of the following permissible policy renewability provisions:

(1) Policies and certificates that are guaranteed renewable must contain the following statement: RENEWABILITY: THIS POLICY [CERTIFICATE] IS GUARANTEED RENEWABLE. This means you have the right, subject to the terms of your policy [certificate], to continue this policy as long as you pay your premiums on time. [Company Name] cannot change any of the terms of your policy on its own, except that, in the future, IT MAY INCREASE THE PREMIUM YOU PAY.

(2) [Policies and certificates that are noncancelable shall contain the following statement: RENEWABILITY: THIS POLICY [CERTIFICATE] IS NONCANCELABLE. This means that you have the right, subject to the terms of your policy, to continue this policy as long as you pay your premiums on time. [Company Name] cannot change any of the terms of your policy on its own and cannot change the premium you currently pay. However, if your policy contains an inflation protection feature where you choose to increase your benefits, [Company Name] may increase your premium at that time for those additional benefits.

b. [For group coverage, specifically describe continuation/conversion provisions applicable to the certificate and group policy;]

c. [Describe waiver of premium provisions or state that there are not such provisions;]

d. [State whether or not the company has a right to change premium, and if such right exists, describe clearly and concisely each circumstance under which premium may change.]

10. ALZHEIMER'S DISEASE AND OTHER ORGANIC BRAIN DISORDERS.

[State that the policy provides coverage for insureds clinically diagnosed as having Alzheimer's disease or related degenerative and dementing illnesses. Specifically, describe each benefit screen or other policy provision which provides preconditions to the availability of policy benefits for such an insured.]

11. PREMIUM.

- a. [State the total annual premium for the policy.
- b. If the premium varies with an applicant's choice among benefit options, indicate the portion of annual premium which corresponds to each benefit option.]

12. ADDITIONAL FEATURES.

- a. [Indicate if medical underwriting is used;
- b. Describe other important features.]

History: Effective October 1, 1989; amended effective November 1, 1990; July 1, 1994.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-45

45-06-05-11. Requirement to deliver shopper's guide.

1. A long-term care insurance shopper's guide in the format developed by the national association of insurance commissioners, or a guide developed or approved by the commissioner, must be provided to all prospective applicants of a long-term care insurance policy or certificate.

a. In the case of agent solicitations, an agent must deliver the shopper's guide prior to the presentation of an application or enrollment form.

b. In the case of direct response solicitations, the shopper's guide must be presented in conjunction with any application or enrollment form.

2. Life insurance policies or riders containing accelerated long-term care benefits are not required to furnish the above-referenced guide, but shall furnish the policy summary

required under subsection 4 of North Dakota Century Code
section 26.1-45-09.

History: Effective July 1, 1994.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-45

APPENDIX A

RECISSION REPORTING FORM FOR
LONG-TERM CARE POLICIES
FOR THE STATE OF _____
FOR THE REPORTING YEAR 19 []

Company Name: _____

Address: _____

Phone Number: _____

Due: March 1 annually

Instructions:

The purpose of this form is to report all rescissions of long-term care insurance policies or certificates. Those rescissions voluntarily effectuated by an insured are not required to be included in this report. Please furnish one form per rescission.

<u>Policy Form Number</u>	<u>Policy and Certificate #</u>	<u>Name of Insured</u>	<u>Date of Policy Issuance</u>	<u>Date/s Claim/s Submitted</u>	<u>Date of Recission</u>
---------------------------	---------------------------------	------------------------	--------------------------------	---------------------------------	--------------------------

Detailed reason for rescission: _____

Signature

Name and Title (please type)

Date

STAFF COMMENT: Chapters 45-06-07 and 45-06-08 contain all new material but are not underscored so as to improve readability.

**CHAPTER 45-06-07
MODEL REGULATION TO IMPLEMENT RULES REGARDING CONTRACTS
AND SERVICES OF HEALTH MAINTENANCE ORGANIZATIONS**

Section	
45-06-07-01	Applicability and Scope
45-06-07-02	Effective Date
45-06-07-03	Definitions
45-06-07-04	Requirements for Contracts and Evidence of Coverage
45-06-07-05	Prohibited Practices
45-06-07-06	Services
45-06-07-07	Other Requirements
45-06-07-08	Penalties
45-06-07-09	Severability

45-06-07-01. Applicability and scope. This chapter applies to all health maintenance organizations that are required to obtain a certificate of authority in this state. In the event of conflict between the provisions of this chapter and the provisions of any other chapter issued by the commissioner, the provisions of this chapter shall be controlling as to health maintenance organizations.

History: Effective July 1, 1994.
General Authority: NDCC 26.1-18.1
Law Implemented: NDCC 26.1-18.1

45-06-07-02. Effective date.

1. All group and individual contracts written or issued on or after December 31, 1993, must conform with the provisions of these rules.
2. Group or individual contract or evidence of coverage may not be reissued, renewed, amended, or extended in this state on or after December 31, 1993, unless it complies with this chapter. A group or individual contract or evidence of coverage approved before December 31, 1993, must be deemed to be reissued, renewed, amended, or extended on the date the health maintenance organization changes the terms of the group or individual contract or evidence of coverage or adjusts the premiums charged. Such group or individual contracts or

evidence of coverage must comply with this chapter when amended but in no event later than June 30, 1995.

History: Effective July 1, 1994.

General Authority: NDCC 26.1-18.1

Law Implemented: NDCC 26.1-18.1

45-06-07-03. Definitions. Group or individual contract or evidence of coverage delivered or issued for delivery to any person in this state by a health maintenance organization required to obtain a certificate of authority in this state may not contain definitions respecting the matters set forth below unless such definitions comply with the requirements of this section. Definitions other than those in this section may be used as appropriate, providing that they do not contradict these requirements. All definitions used in the group or individual contract and evidence of coverage must be in alphabetical order. As used in this chapter and as used in the group or individual contract and evidence of coverage:

1. "Basic health care services" means the following medically necessary services: preventive care, emergency care, inpatient and outpatient hospital and physician care, diagnostic laboratory, and diagnostic and therapeutic radiological services. It does not include mental health services or services for alcohol or drug abuse, dental or vision services, or long-term rehabilitation treatment.
2. "Copayment" means the amount an enrollee must pay in order to receive a specific service that is not fully prepaid.
3. "Deductible" means the amount an enrollee is responsible to pay out of pocket before the health maintenance organization begins to pay the costs or provide the services associated with treatment.
4. "Eligible dependent" means any member of a subscriber's family who meets the eligibility requirements set forth in subsection 2 of section 45-06-07-04.
5. "Emergency care services" means:
 - a. Within the service area: covered health care services rendered by affiliated or nonaffiliated providers under unforeseen conditions that require immediate medical attention. Emergency care services within the service area include covered health care services from nonaffiliated providers only when delay in receiving care from the health maintenance organization could reasonably be expected to cause severe jeopardy to the enrollee's condition.

- b. Outside the service area: medically necessary health care services that are immediately required because of unforeseen illness or injury while the enrollee is outside the geographical limits of the health maintenance organization's service area.
6. "Enrollee" means an individual who is covered by a health maintenance organization.
 7. "Evidence of coverage" means a statement of the essential features and services of the health maintenance organization coverage which is given to the subscriber by the health maintenance organization or by the group contractholder.
 8. "Extension of benefits" means the continuation of coverage of a particular benefit provided under a group or individual contract following termination with respect to an enrollee who is totally disabled on the date of termination.
 9. "Grievance" means a written complaint submitted in accordance with the health maintenance organization's formal grievance procedure by or on behalf of the enrollee regarding any aspect of the health maintenance organization relative to the enrollee.
 10. "Group contract" means a contract for health care services which by its terms limits eligibility to enrollees of a specified group. The group contract may include coverage for dependents.
 11. "Group contractholder" means the person to whom a group contract has been issued.
 12. "Health maintenance organization" means any person who undertakes to provide or arrange for the delivery of basic health care services to enrollees on a prepaid basis, except for enrollee responsibility for copayments or deductibles.
 13. "Hospital" means a duly licensed institution that provides general and specialized inpatient medical care. The term "hospital" does not include a convalescent facility, nursing home, or any institution or part of an institution which is used principally as a convalescent facility, rest facility, nursing facility, or facility for the aged.
 14. "Individual contract" means a contract for health care services issued to and covering an individual. The individual contract may include coverage for dependents of the subscriber.
 15. "Medical necessity" or "medically necessary" means appropriate and necessary services as determined by any provider affiliated with the health maintenance organization which are

rendered to an enrollee for any condition requiring, according to generally accepted principles of good medical practice, the diagnosis or direct care and treatment of an illness or injury and are not provided only as a convenience. This does not preclude the health maintenance organization from establishing standards by which providers make their decisions as to what is medically necessary or from penalizing providers for failure to meet these standards. In the case of emergency medical services, the health maintenance organization has the right to make the final determination of whether services should be covered.

16. "Nonbasic health care services" means any health care services, other than basic health care services, that may be provided in the absence of basic health care services.
17. "Out-of-area services" means the health care services that a health maintenance organization covers when its enrollees are outside of the service area.
18. "Participating provider" means a provider as defined in this section who, under an express or implied contract with the health maintenance organization or with its contractor or subcontractor, has agreed to provide health care services to enrollees with an expectation of receiving payment, other than copayment or deductible, directly or indirectly from the health maintenance organization.
19. "Physician" means a duly licensed doctor of medicine or osteopathy practicing within the scope of such a license.
20. "Primary care physician" means a physician who supervises, coordinates, and provides initial and basic care to enrollees, and who initiates their referral for specialist care and maintains continuity of patient care.
21. "Provider" means any physician, hospital, or other person licensed or otherwise authorized to furnish health care services.
22. "Replacement coverage" means the benefits provided by a succeeding carrier.
23. "Service area" means the geographical area as approved by the commissioner within which the health maintenance organization provides or arranges for health care services that are available and accessible to enrollees.
24. "Skilled nursing facility" means a facility that is operated pursuant to law and is primarily engaged in providing room and board accommodations and skilled nursing care under the supervision of a duly licensed physician.

25. "Subscriber" means an individual whose employment or other status, except family dependency, is the basis for eligibility for enrollment in the health maintenance organization, or in the case of an individual contract, the person in whose name the contract is issued.
26. "Supplemental health care services" means any health care services that are provided in addition to basic health care services.

History: Effective July 1, 1994.
General Authority: NDCC 26.1-18.1
Law Implemented: NDCC 26.1-18.1

45-06-07-04. Requirements for contracts and evidence of coverage. Each subscriber is entitled to receive an individual contract or evidence of coverage in a form that has been approved by the commissioner. Each group contractholder is entitled to receive a group contract as approved by the commissioner. Group contracts, individual contracts, and evidences of coverage must be delivered or issued for delivery to subscribers or group contractholders within a reasonable time after enrollment, but not more than fifteen days from the later of the effective date of coverage or the date on which the health maintenance organization is notified of enrollment.

1. **Health maintenance organization information.** The group or individual contract and evidence of coverage must contain the name, address, and telephone number of the health maintenance organization, and where and in what manner information is available as to how services may be obtained. A telephone number within the service area for calls, without charge to members, to the health maintenance organization's administrative office must be made available and disseminated to enrollees to adequately provide telephone access for enrollee services, problems, or questions. A health maintenance organization shall provide a method by which the enrollee may contact the health maintenance organization at no cost to the enrollee. This may be done through the use of toll-free or collect telephone calls. The enrollee must be informed of the method by notice in the handbook, newsletter, or flyer. The group or individual contract or evidence of coverage may indicate the manner in which the number will be disseminated rather than list the number itself.
2. **Eligibility requirements.**
 - a. The group or individual contract and evidence of coverage must contain eligibility requirements indicating the conditions that must be met to enroll as a subscriber or eligible dependent, the limiting age for subscribers and eligible dependents including the effects of medicare

eligibility, and a clear statement regarding coverage of newborn children.

- b. A group or individual contract or evidence of coverage may not contain any provision excluding or limiting coverage for a newborn child. Medically diagnosed congenital defects and birth abnormalities must be treated the same as any other illness or injury for which coverage is provided. The group or individual contract and evidence of coverage may require that notification of birth of a newborn child and payment of any required premium must be furnished to the health maintenance organization within thirty-one days after the date of birth in order to have coverage continue beyond such thirty-one-day period. The health maintenance organization is entitled to premium for the first thirty-one days of coverage, unless the coverage is rejected by the subscriber prior to the birth of the child.
- c. The definition of an eligible dependent must include:
 - (1) The spouse of the subscriber.
 - (2) An unmarried dependent child of the subscriber who:
 - (a) Has not reached age nineteen;
 - (b) Has reached age sixteen through age twenty-three who is attending a recognized college or university, trade school, or secondary school on a full-time basis; or
 - (c) Has reached age nineteen but who is incapable of self-support because of mental retardation, mental illness, or physical incapacity which began before the child reached age nineteen, and who is chiefly dependent upon the subscriber for support and maintenance.
- d. The definition of a dependent child of a subscriber must include a child who:
 - (1) Is related to the subscriber as a natural child, a child placed for adoption, or a stepchild;
 - (2) Resides in the subscriber's household and who qualifies as a dependent of the subscriber or the subscriber's spouse under the United States Internal Revenue Code and the federal tax regulations; or
 - (3) Is eligible by virtue of a court order making the subscriber responsible for health care services for the dependent child.

3. **Benefits and services within the service area.** The group or individual contract and evidence of coverage must contain a specific description of benefits and services available within the service area.
4. **Emergency care benefits and services.** The group or individual contract and evidence of coverage must contain a specific description of benefits and services available for emergencies twenty-four hours a day, seven days a week, including disclosure of any restrictions on emergency care services. A group or individual contract or evidence of coverage may not limit the coverage of emergency services within the service area to affiliated providers only.
5. **Out-of-area benefits and services.** The group or individual contract and evidence of coverage must contain a specific description of benefits and services available out of the service area.
6. **Copayments and deductibles.** The group or individual contract and evidence of coverage must contain a description of any copayments or deductibles that must be paid by enrollees.
7. **Limitations and exclusions.** The group or individual contract and evidence of coverage must contain a description of any limitations or exclusions on the services, kind of services, benefits, or kind of benefits including any limitations or exclusions due to preexisting conditions, waiting periods, or an enrollee's refusal of treatment.
8. **Enrollee termination.**
 - a. A health maintenance organization may not cancel or terminate coverage of services provided an enrollee under a health maintenance organization group or individual contract except for one or more of the following reasons:
 - (1) Failure to pay the amounts due under the group or individual contract.
 - (2) Fraud or material misrepresentation in enrollment or in the use of services or facilities.
 - (3) Material violation of the terms of the group or individual contract.
 - (4) Failure to meet the eligibility requirements under a group contract.
 - (5) Termination of the group contract under which the enrollee was covered.

- (6) Failure of the enrollee and the primary care physician to establish a satisfactory patient-physician relationship if:
 - (a) It is shown that the health maintenance organization has, in good faith, provided the enrollee with the opportunity to select an alternative primary care physician;
 - (b) The enrollee has repeatedly refused to follow the plan of treatment ordered by the physician; and
 - (c) The enrollee is notified in writing at least thirty days in advance that the health maintenance organization considers the patient-physician relationship to be unsatisfactory and specific changes are necessary in order to avoid termination.
- (7) Such other good cause agreed upon in the group or individual contract and approved by the commissioner.

However, coverage may not be canceled or terminated on the basis of the status of the enrollee's health or because the enrollee has exercised the enrollee's rights under the health maintenance organization's grievance procedure by registering a grievance against the health maintenance organization.

- b. A health maintenance organization may not cancel or terminate an enrollee's coverage for services provided under a health maintenance organization group or individual contract without giving the enrollee at least fifteen days' written notice of such termination. Notice will be considered given on the date of mailing or, if not mailed, on the date of delivery. This notice must include the reason for termination. If termination is due to nonpayment of premium, the grace period required in subsection 23 of section 45-06-07-04 applies. Advance notice of termination is not required to be given for termination due to nonpayment of premium.
- c. A health maintenance organization may not terminate coverage of a dependent child upon attainment of the limiting age if the child is and continues to be both:
 - (1) Incapable of self-support because of mental retardation, mental illness, or physical incapacity; and
 - (2) Chiefly dependent upon the subscriber for support and maintenance.

Proof of such incapacity and dependency must be furnished to the health maintenance organization by the subscriber within thirty-one days of the child's attainment of the limiting age and subsequently as reasonably required by the health maintenance organization.

9. **Enrollee reinstatement.** If a health maintenance organization permits reinstatement of an enrollee's coverage, the group or individual contract and evidence of coverage must include any terms and conditions concerning reinstatement. The contract and evidence of coverage may state that all reinstatements are at the option of the health maintenance organization and that the health maintenance organization is not obligated to reinstate any terminated coverage.
10. **Claims procedures.** The group or individual contract and evidence of coverage must contain procedures for filing claims that include:
 - a. Any required notice to the health maintenance organization.
 - b. If any claim forms are required, how, when, and where to obtain and submit them.
 - c. Any requirements for filing proper proofs of loss.
 - d. Any time limit of payment of claims.
 - e. Notice of any provisions for resolving disputed claims, including arbitration.
 - f. A statement of restrictions, if any, on assignment of sums payable to the enrollee by the health maintenance organization.
11. **Enrollee grievance procedures and arbitration.** In compliance with subsection 4 of section 45-06-07-09, the group or individual contract and evidence of coverage must contain a description of the health maintenance organization's method for resolving enrollee grievances, including procedures to be followed by the enrollee in the event any dispute arises under the contract, including any provisions for arbitration.
12. **Continuation of coverage.** A group contract and evidence of coverage must contain a provision that any enrollee who is an inpatient in a hospital or a skilled nursing facility on the date of discontinuance of the group contract must be covered in accordance with the terms of the group contract until discharged from such hospital or skilled nursing facility. The enrollee may be charged the appropriate premium for coverage that was in effect prior to discontinuance of the group contract.

13. Conversion of coverage.

a. The group or individual contract and evidence of coverage must contain a conversion provision that provides that each enrollee has the right to convert coverage to an individual health maintenance organization contract in the following circumstances:

- (1) Upon termination of eligibility for coverage under a group or individual contract; or
- (2) Upon termination of the group contract.

To obtain the conversion contract, an enrollee shall submit a written application and the applicable premium payment to the health maintenance organization within thirty-one days after the date the enrollee's eligibility for coverage terminates.

b. A conversion contract is not required to be made available if:

- (1) The enrollee's termination of coverage occurred for any of the reasons listed in paragraphs 1, 2, 3, 6, and 7 of subdivision a of subsection 8 of section 45-06-07-04;
- (2) The enrollee is covered by or is eligible for benefits under Title XVIII of the United States Social Security Act (medicare);
- (3) The enrollee is covered by or is eligible for similar hospital, medical, or surgical benefits under state or federal law;
- (4) The enrollee is covered by or is eligible for similar hospital, medical, or surgical benefits under any arrangement of coverage for individuals in a group;
- (5) The enrollee is covered for similar benefits by an individual policy or contract; or
- (6) The enrollee has not been continuously covered during the three-month period immediately preceding that person's termination of coverage.

c. The conversion contract must provide basic health care services to its enrollees as a minimum.

d. The conversion contract must begin coverage of the enrollee formerly covered under the group or individual contract on the date of termination from such group or individual contract.

- e. Coverage must be provided without requiring evidence of insurability and may not impose any preexisting condition limitations or exclusions as described in subsection 1 of section 45-06-07-05 other than those remaining unexpired under the contract from which conversion is exercised. Any probationary or waiting period set forth in the conversion contract must be deemed to commence on the effective date of the enrollee's coverage under the prior group or individual contract.
- f. If a health maintenance organization does not issue individual or conversion contracts, the health maintenance organization may use a noncancelable group contract to provide coverage for enrollees who are eligible for conversion coverage.

14. Extension of benefits for total disability.

- a. Each group contract issued by a health maintenance organization must contain a reasonable extension of benefits upon discontinuance of the group contract with respect to enrollees who become totally disabled while enrolled under the contract and who continue to be totally disabled at the date of discontinuance of the contract.
- b. Upon payment of premium at the current group rate, coverage must remain in full force and effect until the first of the following to occur:
 - (1) The end of a period of twelve months starting with the date of termination of the group contract;
 - (2) The date the enrollee is no longer totally disabled;
or
 - (3) The date a succeeding carrier provides replacement coverage to that enrollee without limitation as to the disabling condition.
- c. Upon termination of the extension of benefits, the enrollee must have the right to convert coverage as provided in subsection 13.

- 15. Coordination of benefits.** The group or individual contract and evidence of coverage may contain a provision for coordination of benefits that is consistent with that applicable to other carriers in the jurisdiction. Any provisions or rules for coordination of benefits established by a health maintenance organization may not relieve a health maintenance organization of its duty to provide or arrange for a covered health care service to any enrollee because the enrollee is entitled to coverage under any other contract, policy, or plan, including coverage provided under government

programs. The health maintenance organization is required to provide covered health care services first and then, at its option, seek coordination of benefits.

16. **Subrogation for injuries caused by third parties.** The group or individual contract and evidence of coverage may not contain any provisions concerning subrogation for injuries caused by third parties unless the wording has been approved by the commissioner.
17. **Description of the service area.** The group or individual contract and evidence of coverage must contain a description of the approved service area.
18. **Entire contract provision.** The group or individual contract must contain a statement that the contract, all applications, and any amendments constitute the entire agreement between the parties. A portion of the charter, bylaws, or other document of the health maintenance organization may not be part of such a contract unless set forth in full in the contract or attached to the contract. However, the evidence of coverage may be attached to and made a part of the group contract.
19. **Term of coverage.** The group or individual contract and evidence of coverage must contain the time and date or occurrence upon which coverage takes effect, including any applicable waiting periods, or describe how the time and date or occurrence upon which coverage takes effect is determined. The contract and evidence of coverage must also contain the time and date or occurrence upon which coverage will terminate.
20. **Cancellation or termination.** The group or individual contract must contain the conditions upon which cancellation or termination may be effected by the health maintenance organization, the group contractholder, or the subscriber.
21. **Renewal.** The group or individual contract and evidence of coverage must contain the conditions for, and any restrictions upon, the subscriber's right to renewal.
22. **Reinstatement of group or individual contractholder.** If a health maintenance organization permits reinstatement of a group or individual, the contract and evidence of coverage must include any terms and conditions concerning reinstatement. The contract and evidence of coverage may state that all reinstatements are at the option of the health maintenance organization and that the health maintenance organization is not obligated to reinstate any terminated contract.
23. **Grace period.**

- a. The group or individual contract must provide for a grace period of not less than thirty-one days for the payment of any premium except the first, during which time the coverage must remain in effect if payment is made during the grace period. The evidence of coverage must include notice that a grace period exists under the group contract and that coverage continues in force during the grace period.
- b. During the grace period:
 - (1) The health maintenance organization remains liable for providing the services and benefits contracted for;
 - (2) The contractholder remains liable for the payment of premium for coverage during the grace period; and
 - (3) The subscriber remains liable for any copayments and deductibles.
- c. If the premium is not paid during the grace period, coverage is automatically terminated at the end of the grace period. Following the effective date of such termination, the health maintenance organization shall deliver written notice of termination to the contractholder.

24. **Conformity with state law.** Any group or individual contract and evidence of coverage delivered or issued for delivery in this state must include a provision that states that any provision not in conformity with North Dakota Century Code chapter 26.1-18.1, this chapter, or any other applicable law or rule in this state may not be rendered invalid but must be construed and applied as if it were in full compliance with the applicable laws and rules of this state.

25. **Right to examine contract.** An individual contract must contain a provision stating that a person who has entered into an individual contract with a health maintenance organization must be permitted to return the contract within ten days of receiving it and to receive a refund of the premium paid if the person is not satisfied with the contract for any reason. If the contract is returned to the health maintenance organization or to the agent through whom it was purchased, it is considered void from the beginning. However, if services are rendered or claims are paid for such person by the health maintenance organization during the ten-day examination period and the person returns the contract to receive a refund of the

premium paid, the person must be required to pay for such services.

History: Effective July 1, 1994.

General Authority: NDCC 26.1-18.1

Law Implemented: NDCC 26.1-18.1

45-06-07-05. Prohibited practices.

1. Preexisting conditions.

- a. A health maintenance organization may include in its individual contract a provision setting forth reasonable exclusions or limitations of services for preexisting conditions at the time of enrollment. However, such exclusions or limitations may not be for a period greater than two years.
- b. A health maintenance organization may not exclude or limit services for a preexisting condition when the enrollee transfers coverage from one individual contract to another or when the enrollee converts coverage under the enrollee's conversion option, except to the extent of a preexisting condition limitation or exclusion remaining unexpired under the prior contract. Any required probationary or waiting period must be deemed to have commenced on the effective date of coverage under the prior contract. The health maintenance organization contract must disclose any preexisting condition limitations or exclusions that are applicable when an enrollee transfers from a prior health maintenance organization contract.
- c. A preexisting condition may not be defined more restrictively than a condition for which medical advice or treatment was recommended by a physician or received from a physician within a two-year period preceding the effective date of coverage under the health care plan.
- d. A group contract or evidence of coverage may not exclude or limit services for a preexisting condition.

2. **Unfair discrimination.** A health maintenance organization may not unfairly discriminate against any enrollee or applicant for enrollment on the basis of the age, sex, race, color, creed, national origin, ancestry, religion, marital status, or lawful occupation of an enrollee, or because of the frequency of utilization of services by an enrollee. However, a health maintenance organization is not prohibited from setting rates or establishing a schedule of charges in accordance with relevant actuarial data. A health maintenance organization may not expel or refuse to reenroll any enrollee nor refuse to

enroll individual members of a group on the basis of the health status or health care needs of the individuals or enrollees.

History: Effective July 1, 1994.
General Authority: NDCC 26.1-18.1
Law Implemented: NDCC 26.1-18.1

45-06-07-06. Services.

1. Access to care.

- a. A health maintenance organization shall establish and maintain adequate arrangements to provide health services for its enrollees, including:
 - (1) Reasonable proximity to the business or personal residences of the enrollees so as not to result in unreasonable barriers to accessibility;
 - (2) Reasonable hours of operation and after-hours services;
 - (3) Emergency care services available and accessible within the service area twenty-four hours a day, seven days a week; and
 - (4) Sufficient providers, personnel, administrators, and support staff to assure that all services contracted for will be accessible to enrollees on an appropriate basis without delays detrimental to the health of enrollees.
- b. A health maintenance organization shall make available to each enrollee a primary care physician and provide accessibility to medically necessary specialists through staffing, contracting, or referral. A health maintenance organization shall provide for continuity of care for enrollees referred to specialists.
- c. A health maintenance organization shall have written procedures governing the availability of services utilized by enrollees, including at least the following:
 - (1) Well-patient examinations and immunizations;
 - (2) Emergency telephone consultation on a twenty-four hours per day, seven days per week basis;
 - (3) Treatment of emergencies;
 - (4) Treatment of minor illness; and

(5) Treatment of chronic illnesses.

2. **Basic health care services.** A health maintenance organization shall provide, or arrange for the provision of, as a minimum, basic health care services that must include the following:

- a. Emergency care services, as defined in subsection 5 of section 45-06-06-03.
- b. Inpatient hospital services, meaning medically necessary hospital services including room and board; general nursing care; special diets when medically necessary; use of operating room and related facilities; use of intensive care units and services; x-ray, laboratory, and other diagnostic tests; drugs, medications, biologicals, anesthesia, and oxygen services; special nursing when medically necessary; physical therapy, radiation therapy, and inhalation therapy; administration of whole blood and blood plasma; and short-term rehabilitation services.
- c. Inpatient physician care services, meaning medically necessary health care services performed, prescribed, or supervised by physicians or other providers including diagnostic, therapeutic, medical, surgical, preventive, referral, and consultative health care services.
- d. Outpatient medical services, meaning preventive and medically necessary health care services provided in a physician's office, a nonhospital-based health care facility, or at a hospital. Outpatient medical services must include diagnostic services; treatment services; laboratory services; x-ray services; referral services; and physical therapy, radiation therapy, and inhalation therapy. Outpatient services must also include preventive health services that must include at least a broad range of voluntary family planning services, well-child care from birth, periodic health evaluations for adults, screening to determine the need for vision and hearing correction, and pediatric and adult immunizations in accordance with accepted medical practice.

3. **Out-of-area services and benefits.**

- a. Out-of-area services are subject to the same copayment requirements set forth in subsection 6 of section 45-06-07-04.
- b. When an enrollee is traveling or temporarily residing out of a health maintenance organization's service area, a health maintenance organization shall provide benefits for reimbursement for emergency care services and transportation which is medically necessary and appropriate under the circumstances to return the enrollee

to a health maintenance organization provider, subject to the following conditions:

- (1) The condition could not reasonably have been foreseen;
- (2) The enrollee could not reasonably arrange to return to the service area to receive treatment from the health maintenance organization's provider;
- (3) The travel or temporary residence must be for some purpose other than the receipt of medical treatments; and
- (4) The health maintenance organization is notified by telephone within twenty-four hours of the commencement of such care unless it is shown that it was not reasonably possible to communicate with the health maintenance organization in such time limits.

c. Services received by an enrollee outside of the health maintenance organization's service area will be covered only so long as it is unreasonable to return the enrollee to the service area.

4. **Supplemental health care services.** In addition to the basic health care services required to be provided in subsection 2, a health maintenance organization may offer to its enrollees any supplemental health care services it chooses to provide. Limitations as to time and cost may vary from those applicable to basic health care services.
5. **Nonbasic health care services.** A health maintenance organization may offer nonbasic health care services to any group or individual on a prepaid basis, subject to the same conditions as for supplemental health care services, as described in subsection 4, except that the health maintenance organization need not provide basic health care services as a condition to providing nonbasic health care services.

History: Effective July 1, 1994.
General Authority: NDCC 26.1-18.1
Law Implemented: NDCC 26.1-18.1

45-06-07-07. Other requirements.

1. Description of providers.

- a. A health maintenance organization shall provide its subscribers with a list of the names and locations of all of its providers no later than the time of enrollment or the time the group or individual contract and evidence of

coverage are issued and upon reenrollment. If a provider is no longer affiliated with a health maintenance organization, the health maintenance organization shall provide notice of such change to its affected subscribers within thirty days. Subject to the approval of the commissioner, a health maintenance organization may provide its subscribers with a list of providers or provider groups for a segment of the service area. However, a list of all providers must be made available to subscribers upon request.

- b. Any list of providers must contain a notice regarding the availability of the listed primary care physicians. Such notice must be in not less than twelve-point type and be placed in a prominent place on the list of providers. The notice must contain the following or similar language:

Enrolling in [name of health maintenance organization] does not guarantee services by a particular provider on this list. If you wish to receive care from specific providers listed, you should contact those providers to be sure that they are accepting additional patients for [name of health maintenance organization].

2. **Description of the services area.** A health maintenance organization shall provide its subscribers with a description of its service area no later than the time of enrollment or the time the group or individual contract and evidence of coverage is issued and upon request thereafter. If the description of the service area is changed, the health maintenance organization shall provide at such time a new description of the service area to its subscribers.
3. **Copayments and deductibles.** A health maintenance organization may require copayments or deductibles of enrollees as a condition for the receipt of specific health care services. Copayments for basic health care services must be shown in the group or individual contract and evidence of coverage as a specified dollar amount. Copayments and deductibles must be the only allowable charge, other than premiums, assessed to subscribers for basic, supplemental, and nonbasic health care services.
4. **Grievance procedure.**
 - a. A grievance procedure must be established and maintained by a health maintenance organization to provide reasonable procedures for the prompt and effective resolution of written grievances.
 - b. A health maintenance organization shall provide grievance forms to be given to enrollees who wish to register

written grievances. Such forms must include the address and telephone number to which grievances must be directed and must also specify any required time limits imposed by the health maintenance organization.

- c. The grievance procedure must provide for written acknowledgment of grievances and grievances to be resolved or to have a final determination of the grievance by the health maintenance organization within a reasonable period of time, but not more than ninety days from the date the grievance is received. This period may be extended in the event of a delay in obtaining the documents or records necessary for the resolution of the grievance, or by the mutual written agreement of the health maintenance organization and the enrollee.
- d. Prior to the resolution of a grievance filed by a subscriber or enrollee, coverage may not be terminated for any reason which is the subject of the written grievance, except if the health maintenance organization has, in good faith, made a reasonable effort to resolve the written grievance through its grievance procedure and coverage is being terminated as provided for in subsection 8 of section 45-06-07-04.
- e. If enrollee's grievances may be resolved through a specified arbitration agreement, the enrollee must be advised in writing of the enrollee's rights and duties under the agreement at the time the grievance is registered. Any such agreement must be accompanied by a statement setting forth in writing the terms and conditions of binding arbitration. Any health maintenance organization that makes such binding arbitration a condition of enrollment must fully disclose this requirement to its enrollees in the group or individual contract and evidence of coverage.

History: Effective July 1, 1994.
General Authority: NDCC 26.1-18.1
Law Implemented: NDCC 26.1-18.1

45-06-07-08. Penalties. Any violation of this chapter is subject to the penalties as provided for in North Dakota Century Code title 26.1 and any other applicable law of this state.

History: Effective July 1, 1994.
General Authority: NDCC 26.1-18.1
Law Implemented: NDCC 26.1-18.1

45-06-07-09. Severability. If any provision of this chapter or the application thereof to any person or circumstances is for any reason

held to be invalid, the remainder of the chapter and the application for such provision to other persons or circumstances is not affected thereby.

History: Effective July 1, 1994.

General Authority: NDCC 26.1-18.1

Law Implemented: NDCC 26.1-18.1

**CHAPTER 45-06-08
LOSS RATIOS**

Section	
45-06-08-01	Scope
45-06-08-02	Mandated Loss Ratios - Factors to be Considered
45-06-08-03	Compliance

45-06-08-01. Scope. These rules apply to all policies providing hospital, surgical, medical, or major medical benefits including major medical, short-term major medical, hospital/surgical, medical expense, and surgical expense policies.

History: Effective July 1, 1994.

General Authority: NDCC 26.1-36-37.2

Law Implemented: NDCC 26.1-36-37.2

45-06-08-02. Mandated loss ratios - Factors to be considered. Mandated loss ratio benefits under the policies specified in section 45-06-08-01 must return benefits to group policyholders in the aggregate of not less than seventy-five percent of premium received and to individual policyholders in the aggregate of not less than sixty-five percent of premium received. These minimum standards must be on the basis of incurred claims experienced and earned premiums for the entire period for which rates are computed to provide coverage in accordance with accepted actuarial principles and practices. In evaluating the experienced loss ratio, due consideration must be given to all relevant factors, including:

1. Statistical credibility of incurred claims experience and earned premiums;
2. The period for which rates are computed to provide coverage;
3. Experienced and projected trends;
4. Concentration of experience within early policy duration;
5. Expected claim fluctuation;
6. Experience refunds, adjustments, or dividends;
7. Renewability features;
8. Interest; and

9. Policy reserves.

History: Effective July 1, 1994.

General Authority: NDCC 26.1-36-37.2

Law Implemented: NDCC 26.1-36-37.2

45-06-08-03. Compliance. The requirements of this chapter apply to policies issued after January 1, 1994.

History: Effective July 1, 1994.

General Authority: NDCC 26.1-36-37.2

Law Implemented: NDCC 26.1-36-37.2

AUGUST 1994

STAFF COMMENT: Chapter 45-06-06.1 contains all new material but is not underscored so as to improve readability.

**CHAPTER 45-06-06.1
REGULATION TO IMPLEMENT THE SMALL EMPLOYER HEALTH
INSURANCE AVAILABILITY ACT**

Section	
45-06-06.1-01	Definitions
45-06-06.1-02	Applicability and Scope
45-06-06.1-03	Establishment of Classes of Business
45-06-06.1-04	Transition for Assumptions of Business from Another Carrier
45-06-06.1-05	Restrictions Relating to Premium Rates
45-06-06.1-06	Requirement to Insure Entire Groups
45-06-06.1-07	Consideration of Industry
45-06-06.1-08	Application to Reenter State
45-06-06.1-09	Qualifying Previous and Qualifying Existing Coverage
45-06-06.1-10	Restrictive Riders
45-06-06.1-11	Rules Related to Fair Marketing
45-06-06.1-12	Status of Carriers as Small Employer Carriers
45-06-06.1-13	Restoration of Coverage

45-06-06.1-01. Definitions. As used in this chapter:

1. "Associate member of an employee organization" means any individual who participates in an employee benefit plan (as

defined in 29 U.S.C. 1002(1)) that is a multiemployer plan (as defined in 29 U.S.C. 1002(37A)), other than the following:

- a. An individual, or the beneficiary of such individual, who is employed by a participating employer within a bargaining unit covered by at least one of the collective bargaining agreements under or pursuant to which the employee benefit plan is established or maintained; or
 - b. An individual who is a present or former employee, or a beneficiary of such employee, of the sponsoring employee organization, of an employer who is or was a party to at least one of the collective bargaining agreements under or pursuant to which the employee benefit plan is established or maintained, or of the employee benefit plan or of a related plan.
2. "New entrant" means an eligible employee, or the dependent of an eligible employee, who becomes part of an employer group after the initial period for enrollment in a health benefit plan.
 3. "Risk characteristic" means the health status, claims experience, duration of coverage, or any similar characteristic related to the health status or experience of a small employer group or of any member of a small employer group.
 4. "Risk load" means the percentage above the applicable base premium rate that is charged by a small employer carrier to a small employer to reflect the risk characteristics of the small employer group.

History: Effective August 1, 1994.

General Authority: NDCC 26.1-01-08

Law Implemented: NDCC 26.1-36.3

45-06-06.1-02. Applicability and scope.

1. a. Except as provided in subdivision b and section 45-06-06.1-13, this chapter applies to any health benefit plan, whether provided on a group or individual basis, which:
 - (1) Meets one or more of the conditions set forth in subdivisions a, b, and c of subsection 1 of North Dakota Century Code section 26.1-36.3-02;
 - (2) Provides coverage to three or more employees of a small employer located in this state, without regard to whether the policy or certificate was issued in this state; and

- (3) Is in effect on or after August 1, 1994.
 - b. The provisions of the Act and this chapter do not apply to an individual health insurance policy.
2. a. A carrier that provides individual health insurance policies to three or more of the employees of a small employer shall be considered a small employer carrier and is subject to the provisions of the Act and this chapter with respect to such policies if the small employer contributes directly or indirectly to the premiums for the policies and the carrier is aware or should have been aware of such contribution.
 - b. In the case of a carrier that provides individual health insurance policies to three or more employees of a small employer, the small employer shall be considered to be an eligible small employer as defined in subdivision c of subsection 1 of North Dakota Century Code section 26.1-36.3-06 and the small employer carrier is subject to subdivision b of subsection 1 of North Dakota Century Code section 26.1-36.3-06, relating to guaranteed issue of coverage, if:
 - (1) The small employer has at least three employees;
 - (2) The small employer contributes directly or indirectly to the premiums charged by the carrier; and
 - (3) The carrier is aware or should have been aware of the contribution by the employer.
3. The provisions of the Act and this chapter apply to a health benefit plan provided to a small employer or to the employees of a small employer without regard to whether the health benefit plan is offered under or provided through a group policy or trust arrangement of any size sponsored by an association or discretionary group.
 4. An individual health insurance policy is not subject to the provisions of the Act and this chapter solely because the policyholder elects a deduction under section 162(1) of the Internal Revenue Code.
 5. a. If a small employer is issued a health benefit plan under the terms of the Act, the provisions of the Act and this chapter continue to apply to the health benefit plan in the case that the small employer subsequently employs more than twenty-five eligible employees. Within sixty days of becoming aware that the employer has more than twenty-five eligible employees but no later than the anniversary date of the employer's health benefit plan, a carrier providing coverage to such an employer shall notify the employer

that the protections provided under the Act and this chapter shall cease to apply to the employer if such employer fails to renew its current health benefit plan or elects to enroll in a different health benefit plan.

- b. (1) If a health benefit plan is issued to an employer that is not a small employer as defined in the Act, but subsequently the employer becomes a small employer, due to the loss or change of work status of one or more employees, the terms of the Act shall not apply to the health benefit plan. The carrier providing a health benefit plan to such an employer shall not become a small employer carrier under the terms of the Act solely because the carrier continues to provide coverage under the health benefit plan to the employer.
 - (2) Within sixty days of becoming aware that the employer has twenty-five or fewer eligible employees, a carrier providing coverage to an employer described in paragraph 1 shall notify the employer of the options and protections available to the employer under the Act, including the employer's option to purchase a small employer health benefit plan from any small employer carrier.
6. a. (1) If a small employer has employees in more than one state, the provisions of the Act and this chapter shall apply to a health benefit plan issued to the small employer if:
- (a) The majority of eligible employees of such small employer are employed in this state; or
 - (b) If no state contains a majority of the eligible employees of the small employer, the primary business location of the small employer is in this state.
- (2) In determining whether the laws of this state or another state apply to a health benefit plan issued to a small employer described in paragraph 1, the provisions of the subdivision shall be applied as of the date the health benefit plan was issued to the small employer for the period that the health benefit plan remains in effect.
- b. If a health benefit plan is subject to the Act and this chapter, the provisions of the Act and this chapter shall apply to all individuals covered under the health benefit plan, whether they reside in this state or in another state.

7. A carrier that is not operating as a small employer carrier in this state shall not become subject to the provisions of the Act and this chapter solely because a small employer that was issued a health benefit plan in another state by that carrier moves to this state.

History: Effective August 1, 1994.

General Authority: NDCC 26.1-01-08

Law Implemented: NDCC 26.1-36.3

45-06-06.1-03. Establishment of classes of business.

1. A small employer carrier that establishes more than one class of business pursuant to the provisions of North Dakota Century Code section 26.1-36.3-03 shall maintain on file for inspection by the commissioner the following information with respect to each class of business so established:
 - a. A description of each criterion employed by the carrier or any of its agents for determining membership in the class of business;
 - b. A statement describing the justification for establishing the class as a separate class of business and documentation that the establishment of the class of business is intended to reflect substantial differences in expected claims experience or administrative costs related to the reasons set forth in North Dakota Century Code section 26.1-36.3-03; and
 - c. A statement disclosing which, if any, health benefit plans are currently available for purchase in the class and any significant limitations related to the purchase of such plans.
2. A carrier may not directly or indirectly use group size as a criterion for establishing eligibility for a health benefit plan or for a class of business.

History: Effective August 1, 1994.

General Authority: NDCC 26.1-01-08, 26.1-36.3-03

Law Implemented: NDCC 26.1-36.3-03

45-06-06.1-04. Transition for assumptions of business from another carrier.

1. a. A small employer carrier shall not transfer or assume the entire insurance obligation or risk of a health benefit plan covering a small employer in this state unless:

- (1) The transaction has been approved, to the extent required by law, by the insurance supervisory official of the state of domicile of the assuming carrier;
 - (2) The transaction has been approved to the extent required by law by the insurance supervisory official of the state of domicile of the ceding carrier; and
 - (3) The transaction otherwise meets the requirements of this section.
- b. A carrier domiciled in this state that proposes to assume or cede the entire insurance obligation or risk of one or more small employer health benefit plans from another carrier shall make a filing for approval with the commissioner at least sixty days prior to the date of the proposed assumption. The commissioner may approve the transaction if the commissioner finds that the transaction is in the best interests of the individuals insured under the health benefit plans to be transferred and is consistent with the purposes of the Act and this chapter. The commissioner shall not approve the transaction until at least thirty days after the date of the filing; except that, if the ceding carrier is in hazardous financial condition, the commissioner may approve the transaction as soon as the commissioner deems reasonable after the filing.
- c. (1) The filing required under subdivision b shall:
- (a) Describe the class of business, including any eligibility requirements, of the ceding carrier from which the health benefit plans will be ceded;
 - (b) Describe whether the assuming carrier will maintain the assumed health benefit plans as a separate class of business pursuant to subsection 3 or will incorporate them into an existing class of business pursuant to subsection 4. If the assumed health benefit plans will be incorporated into an existing class of business, the filing shall describe the class of business of the assuming carrier into which the health benefit plans will be incorporated;
 - (c) Describe whether the health benefit plans being assumed are currently available for purchase by small employers;

- (d) Describe the potential effect of the assumption, if any, on the benefits provided by the health benefit plans to be assumed;
 - (e) Describe the potential effect of the assumption, if any, on the premiums for the health benefit plans to be assumed;
 - (f) Describe any other potential material effects of the assumption on the coverage provided to the small employers covered by the health benefit plans to be assumed; and
 - (g) Include any other information required by the commissioner.
- (2) A domestic small employer carrier required to make a filing under subdivision b shall also make an informational filing with the commissioner of each state in which there are small employer health benefit plans that would be included in the transaction. The informational filing to each state shall be made concurrently with the filing made under subdivision b and shall include at least the information specified in paragraph 1 for the small employer health benefit plans in that state.
- d. A small employer carrier shall not transfer or assume the entire insurance obligation or risk of a health benefit plan covering a small employer in this state unless it complies with the following provisions:
- (1) The carrier has provided notice to the commissioner at least sixty days prior to the date of the proposed assumption. The notice shall contain the information specified in subdivision c for the health benefit plans covering small employers in this state.
 - (2) If the assumption of a class of business would result in the assuming small employer carrier being out of compliance with the limitations related to premium rates contained in subdivision a of subsection 1 of North Dakota Century Code section 26.1-36.3-04, the assuming carrier shall make a filing with the commissioner pursuant to subsection 3 of North Dakota Century Code section 26.1-36.3-04 seeking suspension of the application of subdivision a of subsection 1 of section 26.1-36.3-04.
 - (3) An assuming carrier seeking suspension of the application of subdivision a of subsection 1 of North Dakota Century Code section 26.1-36.3-04 shall not complete the assumption of health benefit plans

covering small employers in this state unless the commissioner grants the suspension requested pursuant to paragraph 2.

- (4) Unless a different period is approved by the commissioner, a suspension of the application of subdivision a of subsection 1 of North Dakota Century Code section 26.1-36.3-04, with respect to an assumed class of business, shall be for no more than fifteen months and, with respect to each individual small employer, shall last only until the anniversary date of such employer's coverage, except that the period with respect to an individual small employer may be extended beyond its first anniversary date for a period of up to twelve months if the anniversary date occurs within three months of the date of assumption of the class of business.
2. a. Except as provided in subdivision b, a small employer carrier shall not cede or assume the entire insurance obligation or risk for a small employer health benefit plan unless the transaction includes the ceding to the assuming carrier of the entire class of business which includes such health benefit plan.
 - b. A small employer carrier may cede less than an entire class of business to an assuming carrier if:
 - (1) One or more small employers in the class have exercised their right under contract or state law to reject, either directly or by implication, the ceding of their health benefit plans to another carrier. In that instance, the transaction shall include each health benefit plan in the class of business except those health benefit plans for which a small employer has rejected the proposed cession; or
 - (2) After a written request from the transferring carrier, the commissioner determines that the transfer of less than the entire class of business is in the best interest of the small employers insured in that class of business.
3. Except as provided in subsection 4, a small employer carrier that assumes one or more health benefit plans from another carrier shall maintain such health benefit plans as a separate class of business.
 4. A small employer carrier that assumes one or more health benefit plans from another carrier may exceed the limitation contained in subsection 2 of North Dakota Century Code section 26.1-36.3-03, relating to the maximum number of classes of business a carrier may establish, due solely to such

assumption for a period of up to fifteen months after the date of the assumption, provided that the carrier complies with the following provisions:

- a. Upon assumption of the health benefit plans, such health benefit plans shall be maintained as a separate class of business. During the fifteen-month period following the assumption, each of the assumed small employer health benefit plans shall be transferred by the assuming small employer carrier into a single class of business operated by the assuming small employer carrier. The assuming small employer carrier shall select the class of business into which the assumed health benefit plans will be transferred in a manner such that the transfer results in the least possible change to the benefits and rating method of the assumed health benefit plans.
 - b. The transfers authorized in subdivision a shall occur with respect to each small employer on the anniversary date of the small employer's coverage, except that the period with respect to an individual small employer may be extended beyond its first anniversary date for a period of up to twelve months if the anniversary date occurs within three months of the date of assumption of the class of business.
 - c. A small employer carrier making a transfer pursuant to subdivision a may alter the benefits of the assumed health benefit plans to conform to the benefits currently offered by the carrier in the class of business into which the health benefit plans have been transferred.
 - d. The premium rate for an assumed small employer health benefit plan shall not be modified by the assuming small employer carrier until the health benefit plan is transferred pursuant to subdivision a. Upon transfer, the assuming small employer carrier shall calculate a new premium rate for the health benefit plan from the rate manual established for the class of business into which the health benefit plan is transferred. In making such calculation, the risk load applied to the health benefit plan shall be no higher than the risk load applicable to such health benefit plan prior to the assumption.
 - e. During the fifteen-month period provided in this subsection, the transfer of small employer health benefit plans from the assumed class of business in accordance with this subsection shall not be considered a violation of the first sentence of subsection 2 of North Dakota Century Code section 26.1-36.3-04.
5. An assuming carrier may not apply eligibility requirements, including minimum participation and contribution requirements, with respect to an assumed health benefit plan or with respect

to any health benefit plan subsequently offered to a small employer covered by such an assumed health benefit plan that are more stringent than the requirements applicable to such health benefit plan prior to the assumption.

6. The commissioner may approve a longer period of transition upon application of a small employer carrier. The application shall be made within sixty days after the date of assumption of the class of business and shall clearly state the justification for a longer transition period.
7. Nothing in this section or in the Act is intended to:
 - a. Reduce or diminish any legal or contractual obligation or requirement, including any obligation provided by law, of the ceding or assuming carrier related to the transaction;
 - b. Authorize a carrier that is not admitted to transact the business of insurance in this state to offer or insure health benefit plans in this state; or
 - c. Reduce or diminish the protections related to an assumption reinsurance transaction provided by law.

History: Effective August 1, 1994.

General Authority: NDCC 26.1-01-08, 26.1-36.3-03

Law Implemented: NDCC 26.1-36.3-03

45-06-06.1-05. Restrictions relating to premium rates.

1. a. A small employer carrier shall develop a separate rate manual for each class of business. Base premium rates and new business premium rates charged to small employers by the small employer carrier shall be computed solely from the applicable rate manual developed pursuant to this subsection. To the extent that a portion of the premium rates charged by a small employer carrier is based on the carrier's discretion, the manual shall specify the criteria and factors considered by the carrier in exercising such discretion.
- b. (1) A small employer carrier shall not modify the rating method used in the rate manual for a class of business until the change has been approved as provided in this paragraph. The commissioner may approve a change to a rating method if the commissioner finds that the change is reasonable, actuarially appropriate, and consistent with the purposes of the Act and this chapter.
- (2) A carrier may modify the rating method for a class of business only with prior approval of the

commissioner. A carrier requesting to change the rating method for a class of business shall make a filing with the commissioner at least thirty days prior to the proposed date of the change. The filing shall contain at least the following information:

- (a) The reasons the change in rating method is being requested;
 - (b) A complete description of each of the proposed modifications to the rating method;
 - (c) A description of how the change in rating method would affect the premium rates currently charged to small employers in the class of business, including an estimate from a qualified actuary of the number of groups or individuals and a description of the types of groups or individuals whose premium rates may change by more than ten percent due to the proposed change in rating method, not generally including increases in premium rates applicable to all small employers in a health benefit plan;
 - (d) A certification from a qualified actuary that the new rating method would be based on objective and credible data and would be actuarially sound and appropriate; and
 - (e) A certification from a qualified actuary that the proposed change in rating method would not produce premium rates for small employers that would be in violation of North Dakota Century Code section 26.1-36.3-04.
- (3) For the purpose of this section a change in rating method means:
- (a) A change in the number of case characteristics used by a small employer carrier to determine premium rates for health benefit plans in a class of business;
 - (b) A change in the manner or procedures by which insureds are assigned into categories for the purpose of applying a case characteristic to determine premium rates for health benefit plans in a class of business;
 - (c) A change in the method of allocating expenses among health benefit plans in a class of business; or

(d) [1] A change in a rating factor with respect to any case characteristic if the change would produce a change in premium for any small employer that exceeds ten percent.

[2] For the purpose of item 1, a change in a rating factor shall mean the cumulative change with respect to such factor considered over a twelve-month period. If a small employer carrier changes rating factors with respect to more than one case characteristic in a twelve-month period, the carrier shall consider the cumulative effect of all such changes in applying the ten percent test under item 1.

2. a. The rate manual developed pursuant to subsection 1 shall specify the case characteristics and rate factors to be applied by the small employer carrier in establishing premium rates for the class of business.
- b. A small employer carrier may not use case characteristics other than those specified in subdivision j of subsection 1 of North Dakota Century Code section 26.1-36.3-04 without the prior approval of the commissioner. A small employer carrier seeking such an approval shall make a filing with the commissioner for a change in rating method under subdivision b of subsection 1.
- c. A small employer carrier shall use the same case characteristics in establishing premium rates for each health benefit plan in a class of business and shall apply them in the same manner in establishing premium rates for each such health benefit plan. Case characteristics shall be applied without regard to the risk characteristics of a small employer.
- d. The rate manual developed pursuant to subsection 1 shall clearly illustrate the relationship among the base premium rates charged for each health benefit plan in the class of business. If the new business premium rate is different than the base premium rate for a health benefit plan, the rate manual shall illustrate the difference.
- e. Differences among base premium rates for health benefit plans shall be based solely on the reasonable and objective differences in the design and benefits of the health benefit plans and shall not be based in any way on the actual or expected health status or claims experience of the small employer groups that choose or are expected to choose a particular health benefit plan. A small employer carrier shall apply case characteristics and rate

factors within a class of business in a manner that assures that premium differences among health benefit plans for identical small employer groups vary only due to reasonable and objective differences in the design and benefits of the health benefit plans and are not due to the actual or expected health status or claims experience of the small employer groups that choose or are expected to choose a particular health benefit plan.

- f. The rate manual developed pursuant to subsection 1 shall provide for premium rates to be developed in a two step process. In the first step, a base premium rate shall be developed for the small employer group without regard to any risk characteristics of the group. In the second step, the resulting base premium rate may be adjusted by a risk load, subject to the provisions of North Dakota Century Code section 26.1-36.3-04, to reflect the risk characteristics of the group.
 - g. A premium charged to a small employer for a health benefit plan shall not include a separate application fee, underwriting fee, or any other separate fee or charge.
 - h. A small employer carrier shall allocate administrative expenses to the basic and standard health benefit plans on no less favorable of a basis than expenses are allocated to other health benefit plans in the class of business. The rate manual developed pursuant to subsection 1 shall describe the method of allocating administrative expenses to the health benefit plans in the class of business for which the manual was developed.
 - i. Each rate manual developed pursuant to subsection 1 shall be maintained by the carrier for a period of six years. Updates and changes to the manual shall be maintained with the manual.
 - j. The rate manual and rating practices of a small employer carrier shall comply with any guidelines issued by the commissioner.
3. If group size is used as a case characteristic by a small employer carrier, the highest rate factor associated with a group size classification shall not exceed the lowest rate factor associated with such a classification by more than twenty percent.
4. The restrictions related to changes in premium rates in subdivisions c and g of subsection 1 of North Dakota Century Code section 26.1-36.3-04 shall be applied as follows:

- a. A small employer carrier shall revise its rate manual each rating period to reflect changes in base premium rates and changes in new business premium rates.
 - b.
 - (1) If, for any health benefit plan with respect to any rating period, the percentage change in the new business premium rate is less than or the same as the percentage change in the base premium rate, the change in the new business premium rate shall be deemed to be the change in the base premium rate for the purposes of paragraph 3 of subdivision c of subsection 1 and paragraph 1 of subdivision g of subsection 1 of North Dakota Century Code section 26.1-36.3-04.
 - (2) If, for any health benefit plan with respect to any rating period, the percentage change in the new business premium rate exceeds the percentage change in the base premium rate, the health benefit plan shall be considered a health benefit plan into which the small employer carrier is no longer enrolling new small employers for the purposes of subdivisions c and g of subsection 1 of North Dakota Century Code section 26.1-36.3-04.
 - c. If, for any rating period, the change in the new business premium rate for a health benefit plan differs from the change in the new business premium rate for any other health benefit plan in the same class of business by more than twenty percent, the carrier shall make a filing with the commissioner containing a complete explanation of how the respective changes in new business premium rates were established and the reason for the difference. The filing shall be made within thirty days of the beginning of the rating period.
 - d. A small employer carrier shall keep on file for a period of at least six years the calculations used to determine the change in base premium rates and new business premium rates for each health benefit plan for each rating period.
5. a. Except as provided in subdivisions b through d, a change in premium rate for a small employer shall produce a revised premium rate that is no more than the following:
- (1) The base premium rate for the small employer, as shown in the rate manual as revised for the rating period, multiplied by;
 - (2) One plus the sum of:
 - (a) The risk load applicable to the small employer during the previous rating period; and

- (b) Fifteen percent, prorated for periods of less than one year.
 - b. In the case of a health benefit plan into which a small employer carrier is no longer enrolling new small employers, a change in premium rate for a small employer shall produce a revised premium rate that is no more than the following:
 - (1) The base premium rate for the small employer, given its present composition and as shown in the rate manual in effect for the small employer at the beginning of the previous rating period, multiplied by;
 - (2) One plus the lesser of:
 - (a) The change in the base rate; or
 - (b) The percentage change in the new business premium for the most similar health benefit plan into which the small employer carrier is enrolling new small employers, multiplied by;
 - (3) One plus the sum of:
 - (a) The risk load applicable to the small employer during the previous rating period; and
 - (b) Fifteen percent, prorated for periods of less than one year.
 - c. In the case of a health benefit plan described in subdivision g of subsection 1 of North Dakota Century Code section 26.1-36.3-04, if the current premium rate for the health benefit plan exceeds the ranges set forth in subsection 1 of North Dakota Century Code section 26.1-36.3-04, the formulae set forth in subdivisions a and b will be applied as if the fifteen percent adjustment provided in subparagraph b of paragraph 2 of subdivision a and subparagraph b of paragraph 3 of subdivision b were a zero percent adjustment.
 - d. Notwithstanding the provisions of subdivisions a and b, a change in premium rate for a small employer shall not produce a revised premium rate that would exceed the limitations on rates provided in subdivision b of subsection 1 of North Dakota Century Code section 26.1-36.3-04.
6. a. A representative of a Taft-Hartley trust, including a carrier upon the written request of such a trust, may file in writing with the commissioner a request for the waiver

of application of the provisions of subsection 1 of North Dakota Century Code section 26.1-36.3-04 with respect to such trust.

- b. A request made under subdivision a shall identify the provisions for which the trust is seeking the waiver and shall describe, with respect to each provision, the extent to which application of such provision would:
 - (1) Adversely affect the participants and beneficiaries of the trust; and
 - (2) Require modifications to one or more of the collective bargaining agreements under or pursuant to which the trust was or is established or maintained.
- c. A waiver granted under subsection 3 of North Dakota Century Code section 26.1-36.3-04 shall not apply to an individual who participates in the trust because the individual is an associate member of an employee organization or the beneficiary of such an individual.

History: Effective August 1, 1994.

General Authority: NDCC 26.1-01-08, 26.1-36.3-04

Law Implemented: NDCC 26.1-36.3-04

45-06-06.1-06. Requirement to insure entire groups.

- 1. a. A small employer carrier that offers coverage to a small employer shall offer to provide coverage to each eligible employee and to each dependent of an eligible employee. Except as provided in subdivision b, the small employer carrier shall provide the same health benefit plan to each such employee and dependent.
- b. A small employer carrier may offer the employees of a small employer the option of choosing among one or more health benefit plans, provided that each employee may choose any of the offered plans. Except as provided in subsection 3 of North Dakota Century Code section 26.1-36.3-06, with respect to exclusions for preexisting conditions, the choice among benefit plans may not be limited, restricted, or conditioned based upon the risk characteristics of the employees or their dependents.
- 2. a. A small employer carrier shall require each small employer that applies for coverage, as part of the application process, to provide a complete list of eligible employees and dependents of eligible employees as defined in subsections 11 and 12 of North Dakota Century Code section 26.1-36.3-01. The small employer carrier shall require the small employer to provide appropriate supporting

documentation, such as the W-2 summary wage and tax form, or certification, to verify the information required under this subdivision.

- b. A small employer carrier shall secure a waiver with respect to each eligible employee and each dependent of such an eligible employee who declines an offer of coverage under a health benefit plan provided to a small employer. The waiver shall be signed by the eligible employee, on behalf of such employee or the dependent of such employee, and shall certify that the individual who declined coverage was informed of the availability of coverage under the health benefit plan. The waiver form shall require that the reason for declining coverage be stated on the form and shall include a written warning of the penalties imposed on late enrollees. Waivers shall be maintained by the small employer carrier for a period of six years.
- c. (1) A small employer carrier may not issue coverage to a small employer that refuses to provide the list required under subdivision a or a waiver required under subdivision b.
 - (2) (a) A small employer carrier shall not issue coverage to a small employer if the carrier, or a producer for such carrier, has reason to believe that the small employer has induced or pressured an eligible employee, or dependent of an eligible employee, to decline coverage due the individual's risk characteristics.
 - (b) A producer shall notify a small employer carrier, prior to submitting an application for coverage with the carrier on behalf of a small employer, of any circumstances that would indicate that the small employer has induced or pressured an eligible employee, or dependent of an eligible employee, to decline coverage due the individual's risk characteristics.
- 3. a. New entrants to a small employer group shall be offered an opportunity to enroll in the health benefit plan currently held by such group. A new entrant that does not exercise the opportunity to enroll in the health benefit plan within the period provided by the small employer carrier may be treated as a late enrollee by the carrier, provided that the period provided to enroll in the health benefit plan extends at least thirty days after the date the new entrant is notified of his or her opportunity to enroll. If a small employer carrier has offered more than one health benefit plan to a small employer group pursuant to subdivision b of subsection 1, the new entrant shall be

offered the same choice of health benefit plans as the other members of the group.

- b. A small employer carrier may not apply a waiting period, elimination period, or other similar limitation of coverage, other than an exclusion for preexisting medical conditions consistent with subdivision b of subsection 3 of North Dakota Century Code section 26.1-36.3-06, with respect to a new entrant that is longer than sixty days.
 - c. New entrants to a group shall be accepted for coverage by the small employer carrier without any restrictions or limitations on coverage related to the risk characteristics of the employees or their dependents, except that a carrier may exclude coverage for preexisting medical conditions, consistent with the provisions provided in subsection 3 of North Dakota Century Code section 26.1-36.3-06.
 - d. A small employer carrier may assess a risk load to the premium rate associated with a new entrant, consistent with the requirements of North Dakota Century Code section 26.1-36.3-04. The risk load shall be the same risk load charged to the small employer group immediately prior to acceptance of the new entrant into the group.
4. a. (1) In the case of an eligible employee or dependent of an eligible employee who, prior to the effective date of subsection 1 of North Dakota Century Code section 26.1-36.3-06, was excluded from coverage or denied coverage by a small employer carrier in the process of providing a health benefit plan to an eligible small employer, as defined in subdivision c of subsection 1 of North Dakota Century Code section 26.1-36.3-06, the small employer carrier shall provide an opportunity for the eligible employee or dependent of such eligible employee to enroll in the health benefit plan currently held by the small employer.
- (2) A small employer carrier may require an individual who requests enrollment under this subsection to sign a statement indicating that such individual sought coverage under the group contract other than as a late enrollee and that the coverage was not offered to the individual.
- b. The opportunity to enroll must meet the following requirements:
 - (1) The opportunity to enroll shall begin September 1, 1994, and shall last for a period of at least three months.

- (2) Eligible employees and dependents of eligible employees who are provided an opportunity to enroll pursuant to this subsection shall be treated as new entrants. Premium rates related to such individuals shall be set in accordance with subsection 3.
- (3) The terms of coverage offered to an individual described in paragraph 1 of subdivision a may exclude coverage for preexisting medical conditions if the health benefit plan currently held by the small employer contains such an exclusion, provided that the exclusion period shall be reduced by the number of days between the date the individual was excluded or denied coverage and the date coverage is provided to the individual pursuant to this subsection.
- (4) A small employer carrier shall provide written notice at least forty-five days prior to the opportunity to enroll provided in paragraph 1 of subdivision a to each small employer insured under a health benefit plan offered by such carrier. The notice shall clearly describe the rights granted under this subsection to employees and dependents who were previously excluded from or denied coverage and the process for enrollment of such individuals in the employer's health benefit plan.

History: Effective August 1, 1994.

General Authority: NDCC 26.1-01-08

Law Implemented: NDCC 26.1-36.3

45-06-06.1-07. Consideration of industry.

1. Except as provided in subsections 2 and 3, a small employer carrier may not consider the trade or occupation of the employees of a small employer or the industry or type of business in which the small employer is engaged in determining whether to issue or continue to provide coverage to the small employer.
2. A small employer carrier may use industry as a case characteristic in establishing premium rates, subject to subdivision f of subsection 1 of North Dakota Century Code section 26.1-36.3-04.
3. A small employer carrier may consider trade, occupation, or industry as part of the eligibility criteria for a class of business, subject to paragraph 2 of subdivision b of

subsection 1 of North Dakota Century Code section 26.1-36.3-06.

History: Effective August 1, 1994.

General Authority: NDCC 26.1-01-08

Law Implemented: NDCC 26.1-36.3

45-06-06.1-08. Application to reenter state.

1. A carrier that has been prohibited from writing coverage for small employers in this state pursuant to subsection 2 of North Dakota Century Code section 26.1-36.3-05 may not resume offering health benefit plans to small employers in this state until the carrier has made a petition to the commissioner to be reinstated as a small employer carrier and the petition has been approved by the commissioner. In reviewing a petition, the commissioner may ask for such information and assurances as the commissioner finds reasonable and appropriate.
2. In the case of a small employer carrier doing business in only one established geographic service area of the state, if the small employer carrier elects to nonrenew a health benefit plan under subdivision f of subsection 1 of North Dakota Century Code section 26.1-36.3-05, the small employer carrier shall be prohibited from offering health benefit plans to small employers in any part of the service area for a period of five years. In addition, the small employer carrier shall not offer health benefit plans to small employers in any other geographic area of the state without the prior approval of the commissioner. In considering whether to grant approval, the commissioner may ask for such information and assurances as the commissioner finds reasonable and appropriate.

History: Effective August 1, 1994.

General Authority: NDCC 26.1-01-08

Law Implemented: NDCC 26.1-36.3-05

45-06-06.1-09. Qualifying previous and qualifying existing coverage.

1. In determining whether a health benefit plan or other health benefit arrangement, whether public or private, shall be considered qualifying previous coverage or qualifying existing coverage for the purposes of subsection 18 of North Dakota Century Code section 26.2-36.3-01 and subdivision b and paragraph 3 of subdivision d of subsection 3 of North Dakota Century Code section 26.1-36.3-06, a small employer carrier shall interpret the Act no less favorably to an insured individual than the following:

- a. A health insurance policy, certificate, or other health benefit arrangement shall be considered employer based if an employer sponsors the plan or arrangement or makes a contribution to the plan or arrangement.
- b. A health insurance policy, certificate, or other benefit arrangement shall be considered to provide benefits similar to or exceeding the benefits provided under the basic health benefit plan if the policy, certificate, or other benefit arrangement provides benefits that:
 - (1) Have an actuarial value, as considered for a normal distribution of groups, that is not substantially less than the actuarial value of the basic health benefit plan; or
 - (2) Provides coverage for hospitalization and physician services that is substantially similar to or exceeds the coverage for such services in the basic health benefit plan.

In making a determination under this subsection, a small employer carrier shall evaluate the previous or existing policy, certificate, or other benefit arrangement taken as a whole and shall not base its decision solely on the fact that one portion of the previous or existing policy, certificate, or benefit arrangement provides less coverage than the comparable portion of the basic health benefit plan.

2. For the purposes of subdivision b of subsection 3 of North Dakota Century Code section 26.1-36.3-06, an individual will be considered to have qualifying previous coverage with respect to a particular service if the previous policy, certificate, or other benefit arrangement covering such individual met the definition of qualifying previous coverage contained in subsection 23 of North Dakota Century Code section 26.1-36.3-01 and provided any benefit with respect to the service.
3. A small employer carrier shall ascertain the source of previous or existing coverage of each eligible employee and each dependent of an eligible employee at the time such employee or dependent initially enrolls into the health benefit plan provided by the small employer carrier. The small employer carrier shall have the responsibility to contact the source of such previous or existing coverage to resolve any questions about the benefits or limitations related to such previous or existing coverage.

History: Effective August 1, 1994.
General Authority: NDCC 26.1-01-08
Law Implemented: NDCC 26.1-36.3

45-06-06.1-10. Restrictive riders.

1. A restrictive rider, endorsement, or other provision that would violate the provisions of paragraph 2 of subdivision e of subsection 3 of North Dakota Century Code section 26.1-36.3-06 and that was in force on the effective date of this chapter may not remain in force beyond the first anniversary date of the health benefit plan subject to the restrictive provision that follows the effective date of this chapter. A small employer carrier shall provide written notice to those small employers whose coverage will be changed pursuant to this subsection at least thirty days prior to the required change to the health benefit plan.
2. Except as permitted in subdivision b of subsection 3 of North Dakota Century Code section 26.1-36.3-06, a small employer carrier shall not modify or restrict a basic or standard health benefit plan in any manner for the purposes of restricting or excluding coverage or benefits for specific diseases, medical conditions, or services otherwise covered by the plan.
3. Except as permitted in subdivision b of subsection 3 of North Dakota Century Code section 26.1-36.3-06, a small employer carrier shall not modify or restrict any health benefit plan with respect to any eligible employee or dependent of an eligible employee, through riders, endorsements, or otherwise, for the purpose of restricting or excluding the coverage or benefits provided to such employee or dependent for specific diseases, medical conditions, or services otherwise covered by the plan.

History: Effective August 1, 1994.

General Authority: NDCC 26.1-01-08

Law Implemented: NDCC 26.1-36.3-06

45-06-06.1-11. Rules related to fair marketing.

1. a. A small employer carrier shall actively market each of its health benefit plans to small employers in this state. A small employer carrier may not suspend the marketing or issuance of the basic and standard health benefit plans unless the carrier has good cause and has received the prior approval of the commissioner.
- b. In marketing the basic and standard health benefit plans to small employers, a small employer carrier shall use at least the same sources and methods of distribution that it uses to market other health benefit plans to small employers. Any producer authorized by a small employer carrier to market health benefit plans to small employers

in the state shall also be authorized to market the basic and standard health benefit plans.

2. a. A small employer carrier shall offer at least the basic and standard health benefit plans to any small employer that applies for or makes an inquiry regarding health insurance coverage from the small employer carrier. The offer shall be in writing and shall include at least the following information:

(1) A general description of the benefits contained in the basic and standard health benefit plans and any other health benefit plan being offered to the small employer; and

(2) Information describing how the small employer may enroll in the plans.

The offer may be provided directly to the small employer or delivered through a producer.

b. (1) A small employer carrier shall provide a price quote to a small employer, directly or through an authorized producer, within ten working days of receiving a request for a quote and such information as is necessary to provide the quote. A small employer carrier shall notify a small employer, directly or through an authorized producer, within five working days of receiving a request for a price quote of any additional information needed by the small employer carrier to provide the quote.

(2) A small employer carrier may not apply more stringent or detailed requirements related to the application process for the basic and standard health benefit plans than are applied for other health benefit plans offered by the carrier.

c. (1) If a small employer carrier denies coverage under a health benefit plan to a small employer on the basis of a risk characteristic, the denial shall be in writing and shall state with specificity the reasons for the denial, subject to any restrictions related to confidentiality of medical information. The written denial shall be accompanied by a written explanation of the availability of the basic and standard health benefit plans from the small employer carrier. The explanation shall include at least the following:

(a) A general description of the benefits contained in each such plan;

- (b) A price quote for each such plan; and
- (c) Information describing how the small employer may enroll in such plans.

The written information described in this paragraph may be provided, within the time periods provided in subdivision b, directly to the small employer or delivered through an authorized producer.

- (2) The price quote required under subparagraph b of paragraph 1 shall be for the lowest priced basic and standard health benefit plan for which the small employer is eligible.
3. The small group carrier shall not require a small employer to join or contribute to any association or group as a condition of being accepted for coverage by the small employer carrier, except that, if membership in an association or other group is a requirement for accepting a small employer into a particular health benefit plan, a small employer carrier may apply such requirement, subject to the requirements of paragraph 2 of subdivision b of subsection 1 of North Dakota Century Code section 26.1-36.3-06.
4. A small employer carrier may not require, as a condition to the offer or sale of a health benefit plan to a small employer, that the small employer purchase or qualify for any other insurance product or service.
5. a. Carriers offering individual and group health benefit plans in this state shall be responsible for determining whether the plans are subject to the requirements of the Act and this chapter. Carriers shall elicit the following information from applicants for such plans at the time of application:
- (1) Whether or not any portion of the premium will be paid by or on behalf of a small employer, either directly or through wage adjustments or other means of reimbursement; and
 - (2) Whether or not the prospective policyholder, certificate holder, or any prospective insured individual intends to treat the health benefit plan as part of plan or program under section 162 (other than section 162(1)), section 125, or section 106 of the United States Internal Revenue Code.
- b. If a small employer carrier fails to comply with subdivision a, the small employer carrier shall be deemed to be on notice of any information that could reasonably

have been attained if the small employer carrier had complied with subdivision a.

6. a. A small employer carrier shall file annually the following information with the commissioner related to health benefit plans issued by the small employer carrier to small employers in this state:

- (1) The number of small employers that were issued health benefit plans in the previous calendar year, separated as to newly issued plans and renewals;
- (2) The number of small employers that were issued the basic health benefit plan and the standard health benefit plan in the previous calendar year, separated as to newly issued plans and renewals and as to class of business;
- (3) The number of small employer health benefit plans in force in each county or by zip code of the state as of December thirty-first of the previous calendar year;
- (4) The number of small employer health benefit plans that were voluntarily not renewed by small employers in the previous calendar year;
- (5) The number of small employer health benefit plans that were terminated or nonrenewed for reasons other than nonpayment of premium by the carrier in the previous calendar year; and
- (6) The number of small employer health benefit plans that were issued to small employers that were uninsured for at least the three months prior to issue.

b. The information described in subdivision a shall be filed no later than March fifteenth of each year.

History: Effective August 1, 1994.

General Authority: NDCC 26.1-01-08

Law Implemented: NDCC 26.1-36.3-11

45-06-06.1-12. Status of carriers as small employer carriers.

1. A carrier shall not offer health benefit plans to small employers after January 1, 1994, or continue to provide coverage after September 1, 1994, under health benefit plans previously issued to small employers in this state, unless the filing provided pursuant to section 45-06-06-01 indicates the

carrier intends to operate as a small employer carrier in this state.

2. If the filing made pursuant to section 45-06-06-01 indicates that a carrier does not intend to operate as a small employer carrier in this state, the carrier shall be precluded from operating as a small employer carrier in this state for a period of five years from the date of the filing. Upon a written request from such a carrier, the commissioner may reduce the period provided for in the previous sentence if the commissioner finds that permitting the carrier to operate as a small employer carrier would be in the best interests of the small employers in the state.

History: Effective August 1, 1994.

General Authority: NDCC 26.1-01-08, 26.1-36.3-07

Law Implemented: NDCC 26.1-36.3-07

45-06-06.1-13. Restoration of coverage.

1. a. Except as provided in subdivision b, a small employer carrier shall, as a condition of continuing to transact business in this state with small employers, offer to provide a health benefit plan as described in subsection 3 to any small employer whose coverage was terminated or not renewed by such small employer carrier after January 1, 1994.
 - b. The offer required under subdivision a shall not be required with respect to a health benefit plan that was not renewed if:
 - (1) The health benefit plan was not renewed for reasons permitted in subsection 1 of North Dakota Century Code section 26.1-36.3-05; or
 - (2) The nonrenewal was a result of the small employer voluntarily electing coverage under a different health benefit plan.
2. The offer made under subsection 1 shall be made in accordance with paragraph 4 of subdivision b of subsection 4 of section 45-06-06.1-06. A small employer shall be given at least ninety days to accept an offer made pursuant to subsection 1.
3. A health benefit plan provided to a terminated small employer pursuant to subsection 1 shall meet the following conditions:
 - a. The health benefit plan shall contain benefits that are identical to the benefits in the health benefit plan that was terminated or nonrenewed.

- b. The health benefit plan shall not be subject to any waiting periods, including exclusion periods for preexisting conditions, or other limitations on coverage that exceed those contained in the health benefit plan that was terminated or nonrenewed. In applying such exclusions or limitations, the health benefit plan shall be treated as if it were continuously in force from the date it was originally issued to the date that it is restored pursuant to this section and North Dakota Century Code section 26.1-36.3-12.
- c. The health benefit plan shall not be subject to any provision that restricts or excludes coverage or benefits for specific diseases, medical conditions, or services otherwise covered by the plan.
- d. The health benefit plan shall provide coverage to all employees who are eligible employees as of the date the plan is restored. The carrier shall offer coverage to each dependent of such eligible employees.
- e. The premium rate for the health benefit plan shall be no more than the premium rate charged to the small employer on the date the health benefit plan was terminated or nonrenewed; provided that, if the number or case characteristics of the eligible employees or their dependents of the small employer has changed between the date the health benefit plan was terminated or nonrenewed and the date that it is restored, the carrier may adjust the premium rates to reflect any changes in case characteristics of the small employer. If the carrier has increased premium rates for other similar groups with similar coverage to reflect general increases in health care costs and utilization, the premium rate may further be adjusted to reflect the lowest such increase given to a similar group. The premium rate for the health benefit plan may not be increased to reflect any changes in risk characteristics of the small employer group until one year after the date the health benefit plan is restored. Any such increase shall be subject to the provisions of North Dakota Century Code section 26.1-36.3-04.
- f. A carrier may reinsure new entrants to the health benefit plan who enroll after the restoration of coverage.

History: Effective August 1, 1994.

General Authority: NDCC 26.1-01-08, 26.1-36.3-12

Law Implemented: NDCC 26.1-36.3-12

STAFF COMMENT: Chapter 45-06-09 contains all new material but is not underscored so as to improve readability.

**CHAPTER 45-06-09
GROUP HEALTH INSURANCE PURCHASING COOPERATIVES**

Section

45-06-09-01	Purpose and Intent
45-06-09-02	Applicability and Scope
45-06-09-03	Definitions
45-06-09-04	Commissioner Duties - Filing Requirements - Audits and Examinations
45-06-09-05	Business Plan
45-06-09-06	Conflict of Interest
45-06-09-07	Insurance Risk
45-06-09-08	Bonding Protection

45-06-09-01. Purpose and intent. The purpose of this chapter is to further improve the fairness, efficiency, and competition in the pricing and delivering of health care and health care coverage. It does so by allowing for the establishment of joint purchasing entities (purchasing cooperatives) through which eligible small employers can purchase health coverage for their employees.

History: Effective August 1, 1994.
General Authority: NDCC 26.1-01-07.4
Law Implemented: NDCC 26.1-01-07.4

45-06-09-02. Applicability and scope. This chapter applies to all health insurance purchasing cooperatives operating in this state or providing coverage to North Dakota residents. Health purchasing cooperatives are subject to the small employer employee health insurance coverage requirements contained in North Dakota Century Code chapter 26.1-36.3. This chapter does not apply to any other health insurance or health care buying or marketing mechanism otherwise permitted by law.

History: Effective August 1, 1994.
General Authority: NDCC 26.1-01-07.4
Law Implemented: NDCC 26.1-01-07.4

45-06-09-03. Definitions.

1. "Business plan" means the plan of operation of the health insurance purchasing cooperative.
2. "Commissioner" means the commissioner of insurance.

3. "Group" means a collection of small employers subject to the requirements of North Dakota Century Code chapter 26.1-36.3 who elect to join together to form a group health insurance purchasing cooperative. It does not include an industrywide trade association meeting the exemption requirements outlined in subsection 15 of North Dakota Century Code section 26.1-36.3-07 or any other insurance purchasing group arrangements in existence prior to August 1, 1994.
4. "Health insurance purchasing cooperative" means a group of small employers who join together to purchase health insurance.

History: Effective August 1, 1994.

General Authority: NDCC 26.1-01-07.4

Law Implemented: NDCC 26.1-01-07.4

45-06-09-04. Commissioner duties - Filing requirements - Audits and examinations.

1. The commissioner has the authority to regulate the establishment and conduct of health insurance purchasing cooperatives as set forth in this chapter.
2. The commissioner has the authority to conduct financial and performance audits on health insurance purchasing cooperatives operating in the state. The costs of such audits shall be the responsibility of the purchasing cooperative.
3. Each health insurance purchasing cooperative doing business in the state shall file with the commissioner the following information or documents:
 - a. A business plan for approval by the commissioner.
 - b. Annual reports identifying the number of individuals insured through the cooperative, the names of insurance companies providing coverage to cooperative members and rates charged for insurance policies provided through the cooperative, and any proposed changes in the business plan of the cooperative.
4. a. A health insurance purchasing cooperative may not enter the marketplace until the commissioner has approved the business plan.

- b. Any material changes to the business plan must be submitted to the commissioner for approval prior to implementation.

History: Effective August 1, 1994.

General Authority: NDCC 26.1-01-07.4

Law Implemented: NDCC 26.1-01-07.4

45-06-09-05. Business plan. A health insurance purchasing cooperative shall submit a business plan for review and approval by the commissioner. The business plan must include the following information:

1. The specific steps by the health insurance purchasing cooperative to advance cost control, quality improvement, and improved access to health insurance and health care services.
2. The scope of health insurance purchasing cooperative services to be offered in the service territory and the resources and expertise to be used to implement and administer the plan.
3. The corporate chart, bylaws, and other business operation documents of the health insurance purchasing cooperative.
4. A list of officers and directors of the health insurance purchasing cooperative and the contract administrator if one is employed.
5. Evidence of adequate security and prudence in the accounting, deposit, collection, handling, and transfer of moneys.
6. Any other information required by the commissioner to verify the purchasing group is qualified to administer the benefit plan.

History: Effective August 1, 1994.

General Authority: NDCC 26.1-01-07.4

Law Implemented: NDCC 26.1-01-07.4

45-06-09-06. Conflict of interest.

1. Health care providers or insurers offering competing products within the same service territory may not participate in a health insurance purchasing cooperative as a sponsor or administrator.
2. A health insurance purchasing cooperative sponsor or administrator may not be an employee or a subsidiary of a health care provider or insurer offering competing products within the same service territory.

3. The employees of a health care provider or insurer may receive services through a health insurance purchasing cooperative. The employer may vote in corporate governance elections for officers and directors. A health care provider, insurer, or an employee of a health care provider or insurer may not serve as an officer or director of a health insurance purchasing cooperative.

History: Effective August 1, 1994.
General Authority: NDCC 26.1-01-07.4
Law Implemented: NDCC 26.1-01-07.4

45-06-09-07. Insurance risk. A health insurance purchasing cooperative may bear no insurance risk and may not self-insure.

History: Effective August 1, 1994.
General Authority: NDCC 26.1-01-07.4
Law Implemented: NDCC 26.1-01-07.4

45-06-09-08. Bonding protection. Health insurance cooperatives collecting premiums shall provide bonding coverage for cooperative employees handling funds. Evidence of bond coverage sufficient to cover the volume of premium collected by the purchasing cooperative must be filed with the annual report required under subdivision b of subsection 3 of section 45-06-09-04.

History: Effective August 1, 1994.
General Authority: NDCC 26.1-01-07.4
Law Implemented: NDCC 26.1-01-07.4

SEPTEMBER 1994

STAFF COMMENT: Chapter 45-06-02.1 contains all new material but is not underscored so as to improve readability.

**CHAPTER 45-06-02.1
COMPREHENSIVE HEALTH ASSOCIATION OF NORTH DAKOTA
GRIEVANCE PROCEDURES**

Section	
45-06-02.1-01	Definitions
45-06-02.1-02	Grievance Procedures

45-06-02.1-01. Definitions.

1. "Applicant" means an individual seeking enrollment under the association.
2. "Board" means the board of directors of the association as set forth under North Dakota Century Code section 26.1-08-03.
3. "Enrollee" means an eligible person who is covered under an association plan.
4. "Grievance" means a written complaint submitted in accordance with the formal grievance procedure by or on behalf of the

enrollee or applicant regarding any aspect of the association relative to the enrollee or applicant.

History: Effective September 1, 1994.

General Authority: NDCC 26.1-08-02

Law Implemented: NDCC 26.1-08-02

45-06-02.1-02. Grievance procedures.

1. The board of directors of the association shall establish and maintain a grievance procedure which has been approved by the commissioner to provide procedures for the resolution of grievances initiated by enrollees or applicants. The board shall maintain records regarding grievances received.
2. The commissioner may examine the grievance procedures and records.
3. Any enrollee or applicant receiving an adverse determination through the grievance procedure may request a hearing pursuant to North Dakota Century Code chapter 28-32.

History: Effective September 1, 1994.

General Authority: NDCC 26.1-08-02

Law Implemented: NDCC 26.1-08-02

STAFF COMMENT: Chapter 45-06-03.1 contains all new material but is not underscored so as to improve readability.

**CHAPTER 45-06-03.1
STANDARDIZED HEALTH CLAIM FORM MODEL REGULATION**

Section	
45-06-03.1-01	Definitions
45-06-03.1-02	Applicability and Scope
45-06-03.1-03	General Provisions

45-06-03.1-01. Definitions. As used in this chapter:

1. "CDT-1 codes" means the current dental terminology prescribed by the American dental association.
2. "CPT-4 codes" means the current procedural terminology published by the American medical association.
3. "HCFA" means the health care financing administration of the United States department of health and human services.
4. "HCFA form 1450" means the health insurance claim form published by HCFA for use by institutional care practitioners.
5. "HCFA form 1500" means the health insurance claim form published by HCFA for use by health care practitioners.
6. "HCPCS" means HCFA's common procedure coding system, a coding system which describes products, supplies, procedures, and health professional services and includes the American medical association's physician current procedural terminology, fourth edition (CPT-4) codes, alphanumeric codes, and related modifiers. This includes:
 - a. "HCPCS level 1 codes" which are the American medical association's CPT-4 codes and modifiers for professional services and procedures.
 - b. "HCPCS level 2 codes" which are national alphanumeric codes and modifiers for health care products and supplies, as well as some codes for professional services not included in the American medical association's CPT-4.
 - c. "HCPCS level 3 codes" which are local alphanumeric codes and modifiers for items and services not included in HCPCS level 1 or HCPCS level 2.

7. "Health care practitioner" means:
- a. An addiction counselor licensed under North Dakota Century Code chapter 43-45.
 - b. An audiologist licensed under North Dakota Century Code chapter 43-37.
 - c. A chiropractor licensed under North Dakota Century Code chapter 43-06.
 - d. A corporation or partnership of health care practitioners defined in this section.
 - e. A dentist licensed under North Dakota Century Code chapter 43-28.
 - f. A nurse licensed under North Dakota Century Code chapter 43-12.1.
 - g. A nutritionist licensed under North Dakota Century Code chapter 43-44.
 - h. An optometrist licensed under North Dakota Century Code chapter 43-13.
 - i. A pharmacist licensed under North Dakota Century Code chapter 43-15.
 - j. A physician licensed under North Dakota Century Code chapter 43-17.
 - k. A podiatrist licensed under North Dakota Century Code chapter 43-05.
 - l. A psychologist licensed under North Dakota Century Code chapter 43-32.
 - m. A social worker licensed under North Dakota Century Code chapter 43-41.
 - n. A physical, speech, occupational, or respiratory therapist licensed under North Dakota Century Code chapters 43-26, 43-37, 43-40, or 43-42.
 - o. A home health care provider licensed under North Dakota Century Code chapter 23-17.3.
8. "ICD-9-CM codes" means the diagnosis and procedure codes in the international classification of disease, ninth revision, clinical modifications published by the United States department of health and human services.

9. "Institutional care practitioner" means:
- a. A hospice licensed under North Dakota Century Code chapter 23-17.4.
 - b. A hospital licensed under North Dakota Century Code chapter 23-16, 23-17, or 23-17.1.
 - c. Certified rural health clinic, nursing facility, basic care facility, intermediate care facility for the mentally retarded, and residential treatment center.
10. "Issuer" means an insurance company, fraternal benefit society, health care service plan, health maintenance organization, or third-party administrator, or any other entity reimbursing the costs of health care expenses.
11. "J512 form" means the uniform dental claim form approved by the American dental association for use by dentists.
12. "Medicare" means the Health Insurance for the Aged Act, title XVIII of the Social Security Amendments of 1965, as then constituted or later amended.
13. "Medical assistance or medicaid" means title XIX of the federal Social Security Act [42 U.S.C. 1396, et seq.] as then constituted or later amended.
14. "Prescription universal claim form" means the uniform claim form used by pharmacists.
15. "Revenue codes" means the codes established for use by institutional care practitioners by the national uniform billing committee.

History: Effective September 1, 1994.

General Authority: NDCC 26.1-36-37.1, 26.1-36-38

Law Implemented: NDCC 26.1-36-37.1

45-06-03.1-02. Applicability and scope.

1. Except as otherwise specifically provided, the requirements of this chapter apply to issuers, health care practitioners, and institutional care practitioners.
2. Nothing in this chapter prevents an issuer from requesting additional information that is not contained on the forms

required under this chapter to determine eligibility of the claim for payment if required under the terms of the policy or certificate issued to the claimant.

History: Effective September 1, 1994.

General Authority: NDCC 26.1-36-37.1, 26.1-36-38

Law Implemented: NDCC 26.1-36-37.1

45-06-03.1-03. General provisions.

1. Health care practitioners and institutional care practitioners shall file claims in a manner consistent with the requirements of this chapter. Claims filed in paper form must be printed on eight and one-half by eleven-inch [21.59 by 27.94-centimeter] paper.
2. Issuers shall accept forms submitted in compliance with this chapter for the processing of claims.
3. Health care practitioners, institutional care practitioners, and issuers shall:
 - a. Use and accept the most current editions of the HCFA form 1450, HCFA form 1500, prescription universal claim form, or J512 form and most current instructions for these forms in the billing of patients or their representatives filing claims with issuers.
 - b. Modify their billing and claim reimbursement practices to encompass the coding changes for all billing and claim filing by the effective date of the changes set forth by the developers of the forms, codes, and procedures required under this chapter.
4. Issuers may not require health care practitioners to use any coding system for the initial filing of claims for health care services other than the following:
 - a. HCPCS codes.
 - b. ICD-9-CM codes.
 - c. Revenue codes.
5. Issuers may not require health care practitioners to use any other descriptor with a code or to furnish additional information with the initial submission of a HCFA form 1500 except under the following circumstances:
 - a. When the procedure code used describes a treatment or service that is not otherwise classified; or

- b. When the procedure code is followed by the CPT-4 modifier 22, 52, or 99.

History: Effective September 1, 1994.

General Authority: NDCC 26.1-36-37.1, 26.1-36-38

Law Implemented: NDCC 26.1-36-37.1

STAFF COMMENT: Chapter 45-06-10 contains all new material but is not underscored so as to improve readability.

**CHAPTER 45-06-10
UTILIZATION REVIEW**

Section

45-06-10-01

Definition

45-06-10-02

Subsequent Determination After Initial Appeal

45-06-10-01. Definition. For purposes of this chapter "licensed practitioner" includes dentist, chiropractor, psychologist, and optometrist.

History: Effective September 1, 1994.

General Authority: NDCC 26.1-01-08, 28-32-02

Law Implemented: NDCC 26.1-26.4-04

45-06-10-02. Subsequent determination after initial appeal.

1. After an initial appeal to reverse a determination regarding hospital, medical, or other health care services is unsuccessful, a subsequent determination which may result in denial of third-party reimbursement or denial of precertification for service must include the evaluation, findings, and concurrence of a physician or licensed practitioner trained in the relevant specialty to make a final determination that care provided or to be provided was, is, or may be medically inappropriate.
2. A physician or licensed practitioner must hold a valid, current professional license issued by an appropriate professional board.
3. Compensation of a physician or licensed practitioner giving an opinion in regard to any determination under subsection 1 may not be dependent in any way upon the result of the final determination.

History: Effective September 1, 1994.

General Authority: NDCC 26.1-01-08, 28-32-02

Law Implemented: NDCC 26.1-26.4-04

STAFF COMMENT: Chapter 45-08-01.1 contains all new material but is not underscored so as to improve readability.

ARTICLE 45-08

GROUP INSURANCE

Chapter	
45-08-01	Coordination of Benefits Under Group Coverages [Superseded]
45-08-01.1	Coordination of Benefits Regulation
45-08-02	Group Coverage Discontinuance and Replacement Model Regulation
45-08-03	Group Substance Abuse and Mental Care Insurance

CHAPTER 45-08-01

CORRDINATION OF BENEFITS UNDER GROUP COVERAGES

[Superseded by Chapter 45-08-01.1]

CHAPTER 45-08-01.1

COORDINATION OF BENEFITS REGULATION

Section	
45-08-01.1-01	Definitions
45-08-01.1-02	Coordination of Benefits Contract Provision
45-08-01.1-03	Rules for Coordination of Benefits
45-08-01.1-04	Procedure to be Followed by Secondary Plan
45-08-01.1-05	Miscellaneous Provisions
45-08-01.1-06	Effective Date and Existing Contracts

45-08-01.1-01. Definitions. The following words and terms, when used in this chapter, have the following meanings unless the context clearly indicates otherwise:

1. "Allowable expenses".
 - a. Allowable expenses means the necessary, reasonable, and customary item of expense for health care when the item of expense is covered at least in part under any of the plans involved, except where a statute requires a different definition.
 - b. Notwithstanding the definition in this subsection, items of expense under coverages such as dental care, vision

care, prescription drug, or hearing aid programs may be excluded from the definition of allowable expenses. A plan that provides benefits only for any of these items of expense may limit its definition of allowable expenses to like items of expense.

- c. When a plan provides benefits in the form of service, the reasonable cash value of each service must be considered as both an allowable expense and a benefit paid.
 - d. The difference between the cost of a private hospital room and the cost of a semiprivate hospital room is not considered an allowable expense under this section unless the patient's stay in a private hospital room is medically necessary in terms of generally accepted medical practice.
 - e. When coordination of benefits is restricted in its use to specific coverage in a contract, for example, major medical or dental, the definition of allowable expenses must include the corresponding expenses or services to which coordination of benefits applies.
 - f. When benefits are reduced under a primary plan because a covered person does not comply with the plan provisions, the amount of the reduction may not be considered an allowable expense. Examples of these provisions are those related to second surgical opinions, precertification of admissions or services, and preferred provider arrangements.
 - (1) Only benefit reductions based upon provisions similar in purpose to those described in subdivision f of subsection 1 and that are contained in the primary plan may be excluded from allowable expenses.
 - (2) This provision may not be used by a secondary plan to refuse to pay benefits because a health maintenance organization member has elected to have health care services provided by a nonhealth maintenance organization provider and the health maintenance organization, pursuant to its contract, is not obligated to pay for providing those services.
2. "Claim" means a request that benefits of a plan be provided or paid. The benefits claimed may be in the form of:
- a. Services, including supplies;
 - b. Payment for all or a portion of the expenses incurred;
 - c. A combination of subdivisions a and b; or
 - d. An indemnification.

3. "Claim determination period" means the period of time, which may not be less than twelve consecutive months, over which allowable expenses are compared with total benefits payable in the absence of coordination of benefits, to determine whether overinsurance exists and how much each plan will pay or provide.
 - a. The claim determination period is usually a calendar year, but a plan may use some other period of time that fits the coverage of the group contract. A person may be covered by a plan during a portion of a claim determination period if that person's coverage starts or ends during the claim determination period.
 - b. As each claim is submitted, each plan is to determine its liability and pay or provide benefits based upon allowable expenses incurred to that point in the claim determination period. That determination is subject to adjustment as later allowable expenses are incurred in the same claim determination period.
4. "Coordination of benefits" is a provision establishing an order in which plans pay their claims.
5. "Hospital indemnity benefits" means benefits not related to expenses incurred. The term does not include reimbursement-type benefits even if they are designed or administered to give the insured the right to elect indemnity-type benefits at the time of claim.
6. "Plan" means a form of coverage with which coordination is allowed. The definition of plan in the individual or group contract must state the types of coverage that will be considered in applying the coordination of benefits provision of that contract. The right to include a type of coverage is limited by the rest of this definition.
 - a. The definition shown in the coordination of benefits provision, attached to this chapter as appendix A, is an example of what may be used. Any definition that satisfies this subsection may be used.
 - b. This chapter uses the term "plan". However, a group contract may, instead, use "program" or some other term.
 - c. Plan may include:
 - (1) Individual or family insurance or subscriber contracts.
 - (2) Individual or family coverage through health maintenance organizations.

- (3) Group insurance and group subscriber contracts.
- (4) Uninsured arrangements of group or group-type coverage.
- (5) Group or group-type coverage through health maintenance organizations and other prepayment, group practice, and individual practice plans.
- (6) Group-type contracts are contracts that are not available to the general public and can be obtained and maintained only because of membership in or connection with a particular organization or group. Group-type contracts answering this description may be included in the definition of plan, at the option of the insurer or the service provider and the contract client, whether or not uninsured arrangements or individual contract forms are used and regardless of how the group-type coverage is designated, for example, "franchise" or "blanket".
- (7) The amount by which group or group-type hospital indemnity benefits exceed one hundred dollars per day.
- (8) The medical benefits coverage in group, group-type, and individual automobile no-fault and traditional automobile fault-type contracts.
- (9) Medicare or other governmental benefits, except as provided in paragraph 3 of subdivision d. That part of the definition of plan may be limited to the hospital, medical, and surgical benefits of the governmental program.

d. Plan does not include:

- (1) Individual specified disease, hospital indemnity, or limited benefit plans.
- (2) Group or group-type hospital indemnity benefits of one hundred dollars per day or less.
- (3) School accident-type coverages. These contracts cover grammar, high school, and college students for accidents only, including athletic injuries, either on a twenty-four-hour basis or on a to-and-from school basis.
- (4) A state plan under medicaid, and does not include a law or plan when, by law, its benefits are in excess of those of any private insurance plan or other nongovernmental plan.

7. "Primary plan" is a plan whose benefits for a person's health care coverage must be determined without taking the existence of any other plan into consideration. A plan is a primary plan if either of the following conditions is true:
 - a. The plan either has no order of benefit determination rules, or it has rules that differ from those permitted by this chapter. There may be more than one primary plan; or
 - b. All plans that cover the person use the order of benefit determination rules required by this chapter and under those rules the plan determines its benefits first.
8. "Secondary plan" is a plan that is not a primary plan. If a person is covered by more than one secondary plan, the order of benefit determination rules of this chapter decide the order in which their benefits are determined in relation to each other. The benefits of each secondary plan may take into consideration the benefits of the primary plan or plans and the benefits of any other plan which, under the rules of this chapter, has its benefits determined before those of that secondary plan.
9. "This plan", in a coordination of benefits provision, refers to the part of the contract providing the health care benefits to which the coordination of benefits provision applies and which may be reduced because of the benefits of other plans. Any other part of the contract providing health care benefits is separate from this plan. A contract may apply one coordination of benefits provision to certain of its benefits, such as dental benefits, coordinating only with like benefits, and may apply other separate coordination of benefits provisions to coordinate other benefits.

History: Effective September 1, 1994.

General Authority: NDCC 26.1-36-38

Law Implemented: NDCC 26.1-36-10, 26.1-36-29, 26.1-41-13

45-08-01.1-02. Coordination of benefits contract provision.

1. **General.** Appendix A contains a coordination of benefits provision for use in individual or group contracts. That use is subject to the provisions of subsections 2 and 3 and to the provisions of section 45-08-01.1-03.
2. **Flexibility.** A contract's coordination of benefits provision does not have to use the words and format shown in appendix A. Changes may be made to fit the language and style of the rest of the contract or to reflect the difference among plans that provide services, that pay benefits for expenses incurred, and that indemnify. No other substantive changes are allowed.

3. Prohibited coordination and benefit design.

- a. A contract may not reduce benefits on the basis that:
 - (1) Another plan exists;
 - (2) A person is or could have been covered under another plan, except with respect to part B of medicare; or
 - (3) A person has elected an option under another plan providing a lower level of benefits than another option that could have been elected.
- b. A contract may not contain a provision that its benefits are "excess" or "always secondary" to any plan as defined in this chapter, except in accordance with the rules permitted by this chapter.

History: Effective September 1, 1994.

General Authority: NDCC 26.1-36-38

Law Implemented: NDCC 26.1-36-10, 26.1-36-29, 26.1-41-13

45-08-01.1-03. Rules for coordination of benefits.

- 1. **General.** The general order of benefits is as follows:
 - a. The primary plan must pay or provide its benefits as if the secondary plan or plans did not exist. A plan that does not include a coordination of benefits provision may not take the benefits of another plan, as defined in section 45-08-01.1-01, into account when it determines its benefits. One exception is that a contractholder's coverage that is designed to supplement a part of a basic package of benefits may provide that the supplementary coverage is excess to any other parts of the plan provided by the contractholder.
 - b. A secondary plan may take the benefits of another plan into account only when, under these rules, it is secondary to that other plan.
- 2. **Order of benefit determination.** Use the first of the following rules that applies:
 - a. Nondependent or dependent. The benefits of the plan that covers the person as an employee, member, or subscriber, that is, other than as a dependent are determined before those of the plan that covers the person as a dependent; except that if the person is also a medicare beneficiary, and as a result of the rule established by title XVIII of the Social Security Act and implementing regulations, medicare is:

- (1) Secondary to the plan covering the person as a dependent; and
- (2) Primary to the plan covering the person as other than a dependent, e.g., a retired employee.

Then the benefits of the plan covering the person as a dependent are determined before those of the plan covering that person as other than a dependent.

b. Dependent child with parents not separated or divorced. The rules for the order of benefits for a dependent child when the parents are not separated or divorced are as follows:

- (1) The benefits of the plan of the parent whose birthday falls earlier in a year are determined before those of the plan of the parent whose birthday falls later in that year;
- (2) If both parents have the same birthday, the benefits of the plan that covered the parent longer are determined before those of the plan that covered the other parent for a shorter period of time;
- (3) The word "birthday" refers only to month and day in a calendar year, not the year in which the person was born;
- (4) If the other plan does not have the rule described in paragraphs 1, 2, and 3, but instead has a rule based upon the gender of the parent; and if, as a result, the plans do not agree on the order of benefits, the rule based upon the gender of the parent will determine the order of benefits.

c. Dependent child with separated or divorced parents. If two or more plans cover a person as a dependent child of divorced or separated parents, benefits for the child are determined in this order:

- (1) First, the plan of the parent with custody of the child.
- (2) Then, the plan of the spouse of the parent with the custody of the child.
- (3) Finally, the plan of the parent not having custody of the child.
- (4) If the specific terms of a court decree state that one of the parents is responsible for the health care expenses of the child, and the entity obligated to

pay or provide the benefits of the plan of that parent has actual knowledge of those terms, the benefits of that plan are determined first. The plan of the other parent is the secondary plan. This paragraph does not apply with respect to any claim determination period or plan year during which any benefits are actually paid or provided before the entity has that actual knowledge.

(5) If the specific terms of the court decree state that the parents must share joint custody, without stating that one of the parents is responsible for the health care expenses of the child, the plans covering the child must follow the order of benefit determination rules outlined in subdivision b, dependent child with parents not separated or divorced.

d. Active or inactive employee. The benefits of a plan that covers a person as an employee who is neither laid off nor retired or as that employee's dependent are determined before those of a plan that covers that person as a laid off or retired employee or as that employee's dependent. If the other plan does not have this rule, and if, as a result, the plans do not agree on the order of benefits, this rule is ignored.

e. Continuation coverage. If a person whose coverage is provided under a right of continuation pursuant to federal or state law also is covered under another plan, the following is the order of benefit determination:

(1) First, the benefits of a plan covering the person as an employee, member, or subscriber or as that person's dependent.

(2) Second, the benefits under the continuation coverage.

If the other plan does not have the rule described in this subdivision, and if, as a result, the plans do not agree on the order of benefits, this rule is ignored.

f. Longer or shorter length of coverage. If none of the rules contained in this subsection determines the order of benefits, the benefits of the plan that covered an employee, member, or subscriber longer are determined before those of the plan that covered that person for the shorter term.

(1) To determine the length of time a person has been covered under a plan, two plans must be treated as one if the claimant was eligible under the second within twenty-four hours after the first ended.

- (2) The start of a new plan does not include:
- (a) A change in the amount of scope of a plan's benefits;
 - (b) A change in the entity that pays, provides, or administers the plan's benefits; or
 - (c) A change from one type of plan to another, such as from a single employer plan to that of a multiple employer plan.
- (3) The claimant's length of time covered under a plan is measured from the claimant's first date of coverage under that plan. If that date is not readily available, the date the claimant first became a member of the group must be used as the date from which to determine the length of time the claimant's coverage under the present plan has been in force.

History: Effective September 1, 1994.

General Authority: NDCC 26.1-36-38

Law Implemented: NDCC 26.1-36-10, 26.1-36-29, 26.1-41-13

45-08-01.1-04. Procedure to be followed by secondary plan. Total allowable expenses:

1. When it is determined, pursuant to section 45-08-01.1-03, that this plan is a secondary plan, it may reduce its benefits so that the total benefits paid or provided by all plans during a claim determination period are not more than total allowable expenses. The amount by which the secondary plan's benefits have been reduced must be used by the secondary plan to pay allowable expenses, not otherwise paid, that were incurred during the claim determination period by the person for whom the claim is made. As each claim is submitted, the secondary plan determines its obligation to pay for allowable expenses based on all claims that were submitted up to that point in time during the claim determination period.
2. The benefits of the secondary plan will be reduced when the sum of the benefits that would be payable for the allowable expenses under the secondary plan in the absence of this coordination of benefits provision and the benefits that would be payable for the allowable expenses under the other plans, in the absence of provisions with a purpose like that of this coordination of benefits provision, whether or not claim is made, exceeds those allowable expenses in a claim determination period. In that case, the benefits of the secondary plan will be reduced so that they and the benefits payable under the other plans do not total more than those allowable expenses.

- a. When the benefits of this plan are reduced as described in this section, each benefit is reduced in proportion. It is then charged against any applicable benefit limit of this plan.
- b. Subdivision a may be omitted if the plan provides only one benefit or may be altered to suit the coverage provided.

History: Effective September 1, 1994.

General Authority: NDCC 26.1-36-38

Law Implemented: NDCC 26.1-36-10, 26.1-36-29, 26.1-41-13

45-08-01.1-05. Miscellaneous provisions.

1. **Reasonable cash values of services.** A secondary plan that provides benefits in the form of services may recover the reasonable cash value of providing the services from the primary plan, to the extent that benefits for the services are covered by the primary plan and have not already been paid or provided by the primary plan. Nothing in this provision may be interpreted to require a plan to reimburse a covered person in cash for the value of services provided by a plan that provides benefits in the form of services.
2. **Excess and other nonconforming provisions.**
 - a. Some plans have order of benefit determination rules not consistent with this chapter that declare that the plan's coverage is "excess" to all others or "always secondary". This occurs because certain plans may not be subject to insurance regulation or because some group contracts have not yet been conformed with this chapter.
 - b. A plan with order of benefit determination rules that comply with this chapter (complying plan) may coordinate its benefits with a plan that is "excess" or "always secondary" or that uses order of benefit determination rules that are inconsistent with those contained in this chapter (noncomplying plan) on the following basis:
 - (1) If the complying plan is the primary plan, it must pay or provide its benefits on a primary basis;
 - (2) If the complying plan is the secondary plan, it must, nevertheless, pay or provide benefits first, but the amount of the benefits payable must be determined as if the complying plan were the secondary plan. In such a situation, the payment must be the limit of the complying plan's liability; and
 - (3) If the noncomplying plan does not provide the information needed by the complying plan to determine

its benefits within a reasonable time after it is requested to do so, the complying plan must assume that the benefits of the noncomplying plan are identical to its own and must pay its benefits accordingly. However, the complying plan must adjust any payments it makes based on this assumption whenever information becomes available as to the actual benefits of the noncomplying plan.

c. If the noncomplying plan reduces its benefits so that the employee, subscriber, or member receives less in benefits than that person would have received had the complying plan paid or provided its benefits as the secondary plan and the noncomplying plan paid or provided its benefits as the primary plan, and governing state law allows the right of subrogation set forth in subsection 4, then the complying plan must advance to or on behalf of the employee, subscriber, or member an amount equal to the difference. However, in no event may the complying plan advance more than the complying plan would have paid had it been the primary plan less any amount it previously paid. In consideration of the advance, the complying plan must be subrogated to all rights of the employee, subscriber, or member against the noncomplying plan. The advance by the complying plan must also be without prejudice to any claim it may have against the noncomplying plan in the absence of such subrogation.

3. **Allowable expense.** A term such as "usual and customary", "usual and prevailing", or "reasonable and customary" may be substituted for the term "necessary, reasonable, and customary". Terms such as "medical care" or "dental care" may be substituted for "health care" to describe the coverages to which the coordination of benefits provisions apply.
4. **Subrogation.** The coordination of benefits concept clearly differs from that of subrogation. Provisions for one may be included in health care benefits contracts without compelling the inclusion or exclusion of the other.

History: Effective September 1, 1994.

General Authority: NDCC 26.1-36-38

Law Implemented: NDCC 26.1-36-10, 26.1-36-29, 26.1-41-13

45-08-01.1-06. Effective date and existing contracts. This chapter is applicable to every contract that provides health care benefits and that is issued on or after the effective date of this chapter.

History: Effective September 1, 1994.

General Authority: NDCC 26.1-36-38

Law Implemented: NDCC 26.1-36-10, 26.1-36-29, 26.1-41-13

APPENDIX A

COORDINATION OF BENEFITS PROVISIONS COORDINATION OF THE CONTRACT'S BENEFITS WITH OTHER BENEFITS

I. APPLICABILITY

- A. This coordination of benefits provision applies to this plan when an employee or the employee's covered dependent has health care coverage under more than one plan. "Plan" and "this plan" are defined in section II.
- B. If this coordination of benefits provision applies, the order of benefit determination rules should be looked at first. Those rules determine whether the benefits of this plan are determined before or after those of another plan. The benefits of this plan:
 - (1) May not be reduced when, under the order of benefit determination rules, this plan determines its benefits before another plan; but
 - (2) May be reduced when, under the order of benefits determination rules, another plan determines its benefits first. The above reduction is described in section IV.

II. DEFINITIONS

- A. "Plan" is any of these that provides benefits or services for, or because of, medical or dental care or treatment:
 - (1) Individual or group insurance or group-type coverage, whether insured or uninsured. This includes prepayment, group practice, or individual practice coverage. It also includes coverage other than school accident-type coverage.
 - (2) Coverage under a governmental plan or coverage required or provided by law. This does not include a state plan under medicaid (Title XIX, Grants to States for Medical Assistance Programs, of the United States Social Security Act, as amended from time to time).

Each contract or other arrangement for coverage under paragraph 1 or 2 is a separate plan. Also, if an arrangement has two parts and coordination of benefits rules apply only to one of the two, each of the parts is a separate plan.

- B. "This plan" is the part of the contract that provides benefits for health care expenses.

- C. "Primary plan or secondary plan" is the order of benefit determination rules stating whether this plan is a primary plan or secondary plan as to another plan covering the person.

When this plan is a primary plan, its benefits are determined before those of the other plan and without considering the other plan's benefits.

When this plan is a secondary plan, its benefits are determined after those of the other plan and may be reduced because of the other plan's benefits.

When there are more than two plans covering the person, this plan may be a primary plan as to one or more other plans, and may be a secondary plan as to a different plan or plans.

- D. "Allowable expense" means a necessary, reasonable, and customary item of expense for health care; when the item of expense is covered at least in part by one or more plans covering the person for whom the claim is made.

The difference between the cost of a private hospital room and the cost of a semiprivate hospital room is not considered an allowable expense under this section unless the patient's stay in a private hospital room is medically necessary either in terms of generally accepted medical practice or as specifically defined in the plan.

When a plan provides benefits in the form of services, the reasonable cash value of each service rendered will be considered both an allowable expense and a benefit paid.

When benefits are reduced under a primary plan because a covered person does not comply with the plan provisions, the amount of the reduction will not be considered an allowable expense. Examples of these provisions are those related to second surgical opinions, precertification of admissions or services, and preferred provider arrangements.

- E. "Claim determination period" means a calendar year. However, it does not include any part of a year during which a person has no coverage under this plan, or any part of a year before the date this coordination of benefits provision or a similar provision takes effect.

III. ORDER OF BENEFIT DETERMINATION RULES

- A. General. When there is a basis for a claim under this plan and another plan, this plan is a secondary plan that has its benefits determined after those of the other plan, unless:

- (1) The other plan has rules coordinating its benefits with those of this plan; and

- (2) Both those rules and this plan's rules, in subsection B, require that this plan's benefits be determined before those of the other plan.

B. Rules. This plan determines its order of benefits using the first of the following rules that applies:

- (1) Nondependent or dependent. The benefits of the plan that covers the person as an employee, member, or subscriber, that is, other than as a dependent, are determined before those of the plan that covers the person as a dependent; except that if the person is also a medicare beneficiary, and as a result of the rule established by title XVIII of the Social Security Act and implementing regulations, medicare is:
 - (a) Secondary to the plan covering the person as a dependent; and
 - (b) Primary to the plan covering the person as other than a dependent, e.g., a retired employee.

Then the benefits of the plan covering the person as a dependent are determined before those of the plan covering that person as other than a dependent.

- (2) Dependent child with parents not separated or divorced. Except as stated in paragraph 3 of subsection B, when this plan and another plan cover the same child as a dependent of different persons, called "parents":
 - (a) The benefits of the plan of the parent whose birthday falls earlier in a year are determined before those of the plan of the parent whose birthday falls later in that year; but
 - (b) If both parents have the same birthday, the benefits of the plan which covered one parent longer are determined before those of the plan which covered the other parent for a shorter period of time.

However, if the other plan does not have the rule described in subparagraph a, but instead has a rule based upon the gender of the parent, and if, as a result, the plans do not agree on the order of benefits, the rule in the other plan will determine the order of benefits.

- (3) Dependent child with parents separated or divorced. If two or more plans cover a person as a dependent child of divorced or separated parents, benefits for the child are determined in this order:

- (a) First, the plan of the parent with custody of the child;
- (b) Then, the plan of the spouse of the parent with the custody of the child; and
- (c) Finally, the plan of the parent not having custody of the child.

However, if the specific terms of a court decree state that one of the parents is responsible for the health care expense of the child, and the entity obligated to pay or provide the benefits of the plan of that parent has actual knowledge of those terms, the benefits of that plan are determined first. The plan of the other parent is the secondary plan. This paragraph does not apply with respect to any claim determination period or plan year during which any benefits are actually paid or provided before the entity has that actual knowledge.

- (4) Joint custody. If the specific terms of a court decree state that the parents shall share joint custody, without stating that one of the parents is responsible for the health care expenses of the child, the plans covering the child must follow the order of benefit determination rules outlined in paragraph 2 of subsection B.
- (5) Active or inactive employee. The benefits of a plan that covers a person as an employee who is neither laid off nor retired are determined before those of a plan that covers that person as a laid off or retired employee. The same would hold true if a person is a dependent of a person covered as a retiree and an employee. If the other plan does not have this rule, and if, as a result, the plans do not agree on the order of benefits, paragraph 5 is ignored.
- (6) Continuation coverage. If a person whose coverage is provided under a right of continuation pursuant to federal or state law also is covered under another plan, the following is the order of benefit determination:
 - (a) First, the benefits of a plan covering the person as an employee, member, or subscriber or as that person's dependent;
 - (b) Second, the benefits under the continuation coverage.

If the other plan does not have the rule described in this subdivision, and if, as a result, the plans do not agree on the order of benefits, this rule is ignored.

- (7) Longer or shorter length of coverage. If none of the above rules determines the order of benefits, the benefits of the plan that covered an employee, member, or subscriber longer are determined before those of the plan that covered that person for the shorter term.

IV. EFFECT ON THE BENEFITS OF THIS PLAN

- A. When this section applies. Section IV applies when, in accordance with Section III "Order of Benefit Determination Rules," this plan is a secondary plan as to one or more other plans. In that event, the benefits of this plan may be reduced under this section. The other plan or plans are referred to as "the other plans" in subsection B.
- B. Reduction in this plan's benefits. The benefits of this plan will be reduced when the sum of:
 - (1) The benefits that would be payable for the allowable expense under this plan in the absence of this coordination of benefits provision; and
 - (2) The benefits that would be payable for the allowable expenses under the other plans, in the absence of provisions with a purpose like that of this coordination of benefits provision, whether or not claim is made; exceeds those allowable expenses in a claim determination period. In that case, the benefits of this plan will be reduced so that they and the benefits payable under the other plans do not total more than those allowable expenses.

When the benefits of this plan are reduced as described in this subsection, each benefit is reduced in proportion. It is then charged against any applicable benefit limit of this plan.

V. RIGHT TO RECEIVE AND RELEASE NEEDED INFORMATION

Certain facts are needed to apply these coordination of benefits rules. [Insurer] has the right to decide which facts it needs. It may get needed facts from or give them to any other organization or person. [Insurer] need not tell, or get the consent of, any person to do this. Each person claiming benefits under this plan must give [insurer] any facts it needs to pay the claim.

VI. FACILITY OF PAYMENT

A payment made under another plan may include an amount that should have been paid under this plan. If it does, [insurer] may pay that amount to the organization that made that payment. That amount will be treated as though it were a benefit paid under this plan. [Insurer] will not have to pay that amount again. The term "payment made" includes

providing benefits in the form of services, in which case "payment made" means reasonable cash value of the benefits provided in the form of services.

VII. RIGHT OF RECOVERY

If the amount of the payments made by [insurer] is more than it should have paid under this coordination of benefits provision, it may recover the excess from one or more of:

- A. The persons it has paid or for whom it has paid;
- B. Insurance companies; or
- C. Other organizations.

The "amount of the payments made" includes the reasonable cash value of any benefits provided in the form of services.

TITLE 69
Public Service Commission

JUNE 1994

CHAPTER 69-05.2-06

69-05.2-06-02. Permit applications - Compliance information. In addition to satisfying the applicable requirements of subsection 1 of North Dakota Century Code section 38-14.1-14, each application must contain:

1. A statement of any current or previous coal mining permits in any state held during the five years prior to application and by any person identified in paragraph 3 of subdivision e of subsection 1 of North Dakota Century Code section 38-14.1-14, and of any pending application to conduct operations in any state. The information must be listed by permit and pending application number for each.
2. The explanation required by subdivision h of subsection 1 of North Dakota Century Code section 38-14.1-14 including:
 - a. Identification number and permit issue date or date and amount of bond or similar security.
 - b. Identification of the authority that suspended or revoked a permit or forfeited a bond and the reasons for that action.
 - c. The current status of the permit, bond, or security.
 - d. The date, location, type, and current status of any administrative or judicial proceedings initiated concerning the suspension, revocation, or forfeiture.

3. A list of all violation list notices as required by subdivision g of subsection 1 of North Dakota Century Code section 38-14.1-14 including violations received by any person who owns or controls the applicant.
4. A list of all unabated cessation orders and unabated air and water quality violation notices received prior to the date of the application by any surface coal mining and reclamation operation owned or controlled by either the applicant or by any person who owns or controls the applicant.
5. The lists required by subsections 3 and 4 must include, as applicable:
 - a. Any identifying numbers for the operation, including the federal or state permit number and mine safety and health administration number, the date of issuance of the violation notice and mine safety and health administration number, the name of the person to whom the violation was issued, and the identity of the issuing authority, department, or agency.
 - b. A brief description of the violation alleged.
 - c. The date, location, and type of any administrative or judicial proceedings initiated concerning the violation, including proceedings initiated by the applicant or by any person who owns or controls the applicant, to obtain administrative or judicial review.
 - d. The current status of the proceedings and violation notice.
 - e. Any actions taken by the applicant or by any person who owns or controls the applicant to abate the violation.
 - f. Any final resolution of each notice.
6. After notification that the application is approved but before the permit is issued, the applicant shall, as applicable, update, correct, or indicate that no change has occurred in the information previously submitted under subsections 3 through 5.

History: Effective August 1, 1980; amended effective June 1, 1983; June 1, 1986; May 1, 1990; May 1, 1992; June 1, 1994.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-14

CHAPTER 69-05.2-09

69-05.2-09-01. Permit applications - Operation plans - General requirements. Each application must contain a detailed description of the proposed mining operations, including:

1. A narrative of mining procedures and engineering techniques, anticipated annual and total coal production, and major equipment.
2. A plan stating the anticipated or actual starting and termination date of each phase of mining activities and the amount of land to be affected for each phase over the life of the permit.
3. A narrative for each operations plan explaining the plan in detail and the construction, modification, use, and maintenance of each mine facility, water and air pollution control facilities or structures, transportation and coal handling facilities, and other structures required for implementing the plans.
4. A plan for each support facility to be constructed, used, or maintained within the permit area including maps, appropriate cross sections, design drawings, and specifications of each facility sufficient to demonstrate compliance with section 69-05.2-24-08 or 69-05.2-24-09 as applicable.

History: Effective August 1, 1980; amended effective May 1, 1990; May 1, 1992; June 1, 1994.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-14

CHAPTER 69-05.2-10

69-05.2-10-03. Permit applications - Criteria for permit approval or denial.

1. The commission will not issue the permit if any surface coal mining and reclamation operation owned or controlled by either the applicant or by any person who owns or controls the applicant is currently in violation of ~~North--Dakota--Century Code--chapter--38-14.1~~ any law or rule of this state, the Surface Mining Control and Reclamation Act of 1977 [Pub. L. 95-87; 91 Stat. 445; 30 U.S.C. 1201, et seq.], or any law or rule in any state enacted under federal law or regulation pertaining to air or water environmental protection, incurred in connection with any surface coal mining and reclamation operation, or if any of the following are outstanding:
 - a. Delinquent civil penalties under North Dakota Century Code sections 38-12.1-08 and 38-14.1-32, the Surface Mining Control and Reclamation Act of 1977 [Pub. L. 95-87; 91 Stat. 445; 30 U.S.C. 1201, et seq.], or any law or rule in any state enacted under federal law or regulation pertaining to air or water environmental protection, incurred in connection with any surface coal mining and reclamation operation.
 - b. Bond forfeitures where violations upon which the forfeitures were based have not been corrected.
 - c. Delinquent abandoned mine reclamation fees.
 - d. Unabated violations of federal and state laws, rules, and regulations pertaining to air or water environmental protection incurred in connection with any surface coal mining and reclamation operation.
 - e. Unresolved federal and state failure-to-abate cessation orders.
 - f. Unresolved imminent harm cessation orders.
2. If a current violation exists, the commission will require the applicant or person who owns or controls the applicant, before the permit is issued, to:
 - a. Submit proof that the violation has been or is being corrected to the satisfaction of the agency with jurisdiction over the violation; or
 - b. Establish that the applicant, or any person owned or controlled by either the applicant or any person who owns

or controls the applicant, has filed and is presently pursuing, in good faith, a direct administrative or judicial appeal to contest the validity of that violation. If the administrative or judicial authority either denies a stay applied for in the appeal or affirms the violation, then any operations being conducted under a permit issued under this section must immediately cease, until the provisions of subdivision a are satisfied.

3. Any permit issued on the basis of proof submitted under subdivision a of subsection 2 that a violation is being corrected, or pending the outcome of an appeal under subdivision b of subsection 2, will be conditionally issued.
4. The commission will not issue a permit if it ~~makes a finding that~~ finds the applicant, anyone who owns or controls the applicant, or the operator specified in the application, controls or has controlled surface coal mining and reclamation operations with a demonstrated pattern of willful violations of ~~North Dakota Century Code chapter 38-14.1~~ any law or rule of this state, the Surface Mining Control and Reclamation Act of 1977 [Pub. L. 95-87; 91 Stat. 445; 30 U.S.C. 1201, et seq.], or any state or federal program approved under the Surface Mining Control and Reclamation Act of 1977, of such nature and duration, and with resulting irreparable damage to the environment as to indicate an intent not to comply with ~~that--chapter~~ those laws, rules, or programs. The applicant, anyone who owns or controls the applicant, or the operator must be given an opportunity for an ~~adjudicatory~~ hearing on the determination under North Dakota Century Code section 38-14.1-30.
5. After an application is approved, but before the permit is issued, the commission will reconsider its decision to approve the application, based on the compliance review required by subsection 1, in light of any new information submitted under subsection 2 of section 69-05.2-06-01 and subsection 6 of section 69-05.2-06-02.
6. In addition to the requirements of subsection 3 of North Dakota Century Code section 38-14.1-21, no permit or significant revision will be approved, unless the application affirmatively demonstrates and the commission finds, in writing, on the basis of information in the application or otherwise available, which is documented in the approval and made available to the applicant, that:
 - a. The permit area is not on any lands subject to the prohibitions or limitations of North Dakota Century Code section 38-14.1-07 or the area has met the application review procedures of section 69-05.2-04-01.
 - b. For alluvial valley floors:

- (1) The applicant has obtained either a negative determination; or
- (2) If the permit area or adjacent area contains an alluvial valley floor:
 - (a) The operations would be conducted according to chapter 69-05.2-25 and all applicable requirements of North Dakota Century Code chapter 38-14.1.
 - (b) Any change in the use of the lands covered by the permit area from its premining use in or adjacent to alluvial valley floors will not interfere with or preclude the reestablishment of the essential hydrologic functions of the alluvial valley floor.
- (3) The significance of the impact of the operations on farming will be based on the relative importance of the vegetation and water of the developed grazed or hayed alluvial valley floor area to the farm's production, or any more stringent criteria established by the commission as suitable for site-specific protection of agricultural activities in alluvial valley floors.
- (4) Criteria for determining whether a mining operation will materially damage the quantity or quality of waters include:
 - (a) Potential increases in the concentration of total dissolved solids of waters supplied to an alluvial valley floor to levels above the threshold value at which crop yields decrease, based on crop salt tolerance research studies approved by the commission, unless the applicant demonstrates compliance with subdivision e of subsection 3 of North Dakota Century Code section 38-14.1-21.
 - (b) The increases in subparagraph a will not be allowed unless the applicant demonstrates, through testing related to local crop production that the operations will not decrease crop yields.
 - (c) For types of vegetation specified by the commission and not listed in approved crop tolerance research studies, a consideration must be made of any observed correlation between total dissolved solids concentrations in water and crop yield declines.

- (d) Potential increases in the average depth to water saturated zones (during the growing season) within the root zone that would reduce the amount of subirrigated land compared to premining conditions.
 - (e) Potential decreases in surface flows that would reduce the amount of irrigable land compared to premining conditions.
 - (f) Potential changes in the surface or ground water systems that reduce the area available to agriculture as a result of flooding or increased root zone saturation.
- (5) For the purposes of this subsection, a farm is one or more land units on which agricultural activities are conducted. A farm is generally considered to be the combination of land units with acreage [hectarage] and boundaries in existence prior to July 1, 1979, or, if established after July 1, 1979, with boundaries based on enhancement of the farm's agricultural productivity not related to mining operations.
- (6) If the commission determines the statutory exclusions of subsection 3 of North Dakota Century Code section 38-14.1-21 do not apply and that any of the findings required by this section cannot be made, the commission may, at the applicant's request:
- (a) Determine that mining is precluded and deny the permit without the applicant filing any additional information required by this section; or
 - (b) Prohibit surface coal mining and reclamation operations in all or part of the area to be affected by mining.
- c. The applicant has, with respect to prime farmland, obtained either a negative determination or if the permit area contains prime farmlands:
- (1) The postmining land use will be cropland.
 - (2) The permit specifically incorporates the plan submitted under section 69-05.2-09-15 after consideration of any revisions suggested by the United States soil conservation service.
 - (3) The operations will be conducted in compliance with chapter 69-05.2-26 and other standards required by

this article and North Dakota Century Code chapter 38-14.1.

- d. The operations will not affect the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitats.
 - e. The applicant has submitted proof that all reclamation fees required by 30 CFR subchapter R have been paid.
 - f. The applicant has, if applicable, satisfied the requirements for approval of a cropland postmining land use under section 69-05.2-22-01.
7. The commission may make necessary changes in the permit to avoid adverse effects on finding that operations may adversely affect any publicly owned park or places included on the state historic sites registry or the national register of historic places. Operations that may adversely affect those parks or historic sites will not be approved unless the federal, state, or local governmental agency with jurisdiction over the park or site agrees, in writing, that mining may be allowed.

History: Effective August 1, 1980; amended effective June 1, 1983; June 1, 1986; May 1, 1990; May 1, 1992; June 1, 1994.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-21, 38-14.1-33

CHAPTER 69-05.2-13

69-05.2-13-02. Performance standards - General requirements - Annual map. The permittee shall submit two copies of an annual map to the commission for all permit areas by each February fifteenth. The information must be reported for each calendar year until all bond has been released. The 1:4,800 scale map, or maps if necessary, must clearly show the following and include a legend specifying the number of acres [hectares] in each category:

1. Each permit area and section and quarter lines.
2. Activities during the year for each permit, including:
 - a. Acreage [hectarage] affected.
 - b. Acreage [hectarage] where suitable plant growth material removal operations have been completed.
 - c. Acreage [hectarage] where coal mining operations are completed and the contemporaneous reclamation requirement of subsection 14 of North Dakota Century Code section 38-14.1-24 has been initiated.
 - d. Acreage [hectarage] where grade approval has been obtained.
 - e. Acreage [hectarage] where suitable plant growth material redistribution operations have been completed.
 - f. Acreage [hectarage] planted where the ten-year revegetation period has been initiated.
 - g. Acreage [hectarage] where bond has been partially released and the stage of release.
 - h. Acreage [hectarage] where bond has been totally released.
3. Location of suitable plant growth material stockpiles. Supporting information must include ownership, date seeded, type of material in each stockpile (topsoil or subsoil), and estimated cubic yards [meters] for each stockpile.
4. Cumulative information on the mining and reclamation activities that have occurred within each permit area which include:
 - a. Affected acreage where topsoil must be replaced. The acreage specified on the map legend must be listed separately for each surface owner unless the surface owner

has agreed to soil mixing as allowed by subsection 6 of section 69-05.2-15-04. The combined acreage for all surface owners who have agreed to soil mixing must be specified on the map legend.

- b. Affected acreage where subsoil must be replaced. The acreage specified on the map legend must be listed separately for each surface owner unless the surface owner has agreed to soil mixing as allowed by subsection 6 of section 69-05.2-15-04. The combined acreage for all surface owners who have agreed to soil mixing must be specified on the map legend.
- c. Acreage [hectarage] planted where the ten-year revegetation period has been initiated and the year of initiation.
- d. Acreage [hectarage] where bond has been partially released and the stage of release.
- e. Aereage A tabular listing of acreage [hectarage] where bond has been totally released.

History: Effective August 1, 1980; amended effective June 1, 1983; May 1, 1990; June 1, 1994.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-27

69-05.2-13-08. Performance standards - General requirements - Protection of fish, wildlife, and related environmental values.

1. The permittee shall affirmatively demonstrate how protection and enhancement of fish and wildlife resources will be achieved where practicable on the basis of information gathered and management plans developed under sections 69-05.2-08-15 and 69-05.2-09-17. The applicant shall report management plan results and data derived from the monitoring plan for the calendar year to the commission by each February fifteenth.
2. No surface mining activity may be conducted which is likely to jeopardize the continued existence of endangered or threatened species listed by the secretary of the United States department of the interior or which is likely to result in the destruction or adverse modification of designated critical habitats of those species in violation of the Endangered Species Act of 1973, as amended [16 U.S.C. 1531 et seq.]. The permittee shall promptly report to the commission the presence in the permit area of any state-listed or federally listed endangered or threatened species of which the permittee becomes aware. Upon notification, the commission will consult the United States fish and wildlife service, the state game

and fish department, and the operator, and then decide whether, and under what conditions, the operator may proceed.

3. No surface mining activity may be conducted in a manner that would result in the unlawful taking of a bald or golden eagle, its nest, or any of its eggs. The permittee shall promptly report to the commission the presence in the permit area of any bald or golden eagle, or bald or golden eagle nest or eggs, of which the permittee becomes aware. Upon notification, the commission will perform the consultation and decision process specified in subsection 2.
4. Nothing in this article authorizes the taking of an endangered or threatened species or a bald or golden eagle, its nest, or any of its eggs in violation of the Endangered Species Act of 1973, as amended [16 U.S.C. 1531 et seq.] or the Bald Eagle Protection Act, as amended [16 U.S.C. 668 et seq.].
5. The permittee shall ensure that the design and construction of electric powerlines and other transmission facilities used for or incidental to activities on the permit area follow the guidelines in Environmental Criteria for Electric Transmission Systems (United States department of the interior, United States department of agriculture (1970)), or in alternative guidance manuals approved by the commission. Design and construction of distribution lines must follow REA bulletin 61-10, Powerline Contacts by Eagles and Other Large Birds, or in alternative guidance manuals approved by the commission.
- 5- 6. The permittee shall, to the extent possible using the best technology currently available:
 - a. Locate and operate haul and access roads, sedimentation ponds, diversions, stockpiles, and other structures to avoid or minimize impacts to important fish and wildlife species and their habitats and to other species protected by state or federal law.
 - b. Create no new barrier in known and important wildlife migration routes.
 - c. Fence, cover, or use other appropriate methods to exclude wildlife from ponds containing hazardous concentrations of toxic-forming materials.
 - d. Reclaim, enhance where practicable, or avoid disturbance to habitats of unusually high value for fish and wildlife.
 - e. Reclaim, enhance where practicable, or maintain natural riparian vegetation on the banks of streams, lakes, and other wetland areas.

- f. Afford protection to aquatic communities by avoiding stream channels as required in section 69-05.2-16-20 or reclaiming stream channels as required in section 69-05.2-16-07.
- g. Not use pesticides in the area during surface mining and reclamation activities, unless specified in the operation and reclamation plan or approved by the commission on a case-by-case basis.
- h. To the extent possible prevent, control, and suppress range, forest, and coal fires not approved by the commission as part of a management plan.
- i. If fish and wildlife habitat is to be a primary or secondary postmining land use, the operator shall in addition to the requirements of chapter 69-05.2-22:
 - (1) Select plant species to be used on reclaimed areas, based on the following criteria:
 - (a) Their proven nutritional value for fish and wildlife.
 - (b) Their uses as cover for fish and wildlife.
 - (c) Their ability to support and enhance fish and wildlife habitat after bond release.
 - (2) Distribute plant groupings to maximize benefits to fish and wildlife. Plants should be grouped and distributed in a manner which optimizes edge effect, cover, and other benefits for fish and wildlife.
- j. Where cropland is to be the postmining land use and where appropriate for wildlife and surface owner crop management practices, intersperse the fields with trees, hedges, or fence rows throughout the harvested area to break up large blocks of monoculture and to diversify habitat types for birds and other animals. Wetlands must be preserved when feasible or recreated consistent with the reclamation plan and the postmining land use.
- k. Where the primary land use is to be residential, public service, or industrial, intersperse reclaimed lands with greenbelts utilizing species of grass, shrubs, and trees useful as food and cover for birds and small animals,

unless the greenbelts are inconsistent with the approved postmining land use.

History: Effective August 1, 1980; amended effective June 1, 1983; May 1, 1990; May 1, 1992; January 1, 1993; June 1, 1994.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-24

CHAPTER 69-05.2-15

69-05.2-15-04. Performance standards - Suitable plant growth material - Redistribution.

1. After final grading is approved under section 69-05.2-21-06 and before the suitable plant growth material is replaced, regraded land must be scarified or otherwise treated, if necessary, to eliminate slippage surfaces or to promote root penetration.
2. Subsoil must then be redistributed as approved by the commission in a manner that:
 - a. Achieves an approximate uniform thickness consistent with the postmining land use and meets the requirements of subsection 4.
 - b. Prevents excess compaction of the spoil and subsoil.
3. Following ~~commission-approval-of~~ subsoil respreading, topsoil must be redistributed as approved by the commission in a manner that:
 - a. Achieves an approximate uniform thickness consistent with the postmining land use and meets the requirements of subsection 4.
 - b. Prevents excess compaction of the suitable plant growth materials.
4. Amount of suitable plant growth materials to be redistributed.
 - a. In areas where the graded spoil materials occur:
 - (1) All suitable plant growth material inventoried and removed according to the soil survey and any other suitable strata required to satisfy section 69-05.2-21-03 must be uniformly redistributed; or
 - (2) The amount of redistributed suitable plant growth material must be based on the graded spoil characteristics as follows:

Suitable Plant Growth Material
Redistribution Thickness

Spoil Properties			Total Redistribution Thickness
Texture	Sodium	Saturation	(Topsoil Plus Subsoil) Average in

	Adsorption Ratio (SAR)	Percentage (SP)	Inches	(Centimeters)
Medium*	12	***	24	(61)
Coarse**	12	***	36	(91)
***	12 - 20	95	36	(91)
***	12 - 20	95	42	(107)
***	20	***	48	(122)

* Loam or finer
** Sandy loam or coarser
*** Not applicable

- (a) The minimum thickness of redistributed suitable plant growth material in any random location must be within six inches [15.24 centimeters] of the average thickness required for an area based on the graded spoil characteristics as determined by representative sampling. However, the commission may approve redistribution thicknesses less than those listed in the table if chemical and physical analyses and any available field trials, greenhouse test results or current research findings demonstrate that the overburden materials are equal to or more suitable than the subsoil for sustaining vegetation. In addition, the commission may approve a lesser redistribution thickness if an insufficient amount of material exists based on the results of the soil survey and the availability of other suitable strata pursuant to subdivision b of subsection 5 of section 69-05.2-15-02.
- (b) The texture, sodium adsorption ratio, and saturation percentage of the graded spoil materials will be determined by a commission evaluation of the premine overburden data, sample analyses of the graded spoil conducted by the operator, or by a combination of these methods.
- (c) This paragraph is effective only for those areas disturbed prior to the year 1997.
- b. The amount of redistributed suitable plant growth materials in associated disturbance areas where graded spoil materials do not occur must be based on the amount removed under subsection 2 of section 69-05.2-15-02.
5. Following the respreading of suitable plant growth materials, appropriate measures must be taken to protect the area from wind and water erosion.

6. The suitable plant growth material and other suitable strata and substitutes saved from property owned by one party must be respread within the boundaries of that property if the surface ownership of the permit area is split between two or more parties, unless the parties otherwise agree.

History: Effective August 1, 1980; amended effective June 1, 1983; January 1, 1987; May 1, 1990; May 1, 1992; June 1, 1994.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-24

CHAPTER 69-05.2-16

69-05.2-16-09. Performance standards - Hydrologic balance - Sedimentation ponds.

1. General requirements. Sedimentation ponds must be used individually or in series and:
 - a. Be constructed before any disturbance of the undisturbed area to be drained into the pond.
 - b. Be located as near as possible to the disturbed area and out of perennial streams, unless approved by the commission.
 - c. Meet all the criteria of this section.
2. Sediment storage volume. Sedimentation ponds must provide adequate sediment storage volume. Sediment storage volume must be determined using the universal soil loss equation, gully erosion rates, and the sediment delivery ratio converted to sediment volume, using either the sediment density or other empirical methods derived from regional sediment pond studies if approved by the commission.
3. Detention time. Sedimentation ponds must provide the required theoretical detention time for the water inflow or runoff entering the pond from a ten-year, twenty-four-hour precipitation event (design event). The theoretical detention time must be sufficient to achieve and maintain applicable effluent standards. The calculated theoretical detention time and all supporting materials must be included in the permit application.
4. Dewatering. The stored water must be removed by a nonclogging dewatering device or a conduit spillway approved by the commission, and have a discharge rate to achieve and maintain the required theoretical detention time. The dewatering device may not be lower than the maximum elevation of the sediment storage volume.
5. Each operator shall design, construct, and maintain sedimentation ponds to prevent short circuiting to the extent possible.
6. The design, construction, and maintenance of a sedimentation pond or other sediment control measures do not relieve the operator from compliance with applicable effluent limitations.

7. There must be no outflow through the emergency spillway from the ten-year, twenty-four-hour precipitation event or lesser events.
8. Sediment must be removed from sedimentation ponds on a periodic basis in order to maintain an adequate storage volume for the design event.
9. An appropriate combination of principal and emergency spillways or a single spillway must be provided to safely discharge the runoff from a twenty-five-year, six-hour precipitation event for a temporary impoundment, a fifty-year, six-hour precipitation event for a permanent impoundment, or a larger event specified by the commission. The spillways must be capable of safely discharging the required event when the impoundment is at high water elevation. Commission approval of open channel spillway grades and allowable velocities must be obtained and velocities must be nonerosive. Earth or grass lined spillways may be used only where sustained flows are not expected.
10. The minimum elevation at the top of the settled embankment must be one foot [30.48 centimeters] above the water surface in the pond with the emergency spillway flowing at design depth. For embankments subject to settlement, this minimum elevation requirement applies at all times.
11. The constructed height of the dam must be increased a minimum of five percent over the design height to allow for settlement, unless it has been demonstrated to the commission that the material used and the design will ensure against settlement.
12. The minimum top width of the embankment may not be less than the quotient of $(H+35)/5$, where H is the height, in feet, or $(H+10.7)/5$, where H is the height, in meters, of the embankment as measured from the upstream toe of the embankment.
13. ~~The combined upstream and downstream side slopes of the settled embankment may not be less than 1v:5h, with neither slope steeper than 1v:2h. Slopes must be designed to be stable, even if flatter side slopes are required.~~ The upstream side slope of the settled embankment may not be steeper than a horizontal to vertical ratio of 3:1 and the downstream side slope of the settled embankment may not be steeper than a horizontal to vertical ratio of 2:1.
14. The foundation area must be cleared of all organic matter, all surfaces sloped to no steeper than 1v:1h a horizontal to vertical ratio of 1:1, and the entire foundation surface scarified. Cutoff trenches must be installed if necessary to ensure stability.

15. The fill material must be free of sod, large roots, other large pieces of vegetative matter, and frozen soil, and in no case shall coal processing waste be used.
16. The placing and spreading of fill material must be started at the lowest point of the foundation. The fill must be brought up in horizontal layers in the thicknesses required to facilitate compaction and meet the design requirements of this section. Fill adjacent to structures, pipe conduits, and drainfill or antiseep collars must be compacted to a density equal to that of the surrounding fill by hand tamping or by using manually directed power tampers or plate vibrators. Compaction must be conducted as specified in the approved design. In lieu of the specific design requirements of this subsection and subsections 11 through 14, the operator may demonstrate that the design of the structure has a minimum static safety factor of 1.3 for a normal pool with steady state seepage saturation conditions.
17. If a proposed impoundment can meet the size and other criteria of 30 CFR 77.216, or is located where failure would be expected to cause loss of life or serious property damage, the following additional requirements must be met:
 - a. An appropriate combination of principal and emergency spillways must be provided to safely discharge the runoff from a one-hundred-year, six-hour precipitation event, or a larger event as specified by the commission.
 - b. The embankment must be designed and constructed with a seismic safety factor of 1.2 and a static safety factor of at least 1.5 for a normal pool with steady state seepage saturation conditions, or a higher safety factor as designated by the commission.
 - c. Appropriate barriers must be provided to control seepage along conduits that extend through the embankment.
 - d. The criteria of the mine safety and health administration as published in 30 CFR 77.216 must be met, and a copy of the plan sent to the district manager of the United States mine safety and health administration under that title submitted to the commission as part of the permit application.
18. Impoundment inspections.
 - a. A registered professional engineer, or other specialist under the direction of a registered professional engineer, shall inspect each impoundment as required under subdivision b of this subsection. The registered professional engineer and specialist must be experienced in the construction of impoundments.

- b. Inspections must be made regularly during construction, upon completion of construction, and at least yearly until removal of the structure or release of the performance bond.
 - c. After each inspection the registered professional engineer shall promptly provide the commission a certified report that the impoundment has been constructed or maintained as designed and according to the approved plan and this chapter. The report must include discussion of any appearance of instability, structural weakness or other hazardous conditions, depth and elevation of any impounded water, existing storage capacity, any existing or required monitoring procedures and instrumentation, and any other aspects of the structure affecting stability.
 - d. A copy of the inspection reports must be maintained at or near the minesite.
19. The embankment, including the surrounding areas and diversion ditches disturbed or created by construction, must be stabilized with respect to erosion and sudden drawdown by a vegetative cover or other means immediately after the embankment is completed. The active upstream face where water will be impounded may be riprapped or otherwise stabilized to protect the embankment from erosion and sudden drawdown. Areas where the reestablishment of vegetation is not successful or where rills and gullies develop must be repaired and revegetated according to section 69-05.2-15-06.
20. In addition to the requirements of subsection 18, all impoundments meeting the criteria of subsection 17, must be examined according to 30 CFR 77.216-3. Other impoundments must be examined at least semiannually by a qualified person for appearance of erosion, structural weakness, and other hazardous conditions. The annual inspection required by subsection 18 will be considered one of the examinations required by this subsection.
21. Plans for any enlargement, reduction, reconstruction, or other modification of dams or impoundments must be submitted to the commission. Commission approval of these plans is required before modification begins, unless a modification is necessary to eliminate a hazard to public health, safety, or the environment.
22. Sedimentation ponds may not be removed until authorized by the commission and the disturbed area has been stabilized and revegetated. The structure may not be removed sooner than two years after the last augmented seeding unless the last augmented seeding is a supplemental seeding into an established vegetation stand that is effectively controlling erosion. When the pond is removed, the affected land must be

reclaimed, unless the pond has been approved by the commission for retention. If the commission approves retention, the pond must meet all the requirements for permanent impoundments of section 69-05.2-16-12.

History: Effective August 1, 1980; amended effective June 1, 1983; June 1, 1986; January 1, 1987; May 1, 1990; May 1, 1992; June 1, 1994.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-24

CHAPTER 69-05.2-20

69-05.2-20-03. Performance standards - Dams and embankments constructed of or impounding coal processing waste - Design and construction.

1. The design of each dam and embankment constructed of coal processing waste or intended to impound the waste must comply with subsections 9 through 21 of section 69-05.2-16-09, modified as follows:
 - a. The design freeboard between the lowest point on the embankment crest and the maximum water elevation must be at least three feet [91.44 centimeters].
 - b. The dam and embankment must have a minimum safety factor of 1.5 for a normal pool with steady seepage saturation conditions, and the seismic safety factor must be at least 1.2.
 - c. The dam or embankment foundation and abutments must be designed to be stable under all conditions of construction and operation of the impoundment. Sufficient foundation investigations and laboratory testing must be performed to determine the safety factors of the dam or embankment for all loading conditions appearing in subdivision b and for all increments of construction.
 - d. Each structure that meets the criteria of 30 CFR 77.216(a) must have sufficient spillway capacity to safely pass the probable maximum precipitation of a six-hour precipitation event, or greater event specified by the commission, when the impoundment is at high water elevation.
2. Spillways and outlet works must be designed to provide adequate protection against erosion and corrosion. Inlets must be protected against blockage.
3. ~~For--dams~~ Dams or embankments constructed of or impounding waste materials, must be designed so that at least ninety percent of the water stored during the design precipitation event ~~must~~ can be removed within a ten-day period.
4. For dams or embankments constructed of or impounding waste materials, at least ninety percent of the water stored during

the design precipitation event must be removed within the ten-day period following the event.

History: Effective August 1, 1980; amended effective May 1, 1990; May 1, 1992; June 1, 1994.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-24, 38-14.1-25

AUGUST 1994

CHAPTER 69-09-03

69-09-03-02. Adoption of regulations. The following parts of title 49, Code of Federal Regulations in effect as of ~~July 15, 1992~~ January 1, 1994, are adopted by reference:

1. Part 190 - Department of Transportation Pipeline Safety Enforcement Procedures.
2. Part 191 - Department of Transportation Regulations for Transportation of Natural Gas by Pipeline; Reports of Leaks.
3. Part 192 - Transportation of Natural and Other Gas by Pipeline: Minimum Safety Standards.
4. Part 199 - Control of Drug Use in Natural Gas, Liquefied Liquefied Natural Gas and Hazardous Liquids Pipelines.

Copies of these regulations may be obtained from:

Public Service Commission
State Capitol
Bismarck, North Dakota 58505-0480

History: Effective June 1, 1984; amended effective July 1, 1986; January 1, 1988; March 1, 1990; February 1, 1992; August 1, 1993; August 1, 1994.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 49-02-01.2

CHAPTER 69-09-05

69-09-05-03. Deposits and guarantees. Each telephone utility subject to the public service commission's ratemaking jurisdiction may require each applicant for service to make a deposit not to exceed two times the estimated amount of one month's average bill. The utility shall each year pay interest on such deposit at the rate paid by the Bank of North Dakota on a six-month certificate of deposit. Such rate will be determined as of the first business day of each year on a six-month certificate of deposit with the smallest deposit required. The interest may be paid to the depositor or may be deducted from the depositor's indebtedness to the utility for telephone service. The payment or deduction for interest must be made during each calendar year, or whenever a deposit is refunded or service discontinued. The utility may accept in lieu of a cash deposit a contract signed by a guarantor, satisfactory to the utility, whereby the payment of a specified sum not to exceed the required cash deposit is guaranteed. The term of such contract must be indeterminate, but it must automatically terminate when the customer gives notice of service discontinuance to the utility or a change in location covered by the guarantee agreement or thirty days after written request for termination is made to the utility by the guarantor. However, no agreement may be terminated without the customer having made satisfactory settlement for any balance which the customer owes the utility. Upon termination of a guarantee contract, a new contract or a cash deposit may be required by the utility.

History: Effective April 1, 1985; amended effective August 1, 1994.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11, 49-21

69-09-05-06. Rules for pay telephones.

1. ~~---"Pay--telephone"--means--a--telephone-available-for-use-by-the public;--generally--on--the--payment--of--a--fee.~~
2. ~~---All--pay--telephones--must--allow--the--completion--of--both--local--and--long--distance--calls;--except--for--1+900--calls.---Coin-operated pay--telephones;--however;--need--not--be--equipped--to--handle--cash transactions--{"0-plus"}--for--long--distance.---Access--to--toll free;--"800"--numbers--must--be--provided--without--cost--to--the caller.~~
3. ~~---For--customer--owned--pay--telephones;--the--charges--for--local exchange--area--calls--must--not--exceed--twenty-five--cents--per call.---The--time--allowed--for--a--local--exchange--area--call--must not--be--limited.~~

4. -- Pay telephones which require payment before the call is answered at the terminating end must be equipped to return payment if there is no answer.
5. -- A local exchange telephone directory for the local exchange in which the pay telephone is located must be provided and maintained at each pay telephone. In the alternative, the pay telephone must provide access to local directory assistance without charge and without using a coin.
6. -- Pay telephones must be registered in accordance with part 68 of the federal communications commission's rules and regulations, or connected behind a registered coupler.
7. -- Pay telephones must enable their users to reach the 911 emergency number, where available, without charge and without using a coin. Where the 911 emergency number is not available, the pay telephone must enable its users to reach the operator without charge and without using a coin.
8. -- Each pay telephone must prominently display:
 - a. -- The name and toll-free telephone number of the operator or provider of that telephone.
 - b. -- The charges for local service.
9. -- The subscriber to the access line to which a privately owned pay telephone is connected is responsible for the billing for all calls originated from or accepted at the line.
10. -- All pay telephones must meet any federal, state, or local requirements for hearing aid compatibility and must be mounted in accordance with height regulations for disabled persons.
11. -- Operators and providers of pay telephones are not required to register with the commission. Repealed effective August 1, 1994.

History: Effective August 1, 1991.

General Authority: NDCC-28-32-02, -49-02-11

Law Implemented: NDCC-49-02-11, -49-21

CHAPTER 69-09-05.1

69-09-05.1-01. Accounting practices - Telecommunications Rate regulated telecommunications companies. The system of accounts used by all North Dakota telecommunications companies subject to rate regulation by the commission shall conform to the uniform system of accounts set forth in title 47, Code of Federal Regulations, part 32, prescribed by the federal communications commission by order of May 1, 1986, which is adopted by reference.

History: Effective March 1, 1988; amended effective August 1, 1994.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 49-02-12

SEPTEMBER 1994

CHAPTER 69-10-01

69-10-01-01. Definitions. As used in this chapter:

1. "Automatic bulk weighing system" means a weighing system which weighs grain in successive drafts, automatically records the no-load and loaded weight values, and accumulates the net weight of each draft.
2. "Batching scale" means a noncommercial weighing or measuring device used to determine, in part, the amount of an ingredient in a finished, manufactured commodity.
3. "Certify" means to seal, if upon testing and inspection, a weighing or measuring device is within the permitted tolerance and properly installed.
- 2- 4. "Commerce" means the distribution or consumption of quantities, things, produce, commodities, or articles which may be offered or submitted by any person for sale, or hire, ~~or~~ reward.
5. "NIST" means the United States department of commerce, national institute of standards and technology.
- 3- 6. "Random testing" means the random retesting and recertification by a weights and measures inspector of any weighing or measuring device being tested under the self-certification rules.
- 4- 7. "Registered service person" means a person or agency authorized by the commission to remove an official rejection

seal placed on a weighing or measuring device or to certify weighing and measuring devices described in North Dakota Century Code section 64-02-13.

8. "Retail fuel device" means a commercial, indicating fuel pump used to deliver fuel to individual highway vehicles in quantities of one hundred gallons [378.54 liters] or less per transaction.
9. "Security seal" means either a lead and wire pressure-sensitive seal, a plastic and wire pressure-sensitive seal, or a sealing sticker, permanently attached to a weighing or measuring device to prevent unauthorized access to the tolerance adjusting mechanisms of that device.
- 5- 10. "Seal" means marking a weighing or measuring device to show certification or rejection.
- 6- 11. "Single draft weighing" means simultaneously weighing each end of a vehicle or individual elements of coupled combination vehicles.
- 7- 12. "Standard" means test equipment used for certifying weighing or measuring devices.
13. "Variance" means a temporary or permanent suspension of a particular rule.
- 8- 14. "Weights and measures inspector" means a commission employee in the testing and safety division performing duties set by the commission.

History: Amended effective April 1, 1992; August 1, 1993; September 1, 1994.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-03

69-10-01-02.1. Certification. Weighing A weighing and measuring devices device may only be certified by the commission or a registered service person, and only at the location of intended use. The commission may certify a weighing or measuring device by actual testing of the device, or by witnessing the test.

History: Effective April 1, 1992; amended effective August 1, 1993; September 1, 1994.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-01-03. Sealing. All weighing or measuring devices used in commerce must be certified and sealed. A wire security seal must be installed internally, or externally, where applicable, to prevent

adjustments to the calibration of the device. An adhesive sticker must be installed externally to show visual proof of certification. An Effective January 1, 1995, an adhesive seal sticker must contain the following information: name, address, and telephone number of the commission or registered service person certifying the device, the words "tested and approved", and the seal sticker must show the month and year that the device was tested and approved. The public service commission will provide an illustrated prototype of the adhesive sticker to all registered service persons by August 1, 1994.

History: Amended effective April 1, 1992; August 1, 1993; September 1, 1994.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-01-04.1. Variance requests. The operator of any commercial weighing or measuring device may make written request for a variance from the commission under North Dakota Century Code section 64-02-02. The request for a variance must contain:

1. The reason for the request;
2. A plan for compliance over a period not to exceed one hundred eighty days (if the variance request results from a rejection);
3. The name, type, location, and capacity of the device;
4. The maximum amount that will be weighed on the device, along with a certified letter from an engineer that operating the device at that weight will not constitute a safety hazard (if applying for a variance to use a scale beyond its rated capacity);
5. Detailed information showing that compliance with specific regulations will cause economic hardship (if applicable to the variance request); and
6. Any other information the operator feels believes may expedite the variance request.

Any A variance approved granted by the commission is a temporary variance and does not become permanent until sufficient time to conclude inspection and testing (usually two years) has elapsed. A notice of the variance must be conspicuously posted on the device in--a--space conspicuous--to--the--public--until--the--device--has--been--recertified--or--replaced during the time the temporary variance is in effect.

History: Effective August 1, 1993; amended effective September 1, 1994.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-01-05. Rejected devices. Once a weighing or measuring device has been rejected, the device may not be used in commerce. The commission may install a security seal on the device to prevent its use until a-weights-and-measures-inspector-or-a--registered--service--person the device has been retested and certified the-device or a variance has been granted.

History: Amended effective April 1, 1992; September 1, 1994.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-01-05.1. Inactive weighing or measuring devices. Unless a variance is first granted, any commercial weighing or measuring device either unused for longer than one year, or tagged "not sealed" for longer than one year, whether as a result of a rejection or a cessation of business, must meet all current state rules before it may be retested and certified for commercial use.

History: Effective September 1, 1994.

General Authority: NDCC 28-32-02, 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-04

69-10-01-08. Assisting inspector. When requested, the scale owner or operator of any commercial weighing or measuring device shall supply assistance to the division inspector in movement of the test weights to and from and on and off the scale for testing purposes, or for returning liquids to aboveground or belowground storage tanks.

History: Effective August 1, 1993; amended effective September 1, 1994.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-01-09.1. Bulk liquid fuel meters - Retail sales. Meters designed for bulk loading use may not be used for retail fuel sales without first obtaining a variance from the commission, which may be granted for no longer than six months.

History: Effective September 1, 1994.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-01-09.2. Bulk liquid fuel meters - Marking. A bulk liquid fuel meter used in commerce and not marked from the manufacturer with the liquid to be measured must be sealed with a tag indicating the

product for which the meter is designed to deliver, or the liquid used to certify the meter if other than the design liquid.

History: Effective September 1, 1994.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-01-09.3. Bulk liquid fuel meters - Design use. A bulk liquid fuel meter may not be used for the commercial delivery of any liquid fuel that is not substantially similar in physical properties to the liquid fuel for which it was designed, tested, and certified.

History: Effective September 1, 1994.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-01-11. Device adjustments. State weights and measures inspectors may not make adjustments to a commercial weighing or measuring device other than the following: replacing meter factor change gears, zeroing a device, adjusting LP meter temperature compensator, or adjusting the level on certain platform scales.

History: Effective September 1, 1994.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

CHAPTER 69-10-02

69-10-02-05. Temporary Portable pitless scales and portable hopper scales. Self-contained, portable, pitless scales may be and self-contained portable hopper scales used only for the commercial weighing of solely to weigh gravel, sand, rock, or fill; or for to check weighing of materials associated with government highway construction; and only after a variance has been approved under North Dakota Century Code section 64-02-02. The variance request must list the date the scale was installed and the project number. A variance must be requested each time the scale is moved. Testing and certification of this type of scale must be done in compliance with state laws and commission rules are exempt from the provisions of this article.

History: Amended effective April 1, 1984; August 1, 1993; September 1, 1994.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-02-05.1 Fixed pitless scales. A variance under North Dakota Century Code section 64-02-02 for the construction and operation of all fixed pitless scales to be used in commerce must be approved by the commission before construction may begin. The variance request must be filed with the commission at least thirty days prior to construction and must include a copy of the construction plans. All fixed pitless scales, except self-contained pitless scales, must have at least twelve inches [304.80 millimeters] of clearance between the "I" beam and the slab and the piers must extend down below the frostline and be tied together. Walls tying the piers together must be sufficient in strength to support the device, prevent shifting, and provide protection from the environment.

History: Effective August 1, 1993; amended effective September 1, 1994.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-02-06. Clearances - Drainage - Pit entrances. Motor truck, motor truck dump, and livestock scales, other than fixed pitless scales, regardless of capacity, shall must have a clearance of not less than four feet [12.19 decimeters] from the finished floorline of the scale pit to the bottom of the "I" beam of the scale bridge. A five-eighths-inch [15.88-millimeter] clearance shall must be provided between the live deck and the pit coping. A "crushing strip" or "rock guard" shall must be installed in the event a concrete deck is installed on a scale; wood docks shall must be undercut around deck to prevent foreign material from lodging between deck and coping. Scale pits shall must be kept reasonably clean and dry at all times, and adequate

drainage shall must be provided. Convenient entrances to the scale pit must be provided for the purpose of inspecting and cleaning.

History: Amended effective August 1, 1993; September 1, 1994.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-02-09. Deck lengths.

1. A motor truck or motor truck dump scale shall installed and operational before January 1, 1995, must have at least twelve feet [3.66 meters] or a distance equal to one-third of deck length, whichever is greater, of straight driveway on either end of driveway the scale deck not over one-third inch [8.38 millimeters] per foot [30.48 centimeters] out of level of with the platform. The first twelve feet [3.66 meters] of driveway shall from the scale must be of a hard surface (concrete or asphalt). An inside scale shall must measure a minimum of four feet [1.22 meters] of metal, wood, asphalt, or reinforced concrete between the scale deck and the inside of the doorsill at both ends of the scale.

2. A motor truck or motor dump scale installed on or after January 1, 1995, must have at least twelve feet [3.66 meters] or a distance equal to one-third of deck length, whichever is greater, of straight approaches beginning in a level plane with the surface of the scale deck. The slope of the approaches away from the scale deck may not exceed one-third inch [8.38 millimeters] per foot [30.43 centimeters]. The first twelve feet of approach from the scale must be concrete. An inside scale must measure a minimum of five feet [1.52 meters] of reinforced concrete between the scale deck and the inside of the doorsill at both ends of the scale.

History: Amended effective September 1, 1994.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-02-10. Indicating and printing elements. A beam-type or dial-type indicating element shall must be installed in a level and plumb position, mounted on concrete piers, or on a concrete slab, and fastened securely to the concrete walls or neck of the scale pit. These mechanical indicating element foundations must be independent of the scalehouse floor, weighing room, or other similar structure. In case of a dial installation there should be adequate clearance for service between the cabinet of the dial and the wall. Motor truck, motor truck dump, railroad track, and livestock scales installed after July 1, 1973, and used in commerce, must be equipped with a ticket printing device. The ticket printing device must be used for all sales. A copy of the printed receipt must be issued to the customer at the time of the delivery. A shoulder or stop shall must be provided on each weighbeam

bar to prevent the poise from traveling and remaining back of the zero graduation. Indicating and printing elements shall must be adequately protected from all elements detrimental to their efficient operation.

History: Amended effective August 1, 1993; September 1, 1994.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-02-12. Observation windows or video cameras. Windows must be provided and must be located in such a position and manner so that the weighman has full view of the scale platform and weighing operation from the weighman's working position, and that the weighman and indicating elements are clearly visible to interested parties. Video cameras may be substituted for windows if the substitution does not diminish the view for either the weighman or other interested parties. However, installations that exceed two hundred feet [61 meters] from the main indicating element must be equipped with two-way audio communication and remote or video display of weight indication.

History: Amended effective August 1, 1993; September 1, 1994.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-02-13. Inspection and testing accessibility. No A person shall may not install a livestock, truck, or a hopper scale, used for commercial purposes in this state, unless it is so installed that it is easily accessible for inspection and testing by the division commission.

History: Amended effective September 1, 1994.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-02-15. Deckage Counter computing scales. A deckage counter computing scale manufactured before January 1, 1986, with less than one hundred one scale divisions, may be used in commerce until it is rejected as nonrepairable and used for commercial trade must meet the requirements set forth in table 3, section 2.20, of the NIST Handbook No. 44, by January 1, 1999.

History: Effective August 1, 1993; amended effective September 1, 1994.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-02-16. Automatic bulk-loading systems - Receiving. A commercial automatic bulk-loading system used for receiving grain may not be commercially operated without first receiving a variance from the commission. Before receiving any grain through an automatic

bulk-weighing system, a certified commercial truck scale must be made available to the seller for optional check weighing.

History: Effective September 1, 1994.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-02-17. Coal belt conveyor scales jurisdictional - Exemption. Coal belt conveyor scales not used for coal sales to the general public, or not used for the sale of coal on behalf of leasehold interests, are exempt from the provisions of this chapter.

History: Effective September 1, 1994.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-03-07

CHAPTER 69-10-03

69-10-03-01. National Institute of Standards and Technology (NIST) Handbook No. 44. Except as modified in this article, the specifications, tolerances, and other technical requirements for commercial weighing and measuring devices in North Dakota shall conform to the requirements of the 1993 1994 edition of the United States department of commerce, ~~National Institute of Standards and Technology~~ NIST Handbook No. 44, which is adopted by reference except table 4, section 2.20, of NIST Handbook No. 44, wherein North Dakota shall retain the 1993 version of NIST Handbook No. 44 table 4 until August 1, 1996. In the event of a conflict between the NIST Handbook No. 44 and North Dakota laws and rules, North Dakota laws and rules shall prevail. Copies of the handbook may be obtained from the public service commission, state capitol, Bismarck, North Dakota 58505-0480.

History: Amended effective October 1, 1988; December 1, 1990; February 1, 1992; August 1, 1993; September 1, 1994.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-07

69-10-03-02. Adequate standards. ~~Only~~ Except as modified below, only standards annually certified by the commission may be used to certify weighing and measuring devices. However, standards annually certified by another state any national institute of standards and technology certified laboratory, or the national institute of standards and technology may be used if a legible copy of the certification is first filed with the commission. The annual recertification requirements are modified as follows:

1. The twelve-month recertification period may be extended after consultation with the state metrologist, but not to exceed fifteen months.
2. The standard weights or "test weights" used in a commercial automatic bulk-weighing system must be recertified by the commission or by another national institute of standards and technology certified state laboratory at least once every three years.
3. Unless otherwise approved by the commission, the operator of a coal belt conveyor scale jurisdictional to the commission must conduct a material load test at least once every two years provided that electronic or other simulated load testing is done at least once every three months.

History: Amended effective April 1, 1992; September 1, 1994.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

CHAPTER 69-10-04

69-10-04-01. Registration of service persons. A registered service person has the authority to certify weighing or measuring devices described in North Dakota Century Code section 64-02-13 and to remove an official rejection seal or "not sealed" tag and place the device in service until a weights and measures inspector can recertify the device.

History: Amended effective April 1, 1992; September 1, 1994.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02

69-10-04-02. Application for registration of a service person. It is the policy of the commission to accept an annual application for registration of a natural as a registered service person who provides under the following requirements:

1. First time applicants must:

a. Provide acceptable evidence that the person is they are fully qualified to repair, test, and certify a commercial weighing or measuring device; has a thorough working knowledge of weights and measure laws, rules, and regulations; and has possession of adequate standards. Acceptable evidence to certify petroleum industry loading rack meters includes

b. (1) Provide a legible copy of the an applicable certificate of training issued by the national institute of standards and technology showing successful completion of the appropriate training module; or

(2) Score eighty percent or more on commission testing taken from applicable sections of the adopted edition of the NIST Handbook No. 44;

c. Score eighty percent or more on commission testing taken from applicable weights and measures sections of the North Dakota Century Code and North Dakota Administrative Code; and

d. Have in their possession adequate standards.

2. Repeat applicants must:

a. Complete and submit an application; and

b. Have in their possession adequate standards.

Upon acceptance and approval of an application, the commission will issue a placing in service permit to the applicant. All permits issued under this section remain the property of the commission and must be surrendered upon demand.

History: Amended effective April 1, 1992; September 1, 1994.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02

69-10-04-02.1. Self-certification ~~not--allowed----~~Exception. A registered-service person or company may ~~not~~ certify ~~the--person's--own standards--or~~ the person's or company's own commercial weighing and measuring devices ~~without~~ with written permission from the commission, ~~except--that-petroleum-industry-loading-rack-meters-used-in-commerce-may be-self-certified-only-as-folllows~~ and subject to commission approval of the following conditions:

1. The person doing the self-certification must be registered with the commission under section 69-10-04-02. However, persons or companies who make written application to the commission describing their weighing or measuring devices, operating and maintenance procedures, testing processes including a list of testing technicians and their expertise, and reporting requirements, subject to commission approval, are exempt from the provisions of section 69-10-04-02, except for subdivision d of subsection 1 and subdivision b of subsection 2 of that section.
2. Upon testing, the device must be within ~~the--permitted~~ commission approved tolerance.
3. ~~A--registered-service-person-or-weights-and-measures-inspector doing-recertification~~ Whenever a weighing or measuring device is recertified, the person or company must, within seven working days, report the recertification to the commission. The report must clearly identify each meter device, the initial test results recorded during self-certification, and the test results upon recertification.
4. Weights and measures inspectors may randomly ~~test--and~~ recertify loading-rack-meters any self-certified weighing or measuring device either by actual testing or by witnessing a test.

History: Effective April 1, 1992; amended effective August 1, 1993; September 1, 1994.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-04-04. Reports. A registered service person must, within seven working days, send a placing in service and a test report on all

rejected or newly installed weighing and measuring devices certified or recertified by the person to the commission, and shall furnish copies of those reports to the owner or operator of the device. A registered service person must, within seven working days, send a test report on all weighing or measuring devices recertified by the person to the commission, and shall furnish a copy of the test report to the owner or operator of the device. ~~Placing--in--service--report--forms--will--be--furnished--to--registered--service--persons--by--the--commission.~~

History: Amended effective April 1, 1992; August 1, 1993; September 1, 1994.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-04-06. Quality control - Witnessing. The commission may observe or reinspect work performed by a registered service person to ensure that the person is performing proper inspections and tests. The commission shall consider the following criteria while evaluating that person:

1. The results of a random sampling of four percent (or more if so ordered by the commission) of the devices certified by a registered service person;
2. Complaints filed against a registered service person, and whether those complaints are valid; and
3. Other factors deemed relevant by the commission.

The quality control reinspection must be completed within thirty days of the work completed by the registered service person and at no charge.

History: Effective September 1, 1994.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

OCTOBER 1994

CHAPTER 69-05.1-17

**69-05.2-17-02. Performance standards - Use of explosives -
Preblasting survey.**

1. Each operator shall notify in writing, at least thirty days before blasting, all residents and owners of manmade dwellings or structures located within ~~one-half~~ one mile [~~0.85~~ 1.61 kilometers] of the permit area how to request a preblasting survey.
2. On request to the commission by a resident or owner of a dwelling or structure located within ~~one-half~~ one mile [~~0.85~~ 1.61 kilometers] of any part of the permit area, the operator shall promptly conduct a preblasting survey of the dwelling or structure and promptly submit a report of the survey to the commission and requester. Any preblasting survey requested more than ten days before blasting must be completed before blasting is initiated. Additions or renovations to a surveyed structure must be surveyed upon request to the commission.
3. The survey must determine the condition of the dwelling or structure and document any preblasting damage and other physical factors that could reasonably be affected by the blasting. Assessments of structures such as pipes, cables, transmission lines, and wells and other water systems must be limited to surface condition and other readily available data. Special attention must be given to the preblasting condition of wells and other water systems used for human, animal, or agricultural purposes and to the quantity and quality of the water.

4. The written survey report must be prepared and signed by the person who conducted it. The report may recommend special conditions or proposed adjustments to the blasting procedure which should be incorporated into the blasting plan. The requester may notify the permittee and commission in writing of specific areas of disagreement with the survey results.

History: Effective August 1, 1980; amended effective May 1, 1990; October 1, 1994.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-24

CHAPTER 69-05.2-29

69-05.2-29-01. Small operator assistance - Responsibilities of the commission. The commission will:

1. Review requests for assistance and determine qualified operators.
2. Develop and maintain a list of qualified laboratories public or private entities as required by 30 CFR 795.10 and pay them for services rendered.
3. Conduct periodic onsite evaluations of program activities with participating operators.
4. Participate in data coordination with the office of surface mining reclamation and enforcement, United States geological survey, United States environmental protection agency, and other appropriate agencies or institutions.
5. Ensure that applicable equal opportunity in employment provisions are included in contract or other procurement documents.

History: Effective August 1, 1980; amended effective May 1, 1990; October 1, 1994.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-03, 38-14.1-37

69-05.2-29-02. Small operator assistance - Program services. To the extent possible with available funds, the commission will for qualified small operators who request assistance:

1. Select and pay a qualified laboratory to public or private entity to perform the activities described under subsection 2 of North Dakota Century Code section 38-14.1-37 including:
 - a. Determine A determination of the probable hydrologic consequences of the mining and reclamation operations both on and off the proposed permit area according to section 69-05.2-29-06.
 - b. Prepare The preparation of a statement of the results of test borings or core samplings according to section 69-05.2-29-06.
2. Collect and provide general hydrologic information on the basin or subbasin areas within which the anticipated mining will occur. The information provided will be limited to that

required to relate the basin or subbasin hydrology to the hydrology of the proposed permit area.

History: Effective August 1, 1980; amended effective May 1, 1990; October 1, 1994.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-03, 38-14.1-37

69-05.2-29-03. Small operator assistance - Eligibility for assistance. An applicant is eligible for assistance if the applicant:

1. Intends to apply for a permit under North Dakota Century Code chapter 38-14.1.
2. Establishes that the probable total actual and attributed production for each year of the permit will not exceed ~~one~~ three hundred thousand tons [~~90718.47~~ 272155.41 metric tons]. Production from the following will be attributed to the permittee:
 - a. All coal produced by operations beneficially owned entirely by the applicant or controlled, by reason of ownership, direction of the management or in any other manner, by the applicant.
 - b. The pro rata share, based upon percentage of beneficial ownership, of coal produced by operations in which the applicant owns more than a five percent interest.
 - c. All coal produced by persons who own more than five percent of the applicant or who, directly or indirectly, control the applicant by reason of stock ownership, direction of the management, or in any other manner.
 - d. The pro rata share of coal produced by operations owned or controlled by the person who owns or controls the applicant.
 - e. All coal produced by operations owned by members of the applicant's family or relatives unless it is established that there is no direct or indirect business relationship between or among them.
3. Is not restricted in any manner from receiving a permit.
4. Does not organize or reorganize the applicant's company solely for the purpose of obtaining assistance under the small operator assistance program.

5. Will be required to pay reclamation fees under the Surface Mining Control and Reclamation Act of 1977 [Pub. L. 95-87; 91 Stat. 445; 30 U.S.C. 1202 et seq.].

History: Effective August 1, 1980; amended effective May 1, 1990; October 1, 1994.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-03, 38-14.1-37

69-05.2-29-04. Small operator assistance - Filing for assistance. Each applicant for the small operator assistance program shall submit to the commission:

1. A statement of intent to file a permit application.
2. The names and addresses of:
 - a. The potential applicant.
 - b. The potential operator if different from the applicant.
3. A schedule of the estimated total coal production from the proposed permit area and all other locations from which production is attributed to the applicant under section 69-05.2-29-03. Include for each location:
 - a. The name under which coal is or will be mined.
 - b. The permit number.
 - c. The actual coal production for the year preceding the application for assistance and that portion of the production attributed to the applicant.
 - d. The estimated coal production for each year of the proposed permit and that portion attributed to the applicant.
4. A description of:
 - a. The surface coal mining operation.
 - b. The anticipated starting and termination dates of mining operations.
 - c. The number of acres [hectares] of land to be affected by the proposed mining.
 - d. A general statement on the probable depth and thickness of the coal resource, including a determination of reserves in the permit area and how they were calculated.

5. A topographic map of 1:24,000 scale or larger which clearly shows:
 - a. The area to be affected and the natural drainage above and below it.
 - b. The names of property owners within and adjacent to the area to be affected.
 - c. The location of existing structures and developed water sources within and adjacent to the area to be affected.
 - d. The location of existing and proposed test boring or core samplings.
 - e. The location and extent of known abandoned underground mines.
6. Copies of documents which show that:
 - a. The applicant has a legal right to enter and commence mining within the permit area.
 - b. A legal right of entry has been obtained for the commission and laboratory personnel from a qualified public or private entity to inspect the lands to be mined and adjacent lands which may be affected to collect environmental data or install necessary instruments.

History: Effective August 1, 1980; amended effective May 1, 1990; October 1, 1994.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-03, 38-14.1-37

69-05.2-29-05. Small operator assistance - Application approval - Notice of denial.

1. If the commission finds the applicant eligible, and it does not have information readily available which would preclude issuance of a mining permit, it will:
 - a. Determine the minimum data requirements necessary to meet the provisions of section 69-05.2-29-06.
 - b. Select the services of one or more qualified laboratories public or private entities to perform the required work. A copy of the contract or other appropriate work order and the final approved report will be provided to the applicant.
2. The commission will inform the applicant in writing if the application is denied and shall state the reasons for denial.

3. The granting of assistance under this part will not be a factor in commission decisions on a subsequent permit application.

History: Effective August 1, 1980; amended effective May 1, 1990; October 1, 1994.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-03, 38-14.1-37

69-05.2-29-06. Small operator assistance - Data requirements.

1. The commission will determine the minimum data collection requirements for each applicant or group of applicants. Data collection and analysis may proceed concurrently with the development of mining and reclamation plans. The data requirements will be based on:
 - a. The extent of currently available hydrologic and ~~core~~ analysis data for the applicable area provided by the commission, geologic, and other information described under subsection 2 of North Dakota Century Code section 38-14.1-37.
 - b. The data collection and analysis guidelines developed and provided by the commission.
2. A determination of the probable hydrologic consequences of the mining and reclamation operations, both onsite and offsite, shall be made by a qualified laboratory public or private entity. The data for this determination shall include the following:
 - a. The existing and projected surface and ground water seasonal flow regime, including water level and water table evaluations. The commission will specify duration and return frequencies to be used in the determination.
 - b. The existing and projected seasonal quality of the surface and ground water regime. This must include measurements and estimates of dissolved and suspended solids, pH, iron, manganese, surface and channel erosion, and other water quality parameters specified by the commission.
3. A statement of the result of test borings or core samplings from the proposed permit area including:
 - a. Logs from any drill holes including identification of each stratum and water level penetrated.
 - b. The coal seam thickness and its chemical analysis including sulfur content.

- c. The chemical analysis of potentially toxic or toxic-forming sections of the overburden, and the chemical analysis of the stratum lying immediately underneath the coal to be mined.
- 4. The statement by a qualified ~~laboratory~~ public or private entity under subsection 3 may be waived by the commission by a written determination that the requirements are unnecessary with respect to the specific application.
- 5. Data collected under the small operator assistance program will be made available to all interested persons, except information related to the chemical and physical properties of coal. Information regarding the mineral or elemental content of the coal which is potentially toxic in the environment will be made available.

History: Effective August 1, 1980; amended effective May 1, 1990; October 1, 1994.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-03, 38-14.1-37

69-05.2-29-07. Small operator assistance - Assistance funding.

- 1. Funds authorized for the small operator assistance program may not be used to cover state administrative costs ~~or--the--costs of--test--boring--or--core--sampling.~~
- 2. The commission will, to the extent practicable, establish a formula for allocating funds among eligible small operators if available funds are insufficient. This formula will include such factors as the applicant's:
 - a. Anticipated date of filing a permit application.
 - b. Anticipated date for commencing mining.
 - c. Performance history.

History: Effective August 1, 1980; amended effective May 1, 1990; October 1, 1994.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-03, 38-14.1-37

69-05.2-29-08. Small operator assistance - Applicant liability.

- 1. The applicant shall reimburse the commission for the cost of ~~the-laboratory~~ all services rendered under this chapter if the applicant:
 - a. ~~Submits~~ The applicant submits false information.

- b. Fails The applicant fails to submit a permit application within one year after receiving the approved laboratory report from the qualified public or private entity.
 - c. Fails The applicant fails to mine after obtaining a permit.
 - d. ~~Produces-over-one~~ The commission finds that the operator's actual and attributed annual production of coal for all locations exceeds three hundred thousand tons [90718.47 272155.41 metric tons] during any-year--of--mining--under the-permit-for-which-the-assistance-is-provided the twelve months immediately following the date the operator is issued a surface coal mining and reclamation permit.
 - e. Sells The applicant sells, transfers, or assigns the permit to another person and the transferee's total actual and attributed production exceeds the one three hundred thousand-ton [90718.47 272155.41 metric-ton] annual production limit during any consecutive twelve-month period of the remaining permit term. Under this subdivision, the applicant and successor are jointly and severally obligated to reimburse the commission.
2. The commission may waive the reimbursement obligation under the conditions described in subdivisions b and c of subsection 1 if it finds that the applicant at all times acted in good faith.

History: Effective August 1, 1980; amended effective May 1, 1990; October 1, 1994.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-03, 38-14.1-37

TITLE 99
State Gaming Commission

JULY 1994

ARTICLE 99-01

GAMES OF CHANCE

[Repealed effective July 1, 1994]

STAFF COMMENT: Article 99-01.1 contains all new material but is not underscored so as to improve readability.

ARTICLE 99-01.1

GAMES OF CHANCE

Chapter	
99-01.1-01	Organization of Commission
99-01.1-02	Definitions
99-01.1-03	Eligible Organizations
99-01.1-04	Licensing Qualifications
99-01.1-05	General Rules
99-01.1-06	General Accounting Rules
99-01.1-07	Work Permits
99-01.1-08	Bingo
99-01.1-09	Raffles
99-01.1-10	Pull Tabs, Club Special, Tip Board, Seal Board, Coin Board, and Punchboard
99-01.1-11	Sports Pools
99-01.1-12	Twenty-One
99-01.1-13	Poker
99-01.1-14	Calcuttas
99-01.1-15	Paddlewheels
99-01.1-16	Pull Tab Dispensing Devices
99-01.1-17	Bingo Card Dispensing Devices
99-01.1-18	Tax Return
99-01.1-19	Eligible Uses
99-01.1-20	Distributors and Manufacturer's Distributors
99-01.1-21	Manufacturers of Pull Tabs and Punchboards
99-01.1-22	Manufacturers of Bingo Cards
99-01.1-23	Manufacturers of Pull Tab and Bingo Card Dispensing Devices
99-01.1-24	Audit, Violations, and Investigations

CHAPTER 99-01.1-01 ORGANIZATION OF COMMISSION

Section	
99-01.1-01-01	Organization of State Gaming Commission

99-01.1-01-01. Organization of state gaming commission.

1. **History.** The 1991 legislative assembly enacted legislation providing for a state gaming commission. The commission's primary responsibility is to adopt administrative rules

governing the administration, regulation, and enforcement of games. This enactment is codified in North Dakota Century Code chapter 53-06.1.

2. **Commission membership.** The commission consists of the chairperson and four other members appointed by the governor, with the consent of the senate. The members serve three-year terms until a successor is appointed. The terms are staggered so that a term expires each July first.
3. **Membership eligibility.** A person is eligible for appointment to the commission if the person has been a resident of North Dakota for two years before the date of appointment. A person must be of good character and reputation to promote public confidence in the gaming industry and not have a financial interest in gaming. A financial interest includes the receiving of any direct payment from an organization for property, services, or facilities provided to that organization.
4. **Office and employees.** The commission has no office or employees, but may employ private counsel. The office of attorney general provides assistance to the commission.
5. **Inquiries.** Inquiries may be addressed to:

Chairperson
State Gaming Commission
c/o Office of Attorney General
600 East Boulevard
Bismarck, ND 58505

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-01.2, 53-06.1-03, 53-06.1-17

CHAPTER 99-01.1-02
DEFINITIONS

Section
99-01.1-02-01

Definitions

99-01.1-02-01. Definitions. As used in this article:

1. "Actual cash profit" is the amount of profit comprised of cash or checks derived from a bingo session, raffle, club special, coin board, tip board, seal board, punchboard, sports-pool board, calcutta board, poker occasion, game of pull tabs, day's twenty-one and paddlewheel activity, and bingo prize flare involving a bingo card dispensing device, that is accounted for by accounting records. The term excludes the effect of an increase or a decrease in a starting cash bank for the next gaming activity, amount of a prize paid by check, and the cost of a merchandise prize paid by check.
2. "Attorney general" includes agents of the attorney general.
3. "Bar employee" is a person, employed by an alcoholic beverage establishment, who redeems winning pull tabs or bingo cards, or both, involving a dispensing device on behalf of an organization.
4. "Cash prize" means coin, currency, savings bond, marketable security, and any other similar item that can be readily redeemed or converted into legal tender. Cash prize does not include precious metal bullion or a gift certificate that is redeemable for a merchandise item. The value of a savings bond and marketable security is its cost.
5. "Class A license" means a license classification assigned to a fraternal, veterans, or civic and service organization.
6. "Class B license" means a license classification assigned to a charitable, religious, educational, public-spirited, or public safety organization.
7. "Compensation" means wages, salaries, bonuses, commissions, tips, benefits, and all other forms of remuneration for services rendered.
8. "Conduct of games" means the direct and indirect operation of games. The term includes selling pull tabs, paddlewheel tickets, bingo cards, redeeming pull tabs, bingo cards, dealing twenty-one and poker, spinning a paddlewheel, calling bingo numbers, recordkeeping, purchasing equipment and supplies, counting cash, auditing games, making bank deposits, and paying expenses and eligible use contributions.

9. "Current retail price" means the standard selling price of a merchandise prize and is generally not the wholesale or manufacturer's list price.
10. "Deal" in pull tabs means each separate container or series of containers consisting of one game with the same game serial number. "Deal" in bingo means each separate container of bingo cards.
11. "Devoted" means a disbursement of net proceeds from a charitable gaming trust fund bank account or supplemental account to the ultimate eligible use.
12. "Employee", except in applying section 99-01.1-05-16 and chapter 99-01.1-07, includes a person who conducts games for compensation and a person who is a volunteer.
13. "Flare" refers to a flare, master flare, or prize flare:
 - a. Flare. A flare is a posted display with the state gaming stamp affixed which describes the prizes of a punchboard, sports-pool board, calcutta board, game of pull tabs, club special, tip board, coin board, and seal board. The flare for a punchboard is its face sheet. The flare for a sports-pool board, calcutta board, tip board, and seal board is the game board.
 - b. Master flare.
 - (1) In regard to pull tabs, a master flare describes the type of deal, including the name of game, price per pull tab, winning number, symbol, or set of symbols, and number of prizes by value.
 - (2) In regard to a series of paddlewheel ticket cards, a master flare is a posted display that:
 - (a) As referenced by subsection 1 of section 99-01.1-15-01, describes the type of paddlewheel tickets in the series, states the cost per ticket, lists the range of paddlewheel ticket card numbers in the series, and has a state gaming stamp affixed to it bearing the card number of the lowest numbered ticket card in a series.
 - (b) As referenced by subsection 2 of section 99-01.1-15-01, it describes the various wagers that may be placed according to a colored number or set of colored numbers, states the cost per ticket, lists the range of paddlewheel ticket card numbers in the series, and has a state gaming stamp affixed to it bearing the card

number of the lowest numbered ticket card in a services.

c. Prize flare. A prize flare is a posted display which describes a winning bingo pattern and prize amount involving bingo cards used in a dispensing device.

14. "Game" means a game of chance.
15. "Gaming equipment" means a device designed for use in conducting games. The term includes twenty-one table, poker table, paddlewheel, paddlewheel table, chip tray, dealing shoe, drop box, chips, table playing surface, bingo machine, flashboard, hard and paper bingo cards, decks of playing cards, pull tab and bingo card dispensing devices, jar bar, punchboards, raffle ticket, paddlewheel ticket, sports-pool board, calcutta board, deals of pull tabs and bingo cards, coin board, club special, tip board, and seal board. Tables, chairs, signs, weigh scales, fill and credit slips, and bingo daubers are excluded.
16. "Inside information" is any information about the status of a game when that game is in play and that may give a person an advantage over another person who does not have that information, regardless if the person does use or does not use the information, when providing that information is prohibited by the gaming law or rules. Inside information includes information provided through written, verbal, or nonverbal communications that implies or expresses the number of unsold chances; relationship of a game's actual cash on hand to the game's ideal adjusted gross proceeds; number of unredeemed top tier or consolation winning game pieces that are not posted, value of a hole card in twenty-one, numbers under the tapes of a sports-pool board, or number under a seal for a seal game.
17. "Local work permit" means a document issued to a person by a local governing body that authorizes the person to work as an employee for a licensed organization, distributor, or alcoholic beverage establishment in that city or county.
18. "Primary game" is the distinction of which game is the principal game conducted on a site. Determining factors include frequency of conduct, square footage used, and volume of activity of each game.
19. "Supplies" means a minor item such as a bingo dauber, bingo crayon, and glue stick that are used in playing games. Revenue from selling these items is nongaming revenue.
20. "Volunteer" is a person who conducts games for not more than thirty hours per month without compensation. A volunteer may receive a gratuity or stipend not exceeding a total current retail value of fifteen dollars for a consecutive

twenty-four-hour period, cash tips, and reimbursement for documented expenses. No gratuity or stipend may be cash, be convertible into cash, or be a gift certificate. See employee.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-03, 53-06.1-17

**CHAPTER 99-01.1-03
ELIGIBLE ORGANIZATIONS**

Section	
99-01.1-03-01	Eligible Organizations
99-01.1-03-02	City and County Resolution
99-01.1-03-03	Processing of a Resolution

99-01.1-03-01. Eligible organizations.

1. An organization is ineligible to conduct games if its sole purpose is to conduct those games. An organization desiring to conduct games shall manifest itself by veterans, charitable, educational, religious, fraternal, civic and service, public safety, or public-spirited programs. Except for an educational organization, a county, city, state or political subdivision thereof, or federal entity is not an eligible organization able to receive a license issued by the attorney general or local permit issued by a local governing body.
2. An organization is a civic and service organization if its primary purpose is to engage in a civic and service purpose as a sertoma, lions, jaycees, kiwanis, or similar organization. A "civic and service purpose" is the promotion of the common good and social welfare of the community.
3. A public-spirited organization is defined by subsection 19 of North Dakota Century Code section 53-06.1-01 and is generally not a nonprofit social, hobby, trade, business, professional, alumni, garden, dinner, or other similar club or association.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-01, 53-06.1-02, 53-06.1-02.1, 53-06.1-17

99-01.1-03-02. City and county resolution.

1. Upon receiving an initial application for a site authorization for recognition as a civic and service or public-spirited organization, the governing body of a city or county shall determine whether the organization is a civic and service or public-spirited organization.
2. A governing body shall determine the primary purpose of the organization, how this purpose has been achieved within this state during the two immediately preceding years, and the intended uses of the net proceeds resulting from the contemplated games. A governing body shall examine:

- a. Statements of receipts and expenditures for the two immediately preceding years which outline the projects to which the organization's funds have been disbursed and a copy of the minutes of meetings which includes a resolution that states the intended uses of funds generated by games. These must be attested to by an organization's financial officer, president, or similar officer.
 - b. A copy of the organization's charter, constitution, bylaws, articles of incorporation, or similar documents which help to establish its primary purpose and date of origin.
3. A resolution passed by a governing body must include:
- a. The primary purpose of the organization.
 - b. Description of how this primary purpose has been achieved within this state during the two immediately preceding years and how the purpose will be advanced by granting a site authorization.
 - c. The intended uses of net proceeds resulting from the contemplated games and the conclusion that all of these uses are eligible uses under subsection 6 of North Dakota Century Code section 53-06.1-01 and chapter 99-01.1-19.
 - d. A statement of the organization's date of origin.
 - e. A statement that the governing body has examined the organization's information and conclusion that the organization has actively fulfilled its primary purpose in North Dakota for the two immediately preceding years.
 - f. A clause recognizing the organization as a civic and service or public-spirited organization.
4. This section does not apply to a local permit.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-01, 53-06.1-02.1, 53-06.1-17

99-01.1-03-03. Processing of a resolution.

1. In applying for a license, an organization shall provide the attorney general with a copy of a "civic and service organization" or "public-spirited organization" resolution passed by a city or county governing body, along with a copy of the information examined by the local governing body under section 99-01.1-03-02.

2. If the attorney general determines that the resolution does not meet the requirements of the law or that the local governing body has not adequately examined the organization, the attorney general shall deny the application.
3. If the attorney general determines that an organization's actual primary purpose is not consistent with the statement of its primary purpose contained in the resolution, the attorney general shall revoke the license.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-01, 53-06.1-03, 53-06.1-17

**CHAPTER 99-01.1-04
LICENSING QUALIFICATIONS**

Section	
99-01.1-04-01	License
99-01.1-04-02	Site Authorization
99-01.1-04-03	Local Permit
99-01.1-04-04	Closely Connected Organizations
99-01.1-04-05	License Application
99-01.1-04-06	Reporting Changes in Information
99-01.1-04-07	Bingo - Local Permit
99-01.1-04-08	Raffles - Local Permit
99-01.1-04-09	Sports Pools - Local Permit

99-01.1-04-01. License.

1. An eligible organization must obtain a site authorization for a site within a city or county from the respective governing body. An organization may not conduct games at a site unless it applies to and receives from the attorney general a separate license for each city or county.
2. Class A and class B license applications are subject to approval by the attorney general. The attorney general may issue a temporary license for a period determined by the attorney general.
3. A license is effective for one year beginning July first and ending June thirtieth. A license fee is not prorated.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-03, 53-06.1-06, 53-06.1-11, 53-06.1-17

99-01.1-04-02. Site authorization.

1. A site authorization is issued at the discretion of the city or county governing body. A site authorization may be issued for a site located on public or private property and may have certain restrictions applied to it by the governing body. Restrictions may include types of games, days of the week, and designation of an area at a site where games will be conducted. A governing body may establish a site authorization fee not to exceed one hundred dollars for each site authorization or amended site authorization. An applicant has no absolute right to receive a site authorization from the governing body. A governing body may approve or not approve reapplications for a site authorization, may restrict a site authorization to limit

gaming activity, and may revoke or suspend a site authorization based on good cause.

2. An applicant may not be denied a site authorization based on discrimination.
3. A governing body may issue a site authorization to two or more organizations to conduct games at one specific location if the site authorizations restrict the organizations to conduct games on different days of the week. However, more than one organization may be issued a site authorization for the location of a fair, carnival, exposition, or similar occasion.
4. If a specific event exists which does not exceed seven days, written approval is granted by a local governing body, and the rent amount does not increase, an organization may set up and use more twenty-one tables at a site than a site authorization allows. No amended site authorization is necessary.
5. A separate site authorization is required for each site at which games are authorized. A site authorization must describe the specific location where games are to be conducted and be approved by the attorney general before an organization conducts games at the site. An organization shall comply with all restrictions of a site authorization until an amended site authorization is approved by a governing body and attorney general.
6. A licensed organization or closely connected organizations are limited to sites according to subdivision e of subsection 4 of North Dakota Century Code section 53-06.1-03.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-03, 53-06.1-05.1, 53-06.1-17

99-01.1-04-03. Local permit.

1. A local permit may be issued to a nonprofit organization at the discretion of a city or county governing body. A local permit may be issued for a site located on public or private property and may have certain restrictions applied to it by the governing body. Restrictions may include types of games, days of the week, and designation of an area at a site where games will be conducted. A governing body may establish a local permit fee not to exceed twenty-five dollars for each local permit or amended local permit. An applicant has no absolute right to receive a local permit from a governing body. A governing body may approve or not approve reapplications for a local permit, may restrict a local permit to limit gaming activity, and may revoke or suspend a local permit based on good cause.

2. An applicant may not be denied a local permit based on discrimination.
3. A separate local permit is required for each site at which games have been authorized. An organization may be issued two or more local permits simultaneously; however, the award of prizes, in the aggregate, may not exceed the prize limitations for bingo and raffles.
4. A local governing body shall adopt a resolution recognizing a nonprofit organization as a public-spirited organization. A governing body may prescribe the information to be contained in the resolution. A governing body does not need to send a copy of the resolution to the attorney general.
5. When a local governing body issues a local permit to a recognized public-spirited organization to conduct only bingo, raffles, and sports pools, the local governing body shall assign a local permit number to the organization, specify the period of time during which it is effective, and send a copy of the local permit to the attorney general within fourteen days from the date on which the local permit was issued.
6. Except as required by a local governing body, an organization otherwise qualifying for a local permit does not need to have actively fulfilled its primary purpose within North Dakota for any period of time.
7. If an organization is prohibited by the attorney general from being issued a license because the organization failed to resolve a negative imbalance of its general gaming and or charitable gaming trust fund bank accounts, it may not be issued a local permit. The attorney general shall prohibit an organization from receiving a local permit if the attorney general suspended or revoked the organization's license, the organization was convicted of violating this article, North Dakota Century Code chapter 12.1-28 or 53-06.1, or the organization has not devoted its net proceeds. An organization that has been issued a license may not simultaneously be issued a local permit.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-03, 53-06.1-05, 53-06.1-17

99-01.1-04-04. Closely connected organizations.

1. An organization closely connected to a licensed organization may not receive a local permit unless authorized by the attorney general. This rule does not apply to a college fraternity or sorority.

2. An organization is closely connected to another organization if there is an interdependent relationship between the organizations, based on the presence and degree of any of these unitary attributes:
 - a. Membership in an organization automatically qualifies a person as a member of another organization or is dependent upon membership in another organization;
 - b. The existence of an organization is dependent upon the existence of another organization;
 - c. The organizations have centralized administrative and operational services, including accounting, budgeting, computer software programs, legal services, insurance, training and safety programs, advertising and marketing, financing, public relations, technical service, and facilities (office, storage, repair shop). These services may be gaming or nongaming; or
 - d. The organizations have shared program services, employment policies and employee benefits, or directors, officers, and personnel.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-03, 53-06.1-17

99-01.1-04-05. License application. An application must be on a form prescribed by the attorney general and include this information except that the information required by subsections 5 and 6 only needs to be provided with the initial application:

1. Acknowledgment of local law enforcement. An organization shall:
 - a. Notify the city chief of police or county sheriff of the respective sites at which games are to be conducted and obtain local law enforcement acknowledgment;
 - b. Consent in advance that local law enforcement officials and the attorney general may, while on duty and when games are being conducted, enter the site to observe the games and enforce the gaming law and rules.
2. Rental agreement. A copy of the rental agreement between the organization and lessor of the site.
3. Acknowledgment of governing board. The chairperson may sign the governing board form if the organization has a resolution signed by a majority of the members of the governing board providing the organization's board's chairperson with

signatory authority. Otherwise, the governing board form must be signed by each member of the governing board. The governing board form or resolution must state that each member understands the member's legal responsibility for the fair and lawful operation of the organization's gaming activity.

4. Authorization to inspect bank records. An organization shall grant the attorney general a consent, according to North Dakota Century Code sections 6-08.1-03, 6-08.1-04, and 6-08.1-05, to inspect the records and accounts, controlled by the organization, located at a financial institution.
5. Articles of incorporation and bylaws. Copy of articles of incorporation and bylaws or, if not a corporation, a copy of any bylaws and other documents which set out the organizational structure and purposes of the organization.
6. If required by the gaming law, an internal revenue service tax exemption letter.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-03, 53-06.1-06, 53-06.1-17

99-01.1-04-06. Reporting changes in information. If information filed with the attorney general becomes inaccurate in a material way, or substantive additions or deletions are necessary to reflect changes in an organization, the organization shall provide the attorney general, in writing, details of a change and correct any inaccuracy along with a copy of any new required documents within fourteen days following the change. This rule does not apply to restrictions of a site authorization or rental agreement which must be approved by the attorney general before an item can change (see subsection 5 of section 99-01.1-04-02 and subsection 4 of section 99-01.1-05-08).

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-04-07. Bingo - Local permit.

1. An organization may receive one or more local permits to conduct bingo from a city or county governing body during the fiscal year beginning July first and ending June thirtieth. If an organization conducts bingo involving a bingo card dispensing device, it shall comply with sections 99-01.1-17-02 through 99-01.1-17-05. Otherwise, an organization shall comply with sections 99-01.1-08-01, 99-01.1-08-02, and 99-01.1-08-03.

2. The current retail price of a single bingo merchandise prize or cash prize for a game during a bingo session must be according to the gaming law. A donated merchandise prize is valued at the prize's current retail price when it is acquired.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-03, 53-06.1-06, 53-06.1-07, 53-06.1-17

99-01.1-04-08. Raffles - Local permit.

1. An organization may receive one or more local permits from a city or county governing body during the fiscal year beginning July first and ending June thirtieth or a calendar year to conduct a calendar raffle. An organization shall comply with sections 99-01.1-09-01 through 99-01.1-09-07.
2. The current retail price of a single raffle merchandise prize or cash prize for a raffle drawing occasion must be according to the gaming law. A donated merchandise prize is valued at the prize's current retail price when it is acquired.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-03, 53-06.1-06, 53-06.1-07, 53-06.1-10.1, 53-06.1-17

99-01.1-04-09. Sports pools - Local permit. An organization may receive one or more local permits to conduct sports pools from a city or county governing body during the fiscal year beginning July first and ending June thirtieth. An organization shall comply with section 99-01.1-11-01.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-03, 53-06.1-06, 53-06.1-09, 53-06.1-17

**CHAPTER 99-01.1-05
GENERAL RULES**

Section	
99-01.1-05-01	Rules, Policy Manual, Display of License and Site Authorization, and List of Employees
99-01.1-05-02	Governing Board
99-01.1-05-03	Equipment Acquisitions and Use
99-01.1-05-04	Promotions and Door Prize
99-01.1-05-05	Lessor - Restrictions
99-01.1-05-06	Lessor Prohibited From Having and a Person Prohibited From Playing Games
99-01.1-05-07	Player - Prohibition of Playing Games
99-01.1-05-08	Rental Agreement
99-01.1-05-09	Shift Manager and Reporting Violations
99-01.1-05-10	Gaming Manager for Two or More Organizations and Notification of Change
99-01.1-05-11	Age Limitation
99-01.1-05-12	Identification Tag
99-01.1-05-13	Currency of Play
99-01.1-05-14	Credit Play and Borrowing From Gaming Funds Prohibited
99-01.1-05-15	Use of Chips as Payment for Drinks Allowed
99-01.1-05-16	Employees, Volunteers, and Bar Employees Restricted From Playing Games
99-01.1-05-17	Immediate Family and Common Household Members Restricted From Playing Pull Tabs, Twenty-One, and Paddlewheels
99-01.1-05-18	Inside Information Prohibited
99-01.1-05-19	Waiver of Rules
99-01.1-05-20	Acknowledgment of the Gaming Law and Rules
99-01.1-05-21	Return and Disposal of Games
99-01.1-05-22	Independent Contractor and Interorganization Functions Restricted
99-01.1-05-23	Required Orientation

99-01.1-05-01. Rules, policy manual, display of license and site authorization, and list of employees.

1. An organization shall have a current copy of the gaming law and chapter 99-01.1-02, definitions; chapter 99-01.1-05, general rules; chapter 99-01.1-06, general accounting rules; and the chapter related to each game type conducted at a site available for review by any person.
2. An organization shall have a current policy manual regarding its conduct and play of games available for review by the attorney general, local law enforcement officials, and players at a site. The manual must include an organization's house policies for resolving a question, dispute, or violation of

the gaming law or rules. The manual may not include the organization's internal controls.

3. An organization shall display a license and site authorization, or a copy, at a site where they may be observed by players.
4. An organization shall maintain a list of all employees on a site including their name, address, and telephone number. The list must be available to the attorney general and law enforcement officials.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-03, 53-06.1-17

99-01.1-05-02. Governing board.

1. A governing board is ultimately responsible and may be held accountable for all phases of gaming activity conducted by an organization, including its members, auxiliary components, closely connected organizations, employees, and volunteers. Gaming activity includes the use of net proceeds. A governing board may establish a games of chance committee that serves as an advisory committee to the governing board. A governing board may assign duties to this committee; however, the governing board is still ultimately responsible.
2. The records of an organization must contain the name, address, and title of each current member of the governing board. A majority of the members must be North Dakota residents.
3. A member of a governing board may conduct an organization's games.
4. The top official shall disclose to the governing board and membership in writing, once a quarter, the organization's total adjusted gross proceeds; cash long or short; net proceeds; excess expenses, if any; reimbursement of excess expenses, if applicable; and list of eligible use contributions. This information and the manner in which it was made available must be included in the organization's records.
5. If an administrative complaint is issued to an organization, the top official shall disclose the allegation, in writing, to the governing board within seven days from the date the complaint was received. If an allegation is substantiated, the top official shall disclose to the governing board and membership, in writing, the allegation charged, findings of

fact and conclusions of law, and sanction imposed within ninety days of the final disposition of the complaint.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-06, 53-06.1-17

99-01.1-05-03. Equipment acquisitions and use.

1. Except for a jar bar, twenty-one and poker tables, and raffle tickets, an organization shall procure gaming equipment only from a distributor.
2. An organization may rent, lend, or give its bingo hard cards, bingo machine, flashboard, twenty-one and poker tables, dealing shoe, discard holder, chip tray, paddlewheel, paddlewheel table, or jar bar to any organization, person, or entity.
3. An organization may not use or knowingly permit its gaming equipment to be used for illegal purposes.
4. An organization or an employee may not conduct or be in possession of a deal of pull tabs or bingo cards, club special, tip board, seal board, coin board, punchboard, sports-pool board, calcutta board, or series of paddlewheel ticket cards unless its flare has a state gaming stamp affixed.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-06, 53-06.1-14, 53-06.1-17

99-01.1-05-04. Promotions and door prize.

1. An organization, employee, or alcoholic beverage establishment may not give free games, alcoholic drinks, twenty-one chips, poker chips, to paddlewheel chips, directly or indirectly, or any person to participate in a game. An organization may not conduct a free game to induce any person to participate in a game.
2. An organization or employee may not award a door prize to promote games or any other activity unless:
 - a. No payment, services, or purchase of anything is required of a person to participate;
 - b. Participation is open to any person at a site;

- c. A door prize must be disclosed to all the people at a site to provide the people an opportunity to participate;
 - d. No door prize may be part of a game or may be based on a ticket or entry pass for admission to a meal, dance, or other activity. The ticket or entry pass may not reference a door prize drawing; and
 - e. A player must be present to win. Otherwise, the player forfeits the prize and a redrawing must occur.
3. An organization or employee may not award a bingo card, bingo package, raffle ticket, pull tab, twenty-one chip or paddlewheel chip, or any other game piece as a door prize.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-05-05. Lessor - Restrictions.

1. A lessor may not pay, on behalf of a person, consideration for playing a game.
2. A lessor, lessor's spouse, lessor's common household member, management, management's spouse, officer, or board of director may not play games at the site, directly or indirectly. This restriction applies regardless of the percentage of ownership of the facility by the lessor or whether the lessor is active or inactive in the site's business activity. Also, an employee or agent of the lessor who is in a position, individually or collectively, to approve or deny the lease, may not, directly or indirectly, play games at the site. If the site is a public building, this restriction applies to the building manager, staff, and all officials in a position, individually or collectively, to approve or deny the lease.
3. Except as a bar employee defined by subsection 3 of section 99-01.1-02-01, a lessor, lessor's spouse, lessor's common household member, management, management's spouse, officer, board of director, or any on-call, temporary, or permanent employee or agent, or sublessor may not, directly or indirectly, conduct games at that site.
4. No game may be set up or otherwise operated in conjunction with a lessor's business. However, an organization may purchase a gift certificate or merchandise prize, except dispensed drinks, from the lessor at a cost not to exceed the prize's current retail price or a lessor may donate a gift certificate or merchandise prize to the organization. A lessor may not provide a free dispensed drink to an organization to be awarded as a prize.

5. A lessor, lessor's spouse, lessor's common household member, management, management's spouse, officer, or board of director may not:
 - a. Be an officer or board member of an organization that is leasing the site unless the person is involved in an organization activity that is not a conflict of interest with the gaming operation.
 - b. Have a direct or indirect financial interest in or loan money to an organization at a site.
 - c. Interfere with or attempt to influence an organization's disbursement of net proceeds. However, a lessor may recommend an eligible use.
 - d. Require an organization to provide food or any other gratuity to patrons of the lessor.
 - e. Require an organization to place any promotional game of skill or amusement device at a site.
6. A lessor may not allow or require an employee to assist, for or without compensation, in a lessor's business at a site. However, an employee may voluntarily order drinks for customers.
7. A lessor may only station an automated teller machine or any other electronic device, that provides a person with a cash advance or withdrawal, in an area on the premises where games are not conducted.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-06, 53-06.1-17

99-01.1-05-06. Lessor prohibited from having and a person prohibited from playing games.

1. The attorney general may prohibit a lessor from having games conducted at a site and may prohibit a person from playing games if the lessor or person has prior activities, criminal record, reputation, habits, or associations that pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities of gaming.
2. The attorney general may suspend games at a site up to ninety

days if a lessor terminates a rental agreement with an organization without good cause.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-05-07. Player - Prohibition of playing games. An organization may prohibit a person from playing games at a site if it believes the person may pose a threat to an employee, the public interest, the effective regulation of gaming, or may create or enhance unsuitable, unfair, or illegal practices, methods, or activities in the play of gaming.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-06, 53-06.1-17

99-01.1-05-08. Rental agreement.

1. If an organization conducts games at a leased site, the organization shall have a written rental agreement for the site. The agreement must be signed by authorized persons of the lessor or lessee and organization.
2. An agreement must contain:
 - a. Name of lessor. If an organization is to be a sublessee, the agreement must be entered into with the lessee.
 - b. Name of organization.
 - c. Term of the agreement which must be on a fiscal year basis from July first to June thirtieth or, if an organization has a site authorization for a period shorter than a fiscal year, on the shorter period. Except for a site where bingo is the primary game, the agreement may not exceed three years in duration and must coincide with the time period stated on a site authorization.
 - d. Monetary consideration, if any.
 - e. Description of the specific area of a site being leased.
 - f. The inclusion of these statements with proper selections made:
 - (1) "The lessor agrees that, except for a bar employee, the (lessor), (lessor's) spouse, (lessor's) common household members, (management), (management's) spouse, officers, board of directors, and any

on-call, temporary, or permanent employee or agent of the lessor may not, directly or indirectly, conduct games of chance at the site."

- (2) "The lessor agrees that the (lessor), (lessor's) spouse, (lessor's) common household members, (management), (management's) spouse, officers, and board of directors may not, directly or indirectly, play games of chance at the site. Also, an employee or agent of the lessor who is in a position, individually or collectively, to approve or deny a lease may not, directly or indirectly, play games of chance at the site."
- g. If an organization provides a lessor with a temporary loan of funds for redeeming winning pull tabs or bingo cards, or both, involving a dispensing device, a statement that the lessor agrees to repay the loan immediately when the the organization discontinues conducting pull tabs at the site.
 - h. Statements that:
 - (1) Bingo is or is not the primary game conducted.
 - (2) Twenty-one is or is not conducted. The number of twenty-one tables upon which the monthly rent is based.
 - (3) Pull tabs is or is not conducted.
 - (4) Paddlewheels (involving a playing table) is or is not conducted. The number of paddlewheel tables upon which the monthly rent is based.
 - i. A statement that the rental agreement is automatically terminated, at a lessor's option, if an organization's gaming license for the site is suspended for a period in excess of ten days or revoked.
3. Rent must be a fixed dollar amount per month for the term of the agreement. If a lessor pays for variable and seasonal expenses, such as snow removal, air-conditioning, and heating, an organization's monthly rent must cover the variable and seasonal expenses. If bingo is the primary game conducted, an organization may pay variable and seasonal expenses to a vendor.
 - a. A graduated rate arrangement, or other remuneration, in lieu of money is prohibited. A percentage rate is prohibited.

- b. If bingo is the primary game conducted, the monthly rent must be reasonable. Factors include time usage, floor space, local prevailing rates, and available sites and services.
- c. If bingo is not the primary game conducted, the maximum monthly rent is:
 - (1) If twenty-one or paddlewheels (involving a playing table) is conducted, the maximum monthly rent is two hundred dollars for each table. The phrase "the number of tables on which the game of twenty-one is conducted" in North Dakota Century Code section 53-06.1-03.2 means the maximum number of twenty-one and paddlewheel tables set up and necessary for playing the games at a site. However, an organization may place more tables at a site than the organization or attorney general determines is necessary if the organization is not charged any rent by the lessor for the extra tables (see subsection 4 of section 99-01.1-04-02).
 - (2) If pull tabs is conducted, the maximum monthly rent is:
 - (a) If twenty-one or paddlewheels (involving a table) is conducted, in addition to the rent allowed for twenty-one or paddlewheels, one hundred twenty-five dollars.
 - (b) If twenty-one or paddlewheels is not conducted, two hundred twenty-five dollars.
 - (3) If twenty-one or paddlewheels, (involving a table), or both, and pull tabs are conducted at a special occasion for five days or less during a month and the temporary site is a public or private premises, the maximum rent is thirty-five dollars for each table and twenty-five dollars for the pull tab activity, per special occasion. If only pull tabs is conducted under those circumstances, the maximum rent is fifty dollars for the pull tab activity, per special occasion.
 - (4) If poker is conducted with bingo, twenty-one, paddlewheels, or pull tabs, no additional rent is allowed. Otherwise, the rent amount for poker must be reasonable.
 - (5) If two or more organizations are issued a site authorization to conduct games at one specific location on different days of the week, the maximum

monthly rent, in the aggregate, may not exceed the limitations of paragraphs 1 and 2.

- d. Except for applying subsections 3 and 4 of section 99-01.1-06-07, an organization or employee may not pay any additional amount of rent or expense from any source directly or indirectly to a lessor nor may a lessor accept any additional amount of rent or expense for any other purpose, such as office space, storage space, snow removal, janitorial service, equipment, maintenance, signs, lighting, decorating, or any other item normally classified as a fixed asset, associated, directly or indirectly, with games on the site or any other activity. Except for a leased site at which bingo is the primary game conducted, an organization may not pay for any capital or leasehold improvements.
 - e. To other than a lessor of an organization's site, an organization may pay rent for office and storage space related or unrelated to games.
4. If bingo is no longer the primary game conducted on a site, the necessary number of twenty-one or paddlewheel tables changes, or pull tabs is discontinued so as to require a change in the maximum rent or any other change is agreed to or required, including an overestimation or underestimation of variable and seasonal expenses, the rental agreement must be amended. A copy of an amended rental agreement or any renegotiated agreements must be provided to the attorney general fourteen days before the effective date of the amended agreement.
 5. An organization may pay rent to a lessor when the organization's license to conduct games at a site is suspended if no other organization is conducting games at the site during the suspension.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-03, 53-06.1-03.1, 53-06.1-03.2, 53-06.1-03.3, 53-06.1-06, 53-06.1-07.4, 53-06.1-17

99-01.1-05-09. Shift manager and reporting violations.

1. An organization shall designate an employee at a site as a shift manager for each shift of each day games are conducted. A shift manager is a person who manages games at a site and ensures compliance with the gaming law and rules by an employee, lessor, and players.
2. An organization, distributor, or shift manager shall immediately report any material violation of the gaming law and rules and any burglary, vandalism, or attempted tampering

of gaming equipment to the attorney general or a local law enforcement agency.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

99-01.1-05-10. Gaming manager for two or more organizations and notification of change.

1. A person may be a gaming manager for two or more organizations simultaneously if each organization had total adjusted gross proceeds for the previous year ended June thirtieth of one hundred thousand dollars or less. A gaming manager is a person who manages and controls the overall gaming operation. Responsibilities may include personnel recruitment and termination, site selection, management, marketing, employee training, internal control, budgeting, public relations, supervision, and compliance with the gaming law and rules.
2. An organization shall designate a person as the gaming manager. The person's name will be printed on the class A or class B license. When the gaming manager changes, an organization shall file a "change of gaming manager" form with the attorney general and return the class A or class B license for an updated license.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

99-01.1-05-11. Age limitation. A person under the age of twenty-one may not conduct or play games, except bingo and raffles. A person under the age of sixteen may not conduct bingo. A person of any age may conduct a raffle. A person under the age of twenty-one may not be a member of an organization's drop box cash count team or an employee at an alcoholic beverage establishment.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-07.1, 53-06.1-17

99-01.1-05-12. Identification tag. An employee who is exempt from needing a work permit under section 99-01.1-07-02 shall wear an identification tag while working in the gaming area of a site. The identification tag must display the person's first name and first initial of the last name or the person's identification number, and organization's name. All information on the identification tag must be clear and easily visible to players. The identification tag must be worn on the upper one-third of the person's body. It must be provided

to a person by an organization that is equally responsible with the person to ensure the identification tag is properly displayed. A city or county work permit must meet this requirement. This section does not apply to an employee or volunteer of an organization if the organization's total gross proceeds for the previous fiscal year, for which tax returns were filed, averaged twenty-five thousand dollars or less per quarter.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

99-01.1-05-13. Currency of play. Play of games must be in United States of America currency. An exchange of foreign currency into United States of America currency must be done in advance of any play. The exchange rate must be the rate at which the foreign currency is exchanged for United States of America currency at the bank where the organization established the general gaming bank account for a site. The organization may account for the exchange rate by rounding to the nearest nickel.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

99-01.1-05-14. Credit play and borrowing from gaming funds prohibited.

1. Play of games must be on a cash basis. Cash includes checks. An employee may not accept a credit card from a person for issuing a cash advance or for playing games. Credit may not be extended to a player. The consideration to play a game must be collected in full, by cash or check, in advance of any play. An employee may not loan any money to a player. An organization may establish a policy concerning acceptance of checks, and need not accept checks. An employee may not accept a postdated check, allow a player to alter a check, permit a deferred payment (for example - an organization accounting for the value of pull tabs played and winning pull tabs redeemed, then, at the end of play settling the difference with the player), permit a player to establish an account by depositing cash for making periodic withdrawals, or any similar practice. The organization may allow a player to buy back a check with cash; however, the organization may not unnecessarily delay the bank deposit of that check to accommodate the buyback. An organization may return a player's check to the player as part of a prize payout; however, this may only occur on the day in which the check was written.

2. An organization may not station or allow to be stationed an automated teller machine or any other electronic device, that provides a person with a cash advance, cash withdrawal, or check, in an area on a site where games are conducted.
3. An employee may not borrow or use gaming funds as a personal loan of any kind or substitute a personal check for gaming funds.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

99-01.1-05-15. Use of chips as payment for drinks allowed. An organization and lessor of a site may agree to allow a player to use twenty-one, paddlewheel, or poker chips as payment for drinks. An organization shall redeem those chips for cash at their face value.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

99-01.1-05-16. Employees, volunteers, and bar employees restricted from playing games.

1. An organization's on-call, temporary, or permanent employee, and volunteer may not play any game while on duty at any of that organization's sites. However, if an organization's total gross proceeds for the previous fiscal year, for which tax returns were filed, was twenty-five thousand dollars or less, a volunteer who is not a bingo caller, shift manager, or gaming manager, may play bingo (not involving a dispensing device) while on duty. A person taking a temporary break is still considered on duty. A volunteer may play bingo (not involving a dispensing device), raffles, seal boards, sports pools, twenty-one, calcuttas, poker, and paddlewheels while off duty and may play pull tabs, tip boards, club specials, coin boards, and bingo (involving a dispensing device) while off duty after three hours of active play have occurred, or two deals have been added to a commingled game of pull tabs, since the volunteer went off duty. If a volunteer plays bingo while on duty or plays a game while off duty, an organization shall post that fact at a location on a site where it is readable by players.
2. A bar employee may not play bingo or pull tabs, which involve a dispensing device, while on duty. A person taking a temporary break is still considered on duty. A bar employee may play bingo while off duty, and may play pull tabs while off duty after three hours of active play have occurred since

the bar employee went off duty, unless otherwise prohibited by subsection 2 of section 99-01.1-05-05.

3. This rule also applies to a person who has been issued a license to be a simulcast employee under section 69.5-01-11-07.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-05-17. Immediate family and common household members restricted from playing pull tabs, twenty-one, and paddlewheels. A shift manager may not permit and an employee may not allow an employee's common household member, spouse, child, parent, brother, sister, or in-laws, at a site, to:

1. Play pull tabs while the employee is on duty that day as a jar operator.
2. Play twenty-one or paddlewheels at a table when the employee is dealing or is a wheel operator at that table.

For the purpose of this rule, a bar employee does not include a lessor or lessor's spouse, common household member, management, management's spouse, officers, or board of directors.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-05-18. Inside information prohibited. An employee may not provide any inside information to any person related to any game. However, if the attorney general or a local law enforcement official requests that information during an audit or investigation, an employee shall provide the information only after the attorney general or a local law enforcement official provides proper identification.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-01, 53-06.1-17

99-01.1-05-19. Waiver of rules. The attorney general may waive a gaming rule when the attorney general considers it necessary for the interest of the public, organization, distributor, distributor's manufacturer, manufacturer, or alcoholic beverage establishment.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-05-20. Acknowledgment of the gaming laws and rules.

1. An employee of an organization or distributor shall read the provisions of the gaming law and rules that relate to the person's job duties. The organization and distributor are primarily responsible for designating which provisions of the law and rules must be read.
2. An employee of an organization or distributor shall acknowledge in writing, within fourteen days of employment and the effective date of new gaming rules, that the person has read and understands the provisions of the gaming law and rules which relate to the person's job duties. The acknowledgment must be dated and indicate the particular provisions of the gaming law and rules that the person has read, and be part of an organization's and distributor's personnel file.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-05-21. Return and disposal of games.

1. If an organization permanently discontinues conducting games, it shall return its unplayed games to the attorney general or distributor within fourteen days after discontinuing gaming.
2. An organization shall control the disposal of played deals of pull tabs and bingo cards, club specials, coin boards, tip boards, seal boards, and punchboards when a retention period expires. The manner of disposal must assure complete destruction such as shredding, burying, or burning.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-05-22. Independent contractor and interorganization functions restricted.

1. Except for a twenty-one or paddlewheels drop box cash count by a licensed and bonded provider of security or security agency, accountant providing bookkeeping services, or as provided by subsection 3, an organization may not employ an independent contractor for conducting games. Only an organization member, employee, or a member of a bona fide auxiliary may conduct games. An organization may employ, on a temporary basis, a person to serve in an advisory capacity only. This person may not manage, control, or conduct games.

2. Except between organizations that are closely connected, an organization may not perform these gaming functions for another organization:
 - a. Withdraw currency from a pull tab device, add pull tabs to a device, or record accounting meters of a device.
 - b. Reimburse an employee for expenses.
 - c. Directly manage or control a gaming operation, including personnel recruitment and termination, site procurement, public relations, applying for work permits, and ensuring compliance with the gaming law and rules.
 - d. Procure gaming equipment and supplies.
 - e. Take a cash bank deposit to a financial institution.
 - f. Maintain custody of a bank account or disburse funds.
 - g. Select eligible use recipients.
 - h. Store unplayed games and inventory control.
 - i. Perform general written correspondence.
3. An organization may perform these gaming functions for another organization:
 - a. Summarize or audit a closed game.
 - b. Prepare budgets, financial statements, tax returns, and government payroll reports.
 - c. Process payroll checks.
 - d. Reconcile bank statements.
 - e. Perform bookkeeping services, including accounts receivable and accounts payable functions.
 - f. Do home office and onsite service repair and store a dispensing device.
 - g. Train personnel.
 - h. Take a locked bank bag to a financial institution.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-06, 53-06.1-17

99-01.1-05-23. Required orientation.

1. An organization shall request, within ninety days of the commencement of conducting games, orientation from the attorney general. The orientation must include the gaming law and rules, recordkeeping systems, internal control, and gaming tax return. The person responsible for recordkeeping must participate.
2. A bookkeeper who has not previously received training from the attorney general and who is responsible for complying with the recordkeeping requirements of the gaming law and rules, shall request, within ninety days of when the bookkeeper's employment began, orientation from the attorney general. The orientation must include the gaming law and rules, recordkeeping systems, internal control, and tax return.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

**CHAPTER 99-01.1-06
GENERAL ACCOUNTING RULES**

Section

99-01.1-06-01	Accounting Records
99-01.1-06-02	System of Internal Control
99-01.1-06-03	Internal Control Objectives
99-01.1-06-04	General Gaming Bank Account
99-01.1-06-05	Charitable Gaming Trust Fund Bank Account
99-01.1-06-06	Method of Accounting
99-01.1-06-07	Restrictions and Requirements
99-01.1-06-08	Reconciliation of Net Proceeds and Trust Fund Carryover
99-01.1-06-09	Signature
99-01.1-06-10	Independent Financial and Compliance Audit
99-01.1-06-11	Documenting Cash, Chips, and Cash Transfers
99-01.1-06-12	Prize Register
99-01.1-06-13	Record of Win
99-01.1-06-14	Falsifying a Record of Win
99-01.1-06-15	Inventory Control Records of Games and Chips and Reconciliation
99-01.1-06-16	Bank Deposit and Verification
99-01.1-06-17	Summarization and Audit

99-01.1-06-01. Accounting records. An organization shall maintain complete, accurate, and legible general and subsidiary accounting records in North Dakota. The records must be retained for three years from the end of the quarter in which the gaming activity occurred.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

99-01.1-06-02. System of internal control. Before the commencement of gaming activity, a governing board of an organization shall establish a written system of internal control. An organization may not permit any person to review this system, except for the attorney general, law enforcement officials, organization-authorized employees, and a person serving in an advisory capacity.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

99-01.1-06-03. Internal control objectives.

1. A system of accounting control must describe procedures and records that provide reasonable assurance that these general objectives will be attained:
 - a. Transactions are executed as authorized by management.
 - b. Gaming activity is properly recorded.
 - c. Access to cash, games, and other assets is permitted as authorized by management.
 - d. Assets recorded on records are periodically compared to actual assets and any differences are resolved.
2. A system of administrative control must describe the interrelationship of employee functions and division of responsibilities upon which the system is based.
3. If the attorney general determines that a system of internal control is inadequate, the attorney general shall notify the organization in writing. An organization shall remedy the inadequacy. The attorney general shall provide general guidelines for the organization's use in developing an internal control system.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-06-04. General gaming bank account.

1. An organization shall maintain one general gaming bank account at a financial institution, located within North Dakota. This account may be used for payment of expenses. An organization may transfer funds to the organization's general operating account from which expenses may be paid. A general operating account must be at a financial institution located within North Dakota.
2. Interest earned is other income. A service fee is an expense.
3. Except as provided by subsection 2 of section 99-01.1-06-08 (bank account negative imbalances), subsection 1 of section 99-01.1-09-08 (raffle nongaming activity), and subdivision i of subsection 8 of section 99-01.1-17-03 (bingo dauber receipts), an organization may not deposit nongaming funds into the general gaming bank account.
4. An organization shall maintain a general gaming bank account for the transfer of net proceeds directly to the charitable

gaming trust fund bank account. This transfer must be made by the last day of the quarter following the quarter in which the net proceeds were earned. For purposes of this rule, net proceeds is calculated as adjusted gross proceeds, less gaming and excise taxes, and less the greater of the actual gaming or allowable expenses.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-11, 53-06.1-17

99-01.1-06-05. Charitable gaming trust fund bank account.

1. Unless an organization conducts games for a special occasion which lasts no more than seven consecutive calendar days, an organization shall maintain one separate charitable gaming trust fund bank account at a financial institution, located within North Dakota. Except to reimburse this account for a negative imbalance, this account must receive only transfers from a general gaming bank account and net proceeds received from another licensed organization. Except for a supplemental bank account, this account is used to disburse net proceeds to eligible uses. The funds of this account may not be used for any other purpose. A transfer of net proceeds to or from a savings account or investment in a marketable security is not a devotion of net proceeds.
2. A class A organization may establish one supplemental bank account for one or more predesignated purposes to which net proceeds may be transferred directly from the charitable gaming trust fund bank account. A supplemental bank account may only be used to receive and temporarily hold net proceeds pending the devotion to the ultimate eligible use. The ultimate use must be reported on the tax return. A class A organization shall devote its net proceeds to eligible uses by the last day of the quarter following the quarter in which the net proceeds were earned. If an extension is requested, in writing, of the attorney general and it is granted based on reasonable cause, the devotion of net proceeds may be extended.
3. A class B organization is not subject to any time limitations for devoting net proceeds to eligible uses if the organization reapplies for a license to conduct games before July first of each year or does not relinquish the license. Otherwise, the devotion must occur within ninety days of the expiration or relinquishment of the license unless an extension is requested, in writing, of the attorney general and an extension is granted based on reasonable cause.
4. Except for applying subsection 1 and transfers to a supplemental bank account, an organization may not transfer

funds from the account to the organization's general operating account or any other bank account. A disbursement must be payable to the ultimate use - an organization, person, or vendor. However, if compensation that qualifies as an eligible use is paid from an organization's general operating account, the organization may transfer funds to its general operating account. This transfer must be documented by a supporting schedule.

5. An organization may not deduct an actual loss on an investment of net proceeds in a marketable security on the tax return.
6. Interest earned and actual gains on an investment of net proceeds in a marketable security are to be devoted to an eligible use.
7. A service fee is an adjustment to the account's balance.
8. If a licensed organization receives net proceeds from another licensed organization, the recipient organization shall deposit the net proceeds directly into its charitable gaming trust fund bank account and make a proper adjustment on the tax return.
9. If an organization purchases a qualifying item of video surveillance equipment referenced by subsection 2 of section 99-01.1-12-07 with net proceeds and subsequently sells or rents the item, the organization shall deposit the gross receipts or rental income directly into its charitable gaming trust fund bank account and make a proper adjustment on the tax return.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-06, 53-06.1-11, 53-06.1-17

99-01.1-06-06. Method of accounting.

1. An organization shall determine its gross proceeds and prizes on the following basis:
 - a. Cash basis - bingo (including sales of gift certificates), pull tabs, twenty-one, poker, and series of paddlewheel ticket cards.
 - b. Accrual basis - club special, coin board, tip board, seal board, punchboard, sports pool, calcutta, and raffles.
2. An organization shall determine its expenses on either the cash or accrual basis which must be consistently applied, except:

- a. Inventory items of a punchboard, series of paddlewheel ticket cards, sports-pool board, calcutta board, deal of pull tabs and bingo cards, club special, coin board, tip board, seal board, and paper bingo cards must be determined on the accrual basis.
 - b. The gaming and excise taxes must be deducted on the accrual basis.
3. An organization that is liable for federal excise tax shall deduct the tax on the accrual basis.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-11, 53-06.1-17

99-01.1-06-07. Restrictions and requirements.

1. An organization is allowed an expense limitation according to subsection 3 of North Dakota Century Code section 53-06.1-11 and an additional expense for qualifying items of video surveillance equipment prescribed by subsection 2 of section 99-01.1-12-07. The dollar amount of the expense percentage limitation may be used for any purpose, provided the use does not violate the gaming law or rules.
2. An organization may not base any employee's compensation on a participatory percentage of actual or budgeted gross proceeds, adjusted gross proceeds, or net proceeds. The organization may pay fixed bonuses through an incentive program. An incentive program may not be limited to selected employees. Examples of authorized fixed bonuses include:
 - a. Bonus of a certain amount to employees of a site if the site's percent-of-accuracy of commingled games of pull tabs for a quarter was ninety-eight and one-half percent or greater. Percent-of-accuracy is computed as actual cash profit divided by actual adjusted gross proceeds.
 - b. Bonus of a certain amount to employees of a site if the site's actual net income for a quarter equaled or exceeded the budgeted net income. Net income is computed as gross proceeds less prizes, gaming and excise taxes, federal excise tax, and all expenses regardless of the expense percentage limitation amount.
3. An organization may not pay or reimburse, nor may a lessor accept a payment or reimbursement from an organization, for any advertising in any media done by the lessor or any other person that is related to games at a site unless the organization's share of this advertising expense is reasonably prorated to the benefit the organization receives from the

advertisement. Otherwise, it will be considered a circumvention by the organization of the rent restrictions.

4. An organization may not pay or reimburse a lessor or share in the cost, nor may a lessor accept a payment, reimbursement, or sharing of the cost from an organization, of any sign advertising related to games at a site unless the sign is owned by a person other than the lessor. Accordingly, if a lessor rents an advertising sign directly from a vendor, the organization's share of this advertising expense must be prorated to the benefit the organization receives from the advertisement. Otherwise, it will be considered a circumvention by the organization of the rent restrictions of section 99-01.1-05-08. If the lessor owns the advertising sign, through a straight purchase or lease purchase agreement, the organization may not pay any amount from any source to the lessor for the sign advertising.
5. A monetary fine and an amount of a player check returned by a bank as unpaid for any reason and which is uncollectible is an expense.
6. If a door prize is awarded as a promotion of games, the cost of the door prize is an expense. The cost of the door prize may not be deducted as a prize towards adjusted gross proceeds.
7. A net cash short is an expense and a net cash long is other income for a quarter. However, a cash short for a game that is determined by the attorney general to be defective may be a deduction toward adjusted gross proceeds.
8. Only unexchanged and unopened pull tabs may be accounted for as unsold or defective when the game is closed for reporting the game's activity on the gaming tax return. No exchanged set, in part or as a whole, may be accounted for as unsold or defective. For an unexchanged stapled set of jar tickets (for example, four jar tickets stapled as one set), no jar ticket of that set may be opened or partially opened for that stapled set, in part or as a whole, to be accounted for as unsold or defective. For an unexchanged and unstapled jar ticket, that jar ticket may not be opened or partially opened for that jar ticket to be accounted for as unsold or defective. An organization shall account for any unsold or defective jar tickets of a partial stapled set of jar tickets (set containing less than the standard number of jar tickets stapled as one set) and any single unsold or defective jar ticket at a proportional selling price of a stapled set of jar tickets. For example, if the standard number of jar tickets in a stapled set is four and that set sells for one dollar, a single unsold or defective jar ticket is to be accounted for as twenty-five cents.

9. If an organization exchanges foreign currency into United States of America currency, any loss incurred on the exchange rate between the organization's value of the foreign currency to a player and the bank's value of that foreign currency when it is exchanged is an expense.
10. An organization that has been issued a license for a fiscal year and has not had its license suspended or revoked shall file a tax return each quarter even if the organization was inactive during a quarter. If an organization is not required to file a tax return due to a nonrenewal or relinquishment of license, or license suspension or revocation, the organization shall file a record of eligible use contributions each quarter until all the net proceeds is devoted.
11. The attorney general shall consider these criteria for determining whether a theft of gaming funds can be deducted toward adjusted gross proceeds on the tax return:
 - a. Immediately reporting a theft to the attorney general or a local law enforcement agency.
 - b. Existence of bonding or theft insurance.
 - c. Documentation to substantiate the theft amount.
 - d. Except for an armed robbery, the security of the gaming cash.
 - e. Having a written system of internal control that complies with section 99-01.1-06-03.
 - f. An unusual, infrequent, and extraordinary occurrence regarding a pull tab or bingo card dispensing device.
12. If an organization rents gaming equipment to another organization, the rental income is nongaming income and is not reported on the tax return.
13. If an employee needs to replenish or increase a cash bank and there is no cash on hand, the employee shall:
 - a. Execute a cash withdrawal from the general gaming bank account; or
 - b. Record a player's check and the amount of cash which is to be withdrawn on a deposit slip of the general gaming bank account. The employee shall sign and date the deposit slip. The deposit slip must be validated. An employee may not cash a player's check for cash at a financial institution unless the player's check is properly recorded on a deposit slip.

14. If an organization enters into a long-term lease on a building at which bingo is the primary game conducted and the organization subsequently discontinues operating at the site, any continuing costs of the lease are an expense.
15. All accounting records must be completed with a nonerasable ink pen.
16. A fee charged players for entry into a twenty-one or poker tournament, less the cost of a prize awarded, must be reported on the tax return. The amount reported for twenty-one is other income. The amount reported for poker is gross proceeds and adjusted gross proceeds.
17. Noncash prizes are valued at actual cost to an organization. A donated merchandise prize and a gift certificate for a bingo card or package awarded as a prize are valued at zero for computing prizes on the tax return.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-01, 53-06.1-06, 53-06.1-11, 53-06.1-17

99-01.1-06-08. Reconciliation of net proceeds and trust fund carryover.

1. To identify any negative imbalance, an organization shall annually reconcile its general gaming bank account check register balance to its net proceeds carryover and its charitable gaming trust fund bank account check register balance to its trust fund carryover. The reconciliations must be filed with the tax return for the quarter ended June thirtieth.
2. Any negative imbalance determined under subsection 1 must be deposited in the respective general gaming bank account or charitable gaming trust fund bank account by July thirty-first or when specified by the attorney general. The source of the deposit must be nongaming funds. The organization is responsible for any negative imbalance. The organization shall provide the attorney general with evidence documenting the reimbursement.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-06-09. Signature.

1. An organization's governing board member or top official shall sign the tax return as an attestation that the return

accurately represents the organization's gaming activity. No rubber stamp signature may be used.

2. The signature, last name, or initials of a person on a gaming record or report attests that to the person's best knowledge the information on the record or report is true and correct. If a person knowingly signs a false record or report, it is a class A misdemeanor.
3. A person's signature, last name, or initials must be legible, identifiable, or recognizable.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-16, 53-06.1-17

99-01.1-06-10. Independent financial and compliance audit. An organization that has total adjusted gross proceeds that exceeds four hundred thousand dollars for the organization's regular fiscal or calendar year shall have an independent financial and compliance audit conducted of its gaming operation. The audit must be conducted in conformity with generally accepted auditing standards of the American institute of certified public accountants. The organization shall provide a copy of the audit report to the attorney general within fourteen days of when the organization receives the final audit report from the auditor. The audit must meet objectives prescribed by the attorney general. This rule applies to the organization's first fiscal or calendar year beginning after June 30, 1992.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-06-11. Documenting cash, chips, and cash transfers.

1. An organization shall document each game's daily starting and ending cash on hand and twenty-one and paddlewheel chip bank at a site. Unless there is only one employee on duty, the count of the cash on hand and chip bank must be verified by two persons. The count for twenty-one and paddlewheels must be recorded by each value of currency and chip by independently counting the cash on hand and chip bank in the presence of the other person. When both persons agree with the count of the cash and chip bank, each person shall sign the person's last name and date the accounting record for the cash bank and chip bank separately. A twenty-one and paddlewheel cash bank and chip bank may be combined.
2. When the custody of a cash balance, including cash on hand, a central cash bank, and bank deposit funds, is personally transferred between shifts and similar situations, both

persons shall document the transfer by recording the amount, on a record of cash transfer, including the source and destination of the cash. The person transferring the cash shall independently count the cash in the presence of the person receiving the cash. When both persons agree with the count of the cash, each person shall sign the record with the person's last name and date it.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

99-01.1-06-12. Prize register. For a bingo session, raffle drawing, and sports-pool board, an employee shall record a prize when it is issued to a player by legibly printing, in ink, this information on a prize register:

1. Name of the site.
2. Game type:
 - a. Bingo - Date of the session and game number.
 - b. Raffles - Date of the drawing and winning ticket number.
 - c. Sports pools - Date of the sports event, winning score, gaming stamp number, and game serial number.
3. Amount of a cash prize or a description and cost of a merchandise prize.
4. Name and address of the player. If a record of win is made for a cash prize or a cash prize is twenty dollars or less, the player's address is not necessary.
5. Total amount of cash and merchandise prizes awarded.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

99-01.1-06-13. Record of win.

1. The attorney general may require an organization to make a record of win of any cash prize amount. The record must be completed for the total cash prize even if a player intends to split the cash prize with another player, and must be a sequentially numbered check drawn from the general gaming bank account or a mechanically or electronically sequentially numbered receipt. A bar employee or an employee shall legibly

print, in ink, this information on the face of a check or receipt:

a. Name of the site.

b. Game type and, by game type:

- (1) Bingo (excluding a dispensing device) - Date of the session, game number, cash prize amount, and date of prize payout if different from the date of the session.
- (2) Bingo (involving a dispensing device) - Name of the game, cash prize amount, date of activity, and game serial number.
- (3) Raffles - Date of the drawing, winning ticket number, cash prize amount, and date of prize payout if different from the date of the drawing.
- (4) Pull tabs, punchboards, club special, tip board, seal board, and coin board - Name of the game, cash prize amount, date of activity, gaming stamp number, and game serial number.
- (5) Sports pools - Date of the sports event, cash prize amount, date of the prize payout, gaming stamp number, and game serial number.
- (6) Calcuttas - Date of the sports event, cash prize amount, date of the prize payout, gaming stamp number, and game serial number.
- (7) Paddlewheels - Name of the game, date of activity, prize payoff amount (in the form of chips), gaming stamp number, and game serial number.

c. If a player is personally known by a bar employee or an employee, the player's full name and driver's license number, including state of license registration.

d. If a player is not personally known by a bar employee or an employee, the player's full name, address, and driver's license number, including state of license registration. This information must be recorded from a player's pictured driver's license, tribal identification, government identification, or military identification. If a player does not have a proper pictured identification, a bar employee or an employee shall record the player's full name and address from two other forms of identification. A bar employee or an employee may not pay out a prize unless the player has provided all required information. If a player does not have the required information, a bar

employee or an employee shall mail the cash prize to the player.

- e. Signature of a bar employee or an employee.
2. After a record of win is completed, a player shall sign and date it. However, this rule does not apply to a bingo or raffle prize mailed to a player.
3. Unless a prize is for a last sale prize feature, a bar employee or an employee shall legibly print, in ink, the check or receipt number on a pull tab, punchboard punch, or a bingo card involving a dispensing device.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-11, 53-06.1-17

99-01.1-06-14. Falsifying a record of win.

1. A bar employee, employee, or player may not falsify a record of win. A bar employee or employee may not willfully or deliberately disregard the procedure for completing a record of win and intentionally or unintentionally through negligence falsify or permit a player to falsify the record of win when the exercise of reasonable care by the bar employee or employee would have prevented or detected the player's falsification, including a player's conspiracy with another person to have the other person claim the cash prize. A player may not knowingly or willfully provide or conspire with another person to provide false player identification information. A player who has actually won a cash prize may not have any other person claim the prize.
2. If a bar employee or employee determines that a player has falsified, attempted to falsify, or conspired with another person to falsify the record of win, the bar employee and employee shall deny the player the cash prize and notify the attorney general or local law enforcement agency.
3. An organization shall post a legible notice in a location at a site to notify persons of the prohibition against attempts to falsify or falsifying a record of win and warn of the consequences.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-06-15. Inventory control records of games and chips and reconciliation.

1. An organization shall maintain inventory control records of paper bingo cards, and all deals and games that have a state gaming stamp affixed to their flares. The records must include the sales invoice number and date, date received, dates of issuance to and from a site, site name, period played, quarter tax return on which reported, and date and method of disposal for each deal and game, by gaming stamp number and game serial number. Unless an organization has only one site that is the location of its home office, it shall maintain inventory control records at each site and the records must include, for each deal and game, the dates received from and returned to the home office, by gaming stamp number and game serial number.
2. An organization shall maintain a twenty-one and paddlewheel chip master and site inventory control logs to record additions and reductions of chip inventories at the home office and at a site. The logs must record the dates chips are added to and withdrawn from a home office and site chip inventory, by value of chip.
3. An organization shall each quarter reconcile (compare) its inventory control records of paper bingo cards, and all deals and games that have a state gaming stamp affixed to their flares that are recorded as being in play and in inventory as unplayed to these items that are actually in play and in inventory as unplayed. A person shall inspect and count the items that are actually in play and in inventory as unplayed, compare this count to the inventory control records, and resolve any difference. The inspection and count must be performed by a person other than the person who is primarily responsible for safeguarding the physical inventory of items.
4. The organization shall each quarter reconcile (compare) its inventory of twenty-one and paddlewheel chips that are recorded as being at the home office and site to the chips that are actually in inventory at the home office and site. The organization shall count the actual chips in inventory at the home office and site, compare this count to the inventory control log, resolve any difference, and document the reconciliation in writing. The physical count must be performed by a person other than the person who is primarily responsible for safeguarding the physical inventory of chips. The organization may use the same master and site inventory control logs for paddlewheel and twenty-one chips.
5. The reconciliations must be documented and include:
 - a. Name, job position, and signature of the person who performed the reconciliation.

- b. Date the reconciliations are conducted.
- c. Procedure employed.
- d. Result and corrective action taken.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

99-01.1-06-16. Bank deposit and verification.

1. The amount must be deposited in the general gaming bank account by the third banking day following the day of a bingo session; raffle drawing; club special, coin board, tip board, seal board, or punchboard is removed from play; sports-pool event; calcutta auction pool prize payout; poker occasion; day's or interim period's pull tab, twenty-one or paddlewheel activity; or closed bingo prize flare involving a dispensing device. If a bank deposit record is prepared and an employee is not scheduled to immediately deposit the funds, the person shall secure the funds in a safe storage area.
2. For a day's or interim period's pull tab activity, bingo session, raffle drawing, poker occasion, twenty-one and paddlewheel activity, and bingo prize flare involving a dispensing device, a validated bank deposit slip or receipt must reference a site, name of the game, date of gaming activity, and deposit amount.
3. For a club special, coin board, tip board, seal board, punchboard, sports-pool board, and calcutta board, a deposit slip or receipt must reference a site, name of the game, date removed from play, deposit amount, and gaming stamp number.
4. If an organization prepares a deposit slip for more than one gaming activity, it shall prepare a supporting schedule that lists, by each game activity, the information required to be referenced on the validated bank deposit slip or receipt. The total of the deposit amounts listed on a supporting schedule must reconcile to the validated bank deposit slip or receipt amount.
5. A validated bank deposit slip or receipt and any supporting schedule must be included with the accounting records of each game activity.
6. An employee who did not have access to the cash to be deposited shall verify that the amount recorded to be deposited was actually deposited. The verification must be done within a reasonable time and be acknowledged by the

person signing the accounting record with the person's last name and date of signing.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

99-01.1-06-17. Summarization and audit. Unless a closed club special, coin board, tip board, seal board, punchboard, sports-pool board, calcutta board, game of pull tabs, and game of bingo involving a dispensing device is summarized by a person who did not directly conduct the particular gaming activity on a site, the summarization must be audited by a person who is independent of the person who summarized the activity. A person who summarizes or audits a closed game shall verify the actual number and value of unsold chances; actual number and value of redeemed prizes; actual value of credit redemption slips; and actual cash profit. If there is a variance between a summarization and audit, the person who audited the activity shall notify the appropriate organization representative.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

**CHAPTER 99-01.1-07
WORK PERMITS**

Section	
99-01.1-07-01	Work Permit
99-01.1-07-02	Exemptions
99-01.1-07-03	Qualifications
99-01.1-07-04	Application
99-01.1-07-05	Work Permit Issuance
99-01.1-07-06	Local Work Permit
99-01.1-07-07	Temporary Work Permit
99-01.1-07-08	Duty to Disclose Information and Cooperate and Confidentiality of Information
99-01.1-07-09	Fees
99-01.1-07-10	Display of a Work Permit
99-01.1-07-11	Notification of Involuntary Separation of Employment, Change of Address, and Lost or Destroyed Work Permit
99-01.1-07-12	Denial, Suspension, or Revocation

99-01.1-07-01. Work permit.

1. Except as exempted by section 99-01.1-07-02 or unless a person has a temporary work permit, a person may not be employed as an employee for a licensed organization until the person has been issued a state work permit, and, if required by a city or county governing body, a local work permit. A work permit is valid for more than one organization and any site in North Dakota. A work permit is nontransferable.
2. For the purpose of this chapter, the definition of an employee is:
 - a. A permanent or temporary employee of an organization who, directly or indirectly, operates games on a site.
 - b. A person who is a shift or gaming manager who controls or manages a gaming operation.
 - c. A person who oversees a pull tab or bingo card dispensing device, including placing a deal of pull tabs or bingo cards in a device, withdrawing currency, or reimbursing an alcoholic beverage establishment for redeemed winning pull tabs or bingo cards.
 - d. A person who participates in the count of drop box cash.
3. Unless a work permit expires, is suspended or revoked, or is issued before July 1, 1994, a work permit is valid for up to three and one-half years. If a work permit is issued after June 30, 1994, the work permit will expire on a person's

birthday of the third year following the year it was issued. However, a simulcast, and the simulcast portion of a gaming and simulcast work permit, are valid only for up to one year and expire on December thirty-first of the year they are issued. An employee shall destroy a work permit when it expires.

4. A work permit supersedes an employee's identification tag required by section 99-01.1-05-12.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-06.1, 53-06.1-17

99-01.1-07-02. Exemptions. These persons do not need a work permit:

1. A volunteer.
2. A person who is involved only in conducting a raffle or sports pool.
3. A person employed by an organization that conducts games on no more than seven days during a calendar year.
4. A person who is sixteen or seventeen years of age.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-06.1, 53-06.1-17

99-01.1-07-03. Qualifications.

1. An applicant must be twenty-one years of age unless the applicant is hired only for the conduct of bingo at a site where the primary game is bingo and no alcoholic drink is served or consumed.
2. An applicant must be a United States citizen or eligible to work in the United States.
3. An applicant who has pled guilty or been convicted of a felony criminal offense, or been released from parole, incarceration, or probation due to a felony offense, may not be issued a work permit within five years from the date of the conviction, release from parole, incarceration, or probation, whichever is the latter. If the felony conviction is for a crime that has a direct bearing on the applicant's fitness to be involved in gaming, the attorney general may deny a work permit for longer than five years.

4. An applicant who has pled guilty or been convicted of an offense contained in North Dakota Century Code chapters 12.1-06 (criminal attempt, facilitation, solicitation, or conspiracy), 12.1-08 (obstruction of law enforcement or escape), 12.1-09 (tampering and unlawful influence), 12.1-10 (contempt or obstruction of judicial proceedings), 12.1-11 (perjury, falsification, or breach of duty), 12.1-12 (bribery or unlawful influence of public servants), 12.1-17 (assaults, threats, coercion, harassment), 12.1-22 (robbery or breaking and entering offenses), 12.1-23 (theft and related offenses), 12.1-24 (forgery and counterfeiting), 12.1-28 (gambling and related offenses), 12.1-31.1 (drug paraphernalia), 19-03.1 (Uniform Controlled Substances Act) except for possession of less than one gram of marijuana, 53-06.1 (games of chance), 53-06.2 (parimutuel horse racing), section 6-08-16 (insufficient funds), and section 6-08-16.2 (no account checks), or who has committed a similar offense or violation in another state, or who has committed any other offense or violation that has or would have a direct bearing on the applicant's fitness to be involved in gaming, may not be issued a work permit within two years from the date of the conviction, unless the person is released from parole or incarceration, or has completed a deferred imposition of sentence, deferred prosecution, suspended sentence, or probation, whichever is the latter unless the attorney general determines that the person is sufficiently rehabilitated according to subsection 2 of North Dakota Century Code section 12.1-33-02.1.
5. An applicant who has participated in organized crime or unlawful gambling may not be issued a work permit for a period determined by the attorney general.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-06, 53-06.1-06.1, 53-06.1-17

99-01.1-07-04. Application.

1. A person first applying for a work permit must be employed or have a written promise of employment by an organization. An applicant shall obtain the signature and date of an authorized representative of the employing organization.
2. An application must be on a form prescribed by the attorney general.
3. The attorney general may require fingerprinting of any applicant.
4. An application for a work permit authorizes the attorney general to investigate the applicant's general character,

integrity, reputation, honesty, habits, associations, criminal record, and ability to participate or engage in, or be associated with, gaming. The applicant shall provide proof of the qualifications described in the application.

5. The fee required by section 99-01.1-07-09 must be remitted with the application. If a check submitted by an applicant in payment of the required fee is returned by a financial institution due to insufficient funds as defined by subsection 1 of North Dakota Century Code section 6-08-16, the applicant's work permit must be denied. An applicant may not reapply for six months from the date of the denial.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-06.1, 53-06.1-17

99-01.1-07-05. Work permit issuance.

1. If an applicant qualifies for a work permit, the attorney general shall provide an applicant with a work permit data card. An applicant shall present the data card at a North Dakota department of transportation driver's license and traffic safety division photo site to have two photographs taken. The department of transportation shall affix one photograph to a facsimile of the data card (work permit), laminate the work permit, provide the work permit to the applicant, and transmit the second photograph along with the original data card to the attorney general.
2. To validate a simulcast, and the simulcast portion of a simulcast and gaming work permit, the North Dakota racing commission shall provide a simulcast employee license sticker to an applicant. The applicant shall affix the sticker to the back side of a laminated work permit.
3. An applicant may not mark, deface, modify, or tamper with an issued data card or a state work permit.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-06.1, 53-06.1-17

99-01.1-07-06. Local work permit.

1. A city or county governing body may require a person to obtain a local work permit.
2. Unless a person is exempted by section 99-01.1-07-02, no local work permit may be issued by a city or county governing body until the person first has a validated temporary work permit or has been issued a state work permit.
3. A person who desires to work in a city or county that requires a local work permit shall obtain the local work permit before working in the city or county.
4. A city or county governing body may require certain qualifications of an applicant for a local work permit in addition to the qualifications in section 99-01.1-07-03.
5. A local work permit is nontransferable.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-06.1, 53-06.1-17

99-01.1-07-07. Temporary work permit.

1. A person may obtain a temporary work permit before being first issued a work permit provided the person:
 - a. Completes an application for a work permit.
 - b. Obtains the signature and date on the temporary work permit of an authorized representative of an employing organization.
 - c. Submits a work permit application and copy of a temporary work permit to the attorney general.
2. An organization shall:
 - a. Validate a temporary work permit by signing and dating it.
 - b. Notify the attorney general immediately upon issuing a temporary work permit. A notification must include:
 - (1) Temporary work permit number.
 - (2) Employee's name, address, date of birth, and social security number.
 - (3) Name of organization and license number.

(4) Reason for issuing a temporary work permit.

- c. Assure that an employee submits a work permit application, application fee, fingerprint card (if required), and a copy of a temporary work permit to the attorney general within seven days of receiving the temporary work permit.
3. The attorney general shall provide temporary work permit forms.
4. A temporary work permit is valid for sixty calendar days, unless the temporary work permit is revoked or until the holder of the temporary work permit receives a work permit from the attorney general, whichever occurs first. A temporary work permit is renewable.
5. A temporary work permit must be surrendered by an employee on demand by the attorney general or a local law enforcement official. A temporary work permit may be revoked on demand by the attorney general or local law enforcement official who shall provide a reason, in writing, to an employee and provide the employee an opportunity to refute.
6. A city or county that has a local work permit system may honor a temporary work permit at the city's or county's discretion.
7. If a person has a gaming work permit or simulcast work permit and desires to have both types of permits, the person shall comply with this section to obtain a temporary work permit for both types.
8. An applicant may not mark, deface, modify, or tamper with a temporary work permit.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-06.1, 53-06.1-17

99-01.1-07-08. Duty to disclose information and cooperate and confidentiality of information.

1. If an organization or applicant fails to provide documentation, assurances, consents, waivers, photographs, fingerprint impressions, or any other information requested, or to pay a required fee, it is a basis for denying, suspending, or revoking an applicant's work permit or temporary work permit. An applicant may not reapply for six months from the date of a denial.
2. The attorney general may provide an organization or Indian tribe that proves it is a potential employer of a person, a copy of a notification letter, if any, that the attorney

general sent that person about a denial, suspension, or revocation of a work permit.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-06.1, 53-06.1-17

99-01.1-07-09. Fees.

1. The fee for an initial application and reapplication of a gaming work permit, and a reapplication of a gaming and simulcast work permit, is twenty-five dollars. The fee for an initial application of a gaming and simulcast work permit is thirty-five dollars. The fee for a change of type of work permit, change of employee name, and replacement of a lost or destroyed work permit or data card is ten dollars.
2. The fee includes the cost of photographs. No fee may be prorated or be refunded due to withdrawal, denial, suspension, or revocation of an initial application, reapplication, or work permit.
3. A local law enforcement agency may charge a fee for taking fingerprint impressions.
4. In addition to the fees referenced by subsection 1, the attorney general may require an applicant to pay an additional fee necessary to defray the actual cost of a background investigation when adequate background information sources are not readily available. The attorney general may require an applicant to pay the estimated additional fee in advance of an investigation.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-06.1, 53-06.1-17

99-01.1-07-10. Display of a work permit.

1. An employee shall wear a work permit while on duty at a site. An employee taking a temporary break is still considered on duty. The work permit must be worn on the upper one-third of the employee's body and be visible to the general public.
2. If an employee has a temporary work permit but has not been issued a work permit, the person shall display the temporary work permit according to subsection 1. An organization shares

the responsibility that its employee wear a work permit or temporary work permit as required.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-06.1, 53-06.1-17

99-01.1-07-11. Notification of involuntary separation of employment, change of address, and lost or destroyed work permit.

1. Immediately following an employee's involuntary separation of employment, an organization shall notify the attorney general on a form prescribed by the attorney general and provide a general reason for the separation.
2. An employee who has a change of address shall notify the attorney general in writing within fourteen days of the address change.
3. If a work permit is lost or destroyed, an employee shall immediately give notice of the loss or destruction in writing to the attorney general and apply for a replacement. If an employee desires to work or continue working for an organization, the employee shall obtain a temporary work permit.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-06.1, 53-06.1-17

99-01.1-07-12. Denial, suspension, or revocation.

1. The attorney general may deny, suspend, or revoke a work permit if a person:
 - a. Supplied false or misleading information.
 - b. Obtained a work permit by fraud, trick, misrepresentation, or concealment.
 - c. Is disqualified due to subsection 3, 4, or 5 of section 99-01.1-07-03, or due to criteria contained in the gaming law or a violation of this article.
2. If the attorney general seeks to suspend or revoke a work permit, the attorney general shall mail a complaint to an employee at the last known address. A complaint must state the reason for the pending suspension or revocation. An employee may provide an explanation in writing refuting the complaint or apply for a hearing within twenty days following receipt of the complaint. If the attorney general determines

there is a reasonable basis that the reasons in the complaint are true and support a suspension or revocation, the attorney general shall notify the employee of the determination. A hearing must be at a time and location determined by the attorney general as prescribed by North Dakota Century Code chapter 28-32.

3. When an application for a work permit is denied, or a work permit is suspended or revoked, the notice of the denial, suspension, or revocation must include a statement of the facts upon which the attorney general based the decision. A person whose application for a work permit has been denied may apply for a hearing within twenty days following receipt of the notice of the denial. A hearing must be at a time and location determined by the attorney general as prescribed by North Dakota Century Code chapter 28-32.
4. If a work permit is suspended or revoked, an employee shall surrender it based on written notification, on demand by the attorney general or a local law enforcement official, or pursuant to an emergency order. If an organization has recovered an employee's suspended or revoked work permit, the organization shall immediately provide the work permit to the attorney general. Failure by an employee to immediately surrender a work permit may result in a delay in issuance, reissuance, denial, or revocation of a current or future work permit.
5. A person whose application for a work permit has been denied, or whose work permit has been suspended or revoked within the last two years may not be a volunteer for an organization unless written permission is obtained from the attorney general.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-06.1, 53-06.1-17

CHAPTER 99-01.1-08
BINGO

Section	
99-01.1-08-01	Bingo
99-01.1-08-02	Bingo Equipment
99-01.1-08-03	Conduct and Play
99-01.1-08-04	Receipting Methods
99-01.1-08-05	Cash Register Receipts
99-01.1-08-06	Ticket Receipts
99-01.1-08-07	Paper Bingo Cards
99-01.1-08-08	Floorworker Sales Report
99-01.1-08-09	Recordkeeping System

99-01.1-08-01. Bingo.

1. This chapter applies to an organization that conducts bingo not involving a bingo card dispensing device.
2. "Bingo" is when a player buys a card and covers squares as a bingo caller announces the letter and or number. The winner of a game is the player who properly covers a predetermined pattern of squares. A pattern may not be a certain number of randomly positioned squares (i.e., keno) selected by a player or organization. An organization shall post a notice on a site containing its policies on sharing a prize regarding multiple winners on identically priced or differently priced bingo cards. The policies must include the following except that an organization may award a minimum prize:
 - a. If a prize is cash and all the winners bingo on identically priced bingo cards, the cash prize must be divided equally between the winners. An organization may round fractional dollars to the lowest or highest dollar.
 - b. If a prize is cash and the winners bingo on differently priced bingo cards, an organization shall do one of these:
 - (1) Award each winner of each differently priced bingo card the designated prize for that card. For example, if two players bingo on regular cards with a designated prize of sixty dollars and one player bingos on a premium card with a designated prize of one hundred twenty dollars, the organization shall award sixty dollars to each of the two players who bingo on regular cards and award one hundred twenty dollars to the player who bingos on the premium card.
 - (2) Award each winner of each differently priced bingo card an equal share of the designated cash prize for that card. For example, if two players bingo on

regular cards with a designated prize of sixty dollars and one player bingos on a premium card with a designated prize of one hundred twenty dollars, the organization shall award thirty dollars to each of the two players who bingo on regular cards and award one hundred twenty dollars to the player who bingos on the premium card.

- (3) Award each winner of each differently priced bingo card a proportional part of the designated prize for that card. The proportional part is the ratio that each winner is in relation to the total number of winners. To illustrate, if three players bingo on differently priced cards, each player is to be awarded one-third of the designated prize for that player's card. For example, if two players bingo on regular cards with a prize of sixty dollars and one player bingos on a premium card with a prize of one hundred twenty dollars, the organization shall award twenty dollars (sixty dollars divided by three) to each of the two players who bingo on regular cards and award forty dollars (one hundred twenty dollars divided by three) to the player who bingos on the premium card.

c. If a prize is merchandise and it cannot be divided, an organization shall do one of these:

- (1) Award each winner a substitute merchandise prize which must be of equal value to each other and as a whole equal the current retail price of the original prize. A merchandise prize may be redeemable or convertible into cash at an organization's discretion.
- (2) Award a certain cash split amount that must be disclosed in the bingo program and announced before the bingo session.
- (3) Conduct a playoff game between the winners if it is disclosed in the bingo program and announced before the session.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-06, 53-06.1-07, 53-06.1-17

99-01.1-08-02. Bingo equipment. An organization shall use this bingo equipment:

1. A blower machine or other device from which balls are withdrawn or an electronic random number generator.
2. If a random number generator is not used, a set of either seventy-five or ninety balls bearing the letters and numbers corresponding to the bingo cards in play. The balls must be available for inspection by the player before a bingo session begins. The balls must be equal in size, weight, shape, and balance and all other characteristics that may control their selection, must not be defective, and must be in the receptacle before each game is begun.
3. Bingo hard cards and paper bingo cards, including paper cards that enable a player to select and print numbers on a blank card, may be used. A blank card may be used if these requirements are met:
 - a. A card must be a two-part carbonless card and have a control number.
 - b. A card must have twenty-five blank squares arranged in five vertical and five horizontal rows. The letters B, I, N, G, and O must be preprinted above the five vertical columns.
 - c. A player shall print one number in each square; however, the middle square may be a free space. The numbers printed must correspond with the letters and numbers of the bingo balls, as follows:
 - (1) Numbers one through fifteen in the "B" column.
 - (2) Numbers sixteen through thirty in the "I" column.
 - (3) Numbers thirty-one through forty-five in the "N" column.
 - (4) Numbers forty-six through sixty in the "G" column.
 - (5) Numbers sixty-one through seventy-five in the "O" column.
 - d. A player shall print numbers legibly using a ballpoint pen.
 - e. A number cannot be repeated on a card.
 - f. After a card is completed, a player shall provide an employee with the card before the start of the game. An employee shall validate the original and duplicate parts

of the card, retain the original part, and return the duplicate part to the player to play.

- g. An employee shall verify a winning card to the called balls and by matching the original part of the card to the duplicate part.
 - h. A card must be voided if it is illegible or altered.
4. An organization may use reusable bingo card singles and booklets if the organization has a master checkbook available.
 5. Before a bingo session, an employee shall test the bingo equipment to ensure it is working properly. If the equipment is malfunctioning or a light bulb on any flashboard is burned out, the equipment must be repaired and a light bulb must be replaced.
 6. At an organization's discretion, a player may use an electronic bingo card marking device that electronically marks facsimiles of purchased paper bingo cards and hard cards. An organization may restrict the use of a marking device to a certain number of cards per player.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-08-03. Conduct and play.

1. An organization shall post a legible sign summarizing subsections 4, 12, 19, 26, 29, and 32.
2. An employee may not reserve a bingo card for a player except a braille or other special card for a legally blind or disabled player.
3. A legally blind or disabled player may use the player's personal braille or special card when an organization does not provide a braille or special card. An organization may inspect, and reject, a personal braille or special card. A legally blind or disabled person may use a braille card or special card in place of a paper bingo card.
4. If an organization does not restrict duplicate bingo cards from being in play for a game, it shall post that fact or notify all players before their purchase of cards that duplicate cards may be in play possibly resulting in multiple winners for a game. Duplicate cards are cards with the same series number (card number) regardless of the color of the cards or manufacturer assigned serial number.

5. An employee may not sell a gift certificate for the purchase of bingo cards or award a gift certificate as a prize unless:
 - a. A gift certificate is specifically accounted for by an employee when it is sold. An organization shall recognize the sale of the gift certificate as gross proceeds on the tax return for the quarter in which it was sold.
 - b. An employee issues a gift certificate to the purchaser or winning player to document the sale or win. A gift certificate may be the receipt.
 - c. A redeemed gift certificate is signed by a player and retained by an organization. A player is issued bingo cards at the site when the gift certificate is redeemed.
6. If an organization changes a publicly announced bingo program for a session in which any prize payout or the number of games to be conducted is reduced, an employee shall notify a player of the change before the player's purchase of bingo cards for that session.
7. If an organization sells two or more differently priced bingo cards or packages (for example, regular, premium, and super) for a bingo game that provides for two or more different bingo prizes, an employee shall mark each card by a method that enables the employee and players to easily distinguish each card.
8. If an organization accepts a bingo card or package discount coupon, the redeemed coupon must contain the dollar value or percentage discount and be signed by a player. An employee shall write the value of the bingo card or package purchased on the face of the coupon unless the value is already stated and retain the coupon with the daily records. The value of a player's one or more coupons must be less than the value of the card or package purchased.
9. If an organization accepts a donated item in exchange for a bingo card or package discount, an employee shall account for the discount on a register as part of the daily records. The value of the discount must be less than the value of the card or package purchased. A register must contain:
 - a. Bingo session.
 - b. Date of the session.
 - c. Amount of the discount.
 - d. Value of the bingo card or package purchased.
 - e. Signature of the player.

- f. Total amount of bingo card or package discounts for the session.
 - g. Signature and date of the cashier.
10. A bingo card must be purchased on a site immediately before the start of a specified game or during a bingo session. No card may be sold for a game which is in progress or concluded. If a paper bingo card is included in a bingo package for a game in progress or concluded, the card must be withdrawn and voided or destroyed. However, this rule does not apply to a "bonanza bingo" or "quickshot" game.
 11. An organization may not refund the purchase price of bingo cards unless a site incurs an electrical power loss, there is inclement weather, an organization experiences an extraordinary incident, or a player has an emergency. An organization may exchange a purchased bingo package for another package if an employee accounts for all the components of the first package and the session has not started.
 12. A person may not separate a paper bingo card when there are two or more faces on one sheet.
 13. If an organization sells bingo hard cards before the start of each bingo game, an employee shall collect all the cards not paid for that are in the players' possession for the game being conducted. A person may not play a bingo card not purchased from the organization nor play more cards than were actually paid for. An organization may allow a player to share the player's cards or package with another person.
 14. A winner must be determined by matching letters and numbers on a bingo card with bingo balls drawn and called, and freely awarded (wild numbers), in competition among all players. However, a "bonanza bingo" game may not have bingo numbers freely awarded.
 15. Unless the description of a game is the same as the preceding game, an employee shall announce the winning pattern before each game is begun.
 16. If a game has an actual or potential cash prize or merchandise prize, at current retail price, of five hundred dollars or greater, or has two or more differently priced bingo cards in play, an employee shall document a winning card by:
 - a. Using an electronic bingo card verifier, including the information specified in paragraphs 1 through 6 of subdivision c;
 - b. Maintaining a written record of the called bingo numbers and the sequence in which they were drawn for three

months, including the information specified in paragraphs 1 through 6 of subdivision c; or

c. Audio taping the bingo caller call the balls drawn and retaining the tape for three months. When a player bingos, an employee shall record the:

- (1) Game number and winning pattern.
- (2) Series (card) number, if a paper bingo card incurred the bingo.
- (3) Cash register receipt number, if applicable.
- (4) Type (regular, premium, super) of card.
- (5) Amount of cash prize or description of a merchandise prize.
- (6) Last number called.

17. Immediately following the drawing of a ball, a bingo caller shall manually display the letter and number on the ball to players. However, this rule does not apply to "speedball" bingo or when an organization uses a television monitor to display the letter and number on the ball. If an electronic random number generator is used, the letter and number must be displayed to players. An employee shall announce the letters and numbers on the balls or displayed by an electronic random number generator in exact sequence of the balls drawn or displayed by an electronic random number generator.
18. Except for a "bonanza bingo" and "quickshot" game, a flashboard is optional. A flashboard used for bonanza bingo must have "bonanza" or another designation placed on it.
19. The letter and number displayed on a flashboard or called are not official. The actual letter and number on the ball drawn or freely awarded (wild numbers) are official.
20. Except for a "bonanza bingo" and "quickshot" game, a winner is determined when drawn or freely awarded numbers cover a predetermined and distinct pattern of squares on a card on the last drawn letter and number and a player has timely called bingo.
21. When a player declares bingo and, if the actual or potential cash prize or current retail price of a merchandise prize is greater than one hundred dollars, an employee shall state the winning series (card) number in a clear tone of voice loud enough to be heard by the bingo caller.

22. A winning card must be verified by an employee and one neutral player unless an electronic bingo card verifier is used. A floorworker may not access a verifier.
23. An organization may offer a variety of predetermined prizes to a winning bingo player who may select one of several prizes or win an additional prize by playing a game of skill. A player may not be required to give anything of value to win an additional prize. An employee shall disclose the prizes to the player before the player's selection or play of the game of skill.
24. An organization may conduct a qualifying bingo game whereby a player wins the game's designated prize and receives an opportunity to play in a special bingo game. A player shall purchase a bingo card to participate in the special game.
25. A player may bingo more than one time on the same bingo card when the organization conducts continuation games on the same bingo card involving more than one predetermined pattern.
26. An employee shall verbally announce an organization's policy before a bingo session. Bingo is timely called if:
 - a. A player called the word "bingo" or other required word before the bingo caller utters any sound of the letter or number;
 - b. A player called the word "bingo" or other required word before the bingo caller announces the whole letter; or
 - c. A player called the word "bingo" or other required word before the bingo caller announces the whole letter and number of the next bingo ball to be called.
27. An organization may award a bonus that is based on a factor incidental to a bingo program if it is disclosed in a bingo program, calendar, flyer, is announced before a bingo session, and is recorded on a prize register.
28. If a player calls bingo and the bingo is invalid, the next ball to be called must be in sequence of the balls drawn.
29. If an organization uses the cash register or ticket receipts receipting method, a player's receipt must be kept in view during the session. Except for a bingo card a player purchased from a floorworker, the player's bingo is void if the player has more cards than represented by the player's cash register or ticket receipt.
30. "Bonanza bingo" and "quickshot bingo" games must be conducted as follows:

- a. A bingo caller shall initially call a predesignated quantity of bingo balls (for example - forty-five numbers).
- b. A card must be sealed and unpeekable when it is sold.
- c. An organization may sell or exchange cards throughout a bingo session until sales are closed. Except for a quickshot bingo game and before calling the next continuous number (for example - forty-sixth number), an employee shall do a full accounting of the floorworkers' sales of cards according to section 99-01.1-08-08. A floorworker may not turn in any exchanged card after the accounting is begun.
- d. While a bingo caller initially calls the bingo balls or before the bingo caller calls the next continuous number, a player shall verify that the letter and number on the balls drawn are correctly displayed on a flashboard.
- e. To win, the predetermined pattern on a card must be covered.
- f. If a player bingos before the next continuous number is called, the player wins the designated prize. Otherwise, an additional bingo ball is drawn until a player bingos. This rule does not apply to a quickshot bingo game.
- g. A game may not extend beyond a bingo session.
- h. If an organization permits a player to exchange a partially played card for a new card and pay a discounted or exchange price, an employee shall:
 - (1) Uniquely mark (validate) each card to be used during the bingo session by:
 - (a) Validating a card with a mechanical device or rubber stamp with a unique symbol. The validation must identify the card with a particular session for that date. A card validated for a session, but not sold, must be voided;
 - (b) Requiring a player to write the player's name on the face of the exchanged card; or
 - (c) Using a method approved by the attorney general to determine the original source of a card and the actual number of cards sold and exchanged for a session.

- (2) Retain a player's exchanged card as part of the daily records of the session for six months.
- (3) Maintain a written record of validation designations and card color combinations by session.
- (4) Reconcile the cards, accounting for:
 - (a) Number of cards taken from inventory which must be counted and verified by two employees who shall sign and date the verification.
 - (b) Number of cards sold.
 - (c) Number of cards exchanged, which must be separately maintained for each floorworker. The cards must be recounted by an employee who is independent of the person who completed the floorworker sales report. The employee who controls the floorworker sales report shall band each floorworker's exchanged cards separately, identify the banded group with the floorworker's name, bingo session, and date, and sign the person's last name. The floorworker shall also sign the floorworker's last name on that floorworker's banded group.
 - (d) Number of cards returned to inventory and voided which must be counted and verified by two employees. Each person shall sign and date the verification.
 - (e) Document any discrepancy and corrective action taken.

i. All voided cards must be retained for six months.

31. An employee may assist a disabled player provided the employee's primary function is to provide that assistance.
32. An employee may not allow a person under eighteen years of age to play bingo unless:
 - a. An individual, eighteen years of age or older, accompanies a minor when buying a bingo card or package and throughout the session. The adult may not be an employee on duty;
 - b. A session is conducted by an organization that has a local permit; or
 - c. An organization's potential primary prize does not exceed one thousand dollars for a session, and the total

potential prizes do not exceed six thousand dollars annually.

33. An organization may not conduct a game of pull tabs between bingo sessions unless the organization allows other persons to enter the site to play pull tabs.
34. If an employee determines, during or immediately after the play of a bingo game and before the game's bingo prize is awarded, that a particular bingo ball is missing from a blower machine or other device, the employee shall void that game, exchange the player's used bingo cards with new bingo cards, and replay the game.
35. An employee shall record a prize and bonus prize issued in a bingo game on a register according to section 99-01.1-06-12.
36. If a player wins a cash prize greater than one hundred dollars, an employee shall record the win according to section 99-01.1-06-13.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-06, 53-06.1-07.1, 53-06.1-17

99-01.1-08-04. Receipting methods.

1. An organization shall receipt gross proceeds and admissions by:
 - a. Cash register receipts;
 - b. Ticket receipts;
 - c. Paper bingo cards; or
 - d. Floorworker sales report.
2. Written approval must be obtained from the attorney general for use of any other receipting method.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-08-05. Cash register receipts. The cash register receipting method may be used to record gross proceeds of bingo packages, bingo hard cards, and paper bingo cards, excluding floorworker sales, by issuing consecutively numbered receipts to players.

1. A receipt must contain:

- a. Name of a site or organization.
 - b. Date of the session.
 - c. Selling price of the card or package.
 - d. Type of card or package sold (for example, regular, premium, or super).
 - e. Consecutive receipt number.
2. A cash register must:
 - a. Have a consecutive four-digit receipt number which does not return to zero at the end of any use.
 - b. Retain its transaction count between uses even if its power source is interrupted.
 - c. Separately record each type of card or package sold and provide a total for each type of sale.
 - d. Separately account for a discounted card or package sold by a key or a method that calculates the total discount for each type of sale.
 3. A cash register receipt for a void, cash register mistake, no sale, and any similar receipt must be retained with the daily records.
 4. All transactions and control totals must be recorded on an internal tape that must be retained with the daily records. If a cash register is used for a purpose other than receipting bingo gross proceeds, the internal tape from the other use must also be retained for three years.
 5. A cash register cashier may not issue a refund but may do a void or no sale transaction to access a cash drawer. A voided transaction is a cancellation of a sale. A cash register cashier's supervisor shall execute a refund, and initial the refund transaction on the internal tape or prepare a cash payout slip. If a supervisor is not available or if the cashier is the supervisor, another employee shall execute the refund, and initial the refund transaction on the internal tape or prepare a cash payout slip. For a voided sales transaction, a cash register cashier's supervisor shall initial the void transaction on the internal tape or prepare a void transaction slip. If a supervisor is not available or if the cashier is the supervisor, another employee shall initial

the void transaction on the internal tape or prepare a void transaction slip.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-08-06. Ticket receipts. The ticket receipting method may be used to record gross proceeds of bingo packages, bingo hard cards, and paper bingo cards, including floorworker sales, by issuing consecutively numbered tickets as receipts to players. These rules apply:

1. All tickets on a roll must have a preprinted consecutive number and be issued consecutively.
2. Each roll of tickets must be recorded on a log upon being received. A log must include the date each roll of tickets is acquired, ticket color, beginning and ending ticket number, and number of tickets on the roll.
3. The daily records must contain the ticket color, ticket selling price, and lowest and highest numbered ticket issued as a receipt from each roll for a session. Every ticket on a particular colored roll must be issued at the same selling price. Tickets issued for each type of sale must be recorded separately. A ticket not issued as a receipt during a session that bears a number below the highest numbered ticket issued, along with any tickets from the end of the roll which will not be issued in a future session, must be retained as part of the daily records as unsold.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-08-07. Paper bingo cards. The paper bingo card receipting method may be used to record gross proceeds of paper bingo cards, as follows:

1. A card must have a series (card) number and serial number printed on its face. A set of cards must have the series numbers consecutively numbered through the set, from the first to the last card.
2. Each card sold must represent a specific amount of gross proceeds.
3. Every card in a particular set of cards must have the same serial number and be sold for the same price.

4. Each set of cards must be recorded on an inventory control record that includes the date each set of cards is acquired, serial number, card color, number of faces per card, beginning series number, and number of cards.
5. The daily records must include:
 - a. The total number of cards taken from inventory, returned to inventory, and sold. The cards must be counted independently by two persons who shall resolve any difference between the two counts. The record must include the card colors, selling price of the card, number of cards issued for each type of sale, and number of cards taken from inventory but not sold. Both persons shall sign the record with the persons' last names; or
 - b. For each set of cards, the serial number, card color, card selling price, and beginning and ending series (card) number. The number of cards issued for each serial number must be recorded separately. Cards with the same serial number must be issued consecutively. When there are two or more faces on one card with two or more series numbers, the lowest series number must be used to determine the beginning and ending number issued. Whenever the series numbering of the cards breaks, a separate entry must be made in the records. The beginning and ending series number, by serial number, must be verified by two persons who shall sign the record with the persons' last names. Cards that were issued but not sold during a session that have a series number below the highest numbered card issued must be retained as part of the daily records as unsold and must be voided. The daily records must include the number of cards sold (difference between the ending and beginning series number issued, plus one), by serial number. Two or more sets of cards may not be used at the same time if they have the same serial numbers.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

99-01.1-08-08. Floorworker sales report. The floorworker sales report receipting method may be used to record gross proceeds of paper bingo cards by floorworkers. A report must be completed by an employee who is not a floorworker. For a "bonanza bingo" game, a report must contain all the information required by subsections 1 through 10. For each other game, a report must contain the information required by subsections 1 through 6 and subsection 10. Also, for each other game, a report must contain the information required by subsections 7, 8, and 9 for a bingo session.

1. Game number.

2. Floorworkers' names or assigned numbers.
3. Selling price of each "single" (one card) and "packet".
4. Number of "singles" and "packets" issued to each floorworker. The employee issuing the cards and the floorworker shall sign or initial the report. If an organization sells "singles" at a discount, the number of discounted sets must be predetermined and separately accounted for when issued to a floorworker.
5. Number of "singles" and "packets" returned by each floorworker as unsold, including the number of exchanged "bonanza bingo" cards. The floorworker shall sign or initial the report.
6. Number and value of "singles" and "packets" sold by each floorworker (includes the number of exchanged "bonanza bingo" cards).
7. Amount of cash turned in to the cashier by each floorworker. The floorworker shall sign or initial the report.
8. Amount of cash long or short by each floorworker.
9. Total number of "singles" and "packets" issued, returned, and sold, total value of "singles" and "packets" sold, total cash turned in, and total cash long or short.
10. The counts as required by subsections 5 and 7 must be done by each floorworker and an employee who is not a floorworker, in the presence of each other.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-08-09. Recordkeeping system.

1. An organization shall retain accounting records for three years from the end of the quarter in which the activity occurred. The daily records must be available at a site until a session is concluded.
2. For each bingo session, records must include:
 - a. The gross proceeds for each type of sale or game.
 - b. Amount of cash prizes and documentation of the cost of merchandise prizes.
 - c. The starting and ending cash on hand according to section 99-01.1-06-11.

- d. A summary of gross receipts, sales tax, gross proceeds, prizes, adjusted gross proceeds, actual cash profit, cash long or short, and bank deposit. The summaries of all sessions conducted during a quarter must reconcile to the bingo activity reported on the tax return.
 - e. Record of win.
 - f. Except for bingo conducted in an alcoholic beverage establishment, number of players in attendance and time of the count.
 - g. Copy of the bingo program.
 - h. Redeemed gift certificates and discount coupons.
3. Inventory control records of paper bingo cards must include:
- a. Master control records for each primary color of cards and each type of collated booklets, the name of a distributor, sales invoice number and date, quantity purchased, date received, date of issuance to a site, and site name.
 - b. Site control records for each primary color of cards and each type of collated booklets, the quantity received at a site, date received, site name, and quantity issued and returned according to a receipting method used. If an organization uses the paper bingo card receipting method, the site control records must also contain information prescribed by subsection 4 of section 99-01.1-08-07.
4. The actual cash profit, less an increase or plus a decrease in a starting cash bank for the next gaming activity, plus the amount of a prize paid by check and the cost of a merchandise prize paid by check, must be deposited intact according to section 99-01.1-06-16.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

**CHAPTER 99-01.1-09
RAFFLES**

Section	
99-01.1-09-01	Raffles
99-01.1-09-02	Tickets - Limitations and Requirements For Use
99-01.1-09-03	Prize Restrictions
99-01.1-09-04	Merchandise Prize
99-01.1-09-05	Disclosure of Prizes and Rules on a Raffle Ticket
99-01.1-09-06	Double Admission Tickets
99-01.1-09-07	Prize Must be Awarded
99-01.1-09-08	Reporting Gross Proceeds, Prizes, and Adjusted Gross Proceeds
99-01.1-09-09	Recordkeeping System

99-01.1-09-01. Raffles. A "raffle" is a game in which a prize or prizes are won by one or more players who purchased a raffle ticket. A winner is determined by drawing a ticket stub from a receptacle or by an alternate fair method. A calendar raffle is a type of raffle in which a player's ticket stub is entered in two or more drawings held on predetermined days over an extended period of time for predetermined prizes. The conduct of a raffle is the raffle drawing. An organization may not sell a raffle ticket unless the organization is licensed or has a local permit.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-07, 53-06.1-17

99-01.1-09-02. Tickets - Limitations and requirements for use.

1. Raffle tickets for entry into a drawing must be sold separately and each constitutes a separate and equal chance to win with all other tickets sold. A person may not be required to purchase more than one ticket, or to pay for anything other than the ticket, to enter a raffle. An organization may sell several tickets to a person at a discount (for example, three tickets for the price of two tickets). A discounted ticket must be specifically designated as a discounted ticket on the raffle ticket and its stub. The number of discounted tickets must be predetermined and separately issued and accounted for when issued to a ticket seller.
2. An organization may not allow a raffle ticket seller to retain a ticket for free or retain any portion of the value of a ticket as payment or bonus for the sale of a certain number of tickets or a winning ticket.

3. A raffle ticket must have a stub or other detachable section, be consecutively numbered, and be accounted for separately. Except for the use of double admission tickets, the stub must have a duplicate number corresponding to the number on the raffle ticket and must contain the purchaser's name, address, and telephone number. For a raffle conducted by a licensed organization, the consecutive raffle ticket numbers must be mechanically or electronically imprinted. For a raffle conducted by an organization which has a local permit, the consecutive raffle ticket numbers may be manually imprinted. The raffle ticket must be issued, as a receipt, to the player.
4. An employee may not sell a raffle ticket on a site where another organization is licensed or has a local permit unless the employee is granted permission by the other organization.
5. Except for the use of double admission tickets, a person may not be required to be present at a raffle drawing to win. This condition must be on all promotional material about the raffle.
6. A raffle ticket seller shall return to an organization the stubs of all tickets sold. The organization shall place each stub into a receptacle out of which the winning stub or stubs are to be drawn. The receptacle must be designed so that each stub has an equal opportunity with every other stub to be drawn.
7. An organization shall return a player's purchase price of a raffle ticket to the player if the stub of the player's ticket was not placed into the receptacle for the raffle drawing.
8. For a calendar raffle, the raffle ticket stub of each ticket purchased by a player must be entered in all the raffle drawings conducted from when the player purchased the ticket through when the calendar raffle is concluded. A licensed organization may not conduct a calendar raffle for other than the fiscal year beginning July first and ending June thirtieth.
9. An organization may not conduct a raffle drawing unless two employees are present for the drawing. Both persons shall document the name of the winners in writing and sign and date the document attesting to the result of the raffle drawing occasion. The raffle drawing must occur at an authorized site that may be a public or private premises.
10. In conducting a raffle drawing, an employee shall draw a stub for the highest valued prize first. If there is more than one prize, the employee shall continue drawing for the prizes in the order of descending value through the last prize drawing of the smallest valued prize. A prize is valued at its cash value or or at its current retail price. An organization may

defer announcing the names of the winning players and respective prizes until after all the prize drawings have occurred and may make the announcement in any sequence. However, this rule does not apply when an organization adopts a written house policy to place a winning player's stub immediately back into a receptacle to potentially be drawn for another prize after it has already been drawn for a prize.

11. An organization may not print "donation", "suggested donation", or any other word or phrase on a raffle ticket which implies or expresses that a ticket purchase is a charitable contribution or that the price of the ticket is not required to be paid.
12. A raffle ticket may not be resold.
13. An organization may not conduct a raffle drawing on a site where a different organization is licensed or is issued a local permit except for a special occasion when either of these conditions are met:
 - a. When the area for the raffle drawing is physically separated from the area where gaming is conducted by the regular licensee.
 - b. Upon request of the regular licensee, the licensee's license is suspended for that specific day by the attorney general.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-09-03. Prize restrictions.

1. A prize may not be any interest in real estate, ticket for entry into another raffle, or live animal.
2. A prize may be any property that may be legally owned and possessed. Cash prizes may be awarded. A single cash prize may not exceed one thousand dollars and the total cash prizes may not exceed three thousand dollars during one day.
3. Besides a prize that is stated on a ticket to be awarded, an organization may offer an additional unguaranteed merchandise prize based on these conditions:
 - a. A ticket must describe a prize and state that it is not guaranteed.
 - b. A prize is predetermined and limited to a winner of one of the other prizes stated on a ticket.

- c. A player is not required to pay any additional amount or give up the player's cash or merchandise prize to participate.
- d. Unless an organization possesses, has paid for a prize in full, or otherwise becomes the owner, an award of a prize must be insured.
- e. A drawing is conducted of the ticket stubs corresponding to all tickets sold.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-10.1, 53-06.1-17

99-01.1-09-04. Merchandise prize.

1. An organization shall own, without lien or interest of others, a merchandise prize before the drawing and must have written documentation evidencing the ownership. However, the organization does not need to register or title items of personal property, such as automobiles, motorcycles, boats, and snowmobiles.
2. An organization may convert a merchandise prize to a cash prize; however, the current retail price of a single merchandise prize does not exceed one thousand dollars and that the current retail price of the converted merchandise prize and cash prizes do not exceed three thousand dollars in total during one day.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-10.1, 53-06.1-17

99-01.1-09-05. Disclosure of prizes and rules on a raffle ticket. Except for double admission tickets, each raffle ticket must contain this preprinted information:

1. Name of organization.
2. Ticket number.
3. Price of the ticket, including any discounted price.
4. Prize or description of optional prizes selectable by a winning player. However, if due to insufficient space certain minor prizes cannot be listed on the ticket, a separate list of the minor prizes must be provided each ticket purchaser. A minor prize has a current retail price not exceeding ten dollars.

5. For a licensed organization, print the office of attorney general and license number. For an organization that has a local permit, print the city or county and local permit number.
6. A statement that the purchaser is not required to be present at a drawing to win.
7. Date and approximate time of the drawing. For a calendar raffle, if the drawings are held on a standard day of the week or month, print the standard day of the week or month and approximate time of the drawing.
8. Location and address of the drawing.
9. If applicable, a statement that the winner is or is not liable for sales or use tax on a merchandise prize.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-09-06. Double admission tickets. An organization may conduct a raffle by using double admission tickets provided:

1. Two single tickets printed side by side must be used. One ticket must be retained by an organization and the other ticket by a player.
2. All tickets on a roll must be preprinted with a consecutive number. Each of the two double admission tickets must have the same number. Tickets must be sold consecutively.
3. Each ticket of each separately colored roll must be valued at the same price. No ticket may be sold at a discount.
4. All tickets for a raffle must be sold on a site and on the day of the raffle.
5. A winner need not be present when the drawing is held but shall claim the prize within one hour of the time of the drawing by redeeming the winning raffle ticket on the site. Otherwise, the winner may not claim the prize. If the prize is unclaimed, an organization shall conduct a second prize drawing, or more, until the raffle prize is claimed. However, for the last hour of a function, the one-hour redemption period does not apply. A statement of the approximate time of the drawing and the one-hour redemption requirement must be on all promotional material about the raffle and must be posted in a location on a site.

6. An organization shall record in its daily records, the color and selling value of the ticket, and the lowest and highest numbered ticket sold from each roll of tickets used. Tickets sold and the prizes awarded for each day's raffle activity must be recorded separately. Any tickets left on a roll which will not be sold in any raffle must be retained by an organization as a part of its daily records. This rule does not apply to a local permit.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-09-07. Prize must be awarded.

1. A raffle prize winner must be determined on the date indicated on a ticket unless a different date is requested in writing and approved by the attorney general. If a different drawing date is approved, an organization shall notify the purchasers of the raffle tickets of the change either by contacting the purchasers individually or by making a public announcement. The attorney general may extend the date for the drawing for any of the following reasons:
 - a. Weather has caused a postponement of the event at which the drawing was to occur.
 - b. Not enough raffle tickets are sold to cover the cost of the prizes and an extension will make a material difference. The fact that a desired level of profit will not be attained is not a basis for an extension.
 - c. The drawing date was to coincide with a scheduled special event that was rescheduled.
2. Within seven days of the raffle drawing, an organization shall notify the winner, in writing, of the raffle prize and arrange the transfer of the prize to the winner. However, for a cash prize greater than one hundred dollars, an employee shall also record the win according to section 99-01.1-06-13 before transferring the cash prize to the winner. If a raffle prize remains unclaimed by the winner for thirty days following the date of the written notification and an organization has made a good faith effort to contact the winner for redeeming the prize, the organization may retain the prize, have a second prize drawing, or award it in another raffle.
3. An employee shall record a prize issued in a raffle drawing on a register according to section 99-01.1-06-12.

4. This section does not apply to the use of double admission tickets.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-09-08. Reporting gross proceeds, prizes, and adjusted gross proceeds.

1. When the sales price of a raffle ticket relates partly to admission for a meal, drinks, dance, or other activity, an organization shall deposit the gross proceeds into its general gaming bank account and allocate the gross proceeds between gaming and nongaming activity in this order:
 - a. An amount is allocated to gaming activity to first recover the actual cost of a raffle prize.
 - b. An amount is allocated to nongaming activity to recover its actual cost.
 - c. The balance is allocated to gaming activity.
2. When an organization conducts a raffle in which tickets are sold in one or more quarters and the prize drawing is in one quarter, the organization shall report the gross proceeds, prizes, and adjusted gross proceeds in the one quarter in which the prize drawing is held.
3. When an organization conducts a raffle in which tickets are sold in one or more quarters and the prize drawings are in more than one quarter, such as a calendar raffle, the organization shall report the gross proceeds, prizes, and adjusted gross proceeds as:
 - a. Report gross proceeds for a quarter based on the percent of prizes awarded in the quarter in relation to the total prizes to be awarded. Gross proceeds must be computed as follows:

Calculate the amount of gross proceeds received to date from the sale of tickets for the present and all previous quarters. Multiply this amount by the ratio of the prizes that have been drawn in the present and all previous quarters to the total prizes to be drawn in all the quarters. From this balance, subtract the amount of gross proceeds reported in all previous quarters. The result is the amount of gross proceeds to be reported for the present quarter.

- b. Report prizes in the quarters in which the drawings are held.
- c. Adjusted gross proceeds is gross proceeds minus prizes.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

99-01.1-09-09. Recordkeeping system.

- 1. Except as otherwise provided below, accounting records must be retained for three years from the end of the quarter in which the raffle activity occurred.
- 2. For each raffle, records must include:
 - a. Documentation of the issuance of single and discounted raffle tickets, number of tickets printed, including dates, ticket seller's name, quantity issued, range of raffle ticket numbers issued to the seller, and quantity sold.
 - b. Reconciliation of the actual cash received from each ticket seller based on the number of raffle tickets sold, including discounted tickets.
 - c. The cost of a merchandise prize.
 - d. A schedule of bank deposits for the raffle ticket sales.
 - e. A sample of a printed raffle ticket.
 - f. The ticket stubs of all sold tickets which must be retained for one year from the end of the quarter in which the raffle activity occurred.
 - g. Record of win.
 - h. A summary of gross proceeds, prizes, adjusted gross proceeds, actual cash profit, cash long or short, and bank deposit. The summaries of all raffle drawing occasions conducted during a quarter must reconcile to the raffle activity reported on the tax return.
- 3. Inventory control records of double admission tickets must list the date each roll of tickets is purchased or obtained by the organization, color of the ticket, selling value of each ticket, beginning ticket number, ending ticket number, and number of tickets on that roll. All ticket rolls received must be entered in the log upon being received.

4. The actual cash profit, plus the amount of a prize paid by check, the cost of a merchandise prize paid by check, and the gross proceeds received from a calendar raffle ticket seller, must be deposited according to section 99-01.1-06-16.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

**CHAPTER 99-01.1-10
PULL TABS, CLUB SPECIAL, TIP BOARD,
SEAL BOARD, COIN BOARD, AND PUNCHBOARD**

Section

99-01.1-10-01	Games - Definitions
99-01.1-10-02	Conduct and Play
99-01.1-10-03	Gaming Stamp Number and Game Serial Number
99-01.1-10-04	Gross Proceeds and Cash Banks
99-01.1-10-05	Recordkeeping System

99-01.1-10-01. Games - Definitions. This chapter applies to an organization that conducts pull tabs, club specials, tip boards, seal boards, coin boards, and punchboards, but not pull tabs involving a dispensing device. The maximum price per chance is two dollars. If a merchandise prize is awarded, the retail value of the prize must be stated on the flare.

1. "Coin board" means a board used with pull tabs. A board contains various coins and may contain a seal which conceals a winning number. A board must have at least two seal prizes. A seal prize is not considered a top tier winner. Under the coins, a cash prize value is preprinted. A player having a pull tab with a number matching a predesignated number on a board for a seal prize signs the player's full name on the numbered line or, if the number matches the assigned winning number for a coin or a consolation prize, the player wins that prize, including a cash prize value stated under the coin. A last sale prize may be awarded. When all the numbered lines are signed, the seals are removed to reveal numbers indicating which lines win. The players whose signatures are on the winning line numbers win the seal prizes. No coin board may be closed unless all the top tier winning pull tabs have been redeemed or pull tabs for all the top tier winners have been sold. However, if a coin board has been in play for ninety calendar days and all the top tier winning pull tabs have not been redeemed or chances for all the top tier winning prizes have not been sold, the coin board may be closed. If a coin is not awarded, an organization shall calculate the coin prizes for reporting on a tax return by prorating the total cost of the coins according to the face value of the coins that were awarded in relation to the total face value of all the coins. An organization may use an unawarded coin as a prize in another game, sell the coin as other gaming income, or deposit the coin in the organization's general gaming bank account as other gaming income. Only cash prizes can be awarded. The maximum number of pull tabs in a deal is two thousand. The maximum cash prize and the maximum seal prize value is five hundred dollars.

2. "Club special" means a placard used with pull tabs. A placard contains a seal which conceals a number that has been predesignated and at random as a top tier prize winner. Players having pull tabs with numbers matching predesignated numbers printed on the placard sign their full names on the placard at the numbered lines. When all the numbered lines are signed, a seal is removed to reveal a number indicating which line wins. A player whose signature is on the winning line number wins the seal prize value. A club special also contains consolation winning pull tabs which do not involve a seal. A cash or merchandise prize can be awarded. The maximum number of pull tabs in a deal is two hundred fifty. The maximum cash prize and the maximum seal prize value, including the current retail price of a merchandise prize, is one hundred dollars.
3. "Pull tab" means a single-folded or banded ticket (jar ticket) or a two-ply or three-ply card with perforated break-open tabs (pull tab). Unless otherwise stated, the terms "pull tab" and "jar ticket" are used interchangeably. The tab side conceals a number, symbol, or set of symbols. Several pull tabs of every deal have been predesignated as prize winners. A player buys a pull tab and opens the tabs to determine if it is a prize winner or potential prize winner involving a seal. If a deal uses a seal, a player shall sign the player's full name on a flare's numbered line. A player with a winning pull tab or numbered line receives a prize stated on a flare. Only cash prizes can be awarded. The maximum cash prize is five hundred dollars.
4. "Punchboard" means a board containing a number of holes in which are randomly placed numbered slips of paper (punches). A punchboard may include a seal. A player punches a hole to extract a slip of paper. If a player's numbered punch matches a number on a flare, the player wins a designated prize. No punchboard may be closed unless all the top tier winning punches have been redeemed or punches for all the top tier winners have been sold. However, if a punchboard has been in play for ninety calendar days and all the top tier winning punches have not been redeemed or chances for all the top tier winning prizes have not been sold, the punchboard may be closed. A seal prize and a last sale prize feature are not considered top tier winners. The value of a last sale prize feature cannot exceed the value of a top tier winner. A cash or merchandise prize can be awarded. The maximum cash prize and the maximum seal cash or merchandise prize value, at current retail price, is five hundred dollars.
5. "Seal board" means a placard containing horizontal lines arranged in a column. A number is assigned consecutively to each line. A seal conceals a number that has been predesignated and at random as the prize winner. A player buys a "line" and signs the player's full name on it. After

all the lines are sold, a seal is removed to reveal a number indicating which numbered line wins. A player whose signature is on the winning line number wins. The placard must contain a description of the prize and cost per play. A cash or merchandise prize can be awarded. The maximum seal cash prize value is one hundred dollars and the maximum seal merchandise prize value, at current retail price, is five hundred dollars.

6. "Tip board" means a placard to which is attached jar tickets, arranged in columns or rows. The placard contains a seal which conceals a number that has been predesignated and at random as a top tier prize winner. Players having jar tickets tier with numbers matching predesignated numbers printed on the placard sign their full names on the numbered lines. When the numbered lines are all signed, a seal is removed to reveal a number indicating which line wins. A player whose signature is on the winning line number wins the seal prize value. A tip board also contains consolation winning jar tickets which do not involve a seal. A cash or merchandise prize can be awarded. The maximum number of jar tickets in a deal is two hundred fifty. The maximum cash prize and the maximum seal prize value, including the current retail price of a merchandise prize, is one hundred dollars.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-07, 53-06.1-08, 53-06.1-08.1, 53-06.1-17

99-01.1-10-02. Conduct and play.

1. Deals of pull tabs must be commingled as follows:
 - a. Two or more deals must be placed in a receptacle and be thoroughly intermixed. When an organization's predetermined number or range of numbers of winning pull tabs remain in a game as unredeemed, an additional deal is added to the game. The new pull tabs must be intermixed with the pull tabs in play before any pull tabs may be sold.
 - b. If a site's total gross proceeds of pull tabs is twelve thousand five hundred dollars or less per quarter, an organization may close a game anytime if all top tier winning pull tabs have been redeemed. No more deals need to be added to the initial two or more deals. For a new site, an organization shall comply with subdivision c.
 - c. If a site's total gross proceeds of pull tabs is more than twelve thousand five hundred dollars per quarter, an organization may not close a commingled game unless the organization discontinues gaming at the site or all top tier winning pull tabs have been redeemed and:

- (1) Fifty deals have been added to a game;
- (2) A game's actual gross proceeds is thirty-five thousand dollars; or
- (3) A game has been in play for twenty-five consecutive calendar days.

The attorney general may authorize closing a game at any time.

- d. An organization shall close a game at least at the end of a quarter. An organization may close a game and start a new game up to fourteen calendar days before the end of a quarter if all top tier winning pull tabs have been redeemed.
- e. A deal must have at least two top tier winning pull tabs. A deal must have its own flare with a state gaming stamp. Only the flare of one deal of a game may have a last sale prize feature.
- f. Except for the game serial number, the deals must be identical.
- g. A flare or master flare for at least one deal of a game in play or a master flare must be displayed at a jar bar so that a winning number, symbol, or set of symbols and value of prizes are visible to players and is not easily removed by a player. A master flare must contain all the information of an original flare. An organization shall retain all original flares at a site while a game is in play. If a deal has a last sale prize feature, the deal's flare must also be displayed.
- h. The primary color and shade of pull tabs of all the deals of a game must be the same. If deals of a game involve folded or banded jar tickets, the primary color of the tickets' band must be the same; however, neapolitan colored bands may be used. If an indicator for adding a deal to a game has been reached and an organization does not have a proper deal to add, the organization shall temporarily suspend the game until it procures a proper deal to add. If twenty-five consecutive calendar days elapse since a game was placed in play and an organization has not yet procured a proper deal to add, it shall comply with the following:
 - (1) If all top tier winning pull tabs have been redeemed, an organization may close a game.
 - (2) If all top tier winning pull tabs have not been redeemed, it shall reactivate the game until all top

tier winning pull tabs are redeemed or it is the end of a quarter, whichever occurs first.

- i. If the deal's price per pull tab is one or two dollars, the deal must have an ideal prize payback percentage (ideal prizes divided by ideal gross proceeds) of at least seventy-five percent. If a deal's ideal prize payback percentage ranges from seventy-five percent to less than seventy-eight percent, an organization shall post the deal's flare or the game's master flare which must disclose the ideal prize payback percentage.
2. The results of a commingled game must be reported on a tax return for the quarter in which the game was closed.
3. A receptacle containing a commingled game must be located on top of a stationary or mobile jar bar, or in a place by the jar bar while the game is in play.
4. A person may not modify a state gaming stamp or a flare, including a last sale feature.
5. If the seal or cellophane shrink wrap is broken on a deal's container before the deal is placed in a receptacle, an organization shall return the deal to a distributor.
6. An employee may not place a deal of pull tabs, club special, coin board, or tip board in play which has a manufacturer's or distributor's permanent adhesive seal broken on the games' container when the game was received from a distributor. An organization shall return the game to a distributor.
7. An organization may not design, independent of a distributor, a deal's ideal gross proceeds or ideal prizes, including adding or deleting a last sale prize feature.
8. A person may not place a deal in play in its original container.
9. When a deal is in two or more containers, the full deal must be placed in play at the same time.
10. An organization shall post a notice on a site containing certain rules and policies, including:
 - a. Restricting the play of a game to one player or a group of players is prohibited.
 - b. Monetary limits, if any, on check writing.
 - c. Last sale prize feature payout when two or more players desire to purchase the last pull tab of a game.

- d. Fifteen-minute time limit for redeeming a winning pull tab.
 - e. Information, if any, authorized by subdivisions a and b of subsection 13.
 - f. A notice stating "Soliciting, providing, or receiving any inside information, by any person, by any means, about games of pull tabs is a class C felony punishable by a five thousand dollar fine or five years in jail or both".
 - g. The number of pull tabs that two or more active players may purchase when a game is being closed, if limited.
 - h. A notice when a commingled game is being sold out.
 - i. A notice that a player may not redeem a winning pull tab when the player with the pull tab has left the specific area of a site where the game is conducted.
 - j. A notice for a coin board stating that a coin remaining on a board relates, to the best of an organization's knowledge, to unredeemed winning pull tabs - it is not guaranteed.
11. A player may not redeem and an employee may not knowingly pay a prize for a pull tab after fifteen-minutes has elapsed since the pull tab was purchased. If a player attempts to redeem a pull tab after the fifteen-minute time period, an employee shall retain and void the pull tab.
 12. An organization may add a deal to a commingled game at any time. An employee shall add a deal to a game if there are about two hundred fifty pull tabs remaining and the game cannot be closed.
 13. An organization or person may provide information referenced by subdivision a or b, or both, for a game by posting a notice. An organization may not guarantee the accuracy of this information.
 - a. The minimum number or a range of numbers of winning pull tabs, through a certain prize value selected by an organization, that remain in a game as unredeemed. This information may be by prize value or in total; or
 - b. The number of winning pull tabs, through a certain prize value selected by an organization, that remain in a game as unredeemed. This information may be for each prize value or for the total number of unredeemed winning pull tabs. The information must be updated as winning pull tabs are redeemed and new deals are added. An organization shall post a sign stating that the posted

number of unredeemed winning pull tabs, by value, is correct to the best of the organization's knowledge - it is not guaranteed.

Example: A game in which an organization selects the top three tiers for posting when these six prize values are in a deal:

4 @ \$200
4 @ \$100
4 @ \$ 50
\$ 10
\$ 5
\$ 2

An organization may post this information:

- (1) Minimum number of prizes, by value or total: There is a minimum of 4 - \$200 winning pull tabs, 4 - \$100 winning pull tabs, and 4 - \$50 winning pull tabs in this game at all times or there is a minimum of 12 \$200, \$100, and \$50 winning pull tabs in this game at all times.
 - (2) Minimum range of prizes, by value or total: There is a minimum of 4 to 8 \$200 and \$100 winning pull tabs each, and 8 \$50 winning pull tabs in this game at all times or there is a minimum of 12 to 14 \$200, \$100, and \$50 winning pull tabs in this game at all times.
14. An employee may not sell more than two hundred fifty pull tabs to a player at one time from one or more games and may not sell additional pull tabs to that player until the player has opened the pull tabs. However, if a player redeems a pull tab that has a prize value in excess of two hundred fifty dollars, an employee may sell the player a quantity of pull tabs equal to that prize value. An organization may limit the quantity of pull tabs a player may purchase to less than two hundred fifty.
 15. An employee may not selectively choose pull tabs from a receptacle based on a pull tab's game serial number. An employee shall take a handful of pull tabs from a receptacle and count off the number of pull tabs purchased.

16. In applying subsection 3 of North Dakota Century Code section 53-06.1-16.1, the phrase "fraudulent scheme or technique" includes an employee segregating, by any method, pull tabs of a deal placed in a receptacle or added to a game, from other pull tabs in the game or an employee not thoroughly intermixing pull tabs of the initial or added deals.
17. An employee may not permit a player to physically handpick a pull tab from a receptacle or honor a player's request to select a specific pull tab. However, a player may suggest a general area of a receptacle from which an employee may select a pull tab.
18. An employee may not freeze a game for a player or group of players.
19. An employee may not assist a player in opening a pull tab except to assist a disabled player.
20. An employee may not knowingly pay a prize to a player who is redeeming a winning pull tab that has been marked, defaced, tampered with, or counterfeited.
21. An employee may not knowingly pay a prize to a player who is redeeming a winning pull tab when the player with the pull tab has left the specific area of a site where the game is conducted.
22. If a player buys a stapled set of jar tickets and the player, either before or after opening any jar ticket, determines that the set is defective because it contains less than the standard number of jar tickets, an organization may only issue the player the number of jar tickets actually missing. An organization shall adopt a policy to issue an unstapled jar ticket or exchange a defective set for a new set. If an organization exchanges an opened or partially opened set for a new set, none of the opened jar tickets may be accounted for as unsold or defective on a tax return. An organization shall staple together the proper number of unstapled jar tickets of the same game serial numbers to sell. While a game is being closed, an organization may sell an unstapled jar ticket at a proportional selling price of a stapled set.
23. An employee shall deface a winning number, symbol, or set of symbols of a winning pull tab and punchboard punch when it is redeemed.
24. When a commingled game is being closed, an organization may continue the game in play even if all the game's top tier and consolation winning pull tabs have been redeemed.

25. If an organization closes a commingled game that has pull tabs remaining as unsold, it may not place these pull tabs back into play.
26. An organization or employee may not unilaterally withhold a tip from a player's cash prize.
27. Except when an organization closes a game according to subdivisions b or c of subsection 1, an employee may not permit a player to buy out a game.
28. Unless an organization closes a commingled game monthly, an organization shall conduct a monthly interim audit of the game by a person who is independent of an employee who operated the game. If an organization's percent-of-accuracy of all the games of pull tabs of a site for the previous quarter was less than ninety-eight and one-half percent, the organization shall conduct a weekly interim audit of the games at the site for three months by a person who is independent of an employee who operated the game. An organization shall use an audit form prescribed by the attorney general. If the cash short is material, a shift manager shall document in writing the corrective action taken. An organization may use an electronic counting scale. This rule does not apply to a site at which games are operated according to subdivision b of subsection 1, or if a game is closed weekly.
29. If an organization does not have a posted policy governing how a commingled game is closed, it shall discontinue posting information referenced by subdivision a or b, or both, of subsection 13 when there are less than six winning pull tabs, through a certain level of prize value selected by an organization, remaining as unredeemed.
30. If a commingled game has a last sale prize feature and is sold out, an employee shall award a player the value of the last sale prize feature. However, an employee may not provide a player pull tabs equivalent to the value of the last sale prize feature. Rather, after a player actually purchases the last pull tab of the game, an employee shall award the player the last sale cash prize.
31. An organization may transfer a commingled game, club special, tip board, seal board, coin board, and punchboard from a site to another site, or rotate games among sites on a rotating site schedule. If an organization discontinues gaming at a site and a game in play does not qualify to be taken out of play, the organization may transfer the game to another site or close the game. An organization shall report a game on a tax return for the site at which the game was closed.
32. Except for a prize payout of a last sale prize feature, an employee may not pay, from gaming funds or any other source, a

prize to a player unless the player redeems an actual winning pull tab from a commingled game conducted at the site.

33. Before leaving a jar bar unattended, an employee shall safeguard the games, cash, and accounting records.
34. If a pull tab has two or more winning prizes (i.e., crisscross game and coin board), the requirement for a record of win is based on the value of each prize, rather than the total amount of all the prize values.
35. An organization may not publicly display a redeemed winning pull tab.
36. If an organization believes a deal is defective, it shall contact the attorney general.
37. An organization or employee may not use or continue to conduct a defective deal of pull tabs after receiving verbal or written notification from a distributor of a ban or recall of the deal.
38. If player wins a last sale prize feature, a seal prize value of any cash amount from a club special, tip board, seal board, coin board, or punchboard, or a cash prize of more than one hundred dollars from a commingled game of pull tabs, an employee shall record the win according to section 99-01.1-06-13.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-06, 53-06.1-07, 53-06.1-17

99-01.1-10-03. Gaming stamp number and game serial number. When a deal of pull tabs or bingo cards, club special, tip board, seal board, coin board, or punchboard is placed in play, an employee shall verify that the game serial number of the pull tab, bingo card, or punchboard matches the game serial number written on the state gaming stamp and verify that the color of the deal's pull tabs used in a commingled game, other than a dispensing device, matches the color of the game's pull tabs, by initialing the game's daily activity record or initialing beside the state gaming stamp on front of the flare. If the two colors do not match, the deal may not be used. If the two serial numbers do

not match, an employee shall immediately notify the distributor and complete a prescribed form and attach it to the game's flare.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-10-04. Gross proceeds and cash banks. Gross proceeds for a commingled game, club special, tip board, seal board, coin board, and punchboard must be separately maintained while the game is in play. For determining each game's actual cash profit, an organization shall use either a separate or central cash bank that meets these requirements:

1. A separate cash bank must be used for each commingled game, club special, tip board, seal board, coin board, and punchboard. If a game's cash bank needs a replenishment and another game's cash bank or nongaming funds are used as a source of cash, an IOU form must be used to record the loan and payback of cash bank funds. An IOU form must include the information referenced by subdivisions a through d of subsection 2.
2. A central cash bank must be used for several games and be used as a source of cash for lending to a game. An IOU form must be used to record the loan and payback of cash bank funds and include:
 - a. Name of game to which cash bank funds were loaned.
 - b. For a club special, coin board, tip board, seal board, and punchboard, a game's gaming stamp number and game serial number.
 - c. Amount and date of loan and repayment.
 - d. Signature of cash bank cashier or employee for each transaction.
3. Written approval must be obtained from the attorney general for use of any other method for accounting for gross proceeds and actual cash profit.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

99-01.1-10-05. Recordkeeping system.

1. Except as otherwise provided below, an organization shall retain accounting records for three years from the end of the quarter in which the game activity occurred. Daily records must be available at a site until a game is closed.
2. For a commingled game, records must include:
 - a. Flares, with the state gaming stamps affixed, with all redeemed winning and all unopened and unsold pull tabs. An organization may not open an unsold or defective pull

tab. These records must be retained for one year from the end of the quarter in which the activity occurred.

- b. Each deal's, shift's, or day's activity, including the date a deal was placed in play and an accounting of redeemed winning pull tabs that are placed in a storage container for retention. This accounting must be consistent and be done each time a deal is added to a game, a shift ends, or at the end of each day. It must include the number and value of redeemed winning pull tabs (by value) and the total value of these pull tabs for all prize values since the preceding deal was added to a game, the preceding shift ended, or since the previous day. A similar accounting must be done when a game is closed. The records must account for each deal's top tier redeemed pull tabs, by game serial number, by a method that provides an organization the capability to timely identify a redeemed pull tab when that pull tab was not sold by the organization and to timely locate a pull tab upon request by the attorney general. The accounting may be done at a site or home office, when reasonably possible.
 - c. Each day's cash bank activity, including the starting and closing cash bank, actual cash profit, increase or decrease in a starting cash bank for the next gaming activity, and bank deposit.
3. For a club special, tip board, seal board, coin board, and punchboard, records must include:
- a. A flare, with the state gaming stamp affixed, with all redeemed winning pull tabs or punches and all unopened and unsold pull tabs and punches. These redeemed winning and unsold pull tabs and punches must be sorted by game serial number. An organization may not open an unsold or defective pull tab. These records must be retained for one year from the end of the quarter in which the gaming activity occurred.
 - b. Daily activity records documenting the name of game, gaming stamp number, and game serial number.
4. For a commingled game, club special, tip board, seal board, coin board, and punchboard, records must include:
- a. The daily starting and ending cash on hand according to section 99-01.1-06-11.
 - b. Record of win.
 - c. A summary of ideal gross proceeds, value of unsold pull tabs or punches, actual gross proceeds, prizes, adjusted gross proceeds, actual cash profit, cash long or short,

and bank deposit must reconcile to the activity reported on the tax return.

- d. For each deal of single-folded or banded jar tickets the deal's game information sheet.
5. Inventory control records according to section 99-01.1-06-15.
6. For a club special, tip board, seal board, coin board, and punchboard, the actual cash profit, less an increase or plus a decrease in a starting cash bank for the next gaming activity, plus the amount of a prize paid by check and the cost of a merchandise prize paid by check, must be deposited according to section 99-01.1-06-16.
7. For a commingled game of pull tabs, the amount of ending cash on hand, less the starting cash bank and less the increase or plus the decrease in the starting cash bank for the next day's activity, must be deposited intact, according to section 99-01.1-06-16.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

CHAPTER 99-01.1-11
SPORTS POOLS

Section

99-01.1-11-01 Sports Pool
99-01.1-11-02 Recordkeeping System

99-01.1-11-01. Sports pool. A "sports pool" is comprised of wagers paid by players who are assigned a particular number or numbers that determine, at periodic intervals or at the conclusion of a sporting event, which player or players win the sports pool. The conduct of a sports pool is the sporting event and the prize payout.

1. A sports-pool board may be:
 - a. Ten, twelve, or fifteen horizontal lines arranged in a column. For a ten-number board, the numbers zero through nine, and for a twelve-number and fifteen-number board, the numbers one through twelve and one through fifteen, respectively, are randomly assigned to each of the lines along the left side of the column;
 - b. Twenty-five equally divided squares consisting of five rows of squares running both horizontally and vertically. Along the exterior line on the top of the board, the numbers zero, one, two, three, four, five, six, seven, eight, and nine are randomly assigned, two numbers to each of the rows (for example, 4-7). The same procedure is applied to the left side of the board for the horizontal rows; or
 - c. One hundred equally divided squares consisting of ten rows of squares running both horizontally and vertically. Along the exterior line on the top of the board, the numbers zero, one, two, three, four, five, six, seven, eight, and nine are randomly assigned to each of the vertical rows. The same procedure is applied to the left side of the board for the horizontal rows.
2. All the numbers assigned to the horizontal rows and vertical columns must be covered by an opaque tape.
3. An organization shall disclose the cost per play, ideal cash prizes, and method of prize payout on a sports-pool board before selling the board and before the start of the event.
4. A sports pool must be conducted for a "professional" sporting event only. An event is one game. An organization shall designate one team along the vertical columns of numbers and the other team along the horizontal rows of numbers. However, if the teams are unknown when the board is being sold in

advance, the organization shall designate identifiable conferences, divisions, leagues, or games. Each square or line constitutes a chance to win and each must be offered to prospective purchasers. The squares or lines must be sold at a price not to exceed five dollars per square or line. The purchaser of a square or line shall write the purchaser's full name in that square or line. Except for a calendar sports pool, no tapes covering the numbers assigned each row may be removed until all the squares or lines are sold. If all the squares or lines are not sold, an organization may advance the board to another event or refund the players' purchase price. If teams were designated but the board is advanced to another event, an organization shall keep or change and designate the new teams. An organization shall post a notice on a site disclosing the organization's policy for advancing an unsold board.

5. An organization may conduct a calendar and master sports pool for two or more events of the same sport. An organization shall purchase a sports-pool board for each of the planned sporting events. For example, if a sports pool involves sixteen events, sixteen boards must be purchased. A board may only be used for one event. The maximum price for a square for each event is five dollars.
6. A calendar sports pool must be conducted as follows:
 - a. The tapes covering the numbers assigned the horizontal and vertical rows of the boards must be removed to reveal the numbers. One of the teams must be designated along the vertical columns of numbers and the other team designated along the horizontal rows of numbers. The board must state the sporting event and its scheduled date.
 - b. Each square of each board must be assigned a consecutive number starting with number one. The numbering must be in sequence, left to right.
 - c. Each board must be printed or photocopied and may be reduced in size. The quantity of books is based on the type of board. For example, if a one hundred-number board is used, each board must be printed or photocopied one hundred times. Each calendar sports-pool book consists of a receipt and a printed or copied board for each sporting event.
 - d. A receipt must contain:
 - (1) A consecutive receipt number starting with one. A statement that the receipt number is the player's assigned square for all the boards contained in the book.

- (2) Name and address of organization.
 - (3) Name of site.
 - (4) For a licensed organization, print the office of attorney general and license number. For an organization that has a local permit, print the city or county issuing the permit and the local permit number.
 - (5) Price of the calendar sports-pool book.
 - (6) Method of prize payout and prize to be awarded.
 - (7) A detachable section to be retained by an organization which contains a player's name, address, telephone number, and matching receipt number.
- e. A player may not choose a particular calendar sports-pool book to buy. When a book is sold, a receipt's detachable section is completed. After a player purchases a book, the player may see the numbers assigned that player's square on the book's boards.
 - f. A sports-pool board with the state gaming stamp affixed must be posted at a site on the day when the sports event related to that board is held.
 - g. If all the books are not sold before the first scheduled sports event, an organization shall refund a player's purchase price.
7. A master sports pool must be conducted as follows:
- a. An organization shall post a master board that must be divided equally into one hundred squares consisting of ten rows of squares running both horizontally and vertically. Each square of the master board must be assigned a consecutive number starting with number one. The numbering must be in sequence, left to right. A master board must state:
 - (1) Name of organization.
 - (2) The sporting events.
 - (3) Price of participating in the master sports pool and number of events.
 - (4) Method of prize payout and prize to be awarded.

- (5) A statement that the scores assigned to the players' squares for each sporting event will be posted at the site five days before the event.
 - b. A player shall purchase any available square of a master board and write the player's full name and telephone number in the square.
 - c. A sports-pool board with the state gaming stamp affixed must be posted at a site five days before the sports event related to that board is held.
8. The winner of a sports-pool board is determined, at the conclusion of each payout period, by:
 - a. For a ten-number sports-pool board, by determining the line that is assigned the last number (one's position) of the combined score of the two professional sports teams in the sporting event. For example, if the combined score was twenty-three, the winning player is that player who purchased the line assigned the number three.
 - b. For a twelve-number and fifteen-number sports-pool board, by determining the line that is assigned the number of the round in which the professional boxing event was stopped or ended.
 - c. For a twenty-five-number and one hundred-number sports-pool board, by determining the square at the juncture of the horizontal row and vertical column which relate to the numbers (one's position) of each team's score.
9. A sports-pool board must have a game serial number and be acquired from a distributor.
10. A sports-pool board may not be conducted unless a state gaming stamp has been affixed to the board by a distributor. A person may not tamper with the state gaming stamp, including the written game serial number.
11. An organization shall describe the prize payout on the board by game, half, period, quarter, inning, or similar cycle. For example, a winner of a sports pool conducted for a football game may be determined at the end of each quarter of the game according to the score. The payout each quarter need not be in direct proportion to the total ninety percent payout. The total payout may not exceed ninety percent of the gross proceeds of the sports pool. Only cash prizes can be awarded.
12. An organization shall make a good faith effort to contact the winner for redemption of the sports-pool prize. If the prize

is unclaimed by the winner for thirty days following the date of the event, the organization may retain the prize.

13. Gross proceeds must be separately maintained for each sports-pool board in play to determine each board's actual cash profit.
14. An employee shall record a prize issued on a sports-pool board on a register according to section 99-01.1-06-12 or on the sports-pool board. If the prize is recorded on a board, the board must contain the information required by section 99-01.1-06-12 and be retained for three years from the end of the quarter in which the sports-pool activity occurred.
15. If a player wins a cash prize greater than one hundred dollars, an employee shall record the win according to section 99-01.1-06-13.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-07, 53-06.1-09, 53-06.1-17

99-01.1-11-02. Recordkeeping system.

1. Except as otherwise provided below, an organization shall retain accounting records for three years from the end of the quarter in which the sports-pool activity occurred. The records must be available at a site until a sports-pool board is closed.
2. For each sports-pool board, records must include:
 - a. The sold board indicating the winning square or line. The board must be retained for one year from the end of the quarter in which the sports-pool activity occurred. However, if an organization uses a board as a prize register, the board must be retained for three years from the end of the quarter in which the sports-pool activity occurred.
 - b. The daily starting and ending cash on hand according to section 99-01.1-06-11.
 - c. The type of professional sport, designation of when prizes are paid (for example, game, half, period, quarter, inning), and amount of each prize.
 - d. A summary of gross proceeds, prizes, adjusted gross proceeds, actual cash profit, cash long or short, and bank deposit. The summaries of all sports-pool boards conducted during a quarter must reconcile to the sports-pool activity reported on the tax return.

- e. Record of win.
- 3. Inventory control records according to section 99-01.1-06-15.
- 4. The actual cash profit, plus the amount of a prize paid by check and gross proceeds received from a calendar and master sports-pool board, must be deposited according to section 99-01.1-06-16.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

**CHAPTER 99-01.1-12
TWENTY-ONE**

Section	
99-01.1-12-01	Twenty-one
99-01.1-12-02	Table
99-01.1-12-03	Drop Box
99-01.1-12-04	Cards
99-01.1-12-05	Dealing Shoe
99-01.1-12-06	Chips
99-01.1-12-07	Special Requirements for Conducting Twenty-one
99-01.1-12-08	Wagers and Tips to be Made With Chips
99-01.1-12-09	Distributing and Removing Chips
99-01.1-12-10	Chip Bank Services
99-01.1-12-11	Opening a Table
99-01.1-12-12	Accepting Cash and Chip Tray Movements
99-01.1-12-13	Number of Players
99-01.1-12-14	Betting Limits
99-01.1-12-15	Shuffle and Cut of the Cards
99-01.1-12-16	Betting
99-01.1-12-17	Dealing
99-01.1-12-18	Playing
99-01.1-12-19	Dealing Mistakes
99-01.1-12-20	Posting Rules
99-01.1-12-21	Drop Box - Transportation From a Table and Storage
99-01.1-12-22	Drop Box Cash Count
99-01.1-12-23	Tournaments
99-01.1-12-24	Recordkeeping System

99-01.1-12-01. Twenty-one. "Twenty-one" is a card game played by one or more players and one dealer. The object is for a player to obtain a higher total card count than a dealer by reaching twenty-one or as close to twenty-one as possible without exceeding it. The cards have these values:

1. An ace counts either one or eleven.
2. A king, queen, and jack have a count of ten.
3. Cards two through ten are counted at their face value.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-07, 53-06.1-10, 53-06.1-17

99-01.1-12-02. Table.

1. A playing surface covering a twenty-one table must permanently display no more than seven separate and distinct betting spaces and these statements:

BLACKJACK PAYS 3 TO 2
and
DEALER MUST STAND ON 17 AND MUST DRAW TO 16

2. A playing surface may include special betting places used for placement of tip bets.
3. Unless only one table is used at a site, a table number must be permanently attached to the tables.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

99-01.1-12-03. Drop box. A twenty-one table must be equipped with a double-locking or triple-locking "drop box" that meets the specification of subsection 3 of section 99-01.1-20-04 and has:

1. Unless only one table is used at a site, a number permanently attached which corresponds to a table number.
2. A money plunger, which must remain in a drop box slot while a drop box is attached to a table, except when currency and forms are inserted.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

99-01.1-12-04. Cards.

1. The cards must consist of four, six, or eight complete decks, shuffled together and must be dealt from a dealing shoe. The cards must be the same size, shape, design, and be jumbo-faced.
2. The color of the backs of all decks of cards must be one predominate color, or, one-half of the number of decks must be one predominate color and the other decks must be a different predominate color.
3. The design on the back of each card must be identical and no card may contain a marking, symbol, or design that enables a person to know the value of the card or that differentiates the back of that card from another card.

4. The backs of the cards in the deck must be designed to prevent a person from placing a concealed marking on them.
5. An organization or employee may not use cards that are taped, defaced, bent, crimped, cut, shaved, or deformed.
6. An employee shall safeguard cards by placing them in a safe storage area or, if a table has been opened and no dealer is stationed at the table, remove the cards from the table or place the cards in and securely cover a discard holder or dealing shoe.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-12-05. Dealing shoe.

1. A dealing shoe must have a face plate, base plate, and sides and hold four or more complete decks.
2. An employee shall safeguard a shoe by placing it in a safe storage area or, if a table has been opened and no dealer is stationed at the table, securely cover the shoe or remove the shoe from the table.
3. A shift manager shall inspect all shoes before each day's activity.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-12-06. Chips.

1. An organization may issue chips in values of fifty cents, one dollar, two dollars, and five dollars.
2. Each chip must be round in shape, be one and nine-sixteenths inches [39.62 millimeters] in diameter and be permanently impressed, engraved, or imprinted on one side with the organization's name and on the other side with the value of the chip. The name may be represented by any unique identification that must differentiate the organization's chips from those being used by all other organizations. If an organization is required to or voluntarily installs a video surveillance system at a site according to section 99-01.1-12-07, the chips must meet the specifications of subsection 3. Otherwise, an organization's chips must meet the specifications of subsection 3 by July 1, 1996.

3. As required, a chip must meet these specifications:

a. Each value of chip must have this primary color:

- (1) Fifty cent chip - "mustard yellow" which is the color classified as 5Y 7/6 on the munsell system of color coding which must be reproduced to within these tolerances:

	Upper limit	Lower limit
Hue:	H+ 7.5Y 7/6	H- 2.5Y 7/6
Value:	V+ 5Y 8/6	V- 5Y 6/6
Chroma:	C+ 5Y 7/8	C- 5Y 7/4

- (2) One dollar chip - "white" which is the color classified as N 9/ on the munsell system of color coding which must be reproduced to within these tolerances:

	Upper limit	Lower limit
Value	V+ N9.4	V- N8.75/
Chroma:	5R 9/1	5G 9/0.5
	5 YR 9/1	5B 9/0.5
	5Y 9/1	5P 9/0.5

- (3) Two dollar chip - "pink" which is the color classified as 2.5R 6/10 on the munsell system of color coding which must be reproduced to within these tolerances:

	Upper limit	Lower limit
Hue:	H+ 3.75R 6/10	H- 1.25R 6/10
Value:	V+ 2.5R 6.75/10	V- 2.5R 5.75/10
Chroma:	C 2.5R 6/12	C- 2.5R 6/8

- (4) Five dollar chip - "red" which is the color classified as 2.5R 4/12 on the munsell system of color coding which must be reproduced to within these tolerances:

	Upper limit	Lower limit
Hue:	H+ 3.75R 4/12	H- 1.25R 4/12
Value:	V+ 2.5R 4.5/12	V- 2.5R 3.5/12
Chroma:	C+ 2.5R 4/14	C- 2.5R 4/10

- b. The primary color of chips must fall within the upper and lower limits of subdivision a when the chips are viewed both in daylight and under incandescent light. Along with the primary color, an organization shall use one or two contrasting secondary colors for the edge spots on the chips. The edge spots must be visible on the perimeter of both sides of a chip and on a chip's circumference. An organization may not use a secondary color on any value of

chip identical to the primary color used by an organization on another value of chip that results in a reversed combination of primary and secondary colors between two or more chips. For example, an organization may not select the color white as the secondary color for a five dollar red chip while selecting red as the secondary color for a one dollar white chip.

c. The edge spots for a:

(1) One dollar chip must have four solid edge spots and each edge spot must be about one-half of one inch [12.7 millimeters] in width.

(2) Two dollar chip must have four split edge spots and each edge spot must be about three-eighths of one inch [9.40 millimeters] in width. Each of the two split portions of an edge spot and the space between the two split portions must be about one-eighth of one inch [3.05 millimeters] in width. The two split portions of an edge spot must be the secondary color and the middle space may either be the primary color or a third color.

(3) Five dollar chip must have six solid edge spots and each edge spot must be about one-quarter of one inch [6.35 millimeters] in width.

d. Each value of chip must have the chips' graphics designed to be able to determine on color video play the value of the chip when placed in a stack of chips of other values. An organization may use other security features to distinguish its chips from other organizations' chips.

e. A chip must be designed and manufactured to prevent counterfeiting.

4. An organization may not use different chips of the same value at a site.

5. An employee shall safeguard chips by placing them in a safe storage area or, if a table has been opened and no dealer is stationed at the table, securing the chip tray with a locking chip tray cover.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-10, 53-06.1-17

99-01.1-12-07. Special requirements for conducting twenty-one.
If a site had twenty-one gross proceeds averaging ten thousand dollars or more for the two quarters ended December 31, 1993, and March 31,

1994, and this level of activity is expected to continue in subsequent quarters, and wagers exceed two dollars at the site, an organization shall have a video surveillance system operational, ready for installation, in process of being installed, or on order at the site by July 1, 1994. Otherwise, if a site has twenty-one gross proceeds averaging ten thousand dollars or more for two consecutive quarters and this level of activity is expected to continue in subsequent quarters, and wagers exceed two dollars at the site, an organization shall have a video surveillance system operational at the site within forty-five days following the end of the second quarter. A level of activity for a site is based on the site's historical experience, regardless of which organization conducted twenty-one at the site. A video surveillance system must be operational for each twenty-one table that is continually located on a site, regardless of how infrequently the table is used or the value of wagers accepted at that table. A temporary table that is brought onto a site for seven or fewer consecutive days for a special event does not need a system. An organization shall:

1. Install a video surveillance system that meets these specifications:
 - a. A super VHS real time or time-lapse video cassette recorder (has YC video cable input and output connectors) must be used. A recorder may be industrial or consumer grade. A recorder must be secured in a locked area, plugged into an outlet that cannot be switched off, and:
 - (1) Be programmable with a seven-day memory backup.
 - (2) Have a built-in or separate time and date generator that displays the time and date of the recorded events on video tape but does not significantly obstruct a recorded picture.
 - (3) Operate in standard play, long play, and standard long play recording speeds.
 - (4) Not be operable by a wireless remote control.
 - (5) For a time-lapse recorder, the twelve hour recording speed must be used.
 - (6) For a recorder used to review a video tape, it must be capable of forward and reverse frame-by-frame and high speed scanning, and may be operable by a wireless remote control.
 - b. A super VHS color camera (has YC video cable output connector) or a high resolution color camera that has at least four hundred active lines of horizontal resolution must be used. A camera must have a signal to noise ratio, with the automatic gain circuitry off, of forty-five decibels or better. For a drop box cash count room, a

camera must have an audio microphone. A camera must be plugged into a surge protector and use an outlet that cannot be switched off.

- c. A camera lens must have an "f-stop" (amount of light that a lens will pass through) rating of f-1.2 or better, be color corrected and have a format size equal to or greater than the format size of a camera. A lens may be fixed or variable focus. A lens must have a field of view to record the face of a dealing shoe, all betting spaces, discard holder, chip tray, currency plunger, and table number.
- d. A super VHS color video monitor that produces lines of horizontal resolution that equal or exceed the number of active lines of horizontal resolution that a video camera is outputting. A monitor's screen must measure at least thirteen inches [330.2 millimeters] diagonally. Only one monitor must be used and it does not need to be on a site.
- e. For a super VHS color camera, super VHS YC or coaxial video cable must be used. For a high resolution color camera, coaxial video cable must meet these specifications:
 - (1) If the length of a cable is one hundred linear feet [30.48 linear meters] or less and the cable will not be flexed, exposed outside a building, or subject to constant movement, the center conductor must be stranded or solid pure copper material. Otherwise, the center conductor must be stranded pure copper material.
 - (2) The shield must be braided pure copper material, have an efficiency rating of ninety to one hundred percent, and not be aluminum shielding.
 - (3) The dielectric must be foam material. A cable must be rated for seventy-five ohms of impedance.
 - (4) If the cable is to be placed in a return air system, the jacket must be teflon or other accepted fire-rated material.
- f. Super VHS T-120 or T-160 video tapes must be used. For a time-lapse recorded, industrial grade tapes must be used.
- g. A camera must be protected by a flush or mounted tinted or clear dome or one-way mirror. A slotted dome (tinted cover with a clear viewing slot) must be used for a low light area.

- o. Surge protector.
 - p. Video printer.
 - q. Spare equipment.
 - r. Video tape rewinder.
 - s. Video tape eraser.
 - t. Lease payment on initial purchase of qualifying items.
 - u. Interest expense on a financing loan.
3. Position a camera above the center of a table or above the middle of the players' side of the table and slightly angle it toward the center of the table. A camera's view of a table cannot be obstructed.
 4. Install adequate lighting, if necessary, to produce clear video tape.
 5. Use maroon and black jumbo-faced playing cards.
 6. If a video surveillance system for a table is not operational within forty-five days of conducting twenty-one at a new site, limit wagers to two dollars at the site.
 7. For a site with one table, if a video cassette recorder or camera for the table is not properly operating and not repaired within seventy-two hours, limit wagers to two dollars at the table until the equipment is repaired. For a site with two or more tables, if a video cassette recorder or camera for a table is not properly operating and not repaired within seventy-two hours, either close the table or limit wagers to two dollars at all the tables at the site until the equipment is repaired.
 8. Standardize its dealers' procedures for shuffling and cutting cards, accepting currency and exchanging it for chips, dealing, playing, paying off winning wagers including tip bets, and remedying dealing mistakes which must be consistently applied at all of an organization's sites. Several shuffling procedures may be used.
 9. Authorize only a gaming or shift manager or an independent person to:
 - a. Access a video cassette recorder, camera, and stored video tapes.
 - b. Start and stop a video cassette recorder by programming or using a timer, motion detector, or trigger device to

record a table when chips are first made available for use on the table and continue recording until the table is permanently closed for the day. However, an organization may discontinue recording a table while it is temporarily closed during a day if the table is recorded for fifteen minutes after it is temporarily closed and is recorded when chips are again made available for use on the table.

- c. Change a video tape in a video cassette recorder for a table at the beginning, during, or at the end of a day's activity, regardless if the authorized person is a dealer at the site. If a person does change a tape for a table during a day's activity, the person shall temporarily suspend conduct of twenty-one on the table until the tape is changed. If a person does not change a tape for a table during a day's activity that exceeds the recording capability of one tape, an organization must use a time-lapse or two real time recorders in sequence. If two real time recorders are used for one table, their separate recordings for a day's activity must overlap by fifteen minutes.
10. Retain a video tape in a safe storage place for thirty days.
 11. Discontinue using a video tape that does not produce a clear playback of recorded activity.
 12. On a weekly basis, have an authorized gaming or shift manager or an independent person randomly review at least one hour of video taped activity of each table of a site and document the review.
 13. Use the attorney general's recordkeeping system unless approval is obtained from the attorney general for use of another system.
 14. Maintain a daily surveillance log including:
 - a. Date and time surveillance is started and ended, including tape index references.
 - b. Signature of the person who manages the surveillance and changes video tapes.
 - c. Record of any equipment malfunction.
 15. Track a dealer's percent-of-hold (percent of drop box cash that is retained as adjusted gross proceeds) performance on a daily and quarterly basis.
 16. Limit its purchase or lease of a camera with lens, video cable, camera dome, time and date generator, and installation to a vendor approved by the attorney general. The attorney

general shall periodically provide organizations with an updated list of vendors who have successfully demonstrated the ability to procure and install video surveillance equipment at a site that produces clear video tape of currency, cards, and chips. However, an organization may purchase or lease qualifying items referenced by subsection 2 from another organization provided the equipment meets the specifications of subsection 1.

17. Defer remitting at least fifty percent of the cost or lease price of a camera with lens, video cable, camera dome, time and date generator, and installation to a vendor until the attorney general has approved the quality of the video tape produced by the vendor at a site. An organization or vendor shall provide the attorney general with a sample tape of actual table activity of the site to evaluate. The attorney general shall provide an organization and a vendor with the evaluation result. If the quality of a sample tape is not satisfactory, a vendor shall resolve the deficiency and an organization or vendor shall provide the attorney general with another sample tape.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-10, 53-06.1-11, 53-06.1-17

99-01.1-12-08. Wagers and tips to be made with chips.

1. A wager and tip must be made with chips. Currency must be exchanged for chips before starting play. No money may be used as wagers or tips.
2. If an organization accepts a five dollar wager, it shall make five dollar chips available to players for their optional use.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-10, 53-06.1-17

99-01.1-12-09. Distributing and removing chips.

1. A fill slip must be prepared for distributing chips from a chip bank cashier to a table and a credit slip for returning chips from the table to the chip bank. An organization may not transfer or exchange chips directly from one table to another table. A fill and credit slip must be a two-part carbonless form. Access to a fill and credit slip must, before use, be restricted to authorized persons.
2. Fill and credit slips must be mechanically or electronically serially prenumbered forms and be used in sequential order.

The serial numbers of all fill and credit slips must be accounted for. Originals and copies of voided fill and credit slips must be marked "VOID" and be signed by the preparer.

3. A fill slip must be prepared by the chip bank cashier, pit boss, or shift manager when chips are distributed to a table. However, if a dealer is the only employee on duty, the dealer shall prepare the fill slip. A credit slip must be prepared by a dealer, pit boss, or shift manager when chips are returned from a table.
4. The original part and copy of a fill and credit slip must contain:
 - a. Reference to "twenty-one" or "paddlewheels".
 - b. Date and time.
 - c. Value of chips.
 - d. Quantity and total value of chips, by value.
 - e. Grand total value of chips.
 - f. Table number, if required.
 - g. For a fill slip, the signature of a chip bank cashier. However, if a dealer is the only employee on duty, the dealer shall sign. For a credit slip, the signature of a dealer or wheel operator.
5. After preparation of a fill slip, the original part must be retained by the chip bank cashier. However, if a dealer is the only employee on duty, the dealer shall retain the original part of a fill slip with the daily records. After preparation of a credit slip, a dealer or wheel operator shall deposit the original part of a credit slip in a drop box.
6. If an organization has a shift manager or authorized employee on duty who is not presently dealing, this person shall:
 - a. Verify the quantity and value of the chips.
 - b. Sign the original part of the fill or credit slip.
 - c. Transfer the copy of the fill slip with the chips to a table, or transfer the copy of the credit slip with the chips to a cashier.
7. For a fill slip, a dealer or wheel operator shall verify the information on the copy of the fill slip and, if correct, sign and deposit it in a drop box. For a credit slip, a chip bank cashier shall verify the information on the copy of a credit

slip and, if correct, sign and retain it with the daily records. However, if a dealer is the only employee on duty, the dealer shall retain the copy of a credit slip with the daily records.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-12-10. Chip bank services.

1. An organization shall sell chips at a table and only for cash. No credit may be extended and no check may be accepted for purchasing chips at a table.
2. Cash for chips sold must be kept separate from all other cash until it has been counted. Only a two-person audit team may access a drop box before the drop box cash count.
3. An organization shall redeem its chips for cash at the value for which they were sold, except when a chip was obtained or being used unlawfully. A cash bank used to redeem twenty-one chips may be combined with a paddlewheel cash bank; however, this combined cash bank must be kept separate from all other cash.
4. An employee shall redeem a dealer's and wheel operator's tips (chips) through a cash bank. Unless a table has a video surveillance system, a dealer and wheel operator shall redeem the actual chips received as tips and may not exchange those chips for other chips from any chip tray. This rule does not prohibit pooling of tips.
5. An employee may not take any chip, including tips, to a dressing room, restroom, lounge, or any other location outside the specific area of a site where games are conducted. A dealer shall redeem the tips before leaving a site.
6. If an organization discontinues twenty-one or paddlewheels at a site, it shall redeem its own chips for cash, at its business office or at its active site, if any, for thirty days following the discontinuance of twenty-one or paddlewheels.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-10, 53-06.1-17

99-01.1-12-11. Opening a table.

1. When a table opens and before playing cards are used at the table, a dealer shall inspect and approve all decks by sorting

each deck into sequence, by suit and inspect the back of each card to assure that all cards are present and none are flawed or marked. If a dealer determines that a card is missing, flawed, marked, or extra, the dealer shall notify the shift manager.

2. After approval, a dealer shall spread out the cards face upwards on a table in horizontal fan-shaped rows, by deck, according to suit and in sequence within the suit for review by the first player.
3. After the first player's review, the cards must be thoroughly shuffled.
4. If cards are removed from a table, a dealer shall apply subsections 1, 2, and 3 when the cards are brought back to a table.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

99-01.1-12-12. Accepting cash and chip tray movements.

1. A dealer, upon receiving currency from a player at a table, shall:
 - a. If an organization has not installed a video surveillance system at a site according to section 99-01.1-12-07, spread the currency on top of a table in full view of the player and shift manager and state the amount of currency in a voice loud enough to be heard by all players at the table. A dealer shall then give the player chips equal to the player's currency and take the currency from atop the table and place it in a drop box.
 - b. If an organization has installed a video surveillance system at a site according to section 99-01.1-12-07, spread the currency face down and flat, sorted by denomination, in the inner table area, perpendicular to a chip tray, and momentarily move the dealer's hands away from the currency so the currency is within a camera's view. A dealer shall then take chips from a chip tray, equal in value to the currency, place the chips in a stacked manner in the inner table area, fan the chips, and momentarily move the dealer's hands away from the chips so the chips are within a camera's view. A dealer shall then restack the chips, may place the index finger atop the stack, and push the chips to a player.

2. A dealer shall use only the dealer's right hand for withdrawing a chip from or placing a chip in the chip tray.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-12-13. Number of players.

1. A maximum of seven players may play at the same table. A player may play up to two betting spaces if an adjacent betting space is available.
2. An outsider may not wager on a player's hand and a player may not wager on another player's hand.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-10, 53-06.1-17

99-01.1-12-14. Betting limits.

1. An original wager must be one dollar, two dollars, three dollars, four dollars, or five dollars. A wager of one dollar must be accepted for each table at a site. An organization may not set a minimum wager for a table.
2. An organization may establish a maximum wager of two dollars, three dollars, four dollars, or five dollars for each table at a site. If all the tables at a site have the same betting limit, the limit must be posted. If all the tables at a site do not have the same betting limit, a card or plaque must be placed on top of a table indicating the minimum one dollar wager and maximum wager for that table. A wager that exceeds the maximum wager is valued at the table's maximum wager and the excess must be returned to the player.
3. An organization shall post and announce a change in the maximum wager at a table with adequate notice which approximates the time to deal out one dealing shoe.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-10, 53-06.1-17

99-01.1-12-15. Shuffle and cut of the cards.

1. Before starting play, and after each shoe of cards is dealt, a dealer shall, in front of the players, thoroughly shuffle all

the cards or use a mechanical device designed to automatically shuffle cards.

2. After the cards have been shuffled, a dealer shall offer the stack of cards, with backs facing away from the dealer, to a player to be cut.
3. A player designated by a dealer shall cut the cards by placing the cutting card in the stack at least ten cards in from either end. If any player declines to cut the cards, the dealer or a pit boss shall cut the cards. A dealer shall rotate the opportunity to cut the cards among all the players.
4. After a cutting card has been inserted, the dealer shall either take all the cards in front (towards the dealer) of the cutting card and place them in back of the stack or take all the cards in back (away from the dealer) of the cutting card and place them in front of the stack. The cutting card will then be at the bottom of the stack. A dealer shall then insert an indicator card in a position about fifty or up to one hundred cards from the bottom of the stack. The stack must then be inserted into a dealing shoe facedown.
5. When an indicator card appears at the face of a shoe and enough cards have been dealt to complete the hand in progress, the deal ends and the dealer shall begin a new shuffle. Unless an organization reopens a temporary inactive table, it may not reshuffle the cards unless the indicator card triggers a shuffle.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-12-16. Betting.

1. An original wager is the amount bet per hand and is exclusive of splitting, doubling-down, insuring, and tip betting. It is made by placing a chip inside a betting space before the first card is dealt. After the first card has been dealt to a betting space, the original wager may not be altered. Only one player may place a wager on one betting space.
2. A separate wager may consist of splitting, doubling-down, insurance betting, and tip betting.
3. Splitting is permitted as follows:
 - a. On any pair or any two 10-count value cards.
 - b. When splitting, a player is allowed a maximum of four hands per betting space. A player's right-hand card in

the split must be played to completion before the adjacent split hand is dealt a second card. A player shall take at least one card on each split hand.

- c. A wager on each hand must equal the original wager.
 - d. Split aces draw only one card each. Aces may not be resplit.
 - e. A two-card twenty-one after a split is not a natural twenty-one.
4. Doubling-down is permitted as follows:
- a. On the first two cards dealt to a betting space or the first two cards of any split hand, except on split aces.
 - b. A wager must equal the original wager.
 - c. Only one additional card is dealt.
5. An organization may permit insurance betting. Its decision must be posted. Insurance betting is permitted as follows:
- a. An insurance bet is placed when a dealer's faceup card is an ace.
 - b. An insurance bet must be one-half the original wager.
 - c. There may be no insurance bet on a tip wager.
 - d. The payoff on a winning insurance bet is two to one.
6. An organization may permit tip betting. Its decision must be posted. Tip betting does not preclude a player from awarding a dealer a regular tip. A wager for a tip bet is made by placing a chip outside a betting space, but with the chip touching the lower left edge of the betting space, from the dealer's perspective, before the first card is dealt. Tip betting is permitted as follows:
- a. A tip bet is made when the original wager is made.
 - b. A betting space is limited to one tip bet regardless of splitting.
 - c. A tip bet does not have to equal an original wager. A tip bet may range from fifty cents up to the maximum wager allowed for a table.
 - d. A tip bet may not be increased and cannot be doubled-down.

- e. On a split hand, a tip bet is assigned to the split hand located at the foremost left of a player, from a dealer's perspective.
 - f. A payoff on a tip bet is always one-to-one.
 - g. If a player's hand wins, a tip bet is paid off at an equal amount and the tip bet and payoff are placed in a dealer's tip receptacle. If the dealer's hand wins, a tip bet is placed in the chip tray. If a player's and dealer's hands tie, a tip bet is a standoff (push) and a player may either take back a tip bet or leave the tip bet for the next round.
7. If a player's wager consists of two or more values of chips, a player shall stack the lowest value chip on top of the highest value chip. If the chips are improperly positioned, a dealer shall tell the player and either the dealer or player shall reposition the chips.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-10, 53-06.1-17

99-01.1-12-17. Dealing.

- 1. All cards must be dealt from a dealing shoe located at the dealer's left.
- 2. After a shuffle, a dealer shall remove the first card face downwards and, without showing its value, place it in a discard holder (burning a card) located at the dealer's right. Each new dealer at the table shall burn one card before dealing any cards.
- 3. Only one of two dealing methods may be used at a table:
 - a. Hole-card-no-peek method. A dealer may not look at the face of a dealer's hole card until after all cards requested by players are dealt. The cards must be dealt in this order:
 - (1) One card face upwards to each betting space with a wager.
 - (2) One card either face upwards or face downwards (hole card) to a dealer.
 - (3) A second card face upwards to each betting space with a wager.

- (4) A second card face upwards to a dealer if the card referenced in paragraph 2 was dealt face downwards; or, a second card face downwards (hole card) to a dealer if the card referenced in paragraph 2 was dealt face upwards.
- b. No-hole-card method. A dealer may not deal a second card (hole card) to a dealer until after all cards requested by players are dealt. The cards must be dealt in this order:
 - (1) One card face upwards to each betting space with a wager.
 - (2) One card face upwards to a dealer.
 - (3) A second card face upwards to each betting space with a wager.
 - (4) No second card is immediately dealt to a dealer.
4. A dealer shall, starting on the dealer's left, deal the cards by removing them from a dealing shoe with the dealer's left hand, turning them face upwards and with the dealer's right hand place them on the proper area of the playing surface; however, a dealer may deal cards to the first two betting spaces with the dealer's left hand. A player's second card and any hit card must be placed on top of the preceding card covering no more than the lower left-hand quarter of the preceding card, from the dealer's perspective. This rule does not apply to a disabled dealer.
5. If a table is temporarily inactive, a dealer shall burn one card or reshuffle when a player comes to the table.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

99-01.1-12-18. Playing.

1. After the first two cards have been dealt to each betting space and if a dealer's faceup card is an ace, a dealer shall ask the players if they desire to make an insurance bet. If a player desires to make an insurance bet, the player shall place a chip on the "insurance" line of the playing surface. A dealer shall then reposition the chip at a location below the lower right-hand corner of the first card dealt and to the immediate right of the second card dealt, from the dealer's perspective. When chips have been repositioned, a dealer shall announce "insurance bets are closed". However, if a player who has been dealt a natural twenty-one (blackjack) desires to make an insurance bet and does not desire to

double-down, the player may opt to accept an even chip (money) payoff rather than placing a chip on the "insurance" line. To exercise this option, a dealer shall state "even money" and immediately do a chip payoff to the player equal to the player's original wager. The payoff chip must be placed beside the player's original wager in the betting space. A dealer shall then gather the player's cards and place them in the discard holder. For this option, a tip bet is a standoff (push). This rule does not apply if insurance bets are not permitted.

2. A dealer shall announce, beginning from the dealer's left, the point total of each player's hand. At each announcement, a player shall indicate whether the player desires to split or double-down, or both, by placing a chip as follows:
 - a. A wager for splitting must be made by placing a chip beside and horizontal to an original wager.
 - b. A wager for doubling-down must be made by placing a chip behind and vertical to an original wager.
 - c. If a dealer is unsure of a player's intent to split or double-down due to an improper chip placement, a dealer shall ask a player for the player's intention. Then, a dealer shall properly reposition the chip.
3. If a player has split or doubled-down, or both, a dealer shall play each hand as follows:
 - a. When a player places a wager for a split, a dealer shall split the cards side by side. If a player has also placed a tip bet, a dealer shall assign and reposition the tip bet to the split hand located at the foremost left of a player, from the dealer's perspective. Each split hand must be played separately starting with the split hand located at the foremost left of a player, from the dealer's perspective. If aces are split, one additional card must be dealt to each of the two split hands. The card must be dealt face upwards and placed at a right angle to the first card dealt.
 - b. Each double-down hand must be dealt one additional card. The card must be dealt face upwards and either placed at a right angle to the first two cards dealt or placed beneath the chip of a player's original wager.
4. A dealer may not take a hit card from a dealing shoe nor may a dealer bypass a player unless a player has first indicated the player's request for a hit card or to stand.
5. A player shall indicate the player's desire to draw a hit card or stand, by hand signal. The signal to draw a hit card is a

vertical hand motion towards a player. The signal to stand is a horizontal motion away from a player.

6. As a player indicates a decision to stand or draw a hit card on a hand, other than a hand that has split aces or a double-down, a dealer shall deal face upwards an additional card or cards as a player requests and announce the new point total after each additional card is dealt. A player is responsible for correctly computing the point total of the player's hand and should not rely solely on the point total announced by a dealer.
7. If a player did not split, double-down, or place an insurance bet, and busts (a player's count while being dealt an additional card or cards exceeds twenty-one), a player loses an original wager and any tip bet. A dealer shall then immediately collect a player's chips, including any tip bet, and cards, and place the chips in a chip tray and the cards in a discard holder.
8. If a dealer's faceup card is not an ace or a ten-count card and a player split or doubled-down and busts, a player loses the wager for that split or double-down hand and any tip bet assigned to it. A dealer shall then immediately collect a player's chips, including any tip bet, and cards, and place the chips in a chip tray and the cards in a discard holder.
9. If a dealer's faceup card is an ace or a ten-count card and player split, double-down, or placed an insurance bet and busts, a dealer shall then gather the cards of that hand and place them in the betting space under the player's wagered chips which must be kept in the same betting position. A tip bet for such a split or double-down hand that busts is lost. A dealer shall immediately collect the tip bet chips and place them in a chip tray.
10. If a dealer's faceup card is not an ace or a ten-count card and all players busted, regardless of whether a player split or doubled-down, a dealer may, at an organization's option, immediately end the round. A dealer does not need to either turn up a dealer's facedown card (hole-card-no-peek method), deal a second card face upwards to the dealer (no-hole-card method), or draw any hit cards. An organization's option must be used consistently at a site.
11. If a dealer's faceup card is an ace or a ten-count card and all players busted, and no player split, doubled-down, or placed an insurance wager, a dealer may, at an organization's option, end the round. A dealer does not need to either turn up a dealer's facedown card (hole-card-no-peek method), deal a second card face upwards to the dealer (no-hole-card method), or draw any hit cards. An organization's option must be consistently used at a site.

12. If the decisions of all players have been carried out, all additional hit cards have been dealt, the players' chips and cards of certain busted hands properly positioned according to subsection 9, and subsection 10 or 11 do not apply, a dealer shall turn up the dealer's facedown card (hole-card-no-peek method) or deal a second card face upwards to the dealer; however, the card must not be removed from a dealing shoe until a dealer first announces "dealer's card" (no-hole-card method). A dealer shall play the dealer's hand as follows:
- a. If a dealer's faceup card is an ace and a dealer's hand is not a natural twenty-one (blackjack), a dealer shall immediately collect all the players' insurance bet chips and place them in a chip tray. Then, a dealer shall immediately collect all the players' busted hands and related chips and place the chips in a chip tray and the cards in a discard holder.
 - b. If a dealer's faceup card is a ten-count card and a dealer's hand is not a natural twenty-one (blackjack), a dealer shall immediately collect all the players' busted hands and related chips and place the chips in a chip tray and the cards in a discard holder.
 - c. If a dealer's faceup card is an ace and a dealer's hand is a natural twenty-one (blackjack) and a player has placed an insurance bet, a player wins the insurance wager at the rate of two to one. However, if a player's original hand also is a natural twenty-one, subdivision d also applies.
 - d. If a dealer's faceup card is an ace or a ten-count card and a dealer's hand is a natural twenty-one (blackjack), a dealer wins all original wagers and tip bets (organization wins the tip bet), unless a player's original hand also is a natural twenty-one, in which case a standoff exists between a dealer's and player's hands. All other players lose.
 - e. If a player has doubled-down or split against a dealer's faceup card of an ace or a ten-count card and a dealer's hand is a natural twenty-one (blackjack), only the amount of a player's original wager is lost unless a player's original hand also is a natural twenty-one, in which case a standoff exists between a dealer's and player's hands. All separate splitting and doubling-down wagers are voided. A dealer shall return the chips of the separate wagers to the players.
 - f. If the count of a dealer's hand is sixteen or under, a dealer shall draw a hit card until the count exceeds sixteen. An additional card dealt to a dealer's hand must be dealt face upwards to the immediate right of a dealer's

first two cards dealt, from the dealer's perspective, and a dealer shall announce the total point count.

- g. If the count of a dealer's hand exceeds sixteen but does not exceed twenty-one, a dealer shall stay (not draw a hit card). If a dealer's hand contains an ace and a count of seventeen, eighteen, nineteen, twenty, or twenty-one can be obtained by counting the ace as an eleven, a dealer shall value the dealer's hand as such and stay.
 - h. If a dealer's hand busts, the remaining players with active hands win.
13. If a player's original hand is a natural twenty-one (blackjack) and a dealer's faceup card is not an ace or a ten-count card, a player's hand wins and is paid off at a rate of three to two, unless a player chooses to double-down. A dealer's chip payoff on a player's wager may occur either immediately or when a dealer compares the count of each player's hand to the dealer's hand. If a dealer's faceup card is an ace or a ten-count card, a player's natural twenty-one is not paid off until a dealer determines that the dealer does not also have a natural twenty-one. Then, a dealer's chip payoff on a player's wager may occur either immediately or when a dealer compares the count of each player's hand to the dealer's hand.
14. Wagers are won or lost on an individual hand basis by comparing the count of each player's hand to the count of the dealer's hand. A dealer wins if the count of the dealer's hand exceeds the count of a player's hand. A player wins if the count of the dealer's hand is less than the count of a player's hand. Wagers, including tip bets, are paid off at an equal amount. All ties are a standoff (push) - no payoff is made, including tip bets. A player may not win merely due to a certain number of hit cards a player has drawn without busting.
15. If a dealer makes a mistake, the mistake must be corrected according to section 99-01.1-12-19. A dealer may not pay off a hand merely due to a dealer mistake.
16. If a player's hand loses against a dealer's hand, an organization wins any tip bet. A dealer shall immediately collect a player's chips, including any tip bet and cards, and place the chips in a chip tray and the cards in a discard holder.
17. If a player's hand wins against a dealer's hand and a player placed a tip bet, a dealer wins the tip bet and the one-to-one payoff from a chip tray. However, before a payoff, a dealer shall reposition the tip bet chip in the inner table area. The repositioned winning tip bet chips are not to be stacked.

18. If a player's hand wins against a dealer's hand and a table does not have a video surveillance system, the payoff procedure is:
 - a. Normal hand. The payoff chip must be placed beside the original wagered chip in a betting space. No chip may be placed on top of an original wager.
 - b. Split hand. The payoff chip must be placed beside the wagered chip in a betting space. No chip may be placed on top of a wager.
 - c. Double-down hand. The payoff chips must be placed beside the two wagered chips in a betting space. No chip may be placed on top of a wager.
 - d. Insurance bet. The payoff chip must be first placed beside the insurance bet chip, then placed on top of the insurance bet and the chips pushed to a player.
 - e. Natural twenty-one (blackjack). The payoff chips must be pyramided with the higher value chip placed beside the original wagered chip in a betting space and the smaller value chip placed on top over the center of the other two chips.
 - f. Tip bet. The payoff chip must be placed beside the tip bet chip repositioned in the inner table area. Then, a dealer must place the chips directly in a tip receptacle.
19. If a player's hand wins against a dealer's hand and a table has a video surveillance system, the payoff of each winning hand must be done separately. The payoff procedure is:
 - a. For a normal hand, split hand, double-down hand, insurance bet, and natural twenty-one (blackjack), a dealer shall fan the player's wagered chips toward the dealer with the dealer's right hand, take chips from a chip tray, equal in value to the payoff, place the payoff chips in a stacked manner beside the wagered fanned chips, fan the payoff chips toward the dealer, and move the dealer's hand away from the wagered and payoff chips so the chips are within a camera's view.
 - b. For a tip bet, a dealer shall reposition a winning tip bet (chip) in the inner table area with the dealer's left hand, fan a stacked tip bet, take a chip from a chip tray of the same denomination of the tip bet chip with the dealer's right hand, place the payoff chip in a stacked manner beside the fanned tip bet, fan the chips, momentarily move the dealer's hands away from the chips so the chips are within a camera's view, then place the chips directly in a tip receptacle.

20. At the end of a round of play, a dealer shall pick up all the cards remaining on the playing surface so that they can be played back to recreate each hand, starting with the player to a dealer's right and moving counterclockwise around the table. After the cards have been collected, a dealer shall pick up the dealer's cards against the top of the players' cards and place them in a discard holder face downwards.
21. If a table has a video surveillance system, a dealer's shift ends, and the dealer:
 - a. Does not desire to exchange the dealer's tips (chips) for other chips in the chip tray, the dealer shall momentarily show both sides of the dealer's hands, with fingers extended, within a camera's view. A dealer shall then take the tip receptacle and leave the table.
 - b. Does desire to exchange the dealer's tips (chips) for other chips in the chip tray, the dealer shall take out of the tip receptacle only the chips to be exchanged. A dealer shall place those chips in the inner table area at the dealer's left; sort, stack, and fan the chips; take chips from a chip tray equal in value to the fanned chips; place the replacement chips at the dealer's right; sort, stack, and fan the chips; momentarily move the dealer's hands away from the chips so the chips are within a camera's view; place the exchanged chips in a chip tray; then place the replacement chips in a tip receptacle. A dealer shall then momentarily show both sides of the dealer's hands, with fingers extended, within a camera's view; take the tip receptacle; and leave the table. As an option, the dealer for the next shift may exchange the present dealer's tips.
22. A dealer may not allow a player to touch any card.
23. A dealer may not switch a player's card or chip, remove a player's card or chip, reposition a player's chip (except to properly position the chip), pay on a standoff, or do anything else to negatively affect the fair and legal outcome of a betting hand.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-10, 53-06.1-17

99-01.1-12-19. Dealing mistakes. Unless an organization has a written policy governing particular dealing mistakes, these procedures must be applied for the stated mistakes:

1. A card found turned face upwards in a dealing shoe must be placed in a discard holder.

2. If no cards are dealt to a player's betting space containing a wager, the betting space is inactive and the player must be included in the next round. If only one card is dealt to a player's betting space, at the player's option, a dealer shall deal the second card to the player after all other players have received a second card. Otherwise, the player's betting space is inactive and the card dealt must be burned.
3. If a dealer deals one or two cards to an inactive betting space and a dealer has continued dealing cards to the players' active betting spaces, a dealer shall burn the cards dealt to the inactive betting space.
4. If a dealer misses dealing the dealer's first or second card, the dealer shall continue dealing the first two cards to each player, and then deal the proper number of cards to the dealer.
5. If a dealer does not ask a player if the player desires to place an insurance wager and the hand is played, the hand is valid.
6. If a dealer drops a player's or dealer's card off a table, the dealer shall burn the card.
7. A card drawn from a dealing shoe in error without the card's face being exposed to any player must be used as if it were the next card from the shoe.
8. After the initial two cards are dealt to each player and a card is drawn from a dealing shoe in error, such as when a player changes a decision to take a hit card, with the card's face exposed to any player, the card must be dealt to a player or dealer as though it were the next card from the shoe. A player refusing to accept the card may not have any hit card dealt to the player during the round. If the card is refused by all the players and a dealer cannot use the card without busting, the card must be burned.
9. If there are an insufficient number of cards remaining in a dealing shoe to complete a round of play, all of the cards in a discard holder must be shuffled and cut, the first card must be drawn face downwards and burned, and a dealer shall complete the round of play.
10. If a dealer has a count of at least seventeen and draws a hit card for the dealer, the card must be burned.
11. If a dealer permits a player to wager an amount other than one dollar, two dollars, three dollars, four dollars, or five dollars and a player's hand wins, a dealer shall return the uneven portion of the wager to the player. Then, a dealer

shall value the player's hand at the proper wager and pay off accordingly.

12. After a round of play, if a dealer or player suspects that a dealer miscounted the dealer's or player's hand, the dealer shall play back the dealer's and player's cards to resolve a question or dispute.
13. If a player inadvertently wagers only fifty cents and is dealt a card, a dealer shall return the fifty cents to the player and burn the card.
14. If a dealer does not burn a card at the beginning of dealing a shoe, a dealer shall burn the card after the first complete round of play.
15. If a dealer's facedown card is exposed to any player before the decisions of all the players are carried out, such as when a dealer inadvertently drops a dealer's facedown card off a table or a dealer's shirtcuff catches and overturns a dealer's facedown card, a dealer shall burn the card and, after the decisions of all the players have been carried out, draw a new facedown card.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-12-20. Posting rules. These rules must be posted:

HOUSE MUST

Use 4, 6, or 8 complete decks of cards
Use last hand indicator card
Use Hole-Card-No-Peek method of dealing
- or -
Use No-Hole-Card method of dealing
Deal from a shoe

PLAYER RULES

Must be twenty-one years of age or older
Hand signals must be used
No touching of cards
Two betting spaces maximum
No side bets
No credit
No payoff on tie counts
Splitting on any pair and any two 10-count
value cards and limited to a maximum
of 4 hands per betting space
Doubling-down on the first 2 cards dealt

or the first 2 cards of any split
hand, except on split aces

Insurance not permitted (Choose one when posting)

- or -

Insurance permitted - pays 2 to 1

Tip betting permitted (Choose one when posting)

- or -

Tip betting not permitted

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-60.1-07, 53-06.1-10, 53-06.1-17

99-01.12-21. Drop box - Transportation from a table and storage.

1. Unless the drop box cash is counted when a drop box is removed from a table, the drop box must be transported by the shift manager and escorted by an employee to and secured in a safe storage place. This rule does not apply if there is only one employee on duty.
2. An empty drop box, when not used during a shift, may be stored on a table or in a safe storage place. An organization shall apply key control to the storage place to restrict access to an authorized employee.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-12-22. Drop box cash count.

1. A drop box must be opened by a two-person count team. The persons must be independent of each other. The count team may be an independent person and an employee, two nongaming employees, or two employees provided that they do not conduct games at the same site. A count team may not be two persons who have a direct supervisor and subordinate relationship or include an employee of a lessor. A count team member may not be a common household member, spouse, child, parent, brother, or sister of the other count team member.
2. The key to the lock securing the contents of a drop box must be controlled by one of the count team members who may not access the drop box unless both count team members are present. If there are two separate locks that secure the contents of a drop box, the key to the second lock must be controlled by the other count team member.

3. Each person shall independently count the drop box cash in the presence of the other person and resolve any difference between the two counts. When both persons agree with the cash count, one person shall record the count, and both persons shall sign and date the drop box cash count report. For a bank deposit, the count team shall do one of these:
 - a. Prepare a two-part bank deposit record. One person shall retain the drop box cash count report and one part of the bank deposit record with the accounting records. The other person shall take custody of the bank deposit funds and the second part of the bank deposit record and take them to a financial institution or transfer them to another person who shall take them to a financial institution. The person who makes the bank deposit shall forward a validated bank deposit slip or receipt directly to a bookkeeper.
 - b. If a two-part bank deposit record is not used, one person shall record the bank deposit amount on a schedule which must reference the date of gaming activity and be signed or initialed by both persons. The schedule must be retained by one of the persons. The other person shall take the bank deposit funds to a financial institution or transfer them to another person who shall take them to a financial institution. The person who makes the bank deposit shall forward a validated bank deposit slip or receipt directly to a bookkeeper.

An organization shall comply with this rule unless it uses another drop box cash count and bank deposit procedure which has proper accounting control.

4. This section does not apply to a site that contracts with a financial institution, licensed and bonded provider of security, or security agency to count the cash directly from a drop box.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

99-01.1-12-23. Tournaments. An organization shall conduct a tournament according to these rules, which must be posted at a site:

1. A player shall register before participating.
2. An organization may charge a player an entry fee.
3. An organization shall set a minimum player buy-in amount for the preliminary and championship rounds or for the tournament

and specify the number of shoes or hands to be played for preliminary and championship rounds.

4. An organization may assign a player a betting space and may limit a player to one betting space.
5. An organization may use a rotating button to signify the order of betting. If a button is used, it must move clockwise one position after each hand to allow each player an opportunity to receive the last hand dealt and place the last bet.
6. A player may not move from table to table, temporarily stop playing, or transfer the player's chips to or from another player. A bet must be made on each hand.
7. A player shall play with only the chips issued for the tournament and keep the player's chips on top of a table in view of the dealer.
8. A player may not cash out before the end of play scheduled for the player unless the player withdraws.
9. A player's score is the difference between the value of a player's buy-in and value of the player's chips redeemed at the end of preliminary or championship rounds. After the predetermined number of shoes or hands have been played, an organization may advance certain players with the highest scores from each preliminary round to the next round of play and repeat the process to the championship round.
10. An organization shall post all the players' scores at the end of a tournament. A player with the highest score, based either on preliminary rounds or a championship round, wins.
11. An organization's decision on a dispute is final.
12. A cash or merchandise prize may be awarded.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-12-24. Recordkeeping system.

1. Except as otherwise provided below, an organization shall retain accounting records for three years from the end of the quarter in which the twenty-one activity occurred. The records must be available at a site during the day's activity.
2. For each day's activity, records must include:

- a. The starting and ending twenty-one cash bank and chip bank according to section 99-01.1-06-11.
 - b. Daily activity of each table, including fill slips, credit slips, and a summary for all tables. Records must include the serial number and amount of each fill slip and credit slip, amount of currency (by value) in the drop box, and win and loss results for each table.
 - c. A summary of gross proceeds, prizes, adjusted gross proceeds, actual cash profit, cash long or short, and bank deposit. The summaries of all twenty-one activity conducted during a quarter must reconcile to the activity reported on the tax return.
 - d. For a video surveillance system, a surveillance log, video tape master and site control log, tape review log, and dealer percent-of-hold tracking records. These records must be retained for one year from the end of the quarter in which the activity occurred.
3. Chip inventory control records according to section 99-01.1-06-15.
 4. The actual cash profit, less an increase or plus a decrease in a starting cash bank for the next gaming activity, must be deposited intact according to section 99-01.1-06-16.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

**CHAPTER 99-01.1-13
POKER**

Section	
99-01.1-13-01	Poker
99-01.1-13-02	Limitations and Fees
99-01.1-13-03	Ranking of Cards and Hands
99-01.1-13-04	Posting Rules
99-01.1-13-05	Recordkeeping System

99-01.1-13-01. Poker. Poker is a card game. Poker is dealt by one dealer on a poker table. A player bets on the cards (hand) the player holds. All the bets placed by players are collected together in the center of the table which is known as the pot. There may be an initial ante round. There may be a blind bet by players. Then, after the players receive their starting cards, there is a betting round and, after each round of new cards, there is a betting round. Each round, the player decides whether to continue contending for the pot by calling or raising the bet to the player. After all the dealing of cards and betting has occurred for a pot and there are two or more players still in contention, there is a showdown to determine which player has the best hand. The object of the game is for a player to win the pot either by making a bet no other player is willing to match, or by the player having the most valuable hand after all the betting is over, as determined by classifying hands into ranked categories. Based on the type of game played, a winning player may be the player who holds the hand of highest rank, lowest rank, or divided between the highest and lowest ranking hands.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-07, 53-06.1-17

99-01.1-13-02. Limitations and fees.

1. An organization may not conduct poker on more than two nontournament or tournament occasions per year.
 - a. A nontournament occasion is a twenty-four-hour period of play completed within a continuous forty-eight-hour period.
 - b. A tournament occasion is a consecutive three-calendar-day period of play without a limit on the number of hours of play.
2. For tournament play, an organization shall provide a dealer and use value chips.

3. For nontournament play, if an organization does not provide a dealer, it shall have players use cash for betting purposes.
4. For tournament and nontournament play, an organization shall:
 - a. Charge each player a fee not to exceed two dollars per one-half hour of playing time by that player, collected in advance of the one-half hour interval. A fee may either be fifty cents, one dollar, one dollar and fifty cents, or two dollars. For tournament play, an organization may charge each player a fixed entry fee not to exceed one hundred dollars in lieu of or in addition to the fee assessable at one-half hour intervals. A player may not play for free. An organization's fee schedule must be posted on a site where it can be seen by players.
 - b. A fee collected at the one-half hour interval must be immediately recorded by an employee.
5. If an organization provides a dealer, the dealer or organization may not have a direct or indirect financial interest in the outcome of a game and the dealer may not play in the game.
6. An ante must be either five cents, ten cents, twenty-five cents, fifty cents, or one dollar per person per hand. A dealer or player may not ante for any other player. An organization may, at its discretion, establish a minimum ante for a table or game.
7. For each round of bets, there may be no more than three raises made among all the players. Each raise may be either five cents, ten cents, twenty-five cents, fifty cents, or one dollar; however, each raise must be equal to or greater than the original bet but cannot exceed one dollar.
8. An organization may allow a blind bet and set a minimum table limit.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-07.2, 53-06.1-17

99-01.1-13-03. Ranking of cards and hands.

1. The cards are ranked ace, king, queen, jack, ten, nine, eight, seven, six, five, four, three, deuce. The ace is the highest ranked card in high poker and is ranked lower than a deuce in low poker.

2. A poker hand at showdown consists of only five cards, usually the best five selected from a greater number, ranked according to the following from highest to lowest:
 - a. Five aces - four aces of different suits and the joker.
 - b. Straight flush - five cards of the same suit in sequence. An ace high straight flush is a "royal flush".
 - c. Four of a kind - four cards of the same rank.
 - d. Full house - three cards of the same rank and two cards of the same rank.
 - e. Flush - five cards of the same suit.
 - f. Straight - five cards in sequence.
 - g. Three of a kind - three cards of the same rank.
 - h. Two pair - two cards of the same rank and two other cards of the same rank.
 - i. One pair - two cards of the same rank.
 - j. Highest card - the highest ranking card in the hand of five odd cards.
3. A joker card may be used in draw poker either as an ace, or as any card not already in the player's hand to complete a straight flush, flush, or straight. The joker card may be used in low poker as a card of the lowest rank not already in the player's hand.
4. If two or more hands are tied in the ranking, the hand with the highest ranked card or cards (for example - three of a kind in a full house) wins. Otherwise, the tie must be broken by the rank of the unmatched cards in the hand. All suits are of equal value for determining hand rankings.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

99-01.1-13-04. Posting rules. These rules must be posted.

HOUSE MUST

Use one deck of cards (fifty-two cards, except when a joker may be used)
Use cut card to conceal the bottom card of the deck
Deal out of the hand
May allow an ante of five cents, ten cents, twenty-five

cents, fifty cents, or one dollar
Allow a maximum of three raises per round
May limit each raise per round to five cents, ten cents,
twenty-five cents, fifty cents, or one dollar; however, each
raise must be equal to or greater than the original
bet of that betting round but cannot exceed one dollar

PLAYER RULES

Must be twenty-one years of age or older
No side bets
No credit

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-07.2, 53-06.1-17

99-01.1-13-05. Recordkeeping system.

1. An organization shall retain accounting records for three years from the end of the quarter in which the poker activity occurred. The records must be available at a site until the poker occasion is concluded.
2. For each poker occasion, records must include:
 - a. The starting and ending cash on hand according to section 99-01.1-06-11.
 - b. The activity of each table, including a summary for the poker occasion. The records must include, for each one-half hour interval, the fees collected and the number of players. However, this rule does not apply if an organization only charges a player a fixed entry fee for tournament play.
 - c. Name, signature, and hours worked of the employee who was responsible for collecting the fee.
 - d. A summary of gross proceeds and adjusted gross proceeds, actual cash profit, cash long or short, and bank deposit. The summaries of all poker activity conducted during a quarter must reconcile to the poker activity reported on the gaming tax return.
3. The actual cash profit, less an increase or plus a decrease in a starting cash bank for the next gaming activity, must be deposited intact according to section 99-01.1-06-16.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

**CHAPTER 99-01.1-14
CALCUTTAS**

Section
99-01.1-14-01 Calcutta
99-01.1-14-02 Recordkeeping System

99-01.1-14-01. Calcutta. A "calcutta" is a competitive sporting event of two or more competitors in which players (bidders) wager by a verbal, sealed, or open bid at an auction for the exclusive right to purchase or wager on the performance of a particular competitor in the event. The wagers usually vary in amount. A calcutta auction pool is comprised of the wagers paid by players (bidders) who offered the highest bid to the auctioneer on the competitors participating in the event. When the outcome of the event has been determined, the auction pool is distributed to the player (bidder) who had purchased or wagered upon the winning competitor. The winning competitor may be one competitor, a team of competitors, or certain ranked competitors (for example, the top three placements in an event). The distribution of the cash prize to the winning player (bidder) is based on a predetermined percentage of the calcutta auction pool, which may not exceed ninety percent of the total auction pool. Only cash prizes may be awarded.

1. A calcutta may be conducted for a professional or amateur sporting event held only in North Dakota, but not for an elementary, secondary, or postsecondary education sporting event.
2. A calcutta board is a sheet of paper, cardboard, or similar material on which is printed a matrix of horizontal lines and vertical columns sufficient to accommodate the information required by subsections 18, 28, and 30.
3. The word "calcutta" must be printed at the top of the calcutta board. The board must contain a description of the sporting event and method of prize payout.
4. No calcutta may be conducted unless a state gaming stamp has been affixed to the calcutta board by a distributor.
5. A calcutta board must have a serial number and be acquired from a distributor.
6. An employee may not modify or otherwise change the serial number that was written on the state gaming stamp.
7. An organization shall post a notice on a site containing the organization's special rules affecting the calcutta and requirements of the players (bidders).

8. The total prize payout may not exceed ninety percent of the actual gross proceeds of the auction pool.
9. An organization may not have a direct interest in the outcome of a calcutta.
10. A competitor, member of a team of competitors, or one of certain ranked competitors in a calcutta may not be under the age of eighteen.
11. A member of the organization's governing board or games of chance committee may be a competitor or player (bidder).
12. Each competitor in the sporting event must be identified before the auction begins.
13. An organization may charge a player (bidder) an entry fee which is other income on the gaming tax return.
14. Each competitor listed on a calcutta board constitutes a chance to win and each competitor must be offered through an auction to prospective players (bidders). The player (bidder) who offers the highest bid for a particular competitor by a continuous verbal bid process, sealed bid, or open bid (see subsection 15) purchases that competitor.
15. An open bid enables a potential player (bidder), during a designated time period, to write the player's (bidder's) name and bid for a competitor on a disclosed register assigned to that competitor. Each successive potential player (bidder) interested in that competitor shall write the player's (bidder's) name and bid, of an amount higher than the previous potential player's (bidder's) bid, on the register. When the designated time period ends, the last potential player (bidder) listed on the register who offered the highest bid for the particular competitor purchases that competitor.
16. If a competitor was purchased by a player (bidder) and the competitor does not participate in the event for any reason, an organization shall refund the bid amount to that player (bidder).
17. Before the auction, an employee shall verbally announce and post the predetermined percentage of the calcutta auction pool that will be distributed to the winning player (bidder) and the predetermined percentage of the auction pool that will be retained by the organization. The amount a player (bidder) may win must depend on the total amount of the calcutta auction pool and may not depend on any odds set by any person.
18. Before the acution, an employee shall complete this information for each line of the calcutta board:

- a. An assigned sequential number starting with the number one.
 - b. Names of the competitors.
19. The sequence of the verbal bid auction must be determined by a random drawing of the numbers assigned each line. The auction method must be fair to each competitor. A player must have an equal opportunity to wager for each competitor.
 20. There is no limit on the amount a player (bidder) may wager on a competitor.
 21. A competitor may not be auctioned off to more than one player (bidder).
 22. A player may not be under the age of twenty-one.
 23. A player (bidder) may purchase more than one competitor.
 24. An organization shall conduct the auction at its site and a player (bidder) must be present at the site to place a wager. If the organization desires to conduct the auction at a site where the sporting event is held, the organization shall first apply for and be issued a site authorization by a local governing body and a license by the attorney general.
 25. A competitor in a sporting event may also be a player (bidder) who may purchase oneself or another competitor who is entered in the same event.
 26. If a competitor is not purchased by a player (bidder) through an auction, an organization may choose either or both of these options to sell the competitor:
 - a. If there is more than one unpurchased competitor, place the unpurchased competitors in one or more groups and auction a group as one competitor.
 - b. Allow a competitor to purchase oneself for a predetermined minimum wager. The predetermined wager is in addition to any entry fee charged the competitor.
 27. An employee shall provide each player (bidder) who bid the highest amount on a competitor the original part of a two-part consecutively numbered receipt containing this information:
 - a. Name of organization.
 - b. License number.
 - c. Receipt number.

- d. Full name and address of the player.
 - e. Amount of the player's (bidder's) wager.
 - f. Full name of the competitor who the player (bidder) wagered on.
 - g. Predetermined percentage of the calcutta auction pool that will be distributed as the prize to the winning player (bidder).
 - h. Date of the calcutta.
28. After an auction, an employee shall complete this information for each line on a calcutta board:
- a. Name of the player (bidder) who purchased the competitor.
 - b. Amount wagered by the player (bidder) on the player's competitor. The winning player (bidder) is the player (bidder) who purchased or wagered upon the highest performance ranking competitor who was actually purchased through the auction.
 - c. Cumulative amount, in sequence of the line numbers, wagered by all the players (bidders) on all the competitors.
29. The winning player (bidder) is determined at the conclusion of the sporting event. The player (bidder) shall redeem the receipt referenced in subsection 27.
30. After the conclusion of the sporting event, an employee shall complete, for each line on the calcutta board, the amount of the auction pool won by each player (bidder).
31. An organization may award the prize to the winning player (bidder) at the location where the sporting event is held.
32. An organization, competitor, player (bidder), or any person may not cheat, misrepresent, or do other disreputable tactics that hinder or prevent a fair and equal chance for all players (bidders) to win the calcutta or that otherwise affect the outcome of the pool.
33. An organization may conduct more than one calcutta on the same sporting event. More than one organization may independently conduct a calcutta on the same sporting event.
34. When any player (bidder) wins a cash prize greater than one hundred dollars, an employee shall make a record of win according to section 99-01.1-06-13.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-07.3, 53-06.1-17

99-01.1-14-02. Recordkeeping system.

1. Except as otherwise provided below, an organization shall retain accounting records for three years from the end of the quarter in which the calcutta activity occurred. The records must be available at a site until the calcutta event is concluded.
2. For each calcutta, records must include:
 - a. A completed, sold calcutta board indicating the winning competitor and player. The calcutta board must be retained for one year from the end of the quarter in which the calcutta activity occurred.
 - b. The starting and ending cash on hand according to section 99-01.1-06-11.
 - c. A summary of gross proceeds, prizes, adjusted gross proceeds, actual cash profit, cash long or short, and bank deposit. The summaries of all calcuttas conducted during a quarter must reconcile to the calcutta activity reported on the tax return.
 - d. Record of win.
3. Inventory control records according to section 99-01.1-06-15.
4. The actual cash profit, plus the amount of a prize paid by check, must be deposited according to section 99-01.1-06-16.

**CHAPTER 99-01.1-15
PADDLEWHEELS**

Section

99-01.1-15-01	Paddlewheels
99-01.1-15-02	Paddlewheel
99-01.1-15-03	Table
99-01.1-15-04	Drop Box
99-01.1-15-05	Chips
99-01.1-15-06	Paddlewheels - Excluding the Use of a Table
99-01.1-15-07	Distributing and Removing Chips
99-01.1-15-08	Purchase of Paddlewheel Tickets and Tips to be Made With Chips Only
99-01.1-15-09	Chip Bank Services
99-01.1-15-10	Opening and Closing a Paddlewheel Table
99-01.1-15-11	Number of Employees and Players
99-01.1-15-12	Procedure for Accepting Cash
99-01.1-15-13	House Odds
99-01.1-15-14	Betting
99-01.1-15-15	Conduct and Play
99-01.1-15-16	Posting of Rules
99-01.1-15-17	Drop Box - Transportation From a Table, Storage, and Cash Count
99-01.1-15-18	Recordkeeping System

99-01.1-15-01. Paddlewheels. Paddlewheels must be conducted and played according to either or both of these methods.

1. Paddlewheels may be a game in which a player purchases a preprinted paddlewheel ticket, detachable from a paddlewheel ticket card. The ticket must contain one or more numbers or symbols corresponding to a paddlewheel. A paddlewheel is marked off into equally spaced sections. Before a spin of a paddlewheel, the player purchases a ticket. The number or symbol on a ticket may not be duplicated on any other ticket of the same card. The maximum price per ticket is two dollars. All the tickets of a card must be sold before a spin. An organization may not have a direct interest in the outcome of the spin. After a spin of the paddlewheel by a wheel operator, a pointer stops the paddlewheel and designates the winning number or symbol. A player wins if the player's ticket contains the winning number or symbol. Cash or merchandise prizes may be awarded. No cash prize may be a variable multiple of the price of a ticket. Sections 99-01.1-15-06 and 99-01.1-15-18 apply to paddlewheels described by this rule.
2. Paddlewheels may be a table game in which a player purchases a playing chip. A paddlewheel must have two to five differently colored concentric circles marked off into equally spaced sections. A player exchanges a chip for a preprinted

paddlewheel ticket. The maximum price per ticket is two dollars. A player places a wager by placing the ticket in a slot or other retaining device on a table playing surface that corresponds to a certain colored number or symbol or set of colored numbers or symbols (includes letters) on the paddlewheel. After a spin of the paddlewheel by a wheel operator, a pointer stops the paddlewheel and designates the winning colored number or symbol or set of colored numbers or symbols. A player wins if the player's ticket is wagered on the winning colored number or symbol or set of colored numbers or symbols. A prize payoff is a predetermined variable multiple of the amount wagered and is in the form of chips. No merchandise prize may be awarded. Except for section 99-01.1-15-06, sections 99-01.1-15-02 through 99-01.1-15-18 apply to paddlewheels described by this rule.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-07, 53-06.1-07.4, 53-06.1-17

99-01.1-15-02. Paddlewheel.

1. A paddlewheel is a mechanical vertical wheel. It must be round in shape, be at least thirty inches [76.2 centimeters] in diameter, and be divided into a minimum of two and a maximum of five concentric circles. The outer circle may contain up to sixty-five numbers or symbols. Each inner circle may contain up to one-half of the number of numbers or symbols as that circle's adjacent outer circle. The numbers and symbols may repeat on a circle. Each circle must be divided into equally spaced sections. Each circle must be a different primary color and must correspond to the colored numbers or symbols or sets of colored numbers or symbols of a table playing surface.
2. A paddlewheel may have house numbers or house symbols for an optional odd or even bet.
3. A peg or pin must protrude, on the circumference of a paddlewheel, at the dividing line between each section of the outside concentric circle.
4. The colored numbers or symbols of all concentric circles must be at least five-eighths of one inch [15.88 millimeters] in height.
5. A pointer must be positioned above a paddlewheel. The pointer is used to stop a spin of the paddlewheel and to determine the

winning colored number or symbol or set of colored numbers or symbols.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-07.4, 53-06.1-17

99-01.1-15-03. Table.

1. A table must accommodate placement of bets by players on the front and both sides. The colored numbers or symbols and any sets of colored numbers or symbols must be at least two inches [5.08 centimeters] in height. The table must have a rail for holding a player's chips.
2. A table playing surface must be permanently imprinted with colored numbers or symbols or sets of colored numbers or symbols corresponding to each concentric circle of a paddlewheel. A set of colored numbers or symbols is a line bet. A table may have a space for "ODD" and "EVEN" for placing a bet that any number of a designated concentric circle will be odd or even.
3. A table must have a slot opening or other retaining device for each single colored number or symbol, set of colored numbers or symbols, and optional odd or even for placing a ticket.
4. Unless an organization posts prize information according to subsection 2 of section 99-01.1-15-16, each colored number or symbol and each set of colored numbers or symbols, including an optional odd or even bet, of a table must state the prize payoff. The payoff must be either permanently imprinted or adhesively backed and impressed onto a table playing surface adjacent to each colored number or symbol and each set of colored numbers or symbols, including an optional odd or even bet. The payoff is the relationship of the prize to a winning one dollar ticket. The payoff must be stated as " to " with the word "to" being synonymous with ":" and "for". For example, for a certain colored number or symbol which pays forty dollars for a winning one dollar ticket, that certain colored number's or symbol's prize payoff must state "40 to 1".

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-07.4, 53-06.1-17

99-01.1-15-04. Drop box. A paddlewheel table must be equipped with a double-locking or triple-locking "drop box" that meets the specification of subsection 3 of section 99-01.1-20-04. It must have a

money plunger, which must remain in a drop box slot while it is attached to a table, except when currency and forms are inserted.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-15-05. Chips.

1. An organization may issue chips in values of fifty cents, one dollar, two dollars, five dollars, twenty-five dollars, and one hundred dollars. Chips in values of fifty cents, one dollar, two dollars, and five dollars must be identical to an organization's twenty-one chips at a site.
2. Each chip must be round in shape, be one and nine-sixteenths inches [39.62 millimeters] in diameter and be permanently impressed, engraved, or imprinted on one side with the name of the organization and on the opposite side with the value of the chip. The name may be represented by any unique identification which must differentiate the organization's chips from those being used by all other organizations.
3. A chip must meet these specifications:

a. Each value of chip must have this primary color:

- (1) Twenty-five dollar chip - "green" which is the color classified as 2.5G 5/12 on the munsell system of color coding which must be reproduced to within these tolerances:

	<u>Upper limit</u>	<u>Lower limit</u>
Hue:	H+ 3.75G 5/12	H- 1.25G 5/12
Value:	V+ 2.5G 5.5/12	V- 2.5G 4.5/12
Chroma:	C+ None	C- 2.5G 5/9

- (2) One hundred dollar chip - "black" which is the color classified as N 2/ on the munsell system of color coding which must be reproduced to within these tolerances:

	<u>Upper Limit</u>	<u>Lower Limit</u>
Value:	V+ N2.3/	V-N1.5/
Chroma:	5R 2/0.5	5B 2/0.5
	5Y 2/0.5	5P 2/0.5
	5G 2/0.5	

- b. The primary color of chips must fall within the upper and lower limits of subdivision a when the chips are viewed both in daylight and under incandescent light. Along with the primary color, an organization shall use one or two

contrasting secondary colors for the edge spots on the chips. the edge spots must be visible on the perimeter of both sides of a chip and on a chip's circumference. An organization may not use a secondary color on any value of chip identical to the primary color used by an organization on another value of chip that results in a reversed combination of primary and secondary colors between two or more chips. For example, an organization may not select the color red as the secondary color for a twenty-five dollar green chip while selecting green as the secondary color for a five dollar red chip.

c. The edge spots for a:

(1) Twenty-five dollar chip must have eight solid edge spots and each edge spot must be about five-thirty seconds of one inch [4.06 millimeters] in width.

(2) One hundred dollar chip must have four triple split edge spots and each edge spot must be about one-half of one inch [12.7 millimeters] in width. Each of the three split portions of an edge spot and the two spaces between the three split portions must be about one-sixteenths of one inch [1.52 millimeters] in width. The three split portions of an edge spot must be the secondary color and the two middle spaces may either be the primary color or a third color.

d. Each value of chip must have the chips' graphics designed to be able to determine on color video play the value of the chip when placed in a stack of chips of other values. An organization may use other security features to distinguish its chips from other organizations' chips.

e. A chip must be designed and manufactured to prevent counterfeiting.

4. An employee shall safeguard chips by placing them in a safe storage area or, if a table has been opened and no wheel operator is stationed at the table, securing the chip tray with a locking chip tray cover.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-15-06. Paddlewheels - Excluding the use of a table. This section applies to the game described by subsection 1 of section 99-01.1-15-01.

1. All paddlewheel tickets must be preprinted, detachable from a paddlewheel ticket card, and contain one or more numbers or

- symbols corresponding to the numbers or symbols on a paddlewheel. The one or more numbers or symbols printed on a ticket cannot be duplicated on any other ticket of the same paddlewheel ticket card number. The ticket must bear a game serial number corresponding to the card number.
2. An organization may not use paddlewheel tickets:
 - a. That do not have a state gaming stamp affixed to the flare of the series of paddlewheel ticket cards.
 - b. When the paddlewheel ticket card game serial number, written on the state gaming stamp, differs from the lowest numbered card game serial number in the series.
 - c. When the paddlewheel ticket card game serial number preprinted on the stub does not match the game serial number on the card's tickets.
 3. An employee may sell a ticket to a player for a price not exceeding two dollars. The person may sell tickets to a player for betting on each spin of a paddlewheel that do not exceed a value of twenty dollars. All the tickets of a series of paddlewheel ticket cards must be sold for the same price. An employee may not sell one or more tickets to a person at a discount (for example, three tickets for the price of two).
 4. A ticket for entry into a drawing must be sold separately and each constitutes a separate and equal chance to win with all other tickets sold. A person may not be required to purchase more than one ticket, or pay for anything other than the ticket, to play. All tickets must be sold on a site and on the day the paddlewheel game is conducted.
 5. All tickets on a ticket card must be sold before spinning the paddlewheel. If all the tickets cannot be sold, an employee shall refund the gross proceeds to the players in exchange for the unplayed tickets.
 6. A winner of a paddlewheel ticket game must be determined by spinning a paddlewheel.
 7. An organization may not have a direct interest in the outcome of a game.
 8. An organization may spin a paddlewheel multiple times to award multiple prizes for one paddlewheel ticket card.
 9. A paddlewheel must make at least four revolutions. Otherwise, the spin is void and the paddlewheel must be spun again.
 10. Cash or merchandise prizes can be awarded. No cash prize may be a variable multiple of the price of a ticket. No cash

prize or the current retail price of a merchandise prize for one winning ticket may exceed one hundred dollars.

11. A winner of a game is not required to be present when the paddlewheel is spun to be eligible for the prize. However, the winner of a game shall claim the winner's prize by redeeming the winning ticket by the end of an organization's gaming activity for that day. Otherwise, the player forfeits the prize.
12. After a prize payoff, an organization shall record the date, winning number, cash prize amount or description of a merchandise prize, and retain the winning ticket.
13. All paddlewheel ticket cards of a series related to the same master flare must be reported on the tax return in the quarter in which the series was first played. An organization may not carry over a partial series of paddlewheel ticket cards into another quarter. Any cards of a series which remain unsold during a quarter when other cards of that series were sold must be retained by the organization as part of its records, and must not be otherwise used or disposed.
14. These rules must be posted near a paddlewheel table:

RULES

A paddlewheel is used to select a winner.

A player may not purchase tickets valued at more than twenty dollars for one spin.

All paddlewheel tickets of a card must be sold before spinning a paddlewheel.

A paddlewheel must make at least four revolutions.

Cash or merchandise prizes may be awarded.

A winner is not required to be present when the paddlewheel is spun; however, the winner shall claim the prize by the conclusion of the gaming activity for the day.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-07.4, 53-06.1-17

99-01.1-15-07. Distributing and removing chips. A fill and credit slip must be prepared according to section 99-01.1-12-09.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

99-01.1-15-08. Purchase of paddlewheel tickets and tips to be made with chips only.

1. Except for applying subsection 3 of section 99-01.1-15-12, a purchase of a paddlewheel ticket and tips must be made with chips. Currency must be exchanged for chips before starting play. No money may be used as bets or tips.
2. An organization may not redeem, exchange, or allow to be used as a paddlewheel wager at a site any chip issued by another organization. The organization may allow a player to use the organization's twenty-one chip to purchase a paddlewheel ticket.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-07.4, 53-06.1-17

99-01.1-15-09. Chip bank services. Chip bank services must be provided according to section 99-01.1-12-10.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

99-01.1-15-10. Opening and closing a paddlewheel table.

1. To open a paddlewheel table, an employee shall:
 - a. Inspect each peg or pin and the pointer of a paddlewheel for uneven wear and immediately replace any worn peg, pin, or pointer.
 - b. Evaluate the balance of a paddlewheel by:
 - (1) Inspecting the back of a paddlewheel for a foreign object that may affect balance.
 - (2) Positioning the pointer so it does not interfere with the spin of a paddlewheel. The paddlewheel must be slowly rotated forty-five to ninety degrees at a time in one direction. While the paddlewheel is spinning, the person shall determine whether there is an

abnormality in the rotation or any reverse rotation after the paddlewheel stops. The wheel must continue to be rotated until the entire wheel has been evaluated by this method in both directions. If the paddlewheel is out of balance, the person shall balance the paddlewheel before conducting paddlewheels.

- c. For a table that uses ticket slots, lift the top of the table and inspect the cavity for any ticket, chip, or foreign object that may have fallen through a slot.
2. To close a paddlewheel table, an employee shall:
 - a. Notify players that their chips must be redeemed through the cash bank cashier.
 - b. Collect the identification cards from players.
 - c. Place a cover over a paddlewheel or make it inoperable for use.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-15-11. Number of employees and players.

1. An organization may not conduct a series of paddlewheel ticket cards unless two employees are on duty at a site.
2. Unless there is insufficient space for the mobility of players, there is no limit on the number of players. Otherwise, an organization may limit the number of players.
3. An organization may require a minimum number of players to open a paddlewheel table.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-15-12. Procedure for accepting cash. A wheel operator, upon receiving currency from a player at a table for purchasing chips, shall:

1. Spread the currency on top of a table in full view of the player and shift manager.
2. State the amount of the currency in a voice loud enough to be heard by all players at the table.

3. If a player desires to purchase a ticket that is of value equal to the player's currency for the immediate next spin of a paddlewheel, the wheel operator may exchange the player's currency for a ticket and bypass the chip. Otherwise, the wheel operator shall give the player chips equal to the player's currency. Then the wheel operator shall take the currency from atop the table and place it in a drop box.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-15-13. House odds. The house odds, expressed as a percentage, for each differently colored number or symbol and each different set of colored numbers or symbols, including an optional odd or even bet, must be ten to thirty percent. House odds is computed by the formula $(A - (B \times C)) : A = D$:

A = Number of similar colored numbers or symbols, number of similar colored sets of colored numbers or symbols, or number of odd or even numbers that have the same prize payoff.

B = Value of the prize payoff, expressed as a whole number, of a winning one dollar paddlewheel ticket for a particular colored number or symbol, particular colored set of colored numbers or symbols, or particular odd or even number.

C = Number of times that a particular colored number or symbol, particular colored set of colored numbers or symbols, or particular odd or even number is present within "A".

D = House odds, expressed as a percentage.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-15-14. Betting.

1. An employee shall safeguard paddlewheel ticket cards by placing them in a safe storage area or, if a table has been opened and no wheel operator is stationed at the table, remove the cards from the table.
2. An employee may not use a series of paddlewheel ticket cards:
 - a. That does not have a state gaming stamp affixed to the flare of the series.

- b. When the game serial number, written on the state gaming stamp, differs from the lowest numbered paddlewheel ticket card game serial number of the series.
3. All tickets of a series of paddlewheel ticket cards must be sold for the same price. An employee may sell tickets for one dollar or two dollars for the same spin of a paddlewheel. The maximum betting limit of a player for each spin is twenty dollars. Each ticket must be sold separately and constitutes a separate and equal chance to win with all other tickets sold. The person may not sell one or more tickets to a player at a discount (for example, three tickets for the price of two). A player may not be required to purchase more than one ticket, or to pay for anything other than the ticket, to play. No side bet is allowed.
4. Paddlewheel ticket cards of a series must be used in numerical sequence of the cards' game serial number. All tickets must be sold on a site. An organization may establish a posted policy to limit a player's maximum wager for a spin of the paddlewheel to tickets that are valued at less than twenty dollars to be bet on one colored number or symbol or one set of colored numbers or symbols.
5. Except for applying subsection 3 of section 99-01.1-15-12, a player shall place a bet by first purchasing a ticket with chips. The player shall purchase tickets by placing the player's chips in a stack on a table and sliding the stack toward and within reach of a wheel operator. Then, the wheel operator shall:
 - a. Count the value of the player's chips by breaking the stack down and placing the chips in front of the chip tray.
 - b. Carefully tear off one or more tickets, equal to the value of the player's chips, from a paddlewheel ticket card.
 - c. Count the tickets, in terms of monetary value, in front of the player.
 - d. Place the tickets on the table to within reach of the player and place the player's chips in the chip tray.
6. When a player first purchases chips, a wheel operator shall provide the player with a card containing a unique identification number. The player shall return the card to the wheel operator when the player stops playing.
7. A wheel operator shall advise a player that the player must write the player's assigned identification number on the back of the player's ticket before placing the ticket in a betting slot.

8. Unless an organization has a more restrictive written policy, a player is not required to bet all the player's purchased tickets on any particular spin; however, the tickets must be bet on the day the tickets are purchased. A player with a ticket may not leave the specific area of a site where the game is conducted. Unless restricted, a player may bet more than one ticket on the same colored number or symbol or set of colored numbers or symbols for a spin. If a player purchases a ticket and does not bet the ticket on that day, the ticket is void, it may not be wagered, and the player shall surrender the ticket to a wheel operator who shall visibly deface or tear the ticket in half and discard the ticket in a container that is not easily accessible by a player.
9. To bet, a player shall place a ticket in a betting slot or other retaining device of a particular colored number or symbol or set of colored numbers or symbols on a table. If a table uses ticket slots, the player may not force the player's ticket all the way through the slot into the cavity of a table; otherwise, a ticket is void. A wheel operator may assist a player provided the wheel operator first states, in a voice loud enough to be heard by all the players at the table, that the wheel operator is assisting the player and what the assistance is.
10. A player may bet a ticket while another player is purchasing a ticket.
11. A betting limit must be the same for all the tables at a site and be consistently applied when the game is conducted. A bet made by a player that exceeds a value of twenty dollars or exceeds the maximum wager, if any, on one colored number or symbol or one set of colored numbers or symbols of subsection 4 is void and the player's tickets in excess of the limit are void and not reusable.
12. A wheel operator may not continue the sale of tickets for any particular spin into a new series unless the flare for the new series reflects the same prize payout as the flare associated with the previous series. The flare of the new series for which the sale of tickets is continuing and the flare of the finished series from which tickets were sold for the same spin must be posted until the end of the spin. Then, the old flare must be removed.
13. If all the tickets of a card cannot be sold for the last spin of the day, a wheel operator shall void the unplayed tickets of that card.
14. After all the players who desire to purchase a ticket have done so and before a wheel operator spins a paddlewheel, the

wheel operator shall announce that the players' bets for the next spin must now all be placed.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-07.4, 53-06.1-17

99-01.1-15-15. Conduct and play.

1. When a wheel operator has determined that no other player desires to purchase a ticket, the wheel operator shall announce bets closed. Thereafter, no player may bet a ticket, change a bet of a previously placed ticket, touch any ticket, or place the player's hands on top of a table.
2. A wheel operator shall double spin a paddlewheel by first grasping a peg, pin, or edge of the paddlewheel and slowly pulling the peg, pin, or edge of the paddlewheel in a downward or upward direction and releasing the peg, pin, or edge of the paddlewheel. While the paddlewheel is in motion, the wheel operator shall again grasp another peg, pin, or edge of the paddlewheel and pull it in a consistent downward or upward direction with sufficient force to ensure that the paddlewheel rotates at least four full revolutions. If four revolutions are not made or a foreign object interferes with the natural spin of the paddlewheel, the spin is void and the paddlewheel must be spun again.
3. A winning number or symbol is determined by the alignment of the paddlewheel in relation to the pointer when the paddlewheel stops. When the paddlewheel stops, a wheel operator shall announce the winning colored numbers or symbols in a tone of voice loud enough to be heard by all the players at a table. The winning colored number or symbol and set of colored numbers or symbols must be announced in the sequence from the outermost circle first and then continuing to the innermost circle last.
4. A wheel operator shall first remove all losing tickets from the slots or other retaining device and visibly tear in half and discard the tickets in a container that is not easily accessible by a player. Then, the wheel operator shall pay off the winning tickets, slot by slot or retaining device by retaining device, either in the sequence of the lowest payoff bet first and continuing to the highest payoff bet last or in the sequence of the payoff bets that are most accessible to the players (outer paddlewheel table area) first and then continuing to the payoff bets that are least accessible to the players (inner paddlewheel area) last. To pay off a winning ticket the wheel operator shall:

- a. Take a winning ticket from a betting slot or other retaining device and ensure that the game serial number of the winning ticket is within the range of game serial numbers of ticket cards sold for that day.
 - b. Circle or record the winning colored number or symbol on the face or on the backside of a winning ticket with a nonerasable marker.
 - c. Pay off a winning ticket, according to the prize payoff of the colored number or symbol or set of colored numbers or symbols and the payoff procedure of subsection 5, to the player who has the card containing the unique identification number written on the back of the ticket. A wheel operator shall ask the players which player has been assigned the unique identification number of the winning ticket. The player who possesses the card shall show the card to the wheel operator before the payoff.
 - d. Record on the face or backside of a winning ticket the prize amount and initial with a nonerasable ink pen or felt tip marker.
5. The payoff procedure is:
- a. A wheel operator shall take chips from the table's chip tray approximately equal to the prize amount of a winning ticket, place the chips in front of the chip tray, count out a stack of chips equal to the prize amount, and return excess chips to the chip tray or take additional necessary chips from the chip tray.
 - b. A wheel operator shall slide the stack of chips toward and within reach of the player whose ticket won and recount the chips by breaking the stack down.
 - c. A wheel operator shall ensure that the player understands the amount of chips being paid.
6. If a player wins a total prize payoff, in the form of chips, greater than one hundred dollars from one winning paddlewheel ticket related to one spin of the paddlewheel, an employee shall record the win according to section 99-01.1-06-13.
7. After a prize payoff is made and the required information properly recorded, a wheel operator shall retain a winning ticket banded or stapled together with the series of paddlewheel ticket card stubs.
8. If a winning ticket is unclaimed for any reason, such as when no player at the table possesses the card containing the unique identification number written on the back of the

ticket, a wheel operator shall treat the ticket as a losing ticket.

9. A series of paddlewheel ticket cards must be reported on the tax return in the quarter in which the series was first played. An organization may not carry over a partial series of paddlewheel ticket cards into two or more quarters. Any ticket card of a series that remains unsold during a quarter when other ticket cards of that series were played must be retained as unused by the organization as part of its records.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-07.4, 53-06.1-17

99-01.1-15-16. Posting of rules.

1. These rules must be posted:

RULES

No credit.

No checks may be accepted or cashed at a table.

A player may not use cash.

Chips must be safeguarded. A chip dropped into a table betting slot may be retrieved by the shift manager at the convenience of this person (this rule must be posted if betting slots are used).

A player may not bet tickets that exceed a value of twenty dollars for one spin.

A player is assigned a unique identification number which the player must write on the back of purchased tickets.

Place a bet by inserting a ticket in a selected betting slot or retaining device. Jammed tickets are void.

A player may not touch a ticket after the wheel operator announces "bets closed".

A player may not spin a paddlewheel.

A paddlewheel must be double spun and make at least four revolutions.

If a pointer stops on top of a peg or pin, the number preceding the peg or pin is the winning number.

A winning "odd" or "even" bet is determined by a winning number of only the designated colored circle. However, a player loses all "odd" and "even" bets if the pointer stops on a designated "house number" (this rule must be posted if an "odd" or "even" bet is accepted).

A prize payout is made in chips.

A player must be present to win.

No side bet is allowed.

2. Except as otherwise provided by this rule, prize payoff information must be posted near a table. The prize information must reference each differently colored number or symbol and each different set of colored numbers or symbols, including an optional odd or even bet, and must state the respective prize payoff. The payoff is the relationship of the prize to a winning one dollar ticket. The payoff must be stated as " to " with the word "to" being synonymous with ":" and "for". For example, for a red colored number or symbol which pays forty dollars for a winning one dollar ticket, the information must reference the red colored number or symbol and state the payoff as "EXACT NUMBER RED 40 to 1". In lieu of posting prize information, an organization may apply subsection 4 of section 99-01.1-15-03.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-07.4, 53-06.1-17

99-01.1-15-17. Drop box - Transportation from a table, storage, and cash count. An employee shall transport a drop box from a table and store it according to section 99-01.1-12-21. Drop box cash must be counted according to section 99-01.1-12-22.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-15-18. Recordkeeping system.

1. Except as otherwise provided below, an organization shall retain accounting records for three years from the end of the quarter in which the paddlewheel activity occurred.
2. For each series of paddlewheel ticket cards described by subsection 1 of section 99-01.1-15-01, records must include:

- a. The flare with winning tickets and all unsold ticket cards. They must be retained for one year from the end of the quarter in which the activity occurred.
 - b. The daily starting and ending cash on hand according to section 99-01.1-06-11.
 - c. For each paddlewheel ticket card, the date played, winning number, winning ticket, and cash prize amount or description and actual cost of a merchandise prize.
 - d. A summary of gross proceeds, prizes, adjusted gross proceeds, actual cash profit, cash long and short, and bank deposit. The summaries of all series of paddlewheel ticket cards conducted during a quarter must reconcile to the paddlewheel activity reported on the tax return.
3. For each series of paddlewheel ticket cards described by subsection 2 of section 99-01.1-15-01, records must include:
- a. The flare with winning tickets and all unsold ticket cards. They must be retained for one year from the end of the quarter in which the activity occurred.
 - b. The daily starting and ending cash bank and paddlewheel chip bank on hand according to section 99-01.1-06-11.
 - c. The daily activity, including a site name, gaming stamp number, game serial number of the lowest numbered paddlewheel ticket card of a series, beginning and last paddlewheel ticket card number sold, number of voided tickets, number of cards sold, number of tickets per card, cost per ticket, gross proceeds, prizes, and adjusted gross proceeds.
 - d. The daily activity of each table, including fill slips, credit slips, and a summary for all tables. The records must include the serial number and amount of each fill and credit slip, amount of currency, by value, in the drop box, and win and loss results.
 - e. A summary of gross proceeds, prizes, adjusted gross proceeds, actual cash profit, cash long or short, and bank deposit. The summaries of all series of paddlewheel ticket cards conducted during a quarter must reconcile to the paddlewheel activity reported on the tax return.
4. Records documenting the maintenance of a paddlewheel, including the site name, date, maintenance performed, reason for maintenance, name of the person who performed the maintenance, and signature of the maintenance person.

5. Chip and series of paddlewheel ticket cards inventory control records according to section 99-01.1-06-15.
6. The actual cash profit, less an increase or plus a decrease in a starting cash bank for the next gaming activity, must be deposited intact according to section 99-01.1-06-16.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

CHAPTER 99-01.1-16
PULL TAB DISPENSING DEVICES

Section

99-01.1-16-01	Limitations of Use
99-01.1-16-02	Requirements of an Organization
99-01.1-16-03	Requirements of an Alcoholic Beverage Establishment
99-01.1-16-04	Requirements of an Alcoholic Beverage Establishment and an Organization
99-01.1-16-05	Recordkeeping System

99-01.1-16-01. Limitations of use. This chapter applies to pull tabs involving a pull tab dispensing device. "Device" as used in this chapter means a pull tab dispensing device.

1. A class A or class B organization may operate a device at a site when its employees are on duty, or may have a bar employee of an alcoholic beverage establishment provide limited assistance in conducting pull tabs involving a device when the organization's employees are not on duty.
2. A class B organization may only have a bar employee provide limited assistance if the organization's adjusted gross proceeds of all the organization's sites did not exceed an average of eighty thousand dollars per quarter for the immediately preceding two quarters for which tax returns were filed. If an organization has not filed two tax returns, the determination is based on the average adjusted gross proceeds for the first two quarters for which tax returns are filed.
3. If a class B organization's adjusted gross proceeds exceeds an average of eighty thousand dollars per quarter, an organization may have a bar employee provide limited assistance if:
 - a. In the immediately preceding two quarters, an organization experienced extraordinary gaming activity that was material, unusual, and is not expected to reoccur in subsequent quarters, and if the organization had not experienced the extraordinary gaming activity, it would have qualified under subsection 2.
 - b. In the immediately preceding two quarters, an organization had more authorized sites than it has for subsequent quarters and the reduction in the number of sites will make a material difference in its average adjusted gross proceeds per quarter, and if the organization had not operated the additional sites, it would have qualified under subsection 2.

- c. In the immediately preceding two quarters, an organization had a different mix of sites than it has for subsequent quarters and the present mix of sites will make a material reduction in its average adjusted gross proceeds per quarter, and if the organization had not had a different mix of sites, it would have qualified under subsection 2.
 - d. An organization makes a written request to the attorney general to apply subdivision a, b, or c. The request must include an explanation of the organization's qualification under subdivision a, b, or c, documentation, and a projected financial statement of gaming activity, by site, for the licensing fiscal year.
4. If a class B organization qualifies under subsection 2 for one or more successive quarters and then has total adjusted gross proceeds exceeding an average of eighty thousand dollars for two consecutive quarters, the organization shall discontinue using bar employees by the last day of the month following the second of the two consecutive quarters.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-06, 53-06.1-17

99-01.1-16-02. Requirements of an organization.

1. Deals of pull tabs must be commingled in a device as follows:
 - a. At least one and one-half deals must be placed in a device at the same time at the start of a game. First, pull tabs from one deal must be placed in two of the stacking columns until full and at least one-half of the pull tabs from the second deal must be placed in two other stacking columns. Next, any leftover pull tabs from the first deal must be placed in a remaining empty column, if any. Then, the number of pull tabs in each column must be evened out by transferring pull tabs from column to column.
 - b. If a site's total gross proceeds of pull tabs averages twelve thousand five hundred dollars or less per quarter or if a site is new and has not previously had gaming activity, an organization may close a game at any time if all top tier winning pull tabs have been redeemed. No more deals need to be added to the initial deals placed in a device.
 - c. If a site's total gross proceeds of pull tabs averages more than twelve thousand five hundred dollars per quarter, an organization may not close a game unless it discontinues gaming at the site or all top tier winning pull tabs have been redeemed and:

- (1) Fifty deals have been added to a game;
- (2) A game's actual gross proceeds is thirty-five thousand dollars; or
- (3) A game has been in play for twenty-five consecutive calendar days.

The attorney general may authorize closing a game at any time.

- d. An organization shall close a game by the end of a quarter and may close a game and start a new game up to fourteen calendar days before the end of a quarter if all top tier winning pull tabs have been redeemed or low level switches in all but two columns of a device have been triggered due to a low level of pull tabs remaining.
 - e. A deal must have at least two top tier winning pull tabs. A deal must have its own flare with a state gaming stamp.
 - f. Except for a game serial number and color of the pull tabs, the deals must be identical.
 - g. If a deal's price per pull tab is one or two dollars, the deal must have an ideal prize payback percentage (ideal prizes divided by ideal gross proceeds) of at least seventy-five percent. If a deal's ideal prize payback percentage ranges from seventy-five percent to less than seventy-eight percent, an organization shall post the deal's flare or the game's master flare which must disclose the ideal prize payback percentage.
 - h. If the seal or cellophane shrink wrap is broken on a deal's container before the deal is placed in a device, an organization shall return the deal to a distributor.
2. An employee may not:
 - a. Modify a state gaming stamp or a flare.
 - b. Store more than one unplayed or partially played deals of pull tabs in a storage area in a device.
 3. An employee may initially place or add a partial deal of pull tabs to a device at a site involving a bar employee if:
 - a. When a game is started, at least one-half of a second deal is initially placed in a device.
 - b. When a partial deal is added to a game, any number of pull tabs may be added. Remaining pull tabs of that deal must

be stored at a site and added to the game next and before the game is closed.

4. An employee shall:

- a. When a deal of pull tabs is placed in a device, comply with section 99-01.1-10-03.
- b. Attach a master flare for a game to the interior of a device, exterior of a device, or on an adjacent wall so the winning number, symbol, or set of symbols and value of prizes are visible to players. No flare may be easily removed by a player. When a deal is added to a device, the deal's flare may be retained in the device or at an organization's home office.
- c. Add a new or partial deal of pull tabs to a device by taking the unsold pull tabs of previous deals from all, except one, of the columns and placing those pull tabs on top of the unsold pull tabs of that one other column. Next, the employee shall place the new or partial deal's pull tabs in the empty columns until full and then place the deal's pull tabs in that one other column. Then, the number of pull tabs in each column must be evened out by transferring pull tabs from column to column.

5. An organization shall:

- a. Post a notice on a site containing certain rules and policies, including:
 - (1) Restricting access to a device by one player or a group of players is prohibited. Access is restricted when a person physically obstructs access or intentionally delays drawing down the person's credits while opening pull tabs.
 - (2) Fifteen-minute time limit for redeeming a winning pull tab.
 - (3) A notice stating "Soliciting, providing, or receiving any inside information, by any person, by any means about games of pull tabs is a class C felony punishable by a five thousand dollar fine or five years in jail or both".
- b. Control and manage a device, including maintaining custody of all keys. However, an organization may provide a bar employee with a key to withdraw currency from a device if these conditions are met:
 - (1) A device's cash compartment is separate from the device's pull tab and accounting meter compartments.

- (2) Validated cash is automatically deposited into a metal double-locking or triple-locking drop box prescribed by subsection 3 of section 99-01.1-20-04.
 - (3) A bar employee is provided only a key to the cash compartment and a key to unlock a drop box from a device, but not the key to access the contents of the drop box.
- c. Establish an interim period for a site that does not exceed five calendar days. An interim period is the interval between the scheduled times when an employee withdraws currency from a device and reimburses an establishment or an organization's cash bank for redeemed winning pull tabs.
 - d. If the pull tab percent-of-accuracy for a site for the previous quarter was less than ninety-eight and one-half percent, the attorney general may require an organization to conduct a weekly interim audit using a prescribed audit form. A person who does an interim audit shall verify the actual number and value of unsold pull tabs; actual number and value of redeemed winning pull tabs; actual value of credit redemption slips; and actual cash profit. If a cash short is material, a gaming manager shall document in writing the corrective action taken.
 - e. Use a recordkeeping system prescribed by the attorney general unless written approval is obtained for use of an alternate system.
 - f. Provide a bar employee a copy of sections 99-01.1-05-16, 99-01.1-06-13, 99-01.1-06-14, 99-01.1-16-03, and 99-01.1-16-04 regarding the bar employee's duties and restrictions.
 - g. Have a rental agreement conforming to section 99-01.1-05-08.
 - h. Maintain an access log prescribed by the attorney general in a device. A person who accesses a device for withdrawing currency, adding a deal, performing a test vend, repair, inspection, or any other purpose shall record the time and date of entry, readings of the two nonresettable electronic or mechanical accounting meters, reason for entry, and sign the log. When a person does a test vend of a pull tab or a test validation of currency, the person shall also record the value of currency and pull tabs test vended. An organization shall retain the completed log form in a device during the quarter of activity.

6. An organization may provide an alcoholic beverage establishment with a temporary loan of funds to enable a bar employee to redeem winning pull tabs during an interim period. A loan and any increase in the loan must be made by check and be interest free. The duration of the loan must be until the organization discontinues conducting pull tabs at a site involving a device.
7. When an employee withdraws currency from a device, the employee shall record the amount of currency withdrawn and reconcile it to the device's currency accounting meter or print a cash withdrawal report.
8. The amount reimbursed an establishment must equal the value of redeemed winning pull tabs which the establishment provides an organization in exchange for cash or check. If an organization does not use a bar employee at a site, the organization may account for all redeemed winning pull tabs regardless if the organization does not reimburse its cash bank for the total value of the pull tabs.
9. When an employee redeems winning pull tabs from an establishment, the employee shall record the pull tabs, by value, on an interim period prize register and have a bar employee sign the register to acknowledge the number and value of pull tabs reimbursed.
10. If an employee is on duty, the employee must use the organization's cash bank for redeeming winning pull tabs. An organization may not use an establishment's temporary loan of funds for redeeming winning pull tabs.
11. When a game is being closed:
 - a. An organization may continue the game in play regardless of whether all the game's top tier and consolation winning pull tabs have been redeemed.
 - b. An employee shall post a sign stating that the game is being sold out.
12. When a game is closed, an employee shall buy back all remaining redeemed winning pull tabs from an establishment.
13. If an organization closes a game that has pull tabs remaining as unsold, it may not place these pull tabs back into play.
14. A game must be reported on a tax return for the site at which the game was closed.
15. An organization or employee may not:
 - a. Modify the assembly or operational functions of a device.

- b. Remove a device from a site, transfer a device from a site to another site, or rotate a device among sites unless the organization first notifies the attorney general and, if required, a local law enforcement agency.
- c. Use or continue to conduct a deal of pull tabs after receiving verbal or written notification from a distributor of a ban or recall of the deal.
- d. Designate a pull tab to entitle a player who purchases the pull tab with a prize provided by an establishment.
- e. Intentionally test vend currency or pull tabs to synchronize the nonresettable accounting meters.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-01.1-06, 53-06.1-17

99-01.1-16-03. Requirements of an alcoholic beverage establishment. Reference to "establishment" means an alcoholic beverage establishment that is providing limited assistance to an organization in conducting pull tabs involving a device.

1. An establishment shall:

- a. Provide a secure premises for a device and place it in a location, other than a hallway, where alcoholic beverages are regularly dispensed and consumed. The location must be within the sight and control of the establishment's employees who will most likely observe a device while performing their normal duties.
- b. Prohibit a person from tampering or interfering with the normal operation or play of a device.
- c. Have the electrical current to a device turned off unless both of these requirements are met:
 - (1) A bar employee or an employee is available to redeem a winning pull tab.
 - (2) A device is operated only when alcoholic beverages may be dispensed at a site.
- d. Absorb a loss related to a redeemed counterfeited pull tab, redeemed but subsequently lost pull tab, or redeemed pull tab that was not purchased at a site.
- e. Repay an organization's temporary loan of funds when the organization discontinues conducting pull tabs at a site according to this chapter.

- f. If a device malfunctions, immediately turn the device off. An establishment shall promptly notify an organization of a malfunction or inoperative condition of a device. Also, if an organization fails to make a good faith effort to fix a device, the establishment shall notify the attorney general. If a device is unrepaired or unserviced despite an establishment's written notification to an organization, it constitutes good cause for the establishment to terminate a rental agreement.
2. Except for applying subdivision b of subsection 5 of section 99-01.1-16-02, an establishment's employee may not access or attempt to access the interior of a device. An establishment may not permit a person, other than an employee of an organization, to access the interior of a device.
3. If a bar employee believes that a deal is defective, the bar employee shall contact an organization. A bar employee may turn a device off pending instructions from an organization.
4. An establishment may adopt a policy to accept or not accept a gaming related check from a player. A player's check must be payable to an establishment. An establishment is responsible for any loss related to a player's check returned by a financial institution as uncollectible. An establishment may allow a player to buy back the player's check with cash and may return a player's check to the player as part of a prize payout.
5. A player may not redeem and a bar employee may not knowingly pay a prize for a pull tab after fifteen minutes has elapsed since the pull tab was purchased. If a player attempts to redeem a pull tab after the fifteen-minute time period, a bar employee shall, if possible, retain and void the pull tab.
6. Only a bar employee who is authorized by an establishment may redeem a winning pull tab.
7. Except to make a record of win or credit redemption slip, a bar employee may not perform an organization's recordkeeping or audit functions.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-06, 53-06.1-17

99-01.1-16-04. Requirements of an alcoholic beverage establishment and an organization.

1. A bar employee and an employee shall:
 - a. Provide the attorney general and local law enforcement officials access to all gaming records on a site for audit or inspection.
 - b. Deface a winning number, symbol, or set of symbols of a winning pull tab when it is redeemed.
 - c. Record the win for a redeemed winning pull tab valued in excess of one hundred dollars according to section 99-01.1-06-13. If a pull tab has two or more winning prizes (i.e., crisscross game), the requirement is based on the value of each prize, rather than the total amount of all the prize values.
2. A bar employee and an employee may provide information referenced by subdivision a or b, or both, of subsection 13 of section 99-01.1-10-02, provided an organization discloses it through posting and does not have a partial deal that is to be added to a device. If an establishment posts this information for an organization or if the organization posts it, the establishment or organization shall continually update the information and post it at a location for every player to read.
3. A bar employee and an employee may not:
 - a. Assist a player in opening a pull tab except to assist a disabled player.
 - b. Knowingly pay a prize to a player who is redeeming a winning pull tab that has been marked, defaced, tampered with, or counterfeited.
 - c. Knowingly pay a prize to a player who is redeeming a winning pull tab when the player with the pull tab has left the specific area of a site where the game is conducted.
 - d. Unilaterally withhold a tip from a player's cash prize.
 - e. Publicly display an actual redeemed winning pull tab. However, a bar employee or an employee may show a player, who is unfamiliar with pull tabs, a redeemed winning pull tab provided the pull tab is defaced and remains in the possession of the bar employee or an employee.
4. Except when a bar employee or an employee returns a check to a player as part of a prize payout, a prize payout must be cash.

5. If a device malfunctions, is inoperable, and a player has a credit, a bar employee or an employee shall pay the player for the player's unplayed credits on a device and complete a credit redemption slip prescribed by the attorney general. An establishment shall provide this form to the organization to claim a reimbursement. If a player's currency jams in a currency validator and a device does not show a credit, a bar employee may not reimburse a player, and shall complete a credit redemption slip and promptly notify an organization. If an organization determines, based on the accounting meters, that a device is cash long, the organization shall reimburse a player by cash or check.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-06, 53-06.1-17

99-01.1-16-05. Recordkeeping system.

1. Except as otherwise provided below, an organization shall retain accounting records for three years from the end of the quarter in which the pull tab activity occurred.
2. For each game, records must include:
 - a. The flares, with the state gaming stamps affixed, with all redeemed winning and all unopened and unsold pull tabs. An organization may not open an unsold or defective pull tab. These records must be retained for one year from the end of the quarter in which the activity occurred.
 - b. An accounting for each deal's top tier redeemed pull tabs, by game serial number, by a method that provides an organization the capability to timely identify a redeemed pull tab when that pull tab was not sold by the organization and to timely locate a pull tab upon request by the attorney general.
 - c. Record of win.
 - d. Except for a temporary loan of funds in the custody of an alcoholic beverage establishment, records documenting the daily starting and ending cash on hand according to section 99-01.1-06-11.
 - e. The date a deal was placed in a device, including the deal's gaming stamp number and game serial number.
 - f. Daily activity, including:
 - (1) Number and value of redeemed winning pull tabs, by value.

- (2) If an employee redeems winning pull tabs from players, daily starting and ending cash on hand according to section 99-01.1-06-11, IOU activity, currency withdrawn from a device, amount paid out of a cash bank, value of prizes and credit redemption slips, cash long or short, and reimbursements to a cash bank.
 - g. If a bar employee is used, records documenting interim period activity:
 - (1) Currency withdrawn from a device and value of prizes and credit redemption slips.
 - (2) Redeemed prizes, signed by an alcoholic beverage establishment and organization, which documents the number and value of redeemed winning pull tabs, by value, that are exchanged for cash.
 - h. Summary of activity through a reconciliation of accounting meters or audit report. A summary must include a record of currency removed from a device, credit redemption slips paid, actual prizes, cash long or short, cash profit or loss, bank deposit, and date of bank deposit.
3. When the last game for a quarter is closed, a person other than the person who normally recorded accounting meters or printed audit reports during a quarter shall record the accounting meters or print an audit report. If a device does not print an audit report, the quarter's activity must be reconciled through the nonresettable accounting meters by reconciling currency validated to the currency withdrawn and the value of pull tabs dispensed. If a device prints an audit report, a cumulative activity report must be printed at the end of a quarter to reconcile to interim period activity for the quarter.
 4. Inventory control records according to section 99-01.1-06-15.
 5. A summary of ideal gross proceeds, value of unsold pull tabs, actual gross proceeds, prizes, adjusted gross proceeds, actual cash profit, cash long or short, and bank deposit. The summaries of all games conducted during a quarter must reconcile to the activity reported on the tax return.
 6. Access log, which must be retained for one year.
 7. If an organization does not use a bar employee at a site, the daily records must be available at a site until a game is closed.
 8. The actual cash profit for an interim period, less the increase or plus the decrease in a starting cash bank for the

next gaming activity, must be deposited intact according to section 99-01.1-06-16.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

CHAPTER 99-01.1-17
BINGO CARD DISPENSING DEVICES

Section

99-01.1-17-01	Limitations of Use
99-01.1-17-02	Calling Bingo Numbers and Posting a Prize Flare and Policies
99-01.1-17-03	Requirements of an Organization
99-01.1-17-04	Requirements of an Alcoholic Beverage Establishment
99-01.1-17-05	Requirements of an Alcoholic Beverage Establishment and an Organization
99-01.1-17-06	Rental Agreement
99-01.1-17-07	Recordkeeping System

99-01.1-17-01. Limitations of use. This chapter applies to bingo involving a bingo card dispensing device. "Device" as used in this chapter means a bingo card dispensing device.

1. The phrase "In the conduct of pull tabs through an electronic-mechanical dispensing device, the attorney general may allow employees of licensed alcoholic beverage establishments to provide limited assistance" of subsection 1 of North Dakota Century Code section 53-06.1-06 includes the conduct of bingo through a dispensing device provided a deal of bingo cards has pull tab characteristics as prescribed by section 99-01.1-22-05.
2. A class A or class B organization may operate a device at a site when its employees are on duty, or may have a bar employee of an alcoholic beverage establishment provide limited assistance in conducting bingo involving a device when the organization's employees are not on duty.
3. A class B organization may only have a bar employee provide limited assistance if the organization qualifies to use a bar employee in conducting pull tabs through a device according to subsections 2 or 3 of section 99-01.1-16-01. If a class B organization does not qualify to use a bar employee, the organization may qualify, as provided by subsection 16 of section 99-01.1-17-03, to allow a device to be operable for the purchase of bingo cards by players when an employee is not at a site (allowing presales of bingo cards) if an employee is on duty that day for at least four hours to redeem winning bingo cards.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-06, 53-06.1-17

99-01.1-17-02. Calling bingo numbers and posting a prize flare and policies.

1. If a site is not a bingo hall, an organization shall call bingo numbers for a prize flare at its home office, as follows:

a. In advance of posting a prize flare, two employees shall predraw a predesignated quantity of bingo numbers for the pattern or patterns related to a prize flare to be posted. These persons may not post the bingo numbers at a site or access any bingo cards. Before drawing bingo numbers, both persons shall inspect the balls to ensure that all the balls are present. This information must be recorded on a two-part record of called bingo numbers form:

- (1) Device number.
- (2) Control number that must reference a site and consist of a sequential number starting with one. For each successive form completed, the assigned control number must increment by one.
- (3) Time and date when the prize flare is scheduled to be placed in play and removed from play.
- (4) Quantity of numbers called.
- (5) Numbers called.
- (6) Description of the pattern or patterns and respective prize amount or amounts.
- (7) Signature and date of both persons.

b. An employee shall complete this information on a prize flare that may or may not have a state gaming stamp affixed:

- (1) Control number.
- (2) Device number.
- (3) List of a winning pattern or patterns and respective prize amount or amounts. If a winning pattern is not shown as an example, the winning pattern must be illustrated on the prize flare's blank bingo card.

c. The original part of a record of called bingo numbers form must be forwarded to a bookkeeper. The copy of a record of called bingo numbers form must be sealed in an envelope and the envelope attached to a prize flare. However, if a record of called bingo numbers form is to be used by a

fraternal or veterans' organization at the organization's home office site, the form does not need to be sealed in an envelope. An envelope must reference the name of the site, control number, and dates and times when a prize flare will be placed in play and removed from play. An organization shall place the envelope and prize flare in a safe storage place until they are sent to a site where they must also be secured until used.

- d. A set of called bingo numbers may be used to complete more than one record of called bingo numbers form for use at more than one site if the forms are used at the same time for the same winning pattern or patterns on a prize flare.
2. If a site is not a bingo hall and a new prize flare is scheduled to be placed in play, an employee who did not predraw the bingo numbers shall open the sealed envelope, if applicable, immediately before the scheduled posting. An employee shall forward the copy of the record of called bingo numbers form to a bar employee or an employee who will redeem a winning bingo card. A prize flare must be posted on a device or posted on or in a location adjacent to the device. No flare may be easily removed by a player.
 3. If a site is a bingo hall, an organization may call and post bingo numbers for a prize flare according to either subsections 1 and 2 or, as follows:
 - a. When a new prize flare is scheduled to be posted, a bingo caller shall announce to players that the bingo numbers to be called relate to the prize flare involving a device.
 - b. A bingo caller shall draw a predesignated number of bingo numbers for the pattern or patterns related to a prize flare and document on a two-part record of called bingo numbers form the information required by subdivision a of subsection 1.
 - c. A bingo caller shall record on a prize flare the information required by subdivision b of subsection 1.
 - d. The original part of a record of called bingo numbers form must be forwarded to an organization's bookkeeper. The prize flare must be posted on a device or posted on or in a location adjacent to the device. A flare may not be easily removed by a player. The copy of the record of called bingo numbers form must be forwarded to the employee who will redeem a winning bingo card.
 4. The bingo numbers listed on a record of called bingo numbers form must be posted on a device's electronic LED flashboard and, if required, a separate flashboard. Two employees or one employee and a neutral person (may be a bar employee) shall

verify that the bingo numbers recorded on the record of called bingo numbers are correctly displayed. Verification that the posted numbers on the device's electronic LED flashboard and separate flashboard were compared to the record of called bingo members form must be attested to by both persons who shall, in the presence of each other, sign and date the prize flare. Also, one of these persons shall write the time and date when the prize flare is posted.

5. One or more prize flares may be posted per day for a device. A particular prize flare may be posted for up to seven calendar days.
6. If there is a difference in the bingo numbers posted on a device or flashboard in relation to the bingo numbers listed on the record of called bingo numbers form, the record of called bingo numbers form is controlling. An employee shall correct any incorrect bingo numbers posted on a device or flashboard when an error is found.
7. An organization shall post a notice on a site containing certain gaming rules and policies related to the conduct and play of bingo. The notice must be legible, and posted at a location. The rules and policies must include:
 - a. Restricting access to a device to one player or a group of players is prohibited. Access is restricted when a person physically obstructs access or intentionally delays drawing down the person's credits while opening or daubing bingo cards.
 - b. Players must use an ink dauber or a broad felt tip colored transparent highlighter to daub or mark posted numbers.
 - c. Time limit on player redemptions of winning bingo cards (see subsections 17 and 18 and paragraph 1 of subdivision a of subsection 19 of section 99-01.1-17-03).
 - d. A notice stating "Using a fraudulent scheme or technique to cheat or skim involving bingo is a class C felony punishable by a \$5,000 fine or five years in jail or both".
 - e. One of these statements:
 - (1) "If a bingo card contains multiple winning patterns, only the pattern related to the largest prize amount will be paid."
 - (2) "A bingo card may contain multiple winning patterns if the patterns do not overlap."

- (3) "A bingo card may contain multiple winning patterns and the patterns may overlap."
8. If an organization does not use a bar employee but has presales of bingo cards (see subsection 16. of section 99-01.1-17-03), it shall post a sign on front of a device disclosing:
- a. Time period of the day when a device is available for play.
 - b. Time period of the day when a player may redeem a winning bingo card. A player must personally present a winning card for redemption.
 - c. Name of an organization representative and telephone number for a player to call if a device malfunctions, is inoperable and a player has a credit, or, a player's currency jams in the currency validator.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-06, 53-06.1-17

99-01.1-17-03. Requirements of an organization.

1. Except for a manufacturer, a person may not adjust a device's internal clock.
2. Unless the bingo numbers of the LED flashboard of a device measure at least one and one-fourth inches [31.75 millimeters] in height, an organization shall install a separate electronic flashboard at a site. For a bingo hall, a separate flashboard must have a designation that references the device. Except for an employee, a person may not access a separate flashboard.
3. Bingo gross receipts includes sales tax.
4. Unless an organization uses a bar employee or has presales of bingo cards (see subsection 16), it shall have a device turned off when an employee is not at a site.
5. If a device does not have a capability to dispense bingo daubers, an employee shall offer daubers for sale to or for free use by players. If a device does not have the capability to dispense bingo daubers and an organization uses a bar employee or has presales of bingo cards, it shall provide daubers to an establishment for free use by players.
6. An employee may not:

- a. Have custody of a key to a device, access the interior of the device, or operate a device unless the employee has been trained by an organization, distributor, or manufacturer's distributor. An organization may not provide an independent service technician with a duplicate key or master key to access the interior of a device.
 - b. Modify a prize flare, use a prize flare that is altered or in a questionable condition or modify a game serial number written on a gaming stamp. A person may not tamper with a gaming stamp.
 - c. Store more than six unplayed or partially played deals of bingo cards in a storage area in a device.
7. An organization or employee may not:
- a. Modify the assembly or operational functions of a device.
 - b. Remove a device from a site, transfer a device from a site to another site, or rotate a device among sites unless the organization first notifies the attorney general and, if required, a local law enforcement agency.
 - c. Sell bingo cards through a bar employee or an employee. All cards must be dispensed from a device.
 - d. Designate a bingo card to entitle a player who purchases the bingo card with a prize provided by an establishment.
 - e. Intentionally test vend currency or bingo cards to synchronize the nonresettable accounting meters.
8. An organization shall:
- a. Test vend a card from each stacking column monthly and retain the card as part of the accounting records. No test vended card may be opened by any person. An employee shall void a test vended card by either punching a hole of at least one-eighth of one inch [3.175 millimeters] in diameter or rubber stamping the game information side of the card with the word void. The hole punch and rubber stamp may not deface the printed validation.
 - b. Control and manage a device, including maintaining custody of all keys. However, an organization may provide a bar employee with a key to withdraw currency from a device if these conditions are met:
 - (1) A device's cash compartment is separate from the device's bingo card and accounting meter compartments.

- (2) Validated cash is automatically deposited into a metal double-locking or triple-locking drop box prescribed by subsection 3 of section 99-01.1-20-04.
 - (3) A bar employee is provided only a key to the cash compartment and a key to unlock a drop box from a device, but not the key to access the contents of the drop box.
- c. Establish an interim period for a site that does not exceed five calendar days. An interim period is the interval between the scheduled times when an employee withdraws currency from a device and reimburses an establishment or an organization's cash bank for redeemed winning bingo cards.
 - d. Use a recordkeeping system prescribed by the attorney general unless written approval is obtained for use of another system.
 - e. Provide a bar employee a copy of sections 99-01.1-05-16, 99-01.1-06-13, 99-01.1-06-14, 99-01.1-17-04, and 99-01.1-17-05 regarding the bar employee's duties and restrictions.
 - f. If the bingo percent-of-accuracy for a site for the previous quarter was less than ninety-eight and one-half percent, the attorney general may require an organization to conduct a weekly interim audit using a prescribed audit form. A person who does an interim audit shall verify the actual number and value of unsold bingo cards; actual number and value of redeemed winning bingo cards; actual value of credit redemption slips; and actual cash profit. If a cash short is material, a gaming manager shall document in writing the corrective action taken.
 - g. Close the bingo activity at least at the end of a quarter or within fourteen calendar days before the end of a quarter. An organization may start bingo activity for the next quarter within fourteen calendar days before the start of that quarter. If there are bingo cards unsold when the bingo activity is closed, these cards may not be placed back into play in a subsequent quarter. The attorney general may authorize closing the bingo activity at any time.
 - h. Report the results of a deal of bingo cards on a tax return for the quarter in which the gaming activity was closed.
 - i. Deposit gross receipts from the sale of daubers from a device into its general operating or general gaming bank account.

- j. Provide a bar employee and an employee with a bingo card master checkbook.
 - k. If the seal or cellophane shrink wrap is broken on a deal's container before the deal is placed in a device, return the deal to a distributor.
 - l. Maintain an access log prescribed by the attorney general in the interior of a device. A person who accesses a device for withdrawing currency, adding bingo cards or daubers, performing a test vend, repair, inspection, or any other purpose shall record the time and date of entry, readings of door access meters or the two nonresettable electronic or mechanical accounting meters, reason for entry, and sign the log. If a door inadvertently triggers a door access meter when a person has the door open, the person may merely record the first and last meter readings before closing and locking that door. When a person does a test vend of a card or dauber or a test validation of currency, the person shall also record the value of currency, cards, and daubers test vended. An organization shall retain the completed log form in the interior of a device during the quarter of activity.
9. A bingo card may not be sold for a price different than its stated price.
 10. When a deal is placed in a device, comply with section 99-01.1-10-03.
 11. An organization may:
 - a. Provide an establishment with a temporary loan of funds to enable a bar employee to redeem winning bingo cards during an interim period. A loan and any increase in the loan must be made by check and be interest free. The duration of the loan must be until the organization discontinues conducting bingo at a site involving a device.
 - b. Post a new prize flare and supersede an old prize flare at any time, regardless of whether the old prize flare has not been in play through the originally scheduled time and date.
 12. When an employee withdraws currency from a device, the person shall record the amount of currency withdrawn and reconcile it to the device's currency accounting meter or print a cash withdrawal report.
 13. The amount reimbursed an establishment must equal the value of redeemed winning bingo cards that the establishment provides an organization in exchange for cash or check. If an organization does not use a bar employee, the organization may

account for all redeemed winning bingo cards regardless if the organization does not reimburse its cash bank for the total value of the bingo cards.

14. If an employee is on duty, the person must use the organization's cash bank for redeeming winning bingo cards. An organization may not use an establishment's temporary loan of funds for redeeming winning bingo cards.
15. When a game is closed, an employee shall buy back all remaining redeemed winning bingo cards from an establishment.
16. If a site is not a bingo hall, an organization does not use a bar employee, and an organization posts a prize flare that is effective an entire calendar day without change, an organization qualifies to allow a device to be operable for the purchase of bingo cards by players when an employee is not at the site (allowing presales of bingo cards). A player may purchase a card and, if it is a winning card, the player may only redeem the card when an employee is on duty. An employee shall go to a site that day to redeem winning bingo cards.
17. If a site is a bingo hall, a player shall redeem a winning bingo card within two hours of the time validated on the card or within thirty minutes of the end of a bingo session during which the card was purchased, whichever occurs first.
18. If an organization does not have presales of bingo cards, a player shall redeem a winning bingo card within thirty minutes of the time validated on the card. For a site located in an alcoholic beverage establishment, the thirty-minute rule is based on real time, not bar time (usually several minutes faster than real time).
19. If an organization does not use a bar employee but has presales of bingo cards:
 - a. The time redemption requirement is:
 - (1) If a bingo card is purchased before an employee being on duty, a player shall redeem a winning card only on the calendar day validated on the card and only when the employee is on duty.
 - (2) If a bingo card is purchased when an employee is on duty, the time limit of subsection 18 applies.
 - b. If a device malfunctions or is inoperable and a player has a credit or if a player's currency jams in the currency validator, the player may notify the organization of the problem. Otherwise, the player shall wait or return to the site when an employee is scheduled to be on duty.

- c. If an employee comes to a site to redeem winning bingo cards and then leaves for the day, the electrical current to a device must be switched off for the remainder of the day.
 - d. An employee who comes to the site to redeem winning bingo cards shall turn a device off thirty minutes before the person's scheduled departure from a site.
20. When a prize flare is discontinued, an employee shall write the time and date on the prize flare, sign it, print a prize flare report, and summarize the activity of the prize flare. Unless the activity is summarized by a person who did not directly add a deal to a device, withdraw currency from a device, or redeem winning bingo cards, an employee shall verify that the value of currency validated and values of bingo cards and daubers dispensed as reported on a prize flare summary record correspond to the accounting meters or printed prize flare report.
21. If an organization is scheduled to post a new prize flare to replace a prize flare that was effective that day, an employee shall:
- a. Thirty minutes before the scheduled posting, make a verbal announcement to alert players who purchased bingo cards that the players must redeem winning cards by the scheduled posting time.
 - b. Turn a device off until the thirty-minute period elapses.
22. If an organization incurs a theft of currency from a device, the organization shall record the currency accounting meter or print a cash withdrawal report for law enforcement purposes.
23. Except for a bingo hall, a person under the age of eighteen may not play bingo.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-06, 53-06.1-17

99-01.1-17-04. Requirements of an alcoholic beverage establishment. Reference to "establishment" means an alcoholic beverage establishment that is providing limited assistance to an organization in conducting bingo involving a device.

- 1. An establishment shall:
 - a. Provide a secure premises for a device and place it in a location, other than a hallway, where alcoholic beverages are regularly dispensed and consumed. The location must

be within the sight and control of an establishment's employees who will most likely observe a device while performing their normal duties.

- b. Prohibit a person from tampering or interfering with the normal operation or play of a device.
 - c. Have the electrical current to a device turned off unless a bar employee or an employee is available to redeem a winning bingo card or an organization has presales of bingo cards.
 - d. If a device malfunctions, turn the device off. An establishment shall promptly notify an organization of a malfunction or inoperative condition of a device. Also, if an organization fails to make a good faith effort to fix a device, the establishment shall notify the attorney general. If a device is unrepaired or unserved despite an establishment's written notification to an organization, it constitutes good cause for the establishment to terminate a rental agreement.
 - e. Absorb a loss related to a redeemed counterfeited bingo card, redeemed but subsequently lost bingo card, or redeemed bingo card that was not purchased at a site.
 - f. Repay an organization's temporary loan of funds when the organization discontinues conducting bingo cards at a site according to this chapter.
2. Except for applying subdivision b of subsection 8 of section 99-01.1-17-03, an establishment's employee may not access or attempt to access the interior of a device. An establishment may not permit a person, other than an employee of an organization, to access the interior of a device.
 3. Only a bar employee who is authorized by an establishment may redeem a winning bingo card.
 4. If a bar employee suspects or believes that there is a problem with redeemed bingo cards, the employee shall immediately notify an organization. An employee may turn a device off pending instructions from an organization.
 5. An establishment may adopt a policy to accept or not accept a gaming related check from a player. A player's check must be payable to an establishment. An establishment is responsible for any loss related to a player's check returned by a financial institution as uncollectible. An establishment may allow a player to buy back the player's check with cash and may return a player's check to the player as part of a prize payout.

6. Except to make a record of win and credit redemption slip, a bar employee may not perform an organization's recordkeeping or audit functions.
7. A bar employee shall provide the attorney general and local law enforcement officials access to all gaming records on a site for audit or inspection.
8. If an organization uses a bar employee or has presales of bingo cards, an establishment may switch on the electrical current to a device and switch on the device's currency validator.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-06, 53-06.1-17

99-01.1-17-05. Requirements of an alcoholic beverage establishment and an organization.

1. A bar employee and an employee may not:
 - a. Assist a player in opening or daubing a bingo card except to assist a disabled player.
 - b. Knowingly pay a prize to a player who is redeeming a winning bingo card that has been marked, defaced, tampered with, or is in a condition that may deceive a person.
 - c. Unilaterally withhold a tip from a player's cash prize.
2. If a device malfunctions or is inoperable and a player has a credit, a bar employee or an employee shall pay the player for the player's unplayed credits on a device and complete a credit redemption slip prescribed by the attorney general. An establishment shall provide this form to the organization to claim a reimbursement. If a player's currency jams in a currency validator and a device does not show a credit, a bar employee may not reimburse a player, and shall complete a credit redemption slip and promptly notify an organization. If an organization determines, based on the accounting meters, that a device is cash long, the organization shall reimburse a player by cash or check.
3. A player shall use a miniature ink dauber or a broad felt tip colored transparent highlighter to daub or mark the posted numbers. However, a player may use a standard size ink dauber if the player does not overlap a daub on an adjacent number. If a pencil, pen, permanent marker, or any other writing tool is used, a bar employee and an employee may not redeem the bingo card, but shall return the card to the player so the

player may, if possible and within the time limitation, properly daub or mark the posted numbers.

4. If a player attempts to redeem a winning bingo card after the allowed time period, a bar employee or an employee shall, if feasible, retain and void the winning card. Another player may not redeem this card. A bar employee or an employee may not knowingly pay a prize to any player who is redeeming a winning card after the time limit.
5. If a player daubs or marks a bingo card based on a wrong prize flare, the player's card is void unless the player can daub or mark the bingo card based on the correct prize flare within the time redemption period.
6. A bar employee or an employee shall:
 - a. Compare the daubed or marked numbers of a redeemed bingo card to the record of called bingo numbers form and shall compare the validated time of a redeemed card to the time limitation. For a cash prize of one hundred dollars or more, or for a merchandise prize that has a current retail price of one hundred dollars or more, a bar employee and an employee shall also verify the authenticity of a redeemed winning card by using a master checkbook. If the redeemed card is a winning card, a bar employee and an employee shall write the amount of the cash prize, excluding cents (\$100, not \$100.00), or description of the merchandise prize in the prize line on the game information side of the card, and initial beside the line.
 - b. Deface a winning bingo card when it is redeemed, regardless of the prize amount or merchandise prize won. The defacing must be done by punching a hole of at least one-eighth of one inch [3.175 millimeters] in diameter in the area of the letters B, I, N, G, or O. The defacing may not interfere with or prevent a person from easily identifying the numbers on a card.
 - c. Record the win for a redeemed winning bingo card valued in excess of one hundred dollars according to section 99-01.1-06-13. If a bingo card has two or more winning prize patterns, the requirement for a record of win is based on the prize amount of each prize pattern, rather than the total prize amount of all prize patterns.
7. Cash, gift certificates, and merchandise prizes may be awarded. Prizes must be awarded according to a prize flare. If a gift certificate is awarded as a prize, a bar employee or an employee shall legibly print, in ink, the gift certificate number on the winning bingo card.

8. If a bar employee or an employee cashed a player's check to enable the player to play a device, the bar employee or an employee may return a player's check to the player as part of a cash prize payout for a redeemed winning bingo card.
9. If an organization does not have presales of bingo cards, a bar employee or an employee may not knowingly pay a prize to a player who is redeeming a winning bingo card when that player with the card has left the physical area of the site where the device is located.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-06, 53-06.1-17

99-01.1-17-06. Rental agreement.

1. If bingo is conducted involving only a device and no other game is conducted at a site, the monthly rent must be reasonable. Determining factors include site location, volume of activity, and comparable monthly rent of a pull tab dispensing device. If bingo is conducted involving only a device and is conducted in conjunction with twenty-one, paddlewheels, or pull tabs, bingo is not the primary game and no additional monthly rent is allowed.
2. A rental agreement must conform to section 99-01.1-05-08.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-17-07. Recordkeeping system.

1. Except as otherwise provided below, an organization shall retain accounting records for three years from the end of the quarter in which the bingo activity occurred.
2. For each prize flare, records must include:
 - a. The posted prize flare, test vended bingo cards, and all redeemed winning and unopened and unsold cards. The redeemed winning and unsold cards may not be segregated by game serial number. An organization may not open an unsold or defective card. An unused prize flare with the state gaming stamp affixed must be retained. These records must be retained for one year from the end of the quarter in which the activity occurred.
 - b. Record of win.

- c. Called bingo numbers.
 - d. Except for a temporary loan of funds in the custody of an alcoholic beverage establishment, records documenting the daily starting and ending cash on hand according to section 99-01.1-06-11.
 - e. The date a deal was placed in a device, including the deal's gaming stamp number and game serial number.
 - f. Daily activity, including:
 - (1) Number and value of redeemed winning bingo cards, by prize pattern and prize amount.
 - (2) If an employee redeems winning bingo cards from players, daily starting and ending cash on hand according to section 99-01.1-06-11, IOU activity, currency withdrawn from a device, amount paid out of a cash bank, value of prizes and credit redemption slips, cash long or short, and reimbursements to a cash bank.
 - g. If a bar employee is used, records documenting interim period activity:
 - (1) Currency withdrawn from a device and value of prizes and credit redemption slips.
 - (2) Redeemed prizes, signed by an alcoholic beverage establishment and organization, which documents the number and value of redeemed winning bingo cards, by value, which are exchanged for cash.
 - h. Summary of activity through a reconciliation of accounting meters or audit report. A summary must include a record of currency removed from a device, credit redemption slips paid, actual prizes, cash long or short, cash profit or loss, bank deposit, and date of bank deposit.
3. When bingo activity is closed for a quarter, a person other than the person who normally recorded accounting meters or printed audit reports during a quarter shall record the accounting meters or print an audit report. If a device does not print an audit report, the quarter's activity must be reconciled through the nonresettable accounting meters by reconciling currency validated to the currency withdrawn and the value of bingo cards and daubers dispensed. If a device prints an audit report, a cumulative activity report must be printed at the end of a quarter to reconcile to the prize flare activity for the quarter.
4. Inventory control records according to section 99-01.1-06-15.

5. A summary of ideal gross proceeds, value of unsold or defective bingo cards, North Dakota and local sales tax, actual gross proceeds, prizes, adjusted gross proceeds, actual cash profit, cash long or short, and bank deposit. The summaries of all bingo activity conducted during a quarter must reconcile to the activity reported on the tax return.
6. Access log, which must be retained for one year.
7. If an organization does not use a bar employee at a site, the daily records must be available at a site until the activity is closed.
8. The actual cash profit for an interim period, less the increase or plus the decrease in a starting cash bank for the next gaming activity and the amount of a prize paid by check, must be deposited intact according to section 99-01.1-06-16.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

CHAPTER 99-01.1-18
TAX RETURN

Section	
99-01.1-18-01	Due Date for Filing a Tax Return and Payment of tax
99-01.1-18-02	Incomplete Tax Return
99-01.1-18-03	Consolidated Tax Return
99-01.1-18-04	Extension

99-01.1-18-01. Due date for filing a tax return and payment of tax. A tax return and payment of the gaming and excise tax for a quarter must be postmarked or hand delivered by the last day of the month following the end of the quarter. However, if the last day of the month is a Saturday, Sunday, or holiday, the due date is the first following business day.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-12, 53-06.1-17

99-01.1-18-02. Incomplete tax return.

1. An incomplete tax return will not be considered timely filed unless it is correctly completed and returned by the due date or an approved extended date. Delays in mailing, mail pickups, and postmarking are an organization's responsibility.
2. The attorney general may assess a monetary fine against an organization that files an incomplete tax return. A tax return, including accompanying schedules, is incomplete if information is missing, instructions are not followed, required documentation is not provided, or the correct amount of tax due is not remitted.
3. The attorney general may verify and determine the accuracy of gross proceeds, prizes, expenses, deductions, adjustments, gaming and excise taxes, and distribution of net proceeds, and assist in preparing a return.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-03, 53-06.1-17

99-01.1-18-03. Consolidated tax return.

1. An organization shall report the gaming activity of a closely connected organization.
2. An organization with more than one site shall file an accounting record of each site's gaming activity.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-12, 53-06.1-17

99-01.1-18-04. Extension. An extension for filing a tax return may be granted for good cause, with approval of the attorney general, by filing a written request explaining the reason for the extension. A request must be postmarked or hand delivered by the due date of a tax return.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-12, 53-06.1-17

**CHAPTER 99-01.1-19
ELIGIBLE USES**

Section

99-01.1-19-01	Donor Organization Not to Receive Special Consideration
99-01.1-19-02	Guidelines

99-01.1-19-01. Donor organization not to receive special consideration.

1. An organization may not accept or exchange any payment, gift, service, or other thing of material value from a recipient or potential recipient of its net proceeds, before or after the net proceeds are devoted. An organization may not devote net proceeds to a recipient on the condition that the organization receive a payment, gift, service, or other thing of material value from the recipient.
2. A person or organization, whether or not licensed to conduct gaming, which is a recipient or potential recipient of net proceeds may not give, or offer to give, any payment, gift, service, loan, or other thing of material value to a donor organization.
3. If an organization devotes net proceeds and, within one year (before or after a disbursement) sells or agrees to sell real or personal property to that same donee, the transaction is deemed a contribution of property and not a devotion of net proceeds. A contribution of property encumbered by a lien, chattel, mortgage, or other indebtedness is considered a sale of property.
4. The attorney general may require a recipient of net proceeds to provide documentation of the actual use of net proceeds. If a recipient uses net proceeds for an ineligible use, the recipient shall reimburse a donor organization for the funds.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-11, 53-06.1-17

99-01.1-19-02. Guidelines. These guidelines apply to subsection 6 of North Dakota Century Code section 53-06.1-01:

1. A contribution of net proceeds must be a current irrevocable remittance not contingent upon future occurrences, and specific as to recipient and use.

2. After an organization contributes net proceeds, it may not interfere with the recipients' control and management of the contribution. An organization may not attempt to own or influence the use or disposition of personal or real property purchased by or for a recipient of net proceeds.
3. An intended use of net proceeds must be broad and affect an indefinite number of people, except for applying subdivision a of subsection 10 and subsections 16 and 17. Use of net proceeds for economic development or tourism programs may not directly benefit a member, employee, or board of directors' member of a donor or donee organization. A member, employee, or board of directors' member of a donor or donee organization may not have a financial interest in a funded economic development or tourism program.
4. Private athletic, social, hobby, trade, business, professional, or other similar clubs or associations generally are not eligible use recipients, unless the specific use of net proceeds meets the general guidelines of this section. Gaming expenses or capital costs associated, directly or indirectly, with gaming activity are not an eligible use.
5. A use of net proceeds for erecting, acquiring, improving, maintaining, or repairing real or personal property owned by an organization is an eligible use provided the organization agrees that, upon abandoning the exclusive use of the property for an eligible use, it will transfer its interest in the property to a governmental unit or to an organization that will use it for an eligible use. However, if an organization sells the property, the net proceeds from the sale must be deposited in the charitable gaming trust fund bank account, disbursed to an eligible use, or reinvested in like property within one year.
6. An organization may not disburse net proceeds to support fundraising activity that is, directly or indirectly, associated with gaming. Prohibitions include fundraising activity at an organization's site and purchase of capital equipment and consumable products involving a concession or cafe at a site where bingo is the primary game.
7. If an organization disburses net proceeds to support fundraising activity that is not associated with gaming, only the net income of that activity may be applied to a negative imbalance of the organization's general gaming bank account or charitable gaming trust fund bank account. However, net proceeds may not be disbursed to support a fundraising activity that involves an ongoing retail business.
8. In applying subdivision a of subsection 6 of North Dakota Century Code section 53-06.1-01, eligible uses are uses that stimulate and promote state and community-based economic

development programs within North Dakota which improve the quality of life of community residents. Economic development programs retain or expand existing businesses, start new businesses, or recruit industry from out of state. The programs may involve primary sector (through use of knowledge or labor, value is added to a product, process, or service that results in new wealth) and nonprimary sector businesses, including private sector wholesalers and retailers, such as a drugstore and gas station, which perform a vital community function. Net proceeds must be disbursed to or by a recognized nonprofit city or county jobs development authority or economic development corporation or association and must be used for the primary purpose stated in the entity's articles of incorporation.

9. In applying subdivision b of subsection 6 of North Dakota Century Code section 53-06.1-01, eligible uses are uses that develop, promote, and support tourism within a city or North Dakota. The uses attract in-state and out-of-state visitors by publicizing attractions, promoting, planning, and conducting meetings, conventions, seminars, sporting events, and festivals, and by developing and promoting the state's attractions, sites, resorts, national and state parks, recreational opportunities, shopping malls, and other tourism-related activities. Uses may not directly benefit a for-profit enterprise. The uses include:
 - a. Media advertising and printed information such as maps, image brochures, and planner and entertainment guides.
 - b. Cooperative promotions with Canadian provinces, convention and visitor bureaus, tourism attractions, and other states and groups.
 - c. Market information systems.
 - d. Promotional items and gifts.
 - e. Promoting recreation and reasonable sponsorships of sporting events.
 - f. Developing slides, logos, and artwork.
 - g. Providing hosting fees, monetary bids, loans, advances, and financial guarantees.
 - h. Pooling and matching of funds, grants, and subsidies provided the money is applied to an eligible use described by this subsection.
 - i. Providing support services, education programs, and entertainment, including food and drink.

- j. Hosting and supporting trade shows, booths, tours, and visitor information centers.
 - k. Promoting the state to the film and entertainment industry and foreign markets.
10. In applying subdivision c of subsection 6 of North Dakota Century Code section 53-06.1-01, eligible uses include:
- a. A scholarship for a student. A scholarship may be based on one or more criteria, including community service, patriotism, leadership, education, talent, intended course of study, special handicap, or race. No scholarship award may be decided by a donor organization. However, an organization that is involved in an education program for special students, including students inflicted with disease, may administer its own scholarship program. Net proceeds may be disbursed to a scholarship board or to an educational institution that shall consider the qualifications of all applicants and select the best applicant based on criteria. A majority of the members of a scholarship board may not be members of a donor organization. A disbursement must be payable to an educational institution and a recipient, scholarship board and a recipient, or payable only to an educational institution or scholarship board. A student receiving a scholarship may attend an educational institution located within or outside North Dakota. A student may apply a scholarship at a nonprofit public, or for profit or nonprofit private educational institution registered with or accredited by any state. A scholarship may be applied toward housing, books, tuition, and meals, provided the expense relates to a student's educational need. A scholarship may be awarded through a youth or teen pageant, contest, or tournament. However, youth and teen pageant administrative and operating expenses are not an eligible use. A scholarship may not be based on criteria that includes a person's physical appearance. An organization may not disburse net proceeds directly to the organization's member or member's child. An organization's member or member's child may apply for a scholarship.
 - b. Supplemental assistance for a nonprofit public or nonprofit private educational institution registered with or accredited by any state. A primary, secondary, and postsecondary educational institution qualifies as a recipient, including affiliated alumni associations, booster clubs, parent-teacher councils, and college sororities and fraternities. Net proceeds may be used for youth activities, educational equipment, musical instruments, playground equipment, extracurricular activities, sporting events, field trips, cultural

exchanges, maintenance of buildings, remodeling, fixed assets, administrative and operating expenses, and supplies.

- c. Assistance for a library for maintenance of buildings, remodeling, fixed assets, administrative and operating expenses, supplies, program services, special events, promotions, educational material, books, computer systems, information services, exhibits, story hours, film showings, and discussion groups. A disbursement to a museum may be for maintaining buildings, remodeling, fixed assets, administrative and operating expenses, and assembly of exhibits for preservation, collection, education, and interpretation.
- d. Assistance for a nonprofit performing arts and humanities organization. Net proceeds may be used for studio and auditorium rental, speaker fees, equipment, travel, administrative and operating expenses, and uniforms. Functions may include children's theater, summer camps, and developing art parks.
- e. Preservation of cultural heritage. Net proceeds may be used toward the restoration, reconstruction, improvement, or preservation of public buildings in North Dakota which are listed in the state historic sites registry or the national registry of historic places. Net proceeds may be used toward programs of nonprofit organizations that provide important historical information or tell a story about a local region, North Dakota, or the nation and which primarily educate and inspire the public, elderly, handicapped, schoolchildren, teachers, and foreign visitors. Qualifying programs include the lifestyles and human experiences of homesteaders, immigrants, Indian culture, frontier army, and fur trade. Net proceeds may be used for interpretive programming including exhibits, publications, simulations of life, classroom outreach services, audiovisual presentations, special events, and tours. Special events such as chautauquas and community celebrations of Norskfest, threshing bees, and Octoberfest qualify for expenses of parades, displays, equipment, educational materials, and awards. School reunion expenses do not qualify.
- f. Youth community and athletic activities; however, the activities must be open to all youth, less than eighteen years of age, regardless of gender. An organization shall disburse, to the extent possible, equal amounts of net proceeds to activities for each gender. Net proceeds may be used for uniforms, equipment, tournament fees, private and public ground transportation, coaches' salaries, and speaker fees for father-son and mother-daughter banquets provided that the meals for these banquets are provided

free or at actual cost to the participants. Business sponsored appreciation luncheons and banquets do not qualify.

- g. Adult amateur athletic activities within North Dakota including softball, rodeo clubs, curling clubs, bowling teams, shooting clubs, riding clubs, and horse clubs. Net proceeds may be used for sponsorship fees, uniforms, umpire fees, fees for the use of a sports complex, maintenance of a sports complex, and team equipment. However, the uniforms and team equipment must be owned by the team or league association and ownership may not be conveyed to team members. Tournament fees, food and drink, and private or public transportation expenses do not qualify except for a disabled player.
 - h. Maintenance of places of public worship or support of a body of communicants, gathered in common membership for mutual support and edification, worship, or religious observances. Net proceeds may be used for maintaining buildings, remodeling, fixed assets, administrative and operating expenses, uniforms for a choir, furnishings, and supplies for church groups and services.
 - i. Scientific research for a cure to relieve human beings of disease and suffering.
11. In applying subdivision d of subsection 6 of North Dakota Century Code section 53-06.1-01, eligible uses are uses benefiting an indefinite number of persons by relieving them of disease, suffering, or constraint, including:
- a. Relief to an individual or family suffering from poverty or homelessness. Net proceeds may be used for food, temporary housing, clothing, utilities, and fuel for private and public transportation.
 - b. To encourage and enhance the active participation of the elderly in our society and improve their quality of life.
 - c. Services for abused persons, including to:
 - (1) Provide emotional support, guidance, and counseling to victims of crimes of rape and sexual assault.
 - (2) Encourage, assist, and support victims of rape and sexual assault in prosecuting perpetrators.
 - (3) Establish educational programs about rape, sexual assault and incest, the dramatic effects it has on victims and their families, and the cost to society.

- (4) Increase community awareness of the seriousness and pervasiveness of domestic violence.
 - (5) Establish and direct services for abused spouses and their children in the community, including advocacy, emergency shelter and food, information services, referrals, and peer support.
 - (6) Develop and coordinate programs to encourage and assist development of a strong volunteer advocate network.
- d. Services to persons with an addicted behavior toward alcohol, gambling, pornography, or drugs.
 - e. To combat juvenile delinquency and rehabilitation of ex-offenders, including support for youth centers and halfway houses.
 - f. For the sick, diseased, or terminally ill and their physical well-being.
 - g. Emergency relief and volunteer services. Net proceeds may be used to recognize individuals or groups of people who donate their time to community services, nursing homes, or hospitals if a gift, prize, or other gratuity valued singly or in the aggregate does not exceed one hundred dollars per person per calendar year.
 - h. Nonprofit public or nonprofit private nursing homes and other nonprofit medical facilities. Net proceeds may be used for maintaining buildings, remodeling, fixed assets, administrative and operating services, supplies, reading programs, and craft activities for patients.
 - i. Social services and educational programs that aid emotionally and physically distressed, handicapped, underprivileged, and elderly persons.
 - j. Crime prevention, fire protection and prevention, and public safety.
 - k. Complying with the Americans With Disabilities Act of 1990 by remodeling publicly owned facilities and improving public transit facilities, equipment, and services, and providing interstate and intrastate telecommunications relay services, to make them accessible to, and usable by, people with disabilities. A privately owned facility does not qualify.
12. In applying subdivision e of subsection 6 of North Dakota Century Code section 53-06.1-01, eligible uses are specified

by an organization's articles of incorporation or bylaws which do not directly benefit the organization. The uses include:

- a. An organization's member that qualifies under this section.
 - b. To perpetuate the memory and history of the dead.
 - c. To promote cultural, educational, charitable, and welfare activities sponsored by an organization. Qualifying uses include bands, choirs, color guards and honor guards, director fees, uniforms, sheet music, audio system, instruments, and private and public ground transportation, for performances at concerts, homecomings, open houses, parades, festivals, funerals, nursing homes, hospitals, and special events. However, an audio system and instruments must be owned by the organization and ownership may not be conveyed to members. State and national convention expenses; recognition nights that may include a banquet, program, and dance for past commanders or past members; ceremonial and ritual activities; and purchase of transportation vehicles do not qualify.
 - d. Burial expenses and flowers; however, an organization may not discriminate between members and nonmembers.
13. In applying subdivision f of subsection 6 of North Dakota Century Code section 53-06.1-01, eligible uses increase the comprehension of and devotion to the principles upon which the nation was founded, and do not directly benefit an organization or any member. Net proceeds may be used to aid in teaching the principles of liberty, truth, justice, and equality. Beauty pageants do not qualify.
 14. In applying subdivision g of subsection 6 of North Dakota Century Code section 53-06.1-01, eligible uses include erecting or maintaining public buildings or works, public utilities, and public waterworks.
 15. In applying subdivision h of subsection 6 of North Dakota Century Code section 53-06.1-01, eligible uses lessen the burden of government. Net proceeds may be used by an entity normally funded by a city, county, state, or United States government and by a city, county, state, United States government, or any agency thereof.
 16. In applying subdivision i of subsection 6 of North Dakota Century Code section 53-06.1-01, eligible uses benefit a definite number of persons who are the victims of loss of home or household possessions through explosion, fire, flood, or storm and the losses are uncompensated by insurance. An accumulation for a future occurrence does not qualify.

17. In applying subdivision j of subsection 6 of North Dakota Century Code section 53-06.1-01, eligible uses benefit a definite number of persons who are suffering from a seriously disabling disease or injury causing severe loss of income or incurring extraordinary medical expense that is uncompensated by insurance. Net proceeds may be used for subsistence for a family member traveling with an ill family member to an out-of-town medical facility. An accumulation for a future occurrence does not qualify.
18. In applying subdivision k of subsection 6 of North Dakota Century Code section 53-06.1-01, eligible uses are community service projects, by chambers of commerce exempt from federal income tax under section 501(c)(6) of the Internal Revenue Code. A project qualifies if it promotes the common good, enhances the social welfare of the community, and benefits an indefinite number of persons. The specific goals of a community service project may be to develop or promote public services in areas such as education, housing, transportation, recreation, crime prevention, fire protection and prevention, safety, and health. A use that benefits a chamber of commerce does not qualify.
19. In applying subdivision l of subsection 6 of North Dakota Century Code section 53-06.1-01, eligible uses are for or benefit efforts in support of the health, comfort, or well-being of the community. The uses include:
 - a. Adult bands and choirs, including drum and bugle corps, city bands and choirs, and parade expenses. Net proceeds may be disbursed for director fees, uniforms, sheet music, instruments, and private and public ground transportation. However, an audio system and instruments must be owned by the band or choir and ownership may not be conveyed to members. A purchase of a transportation vehicle does not qualify.
 - b. Educational-related agricultural trade shows conducted in North Dakota. Meals and entertainment do not qualify.
 - c. Nonprofit organizations supporting the protection of animals and wildlife. The uses include:
 - (1) Hatcheries, wildlife preserves, and wildlife sanctuaries.
 - (2) Teaching and promoting sound principles of ecology with emphasis on human beings and their relationship to all living things.
 - (3) Teaching and promoting game and other wildlife management based on scientific principles.

- (4) Teaching and promoting the benefits of outdoor pursuits including contact with animals, fish, and birds.
 - (5) Spay and neuter assistance programs, pet placement, lost and found pet services, educational programs, investigations of reported animal abuse, and animal information services.
- d. Public transportation and recreation.
- e. Preservation and cleanup of the environment to protect the health and welfare of people, plants, animals, water resources, soil, air, buildings, and monuments, including:
- (1) Air quality programs that reduce acid rain, smog, air toxins, pollutants, and protect the ozone layer.
 - (2) Water quality programs that reduce pollutants and other toxins in ground water, storm waters, shallow injection wells, underground storage tanks, streams, lakes, rivers, and wetlands.
 - (3) Waste programs that promote the disposal, reduction, recycling, and management of liquid, solid, and hazardous waste.
 - (4) Conservation of natural resources.
20. In applying subdivision m of subsection 6 of North Dakota Century Code section 53-06.1-01, an eligible use is a special trust fund established by a charitable, educational, religious, public safety, or public-spirited organization that has obtained an advance ruling or final determination from the internal revenue service as qualifying for exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code. A trust fund must serve as a contingency for funding or maintaining an organization's future program services should the organization discontinue conducting games or dissolve. A trust fund:
- a. Must be managed and controlled by trustees, appointed by an organization, who shall establish a nonprofit corporation limited to the primary purpose stated in its declaration of trust. Trustees may be board members of a donor organization. A trust may be revocable or irrevocable.
 - b. Must be comprised only of net proceeds.
 - c. May receive net proceeds periodically or in a lump sum.
 - d. Must be invested only in marketable securities.

- e. Must have its principal, accrued interest, dividends, and gains on sales of investments applied toward the trust's primary purpose. However, a trust's principal may not be disbursed until a donor organization has permanently discontinued conducting games or dissolved. Unless a trust is revoked, funds may not be disbursed to a donor organization.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-01, 53-06.1-11, 53-06.1-17

CHAPTER 99-01.1-20
DISTRIBUTORS AND MANUFACTURER'S DISTRIBUTORS

Section	
99-01.1-20-01	License
99-01.1-20-02	License Application
99-01.1-20-03	Restrictions on Distributor Interest
99-01.1-20-04	Restrictions of a Distributor and Manufacturer's Distributor
99-01.1-20-05	Required Orientation
99-01.1-20-06	Inventory Control
99-01.1-20-07	Purchase Restrictions
99-01.1-20-08	Sales Restrictions
99-01.1-20-09	Sales and Rent Restrictions - Pull Tab and Bingo Card Dispensing Device
99-01.1-20-10	Requirements - Pull Tab and Bingo Card Dispensing Device
99-01.1-20-11	Modifications - Pull Tab and Bingo Card Dispensing Device
99-01.1-20-12	Sales Invoice - Pull Tab and Bingo Card Dispensing Device
99-01.1-20-13	Registration - Pull Tab and Bingo Card Dispensing Device
99-01.1-20-14	Training - Pull Tab and Bingo Card Dispensing Device
99-01.1-20-15	Repair Report - Pull Tab and Bingo Card Dispensing Device
99-01.1-20-16	Sales to a Distributor, Licensed Organization, Organization That Has a Local Permit, and Other Authorized Person
99-01.1-20-17	Marking and Identification of Gaming Equipment
99-01.1-20-18	Sales to an Organization That Conducts Games on Tribal Land, Indian Tribe, United States Military, and an Out-of-State Purchaser
99-01.1-20-19	Promotional and Sample Bingo Cards and Pull Tabs
99-01.1-20-20	State Gaming Stamp and Return of Gaming Equipment
99-01.1-20-21	Reconciliation of Inventory Control Records
99-01.1-20-22	Recordkeeping System

99-01.1-20-01. License.

1. Except for a jar bar, twenty-one and poker tables, and raffle tickets, a person may not sell, offer for sale or lease, solicit business, or otherwise provide gaming equipment to a licensed organization or distributor, organization that has a local permit, or any other person for gaming or nongaming activity in or outside North Dakota without a license. A license is not transferable.
2. A license must be displayed at the business office.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-14, 53-06.1-17

99-01.1-20-02. License application.

1. An applicant shall annually apply for a license. The licensing period is April first through March thirty-first. The application must include:
 - a. A list of all employees, agents, owners, stockholders, partners, officers, directors, and other persons in the business of the distributor or manufacturer's distributor. A personal information form prescribed by the attorney general must be completed for a proprietor, officer, and shareholder of five percent or more of outstanding common stock.
 - b. If the business is a corporation, the number of shares and the respective percentage of total shares issued that are owned for each stockholder, by all classes of stock of the corporation. If the business is a partnership, for each partner provide the percentage of equity interest in the partnership.
 - c. If a foreign corporation, a copy of the certificate of authority issued by the secretary of state evidencing that the corporation has complied with North Dakota Century Code chapter 10-22.
 - d. A consent, according to North Dakota Century Code sections 6-08.1-03, 6-08.1-04, and 6-08.1-05, authorizing the attorney general to inspect the records and accounts controlled by the distributor or manufacturer's distributor located at a financial institution.
2. The annual distributor license fee is one thousand five hundred dollars. The annual manufacturer's distributor license fee is five hundred dollars. The license fee is not prorated.
3. A license must be reapplied for before April first of each year.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-14, 53-06.1-17

99-01.1-20-03. Restrictions on distributor interest.

1. A license organization or organization that has a local permit may not be a distributor.
2. A person who is an officer, manager, gaming manager, or member of a governing board of a licensed organization or an organization that has a local permit may not be an officer, director, shareholder, proprietor, consultant, or employee of a distributor, nor have a financial interest in that distributor.
3. A person who is an officer, director, shareholder, partner, or proprietor of a North Dakota wholesale alcoholic beverage business may not be an officer, director, shareholder, partner, proprietor, or employee of a distributor, nor have a financial interest in that distributor.
4. A distributor or person having a financial interest in a distributor may not be a lessor of a site, directly or indirectly, to an organization that is an active customer of that distributor.
5. A distributor shall establish a permanent office in North Dakota at which the distributor's records must be kept.
6. A licensed manufacturer of pull tabs or paper bingo cards may not be a licensed distributor.
7. A manufacturer's distributor of a pull tab dispensing device may be a licensed distributor.
8. An addition or deletion of an employee, agent, or other personnel, or any change in the management, or equity ownership of a distributor or manufacturer's distributor must be reported monthly to the attorney general.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-14, 53-06.1-17

99-01.1-20-04. Restrictions of a distributor and manufacturer's distributor.

1. An officer, director, shareholder, agent, or employee of a distributor or manufacturer's distributor may not:
 - a. Play any pull tab game or a seal board at any site.
 - b. Provide bookkeeping services to an organization.

- c. Interfere with a lessor's relationship with an organization involving a lease agreement, attempt to influence an alcoholic beverage establishment to enter into a lease agreement with an organization, or procure a site for an organization. This rule does not preclude a distributor from notifying an organization of an available site or demonstrate a pull tab or bingo card dispensing device to an alcoholic beverage establishment.
2. A distributor or manufacturer's distributor may not have an expressed or implied agreement with another distributor or manufacturer's distributor to restrict either of them in transacting business to a specific geographic area or organization, and such a restriction may not be a condition of any sale.
3. A distributor may not sell or otherwise provide a twenty-one or paddlewheel drop box unless it is a double-locking or triple-locking removable metal container and has:
 - a. One lock that secures the drop box to the underside of a table, and one or two separate locks that secure the contents placed into the drop box. The key to each of the two or three locks must be different from each of the other locks.
 - b. A slot opening through which currency and forms can be inserted into the drop box. The slot of the drop box may not exceed three and one-half inches [88.90 millimeters] in length and one-half inch [38.10 millimeters] in width.
 - c. A spring-loaded mechanical device that will automatically close and lock the slot opening upon removal of the drop box from a table. The spring-loaded mechanism may not be accessible from outside the drop box in a manner that would jeopardize the security of the drop box.
4. Except for the same organization, a distributor may not sell or otherwise provide twenty-one or paddlewheel chips to another distributor or an organization when those chips are identical in physical characteristic to chips previously sold or otherwise provided by that distributor.
5. Except for applying subsection 1 of section 99-01.1-15-01, a distributor may not sell or otherwise provide a paddlewheel, paddlewheel table, or a series of paddlewheel ticket cards as a variation of the game paddlewheels described by subsection 2 of section 99-01.1-15-01.
6. A distributor and manufacturer's distributor may not, directly or indirectly, give a gift, trip, prize, or other gratuity valued singly or in the aggregate in excess of one hundred dollars per person per calendar year related to an alcoholic

beverage establishment, licensed organization, organization that has a local permit, distributor, manufacturer, or employee of any of these entities. A distributor and manufacturer's distributor may not, directly or indirectly, give a loan of money (excluding credit) to an alcoholic beverage establishment, licensed organization, organization that has a local permit, distributor, manufacturer, or employee of any of these entities.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

99-01.1-20-05. Required orientation.

1. A distributor shall request, within ninety days of the commencement of business, orientation from the attorney general. The orientation must include the gaming law and rules, and recordkeeping.
2. The attorney general may require a new bookkeeper who is responsible for complying with the recordkeeping requirements of this chapter to participate in orientation. A bookkeeper shall notify, within ninety days of the bookkeeper's employment, the attorney general of the bookkeeper's employment. The orientation must include the gaming law and rules, and recordkeeping.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

99-01.1-20-06. Inventory control.

1. A distributor shall establish and maintain a quantity based perpetual inventory control system to account for deals of pull tabs and bingo cards, club specials, tip boards, coin boards, and punchboards that are purchased or received from an affiliated company, another distributor, manufacturer, or any other source, including gaming equipment returned to the distributor as a credit. A system must account for the sale or other disposition of each item to the ultimate purchaser, including another distributor, licensed organization, organization that has a local permit, organization that conducts games on tribal land, gaming school, Indian tribe, United States military base, and out-of-state purchaser.
2. Perpetual inventory control records must separately account for the quantity of deals of pull tabs and bingo cards, club specials, tip boards, coin boards, and punchboards acquired, sold, and remaining in inventory, by:

- a. Name of manufacturer or other distributor.
- b. Manufacturer's or other distributor's sales invoice number and date.
- c. Name of game.
- d. Manufacturer's form number (excluding deals of jar tickets).
- e. Distributor's sales invoice number and date, which must be recorded when an item is sold.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-20-07. Purchase restrictions.

1. A distributor may not purchase or be provided any deal of pull tabs, club special, tip board, seal board, coin board, or punchboard from a manufacturer unless the manufacturer is licensed by the attorney general. The distributor is responsible for determining whether a manufacturer is licensed.
2. A distributor may not purchase or be provided any gaming equipment from an affiliated company unless all of these conditions are met:
 - a. An affiliated company must be a wholly owned subsidiary or the parent company of the distributor.
 - b. An affiliated company must have originally purchased the gaming equipment directly from a licensed manufacturer.
3. A distributor may not purchase or be provided any gaming equipment from an out-of-state distributor unless all of these conditions are met:
 - a. An out-of-state distributor must have the manufacturer of the gaming equipment ship the gaming equipment directly from the manufacturer to the licensed distributor.
 - b. The manufacturer of the gaming equipment must be licensed by the attorney general.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-20-08. Sales restrictions.

1. A distributor may not knowingly possess, display, sell, or otherwise provide an organization a deal of pull tabs or bingo cards, club special, tip board, coin board, or punchboard that:
 - a. Does not conform to the quality standards of sections 99-01.1-21-04, 99-01.1-21-05, and 99-01.1-22-05.
 - b. Has a manufacturer's or distributor's seal broken on the manufacturer's container (see subsection 3 of section 99-01.1-20-17).
 - c. Contains pull tabs or punches that have winner protection features although they are not winning pull tabs or punches.
 - d. Has been prohibited by the attorney general from sale or play within North Dakota.
2. A distributor may not temporarily store at the distributor's warehouse or home office any game that has a state gaming stamp affixed to the game's flare which has been sold to another distributor, licensed organization, organization that has a local permit, or gaming school. A sales transaction occurs when a distributor issues a sales invoice.
3. If a distributor sells or otherwise provides gaming equipment to another distributor, the distributor shall ship the gaming equipment directly to the other distributor's address in North Dakota.
4. If a distributor purchases gaming equipment from a manufacturer, the distributor shall have the manufacturer ship the equipment directly to the distributor. A manufacturer may not ship the gaming equipment directly to a licensed organization or organization that has a local permit. A distributor shall have the gaming equipment unloaded at the distributor's warehouse facility and inventory the equipment.
5. If a distributor purchases gaming equipment from a manufacturer for sale to another distributor, that distributor may arrange to have the manufacturer ship the equipment directly to the other distributor.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

99-01.1-20-09. Sales and rent restrictions - Pull tab and bingo card dispensing device.

1. A distributor may not sell or otherwise provide a device to an organization unless a model of the device has first been approved by the attorney general.
2. A distributor may not rent a device to an organization unless the payment of rent stipulated in the rental agreement is for a fixed dollar rate per month or other agreed duration. A graduated rate arrangement and percentage rate (based on gaming activity) are prohibited.
3. The phrase "Every eligible organization shall acquire all raffle tickets or equipment for games of chance from a distributor licensed under this chapter" of subsection 3 of North Dakota Century Code section 53-06.1-14 allows a distributor, as an intermediary, to arrange for an organization to acquire a device from a manufacturer's distributor or manufacturer through a financing lease purchase agreement with a finance company or lease company. Although the organization is deemed to own the device, the finance company or lease company may retain a security interest or ownership rights, or both, in the device until the organization satisfies the requirements of the lease.
4. If a distributor is an agent for another distributor or manufacturer's distributor in marketing a device, that distributor is not required to complete a sales invoice. The distributor is an agent if the distributor receives a commission for a sale or lease of a device, and does not finance, take temporary title, or execute a sales invoice involving a device.
5. A distributor that resells or otherwise provides a used device shall change the keyed lock or locks on the device's exterior door.
6. A distributor may not sell or otherwise provide a particular device simultaneously to more than one organization.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-20-10. Requirements - Pull tab and bingo card dispensing device. A distributor or manufacturer's distributor that is the original seller of a device shall:

1. Maintain an adequate inventory of electrical and mechanical components in North Dakota to ensure a timely repair and continued, approved operation of a device.

2. Provide technical assistance and training in the service and repair of a device.
3. Notify the attorney general in writing of any recurring electronic or mechanical malfunction or other problem experienced by a particular approved device model.
4. Provide a service agreement, upon request by an organization, for maintaining or repairing a device.
5. Have a service technician trained, bonded, and certified by a manufacturer as qualified to service a device.
6. Not access a device for performing a repair or service unless accompanied by an employee.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-20-11. Modifications - Pull tab and bingo card dispensing device. A distributor or manufacturer's distributor may not modify the assembly or operational functions of an approved device model, electronic currency validator, or components unless a written request is filed with the attorney general and approved by the attorney general. A request must explain the type and reason for the modification. However, in an emergency, if a modification is necessary to prevent cheating or malfunction, temporary approval may be verbally requested from the attorney general before submitting a written request. A written request for permanent approval must be made within fourteen days of the temporary approval.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-20-12. Sales invoice - Pull tab and bingo card dispensing device. A distributor or manufacturer's distributor that sells or otherwise provides a device to an organization shall record this information on a sales invoice:

1. Name, address, and license number of the organization.
2. Name of the manufacturer or manufacturer's distributor from whom the device was acquired.
3. Name of device.
4. Device serial and model number.
5. Date of manufacture which may be part of the model number.

6. Attorney general registration number.
7. Name and address of the site where the device will be placed.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

99-01.1-20-13. Registration - Pull tab and bingo card dispensing device.

1. A distributor or manufacturer's distributor shall affix an attorney general registration stamp to an approved device model when the device is sold or otherwise provided to an organization. Only a distributor or manufacturer's distributor may affix a registration stamp. The attorney general shall notify each distributor or manufacturer's distributor which devices are approved.
2. When a distributor or manufacturer's distributor affixes a registration stamp to a device, it shall complete a registration form prescribed by the attorney general and file the form as an attachment to the respective sales invoice.
3. Each device registered must conform to the exact manufacturing specifications of the device's model approved by the attorney general. A device not approved or not meeting the specifications may be seized by the attorney general.
4. A distributor may not transport a device that has a registration stamp affixed to it out of North Dakota unless the distributor first notifies the attorney general.
5. Except for the attorney general, a person may not remove a registration stamp from a device.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

99-01.1-20-14. Training - Pull tab and bingo card dispensing device.

1. A distributor or manufacturer's distributor shall initially set up a device at a site.
2. A distributor or manufacturer's distributor shall conduct at least one training session related to the operation and service of a device for an employee of an organization that purchases a device for the first time. The training must be scheduled at a convenient time and location.

3. A distributor and manufacturer's distributor shall retain a record of the training for three years from the date of the training. The records must include the name of instructor, time, date, and location of the training, and name of the employee who was trained.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

99-01.1-20-15. Repair report - Pull tab and bingo card dispensing device. If a distributor or manufacturer's distributor repairs a device, it shall complete a repair report containing the:

1. Date the organization notifies the distributor or manufacturer's distributor of the need for service repair and date repair was completed.
2. Name, address, and license number of the organization.
3. Name of the site.
4. Name of the manufacturer and device.
5. Device model number.
6. Attorney general registration number.
7. Description of malfunction and repair performed.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

99-01.1-20-16. Sales to a distributor, licensed organization, organization that has a local permit, and other authorized person. Except for applying section 99-01.1-20-18, a distributor may not sell or otherwise provide gaming equipment to a distributor, organization, or an organization that does not have a local permit, or other person unless authorized by the attorney general. A manufacturer's distributor may not sell or otherwise provide gaming equipment to a distributor which is not licensed. A distributor and manufacturer's distributor shall determine whether a distributor or organization is licensed, and whether an organization has a local permit.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-14, 53-06.1-17

99-01.1-20-17. Marking and identification of gaming equipment.

1. A manufacturer's game serial number must be on a paddlewheel ticket, pull tab, bingo card used in a dispensing device, seal board, punchboard, sports-pool board, coin board, and calcutta board. The name of an organization, organization post or lodge number, or other information may also appear but not in replacement of, the game serial number. A game serial number may not be special ordered. If a game serial number is not preprinted on a seal board, sports-pool board, or calcutta board, a distributor shall assign and electronically or mechanically imprint a game serial number on the board.
2. For a deal of pull tabs (two-ply card with perforated break-open tabs), deal of bingo cards used in a dispensing device, and a specialty jar ticket game, a distributor may open the manufacturer's cellophane shrink wrap to access a flare. After a distributor affixes a state gaming stamp to the flare and writes the deal's game serial number on the gaming stamp, the distributor shall replace, if applicable, the flare inside the cellophane shrink wrap. A distributor shall ensure that the opening is permanently sealed or is small and will preclude a person from tampering with the deal through the opening.
3. Except to determine a deal's game serial number, the primary color of a pull tab, or to count the pull tabs or bingo cards, a distributor may not break a deal's permanent adhesive seal or access the pull tabs or bingo cards inside a deal's container. If a manufacturer's seal on a container is inadvertently broken due to shipping or handling but the integrity of the deal remains intact, the distributor may reseal the deal with a distributor permanent adhesive security seal. The seal must be applied to all accessible sides and ensure that the deal's pull tabs or bingo cards are not accessible from outside the deal's container. The distributor shall indicate on a sales invoice that the deal was resealed by the distributor and the reason.
4. A distributor shall affix a state gaming stamp on the front of the flare of a deal of pull tabs, club special, tip board, seal board, series of paddlewheel ticket cards, and on a punchboard, sports-pool board, coin board, and calcutta board that is sold or otherwise provided to a customer by that distributor. For the purpose of this rule, if a case of bingo cards that are intended to be used in a dispensing device is comprised of two or more boxes or containers of bingo cards (example, six boxes comprising one case), each box or container of the case is classified as a separate deal, regardless of whether the game serial number is the same. The distributor shall affix a gaming stamp only on an item that conforms to the gaming law and rules and not on an item

prohibited by the attorney general. A gaming stamp must be affixed in North Dakota.

5. A distributor shall legibly write the manufacturer's game serial number in ink on the state gaming stamp. Once the distributor has written the game serial number, the distributor may not change or erase it. If the written game serial number is incorrect, the gaming stamp must be voided. For a series of paddlewheel ticket cards, the game serial number to be written must be the lowest numbered paddlewheel ticket card in the series.
6. A distributor shall provide a flare with a deal of pull tabs, club special, tip board, series of paddlewheel ticket cards, coin board, and punchboard. Each flare, including a master flare, must indicate the name of the game, manufacturer's form number (excluding a flare for a deal of jar tickets), cost per play, values of winners, and the number of winners, by value, either by numerical designations or particular number of symbols that represent the particular number of winners, and winning number, symbol, or set of symbols. The symbol or set of symbols must be actually pictured on the flare, not merely described. This information must be mechanically or electronically preprinted on the flare. A last sale feature on a flare must be indicated either by a permanently affixed sticker containing a preprinted designation of the last sale feature, prize value, and distributor's name or license number.
7. A distributor may not sell or otherwise provide a sports-pool board to a customer unless a special opaque tape covers the numbers on the board. If the tape is disturbed, any recovering of the numbers must be detectable. The tape must prevent the concealed numbers from being viewed from outside when using a high intensity lamp of up to five hundred watts.
8. A distributor shall provide an organization with an adequate supply of bingo prize flares for use with a bingo card dispensing device.
9. For a deal of pull tabs involving single-folded or banded tickets (jar ticket), a distributor shall provide a game information sheet containing this information or, in lieu of a separate sheet, the information may be printed on the front or back of the deal's flare:
 - a. Name of the game.
 - b. Ideal gross proceeds, ideal prizes, by value, including any last sale feature, and ideal adjusted gross proceeds.
 - c. Cost per play.

- d. Number of pull tabs.
- 10. If a distributor knows this information, the distributor shall indicate it on a club special and tip board:
 - a. Cost per play.
 - b. Ideal cash prizes by value, including any last sale feature.
- 11. A distributor shall print these phrases on a sports-pool board:
 - a. Professional sports pool.
 - b. Cost per play \$_____.
 - c. Ideal cash prizes \$_____.
 - d. Method of prize payout _____.
- 12. A distributor shall indicate this information on the flare of a series of paddlewheel ticket cards:
 - a. Game serial numbers of the lowest and highest numbered paddlewheel ticket card.
 - b. Quantity of paddlewheel ticket cards.
 - c. Type of paddlewheel ticket (for example, 40 x 3 x 120), if applicable.
- 13. A distributor shall print the phrase "retail value of prize \$_____" on a punchboard that has a merchandise prize.
- 14. A distributor shall print these phrases on a calcutta board:
 - a. Sporting event _____.
 - b. Method of prize payout _____.
- 15. A distributor shall print these phrases on a seal board:
 - a. Cost per play \$_____.
 - b. Retail value of prize \$_____.
- 16. If a distributor liquidates, files bankruptcy, or closes for any reason, including a nonrenewal or relinquishment of its license, the distributor shall return all voided and unused state gaming stamps to the attorney general within five days after discontinuance of business.

17. If a distributor is notified by an organization that the actual game serial number of a deal of pull tabs or bingo cards, club special, tip board, seal board, punchboard, series of paddlewheel ticket cards, calcutta board, coin board, or sports-pool board is different from the game serial number written on the state gaming stamp, the distributor shall immediately correct the game serial number written on the gaming stamp, sign a prescribed form (see section 99-01.1-10-03) acknowledging that the distributor corrected the game serial number, and notify the attorney general according to prescribed procedures.
18. If a deal's price per pull tab is one or two dollars, the deal must have an ideal prize payback percentage (ideal prizes divided by ideal gross proceeds) of at least seventy-five percent. If a deal's ideal prize payback percentage ranges from seventy-five percent to less than seventy-eight percent, a distributor shall affix a nonremovable sticker on the face of the deal's flare or the respective game's master flare to disclose the deal's ideal prize payback percentage for players to read. The sticker must be printed with a white background and must state "Ideal Prize Payback is _____". The phrase "Ideal Prize Payback is" may be preprinted above the blank space in a stacked manner. The distributor shall either legibly print the deal's ideal prize payback percentage and a percent sign (for example, 76.3%) in the blank space by use of a nonerasable ink pen or have the percentage and percent sign preprinted on the sticker. The percentage must be expressed to the tenths of a whole number (for example, 76.3%) unless the percentage is actually a whole number. The deal's ideal prize payback percentage and percent sign must be at least one and one-half inches [38.10 millimeters] in height.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-14, 53-06.1-17

99-01.1-20-18. Sales to an organization that conducts games on tribal land, Indian tribe, United States military, and an out-of-state purchaser. Gaming equipment sold or otherwise provided by a distributor to an organization that conducts games on tribal land, Indian tribe for use on tribal land, United States military for use on a military base, and an out-of-state purchaser for use out of state must either be shipped directly to that organization, Indian tribe, United States military base, or out-of-state site or, the distributor shall verify that the purchaser represents that organization, Indian tribe, United States military base, or is from out of state. This verification applies only if the gaming equipment is not shipped directly to the purchaser and must include:

1. If the purchaser represents an Indian tribe, the tribe's license number and purchaser's full name and address.

2. If the purchaser represents the United States military, the purchaser's full name, rank or title, and address.
3. If the purchaser represents an organization that conducts games on tribal land or is from out of state, the purchaser's full name and address. If the purchaser is a corporation or nonprofit organization, include the federal identification number.
4. The driver's license number, including state of registration. A distributor shall record this information from a purchaser's pictured driver's license. If the purchaser does not have a pictured driver's license, the distributor shall verify the purchaser's identity from two other forms of pictured identification. The distributor shall determine the identity of the purchaser and require any additional necessary proof of identification from a reliable source. The distributor may not sell or otherwise provide gaming equipment unless the purchaser provides all required information.
5. The social security number unless the driver's license number is the social security number.
6. Delivery information.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-20-19. Promotional and sample bingo cards and pull tabs.

A distributor or manufacturer's distributor may not sell or otherwise provide promotional paper bingo cards, bingo cards used in a dispensing device, or pull tabs to an organization or any person unless the face of each paper bingo card or the game information side of each pull tab or bingo card used in a dispensing device contains the phrase "promotional use only", "happy hour", or similar phrase and that the paper bingo card, bingo card used in a dispensing device, or pull tab states that no purchase is necessary to receive a promotional paper bingo card, bingo card, or pull tab. A distributor or manufacturer's distributor may not sell or otherwise provide sample paper bingo cards, bingo cards used in a dispensing device, or pull tabs to an organization or any person unless the face of each paper bingo card and the game information side of each pull tab or bingo card used in a dispensing device contains the word "void". Also, no number, symbol, or set of symbols of any nonpromotional pull tabs may be printed on any promotional pull tabs. If a game has a flare, the flare must indicate that the game is for promotional or sample purposes only and that no purchase is necessary to receive a bingo card or pull tab.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-20-20. State gaming stamp and return of gaming equipment.

1. A distributor shall purchase state gaming stamps at a price of twenty-five cents each from the attorney general and maintain the gaming stamps at its North Dakota office. Only a distributor may obtain gaming stamps. A distributor may not transfer or provide a gaming stamp to another distributor. If a distributor voids or does not use a gaming stamp, the distributor shall return the voided or unused gaming stamp to the attorney general. If the aggregate value of the voided or unused gaming stamps, at twenty-five cents each, equal or exceed five dollars per month, a distributor will receive a credit for the stamps toward the purchase of other gaming stamps.
2. If an organization returns an unplayed deal of pull tabs or bingo cards, club special, coin board, tip board, seal board, punchboard, sports-pool board, series of paddlewheel ticket cards, or calcutta board to a distributor, the distributor shall void the state gaming stamp and notify the attorney general of the voiding and the reason, on a prescribed form. A distributor may not take back an unplayed deal or game involving a state gaming stamp from an organization unless that distributor originally sold the game. If a distributor resells or reissues the gaming equipment, the distributor shall affix a new gaming stamp on the flare.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-20-21. Reconciliation of inventory control records.

1. A distributor shall annually reconcile (compare) its inventory control records of deals of pull tabs and bingo cards, club specials, coin boards, tip boards, and punchboards that are recorded as being in inventory to the gaming equipment that is actually in inventory. An employee shall count the actual gaming equipment in inventory, compare this count to the inventory control records, and resolve any difference. The count must be performed by a person other than the person who is primarily responsible for safeguarding the physical inventory of the gaming equipment.
2. The reconciliations must be documented and include the:
 - a. Name, job position, and signature of the person who performed the reconciliation.
 - b. Date the reconciliation was conducted.
 - c. Procedure used.

d. Result and corrective action taken.

3. When requested by the attorney general, a distributor shall account for the distributor's state gaming stamps that have not been reported on a sales invoice or as being voided compared to the attorney general's report of outstanding gaming stamps.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-20-22. Recordkeeping system. A distributor and manufacturer's distributor shall maintain complete, accurate, and legible general and subsidiary accounting records in North Dakota. The records must be retained for three years, be prepared on the same basis as the federal income tax return, and include, by month:

1. Purchase orders, if used, for gaming equipment and supplies procured for resale or other distribution.
2. Sales invoices for gaming equipment, supplies, and services sold or otherwise provided. Except for a sales invoice related to a pull tab or bingo card dispensing device (see section 99-01.1-20-12), a sales invoice must be prepared legibly on a form prescribed by the attorney general and include the:
 - a. License number of the distributor or manufacturer's distributor.
 - b. Business name and address of the purchaser.
 - c. Business name and address where the gaming equipment or supplies were shipped to or where the service was performed.
 - d. License or local permit number of the purchaser, if applicable.
 - e. Invoice number and date.
 - f. Date shipped.
 - g. Purchase order number, if available.
 - h. Indication for a credit memo.
 - i. Quantity (number of deals of pull tabs and bingo cards, punchboards, sports-pool boards, club specials, tip boards, seal boards, coin boards, calcutta boards, and series of paddlewheel ticket cards).

- j. Description of each item of gaming equipment, supplies, and services, including the name of game and whether the item is a deal of pull tabs or bingo cards, club special, coin board, tip board, seal board, punchboard, sports-pool board, calcutta board, or series of paddlewheel ticket cards. For a deal of pull-tabs and bingo cards (two-ply cards or three-ply cards with perforated break-open tabs), the description must include the manufacturer's form number. For a series of paddlewheel ticket cards, the description must include the number of paddlewheel ticket cards and number of paddlewheel tickets on each card. For paper bingo cards, the description must include the quantity, primary color or type of collated booklets, serial number, size of series, and number of faces on a sheet.
 - k. Gaming stamp number.
 - l. Ideal gross proceeds and ideal adjusted gross proceeds for each item, if applicable.
 - m. Value of a last sale feature, if applicable.
 - n. If applicable, an indication that a deal was resealed by the distributor and the reason.
3. A sales invoice must be:
- a. Prenumbered consecutively using a number containing a combination of not less than four digits or characters. The number must be preprinted by automated printing equipment or printed by a computer.
 - b. Prepared in three parts and distributed and maintained as follows:
 - (1) One part must be issued to the customer.
 - (2) One part must be retained in an invoice file by customer name.
 - (3) One part must be sent to the attorney general in a manner that accounts for every invoice numerically, including voids.
 - c. A credit memo for a returned item must be prepared like a sales invoice, including subdivisions a and b. A credit memo must represent only a returned item. A distributor may not accept as a returned item deals of pull tabs and bingo cards, club special, coin board, tip board, seal board, series of paddlewheel ticket card, punchboard, sports-pool board, or calcutta board unless that

distributor initially sold the specific item to the customer.

4. A sales journal that must include the:
 - a. Sales invoice date, number, and total amount.
 - b. Name of customer.
5. A cash receipts journal must record cash sales, cash received from all sources, and include the:
 - a. Date a payment is received and amount received.
 - b. Name of customer.
6. A cash payments journal must record checks issued, cash payments, and any other payment, and include the:
 - a. Date of check or payment, and check number.
 - b. Name of payee.
 - c. Expense categorized by type and documented.
7. Gaming stamp log on which gaming stamp numbers and game serial numbers are legibly recorded must be maintained on a form prescribed by the attorney general.
8. A distributor and manufacturer's distributor shall file a copy of each sales invoice, gaming stamp log, and record of voided state gaming stamps. They must be filed by the fifth business day following the month in which a sales invoice and gaming stamp log were prepared and in which a gaming stamp was voided.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

**CHAPTER 99-01.1-21
MANUFACTURERS OF PULL TABS AND PUNCHBOARDS**

Section

99-01.1-21-01	License
99-01.1-21-02	License Application
99-01.1-21-03	Special Sales Restriction
99-01.1-21-04	Quality Standards for Pull Tabs
99-01.1-21-05	Quality Standards for Punchboards
99-01.1-21-06	Ban or Recall of Defective Deals of Pull Tabs
99-01.1-21-07	Sales Invoice
99 01.1-21-08	Special Requirements

99-01.1-21-01. License. A manufacturer of pull tabs or any other person may not sell, offer for sale, solicit business or otherwise provide deals of pull tabs to a distributor without a license. A license is not transferable.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-14, 53-06.1-17

99-01.1-21-02. License application.

1. An applicant shall annually apply for a license. The licensing period is April first through March thirty-first. The application must include a:
 - a. Name and address of any parent or subsidiary company and a description of its general business.
 - b. Name and address of each of the manufacturer's separate locations manufacturing deals of pull tabs.
 - c. Legible example of the label or trademark printed on manufactured pull tabs.
 - d. Consent by the manufacturer to allow the attorney general to enter and inspect the manufacturer's facility.
 - e. Copy of the certificate of authority issued by the secretary of state evidencing that a corporation foreign to North Dakota has complied with North Dakota Century Code chapter 10-22.
2. The annual license fee is two thousand dollars. If a person manufactures pull tabs and paper bingo cards, or, pull tab dispensing devices and either pull tabs or paper bingo cards, or both, only one license fee of two thousand dollars is required. The license fee is not prorated.

3. A license must be reapplied for before April first of each year.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-14, 53-06.1-17

99-01.1-21-03. Special sales restriction. A manufacturer may not sell or provide any deal of pull tabs to a distributor unless the manufacturer has been inspected by the attorney general or an independent testing organization approved by the attorney general. There must be an initial inspection and periodic inspections thereafter.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-21-04. Quality standards for pull tabs. A manufacturer of deals of pull tabs, excluding a seal board, for sale in North Dakota shall manufacture those games according to these standards:

1. **Construction.**

- a. A deal must be designed, constructed, glued, and assembled in a manner to prevent the determination of a winning pull tab without first removing the tabs or otherwise uncovering the symbols or numbers.
- b. All the pull tabs of a deal must have the same game serial number. A game serial number may not be repeated on the same form number for three years.
- c. When a tab is removed, the numbers or symbols must be fully visible in the window and must be placed so that no part of a symbol or number remains covered. Displacement of the numbers or symbols to the left or right in a window is allowed for increased security.
- d. The window slits on each pull tab must be perforated on three sides. All pull tabs must be glued on all four edges and between each window. The glue must be of sufficient strength and type to prevent the separation or delamination of the pull tab.

2. **Opacity.** Concealed numbers, symbols, or winner protection features may not be viewed or determined from the outside of the pull tab using a high intensity lamp of up to five hundred watts, with or without utilizing a focusing lens.

3. **Color.** It must not be possible to detect or pick out winning pull tabs from losing pull tabs through variations in printing

graphics or colors, especially those involving different printing plates.

4. **Printed information.** The minimum information printed on a pull tab must be as follows, except that subdivisions b, c, and d do not need to be applied to a folded or banded jar ticket or to a two-ply card or three-ply card with only one perforated break-open tab (pull-tab) which measures one and one-quarter inch [31.7 millimeters] by two and one-quarter inch [57.1 millimeters] or less in size:
 - a. Name of manufacturer or its distinctive logo.
 - b. Name of game.
 - c. Manufacturer's form number.
 - d. Cost per pull tab.
 - e. Number of winning pull tabs and respective winning numbers or symbols, and prize amounts, or a flare must be included with the game providing that information.
 - f. Unique minimum five-character game serial number, printed on the game information side of the pull tab.
5. **Winner protection.** A unique symbol or printed security device, such as a specific number keyed to a particular winning pull tab, or the name of the symbol or some of the symbol colors changed for a winning pull tab, or other similar protection must be placed in the winning windows of winning pull tabs. Also, a winning pull tab that awards a prize greater than twenty dollars must use a secondary form of winner verification to protect against counterfeiting.
6. **Randomization.** The winning pull tab must be distributed and mixed among all other pull tabs in a deal to eliminate any pattern between deals, or portions of deals, from which the location or approximate location of any winning pull tab may be determined. The deal must be assembled so that no placement of winning or losing pull tabs exists that allows the possibility of prize manipulation or pick out. Banded jar tickets packaged in bags, rather than boxes, are also subject to randomization.
7. **Guillotine cutting.** It must not be possible to isolate winning or potential winning pull tabs by variations in size or the appearance of a cut edge of the pull tabs comprising a particular deal.
8. **Packaging.**

- a. A deal's container must be sealed at the factory with a seal including a written warning to the purchaser (end user) that the deal may have been tampered with if the container was received by the purchaser with the seal broken. The seal must ensure that the deal's pull tabs are not accessible from outside the deal's container when the deal is sealed. A manufacturer shall seal or tape, with a tamper-resistant seal or tape, every entry point into a container of pull tabs before shipment. The seal or tape must be of such construction to guarantee that should the container be opened or tampered with, such tampering or opening would be easily discernible. For jar tickets packaged in a bag, the glue used to seal the flap of the bag must be permanent adhesive glue. The required seal may not be a manufacturer's cellophane shrink wrap.
- b. A manufacturer shall print, in bold print of sufficient size to be easily read, on the outside of the container of pull tabs this message: "Pull tabs must be removed from this packaging container and thoroughly mixed before sale to the public".
- c. A deal's game serial number must be legibly placed on the outside of the deal's container or be able to be viewed from the outside of the container.
- d. For deals shipped to North Dakota, the flare for a pull tab (two-ply or three-ply card with perforated break-open tabs) deal and a specialty jar ticket deal must be located on the outside of each game's sealed container so that the seal on the container will not be broken to access the flare in order for the distributor to affix the state gaming stamp to the flare.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-21-05. Quality standards for punchboards. A manufacturer of punchboards shall manufacture, assemble, and package each punchboard so that the winning punches, or approximate location of any winning punches, cannot be determined in advance of punching the punchboard in any manner or by any device, including any patterns in manufacture, assembly, packaging, or by markings. Winning punches must be distributed and mixed among all other punches in the punchboard. A punchboard must be manufactured with care to eliminate any pattern between punchboards, or portions of punchboards, from which the location or approximate location of the winning punches may be determined.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-21-06. Ban or recall of defective deals of pull tabs.

1. If the attorney general determines that deals of pull tabs or punchboards for sale in North Dakota do not meet the quality standards, the attorney general may order all defective deals and all similarly constructed or printed deals in North Dakota to be immediately recalled by the manufacturer or banned, or prohibit a manufacturer from transacting business in North Dakota if the manufacturer's deals of pull tabs or punchboards do not meet the quality standards.
2. If the attorney general orders such a ban or recall, the manufacturer of the deal must first be notified verbally regarding the deals to be banned or recalled, reason for the ban or recall, effective date of the ban or recall, and any specific requirements. The verbal notification must be followed with a written notification. Upon the verbal notification, the manufacturer shall cease sale of that deal in the state and initiate actions to ensure compliance with the ban or recall. The manufacturer shall notify, in writing, all distributors within seventy-two hours of the verbal notice of the deals banned or recalled, effective date of the ban or recall, and arrange for the prompt return of all the defective deals.
3. A distributor, when notified in writing by either the manufacturer or attorney general of the ban or recall, shall immediately stop sales or delivery of the deals. Within seventy-two hours, the distributor shall notify, in writing, the organizations that have purchased the banned or recalled deal during the last thirty days, effective date of the ban or recall, and arrange for the prompt return of all the defective deals.
4. Before any reintroduction in North Dakota of a banned or recalled deal, the manufacturer shall first submit the revised deal to the attorney general for review, evaluation, and approval. The attorney general shall notify the manufacturer, in writing, of the approval or disapproval and a copy of the approving letter must be sent by the manufacturer to the distributor with the next five shipments of the revised deal.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-21-07. Sales invoice.

1. A manufacturer may not sell or otherwise provide to or accept from a distributor deals of pull tabs or punchboards without recording the transaction on a sales or credit invoice. The invoice must be legible and include the:

- a. License number of the distributor.
 - b. Business name and address of the distributor.
 - c. Business name and address to which the gaming equipment is shipped.
 - d. Invoice number and date.
 - e. Date shipped.
 - f. Purchase order number, if available.
 - g. Indication for a credit memo.
 - h. Quantity of deals of pull tabs and punchboards.
 - i. Description of each deal of pull tabs and punchboards sold, including the name of game and game serial number which may be listed on an addendum to a sales invoice. For a deal of pull tabs involving two-ply or three-ply cards with perforated break-open tabs, the description must include the manufacturer's form number.
2. A credit memo representing only items returned to a manufacturer must be prepared in the same detail as subsection 1.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-21-08. Special requirements.

1. A manufacturer shall reimburse the attorney general for reasonable costs of transportation, lodging, meals, and other incidental costs incurred regarding an inspection of the manufacturer's facility.
2. A manufacturer shall maintain complete, accurate, and legible general and subsidiary accounting records regarding all transactions on the sale of gaming equipment and retain them for three years.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

**CHAPTER 99-01.1-22
MANUFACTURERS OF BINGO CARDS**

Section	
99-01.1-22-01	License
99-01.1-22-02	License Application
99-01.1-22-03	Special Sales Restriction
99-01.1-22-04	Information to be Printed on Paper Bingo Cards
99-01.1-22-05	Quality Standards for Deals of Bingo Cards Used in a Dispensing Device
99-01.1-22-06	Sales Invoice
99-01.1-22-07	Special Requirements

99-01.1-22-01. License. A manufacturer of paper bingo cards or any other person may not sell, offer for sale, solicit business, or otherwise provide paper bingo cards to a distributor without a license. A license is not transferable.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-14, 53-06.1-17

99-01.1-22-02. License application.

1. An applicant shall annually apply for a license. The licensing period is April first through March thirty-first. The application must include the:
 - a. Name and address of any parent or subsidiary company and a description of its general business.
 - b. Name and address of each of the manufacturer's separate locations manufacturing paper bingo cards.
 - c. Legible example of the label or trademark printed on manufactured paper bingo cards.
 - d. Consent by the manufacturer to allow the attorney general to enter and inspect the facility in which paper bingo cards are manufactured.
 - e. Copy of the certificate of authority issued by the secretary of state evidencing that a corporation foreign to North Dakota has complied with North Dakota Century Code chapter 10-22.

2. The annual license fee is two thousand dollars. If a person manufactures paper bingo cards and pull tabs, or, pull tab dispensing devices and either paper bingo cards or pull tabs, or both, only one license fee of two thousand dollars is required. The license fee is not prorated.
3. A license must be reapplied for before April first of each year.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-14, 53-06.1-17

99-01.1-22-03. Special sales restriction.

1. A manufacturer shall have available for sale or otherwise provide to a distributor a master checkbook covering all card serial numbers for paper bingo cards.
2. A manufacturer may not ship paper bingo cards directly to a licensed organization or organization that has a local permit.
3. A manufacturer or any other person may not sell or otherwise provide bingo cards to a distributor unless that distributor is licensed by the attorney general. The manufacturer is responsible for determining whether a distributor is licensed.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-14, 53-06.1-17

99-01.1-22-04. Information to be printed on paper bingo cards. A manufacturer that sells, or otherwise provides, paper bingo cards to a distributor shall print this information on each card:

1. The name of manufacturer or its distinctive logo.
2. The assigned serial number and series number (card number).

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-22-05. Quality standards for deals of bingo cards used in a dispensing device. A manufacturer shall manufacture deals of bingo cards used in a dispensing device according to these standards:

1. **Construction.**

- a. A deal must consist of at least three thousand bingo cards with different faces and series numbers.
 - b. Deals of bingo cards that have a different cost per play must be differentiated. The differentiation may be by varying the primary background color of the game information side of the bingo cards to enable a person, at a glance, to easily distinguish the differently priced bingo cards.
 - c. A deal must be designed, constructed, glued, and assembled in a manner to prevent the determination of the bingo card numbers without first removing the tab to uncover the numbers.
 - d. All the bingo cards of a deal must have the same game serial number. A game serial number of a case of two or more deals of bingo cards may not be repeated on the same form number for three years.
 - e. A bingo card must be a two-ply card with one perforated break-open tab. The single tab slits on a card must be perforated on three sides. A card must be glued on all four edges. The glue must be of sufficient strength and type to prevent the separation or delamination of a card.
 - f. When a tab is removed, the bingo numbers must be fully visible in the window and must be placed so that no part of a number remains covered. Displacement of the numbers to the left or right in a window is allowed for increased security.
2. **Opacity.** Concealed bingo numbers may not be viewed or determined from the outside of the bingo card using a high intensity lamp of five hundred watts, with or without utilizing a focusing lens.
 3. **Randomization.** Bingo cards of a deal must be thoroughly mixed to eliminate any pattern among the deal's cards and between deals or portions of deals, based on the cards' series numbers.
 4. **Printed information.**
 - a. The game information side must contain the:
 - (1) Name of game.
 - (2) Unique minimum five character manufacturer's game serial number.
 - (3) Manufacturer's form number.

- (4) Name of manufacturer or its distinctive logo.
- (5) Cost per bingo card.
- (6) Space for validation. See subsection 23 of section 99-01.1-23-05.
- (7) Lines for name and address of winning player.
- (8) Line for prize amount.

b. The tab side must contain these instructions:

- (1) Open here.
- (2) Daub or mark bingo numbers posted.
- (3) Compare to the posted winning pattern(s).
- (4) If a winner, redeem for posted prize.

c. Inside the tab there must be a preprinted bingo face with twenty-five squares arranged in five vertical columns and five horizontal rows. The letters B, I, N, G, and O must be printed above the five vertical columns. The middle square may be a free space. The bingo face must indicate the manufacturer's series number for that face and the manufacturer's game serial number for that deal. The bingo face must be printed with black ink.

5. Packaging.

- a. A deal's container must be sealed at the factory with a seal including a written warning to the purchaser (end user) that the deal may have been tampered with if the container was received by the purchaser with the seal broken. The seal must ensure that the deal's bingo cards are not accessible from outside the deal's container when the deal is sealed. A manufacturer shall seal or tape, with a tamper-resistant seal or tape, every entry point into a container of bingo cards before shipment. The seal or tape must be of such construction to guarantee that should the container be opened or tampered with, such tampering or opening would be easily discernible. The required seal may not be a manufacturer's cellophane shrink wrap.
- b. A deal's game serial number must be clearly and legibly placed on the outside of the deal's container or be able to be viewed from the outside of the container.
- c. The prize flare for a deal must be located on the outside of each deal's sealed container so that the seal will not

be broken to access the prize flare in order for the distributor to affix the state gaming stamp to the flare.

6. **Prize flare.** A prize flare must accompany each deal and contain:
 - a. A line for name of organization.
 - b. A line for name of site.
 - c. A line for a control number.
 - d. A line for device number.
 - e. The cost per bingo card.
 - f. Lines for time and date when the prize flare is placed in play and removed from play. The lines must be designated by the hour, minute, and a.m. or p.m.
 - g. Lines for two signatures when the prize flare is placed in play and for one signature when the prize flare is removed from play.
 - h. Three lines for listing a winning pattern or patterns, as ways to win.
 - i. Three lines for listing a prize amount or amounts, corresponding to a winning pattern or patterns.
 - j. At least twenty-five examples of various patterns that may be selected for a winning pattern or patterns. Each example must specify the name of the pattern and whether it is an "any way" pattern.
 - k. At least two blank bingo cards with twenty-five squares arranged in five vertical columns and five horizontal rows. The letters B, I, N, G, and O must be printed above the five vertical columns. The blank cards may be completed by an organization for illustrating a winning pattern or patterns that are not shown as an example on the prize flare.
 - l. The phrase "except for an 'any way' pattern, a winning pattern is based on a bingo card being in an upright position".

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

99-01.1-22-06. Sales invoice.

1. A manufacturer may not sell or otherwise provide to or accept from a distributor any bingo cards without recording the transaction on a sales or credit invoice. For a transaction involving a deal of bingo cards for use in a dispensing device, the invoice must be legible and include the:
 - a. License number of the distributor.
 - b. Business name and address of the distributor.
 - c. Business name and address to which the gaming equipment is shipped.
 - d. Invoice number and date.
 - e. Date shipped.
 - f. Purchase order number, if available.
 - g. Indication for a credit memo.
 - h. Quantity of deals of bingo cards.
 - i. Description of each deal of bingo cards sold, including the name of game, form number, and game serial number that may be listed on an addendum to a sales invoice.
2. A credit memo representing only items returned to a manufacturer must be prepared in the same detail as subsection 1.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

99-01.1-22-07. Special requirements.

1. A manufacturer shall reimburse the attorney general for reasonable costs of transportation, lodging, meals, and other incidental costs incurred regarding an inspection of the manufacturer's facility.
2. A manufacturer shall maintain complete, accurate, and legible general and subsidiary accounting records regarding all transactions on the sale of gaming equipment and retain them for three years.

History: Effective July 1, 1994.
General Authority: NDCC 53-06.1-17
Law Implemented: NDCC 53-06.1-17

CHAPTER 99-01.1-23
MANUFACTURERS OF PULL TAB AND BINGO CARD DISPENSING DEVICES

Section	
99-01.1-23-01	License
99-01.1-23-02	License Application
99-01.1-23-03	Manufacturer Requirements
99-01.1-23-04	Manufacturing Specifications - Pull Tab Dispensing Device
99-01.1-23-05	Manufacturing Specifications - Bingo Card Dispensing Device
99-01.1-23-06	Standards for an Electronic Currency Validator
99-01.1-23-07	Testing and Approval
99-01.1-23-08	Special Requirements

99-01.1-23-01. License. A manufacturer of a pull tab dispensing device or any other person may not sell, offer for sale, offer to lease, solicit business, or otherwise provide a device to a distributor or manufacturer's distributor without a license. A license is not required for a manufacturer of a bingo card dispensing device. A license is not transferable.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-14, 53-06.1-17

99-01.1-23-02. License application. An applicant shall annually apply for a license. The licensing period is April first through March thirty-first. The application must include:

1. The name and address of any parent or subsidiary company and a description of its general business.
2. The name and address of each of the manufacturer's separate locations manufacturing devices.
3. The consent by the manufacturer to allow the attorney general to enter and inspect the manufacturer's facility.
4. A copy of the certificate of authority issued by the secretary of state evidencing that corporation foreign to North Dakota has complied with North Dakota Century Code chapter 10-22.
5. The annual license fee is two thousand dollars. If a person manufactures pull tab dispensing devices and, either pull tabs or paper bingo cards, or both, only one license fee of two thousand dollars is required. The license fee is not prorated.

6. A license must be reapplied for before April first of each year.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-14, 53-06.1-17

99-01.1-23-03. Manufacturer requirements. A manufacturer of pull tab or bingo card dispensing devices or any other person may not sell or otherwise provide a device to a distributor or manufacturer's distributor unless that distributor or manufacturer's distributor is licensed by the attorney general. The manufacturer is responsible for determining whether a distributor or manufacturer's distributor is licensed.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-14, 53-06.1-17

99-01.1-23-04. Manufacturing specifications - Pull tab dispensing device. A pull tab dispensing device must meet these specifications:

1. If a device is designed to accommodate two or more different games of pull tabs, each compartment of the device must independently meet the specifications of this section.
2. Electrical and mechanical components and design principles may not subject a person to any physical hazard or cause electrical interference. The electrical power cord must be at least ten feet [3.05 meters] in length and have a three-prong ground at the male end of the cord. A surge protector or in-line power filter must be installed in-line on the main electrical powerline to a device. A device must safely and operatively withstand a static test of twenty thousand volts of electricity.
3. A device must have either an on and off keyed switch located in front of the device or an on and off unkeyed switch located in a nonconspicuous place on the exterior of the device, which controls the electrical current used to operate the device. A device may have a separate on and off keyed switch located in front of the device, which controls the electrical current used to operate a device's electronic currency validator.
4. A device must have at least four columns for stacking pull tabs and have sufficient capacity to hold at least two thousand four hundred pull tabs.
5. A stacking column must be adjustable for varying lengths of pull tabs. However, as an option, a device may use replaceable stacking columns that accommodate varying lengths

of pull tabs. The device must accommodate a minimum pull tab size of one and seven-eighths inches [47.6 millimeters] in width by two and five-eighths inches [64.77 millimeters] in length, a maximum pull tab size of one and seven-eighths inches [47.6 millimeters] in width by four and one-fourth inches [107.95 millimeters] in length, or both sizes.

6. A device must be adjustable for varying thicknesses of pull tabs.
7. Glass must be placed in front of the columns and be sufficiently clear to enable a player to see a majority of the pull tabs.
8. A device must have a pull tab dispensing outlet or tray to catch a dispensed pull tab.
9. A device must have at least one electronic currency validator. A coin validator is not allowed.
10. A device must be capable of accommodating pricing of twenty-five cents, fifty cents, one dollar, and two dollars per pull tab and dispense the correct number of pull tabs based on the amount of credit played. The standard price per pull tab must apply to all the stacking columns.
11. An exterior door must have at least one keyed lock. The key must be different from all other keys used on other devices manufactured by the manufacturer. The internal space may not be accessible from outside the device when the exterior door is closed and locked.
12. A device may have an optional "all" player button that, when pressed, activates the device to dispense pull tabs at one time, equal to the value of the unplayed credits and randomly from the columns of pull tabs selected by the random number generator or player button sequencing concept.
13. A device must have an interior mode switch, interior dipswitch, or an exterior mode switch activated by a key which enables a person to:
 - a. Set the price per pull tab.
 - b. Unless a device prints an audit report prescribed by subsection 16, access the accounting information required by subsection 14 and, if the device has nonresettable electronic accounting meters, subsection 15.
14. Unless a device prints an audit report prescribed by subsection 16, there must be at least two independent resettable electronic accounting meters. The meters must maintain accounting information of at least four digits in

length and be capable of maintaining the accounting information for six months after electrical power to a device is disconnected or the electrical current used to operate a device is switched off. The meters must record the:

- a. Total value of currency validated.
 - b. Total number of pull tabs dispensed.
15. Unless a device prints an audit report prescribed by subsection 16, there must be at least two independent nonresettable electronic or mechanical accounting meters. The meters must maintain accounting information of at least six digits in length and be capable of maintaining the accounting information for six months after electrical power to a device is disconnected or the electrical current used to operate a device is switched off. The meters must record the:
- a. Cumulative value of currency validated.
 - b. Cumulative number of pull tabs dispensed.
16. Unless a device has resettable and nonresettable accounting meters prescribed by subsections 14 and 15, the device must print an audit report that must:
- a. Be printed and accessible only from the interior of a device.
 - b. State the time and date of the report. The time must be expressed in numeric hours and minutes. The hour must be expressed as a.m. or p.m.
 - c. State the unique device number.
 - d. State a sequential report number, which must be at least three digits in length, starting with the digit one.
 - e. Provide this information, based on resettable electronic accounting meters, to account for activity since the time and date of the preceding report:
 - (1) Time and date of the preceding report.
 - (2) Number and value.
 - (3) Value of currency validated.
 - f. Provide this information, based on nonresettable electronic accounting meters, to account for activity since a device was manufactured:

- (1) Cumulative number and value of pull tabs dispensed from all columns.
 - (2) Cumulative value of currency validated.
17. To ensure a commingling of pull tabs, a random number generator or a player button sequencing concept must be used to select a particular column of several columns of available pull tabs from which a pull tab will be dispensed. A column selection process will be considered random if it does not produce a significant statistic of recurring patterns. To test a device's random number generator or player button sequencing concept, the attorney general may apply any mathematical statistical test necessary. A player button sequencing concept must field each player button at least one hundred times a second.
 18. Instructions for player operation must be displayed on the front of a device. The instructions must be permanently affixed or placed under glass or other transparent material. No stickers or other removable items may be placed on the front of the device.
 19. There must be one or more player buttons located on the front of a device which, when pressed, activate the dispensing of a pull tab. However, excluding an "all" player button, the number of player buttons may not exceed the number of stacking columns. Regardless of which player button is pressed, the selection of a particular column from which a pull tab is dispensed must be done by a random number generator or a player button sequencing concept. See subsection 17.
 20. A device must have an LED or LCD display screen of at least four digits in length. However, if the device uses two independent nonresettable electronic accounting meters, the device must have an LED or LCD display screen of at least six digits in length. The digits must be at least one-half of one inch [12.70 millimeters] in height. The value of currency validated must be displayed on the LED or LCD screen as a monetary credit value (not as a certain number of credits) which is drawn down as a device vends a pull tab. Unless a device prints an audit report as prescribed by subsection 16, the LED or LCD display screen must also display the accounting information required by subsection 14 and the pricing information required by subdivision a of subsection 13.
 21. A device must record every vend of a pull tab and every currency validation, including a test vend of a pull tab and a test validation of currency, on the accounting meters required by subsections 14 and 15 or subsection 16.
 22. If a device malfunction occurs or electrical power is interrupted, the value of credits previously displayed on an

LED or LCD display screen must be correctly redisplayed immediately after the malfunction is cleared or electrical power is restored. However, this rule does not apply if a device is totally inoperable.

23. A column of pull tabs must automatically discontinue operation, triggered by an electronic microswitch or optical switch, when the column has fewer than approximately fifty pull tabs remaining. However, this rule does not apply when an organization is closing a game at the end of a month or quarter at which time the organization may use a pull tab weight or bypass switch to circumvent the microswitch or optical switch.
24. A device must automatically discontinue operation when there is only one column of pull tabs remaining in order when the other columns of pull tabs are out of order due to a low level of pull tabs remaining in one or more stacking columns or due to jams. However, if this occurs and there are unplayed credits on the device, the device may dispense pull tabs equal to the value of the unplayed credits from the remaining column before the device automatically discontinuing operation.
25. A permanently affixed identification plate must be displayed at the top of an exterior side panel of a device which contains the device's:
 - a. Manufacturer.
 - b. Serial number.
 - c. Model number.
 - d. Date of manufacture which may be part of the model number.
26. A device may not have an auxiliary remote control unit for posting credits onto the device.
27. A device must automatically discontinue operation when any nonresettable meter is disconnected.
28. A device must have a maintenance and operations manual.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-23-05. Manufacturing specifications - Bingo card dispensing device. A bingo card dispensing device must meet these specifications:

1. Electrical and mechanical components and design principles may not subject a person to any physical hazard or cause electrical interference. The electrical power cord must be at least ten feet [3.05 meters] in length and have a three-prong ground at the male end of the cord. A surge protector or in-line power filter must be installed in-line on the main electrical powerline to a device. A device must safely and operatively withstand a static test of twenty thousand volts of electricity.
2. A device must have either an on and off keyed switch located in front of the device or an on and off unkeyed switch located in a nonconspicuous place on the exterior of the device, which controls the electrical current used to operate the device. A device must have a separate on and off keyed switch located in front of the device which controls the electrical current used to operate a device's electronic currency validator.
3. A device must have at least two columns for stacking bingo cards and have sufficient capacity to hold at least two thousand two hundred cards. A stacking column for bingo daubers is optional.
4. A device must be adjustable for varying thicknesses of bingo cards.
5. Glass must be placed in front of the columns and be sufficiently clear to enable an employee to see whether a device has a low number of cards.
6. A device must have a bingo card dispensing outlet or tray to catch a dispensed card.
7. A device must have at least one electronic currency validator. A coin validator is not allowed.
8. Each column must accommodate pricing of twenty-five cents, fifty cents, one dollar, two dollars, and five dollars. The price at which each column is set may differ for dispensing differently priced cards and daubers. A device must dispense the correct number of bingo cards and daubers based on the amount of credit played.
9. An exterior door must have at least one keyed lock. The key must be different from all other keys used on other devices manufactured by the manufacturer. The internal space may not be accessible from outside the device when the exterior door is closed and locked.
10. A device may have an optional "all" player button that, when pressed, activates the device to dispense up to twenty-five bingo cards at one time from the column of cards selected by

the player. However, the "all" player button may not apply to a bingo dauber column.

11. A device must have an interior mode switch, interior dipswitch, or an exterior mode switch activated by a key which enables a person to:
 - a. Set the price per bingo card and dauber.
 - b. Unless a device prints an audit report prescribed by subsection 14, access the accounting information required by subsection 12 and, if the device has nonresettable electronic accounting meters, subsection 13.
12. Unless a device prints an audit report prescribed by subsection 14, there must be at least two independent resettable electronic accounting meters. There must be an independent resettable electronic accounting meter for each of the columns to record the number of bingo cards dispensed from the column. There must be an independent resettable electronic accounting meter to record the number of daubers dispensed. The meters must maintain accounting information of at least four digits in length and be capable of maintaining the accounting information for six months after electrical power to a device is disconnected or the electrical current used to operate a device is switched off. The meters must record the:
 - a. Total value of currency validated.
 - b. Total number of bingo cards dispensed.
13. Unless a device prints an audit report prescribed by subsection 14, there must be at least two independent nonresettable electronic or mechanical accounting meters. There must be an independent nonresettable electronic or mechanical accounting meter for each of the columns to record the number of bingo cards dispensed from the column. There must be an independent nonresettable electronic or mechanical accounting meter to record the number of daubers dispensed. The meters must maintain accounting information of at least six digits in length and be capable of maintaining the accounting information for six months after electrical power to a device is disconnected or the electrical current used to operate a device is switched off. The meters must record the:
 - a. Cumulative value of currency validated.
 - b. Cumulative number of bingo cards dispensed.
14. Unless a device has resettable and nonresettable accounting meters prescribed by subsections 12 and 13, the device must

print an audit report containing this information and consisting of these three special reports and:

- a. Be printed and accessible only from the interior of a device.
- b. State the time and date of the report. The time must be expressed in numeric hours and minutes. The hour must be expressed as a.m. or p.m.
- c. State the unique device number.
- d. State the sequential report number, which must be at least three digits in length, starting with the digit one.
- e. A cash withdrawal report. The report, based on resettable electronic accounting meters, must include this information to account for activity since the time and date of the preceding report:
 - (1) Time and date of the preceding cash withdrawal report.
 - (2) Value of bingo cards dispensed from each column.
 - (3) Value of daubers dispensed.
 - (4) Total value of bingo cards and daubers dispensed from all columns.
 - (5) Value of currency validated.
- f. A prize flare report. The report, based on resettable electronic accounting meters, must include this information to account for activity since the time and date of the preceding report:
 - (1) Time and date of the preceding prize flare report.
 - (2) Number and value of bingo cards dispensed from each column.
 - (3) Number and value of bingo cards dispensed from all columns.
 - (4) Number and value of daubers dispensed.
 - (5) Value of currency validated.
- g. A cumulative activity report. The report, based on nonresettable electronic accounting meters, must include this information to account for activity since a device was manufactured:

- (1) Cumulative number and value of bingo cards dispensed from each column.
 - (2) Cumulative number and value of bingo cards and daubers dispensed from all columns.
 - (3) Cumulative number and value of daubers dispensed.
 - (4) Cumulative value of currency validated.
15. Instructions for player operation must be displayed on the front of a device. The instructions must be permanently affixed or placed under glass or other transparent material. Stickers or other removable items may not be placed on the front of the device.
 16. There must be a separate button located on the front of the device for each column of bingo cards and for the bingo dauber column which, when pressed, activates the dispensing of a card or dauber from that particular column.
 17. A device must have an LED or LCD display screen of at least four digits in length. However, if the device uses two independent nonresettable electronic accounting meters, the device must have an LED or LCD display screen of at least six digits in length. The digits must be at least one-half of one inch [12.70 millimeters] in height. The value of currency validated must be displayed on the LED or LCD screen as a monetary credit value (not as a certain number of credits) which is drawn down as a device vends a bingo card. Unless a device can print an audit report, the LED or LCD display screen must also display the accounting information required by subsection 12 and the pricing information required by subdivision a of subsection 11.
 18. A device must record every vend of a bingo card and dauber and every currency validation, including a test vend of a bingo card and a test validation of currency, on the accounting meters required by subsections 12 and 13 or subsection 14.
 19. If a device malfunction occurs or electrical power is interrupted, the value of credits previously displayed on an LED or LCD display screen must be correctly redisplayed immediately after the malfunction is cleared or electrical power is restored. However, this rule does not apply if a device is totally inoperable.
 20. A permanently affixed identification plate must be displayed at the top of an exterior side panel of a device that contains the device's:
 - a. Manufacturer.

- b. Serial number.
 - c. Model number.
 - d. Date of manufacture which may be part of a model number.
- 21. A device may not have an auxiliary remote control unit for posting credits onto a device.
 - 22. A device must automatically discontinue operation when any nonresettable meter is disconnected or when all the columns of bingo cards are out of order due to no cards remaining in them or due to jams.
 - 23. A device must validate a dispensed bingo card by printing this information on the information side of the bingo card in a prescribed area. The validation must be printed in permanent purple or black ink, be readable, and be electronically printed at least three-sixteenths of one inch [4.76 millimeters] in height.
 - a. Unique machine number or validation control code of at least four characters in length.
 - b. Month and day. The month may be expressed alphabetically and may be abbreviated to three characters or it may be expressed in numeric digits. The day must be expressed in numeric digits.
 - c. Time expressed in numeric hours and minutes. The hour must be designated as a.m. or p.m. Military time is not allowed.
 - 24. A device's internal clock must be programmed to automatically adjust the time to account for a change to and from daylight savings time. The device must be capable of maintaining the proper time for six months after electrical power to the device is turned off.
 - 25. A device must have an electronic LED flashboard for posting bingo numbers which, when lit, must be readable from a distance of ten feet [3.05 meters].
 - 26. A device must have a maintenance and operations manual.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-23-06. Standards for an electronic currency validator.
An electronic currency validator must be approved by the attorney general and:

1. Validate United States currency in only values of one dollar, two dollar, five dollar, ten dollar, and twenty dollar bills and reject all other values of any other known currency.
2. Have an antipullback mechanism and other anticheat devices that prevent cheating of the bill acceptor by mechanical means.
3. Be able to prevent all known manipulations of United States currency.
4. Return invalid currency to a player.
5. Have a currency collection and stacker box.
6. If a malfunction occurs, automatically discontinue accepting or validating currency.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-23-07. Testing and approval.

1. A manufacturer of pull tab or bingo card dispensing devices may not sell or otherwise provide a device to a distributor or manufacturer's distributor unless a model of the device has first been approved by the attorney general.
2. A manufacturer of a device shall provide a device model, a copy of the model's construction blueprint, wiring schematics, circuit analysis, technical and operation manuals, random number generator or player button sequencing concept source and object code computer programs, proprietary operating software source and object code computer programs, and other information requested by the attorney general to analyze, test, and evaluate the model. A manufacturer of an electronic currency validator shall provide a copy of the source and object code of the routines within the computer programs that determine whether or not currency will be accepted and other information requested by the attorney general to analyze, test, and evaluate the validator. A manufacturer of a device or electronic currency validator may provide a copy of letters of approval and test reports of the electronic currency validator from other states, federal jurisdictions, or independent testing laboratories. However, the electronic currency validator used must be approved by the attorney general.
3. The attorney general may require a manufacturer of a device and a manufacturer of an electronic currency validator to transport one prototype or working model of a device and an

electronic currency validator, and the information required by subsection 2 to another state, federal jurisdiction, or independent testing laboratory that the attorney general designates for analysis, testing, and evaluation. The manufacturer shall pay all costs of the transportation, analysis, testing, and evaluation. The attorney general may require a manufacturer of a device to pay the anticipated actual costs, in advance, to the attorney general's designee. After completion of the analysis, testing, and evaluation, any overpayment of actual costs must be refunded to the manufacturer or the manufacturer shall pay any underpayment of actual costs.

4. The analysis, testing, and evaluation may include entire dismantling of the device. Some tests may result in damage or destruction to one or more electronic or mechanical components or the device itself. The attorney general may require the manufacturer to provide the attorney general, other state, federal jurisdiction, or independent testing laboratory with specialized equipment for testing the device.
5. After the analysis, testing, and evaluation of a device's model have been completed by the attorney general's designee, the designee shall certify the results to the attorney general. The attorney general shall provide the manufacturer with a report containing determinations, conclusions, and pass or fail results. The report may contain recommendations for device modifications to bring it into compliance with section 99-01.1-23-04 or 99-01.1-23-05. Before approving a device's model, the attorney general may require a trial period to test the device's model in a site not to exceed a time period set by the attorney general. During the trial period, the manufacturer may not make any modifications to the device's model unless approved by the attorney general.
6. After the attorney general approves a manufacturer's device's model, the manufacturer shall provide the attorney general with a device for training and regulatory purposes and maintain it for free.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-23-08. Special requirements.

1. A manufacturer may not modify the assembly or operational functions of an approved device model or component unless requested by the attorney general or a written request is filed with the attorney general and approved by the attorney general. The request must explain the type and reason for the modification. However, in an emergency, if a modification is

necessary to prevent cheating or malfunction, temporary approval may be verbally requested from the attorney general before submitting a written request. A written request for permanent approval must be made within seven days of the temporary approval. The attorney general may apply subsections 2, 4, and 5 of section 99-01.1-23-07 for approving a modification to a previously approved device model or component.

2. A manufacturer may not sell or otherwise provide a pull tab or bingo card dispensing device to or accept from a distributor or manufacturer's distributor without recording the transaction on a sales or credit invoice.
3. A manufacturer shall reimburse the attorney general for reasonable costs of transportation, lodging, meals, and other incidental costs incurred regarding an inspection of the manufacturer's facility.
4. A manufacturer shall maintain complete, accurate, and legible general and subsidiary accounting records regarding all transactions on the sale of gaming equipment and retain them for three years.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

CHAPTER 99-01.1-24
AUDIT, VIOLATIONS, AND INVESTIGATIONS

Section	
99-01.1-24-01	Audit
99-01.1-24-02	Inspection of Facilities and Records
99-01.1-24-03	Denial, Suspension, or Revocation of a License
99-01.1-24-04	Monetary Fine
99-01.1-24-05	Monetary Fine Appeal Procedures
99-01.1-24-06	Investigative Powers
99-01.1-24-07	Background Investigation
99-01.1-24-08	Return of a Revoked License
99-01.1-24-09	Administrative or Criminal Complaint in Another State - Notification

99-01.1-24-01. Audit.

1. All records, including information required to be provided the attorney general under the gaming law and rules, of an organization, distributor, manufacturer's distributor, and manufacturer are subject to audit by the attorney general, without notice. The audit may be performed at a site; at an organization's, distributor's, manufacturer's distributor's, or manufacturer's office; or at a location chosen by the attorney general.
2. If the attorney general conducts an audit, the organization, distributor, manufacturer's distributor, or manufacturer shall provide the records to the attorney general, provide a work station, telephone, copier, and render assistance to the attorney general as requested. A person may not prohibit, interfere with, or otherwise impede an audit.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-13, 53-06.1-17

99-01.1-24-02. Inspection of facilities and records.

1. A site and any organization's, distributor's, manufacturer's distributor's, and manufacturer's facility must at all times be open to inspection by the attorney general or a local law enforcement official.
2. When games are conducted at a site, the attorney general or a local law enforcement official may enter the site without advance notice and:
 - a. Make a count of gaming money.

- b. Inspect any records.
 - c. Inspect, including dismantling of, gaming equipment.
 - d. If the attorney general believes that the gaming law or rules have been or are being violated by an organization, its employees, or volunteers, remove records and gaming equipment to another location for further inspection and investigation. The attorney general shall issue a receipt to an organization listing and describing the records and gaming equipment removed.
3. Each record and item of gaming equipment removed must be returned to the site or to the organization within a reasonable time and in good condition, unless the attorney general determines that the record or gaming equipment is necessary for an ongoing investigation.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-06, 53-06.1-15.1, 53-06.1-17

99-01.1-24-03. Denial, suspension, or revocation of a license.

The attorney general may deny a license to any applicant or suspend or revoke a license of an organization, distributor, manufacturer's distributor, or manufacturer when the applicant or licensee:

1. Has violated, failed, or refused to comply with any provision of the gaming law or rules or any other law of North Dakota.
2. Has knowingly allowed, caused, aided, abetted, or conspired with another person to cause any person to violate any provision of the gaming law or rules or any other law of North Dakota.
3. Has falsified any information on a license application or obtained a license by fraud, trick, misrepresentation, concealment, or by mistake has falsified any information provided the attorney general.
4. Has denied the attorney general access to a site or manufacturing facility, or failed to timely provide the attorney general any information.
5. Has made a misrepresentation of, or failed to disclose, a material fact to the attorney general.
6. Has failed to timely provide the attorney general information required by the gaming law or rules.
7. Has engaged in any act or practice to defraud or cheat any person, or has used a device or scheme to defraud any person.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-03, 53-06.1-14, 53-06.1-16, 53-06.1-17

99-01.1-24-04. Monetary fine.

1. The attorney general may assess a monetary fine on an organization, distributor, manufacturer's distributor, or manufacturer for violation of any gaming law or rule. A monetary fine applied to an organization for each violation is a minimum of twenty-five dollars and may not exceed two percent of the organization's average quarterly gross proceeds, or five thousand dollars, whichever is greater. A monetary fine applied to a distributor or manufacturer's distributor for each violation is a minimum of one hundred dollars and may not exceed five thousand dollars. A monetary fine applied to a manufacturer is a minimum of five hundred dollars and may not exceed two hundred fifty thousand dollars. The monetary fine may be in addition to or in lieu of a license suspension or revocation.
2. To determine a monetary fine, the attorney general may consider:
 - a. The severity of the conduct as indicated by the potential or actual harm to the integrity of gaming.
 - b. The culpability of the violator.
 - c. The frequency of the violator's failure to comply with the gaming law and rules.
 - d. The monetary fine imposed for a similar violation.
 - e. Any other relevant factor.
3. The attorney general may assess a monetary fine on a citation form prescribed by the attorney general. The monetary fine must be paid within twenty-one days of the date on which the citation was issued. Failure to timely pay the monetary fine may subject the organization's, distributor's, manufacturer's distributor's, or manufacturer's license to be suspended or revoked unless the monetary fine is appealed within the twenty-one-day period. The monetary fine citation form is

separate from an administrative complaint and is used for onsite inspections of sites.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-03, 53-06.1-17

99-01.1-24-05. Monetary fine appeal procedures.

1. An appeal of a monetary fine must contain the name and address of an organization, distributor, manufacturer's distributor, or manufacturer that received a citation, the date of the citation, amount of monetary fine, specific reason for objecting to the monetary fine, and signature of the person who prepared the appeal.
2. To request a hearing, an appeal must be sent to the attorney general. An organization, distributor, manufacturer's distributor, or manufacturer must prove by substantial evidence that the monetary fine is inappropriate. The organization, distributor, manufacturer's distributor, or manufacturer may be represented by legal counsel, and may present relevant evidence to support its position.
3. The attorney general shall issue a determination within thirty days of the date of the hearing, including findings of fact and conclusions of law.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-24-06. Investigative powers. If the attorney general believes that a person is involved in any activity that violates the gaming law or rules, or if the attorney general believes that it is in the public interest to determine whether a person has been involved in, is involved in, or is about to be involved in such activity, the attorney general may:

1. Require the person to file a written statement or report, under oath or otherwise, to provide all the information the attorney general may request.
2. Interview under oath or otherwise any person involved with the activity.
3. Impound any gaming and nongaming general and subsidiary financial record or document related to an investigation and retain the records or documents until the legal proceedings are completed. The attorney general may make a written

request for a copy of the items and set a time limit for providing them.

4. Issue a subpoena and administer an oath to any person, and conduct a hearing to aid an investigation or inquiry.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-13, 53-06.1-15.1, 53-06.1-17

99-01.1-24-07. Background investigation.

1. A manufacturer or manufacturer's distributor, including their employees, of a pull tab or bingo card dispensing device, paddlewheel game equipment, pull tabs, or bingo cards may not sell or otherwise provide gaming equipment to a distributor unless the manufacturer or manufacturer's distributor, or both, have undergone a background investigation and been approved by the attorney general. This includes each partner of a partnership, and each stockholder owning ten percent or more of the outstanding voting common stock of a corporation, including the corporation's parent or subsidiary corporations, if any.
2. A manufacturer and manufacturer's distributor of a pull tab or bingo card dispensing device, paddlewheel equipment, pull tabs, and bingo cards shall provide all documentation, assurances, consents, waivers, or other information requested by the attorney general.
3. The attorney general may require a manufacturer or manufacturer's distributor of a pull tab or bingo card dispensing device, paddlewheel game equipment, pull tabs, and bingo cards to pay the actual cost of a background investigation when adequate background information sources are not readily available. The attorney general may require payment of the estimated cost in advance. The attorney general shall notify the manufacturer or manufacturer's distributor that advance payment of the estimated cost is necessary and shall, during the investigation, notify the manufacturer or manufacturer's distributor of any additional estimated cost. In lieu of paying the additional estimated cost, the manufacturer or manufacturer's distributor may withdraw from being considered for approval. The estimated cost remitted must be deposited in the attorney general's refund fund to defray the actual cost. When the investigation is done, the attorney general shall refund any overpayment or assess and collect any underpayment.
4. If a manufacturer or manufacturer's distributor of a pull tab or bingo card dispensing device, paddlewheel game equipment, pull tabs, and bingo cards is not approved by the attorney

general, the attorney general shall notify the manufacturer or manufacturer's distributor.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-06, 53-06.1-17

99-01.1-24-08. Return of a revoked license. Upon revocation of a license issued by the attorney general, an organization, distributor, manufacturer's distributor, or manufacturer shall return the license and site authorization to the attorney general.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-17

99-01.1-24-09. Administrative or criminal complaint in another state - Notification. If an administrative or criminal complaint has been filed in another state against a licensed distributor, manufacturer's distributor, or manufacturer, it shall notify the attorney general of the complaint in writing within thirty days of the date of the complaint. If the complaint is sustained, the attorney general may suspend or revoke the distributor's, manufacturer's distributor's, or manufacturer's license.

History: Effective July 1, 1994.

General Authority: NDCC 53-06.1-17

Law Implemented: NDCC 53-06.1-14, 53-06.1-17